

OFFICE OF THE STATE TREASURER STATE OF WASHINGTON



REQUEST FOR PROPOSALS FOR FINANCIAL ADVISORY SERVICES

Relating to Debt Management

NOVEMBER 3, 2015

Letter of Intent: Due by 5:00 P.M. PT, November 10, 2015

Proposals: Due by 5:00 P.M. PT, November 25, 2015

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Office of the State Treasurer
State of Washington

**Request for Proposal
For
Financial Advisory Services**

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SECTION I: INTRODUCTION

1. DEFINITIONS

All capitalized terms and abbreviations used in this Request for Proposal (RFP) shall have the meanings as set forth below.

“Agreement” means the Agreement for Financial Advisory Services to be entered into by and between the State and the Successful Proposer in substantially the same form as **Attachment A** to this RFP.

“Business Day(s)” means Monday through Friday, 8:00 AM to 5:00 PM, Pacific except for holidays observed by the State.

“Calendar Day(s)” means day reckoned from midnight to midnight.

“OST” means the State Treasurer or Office of the State Treasurer.

“Proposal” means a formal written offer submitted in response to this RFP to perform the services in accordance with the terms of this RFP.

“Proposer” means any respondent to this RFP, and as the context requires, any firm, provider, organization, individual, personnel, or other entity, and its employees, agents, and subcontractors, performing in whole or in part the activities required by or resulting from this RFP.

“Proposer Contracting Officer” means the Proposer’s officer with signature authority, or the person to whom signature authority has been delegated in writing to legally bind Proposer to a contractual relationship.

“Proposer RFP Coordinator” means that person designated by Proposer as Proposer’s primary contact throughout the procurement process.

“Proprietary Information” means information owned by the Proposer to which the Proposer claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

“RCW” means the Revised Code of Washington.

“Request for Proposal” or “RFP” means this Request for Proposal for Financial Advisory Services issued by the State.

“State” means the State of Washington.

“State Contracting Officer” means the Deputy State Treasurer for Debt as identified in Section I-3.1 of this RFP.

“State RFP Coordinator” means the Deputy State Treasurer for Debt as identified in Section I– 3.1 of this RFP.

“WAC” means Washington Administrative Code.

2. GENERAL INFORMATION

2.1 INTRODUCTION

The State of Washington, acting through the Office of the State Treasurer, seeks Proposals from qualified firms to serve as financial advisor(s) to the State in connection with the management of the State’s debt and other financial obligations. Advisory services may include transaction-specific, ongoing, and special project advisory services.

2.2 BACKGROUND

OST is responsible for determining the current available debt capacity of the State and providing for the issuance of State debt at the lowest possible cost and risk. All State debt is authorized by the Legislature and approved by the State Finance Committee under the authority granted by the Legislature.

In recent years, the State has issued three forms of general obligation debt: (1) various purpose general obligation (VPGO) bonds backed by the full faith, credit and taxing power of the State, (2) motor vehicle fuel tax general obligation bonds (MVFT-GO) first payable from the proceeds of State excise taxes on motor vehicle fuels, and (3) Triple Pledge Bonds (Tolls-MVFT-GO) or MVFT GO Bonds which are first payable from SR 520 toll revenues. In addition, the State has issued GARVEE Bonds payable from pledged federal aid and a TIFIA bond payable from SR 520 toll revenues.

The State has also issued lease revenue bonds in the form of Certificates of Participation (COPs) and 63-20 Bonds to finance acquisitions of equipment and real estate. Local governments financings which meet certain credit criteria are often pooled in the lease purchase program with state agency leases.

Current GO ratings are “AA+/Aa1 /AA+” from Fitch/Moody’s/S&P. All currently have a stable outlook. The GARVEE Bond is rated “A2”/ “AA” with a stable outlook by Moody’s and S&P. The COPs and 63-20 Bonds are currently rated “Aa2”/ “AA” with a stable outlook by Moody’s and S&P.

The State expects to issue bonds and COPs at least semi-annually. Issuance size will be determined in accordance with state agency capital project plans and construction schedules. Bonds are generally sold on a competitive basis, although negotiated sales may be considered.

Bond and COP issuance: July 2014 to October 2015

Sales Date	Issue	Par Amount
Bonds		
10/15/2014	VP GO Refunding Bonds, Series R-2015C	615,975,000
	MVFT GO Refunding Bonds, Series R-2015D	301,755,000
1/21/2015	VP GO Bonds, Series 2015B	281,750,000
	MVFT GO Bonds, Series 2015C	199,920,000
	GO Bonds, Series 2015T-2 (Taxable)	58,120,000
	VP GO Refunding Bonds, Series R-2015E	458,760,000
2/10/2015	MVFT GO Refunding Bonds, Series R-2015F	147,325,000
	VP GO Refunding Bonds, Series R-2015G	113,315,000
	MVFT GO Refunding Bonds, Series R-2015H	132,745,000
9/30/2015	VP GO Bonds, Series 2016A-1	443,830,000
	VP GO Bonds, Series 2016A-2	51,085,000
	MVFT GO Bonds, Series 2016B	188,020,000
	GO Bonds, Series 2016T (Taxable)	60,565,000
	VP GO Refunding Bonds, Series R-2016A	188,305,000
		3,241,470,000
Certificates of Participation		
8/12/2014	WA COP Pooled EQ & RE Series 2014B	64,035,000
3/3/2015	WA COP Pooled State & Local RE & EQ, Series LP_2015A	29,215,000
9/9/2015	State of WA COP, LP_2015B	57,625,000
10/6/2015	State of WA COP, LP_2015C	158,005,000
		308,880,000

