

Utilities Commission, City of New Smyrna Beach

Request for Proposal

Loan Commitment

RFP # 09-09

Date Issued: May 22., 2009

RFP Document on the UCNSB Web Site Link: <http://www.ucnsb.net/purchasing/bid-information.aspx>

Utilities Commission, City of New Smyrna Beach (UCNSB) is seeking bids from qualified vendors to provide a commitment for a Loan in the amount not exceed \$20,250,000 which will be structured as a loan amortized over eleven (11) years.

Notice is herby given that sealed bids will be received at 200 Canal Street, New Smyrna Beach, FL 32168, until **2:00 p.m., June 5, 2009** at which time will be opened in the Finance Department.

DIRECT INQUIRIES TO:

Email:
Telephone Number:
Fax Number:

Maureen Lynch
Materials Manager
mlynch@ucnsb.org
(386) 424-3046
(386) 424-2748

Mail To:

Utilities Commission City of NSB
Attn: Materials Manager
PO Box 100
New Smyrna Beach, Florida 32170-0100

Delivery to:

200 Canal Street
New Smyrna Beach, FL 32168

Upon receipt of this proposal document, any and all communications regarding this proposal must be made only to the Materials Manager as noted above. Any violation of this condition could result in bid disqualification.

This is a Sealed Proposal-Fax or electronic replies will not be accepted.

Utilities Commission, City of New Smyrna Beach operates in accordance with the State of Florida Sunshine Laws.

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1.00 GENERAL CONDITIONS

1. INSTRUCTIONS TO PROPOSERS: To insure consideration of your proposal, please follow these instructions. Proposals not in compliance with conditions specified herein are subject to rejection.

2. SEALED PROPOSALS: **AN ORIGINAL AND 7 COPIES** must be in the Finance Department by the date and time specified. The Proposal Reply, Evaluation Factors, Questionnaire, Attachment “A”, Attachment “B”, and any addenda issued must be included. Proposals must be sealed and clearly labeled with the following information:

- a. Name and address of Proposer
- b. Proposal number
- c. Date and time of Proposal Opening

3. PREPARATION OF Proposal: All information shall be entered in ink, typewritten, or produced by computer. It is your responsibility to make certain that unit prices and extended prices are correct. The UCNSB will not be responsible for errors or omissions made by the Proposer in determining proposal price(s). The proposal must contain a manual signature of an authorized representative of the agency proposing. In order to insure uniformity, proposals must be submitted on this Proposal Form and the attached pages.

4. NO PROPOSAL: If unable to submit a proposal, please sign and return Proposal Reply Sheet by return mail or fax advising the reason for not submitting a proposal. To ensure inclusion in future bids, a Proposer **should** submit a “NO PROPOSAL” to be received by the Finance Department no later than the stated proposal opening date and time.

5. OBLIGATION OF PROPOSER: By submitting a proposal, the Proposer covenants and agrees that they have satisfied themselves from their own investigation of the conditions to be met, that they fully understand their obligation and that they will not make any claim for, or have right to cancellation or relief from the contract because of any misunderstanding or lack of information.

6. QUESTIONS REGARDING RFP: UCNSB has made every effort to provide prospective vendors with the information needed to appropriately respond to this RFP. UCNSB realizes that some clarification, interpretation, or additional information may be required.

Any additional information pertaining to this RFP or to the services being sought hereunder obtained in a manner other than as described in the preceding paragraph should be regarded as unofficial. UCNSB will not be bound in any way by information so obtained, or by a Bidder’s reliance thereon.

7. COST DISCUSSIONS: The Proposer must not discuss cost information, except for clarification requested by the UCNSB Materials Manager, prior to the posting of proposal results, with any employee, board member or authorized representative of the UCNSB.

8. ADDENDA: All addenda issued during the time of proposing shall become part of the Proposing Documents, and receipt thereof must be acknowledged in writing with the bid (see Factor #6). The UCNSB accepts no responsibility for inaccurate proposals due to missed information contained in any addendum. Each Proposer should ensure that they have received all addenda and amendments to the RFP before submitting their proposals. Please access the UCNSB web site at <http://www.ucnsb.net/purchasing/bid-information.aspx> for any addenda.

9. LATE PROPOSALS: Proposals will be publicly opened, read aloud and recorded, on the date and time indicated, at the location specified in the proposal request. It is the Proposers' responsibility to make certain that his/her proposal is in the hands of the the Materials Manager prior to the opening time at the specified location. UCNSB accepts no responsibility for late or misdirected mail deliveries. Late proposals will not be considered.

