

CLARK COUNTY STAFF REPORT

DEPARTMENT: Treasurer's Office

DATE: 12/16/2014

REQUEST: Authorize Chair of the Board of County Commissioners of Clark County, Washington, retaining Public Financial Management, Inc. as Financial Advisor for the County.

CHECK ONE: Consent Commissioners

BACKGROUND:

The County let RFP No. 685 for Financial Advisor as our current contract with Piper Jaffray & Co. expires December 31, 2014. A panel of five County employees reviewed all bidders selecting Public Financial Management, Inc. for a three year period with at the County having an option of two additional two year extensions ending December 31, 2021. The contract precludes Public Financial Management, Inc. from being the underwriter of County issued bonds for either negotiated or competitive bond sales at the same time as they serve as financial advisor.

The financial advisory services relate to bond issuance(s) and advice on specific financing activities.

COMMUNITY OUTREACH

None

BUDGET AND POLICY IMPLICATIONS

The maximum compensation to Public Financial Management, Inc. during the next three years, unless modified in writing by the parties, is Sixty Thousand (\$60,000) Dollars per annum. This compensation shall be approved per the contract by the Treasurer's Office and paid by the Budget Office through its funding mechanisms.

FISCAL IMPACTS



Yes (see attached form)



No



Handwritten signature
OK
N

ACTION REQUESTED

We respectfully request that the Board of County Commissioners approve the professional services contract with Public Financial Management, Inc..

DISTRIBUTION

Upon approval, distribution should include the Auditor's Office, Office of Budget Services, General Services Department, Prosecutor's Office, Public Works Department and the Treasurer's Office.



John Payne
Deputy Treasurer

Approved: 

CLARK COUNTY
BOARD OF COMMISSIONERS

Dec 16, 2014
SR 310-14

FISCAL IMPACT ATTACHMENT

Part I: Narrative Explanation

I. A – Contractual services for financial advisor needs to be included in the biennial budget for 2015/16.

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Fund 0001 – General Fund						
Total						

II. A – No revenues are associated with the budgeted expenditure.

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
Fund 0001 – General Fund	N/A	120,000	120,000				
Total		120,000	120,000				

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual	120,000	120,000				
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total	120,000	120,000				

CONTRACT

TR 14-70

THIS AGREEMENT entered into this 4TH day of DEC, 2014 by and between CLARK COUNTY, WASHINGTON, hereinafter called "County," a municipal corporation of the state of Washington and Public Financial Management, Inc., hereinafter called "Contractor."

WITNESSETH:

WHEREAS, Clark County is requesting financial advisor services (registered municipal advisor); and

WHEREAS, Public Financial Management, Inc. has the expertise to provide such service; now, therefore,

COUNTY AND CONTRACTOR MUTUALLY AGREE as follows:

1. **Services.** The Contractor shall perform services as follows:
 - A. **Generally:** To provide those services more particularly set out in Exhibit "A" – Scope of Work," which is incorporated into this contract by reference.
2. **Time.** The contract shall be deemed effective beginning January 1, 2015. This personal services contract shall remain in effect until and including December 31, 2017. Clark County reserves the right to extend or renew this contract for this service for two additional two year periods provided performance under the terms of the contract is satisfactory and additional funding is available. The first extension of the contract would start January 1, 2018, and remain in effect until and including December 31, 2019. The extension is subject to the parties mutually agreeing to compensation and scope of work. The second extension of the contract would start January 1, 2020, and remain in effect until and including December 31, 2021. The extension is subject to the parties mutually agreeing to compensation and scope of work.
3. **Compensation.** County shall pay the Contractor for performing said services upon a receipt of a written invoice according to the schedule set forth in Exhibit "B." The maximum compensation for the period January 1, 2015, through December 31, 2015, shall not exceed Sixty thousand (\$60,000.00). January 1, 2016, through December 31, 2016, shall not exceed Sixty thousand (\$60,000.00). as adjusted for inflation by reference to the National Consumer Price Index.

