

MEMORANDUM

TO: Gregory J. Oravec, City Manager

FROM: Edwin M. Fry, Jr., CPA, CGFO, Assistant Finance Director 

DATE: May 9, 2012

RE: RBC Capital Markets, LLC Investment Banking Agreement

The City issues a variety of debt issues such as utility revenue bonds, special assessment bonds and general obligation bonds. In order to issue bonds, it is necessary to engage outside professional help to assist City staff and the City Council with the process. A professional firm that practices the purchase and sale of municipal bonds is necessary for the successful issuance of City bonds. The City has utilized the services of RBC Capital Markets, LLC for all of the bonds issued by the City over the past fifteen years.

RBC Capital Markets, LLC has submitted an Investment Banking Agreement which will constitute a contract between the City of Port St. Lucie and RBC Capital Markets, LLC for services related to the purchase and sale of bonds to be issued by the City. This Agreement has been reviewed by the Legal Department and the Finance Department and we believe it is in the City's best interest to approve the Agreement.

I recommend approval of the Investment Banking Agreement between the City of Port St. Lucie and RBC Capital Markets, LLC. This Agreement is for a term of three (3) years starting from the date of approval by the City Council.

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City Manager's Office

INVESTMENT BANKING AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2012, by and among the City of Port St. Lucie (the "City") and RBC Capital Markets, LLC (the "Banker" or "RBCCM"), with reference to the following facts:

RECITALS

WHEREAS, the City plans to issue Utility Revenue bond issues, Special Assessment bond issues, General Obligation bond issues, Tax Increment bond issues, Lease-Purchase, Certificates of Participation, Capital Improvement bond issues (CB&A) and other financings in a single financing or in a series of financings (hereinafter "Bonds"); and

WHEREAS, the City desires and is authorized by law to retain the services of the Banker in connection with the issuance of the Bonds; and

WHEREAS, the Banker agrees to be retained by the City and to provide to the City the services described herein; and

WHEREAS, the Banker agrees to act as the senior managing underwriter, subject to the conditions set forth herein,

NOW therefore, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

Section 1: Scope of Services

When requested, RBCCM shall develop a financing plan for the purpose of assisting the City in achieving its financial objectives. All services are provided on an arm's length, commercial basis and may or may not be provided in conjunction with services provided by advisors to the City, such as, but not limited to, a financial advisor. The services of the Banker shall consist of the following:

1. Analyze the financing alternatives available to the City for the issuance of the Bonds and develop a financing plan, taking into account the City's objectives and considerations;
2. Size the Bonds, taking into account the needs of the City, reimbursements to the City, rating services, fees and other costs of issuance;
3. In cooperation with City, assist in preparing and/or review of the documents necessary to implement the issuance of the Bonds, including, but not limited to, authorizing resolutions, bond purchase agreement, and preliminary and final official statements distributed to potential investors, as required;
4. Together with the City and any other appropriate parties, consult on the terms and conditions of the Bonds, such as maturities, coupon rates, call features and security features, for the purpose of meeting market demands and the objectives of the City;
5. Provide information and material as needed to support presentations for rating agencies and/or bond insurance companies; if requested;
6. Coordinate printing and distribution of the preliminary and final official statements;

7. Schedule, coordinate and attend necessary rating agency meetings (as applicable) to support the City's efforts to obtain the highest possible rating on the issue;
8. Organize and participate in information meetings, if needed, to create investor interest with potential retail and/or institutional clients in the bond issue;
9. Together with the City and other appropriate parties, provide market information on the timing of the sale of the Bonds in relation to the market conditions and financing needs;
10. Arrange for distribution of the final official statements in accordance with Section 240.15c2-12 of Title 17 of the Code of Federal Regulations;
11. Serve as senior managing underwriter of the Bonds, which obligation is conditioned upon the execution of a mutually satisfactory bond purchase agreement and other customary documentation, and coordinate with all parties so as to consummate the sale and delivery of the Bonds in a timely manner.

Section 2: Limitation of Duties

The City acknowledges and agrees that RBCCM is not making a commitment to extend credit, make a loan or otherwise fund a project beyond the obligations contained in a mutually satisfactory bond purchase agreement. The City acknowledges that the services provided under this Agreement involve professional judgment on our part and that the results cannot be, and are not, guaranteed.

