



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

May 10, 2018

To: Commissioners Schad, Carney and Simmeth

From: Robert J. Lichtenthal, Jr., Deputy Director *RJL*

Subject: Request for Information - Legal Services (Bond Counsel)

On April 25, 2018 the Board of Commissioners approved the issuance of a Request For Information (RFI) for Legal Services (Bond Counsel). This was done so that the Authority can begin to retain substitute Bond Counsel for the proposed 2018 bond offering.

RFI packages were emailed* to the following firms with responses due May 1, 2018. Following are the responses:

Hawkins Delafield & Woods, LLP	Response Received
Squire Patton Boggs LLP	
Rodenhausen Chale LLP	
Bracewell LLP	
Trespasz & Marquardt, LLP	Response Received
Norton Rose Fulbright US LLP	Response Received
Roemer Wallens Gold & Mineaux LLP	
Harris Beach PLLC	Response Received
Phillips Lytle LLP	Response Received
Bond Schoeneck & King	
Knox McLaughlin Gornall & Sennett, PC	Response Received-Not submitting proposal
Hurwitz & Fine, PC	Response Received-Not submitting proposal
Pearlman & Miranda, LLC	Response Received

* Follow-up telephone calls were also place to assure that the e-mails were received.

All of the firms that responded are more than qualified to provide the services the Authority needs based upon the firm resumes that have been submitted. A series of reviews and discussions regarding the submissions have been held among staff members and the results were presented during the Staff Reports portion of the May 3, 2018 regular meeting of the Board of Commissioners.

Discussion during this meeting centered around three of the firms: Trespasz & Marquardt, LLP, Phillips Lytle LLP and Pearlman & Miranda, LLC.

The Commissioners requested staff to discuss the potential of entering a fixed fee arrangements with either Trespasz & Marquardt, LLP and Phillips Lytle LLP and to see if a cap could be negotiated. In addition, the Commissioners asked to receive clarification of the response of Pearlman & Miranda, LLC regarding their response in the RFI on the question of conflicts that they "believe none" exist.

With respect to the question of conflicts, the Pearlman & Miranda, LLC representative sent me the cover of a POS (Preliminary Official Statement) on a deal in which the firm is acting as a Disclosure Counsel for the issuer (New York State Housing Finance Agency) where Jefferies LLC is acting as a co-manager for the sale of the bonds along with a number of other firms. The deal is expected to close on or about May 17, 2018.

With respect to the fee issues and the availability of a cap or not to exceed amount, I placed a telephone call to Trespasz & Marquardt, LLP to discuss this issue. Mr. Marquardt confirmed the pricing at \$50,000.00 during a telephone call May 10, 2018. Phillips Lytle LLP has offered a flat fee of \$19,500.00. In my discussion with Pearlman & Miranda, LLC regarding the conflict issue the fee issue was also raised. Again, as of this writing, I am awaiting a response.

At this time and based upon the offer of Phillips Lytle LLP of a fee which is very favorable, their proximity to our offices which should help on saving some time and the need to bring closure to this process, I am recommending the Board enter into an agreement with Phillips Lytle LLP to serve as the Authority's Bond Counsel for the proposed 2018 bond issuance.

Taking into account all of these factors, the Commissioners may wish to limit their discussion to the following firms: Trespasz & Marquardt, LLP, Phillips Lytle LLP and Pearlman & Miranda, LLC.

Robert J. Lichtenthal

From: Stephen Adnopo [sadnopo@pearlmanmiranda.com]
Sent: Wednesday, May 09, 2018 1:54 PM
To: Robert J. Lichtenthal
Subject: POS for HFA
Attachments: POS posted NYSHFA AHRB 2018DE (P0086962xD5D5A).pdf

Bob,

Very good speaking with you. Attached, as discussed, is a copy of the POS for the pending NYSHFA financing. Please contact me if you would like any further information.

Regards,
Steve

Stephen Adnopo
Pearlman & Miranda LLC
1120 Avenue of the Americas, 4th Floor
New York, NY 10036
646-766-9700 d
sadnopo@pearlmanmiranda.com

This Preliminary Official Statement and the information contained herein are subject to completion or amendment without notice. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or solicitation of an offer to buy, nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration, qualification or filing under the securities laws of any such jurisdiction.

PRELIMINARY OFFICIAL STATEMENT DATED MAY 2, 2018

NEW ISSUE—BOOK-ENTRY ONLY

Moody's: "___"
(see "RATING" herein)

In the opinion of Bond Counsel to the Agency, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the 2018 Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), except that no opinion is expressed as to such exclusion of interest on any 2018 Series D Bond or 2018 Series E Bond for any period during which such 2018 Series D Bond or 2018 Series E Bond is held by a person who, within the meaning of Section 147(a) of the Code, is a "substantial user" of the facilities financed with the proceeds of the 2018 Series D Bonds or the 2018 Series E Bonds, respectively, or a "related person" and (ii) interest on the 2018 Bonds is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code and is not included in the adjusted current earnings of corporations for purposes of calculating the alternative minimum tax. Bond Counsel is of the further opinion that, under existing statutes, interest on the 2018 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). See "TAX MATTERS" herein.

