



MANAGER'S MEMO ITEM

ITEM: Financial Advisor's Services
WORKSHOP DATE: November 9, 2004
PREPARED BY: Rita A. Trainor
BID AMOUNT: Minimum \$6,500 **ACCOUNT:** _____
BUDGET AMOUNT: \$ _____
PURPOSE: Authorization to execute contract for Financial Advisor's Services

BACKGROUND:

The Village Of Downers Grove has used the Northern Trust Bank as financial advisors for the last five years. The service that they have provided has been very satisfactory, in an effort to obtain the most cost competitive proposal, staff went out to bid for financial services.

The request for proposals were sent out and a response deadline of 10 am, Friday, October 8 was established. Seven firms responded. The seven respondents were: Northern Trust; Griffin, Kubik, Stephens & Thompson; First Trust Portfolios, LP; Robert Baird; R.V. Norene Associates; and Speer. Staff believes that any debt activity that the Village will be entering into will be limited to issues of approximately \$6 million or less. At that level of activity, the low bidder was First Trust Portfolios, LP, and the complete bid tabulation is attached.

Staff met with First Trust representatives on Tuesday, October 19, 2004 to discuss the potential services to be provided to the Village. In particular, we confirmed that the work that they're doing is what we are looking for them to do for us. We inquired about them not being the underwriter of any debt that we would issue, as they are also in the underwriting business. They indicated that they had no problem with not being the underwriter, which addressed our concern of a conflict of interest. We also discussed the ability of the firm to handle the placement of our taxable short-term note due February 1, 2005. First Trust indicated that they have had experience with such notes and are prepared to evaluate our portfolio and handle this transaction as needed. We also requested and received additional documents from them that represented samples of their work product and we conducted reference checks with other entities for which they had provided financial advice. We have found no reason, based upon our review, to eliminate First Trust as a responsible bidder.

However, upon presentation of a contract for financial advisor services to First Trust we were unable to negotiate a contract that First Trust could sign off on. We worked with them for nearly a month to resolve their issues, but were unsuccessful in doing so. Once it was determined that we were at an impasse, we moved onto the second lowest bidder, who was Northern Trust. We were able to successfully negotiate a contract with Northern Trust and a copy of that agreement is attached.

REFERENCE CHECKS:

No additional reference checking was done on Northern Trust as we are familiar with their current services.

ATTACHMENTS:

The Financial Advisor's request for proposal is attached as well as the bid tabulation and the contract.

STAFF RECOMMENDATION:

Please authorize the execution of the contract for the use of Northern Trust as our financial advisors.

Financial Advisor's RFP Analysis

	Fixed Rate	Minimum Fee	Variable	Cost on \$7 million issue	Cost on \$10 million issue	Cost on \$15 million issue
Northern	5,000		\$0.60	9,200	11,000	14,000
Ehlers		8,250	\$0.275 up to \$7 million \$0.10 over \$7 million	19,250	22,250	27,250
Griffin, Kubik, Stephens & Thompson				40,250	57,500	86,250
				<i>If they serve as underwriter</i>		
First Trust						
General Obligation Refunding Bonds		6,500	\$0.90	6,500	9,000	13,500
General Obligation Tax Increment Financing Bonds (as a separate issue) or combined with GO Refunding		7,500	\$1.00	7,500	10,000	15,000
Robert Baird	7,000		\$0.80	12,600	15,000	19,000
R.V. Norene Associates	3,500		on 1st \$500,000 \$2.00 on next \$9.5 million \$1.00 on any >\$10 million	3,500 13,000 -	3,500 19,000 -	3,500 29,000 5,000
			Totals	16,500	22,500	37,500
Speer	10,000	for the 1st \$5 million +	\$1.00 per thousand	12,000	15,000	20,000

REQUEST FOR PROPOSAL
FOR
FINANCIAL CONSULTING SERVICES

TO EVALUATE THE VILLAGE'S EXISTING DEBT ISSUES TO DETERMINE IF
THERE EXIST OPPORTUNITY FOR SAVINGS RESULTING FROM
REFINANCING ALONG WITH ASSISTANCE IN ISSUANCE OF NEW DEBT
INSTRUMENTS REQUIRED FOR THE CBD TIF DEVELOPMENT