The City further acknowledges and agrees that: (i) the transaction contemplated by this Agreement is an arm's length, commercial transaction between the City and RBCCM in which RBCCM is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the City; (ii) RBCCM has not assumed any advisory or fiduciary responsibility to the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether RBCCM has provided other services or is currently providing other services to the City on other matters); (iii) the only obligations RBCCM has to the City with respect to the transaction contemplated hereby expressly are set forth in this Agreement; and (iv) the City has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Section 3: Expenses

The City, from the Bond proceeds, will pay the Banker's costs incurred in the performance of this Agreement, including costs of its legal counsel, if any, communication, preparation of the official statements, and overhead expenses.

The City, from the Bond proceeds or other lawfully available funds, will pay for legal fees, including disclosure counsel; rating agency and credit enhancement fees including all related travel (if any); the cost of appraisal, fiscal consultant, statistical, computer, and graphics services (if any), cost of printing and distribution of the official statements and expense of publication, advertising, and informational meetings; and the costs of fiscal agent or bond trustee and registrar.

Section 4: Compensation

The Banker agrees to prepare and coordinate all aspects of the sale of the Bonds. Each issue underwritten by RBCCM will be on a negotiated sale basis. The Banker's compensation will range from .495 to 1.495% depending upon a variety of matters such as the rating of the issue, whether the issue is fixed rate or variable rate, market conditions, etc. Fees and commissions are paid from the proceeds of the Bonds and are calculated as a discount on

the total bond amount. All fees are contingent on a successful sale of the Bonds and are payable from the Bond proceeds.

Section 5: Term of Agreement

This Agreement shall extend for a three (3) year period from the date of this Agreement. This Agreement may be terminated at any time by the City, upon ten business days' prior written notice to such effect to the Banker, or by the Banker upon ten business days' prior written notice to such effect to the City.

Section 6: Severability of Provisions

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

Section 7: Governing Law

This Agreement, and the rights and obligations of the parties hereto, shall be construed, interpreted and enforced pursuant to the laws of the State of Florida, and exclusive venue in any and all actions existing under this Agreement shall be laid in the action or proceeding which City or Banker may be required to prosecute to enforce its respective rights within this Agreement. The unsuccessful party therein agrees to pay all costs incurred by the prevailing party therein, including reasonable interest and attorney's fees, to be fixed by court, and said costs, interest, and attorneys' fees shall be made a part of the judgment in said action. Prior to the commencement of any litigation concerning this Agreement, the City and the Banker agree to first submit any disagreements to mediation. This mediation requirement is intended to reduce the costs of dispute resolution for both parties.

Section 8: Subcontractors

The Banker shall, with the prior written approval of the City, use such subcontractors as are necessary in the fulfillment of this Agreement.

Section 9: Miscellaneous

Nothing contained herein shall preclude the Banker from carrying on its customary and usual business activities. The Banker specifically reserves the right, but is not obligated, to bid for and maintain secondary markets on any City outstanding bonds subject to appropriate information barriers. Services provided by the Banker in connection with this Agreement shall not limit the Banker from providing services for the City in conjunction with other services requested by the City except as limited by rule of law or regulation.

In connection with services agreed to herein, it is understood that the Banker will render professional services as an independent contractor. Neither the Banker nor any of its agents or employees shall be deemed an employee of the City for any purpose.

The Banker shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the City.

This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof and supersedes any prior understandings or representations. The Agreement may be amended or modified only by a writing signed by both parties. It is solely for the benefit of the City and RBCCM, and no other entity.

This Agreement is submitted in duplicate originals. The acceptance of this Agreement by the City will occur upon the return of one original executed by an authorized City representative, and the City hereby represents that the signatory below is so authorized.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

RBC CAPITAL MARKETS, LLC

By Nate Eckloff
Name Nate Eckloff
Title Managing Director
Date May 8, 2012

ACCEPTANCE

ACCEPTED this _____ day of _____, 2012

By _____
Name _____
Title _____
Date _____