Anticipated Future Sales

Date	Issue	Par Amount
Bonds		
February 2016	Various Purpose G.O.	440,000,000
February 2016	Motor Vehicle Fuel Tax G.O.	240,000,000
Certificates of Participation		
March 2016	Certificates of Participation	50,000,000

2.3 AGREEMENT

The State expects that it will enter into an Agreement with each firm that is selected as a financial advisor that formalizes the contracting terms and the services the firm may be asked to provide. The Agreement will be for a period of four (4) years, with an option on the part of the State to renew the Agreement for one or more extensions not to exceed a total of three additional years, unless terminated sooner by either party as set forth in the Agreement.

Any Agreement with the State is contingent upon a written Agreement being entered into and accepted by OST. OST provides the form of the Agreement and administers the Agreement on behalf of the State. *Attachment A – Agreement for Financial Advisory Services* contains contracting terms the State requires in the Agreement that are not negotiable.

As a condition of appointment, firms are precluded from underwriting or purchasing any securities issued by the State from the date on which securities are priced until the transaction has closed, or as further restricted by regulatory agencies. The firms appointed will also be subject to an indemnification requirement.

3. RFP ADMINISTRATION AND PROPOSAL INSTRUCTIONS

3.1 STATE RFP COORDINATOR

3.1.1 The State RFP Coordinator is the sole point of contact during the selection process. Upon issuance of this RFP and until the State has entered into the Agreement with the Apparent Successful Proposer, all communications about this procurement must be directed to the following person:

Ellen L. Evans, Deputy Treasurer
Office of the State Treasurer
416 Sid Snyder Ave.
Legislative Building
2nd Floor, Room 230
Olympia, WA 98504-0200
Telephone:(360) 902-9007
E-mail: ellen.evans@tre.wa.gov

3.1.2 All Proposals and communications must be addressed to:

If using US Postal Service:
Ellen L. Evans
Office of the State Treasurer
PO Box 40200
Olympia, WA 98504-0200

If using UPS, FedEx, etc.:
Ellen L. Evans
Office of the State Treasurer
416 Sid Snyder Ave
Legislative Building
2nd Floor, Room 230
Olympia, WA 98504

3.1.3 All Proposals and communications must also be electronically mailed to:
DMRFP@tre.wa.gov

4. COMMUNICATIONS RELATED TO THIS RFP

- 4.1** Upon receipt of this RFP and until the State has awarded an Agreement, Proposers' communications regarding this RFP shall be addressed solely to the State RFP Coordinator. Communication regarding this RFP with any OST employee or any member of the evaluation team other than the State RFP Coordinator will be considered unofficial and non-binding to the State. Solicitation to any State employee or member of the evaluation team is prohibited in any form and may result in disqualification of the Proposer.
- 4.2** Proposers are to rely only on written statements issued by the State RFP Coordinator which may be in the form of email. Any oral communications will be considered unofficial and non-binding.

5. NO OBLIGATION TO CONTRACT

This RFP does not obligate the State to enter into an Agreement as specified herein. The State also reserves the right to cancel or reissue the RFP in whole or in part, for any reason, at the sole discretion of the State at any time prior to the execution of the Agreement.

6. WAIVERS

The State reserves the right to waive specific requirements contained in this RFP. However, it shall be understood by all Proposers that their Proposal is predicated upon compliance with all requirements of this RFP, unless the Proposer has obtained such a waiver in writing from the State prior to submission of the Proposal. Such a waiver, if granted, will be granted to all Proposers. The State will issue a notice of the waiver to all Proposers who have timely submitted a Letter of Intent to Propose to the individual and at the address identified in the Letter of Intent to Propose.

7. MOST FAVORABLE TERMS

The State reserves the right to make an award without further discussion on the Proposal submitted. Therefore, the Proposal should be submitted initially on the most favorable terms that the Proposer can offer. At its discretion, the State reserves the right to request best and final offers from the RFP finalists. The Proposer should be prepared to accept this RFP for incorporation into the Agreement resulting from this RFP. The Agreement may incorporate some or all of the Proposer's Proposal.

8. PROPOSER EXPENSES

The State will not be liable for any costs incurred by the Proposer in preparation of a Proposal submitted in response to this RFP, in the conduct of a presentation, or any other activities related to responding to this RFP.