RFP Due Date:
10:00 a.m. on October 8, 2004

To
Rita Trainor
Finance Director
Village of Downers Grove
801 Burlington Avenue
Downers Grove, Illinois 60515

Introduction

The Village of Downers Grove is seeking proposals from interested and qualified financial consulting firms capable of evaluating the Village's existing debt instruments to determine the feasibility of reducing future payments through refinancing. In addition said financial firm should be capable of marketing the issuance of the refinanced bond issue or any new bond issues in conjunction with the redevelopment of the CBD TIF. The ultimate refinanced bond issue size or new bonds will be subject to continued review as the Village begins its 2005-06 fiscal year planning and completes the development agreement for the CBD TIF area.

It is anticipated that the selected firm will be engaged by the Village on a bond issue basis for a period of one year. Said contract may be extended at the Village's option for two, one year extensions, so as to develop continuity with the redevelopment process for the CBD TIF and continually monitor the interest rate market in an effort to realize savings to the Village.

Scope of Services Requested

In order to adequately evaluate proposals, the following information is requested from all submitting firms:

1. Transmittal letter introducing the firm and outlining the firm's accomplishments in the field of municipal financial consulting and bond marketing.
2. Discussion of the qualifications of the firm.
3. Profile description of the firm's practice regarding overall financial consulting services.
 - a. List of municipal clients with the length of service and services performed.
 - b. Listing of professional affiliations.
 - c. Longevity of practice.
 - d. Resumes of all principals and staff who would be involved in the project.
4. Overview of the entire bonding process, including the formation of a bond marketing/sale schedule.
5. The applicability of existing or proposed federal and state laws which affect the proposed issuance, with particular emphasis on TIF bonds and federal arbitrage rules.
6. Attendance at all pertinent meetings scheduled by staff and/or conducted by the Mayor and Board of Commissioners.

7. Financial marketing services to be performed:

- a. The merits of a competitive vs. negotiated sale.
- b. The merits of using fixed rate and/or variable rate debt structures.
- c. The merits of purchasing bond insurance.
- d. The merits of obtaining a rating from one or more rating agency firms.
- e. The merit or lack thereof of issuing general obligation bonds.

8. Complete the attached "Proposer's Certification" form.

Fees for service

Each firm shall submit a schedule of fees related to the issuance of the debt and the specific costs to be incurred by the Village of Downers Grove in conjunction with each issuance. It is the intention of the Village of Downers Grove to compensate the selected financial consultant at the time of issuance of bonds and only at such time.

Evaluation

A review of the RFP's will be conducted by Village staff. The cost of services, relative experience and other factors related to the firm's perceived ability to respond to the Village's scope of services will be considered in the evaluation. Staff will be responsible for clarifying any inconsistencies, ambiguities or incomplete proposals. Conspicuously deficient proposals will be eliminated. Final selection of a financial consultant will be made by the Mayor and Commissioners.

Special Conditions

The Village of Downers Grove reserves the right to reject any and all proposals received as a result of the Request for Proposals or to negotiate in any manner necessary to serve the best interests of the Village. Please note that the chosen financial consultant is expected to act independently and its firm (or any affiliated firms) will be excluded from bidding/buying any bonds that are issued.

Due Date for Proposals

Responses to the Request for Proposals are due in the office of the Finance Director by 10:00 a.m., October 8, 2004. Proposals should be submitted in a sealed envelope and marked "Request for Proposal – Financial Consulting Services". Requests for Proposals should be directed to:

Mrs. Rita Trainor, Finance Director
Village of Downers Grove
801 Burlington Avenue
Downers Grove, Illinois 60515

Competing firms are requested to furnish five copies of their proposals. Thank you for your interest in the Village of Downers Grove.

