

Erie County Fiscal Stability Authority

Resolution No. 08-108

REJECTING THE BID FOR UNDERWRITING SERVICES

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”) to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, Section 3954(4) of New York Public Authorities Law grants the ECFSA the power to make and execute contracts or agreements necessary or convenient to carry out its purposes; and

WHEREAS, in adopting Resolution 07-99 on October 22, 2007, the ECFSA pre-qualified several firms to serve as Senior Managing Underwriter and/or Co-managing Underwriter for ECFSA financing on an as-needed basis through October 22, 2008; and

WHEREAS, on November 2, 2008, the ECFSA adopted another resolution extending the term of this pre-qualification through December 31, 2008; and

WHEREAS, the ECFSA has issued a Request for Proposals for firms to serve as Senior Managing Underwriter and/or Co-managing Underwriter for the ECFSA’s financing program for one year, lasting from November 1, 2008, through October 31, 2009, or for just over three years, lasting from October 1, 2008, through October 31, 2011 (the “RFP”); and

WHEREAS, this RFP requested the submission of any proposals no later than October 17, 2008; and

WHEREAS, this ECFSA issued this RFP prior to reaching an agreement with Erie County (the “County”) concerning the particular terms of ECFSA financing to subsidize the County’s capital projects; and

WHEREAS, only one firm, Merrill Lynch, responded to this RFP; and

WHEREAS, the rates proposed for Merrill Lynch’s underwriting services in this response were significantly greater than the rates quoted by the firms pre-qualified on October 22, 2007; and

WHEREAS, the ECFSA anticipates that it can procure underwriting services as necessary for a cost much lower than Merrill Lynch has quoted in its response to the ECFSA’s RFP, once the ECFSA has determined the particular terms of any future issuance of bonds on behalf of Erie County;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA rejects the sole bid by Merrill Lynch in response to the RFP.

This resolution shall take effect immediately.

Stanley J. Keysa
Secretary

Date: December 15, 2008