10. CONSIDERATION OF BIDS: The UCNSB reserves the right to award the contract to the Proposer(s) that the UCNSB deems to offer the best overall proposal. The UCNSB is therefore not bound to accept a proposal on the basis of lowest price. In addition, the UCNSB at its sole discretion, reserves the right to cancel this RFP, to reject any and all proposals, to waive any and all informalities and/or irregularities, to re-advertise with either the identical or revised specifications, or not award a contract at all if it is deemed to be in the best interest of the UCNSB to do so. The UCNSB also reserves the right to make multiple or split awards if it is deemed to be in the Commission's best interest. The UCNSB shall not be responsible for any cost or expense incurred by the Proposer in preparing or submitting a bid or any cost prior to the execution of a contract agreement.

11. OTHER CONSIDERATIONS: Quantities involved, time of delivery, purpose for which required, competency in determining responsibility.

12. QUALIFYING PROPOSALS: UCNSB reserves the right to require Proposers to submit such evidence of qualifications as it may deem necessary and may consider any evidence available concerning the financial and other qualifications of the Proposer.

13. DISCRIMINATION: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a proposal on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contract supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

14. ADA: The vendor awarded this proposal shall agree to comply with the Americans with Disabilities Act (ADA) of 1990.

15. PROPOSAL ACCEPTANCE PERIOD: Any proposal in response to this solicitation shall be valid for 60 days following opening of proposal, to allow for formal action by the Board. The Proposer agrees that during such time his bid will remain firm and irrevocable. At the end of the 60 days, the bid may be withdrawn at the written request of the Proposer. If the proposal is not withdrawn at that time, it remains in effect until a contract is awarded or the solicitation is canceled.

16. EVALUATION PROCESS: The Evaluation Committee will evaluate all proposals received. The committee will examine each proposal and determine how effectively it satisfies the RFP.

17. PROPOSAL AWARD: Award is expected to be made to the Proposer who best meets the requirements of UCNSB considering responsibility, responsiveness and price. A written contract and/or purchase order detailing agreed terms will be rendered between the UCNSB and the agency achieving a successful proposal. Terms of the contract will include any and all items as specified in the proposal, plus mutually agreed terms and conditions.

The content of this RFP and all provisions of the successful response deemed pertinent by UCNSB may be incorporated into a contract and become legally binding.

18. CLARIFICATION: The UCNSB reserves the right to request clarification of information submitted and to request additional information of one more Proposers, if needed.

19. CONFLICT OF INTEREST: The award hereunder is subject to the laws of the State of Florida. All Proposers must disclose, with their proposal, the name of any officer, director, or agent who is also an employee of the UCNSB. Further, all Proposers must disclose the name of any UCNSB employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Proposer's firm or any of its branches.

20. LEGAL REQUIREMENTS: Applicable provisions of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all bids received in response hereto and shall govern all claims and disputes which may arise between person(s) submitting a proposal response hereto and the UCNSB. Lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof. Proposers have certain rights under Chapter 120, Florida Statutes. Failure to follow proper procedures for a timely protest shall constitute a waiver of all further proceedings under Florida Statute 120.53(5).

21. TAXES: Sales to UCNSB are exempt from state sales tax. State sales tax certificate of exemption will be issued upon request.

FLORIDA SALES TAX EXEMPTION NO: 74-16-058509-54C

22. OTHER AGENCIES: All respondents awarded contracts from this solicitation may, upon mutual agreement, permit any municipality or other government agency to participate in the contract under the same prices, terms and conditions. If the period of time is not defined within this solicitation, the prices, terms and conditions shall be firm for 120 days from date of award. It is understood that at no time will any city or municipality or other agency be obligated for placing an order for any city municipality or agency, nor will any city municipality or agency be obligated for any bills incurred by any other city or municipality or agency. Further it is understood that each agency shall issue their own purchase order to the awarded respondent(s).

23. SUBSTITUTIONS: Proposers are cautioned not to deviate from the proposal specifications unless they also submit a detailed alternative.

24. NON-WARRANTY OF SPECIFICATIONS: Due care and diligence have been exercised in the preparation of this RFP and all information contained herein is believed to be to be substantially correct. However, the responsibility for determining the full extent of the exposures shall rest solely with the provider. Neither the Commission nor its representatives shall be responsible for any errors or omission in this RFP nor for the failure on the part of the proposer(s) to determine the full extent of exposures.

**SWORN STATEMENT UNDER SECTION 287.133(3) (1)
FLORIDA STATUES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted Bid, Bid or Contract for_____.
2. This sworn statement is submitted by _____
[name of entity submitting sworn statement] whose business address is: _____
_____ and (if applicable) its Federal Employer
Identification Number (FEIN) is _____.

