

51773

Date: April 21, 2016

To: Honorable Members of the Board of Acquisition and Contract

From: Ann Marie Berg, Commissioner
Department of Finance

RE: Authority to enter into an agreement with CIBC World Markets Corp. ("CIBC"), pursuant to which CIBC will provide Public-Private Partnership ("P3") Financial Advisor Services to the County of Westchester to enable the County to evaluate opportunities for potential maximization of County assets for the period from April 1, 2016 through December 31, 2018, payable on a contingency fee basis upon successful completion of various transactions.

Authority is respectfully requested for the County of Westchester (the "County") to enter into an agreement with CIBC, pursuant to which CIBC will provide various P3 Financial Advisor Services to the County of Westchester for the period from April 1, 2016 through December 31, 2018 (the "Agreement"). These services, which shall only be provided at the request of the County, will include the following:

- 1) Assist in the preparation of RFP's and Request for Expression of Interest ("RFEI") for specific projects. Prepare a matrix to be used in evaluating the responses to the RFP and/or the RFEI;
- 2) Provide advice in connection with the evaluation of P3 initiatives submitted in response to any RFEI and assist in the preparation of any ensuing RFP;
- 3) Assist in the financial analysis of RFP proposals and provide alternative financing options for negotiations and assist in the negotiations with selected proposers;
- 4) Model and analyze alternative financing mechanisms and provide advice on P3 project finance options with collaboration of County bond and tax counsel;
- 5) Assist in developing the business case for alternatively funded projects: analyze procurement options, model prospective cash flows, compare financings to funding through



municipal bonds, consider risk/return profiles, and perform other analyses that might be needed in the evaluation of a P3 opportunity;

6) Assist in the evaluation and procurement of project funding through P3 or other alternative mode of financing; among other tasks, advise on the development of evaluation criteria and methodology, model financial proposals, independently evaluate terms and pricing, structure any transaction, support negotiations, and prepare a financing summary;

7) Assist the County and advise in the preparation of related documents; and

8) Present analysis and recommendations to the County.

For further clarity, with respect to item 8 above, CIBC will develop a financial model, based on data from the County, the prospective purchaser and, as applicable, market intelligence or specialized expert inputs, which will assist the County in optimizing the financial terms of any transaction proposed by a prospective purchaser (the "Transaction") in accordance with the County's objectives. With respect to a Transaction, CIBC will prepare a confidential report for the County's sole and exclusive use, which will:

- a. Discuss and analyze price, terms and other unique characteristics that impact the economic terms of the Transaction.
- b. Compare financial terms of the Transaction to similar transactions (to the extent any exist) and explain any unique considerations.
- c. Explain and analyze any underlying assumptions to the Transaction as well as industry and economic trends.
- d. State the factors considered and the processes used to review the historical, current and forecasted financial projections of the Transaction.
- e. Provide an appropriate valuation range taking into consideration the terms of the Transaction, including, for example, the upfront payment versus deferred consideration.

In consideration for services rendered at the request of the County, the County will pay CIBC a fully contingent fee based on a successful execution of each and any transaction. The fee will be calculated based on the total project value as follows:

Project value up to \$50 million	CIBC Advisory Fee of 2.50%
Project value >\$50 million up to \$75 million	CIBC Advisory Fee of 2.25%
Project value >\$75 million	CIBC Advisory Fee of 2.00%
Minimum CIBC fee per successful transaction:	\$1.0 million
Maximum CIBC fee per successful transaction	\$2.250 million

"Total Project Value" shall mean the sum of the aggregate value of the monetary consideration received by the County pursuant to any Transaction. The payment of such monetary consideration can be in the form of an upfront payment or a deferred payment discounted to present day value at a mutually-agreed discount rate that reflects the County's cost of capital.

Ordinary and reasonable costs are included in the above fee and will not be reimbursed by the County. Upon the prior written consent of the County, CIBC may incur reasonable

extraordinary expenses (e.g., particular travel beyond the normal scope of business; engaging a subconsultant), which expenses will be reimbursed by the County.

The County, at its sole option, may renew the Agreement for two additional two (2) year periods on written notice to the consultant.

Pursuant to Section 7 of the Westchester County Procurement Policy, on February 2, 2016 the Department of Finance issued a Request For Proposals (“RFP”) seeking qualified firms to provide financial advisor services to the County with respect to both bonding and P3. The RFP was emailed to known vendors and on February 3, 2016 was posted on the County website. Of the five (5) proposals received for P3 services, two respondents were selected for a subsequent meeting; one on March 16th and the other on March 17th. After careful review of each respondent’s qualifications and proposals with reference to the evaluation criteria set forth in the RFP, CIBC was selected by the review committee because it was felt that their methodology most closely matched the County’s.

This proposed Agreement will serve a public purpose by enabling the County to evaluate opportunities for potential maximization of County assets.

The goals and objectives of the proposed Agreement are to provide the County with financial advice on the financing of complex public-private partnerships that would capitalize on existing County infrastructure and/or capital assets with the goal of shifting risk from taxpayers to private parties.

The goals and objectives of the proposed Agreement will be tracked and monitored through regular consultations with and briefings by CIBC on a periodic basis to the Administration.

Accordingly, I most respectfully recommend approval of the attached Resolution.

AMB/DK/jpg/nn

RESOLUTION

Upon a communication from the Commissioner of Finance, be it hereby:

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement with CIBC World Markets Corp. ("CIBC") pursuant to which CIBC will provide the County with Public-Private Partnership Financial Advisor Services to enable the County to evaluate opportunities for potential maximization of County assets for the period from April 1, 2016 through December 31, 2018 (the "Agreement"); and be it further

RESOLVED, that in consideration for services to be rendered at the request of the County, the County will pay CIBC a fully contingent fee based on a successful execution of each and any transaction. The fee will be calculated based on the total project value as follows:

Project value up to \$50 million	CIBC Advisory Fee of 2.50%
Project value >\$50 million up to \$75 million	CIBC Advisory Fee of 2.25%
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Ordinary and reasonable costs are included in the above fees and will not be reimbursed by the County. Upon the prior written consent of the County, CIBC may incur reasonable extraordinary expenses (e.g., particular travel beyond the normal scope of business; engaging a subconsultant), which expenses will be reimbursed by the County; and be it further

RESOLVED, that the County, at its sole option, may renew the Agreement for two additional two (2) year periods on written notice to CIBC; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to implement this Resolution.

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
					0

Budget Funding Year(s) 2016 Start Date 4/1/2016 End Date 12/31/2018
(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ 0 Federal Aid _____

(must match resolution) Other _____