9. RFP COMPLAINTS

Proposers may file complaints with the State up to five Business Days prior to the deadline for submission of Proposals on the grounds that the solicitation (a) unnecessarily restricts

competition, (b) evaluation or scoring process is unfair or flawed, or (c) requirements are inadequate or insufficient to prepare a Proposal. Such complaints shall (a) be in writing, (b) be submitted to the State RFP Coordinator in any manner set forth in Section I – 3.1 above, (c) clearly articulate the basis for the complaint, and (d) include a proposed remedy. The State will respond to the complaint in writing within five Business Days of receipt of the complaint. Such decision is final and conclusive and no further administrative appeal is available.

10. PROCUREMENT ACTIVITIES – SCHEDULE AND DESCRIPTION

10.1 RFP PROCUREMENT SCHEDULE

All Proposers shall adhere to the following schedule of activities. Mailed Proposals should allow for normal mail delivery time to ensure timely receipt of their Proposals by the State RFP Coordinator. Table 1 – Schedule of Procurement Activities shows the schedule of activities for this procurement, unless explicitly amended by the State in writing. The State reserves the right to revise the below schedule.

**TABLE 1 – Schedule of Procurement Activities
PRELIMINARY, SUBJECT TO CHANGE**

Activity	Due Dates*
Official Publication of RFP	November 3, 2015
Letter of Intent to Propose	5:00 PM, November 10, 2015
Proposer Submittal Due Date for Written Questions	5:00 PM, November 16, 2015
Responses to Written Questions	November 17, 2015
Proposals Due	5:00 PM, November 25, 2015
Interviews/Conference Calls (at OST’s discretion)	To be Announced
Notice of Apparently Successful Proposer(s)	December 2015
Execute Agreement	January 2016

*Times given are for Pacific Time

11. LETTER OF INTENT TO PROPOSE

A letter indicating the Proposer's intent to respond to this RFP must be received by the State RFP Coordinator no later than the date and time listed in Table 1 in Section I – 10.1. Only Proposers who properly submit a Letter of Intent to Propose will directly receive written answers to written Proposer questions, amendments, waivers, and other information issued by the State regarding this RFP.

By submitting a Letter of Intent to Propose, the Proposer accepts the procedure, review criteria, and the administrative instructions of this RFP subject to its right to file a complaint in accordance with Section I–9.

The Letter of Intent to Propose must include the following information:

- a) Proposer RFP Coordinator’s name, title, address, telephone number, and email address
- b) Statement of intent to propose

12. QUESTIONS AND ANSWERS

It is incumbent upon each potential Proposer to carefully examine the RFP requirements, terms, and conditions. Should any potential Proposer find discrepancies, omissions, or ambiguities in this RFP, the Proposer may request, in writing, an interpretation from the State RFP Coordinator. The OST must receive all written inquiries and correspondence from Proposers by the date and time shown in Table 1 in Section I–10.1 herein. The OST will provide written answers by the date shown in Table 1 in Section I–10.1 herein.

Any changes or clarifications to the information provided in this RFP will be provided in writing to each Proposer that has timely submitted a Letter of Intent to Propose through the contact provided in the Letter of Intent to Propose.

13. RFP AMENDMENTS

The State reserves the right to amend the RFP and revise the RFP Schedule at any time. In the event that it becomes necessary to revise any part of this RFP, the State will issue an amendment to the RFP to all Proposers who have submitted a Letter of Intent to Propose by the date and time specified in Table 1 in Section I–10.1 through the contact information provided in the Letter of Intent to Propose. Proposers are instructed to disregard any oral representations they may receive. Proposal evaluation will be based on the material contained in the RFP and any amendments to the RFP that have been issued. If a conflict exists between amendments, or between an amendment and the RFP, the document issued last shall take precedence.

14. PROPOSAL ACCEPTANCE PERIOD

Proposals must be valid for at least 180 Calendar Days from the due date set for receipt of Proposals.

SECTION II: SCOPE OF SERVICES

Firms may be asked to provide some or all of the services specified in this Scope of Services. Specific responsibilities for each firm selected will be identified when and as needed. Firms are not required to be able to perform all services and will not be evaluated on whether the firm can provide all services listed in this RFP. Instead, each firm will be evaluated on the quality of the services it does provide in addition to other RFP criteria specified in Section V. At the discretion of the State Contracting Officer, services may be assigned or reassigned among firms based on the needs of the State.