Village of Downers Grove

Proposer's Certification

Pursuant to 720 ILCS 5/33-E-1, et seq.
65 ILCS 5/11-42.1-1
30 ILCS 580/1
775 ILCS 5/1-10, et seq.

The undersigned, being duly appointed and empowered official of the
_____ duly sworn and under oath, hereby certifies:

Company name

1. _____ is not barred by law from submitting a Proposal to the Village of Downers Grove for the project contemplated herein because of a conviction for prior violations of either Illinois Compiled Statutes, 720 ILCS/5-33E-3 (bid rigging) or 720 ILCS 5-33E-4 (bid rotating).
2. _____ is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1.
3. _____ provides a drug free workplace pursuant to 30 ILCS 580/1, et seq.
4. _____ is in compliance with the Illinois Human Rights Act 775 ILCS 5/1, 101, et seq. including establishment and maintenance of sexual harassment policies and programs.

Company

Name

Title

Subscribed and sworn to before me
This _____ day of _____, 2004

Notary Public

AGREEMENT

This Agreement is made this ___ day of _____, 2004 by and between The Northern Trust Company (or "Consultant") and the Village of Downers Grove, Illinois, an Illinois municipal corporation with offices at 801 Burlington Avenue, Downers Grove, Illinois 60515, ("Village").

WHEREAS, the Village wishes to retain the services of the Consultant for professional financial advisor services; and

WHEREAS, the Consultant is willing to perform these services for the compensation and in accordance with the terms and conditions described in this Agreement,

NOW, THEREFORE, in consideration of the mutual benefits that will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

I. Scope of Services

- A. Assistance in the development of a financial plan for the Village, including development of a financing timetable and analysis and recommendation of financing alternatives and methods of sale.
- B. Coordination between Village personnel and service providers, including rating agencies, printers, registrar and paying agents, investment providers, credit enhancers and insurance companies.
- C. Reviews with bond counsel and local counsel legal issues associated with proposed financings.
- D. Preparation of Official Statements.
- E. Coordination of bidding and/or sale processes, including negotiating with underwriters on behalf of the Village.
- F. Any third party service providers and the services they will provide along with cost estimates must be agreed upon in writing by the Village prior to implementation or use of such provider or the Village will not incur the cost for such service. The Consultant alone incurs said cost.
- G. Any and all services requested in the Village's RFP, attached hereto.

II. Term of Agreement

The term of this Agreement will be one year from the date of execution by both parties. The Agreement may be renewed for an additional term upon written agreement of the parties.

As a condition of tender and receipt of a proper invoice, the Village of Downers Grove will pay the fee as defined below. Without such attached invoice, payments will not be made.

III. Compensation**A. Basic Fees:**

The Village will pay the Consultant the following:

1. A fixed fee of \$5,000 plus \$0.60 per \$1,000 par amount of the bonds issued.
2. Any additional work performed in excess of the above that would increase the contract amount must be approved in writing by the Village of Downers Grove prior to commencement.

B. Reimbursable Non-Direct Expenses:

These may include support services required to execute the scope of services such as photocopying, messenger/mail and exhibit preparation, etc.

C. Consultant Invoices:

The Consultant shall prepare invoices that contain a reference number, the billing period, the classifications and/or names of staff, numbers of hours billed to the project, all reimbursable expenses including reproduction, mailing, and equipment and a total reimbursable amount for the billing period, the original contract amount, the currently approved contract amount, amounts billed to date, amounts received to date, and the contract amount remaining in the contract to date.

D. Prompt Payment Act:

The Village of Downers Grove will comply with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq., in that any bill approved for payment must be paid or the payment issued to the Consultant within 60 days of receipt of a proper bill or invoice. If payment is not issued to the Consultant within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60 day period, until final payment is made.

The Village of Downers Grove shall review in a timely manner each bill or invoice after its receipt. If the Village of Downers Grove determines that the bill or invoice contains a defect making it unable to process the payment request, the Village shall notify the Consultant requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under 50 ILCS 505/1 et seq. The notice shall identify the defect and any additional information necessary to correct the defect.