4. **Termination.** County may terminate this Agreement immediately upon any breach whatsoever by Contractor in the duties of Contractor as set forth in contract. The waiver by the County of one or more breach shall not be held or construed as a waiver of any subsequent breach or breaches. Further, the County may terminate this contract upon immediate notice to Contractor in the event that the funding for the project, from wheresoever procured ceases or is reduced in amount. In any event, the parties may terminate this contract by giving forty-five (45) days' written notice to the other party. The Contractor will be reimbursed for services expended up to the date of termination.
5. **Independent Contractor.** The Contractor shall at all times be an independent contractor and not an employee of the County and shall not be entitled to compensation or benefits of any kind except as specifically provided herein.
6. **Indemnification Clause.** The Contractor does release, indemnify and promise to defend and save harmless the County its elected officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action, and claims, including costs and reasonable attorney's fees incurred by the County, its elected officials, officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of or out of the Contractor's performance of service pursuant to this Agreement. In making such assurances, Contractor specifically agrees to indemnify and hold harmless the County from any and all bodily injury claims brought by employees of Contractor and expressly waives its immunity under the Industrial Insurance Act as to those claims which are brought against the County. Provided, however, this paragraph does not purport to indemnify the County against the liability and damages arising out of bodily injuries to person or damages caused by or resulting from the sole negligence of the County, its elected officials, officers, employees and agents.
7. **Wage and Hour Compliance.** Contractor shall comply with all applicable provisions of the Fair Labor Standards Act and any other legislation affecting its employees and the rules and regulations issued there under insofar as applicable to its employees and shall at all times save the County free, clear and harmless from all actions, claims,

demands and expenses arising out of said act and the rules and regulations that are or may be promulgated in connection therewith.

8. **Social Security and other Taxes.** The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises, or payments required by any city, federal or state legislation which are not or may during the term of the Agreement be enacted as to all persons employed by contractor and as to all duties, activities, and requirements by the Contractor in the performance of the work pursuant to this Agreement and shall assume exclusive liability therefore, and meet all requirements there under pursuant to any rules and regulations that are now and may be promulgated in connection therewith.
9. **Contract Documents.** Contract documents consist of this agreement, Exhibit "A" which consists of the scope of Professional Services to be rendered, Exhibit "B," the attached fee schedule and Contractor's response to the Request for Proposal No. 685. Where provisions of the Contract and provisions of the attached Exhibits or the Response to the Request for Proposal are inconsistent, the provisions contained in the Contract are controlling. The attached Exhibits control over inconsistent provisions contained in the Response to Request for Proposals.
10. **Equal Employment Opportunity.** The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, marital status or national origin.
11. **Changes.** County may, from time to time, require changes in the scope of the services to be performed here under. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between County and the Contractor, shall be incorporated in the written amendments to this Agreement.
12. **Governing Law.** This Agreement shall be governed by the laws of the state of Washington. Venue for any litigation shall be Clark County, Washington.
13. Except for an action to enforce any determination of an arbitrator or arbitration panel hereunder, any controversy regarding the language or performance of this Agreement shall be submitted to binding arbitration. Either Party may request arbitration by

written notice to the other. The arbitration shall be conducted in accordance with the Rules of the Financial Industry Regulatory Authority (FINRA).

14. **Conflict of Interest.** The Contractor covenants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services here under. The Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed.
15. **Consent and Understanding.** This Agreement contains a complete and integrated understanding of the Agreement between the parties and supersedes any understanding, agreements, or negotiations, whether oral or written, not set forth herein or in written amendments hereto duly executed by both parties.
16. **Severability.** If any provision of this Agreement is held invalid, the remainder would then continue to conform to the terms and requirements of applicable law.
17. **Maintenance of Records.** Contractor shall maintain all of its records relating to the Scope of work on a generally recognized accounting basis and allow the County 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 the County makes final payment and all other pending matters are closed, whichever is longer.
18. **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 the County, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to County all rights of reproduction and the copyright to all such documents.
19. **Right to Withhold Payments.** The County shall have the right to withhold from payments due to Contractor such sums as necessary, in the County's sole opinion, to protect the County 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.

20. 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.

21. Staffing. The County reserves the right to reject the assignment of Contractor staff and demand assignment of alternative staffing arrangements if the County's needs are not being met as defined in Exhibit A.

22. Agreement Not to Underwrite. As long as Public Financial Management, Inc. is under contract to provide financial advisory services to the County, Public Financial Management, Inc. will not bid at County competitive bond sales and will not serve in an underwriting capacity for County negotiated bond sales, unless expressly requested by the County, in writing, to do so.

IN WITNESS THEREOF, the County and the Contractor have executed this Agreement on the date first above written.

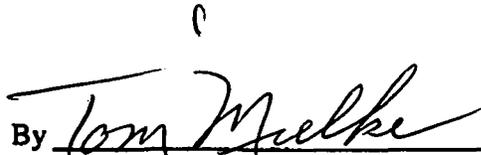
DATED this 16 day of Dec, 2014.

Attest:

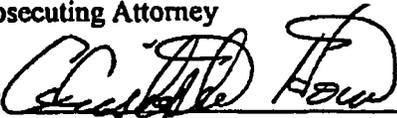
BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON



Rebecca Titon
Clerk To the Board


By _____
Tom Mielke, Chair

Approved as to Form Only
TONY GOLIK
Prosecuting Attorney

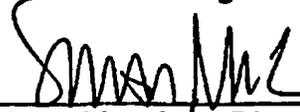
By 

Chris Home
Chief Deputy *Civil Deputy*

By _____
David Madore, Commissioner

By _____
Jeanne Stewart, Commissioner

Public Financial Management, Inc.

