

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING ) RESOLUTION NO. 92-1623  
ISSUANCE OF A REQUEST FOR )  
PROPOSALS FOR BOND COUNSEL ) Introduced by Rena Cusma,  
SERVICES FOR THE PERIOD JULY 1, 1992, ) Executive Officer  
TO JUNE 30, 1995 )

WHEREAS, From time to time the District has the need to obtain specialized legal services for Bond Counsel for bonds and other obligations of the District; and

WHEREAS, In the past, the District has obtained such Bond Counsel services on a per issue or department basis; and

WHEREAS, It is more efficient and desirable to enter into an agreement for Bond Counsel services for a definite time period for the entire District; and


WHEREAS, The Request for Proposals and contract form attached hereto would provide a means for procuring such services for the period July 1, 1992, through June 30, 1995; and

WHEREAS, Council approval of this RFP and any subsequent agreement for Bond Counsel services is required pursuant to Metro Code Section 2.04.033(a)1; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District authorizes issuance of the Request for Proposals for Bond Counsel Services for the period July 1, 1992, to June 30, 1995, in a form substantially similar to the attached Exhibit A.

ADOPTED by the Council of the Metropolitan Service District this 28<sup>th</sup> day of May, 1992.

  
\_\_\_\_\_  
Jim Gardner, Presiding Officer

**METROPOLITAN SERVICE DISTRICT**

**REQUEST FOR PROPOSALS**

**BOND COUNSEL SERVICES**

**INTRODUCTION**

The Metropolitan Service District (Metro) is a regional government responsible for the management of the Metro Washington Park Zoo; St. Johns Landfill, Metro South Station, Metro Central Station, Metro Composter Facility; urban growth and transportation planning; Oregon Convention Center, Portland Center for the Performing Arts, Civic Stadium, and Memorial Coliseum.

Metro is soliciting written proposals for Bond Counsel Services to be utilized on an as needed basis for future financings. Possible future financings include contemplated measures for urban Greenspaces acquisitions, solid waste transfer station(s), and an End of the Oregon Trail facility. It is also possible that no financings may occur.

**PROPOSAL INFORMATION**

Proposals will be received at the business office of the Metropolitan Service District, Office of General Counsel, 2000 S.W. First Avenue, Portland, OR 97201-5398, to the attention of Daniel B. Cooper, General Counsel, until 5:00 p.m. PDT,

\_\_\_\_\_. Proposals submitted prior to that date should be delivered to the Office of General Counsel marked "Proposal - Bond Counsel Services."

The contract period will be from approximately July 1, 1992, through June 30, 1995.

Each proposal must be submitted in a form as described in this proposal document.

The FY 1992-93 Metro budget does not contain an appropriation for this contract but the Office of Finance and Management Information has estimated \$\_\_\_\_\_ is the maximum amount for expenditure during the life of the contract. As individual financings are identified and authorized a specific dollar amount will be agreed to as the Project Budget for Bond Counsel Services.

### **SCOPE OF WORK**

Provide necessary Bond Counsel Services including advice regarding structure and preparation of necessary Bond ordinances and documents, publication of required legal notices and furnishing of all required legal opinions regarding the validity and tax exempt status of the issuance of bonds or other financial obligations on an "as needed" basis for future financings of Metro during the three-year period.

### **MINIMUM REQUIREMENTS**

Proposers must meet the following minimum requirements in order to be considered a Proposer:

1. Be licensed to practice law in the state of Oregon; and
2. Be an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds.

### **EVALUATION CRITERIA**

- |   |           |
|---|-----------|
| 1. Experience with municipal bond issues and similar bond matters | 20 points |
| 2. Experience, training, and qualifications of attorney(s)        | 15 points |
| 3. References and reputation in financial community               | 15 points |
| 4. Cost for services  | 10 points |

5.	Location and ease of access to Metro staff	10 points
6.	Knowledge of and experience with regional governments	10 points
7.	Evidence of creative and innovative approaches to public finance	10 points
8.	Knowledge and understanding of key public financial issues facing governments in the Portland metropolitan area	10 points
	<b>Total Possible Points</b>	<b>100</b>

**PROPOSAL INSTRUCTIONS**

1. **Deadline and Submission of Proposals:**

Three copies of the Proposal shall be furnished to Metro addressed to:

Daniel B. Cooper, General Counsel  
 Office of General Counsel  
 Metropolitan Service District  
 2000 S.W. First Avenue, Suite 410  
 Portland, OR 97201-5398

and clearly marked "Proposal - Bond Counsel Services."

Proposals will not be considered if received after 5:00 p.m. PDT,

\_\_\_\_\_, 1992. Postmarks are not acceptable.