(If entity has no FEIN, include the Social Security Number of the individual signing this sworn statement:
_____.

3. My name is _____ and my relationship to the entity named above is _____.
4. I understand that a “public entity crime” as defined in Paragraph 287.133 (1) (g), Florida Statues, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state, or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (91) (b), Florida Statues, means a finding of guilt or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court or recording, relating to charges brought by federal or state trial court or recording, relating to charges brought by federal or state trial court or recording, relating to charges brought by indictment or information after July 1, 1989, as a result of just verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
6. I understand the “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statues, means: (1) A Predecessor or Successor of a person convicted of public crime: or (2) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholder, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of public crime in Florida during the preceding 36 months shall be considered an affiliate.
7. I understand that a “person” as defined in Paragraph 287.133(1) (e), Florida Statues, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provisions of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in management of an entity.
8. Based on information and belief, that statement which I have marked below is true in relation to the entity submitting this sworn statement. [Please indicate which statement applies]

Public Entity Crimes Statement

____ Neither the entity submitting this sworn statement, or one more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate or the entity, has been charged with and convicted of public entity subsequent to July 1, 1989, AND [Please indicate which additional statement applies.]

____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. [Please attach a copy of the final order.]

____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. [Please attach a copy of the final order.]

____ The person or affiliate has not been placed on the convicted vendor list. [Please describe any action taken by or pending with the Department of General Services.]

Date: _____ Signature _____

STATE OF: _____

COUNTY OF: _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, _____ [name of individual signing] who after first sworn by me affixed his/her signature in the space provided above on this _____ day of _____, 20____.

My commission expires: _____ Notary Public

Print, Type, or Stamp of Notary Public

Personally known to me, or
Produced Identification:

Type of I.D.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

He/she is _____ of _____, Bidder that has submitted the attached Bid;

He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Neither the said Bidder nor any of its officers, partners, owners, agent representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person, to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the UCNSB.

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Signed

Title

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

Title

My Commission Expires: _____

2.02 CERTIFICATION OF DRUG-FREE WORKPLACE

IDENTICAL PROPOSALS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR SIGNATURE

UTILITIES COMMISSION
City of New Smyrna Beach, Florida

VENDOR INFORMATION

386 424 3045 Voice
386 424 2732 Fax

Vendor is:

- () Corporation
- () Partnership
- () Sole Proprietorship
- () Other _____(Explain)

Federal Employer Identification
Number or Social Security Number: _____

Do you collect Florida State Sales Tax? () Yes () No

Firm Name: _____

Mailing Address: _____

Telephone No. _____ Fax No. _____

Email Address: _____ Web Address: _____

Service or Commodity Supplied: _____

If vendor is quoting, as a manufacturer's representative and the purchase order should be addressed to the manufacturer in care of the vendor, so indicate.

If remittance address is different from the mailing address so indicate below.

Firm Name: _____

Mailing Address: _____

Submitted by: _____

Name & Title Printed: _____



RICHARD T. WAGNER
President

**Utilities Commission, City of New Smyrna Beach, Florida
Request for a Bank Qualified Loan Commitment**

Bid Package Enclosures

1. Memorandum to Prospective Bidders.
2. Notice of Request for Commitments.
3. Summary of Proposed Terms.

1075 W. Morse BLVD. WINTER PARK, FL 32789-3146
TELEPHONE 407.647.1000 • FAX 407.647.5526 • E-mail: rtwagner1@earthlink.net



SOUTHEASTERN INVESTMENT SECURITIES, INC.

RICHARD T. WAGNER
President

MEMORANDUM

TO: Prospective Bidders

FROM: Richard T. Wagner

RE: Utilities Commission, City of New Smyrna Beach, Florida ("UCNSB") Request for a Loan Commitment

DATE: May 22, 2009

In our capacity as Financial Advisor to the UCNSB, we have been asked to solicit your interest in extending a firm commitment for a Loan to refund several outstanding Utility System obligations and provide funds for capital improvements more specifically outlined herein.

The UCNSB is requesting a commitment for a Loan in an amount not to exceed \$20, 250,000 which will be structured as an amortizing Loan.

Commitments will be due by 2:00 P.M. on June 5, 2009.

The Loan will be a "qualified tax-exempt obligation" for purposes of Section 265(b) (3) of the Internal Revenue Service Code as amended. Enclosed is Notice of Request for Commitment, Summary of Proposed Terms and other information regarding the proposed Loan.