\$120,010,000*

NEW YORK STATE HOUSING FINANCE AGENCY



Climate
Bond
Certified

\$99,420,000*
Affordable Housing Revenue Bonds,
2018 Series D
(Climate Bond Certified/Green Bonds)

\$20,590,000*
Affordable Housing Revenue Bonds,
2018 Series E

Dated: Date of delivery

Due: May 1 and November 1, as shown on the inside cover pages

The New York State Housing Finance Agency Affordable Housing Revenue Bonds, 2018 Series D (Climate Bond Certified/Green Bonds) (the "2018 Series D Bonds") and the New York State Housing Finance Agency Affordable Housing Revenue Bonds, 2018 Series E (the "2018 Series E Bonds" and, collectively with the 2018 Series D Bonds, the "2018 Bonds") are issuable only as fully registered bonds without coupons and, when issued, will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository of the 2018 Bonds. Individual purchases will be made in book-entry form, in denominations of \$5,000 or integral multiples thereof. So long as Cede & Co. is the registered owner of the 2018 Bonds, as nominee for DTC, references herein to the Bondholders or registered owners (other than under the captions "Tax Matters" and "Continuing Disclosure" herein) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the 2018 Bonds.

So long as Cede & Co. is the registered owner of the 2018 Bonds, as aforesaid, principal and semi-annual interest (payable May 1 and November 1, commencing November 1, 2018) are payable by **The Bank of New York Mellon, New York, New York, as Trustee**, to Cede & Co., as nominee for DTC, which will, in turn, remit such principal and interest to the DTC Participants for subsequent disbursement to the Beneficial Owners. (See "Description of the 2018 Bonds—Book-Entry Only System" herein.)

The 2018 Bonds are subject to redemption prior to maturity as described herein.

The 2018 Bonds are being issued for the purpose of financing 2018 Mortgage Loans for the construction or acquisition and rehabilitation of certain multi-family housing projects. Payment of the principal or redemption price of and interest on the 2018 Bonds will be secured by the Revenues, the Funds and Accounts under the General Resolution and the Program Assets, including, without limitation, Mortgage Loans and certain payments to be made under or with respect to the Mortgage Loans. The 2018 Bonds will be secured on a parity with and will be entitled to the same benefit and security as other Bonds (other than Subordinate Bonds) and Parity Obligations issued and to be issued or incurred in the future under the General Resolution, except as described herein.

The 2018 Bonds are special revenue obligations of the New York State Housing Finance Agency and will be payable by the Agency solely from and be secured by the Revenues, the Funds and Accounts and the Program Assets pursuant to the provisions of the General Resolution, as described herein.

The Agency has no taxing power. The 2018 Bonds are not a debt of the State of New York. The State of New York is not liable on the 2018 Bonds and is not under any legal or moral obligation to provide monies to make up any deficiency in any of the Funds or Accounts established by the General Resolution.

The 2018 Bonds are offered when, as and if issued and received by the Underwriters, subject to prior sale, to withdrawal or modification of the offer without notice, and to the approval of legality by Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel to the Agency. Certain legal matters related to the 2018 Bonds will be passed upon for the Underwriters by Harris Beach PLLC, New York, New York, Counsel to the Underwriters. Certain legal matters related to the 2018 Bonds will be passed upon for the Agency by Pearlman & Miranda LLC, New York, New York, Disclosure Counsel to the Agency. It is expected that the 2018 Bonds will be available for delivery in New York, New York on or about May __, 2018.

Morgan Stanley

J.P. Morgan

Academy Securities

BofA Merrill Lynch

Citigroup

Fidelity Capital Markets

Jefferies

Ramirez & Co., Inc.

Rice Financial Products Company

**Siebert Cisneros Shank & Co.,
L.L.C.**

Stern Brothers & Co.

**Wells Fargo Bank, N.A. Municipal
Products Group**

Dated: May __, 2018

* Preliminary, subject to change.

Robert J. Lichtenthal

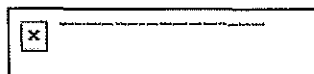
From: Milan K. Tyler [MTyler@phillipslytle.com]
Sent: Thursday, May 10, 2018 11:28 AM
To: Robert J. Lichtenthal
Cc: David J. McNamara
Subject: Erie County Water Authority

Mr. Lichtenthal,

On behalf of Phillips Lytle, I confirm that our fees to serve as bond counsel for the transaction that we discussed would be \$19,500, including disbursements.

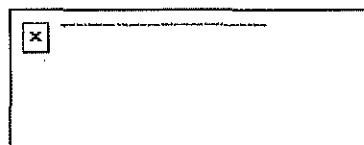
Milan

Milan K. Tyler
Partner



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From: Robert J. Lichtenthal [<mailto:RJL6807@ecwa.org>]
Sent: Thursday, May 10, 2018 9:46 AM
To: Milan K. Tyler
Subject: E-mail confirmation

Mr. Tyler:

Could you please send me an e-mail confirming the \$19,500.00 fee quote for Bond Counsel services that you provided me over the telephone? Thank you.

Robert J. Lichtenthal, Jr.
Deputy Director
Erie County Water Authority

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