IV. Insurance and Indemnification of the Village

- A.** The Consultant shall be required to provide proof of self-insurance or shall obtain, from a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, such general liability insurance as will protect the Consultant from claims, at a minimum set forth below which may arise out of or result from the Consultants operations under this agreement and for which the Consultant may legally liable:
1. Claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the operation to be performed;
 2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Consultants employees;
 3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Consultants employees;
 4. Claims for damages insured by the usual personal injury liability coverage which are sustained: 1) by a person as a result of an offense directly or indirectly related to employment of such person by the Consultant, or 2) by another person;

5. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting there from;
6. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
7. Claims for damages as a result of professional or any other type of negligent action by the Consultant or failure to properly perform services under the scope of the agreement between the Consultant and the Village.

B. The Consultant shall demonstrate having such insurance coverage for a minimum of \$2 million for professional liability (errors and omissions).

C. As evidence of said coverages, Consultant shall provide the Village with certificates of insurance. In addition, the Consultant shall indemnify and hold harmless the Village and its officers, employees and agents from any and all liability, losses or damages the Village may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of negligent action on the part of the Consultant or any sub-consultant to the Consultant under the Consultant's agreement with the Village.

V. General Terms and Conditions

A. Relationship Between the Consultant and the Village

The relationship between the Village and the Consultant is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other.

B. Equal Employment Opportunity

In the event of the Consultant's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the consultant may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the consultant agrees as follows:

1. That it will not discriminate against any employee or applicant for employment because of race, color religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
2. That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
3. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color,

religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

4. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the consultant's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the consultant in its efforts to comply with such Act and Rules and Regulations, the consultant will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
5. That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.
6. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
7. That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subconsultant. In the same manner as with other provisions of this contract, the consultant will be liable for compliance with applicable provisions of this clause by such subconsultants; and further it will promptly notify the contracting agency and the Department in the event any subconsultant fails or refuses to comply therewith. In addition, the consultant will not utilize any subconsultant declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations.

C. Sexual Harassment

Consultant has a written sexual harassment policy which complies with all applicable laws and regulations.

D. Drug Free Work Place

Consultant as party to a public contract, certifies and agrees that it will provide a drug free workplace by:

1. Publishing a statement: (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee's or consultant's workplace. (2) Specifying the actions that will be taken against employees for violations of such prohibition. (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will: abide by the terms of the statement; and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

2. Establishing a drug free awareness program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the grantee's or consultant's policy of maintaining a drug free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; (4) the penalties that may be imposed upon employees for drug violations.
3. Providing a copy of the statement required by subparagraph (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
4. Notifying the contracting or granting agency within ten (10) days after receiving notice under part (B) of paragraph (3) of subsection (a) above from an employee or otherwise receiving actual notice of such conviction.
5. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted as required by section 5 of the Drug Free Workplace Act.
6. Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.
7. Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

E. Discrimination

Consultant, its employees and subconsultants, agree not to commit unlawful discrimination and agree to comply with applicable provisions of the Illinois Human Rights Act, the Public Works Employment Discrimination Act, the U.S. Civil Rights Act and Section 504 of the Federal Rehabilitation Act, and rules applicable to each. The equal opportunity clause of the Department of Human Rights rules is specifically incorporated herein.

The Americans with Disabilities Act (42 U.S.C. 12101) and the regulations thereunder (28 CFR 35.130)(ADA) prohibit discrimination against persons with disabilities by the State, whether directly or through contractual arrangements, in the provision of any aid, benefit or service. As a condition of receiving this contract, the undersigned vendor certifies that services, programs and activities provided under this contract are and will continue to be in compliance with the ADA.

F. Standard Of Care

Services performed by The Northern Trust Company under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representations express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinions, and documents or otherwise.

If the Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from the Village, the professional services necessary to correct errors and omissions caused by Consultant's failure to comply with the above standard and reported to Consultant within one (1) year from the completion of Consultant's services for the Project.