2. **Basis for Proposals:**

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this Request for Proposals will not be considered by Metro in evaluating the Proposal. All questions relating to the Request for Proposals should be addressed to Daniel B. Cooper, General Counsel. Any questions, which in the opinion of Metro, warrant a written

reply or Request for Proposals amendment will be furnished to all parties receiving this Request for Proposals.

3. General Proposal and Contract Conditions:

Limitation and Award -- This Request for Proposals does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of Proposals in anticipation of a contract. Metro reserves the right to accept any or all Proposals received as the result of this request, to negotiate with all qualified sources, or to cancel all or part of this Request for Proposals.

4. Contract Type:

Metro intends to award a Personal Services Agreement with the selected firm for this project. A copy of the standard agreement form which the successful consultant will be required to execute is attached.

5. Validity Period and Authority:

The Proposal shall be considered valid for a period of at least 90 days and shall contain a statement to that effect. The Proposal shall contain the name, title, address and telephone number of an individual or individuals with authority to bind any firm contracted during the period in which Metro is evaluating the Proposal.

**TERMS OF AGREEMENT**

The initial term of this contract shall be from approximately July 1, 1992, through and including June 30, 1995, or completion of the issue.

## **PROPOSAL CONTENT**

All Proposals must be submitted in the format described below. Submissions which do not address all questions posed or are otherwise incomplete will be deemed nonresponsive and not considered as part of this competitive process.

### **General Information:**

1. Provide name, address of provider, date established, and brief description of attorney or firm's background.
2. State the number of personnel in your firm and their general duties.
3. Describe the experience and professional credentials of the staff who would be assigned to perform the work for Metro. Resumes of individuals proposed for this contract may be attached.
4. Provide a copy of your firm's Affirmative Action Plan.
5. Give a brief written explanation of your understanding of the effort needed to complete the Scope of Work, and why you should be considered to be the most qualified proposer. Responses should be organized in a fashion that addresses each of the evaluation criteria specified herein.
6. Describe your proposed fee structure and arrangements including hourly billing rates for attorneys and other staff as applicable, and other proposed alternative fee structures if any are to be considered.

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Attachment - Personal Services Agreement

Project \_\_\_\_\_  
Contract No. \_\_\_\_\_

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation organized under ORS Chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and \_\_\_\_\_, referred to herein as "Contractor," located at \_\_\_\_\_.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective \_\_\_\_\_, and shall remain in effect until and including \_\_\_\_\_, unless terminated or extended as provided in this Agreement.

2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A – Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.

3. Payment. Metro shall pay Contractor for services performed and materials delivered in the maximum sum of \_\_\_\_\_ AND \_\_\_/100THS DOLLARS (\$ \_\_\_\_\_), in the manner and at the time specified in the Scope of Work.

4. Insurance.

a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:

(1) Broad form comprehensive general liability insurance covering personal injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and

(2) Automobile bodily injury and property damage liability insurance.

b. Insurance coverage shall be a minimum of \$500,000 per occurrence, \$250,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this



Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party.

13. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

14. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

15. Modification. This Agreement is the entire agreement between the parties, and may only be modified in writing, signed by both parties.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 92-1623 FOR THE PURPOSE AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR BOND COUNSEL SERVICES FOR THE PERIOD JULY 1, 1992 TO JUNE 30, 1995

Date: May 21, 1992

Presented by: Dan Cooper  
Christopher Scherer

## BACKGROUND

Bond financing requires legal advice from outside counsel with specific expertise in public finance and related matters including federal tax laws. Each bond issuance requires an opinion of Bond Counsel certifying that the interest on bonds qualifies for federal tax-exempt status and whether or not the bonds are "private activity bonds" as defined in Internal Revenue Code. Metro also benefits from outside legal advice on an ongoing basis regarding compliance with the covenants in its various bond ordinances, the tax laws regarding arbitrage rebate and financial decisions that may affect Metro's financial structure as defined in Metro's bond ordinances.

In the past, Metro has retained the services of a Bond Counsel by contract on each specific bond issue. We now have four bond issues outstanding and anticipate additional activity in the bond market during the next fiscal year. Possible bond financings include funding the east Washington County transfer station, the Metropolitan Greenspaces program, and the End of the Oregon Trail Interpretative Center.

Staff believes it is a matter of necessity to retain the services of a Bond Counsel on an ongoing basis to provide legal advice regarding its current outstanding debt and assistance in developing the financing strategy, documents, and fulfilling the legal requirements related to possible future financings. It is proposed that Bond Counsel be retained for a three years by contract. Resolution No. 92-1623 approves issuance of an Request for Proposal for Bond Counsel services.

## EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1623.