By 

Susan Musselman, Director

EXHIBIT A
SCOPE OF WORK

All work of the financial advisor shall be coordinated through the Deputy Treasurer of Clark County. In the absence of the Deputy Treasurer, coordination shall be through the County Treasurer with assistance from the Treasurer's Finance Manager. Principal contacts will include the County Treasurer, County Manager, Finance Director, Director of Public Works, Budget Manager, and key personnel of the operating department for which a project is being performed and support staff in capital budgeting within the Office of Budget and debt management in the Treasurer's Office.

The Contractor shall perform the following:

- a. Assist Clark County in researching and analyzing various ongoing and financing alternatives.
- b. Assist Clark County in coordination, preparation, and update of the financing element of long-range financial and capital improvement plans.
- c. Provide recommendations to, and assist the County in, ascertaining which method of sale is most advantageous to the County – competitive or negotiated.
- d. In a competitive sale, work with the County and bond counsel in preparing the text of, making recommended changes to, and collecting data for the preliminary and final Official Statements(s), Notice of Sale(s), and other material information designed to inform all parties to a financing. **Thus, in short, coordinate all facets of the sale.** This activity would include the distribution of Official Statements and Notices of Sale to potential underwriters and investors.
- e. Assume a partnership role with County staff in a negotiated sale by issuing a Request for Proposals or Quotations for prospective underwriters and upon selection of an underwriter or a syndicate, coordinate the preparation of all necessary documents and instruments to effectively and legally take the bonds to market in the most cost-effective manner possible.
- f. Coordinate all necessary activities to successfully perform presentations to rating agency(s) and, if necessary, insurance agency(s).
- g. Advise the County of pertinent market factors and expected trends during this engagement to assist in better timing and knowledge of the market.
- h. Advise the County of any federal or state laws which may affect financing various projects.
- i. For each financing need, assist in the determination of the most affordable method of accomplishing the financing activity.
- j. Undertake special financial studies or analysis, upon request, particularly for capital financing activities but on occasion operating activities.
- k. Assist Clark County on certain other financial matters which may come to the County's attention which would require the expertise of a financial advisor.
- l. Evaluate proposals on new products and other financing ideas received from underwriters, or other municipal market participants.

- m. Upon request by the County, undertake special financial studies or analysis, particularly in the area of capital financing. Such studies may include, but not be limited to, rate studies, development impact fees, and/or assistance with the capital financing components of the Growth Management Act and Capital Plan relative to the County's planning for growth management. If the financial advice and related services requested by the County exceed usual and customary practices, the County and the Financial Advisor shall agree, prior to the provision of such services, as to the cost of such additional services and the scope of such services based on the fee schedule included in the response to the RFP. This shall be an amendment to the Financial Advisor's contract with the County.**

Upon entering into each financing activity or project, the County and the Contractor will, in writing, detail the specific expectations of the Contractor for that engagement and a budget for the financing activity or project at the start of the engagement.

**EXHIBIT B
COMPENSATION**

A. Compensation for Services

The County shall pay the Contractor compensation based upon the Proposed Fee Schedule contained within the Response to the request for Proposal. During the first year of this contract, the hourly rates shall not exceed the following and shall not increase by more than the Portland/Vancouver consumer Price Index (CPI) yearly thereafter:

Susan Musselman, Director	\$295.00
Eric Johansen, Director	\$295.00
Duncan Brown, Senior Managing Consultant	\$275.00
Johanna Roodzant, Senior Associate	\$275.00

County and Contractor agree that total billings for services and expenses will not exceed compensation maximums identified in paragraph 3 of this Agreement.

B. Expenses

The County agrees to reimburse the Contractor for all out-of-pocket expenses associated with this contract as identified in the Response to the Request for Proposals, which herein is made a part of this Agreement. Again, the County and Contractor agree that total billings for services and expenses will not exceed compensation maximums identified in paragraph 3 of this Agreement.

C. Billings

Contractor agrees to submit billings under this contract on a regular basis and in such detail as may be requested by the County. At a minimum, billings for compensation shall identify the period covered by the billing and hours billed by staff and project. Billings for reimbursement for expenses shall indicate the period billed for, project associated with the billed expense, and all appropriate documentation and copies of third-party receipts associated with those expenses.

The County and the Contractor agree that, if necessary, the County may withhold payment for any billings pending submission of any documentation or detail required by this contract or jointly agreed to by the County and Contractor.

D. Billing Address

All billings shall be sent to the County, attention John Payne, Deputy Treasurer.

Billings should be sent to the following address:

**Clark County Treasurer's Office
PO Box 5000
Vancouver WA 98666-5000**