

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING ) RESOLUTION NO. 95-2221  
ISSUANCE OF A REQUEST FOR PROPOSALS )  
FOR BOND COUNSEL SERVICES FOR THE ) Introduced by Mike Burton,  
PERIOD JANUARY 1, 1996 TO ) Executive Officer  
DECEMBER 31, 1998 )

WHEREAS, From time to time Metro has the need to obtain specialized legal services for Bond Counsel; and

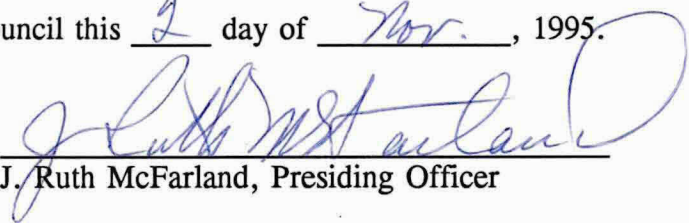
WHEREAS, The Request for Proposals and contract form attached hereto would provide a means for procuring such services for the period January 1, 1996 through December 31, 1998; and

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

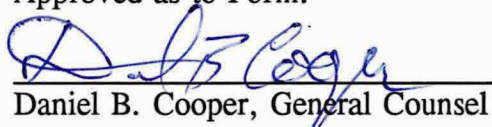
BE IT RESOLVED,

That the Metro Council authorizes issuance of the Request for Proposals for Bond Counsel Services for the period January 1, 1996 to December 31, 1998, in a form substantially similar to the attached Exhibit "A" and authorizes the Executive Officer to execute a contract with the most favorable proposer as recommended by the Metro General Counsel.

ADOPTED by the Metro Council this 2 day of Nov., 1995.

  
\_\_\_\_\_  
J. Ruth McFarland, Presiding Officer

Approved as to Form:

  
\_\_\_\_\_  
Daniel B. Cooper, General Counsel  
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METRO

REQUEST FOR PROPOSALS

BOND COUNSEL SERVICES

**INTRODUCTION**

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

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 expansion of the Metro Washington Park Zoo, expansion of the Oregon Convention Center, or other projects. It is also possible that no financings may occur. Bond Counsel may need to be consulted regarding the continued compliance with covenants on outstanding bonds in order to maintain the tax-exempt status of these bonds.

**PROPOSAL INFORMATION**

Proposals will be received at the business office of Metro, Office of General Counsel, 600 N.E. Grand Avenue, Portland, OR 97232-2736, to the attention of Daniel B. Cooper, General Counsel, until 5:00 p.m. PDT, \_\_\_\_\_, 1995. 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 January 1, 1996 through December 31, 1998.

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

The FY 1995-96 Metro budget does not contain an appropriation for this contract but the Department of Administrative Services has estimated \$100,000 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 (physical and electronic) 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  
Metro  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

and clearly marked "Proposal - Bond Counsel Services." Proposals will not be considered if received after 5:00 p.m. PDT, \_\_\_\_\_, 1995. 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 or reject 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 January 1, 1996 through and including December 31, 1998, or completion in process.

## **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 assigned to this contract or who will contribute to this contract, 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. Please address ability to communicate with Metro staff through E-Mail and file transfer mechanisms.
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 Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 N.E. Grand Avenue, Portland, OR 97232-2736, 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 amount(s), manner and at the time(s) specified in the Scope of Work for maximum a sum not to exceed \_\_\_\_\_ AND \_\_\_\_\_/100THS DOLLARS (\$\_\_\_\_\_).
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 bodily 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. 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 that are subject employers under the Oregon Workers' Compensation Law 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. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

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, or with any patent infringement or copyright claims 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. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the State of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

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

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor \_\_\_ 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.

15. 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.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

_____	METRO
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

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## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 95-2221, FOR  
THE PURPOSE OF AUTHORIZING ISSUANCE OF A  
REQUEST FOR PROPOSALS FOR BOND COUNSEL  
SERVICES FOR THE PERIOD JANUARY 1, 1996 TO  
DECEMBER 31, 1998

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September 21, 1995

Presented by  
Daniel B. Cooper

### FACTUAL BACKGROUND AND ANALYSIS

Metro's current contract with Stoel Rives for bond counsel services expires December 30, 1995. Resolution No. 95-2221 authorizes the issuance of a Request for Proposals for bond counsel services for an additional three-year period. Council approval is required pursuant to Metro Code section 2.04.033(a)(1). Metro Code section 2.08.070 requires that any outside counsel be selected by the General Counsel. The RFP that is attached is similar to previous formats that have been used by Metro in obtaining bond counsel services. In 1992, when the last competitive procurement was conducted for bond counsel services, four qualified firms applied. An interview panel consisting of representatives of the Office of General Counsel, Finance Department, and Council conducted interviews and selected the most favorable proposer. General Counsel recommends that a similar interview panel be utilized for this procurement and that a representative from the financial community be added to the panel. The resolution authorizes the execution of the contract with the most favorable proposer as recommended by the General Counsel.

## BUDGET IMPACT

The bond counsel services being sought are in two categories. The majority of the dollar amount of services will be for bond counsel opinions and related services for the issuance of bonds through the contract period. Any issuance of bonds will depend on future decisions by the Council and may require voter approval in the case of General Obligation bonds currently being considered for Zoo exhibits or convention center expansion. Any issuance of revenue bonds would also require Council approval. At the time bond issues are approved budgetary impacts would be identified and resources allocated to cover the cost of bond counsel services.

In addition, bond counsel provides an ongoing service in assisting Metro maintain the tax-exempt status of its existing bonds. This relatively low level of advice is currently provided for in existing budget appropriations for the departments which have outstanding bond issues.

## EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2221.

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