NEW YORK STATE OF OPPORTUNITY. | Empire State New Market Corporation

A Subsidiary of Empire State Development

EMPIRE STATE NEW MARKET CORPORATION

at the offices of the
New York State Urban Development Corporation
d/b/a Empire State Development
633 Third Avenue – 37th Floor Conference Room
New York, New York 10017

Meeting of the Directors

Monday

August 24, 2015 – 10:00 a.m.

PROPOSED AGENDA

CORPORATE ACTIONS

1. Approval of the Minutes of the March 27, 2015 Directors' Meeting

2. Consulting Services – Authorization to Enter into a Contract to Provide Consulting Services to the Corporation and to Take Related Actions

3. Accounting Services - Authorization to Enter into a Contract to Provide Accounting Services to the Corporation and to Take Related Actions

Item #1

EMPIRE STATE NEW MARKET CORPORATION
Meeting of the Directors
Held at the Offices of
Empire State Development
633 Third Avenue
New York, New York 10017

March 27, 2015

MINUTES

In Attendance

Directors:	Mehul Patel – Acting Chairman Sam Hoyt (via videoconference)
ESNMC Staff:	Elizabeth R. Fine – General Counsel Brendan Healey – Vice President Jonevan Hornsby – President Margaret Tobin – Chief Financial Officer Debbie Royce – Corporate Secretary
ESD Staff:	Carey Gabay – First Deputy General Counsel Kathleen Mize – Deputy CFO and Controller Robert Kwon – VP, Portfolio Management & Project Finance Maxwell Padden – Director, Subsidiary Finance Sankar Singh – Manager, Contract Audit & Administration Robert White – AVP, Internal Audit

The meeting of the Empire State New Market Corporation ("ESNMC" or the "Corporation") was called to order at 11:19 a.m. Director Patel noted for the record that the meeting was being webcast and that he would be the Acting Chair for today's meeting. Further, he stated that the Directors had received the relevant written materials in advance of the meeting and noted for the record the Corporation's policy, which welcomes public comments on the items on the current Agenda.

Before beginning with the substantive portion of the meeting, Acting Chairman Patel asked the Directors whether anyone had any potential conflict of interest with respect to any of the items on the proposed Agenda. He asked if so, that the appropriate disclosure be made on the record at this time to ensure that the Director was reminded to recuse themselves from any discussion or vote with regard to such item.

Noting for the record that no Directors had any conflicts to report, Acting Chair Patel stated the first order of business was the approval of the Minutes of the September 29, 2014 meeting of the Directors. Noting no corrections on the Minutes and upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE SEPTEMBER 29, 2014 MEETING OF THE DIRECTORS OF THE EMPIRE STATE NEW MARKET CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on September 29, 2014 as presented to this meeting, are hereby approved and all actions taken by the Directors present at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

Next, Jonevan Hornsby made a request for approval of the proposed operating budget for fiscal year 2015-2016.

By way of background, Mr. Hornsby explained that the Corporation was incorporated in 2004 for the purpose of applying for an allocation of federal New Market Tax Credits ("NMTC") from the Community Development Financial Institutions ("CDFI") Fund and was awarded a $30

million dollar allocation in May 2009. Further, he noted that with that allocation in September 2011, the Corporation closed on its first transaction, an $18 million dollar investment to Agro-Farma, maker of Chobani Greek-style yogurt and in September 2012, it closed on its second transaction, a $12 million dollar investment for the Brooklyn Navy Yard Development Corporation. Mr. Hornsby advised that in October 2014, ESNMC submitted an application requesting a new $60 million dollar allocation and ESNMC is awaiting notification regarding its application from the CFI Fund.

He stated that ESNMC continues to service the two closed transactions and hopes to receive a new allocation so it can close further transactions. Therefore, the Directors are being presented with the proposed budget for Fiscal Year 2015 - 2016. Mr. Hornsby noted that ESNMC's revenues come from fees charged on transactions, approximately $150,000 in Fiscal Year 2014 - 2015.

In addition Mr. Hornsby explained that, related to the expenses funded by fees the Corporation receives from transactions, ESNMC incurs certain transaction specific consulting expenses that are paid by borrowers directly from transaction closing proceeds. He noted these expenses and the reimbursements associated with them have been excluded from the budget request. He advised however that these transactions-specific consulting expenses have been factored in the maximum contract amounts for the relevant legal and accounting contracts. And lastly, he explained that the proposed budget for Fiscal Year 2015 – 2016

reflects $85,610 of expenses which consist primarily of consulting fees; legal fees; accounting fees; and insurance.

Chief Financial Officer Tobin asked Mr. Hornsby when the Board could expect to be notified of the next allocation, and he responded by giving a timeframe of May/June of this year.