1. BOND PROGRAM

1. Provide advice on all aspects of structuring bond financings that impact the State's access to credit markets, and overall borrowing costs including the use of serial and term bonds, redemption provisions, maturity schedules, bid parameters, type of sale and other financing terms.
2. Provide advice on various types of revenue bonds, variable rate obligations and different forms of public-private partnerships.
3. Participate in the preparation and review of the preliminary and final official statements and other offering documents.
4. Provide advice on the presentation of financial information to underwriters, rating agencies, credit analysts, prospective investors and other municipal market participants.
5. Assist in the preparation and evaluation of RFPs for other financial services such as underwriting, trustee services, credit enhancement, escrow verification and liquidity. Arrange for State and Local Government Securities purchases as requested.
6. Regularly monitor refunding opportunities on the portfolio of outstanding bonds.
7. Review proposed State Finance Committee resolutions and attend State Finance Committee meetings as requested.
8. Assist the State with the verification and evaluation of competitive bids. Provide assistance with the closing.
9. Prepare post-sale analysis, including spread analysis and comparisons with similar transactions. When available, communicate information regarding the distribution of bonds to investors.
10. Provide advice and strategies regarding retail sales which give preference to Washington residents.
11. Assist in the development of financial models for transportation projects. Update and revise the models as required. Perform scenario analysis to assess risk and to evaluate alternative financing strategies.
12. Assist the State with applications, if any, for loans, guarantees, or credit under a Federal program, such as the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.
13. Assist the State in the evaluation of financial proposals.

14. Provide other services or advice as requested by the State.

2. LEASE PURCHASE PROGRAM/FINANCING CONTRACTS

1. Provide advice on all aspects of structuring lease financings that impact the State's access to credit markets and overall borrowing costs, including specific covenants, financing structures, bid parameters, type of sale and other financing terms.
2. Participate in the preparation and review of the preliminary and final official statements and other offering documents.
3. Estimate payment schedules and borrowing costs for proposed transactions and individual leases.
4. Provide advice on the presentation of financial information to underwriters, rating agencies, credit analysts, prospective investors and other municipal market participants.
5. Assist in the preparation and evaluation of RFPs for other financial services such as underwriting, trustee services, credit enhancement, escrow verification and liquidity. Arrange for State and Local Government Securities purchases as requested.
6. Review proposed State Finance Committee resolutions and attend State Finance Committee meetings as requested.
7. Assist the State with the verification and evaluation of competitive bids. Provide assistance with the closing.
8. Prepare post-sale analysis, including spread analysis and comparisons with similar transactions. When available, communicate information regarding the distribution of financing contracts to investors.
9. Provide guidance on post-issuance compliance.
10. Regularly monitor refunding opportunities on outstanding financing contracts by series and for individual leases. Provide estimated prepayment/defeasance schedules.
11. Assist in developing standardized credit criteria for the evaluation of local governments seeking to participate in the LOCAL program. Assist in reviewing credits and preparing local agency credit information for rating agencies.
12. Make recommendations to improve efficiency of the administration and operation of the State's Lease Purchase Program.
13. Participate in the review and revision of underlying financial and legal documents for lease/purchase or other financing contracts.
14. Assistance in the review and analysis of state and federal legislation pertaining to the State's financing programs.

15. Provide other services or advice as requested by the State.

3. GENERAL

1. Provide advice on general financial market conditions, market trends, new financial products and investor preferences for tax-exempt and taxable municipal bonds and financing contracts, both new money and refundings. Perform analysis related to such matters as requested.
2. Provide advice on a wide range of debt management issues including debt capacity, debt management guidelines, asset/liability management, the use of variable rate debt, the role of lease-backed financings and revenue-backed debt.
3. Provide advice related to expected assessments by rating agency and other credit analysts.
4. Provide training to OST staff on a variety of financial topics, as requested. Provide training on public finance sizing and structuring software, such as DBC Finance.
5. Assist OST in providing financial training for other state agencies and local governments.
6. Provide advice on statutory and regulatory matters such as changes proposed and/or implemented by Congress, the U.S. Treasury, the IRS and other regulatory agencies.
7. Assist OST in outreach to prospective investors.
8. Provide other services or advice as requested by the State.

SECTION III: PROPOSAL REQUIREMENTS

Proposals must conform to the information and attachments provided, including any amendments made to the RFP and OST's responses to questions received and other communications per **SECTION I – INTRODUCTION**. Proposer must address each of the following parts in the same order listed to be considered responsive. Proposals should be concise with emphasis placed on completeness and clarity of content.

Proposals shall include the following information with each major section separated by tab:

1. **COVER LETTER:** Provide a cover letter, signed and dated by the Proposer Contracting Officer. Indicate that the signer is authorized to commit the Proposer to the terms presented and include the title or position the signatory holds. The letter must also include:
 - a) A statement that all terms and prices included in the Proposal are guaranteed for 180 Calendar Days from the Proposal due date.
 - b) A statement that the Proposer has read and fully understands the RFP

requirements, terms and conditions, and has asked questions and received satisfactory answers from the State regarding any provision of the RFP with regard to which the Proposer desired clarification.

- 2. TABLE OF CONTENTS:** Include a table of contents showing the Proposal’s content and sequence. All pages should be numbered, and each section must reference the corresponding part of this Proposal Requirements section.