G. Limitation Of Professional Liability

Village agrees to limit The Northern Trust Company's liability to Village arising from The Northern Trust Company's professional acts, errors or omissions in performing this Agreement, such that the total aggregate liability of The Northern Trust Company to all those named shall not exceed \$2,000,000 or total fee for the services rendered on this project, whichever is greater.

H. Termination

In the event of the Consultant's nonperformance, breach of the terms of the Agreement, or for any other reason, the Agreement may be canceled, in whole or in part, upon the Village's written notice of default and the Consultant's failure to cure such default within ten days of the notice. The Village will pay the Consultant's costs actually incurred as of the date of receipt of notice of default. Upon termination, the Consultant will deliver all documents and products of whatever kind, and their reproducible originals related to the project, which have been produced to the date of the notice of default.

I. Compliance with Laws

All work under the Agreement must be executed in accordance with all applicable federal, state and local laws, ordinances, rules and regulations.

J. Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Illinois. Venue is proper only in the County of DuPage.

K. Successors and Assigns

The terms of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that neither party will assign this Agreement in whole or in part without the prior written approval of the other.

L. Waiver of Contract Breach

The waiver by one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof will be limited to the particular instance and will not operate or be deemed to waive any future breaches of this Agreement and will not be construed to be a waiver of any provision except for the particular instance.

M. Amendment

This Agreement will not be subject to amendment unless made in writing and signed by all parties.

N. Indemnification

The Consultant will indemnify and hold harmless the Village and its officers, employees and agents from any and all liability, losses or damages the Village may suffer as a result of claims,

demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of negligent action on the part of the Consultant or any sub-consultants under this Agreement. This indemnification does not apply to liability caused by the Village's own negligence.

P. Severability of Invalid Provisions

If any provisions of this Agreement are held to contravene or be invalid under the laws of any state, country or jurisdiction, contravention will not invalidate the entire Agreement, but it will be construed as if not containing the invalid provision and the rights or obligations of the parties will be construed and enforced accordingly.

Q. Assignment

The Consultant will not assign or subcontract any portion of this Agreement, unless the Village agrees to the assignment or subcontract in writing. Any assignment will not relieve the Consultant from its obligations or change the terms of this Agreement.

The Consultant will provide a list of key staff, titles, responsibilities, and contact information to include all expected sub consultants.

R. Notice

Any notice will be in writing and will be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party at the party's place of business. Notices shall be addressed to designated representatives of both parties as follows:

**Mr. Riccardo Ginex, Village Manager
Village of Downers Grove
801 Burlington Ave.
Downers Grove, IL 60515**

The Northern Trust Company

S. Conflict of Provisions

In the event there is a conflict between the provisions contained herein and the RFP, the terms herein shall prevail.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date indicated above.

The Northern Trust Company

Village of Downers Grove

By: _____

By: _____

Title: _____

Title: Village Manager

Date: _____

Date: _____

3: H:\My Documents\Agreements\Professional Services Agreement.NT.doc

CONSULTANT'S CERTIFICATION

Consultant, _____ hereby certifies that
(Name of Consultant)

It is not barred from agreeing to this contract for:

(Description of Contract)

as a result of a violation of either Section 720 ILCS 5/33E-3 and 720 ILCS 5/33E-4 of Article 33E of Chapter 38 of the Illinois Compiled Statutes.

Consultant further certifies that it is not delinquent in the payment of any tax administered by the Department of Revenue, or that consultant is contesting its liability for the tax delinquency or the amount of a tax delinquency in accordance with the procedures established by the appropriate Revenue Act. Consultant further certifies that if it owes any tax payment(s) to the Department of Revenue, Consultant has entered into an agreement with the Department of Revenue for the payment of all such taxes that are due, and Consultant is in compliance with the agreement.

By: _____
Consultant's Authorized Agent

FEDERAL TAXPAYER IDENTIFICATION NUMBER

Subscribed and sworn to before me this
_____ day of _____, 20 _____.

or _____
NAME

Notary Public

Social Security Number