Upon your review of the enclosed, please do not hesitate to get in touch with Maureen Lynch, Materials Manager, Utilities Commission, City of New Smyrna Beach, Florida 200 Canal Street, New Smyrna Beach, Florida, 32168, phone: 386.424.3046, Facsimile: 386.424.2748 E-mail: mlynch@ucnsb.org; Laurie Klinkenberg, Director of Finance/CFO phone: 386.424.3040 email lklinkenberg@ucnsb.org or the City's Financial Advisor, Richard T. Wagner, Southeastern Investment Securities, LLC. Telephone: 407.647.1000, Facsimile: 407.647.5526, E-mail: rtwagner1@earthlink.net with any questions or requests for additional information. We appreciate your consideration of this matter and hope to hear from you.

RTW/pas
Enclosures

1075 W. Morse BLVD. WINTER PARK, FL 32789-3146
TELEPHONE 407.647.1000 • FAX 407.647.5526 • E-mail: rtwagner1@earthlink.net

NOTICE OF REQUEST FOR A LOAN COMMITMENT

UTILITIES COMMISSION, NEW SMYRNA BEACH, FLORIDA

I. INTRODUCTION:

The Utilities Commission, City of New Smyrna Beach, Florida (“UCNSB”) hereby solicits a sealed, firm Commitment for a Loan in accordance with the terms, conditions, and specifications outlined in this notice of Request for a Loan Commitment (“Commitment”) and the attached Summary of Proposed Terms for the Loan. The loan will be characterized as a “qualified tax-exempt obligation” for purposes of Section 265(b) (3) of the IRS Code.

II. COMMITMENT DUE DATE:

Sealed Commitments for the Loan will be received at the Office of the Director of Finance (an original with seven (7) copies) no later than 2:00 P.M. EST on June 5, 2009. Commitments will not be accepted after this time. **Fax and or emails will not be accepted.** Commitments for the Loans shall be marked **“RFP 09-09 Loan Commitment – Utilities Commission, City of New Smyrna Beach Utilities System Refunding and Revenue Certificates, Series 2009”** and addressed as follows:

Maureen Lynch, Materials Manager
Utilities Commission, City of New Smyrna Beach
200 Canal Street
New Smyrna Beach, FL 32168
Ph: 386.424.3046

III. SUBMISSION OF COMMITMENTS:

A. ACCEPTANCE/REJECTION/MODIFICATION TO COMMITMENTS:

The UCNSB reserves the right to negotiate modifications to Commitments that it deems acceptable, to reject any and all Commitments, and to waive minor irregularities in the procedures or to award to other than the low bidders if it is in the best interests of the UCNSB.

B. COMMITMENTS BINDING:

All Commitments submitted should be binding for sixty (60) calendar days following receipt deadline date.

IV. ADDITIONAL INFORMATION:

Annual Financial Reports and Budgets of the UCNSB may be obtained on the UCNSB's website www.ucnsb.org, (studies and presentations) from the UCNSB's Director of Finance, Laurie Klinkenberg at 386.424.3040 or the UCNSB's Financial Advisor, Southeastern Investment Securities, LLC, Richard T. Wagner, at 407.647.1000.

REQUEST FOR A LOAN COMMITMENT

Utilities Commission, City of New Smyrna Beach, Florida
\$20,250,000*
Utilities System Refunding Revenue Certificates, Series 2009

Summary of Proposed Terms

- Issuer/
Borrower:** Utilities Commission, City of New Smyrna Beach, Florida (“UCNSB”)
- Issue:** Utilities Commission, City of New Smyrna Beach, Florida
Utilities System Refunding Revenue Certificates Series 2009 (“Series 2009
Certificates” or “Loan”)
- Amount:** Not to exceed \$20,250,000
- Tax Exemption:** The Series 2009 Certificates will be a “bank qualified tax-exempt
obligation” for purposes of Section 265(b) (3) of the IRS Code.
- Authority:** The Series 2009 Certificates are being issued pursuant to Chapter 85-503,
Law of Florida (“Chapter 85-503”), Resolution No. 28-78, adopted by the
UCNSB on June 30, 1978, as amended and supplemented and in particular
as supplemented by a Resolution to be adopted by the UCNSB
(collectively, the “Resolution”).
- Commitment Due
Date:** Commitments will be received no later than 2:00 P.M. EST on June 5, 2009
by: Maureen Lynch, Materials Manager, Utilities Commission, City of
New Smyrna Beach, 200 Canal Street, New Smyrna Beach, FL 32168,
Telephone: 386.424.3046.
- Award Date:** An award by the UCNSB is expected on June 15, 2009 with approval by
the City Commission thereafter.
- Funding Date:** Expected on or before August 30, 2009, pending City Commission
approval.
- Purpose of
The Loan:** The Loan proceeds would be used to fund a portion of the design and
construction costs of various capital improvements in an amount not to
exceed \$2.0 million; refund on a current basis the UCNSB outstanding
Series 1993 Bonds in the amount of \$2,530,000; refund on a current basis
three outstanding loans with Florida Municipal Power Agency aggregating
\$ 15,625,000 and pay expenses associated with the issuance of the Series
2009 Certificates.