3. GENERAL QUALIFICATIONS

- a) Briefly describe your firm’s organizational structure. State whether your firm is an independent financial advisory firm or part of a firm that also provides underwriting services.
- b) Describe the firm’s qualifications and relevant experience during the past three years providing financial advisory services to state or municipal issuers with a debt portfolio of at least \$1 billion. Attach a table as an exhibit summarizing services provided to these issuers over this period, noting the date, par amount, and type of financing as applicable.
- c) Describe the firm’s qualifications and relevant experience during the past three years providing financial advisory services to state or municipal issuers on lease revenue financings. Attach a table as an exhibit summarizing the services provided to these issuers over this period, noting the date, par amount, and type of financing as applicable.
- d) Identify the specific individuals to be assigned to this engagement and include their contact information. Describe the expected role of each individual, provide resumes for each (in an exhibit), and identify the individual who will be the primary day-to-day contact for the State.
- e) Noting the location of your firm’s office(s), describe how personnel would be readily available to meet State requirements and deadlines.
- f) References: Provide contact names, addresses and telephone numbers for at least three references.
- g) A statement that the Proposer is registered as municipal advisor with the Municipal Securities Rulemaking Board (MSRB).

4. SPECIFIC QUESTIONS

- a) Were the State’s September and October 2015 bond (Series 2016B) and COP (Series 2015C) sales efficiently priced? Explain.
- b) Propose two changes to OST’s financing procedures or programs that you believe would reduce the State’s cost of funds on fixed-rate bonds or COPs.
- c) Propose two changes to OST’s bond or COP business practices that would

improve the efficiency of the State’s financing programs.

- d) Outline your firm’s methodology for recommending bid parameters for a series with callable maturities.

5. SERVICES NOT TO BE PERFORMED

Firms may be asked to provide some or all of the services specified in this Scope of Services. Specific responsibilities for each firm selected will be identified when and as needed. Firms are not required to be able to perform all services and will not be evaluated on whether the firm can provide all services listed in this RFP. Instead, each firm will be evaluated on the quality of the services it does provide in addition to other RFP criteria specified in Section V. At the discretion of the State Contracting Officer, services may be assigned or reassigned among firms based on the needs of the State.

Describe any services noted in the Scope of Services that the firm is unable to provide.

6. PROPOSED FEES

The State anticipates that all advisory work will be compensated on an hourly basis. Propose hourly rates of compensation for members of your financial advisory team.

7. CONTRACTUAL REQUIREMENT

Attachment A – Agreement For Financial Advisory Services contains contracting terms the State requires in the Agreement that are not negotiable. Provide a statement indicating the firm has read the Agreement.

Firms may propose revisions to Agreement for clarification and procedural purposes only. If a conflict exists between the States’ required language and language proposed by the firm, the provisions required by the State shall govern. However, the State retains the right to waive any provision, as deemed necessary. Proposals contingent upon revising the intent of the Agreement will be rejected.

8. ADDITIONAL INFORMATION

- **CONFLICT OF INTEREST:** It is the expectation of the OST that the award of an Agreement for Financial Advisory Services and the conduct of business under the Agreement will comply with the State’s conflict of interest laws. Provide a letter signed by an officer of your company certifying that no condition exists with respect to the Proposer or any of its employees which violates the Ethics in Public Service Act, Chapter 42.52 RCW, or any similar statute in relation to the submittal of its Proposal.
- **LITIGATION:** Provide a brief explanation and status of any (1) litigation during the last 3 years involving the Proposer in which claims of at least \$100,000 are asserted against the Proposer, (2) regulatory action during the last 3 years

involving the Proposer, and (3) with respect to personnel who may be assigned to provide financial advisory services to the State, any litigation during the last 3 years involving such personnel in their professional capacity.

- **LIST OF EXCEPTIONS:** Provide an explanation for any exceptions to, or deviations from, the requirements of the RFP.

9. OTHER

Provide any additional pertinent information you believe is relevant to this RFP that has not otherwise been requested.

SECTION IV: PROPOSAL SUBMISSION

Proposals should only include information essential to meet the requirements of the RFP. Failure to respond to specific requirements may be the basis for elimination from further consideration.

1. **DELIVERY:** One hard copy of the Proposal must be received by the State RFP Coordinator at an address outlined in Section I – 3.1.2. The copy must have original signatures. The copy must be unbound and be clearly labeled “Proposal—Financial Advisory Services”.
2. **ELECTRONIC COPY:** Proposer must also submit an electronic copy of the Proposal to DMRFP@tre.wa.gov.
3. **DEADLINE:** Proposals must be received in accordance with Table 1 in Section I – 10.1 above. Any Proposal received after the prescribed deadline will be marked as “Late” and, at the discretion of the State, may not be considered. At least one form of the Proposal must be received by the prescribed deadline to be considered timely. Both a hard copy and an electronic copy must be received before a firm will be considered.
4. **PROPRIETARY OR CONFIDENTIAL INFORMATION:** All Proposals, including attachments and other inclusions, become public records upon receipt by the OST. Proposals shall be deemed disclosable pursuant to Chapter 42.56 RCW except as exempted by law. Proposers should mark materials claimed to be exempt from disclosure as “confidential.” Marking the entire Proposal or an entire section as proprietary will be neither accepted nor honored. The Proposal’s cover letter should identify specific material claimed to be exempt, corresponding page number(s), and a statement of basis for each claim.