Hearing no questions from the Directors and no requests for comments by the public, upon motion duly made and seconded, the following resolution was unanimously adopted:

EMPIRE STATE NEW MARKET CORPORATION – Approval of Fiscal Year 2015 – 2016 Budget

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RESOLVED, that the Corporation hereby adopts the proposed Fiscal Year 2015 -2016 budget on substantially the terms and for the purposes set forth in the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, with such changes as the President or his designee(s) may deem appropriate.

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There being no further business, the meeting was adjourned at 11:25 a.m.

Respectfully submitted,

Debbie Royce
Corporate Secretary

Item #2

NEW YORK STATE OF OPPORTUNITY. | Empire State New Market Corporation

FOR CONSIDERATION
August 24, 2015

TO: The Directors

FROM: Jonevan Hornsby

SUBJECT: Consulting Services

RE: Authorization to Enter into Contract to Provide Consulting Services to the Corporation and to Take Related Actions

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CONTRACT NEED AND JUSTIFICATION

I. Contract Summary

Contractor:	Rise Community Capital LLC ("Rise" or the "Firm")
Scope of Services:	Provide consulting services to Empire State New Market Corporation ("ESNMC" or the "Corporation") in connection with ESNMC's current allocation and potential future allocation of federal New Markets Tax Credits ("NMTC"), and deployment thereof.
Contract Term:	Three (3) Years
Contract Amount:	Not to exceed $500,000
Funding Source(s):	ESNMC fees and operating funds

II. Background

ESNMC requires consultants experienced in the NMTC program in order to operate its program.

III. Contractor Selection Process

On April 20, 2015, ESNMC issued a Request for Proposals ("RFP") to solicit proposals for NMTC consulting services. The RFP was published in the Contract Reporter and sent to the consulting firms that were known to have NMTC practices. Additionally, a target was set for

30% of the contract amount to be awarded to qualified minority- and women-owned business enterprises ("MWBEs"). Responses were due May 15, 2015. Responses were received from nine consulting firms and were scored independently by six ESD staff members. Based on their scores, three firms were brought in for interviews. Of the three firms interviewed, staff found that Rise provided the best and most cost-effective proposal for consulting services to ESNMC and therefore recommends that the contract be awarded to Rise, under the terms provided below.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

Staff recommends that Rise be engaged for the following scope of services: (1) assist ESNMC in preparing an application for a future NMTC allocation in 2015, 2016, and/or 2017; (2) screen potential NMTC transactions for eligibility; (3) identify potential NMTC investors and debt providers, and structure NMTC transactions accordingly; (4) close NMTC transactions with the support of ESNMC/ESD staff; (5) assist ESNMC in the compliance of all terms, covenants, and agreements contained in the NMTC Program Income Tax Regulations, all Allocation Agreements, and any requirements issued by the CDFI Fund in connection with ESNMC's NMTC Program; and (6) on an ongoing basis, provide suggestions for the successful continuation of an NMTC program and suggestions to improve ESNMC's chances of receiving future NMTC allocations.

V. Contract Term, Price and Funding

- Term: Three (3) years (fiscal years 2016, 2017, and 2018); in the event that services are not satisfactorily complete by the end of fiscal year 2018, contract may be extended by the President of ESNMC through December 31, 2018 in order to finalize tasks.

- Pricing:
  - Prepare ESNMC's 2015, 2016, and/or 2017 Allocation Applications:

    2015 Application
    Upfront Fee: $30,000
    Success Fee: $65,000, paid when allocation is received

2016 and/or 2017 Applications
Upfront Fee: $15,000
Success Fee: $80,000, paid when allocation is received

- Application Deployment (screening, structuring, and closing transactions; and general consulting assistance): 1% of total Qualified Equity Investment, paid when project transactions close (funded by NMTC borrowers from closing proceeds)

- Compliance and/or Asset Management: Billed hourly at Firm's rates (not to exceed $30,000 for 2015), as follows:

Professional Level	Hourly Rate
Principal	$300
Associate	$150

In future years, fee for asset management may be based on a percentage of ESNMC's asset management fee (up to 15 basis points).

- Out-of-Pocket Expenses (in accordance with the Corporation's billing policy as outlined in Schedule A): Reimbursement for any approved out-of-pocket expenses incurred to conduct meetings in Upstate NY / Western NY regions in order to strengthen ESNMC's pipeline, ESNMC's overall stakeholder engagement, and refinement of ESNMC's financing / business strategies. All expenses must be approved in advance.

- Maximum Contract Amount: $500,000.

- Funding Source: ESNMC fees and operating funds.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD/ESNMC's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. Rise shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with this contract and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of this contract's funding.