Documentation: The UCNSB's obligation to repay the Series 2009 Certificates will be evidenced by a UCNSB Resolution and a Certificate a, together with the customary closing papers and the approving opinion of Akerman Senterfitt, Bond Counsel.

Financing Structure: The UCNSB is requesting fixed rate financing in the amount of not to exceed \$20,250,000* to be amortized according to the repayment terms herein. The Loan will be a draw down loan in that approximately \$18,250,000 will be drawn at the time of funding to refund the outstanding obligations and to pay the Series 2009 Certificates expenses. The \$2.0 million balance (capital improvement new money portion) will be drawn down in whole or in part within six months of Loan closing. Such drawdown is dependent on current capital improvement bids being received. All or a portion of such new money may not be necessary.

Repayment Terms: Interest will accrue initially from the Closing Date to October 1, 2009 (the first interest payment date) and will be payable semi-annually thereafter on each April 1 and October 1.

The principal payments will be amortized over an eleven (11) year level period (principal and interest combined) paid on an annual basis each October 1, commencing on October 1, 2010. (See proposed Amortization Schedule, Appendix A, herein)

Security: The payment of the principal and interest on the Series 2009 Certificates will be secured equally and ratably by a first lien on and pledge of the Net Revenues from the operation of the UCNSB Utilities System on a parity with the Series 2002 Certificates, Series 2004A Certificates, Series 2007 Certificates and all other certificates issues on a parity therewith under the Resolution without preferences, priority or distinction of any certificates over any other thereof. The Series 2009 Certificates shall not constitute general obligations of the UCNSB or the City of New Smyrna Beach, but shall be payable solely from and secured by a lien upon the Net Revenues of the Utilities System. The Series 2009 Certificates Holder will waive any interest to amounts on deposit in the Debt Service Reserve Fund established pursuant to the Resolution.

Additional Parity Debt: Resolution No. 28-78 contains a 1.40x coverage requirement for the issuance of additional parity debt. The UCNSB Commission intends in the future to amend the coverage requirement to 1.25x. **The successful proposer will be required to consent to such amendment as a condition of its bid.** The effective date of such amendment depends on obtaining the required level of bondholder consents under the Bond Resolution which cannot be determined at this time.

*Estimated, subject to change.

**Loan Rate Quotes
And Prepayment**

Terms:

Quotes: Fixed rate based upon the proposed Amortization Schedule Appendix A, herein.

Prepayment: The Bidder shall specify pre-payment restrictions and penalties, if any.

Legal Opinion:

The Resolution and Certificate will be prepared by and subject to the approving opinion of Akerman Senterfitt, Jacksonville, Florida, Bond Counsel, together with the customary closing certificates at the UCNSB's expense.

**Fees and
Expenses:**

State what fees and expenses of the Lender (if any) will be applicable. All fees and expenses of the Lender and their Counsel or other representatives of the Lender shall be the obligation of the Lender; however, such amount may be deducted from the principal amount of the borrowing at closing. Such costs will be considered in determining the most favorable proposal.

The fees and expenses of the UCNSB Counsel, Bond Counsel, Financial Advisor, City Counsel, and their representatives will be the obligation of the UCNSB and will not be factored into the bid calculations.

**Additional
Restrictions/
Covenants:**

Bidder shall specify any additional covenants and restrictions.

**Commitment
Award:**

The award will be made on the most favorable Commitment in the sole judgment of the UCNSB.

APPENDIX A

**Utilities Commission, City of New Smyrna Beach, Florida
Utilities System Refunding Revenue Certificates Series 2009**

Proposed Amortization Schedule

<u>Maturity</u> (Oct. 1)	<u>Principal</u>
2010	\$600,000
2011	\$650,000
2012	\$710,000
2013	\$790,000
2014	\$2,355,000
2015	\$2,140,000
2016	\$2,300,000
2017	\$2,400,000
2018	\$3,180,000
2019	\$3,325,000
2020	\$1,800,000
Total	\$20,250,000