If the OST receives a request to view a Proposer’s Proposal, the OST will respond in accordance with RCW 42.56.540. If any requested information marked as “confidential” or “proprietary” does not in the OST’s sole judgment clearly meet one of the enumerated exemptions from disclosure, the State will give notice of the request to the affected Proposer that the material will be made available in no less than 10 Business Days unless the affected Proposer obtains a court order restraining the OST from disclosing such information.

Failure to label materials as “confidential” or “Proprietary” or failure to timely respond after notice of request has been given shall be deemed a waiver by the Proposer of any claim that such materials are exempt from disclosure.

5. **INCURRED COSTS:** The OST will not reimburse Proposers for any costs associated with preparation or submittal of any Proposal or for any travel and/or per diem expenses incurred in any presentations of such Proposals.
6. **WITHDRAWAL OF PROPOSALS:** Proposers may withdraw a Proposal that has been submitted at any time up to the Proposal due date and time set forth in the Table 1 in Section I – 10.1. A written request to withdraw, signed by the Proposer Contracting Officer, must be submitted to the RFP Coordinator by postal mail or other method of physical delivery, and by e-mail pursuant to Section I – 3.1. After withdrawing a previously submitted Proposal, the Proposer may submit another Proposal at any time up to the Proposal due date and time set forth in the Table 1 in Section I–10.1.
7. **PROPOSER’S ACKNOWLEDGEMENT:** By submitting a Proposal in response to this RFP, each Proposer unequivocally acknowledges that the Proposer has read and fully understands this RFP, and that the Proposer has asked questions and received satisfactory answers from the State RFP Coordinator regarding any provisions of this RFP with regard to which the Proposer desired clarification.
8. **FAILURE TO COMPLY:** For a Proposal to be considered complete, all requirements of this RFP must be addressed. Proposer’s failure to comply with any part of this RFP may result in the Proposer’s Proposal being disqualified for being non-responsive to this RFP. Proposals that do not address all areas requested by this RFP may be deemed non-responsive and may be disqualified from further consideration unless a waiver has been requested and granted.
9. **ERRORS IN PROPOSAL:** Proposers are liable for all errors or omissions contained in their Proposals. Proposers will not be allowed to alter Proposal documents after the deadline for Proposal submission. The OST is not liable for any errors in Proposals. The OST reserves the right to contact a Proposer for clarification of a Proposal’s contents.

In those cases where it is unclear to what extent a requirement or price has been addressed, the members of the evaluation committee may, at their discretion and acting through the State RFP Coordinator, contact a Proposer to clarify specific points in the submitted Proposal. However, under no circumstances will the responding Proposer be allowed to make changes to the proposed items after the deadline stated for receipt of Proposals in Table 1 in Section I–10.1.

10. **PROPOSAL CLARIFICATION:** The OST, in its sole discretion, will make the determination of clarity and completeness in the Proposals to any of the provisions in this RFP. The OST reserves the right to require clarification, additional information, and materials from any Proposer in any form relative to any or all of the provisions or conditions of this RFP.
11. **REJECTION/WAIVER:** The OST reserves the right to reject any or all Proposals and to waive irregularities contained in any Proposal received. Additionally, the OST

reserves the right, at its sole option, to make corrections to a Proposer's Proposal when an obvious arithmetical error has been made in the fee quotations. Proposers will not be allowed to make changes to their quoted fee after the Proposal submission deadline.

SECTION V: SELECTION PROCESS

Proposals will be evaluated strictly in accordance with the requirements set forth in this RFP and any addenda issued. Evaluators will consider how well a proposal meets all such requirements. Responses must be clear, complete, and presented in the order specified so evaluators can adequately understand all aspects of the Proposal.

OST will select the apparent successful financial advisor(s) based on the Proposal that, in their opinion, best meets the RFP requirements and is in the best interest of the State.

SELECTION COMMITTEE: Proposals will be reviewed and evaluated by a selection committee, established by OST.

EVALUATION PROCESS: The selection committee will evaluate Proposals based on their technical merits and cost factors.

The selection committee may select finalists for oral interviews. At the sole discretion of the State, such interviews will take place either at the Office of the State Treasurer in Olympia or Seattle, Washington.

EVALUATION CRITERIA: The following criteria, not listed in order of significance, will be used to evaluate Proposals.