VII. Environmental Review

ESD staff has determined that the requested authorization to enter into a contract for consulting services constitutes a Type II action as defined by the NYS Environmental Quality

Review Act ("SEQRA") and the implementing regulations for the NYS Department of Environmental Conservation. No further environmental review is required in connection with this requested authorization.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Rise Community Capital LLC for an amount not to exceed $500,000.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments
Resolutions

August 24, 2015

EMPIRE STATE NEW MARKET CORPORATION – Consulting Services - Authorization to Enter into a Contract to Provide Consulting Services to the Corporation and to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Rise Community Capital LLC to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Rise Community Capital LLC in an amount not to exceed five hundred thousand dollars ($500,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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Item #3

NEW YORK STATE OF OPPORTUNITY. Empire State New Market Corporation

FOR CONSIDERATION
August 24, 2015

TO: The Directors

FROM: Jonevan Hornsby

SUBJECT: Accounting Services

RE: Authorization to Enter into Contract to Provide Accounting Services to the Corporation and to Take Related Actions

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CONTRACT NEED AND JUSTIFICATION

I. Contract Summary

Contractor:	CohnReznick LLP ("CohnReznick" or the "Firm")
Scope of Services:	Provide accounting services to Empire State New Market Corporation ("ESNMC" or the "Corporation") in connection with ESNMC's current allocation and potential future allocation of federal New Markets Tax Credits ("NMTC"), and deployment thereof.
Contract Term:	Three (3) Years
Contract Amount:	Not to exceed $500,000
Funding Source(s):	ESNMC fees and operating funds

II. Background

ESNMC requires accountants experienced in the NMTC program in order to operate its program.

III. Contractor Selection Process

On June 1, 2015, ESNMC issued a Request for Proposals ("RFP") to solicit proposals for NMTC accounting services. The RFP was published in the Contract Reporter and sent to the consulting firms that were known to have NMTC practices. Additionally, a target was set for 30% of the contract amount to be awarded to qualified minority- and women-owned business

enterprises ("MWBEs"). Responses were due June 26, 2015. Responses were received from three accounting firms and were scored independently by four ESD staff members. Staff found that CohnReznick provided the best and most cost-effective proposal for accounting services and therefore recommends that the contract be awarded to CohnReznick, under the terms provided below.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

Staff recommends that CohnReznick be engaged for the following scope of services: (1) provide transactional accounting projections and related opinions; (2) for each transaction, prepare an annual audit and tax return for both the investment fund ("upper tier") and the operating entity ("lower tier") for fiscal years 2016, 2017, and 2018; (3) provide NMTC compliance services and administer periodic testing and reporting on NMTC compliance; and (4) prepare an annual audit, and financial statements for ESNMC for fiscal years 2016, 2017, and 2018.

V. Contract Term, Price and Funding

- Term: Three (3) years (fiscal years 2016, 2017, and 2018); in the event that services are not satisfactorily complete by the end of fiscal year 2018, contract may be extended by the President of ESNMC through December 31, 2018 in order to finalize tasks.

- Pricing:
    - Transaction-specific work:
        - Consulting, structuring and financial projections (funded by NMTC borrowers from closing proceeds): billed hourly at Firm's rates, as follows:

Professional Level	Hourly Rate
Partner/Director	$275 - $340
Senior Manager	$250

Professional Level	Hourly Rate
Manager	$200 - $220
Staff/Senior	$110 - $165

- Annual audit and tax return for both the investment fund and operating entity, for each transaction: $8,250, $8,500, and $8,750 for fiscal years 2016, 2017, and 2018, respectively.
- Compliance services: $12,500; fees locked for fiscal years 2016, 2017, and 2018, respectively.
- Audit and tax return for ESNMC, if required: Audit – $6,250, $6,500, and $6,750 for fiscal years 2016, 2017, and 2018, respectively. Tax Return – to be determined based on need and amount of activity at ESNMC level.

- Maximum Contract Amount: $500,000.

- Funding Source: ESNMC fees and operating funds.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD/ESNMC's Non-discrimination and Contractor & Supplier Diversity policies will apply to this Project. CohnReznick shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with this contract and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of this contract's funding.

VII. Environmental Review

ESD staff has determined that the requested authorization to enter into a contract for accounting services constitutes a Type II action as defined by the NYS Environmental Quality Review Act ("SEQRA") and the implementing regulations for the NYS Department of Environmental Conservation. No further environmental review is required in connection with this requested authorization.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with CohnReznick LLP for an amount not to exceed $500,000.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments

Resolutions

August 24, 2015

EMPIRE STATE NEW MARKET CORPORATION – Accounting Services - Authorization to Enter into a Contract to Provide Accounting Services to the Corporation and to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds CohnReznick LLP to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with CohnReznick LLP in an amount not to exceed five hundred thousand dollars ($500,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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