- The qualifications and experience of individuals assigned to this engagement as well as the breadth and depth of the overall team.
- OST's assessment of the firm's availability and its ability to successfully deliver services on a timely basis.
- OST's assessment of the firm's ability to interact effectively with OST and other state agencies, bond counsel, other financial advisors, underwriters, underwriters' counsel, trustees and other professionals involved in the financing.
- OST's past experience with the firm
- Compliance with RFP requirements
- Reasonableness of Costs.

These criteria, combined with information obtained from interviews and other sources, if any, will be used to determine the successful firm or firms.

Note: Cost will not be the sole determining factor in the selection.

ADDITIONAL REQUESTS: The selection committee reserves the right, during this process, to request additional information. Firms will be given at least five (5) Business Days from notification to provide requested information.

SECTION VI: PROTEST PROCEDURES

PROTEST PROCEDURES: After submitting a Proposal, if a Proposer protests this RFP process under Section I-9 the selection of an apparent successful Proposer, the Proposer shall follow the procedures set forth in the WAC 200-320-500 through 510. Protests shall be resolved in accordance with above referenced WAC.

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Attachment A
Agreement For Financial Advisory Services

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**OFFICE OF THE STATE TREASURER
STATE OF WASHINGTON**



**AGREEMENT
FOR
FINANCIAL ADVISORY SERVICES**

JANUARY 2016

**JAMES MCINTIRE
STATE TREASURER**

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**Office of the State Treasurer
State of Washington**

**Agreement
For
Financial Advisory Services**

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Exhibit A – Schedule of Fees

**Office of the State Treasurer
State of Washington
P.O. Box 40200
Olympia, Washington 98504-0200**

**Agreement
For
Financial Advisory Services**

Terms and Conditions

1. INTRODUCTION

This Agreement is entered into by and between the Office of the State Treasurer, as agent of the state of Washington, hereinafter referred to as the “State,” and “”, hereinafter referred to as the “Financial Advisor”.

WHEREAS the state of Washington, acting by and through the Office of the State Treasurer of the state of Washington, issued a Request for Proposal (“RFP”), dated , for the purpose of obtaining proposals for Financial Advisory Services; and

WHEREAS _____ is a successful bidder.

The State, acting by and through the Office of the State Treasurer, hereby awards this Agreement for Financial Advisory Services to _____, subject to and in accordance with the terms set forth herein and the State and Financial Advisor agree as follows:

2. DEFINITIONS

2.1 DEFINITIONS

Definitions as used throughout this Agreement shall have the meanings set forth below:

2.1.1 “Agreement” means the Agreement for Financial Advisory Services and includes the Terms and Conditions, Exhibit A (Schedule and Fees) and any amendment adopted as provided herein.

2.1.2 “Bond Program” means financings undertaken pursuant to Chapters 39.42, and 39.53 RCW and any incidental requirements thereto, including payment agreements authorized by Chapter 39.96 RCW.

- 2.1.3 “**COP Program**” means certificates of participation issued pursuant to Chapter 39.94 RCW to finance the acquisition of real or personal property for the benefit of state agencies or local governments.
- 2.1.4 “**Due Care**” means the degree of care and skill demonstrated by financial advisors acting in like capacity.
- 2.1.5 “**Exhibit A**” is the Schedule of Fees.
- 2.1.6 “**Financial Advisory Services**” may also be referred to as “Services,” and shall be inclusive of all services performed by the Financial Advisor pursuant to this Agreement.
- 2.1.7 “**Financial Advisor**” is and includes any subsidiary, affiliate, agent, subcontractor, representative or employee retained by the Financial Advisor as permitted under the terms of this Agreement.
- 2.1.8 “**Financial Advisor’s Account Manager**” shall mean an employee of the Financial Advisor who is permanently assigned as the primary contact person with whom the State Contract Administrator shall work for the duration of this Agreement.
- 2.1.9 “**RCW**” shall mean the Revised Code of Washington.
- 2.1.10 “**RFP**” shall mean the state of Washington, Office of the State Treasurer, Request for Proposal for Financial Advisory Services, dated November 3, 2015.
- 2.1.11 “**State**” shall mean the state of Washington, acting through the Office of the State Treasurer or designee.
- 2.1.12 “**State Contract Administrator**” means the Deputy State Treasurer for Debt Management, Office of the State Treasurer, as the designated administrator of this Agreement.
- 2.1.13 “**Subcontractor**” means a qualified entity not in the employment of the Financial Advisor, who is performing all or part of those Services under this Agreement under a separate agreement with the Financial Advisor.

3. **GENERAL PROVISIONS**

3.1 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Financial Advisor and the State and no other statements or representations, written or oral, shall be deemed a part thereof.

3.2 AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties. Unless otherwise agreed in writing, all amendments and addenda signed during the life of this Agreement shall be governed by these Terms and Conditions.

3.3 NOTICE

Any notice or demand which, under this Agreement or applicable law, must or may be given by the Financial Advisor, or the State, shall be in writing, properly addressed and, as an alternative to personal delivery, made by the most expeditious means available, with regard given to the time sensitivity of notice or demand being made, to the addresses below or to such other address as may be specified from time to time by either party, or its successor, by notice to the other party.

To the Financial Advisor:

To the State:

Office of the State Treasurer
State of Washington
Attention: Ellen L. Evans
P.O. Box 40200
Olympia, Washington 98504-0200

Any such notice or demand may be transmitted via facsimile or email, provided that written notice as provided above is simultaneously given. For purposes of facsimile or email transmissions, the parties shall use the following numbers, or others, if notice of change is given to the other party:

Office of the State Treasurer: Fax: (360) 902-9045
Email: Ellen.evans@tre.wa.gov (Ellen L. Evans)

Financial Advisor: Fax:
Email:

3.4 PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this Agreement.

3.5 HOLD HARMLESS AND INDEMNIFICATION

3.5.1 The Financial Advisor, and its Subcontractors, shall indemnify, defend and hold harmless the State, agencies of the State and all officials, agents and employees of the State, from and against all claims for injuries, death, or any money damages, including costs and expenses, suffered by the State arising out of or resulting from the performance of the Agreement, including but not limited to the negligence,

fraud, or failure to exercise Due Care by the Financial Advisor, or its subsidiaries, affiliates, agents, Subcontractors' representatives or employees in performance of this Agreement. The Financial Advisor's obligation to indemnify, defend, and hold harmless includes any claim by the Financial Advisor's agents, employees, representatives, or any Subcontractor or its employees.

The Financial Advisor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Financial Advisor's or any Subcontractor's performance or failure to perform the Agreement. The Financial Advisor's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of the State or its agents, agencies, employees and officials.

The Financial Advisor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the State and its agencies, officials, agents or employees.

- 3.5.2** The State agrees to be responsible to the Financial Advisor for its own acts and/or omissions and those of its officers, employees and agents including but not limited to claims or lawsuits brought by third parties resulting from such acts or omissions.
- 3.5.3** Nothing in this section shall be construed to mean either party is prevented from commencing a legal action against the other.
- 3.5.4** In the case of negligence of both the Financial Advisor and the State, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party.

3.6 CONFLICT AND SEVERABILITY

- 3.6.1** In the event of conflict between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the State maximum benefits.
- 3.6.2** Any provision of the document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the document.

3.7 NONDISCRIMINATION

During the performance of this Agreement, the Financial Advisor, or its subsidiaries, affiliates, agents, subcontractors, or subcontractor's affiliates, agents or representatives shall comply with all federal and state of Washington nondiscrimination laws. In the event of noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Agreement may be rescinded, canceled or terminated in whole or in part, and

the Financial Advisor may be declared ineligible from further association with OST. The Financial Advisor shall be given a reasonable time to cure noncompliance.

3.8 RIGHTS AND REMEDIES

In the event of any claim for default or breach of contract, no provision in this Agreement shall be construed, expressly or by implication, as a waiver by the State of any right to insist upon the strict performance of any term or condition of the Agreement or to exercise or delay the exercise of any right or remedy provided in the Agreement or by law, or as the acceptance of (or payment for) services, or to release the Financial Advisor from any responsibilities or obligations imposed by this Agreement or by law. Acceptance by the State of unsatisfactory performance with or without objection or reservation shall neither waive the right to claim damage for breach nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by the Financial Advisor.

3.9 GOVERNING LAW

This Agreement shall be governed in all respects by, and construed in accordance with the law and statutes of the state of Washington. The venue of any action hereunder shall be exclusively in the Superior Court for Thurston County, Washington.

3.10 SUBCONTRACTING/ASSIGNMENT

Except as otherwise provided in this Agreement, the Financial Advisor shall not subcontract or assign its obligations under this Agreement without the prior written consent of the State Contract Administrator. The Financial Advisor shall be responsible to ensure that all requirements of the Agreement shall be communicated to any and all subcontractors.

3.11 INDEPENDENT CAPACITY

The parties intend that an independent contractor relationship will be created by this Agreement. The Financial Advisor, the Financial Advisor's employees, and subcontractors performing under this Agreement are not employees of the State. The Financial Advisor will not hold itself out as, nor claim to be, an officer or employee of the state of Washington by reason hereof, nor will the Financial Advisor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Financial Advisor.

3.12 TIMELINESS

The State and the Financial Advisor agree to provide services, and exchange information in a timely manner to meet time-critical deadlines.

3.13 DISPUTES

Except as otherwise provided in this Agreement, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing

with the [State Treasurer] or the delegate authorized in writing to act on the State Treasurer's behalf (the "State Treasurer").

1. The request for a dispute hearing must:
 - *Be in writing;
 - *State the disputed issue(s);
 - *State the relative positions of the parties; and
 - *Be mailed to the State Treasurer and the other party's (respondent's) contract administrator or account manager, as the case may be, within 3 business days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to both the State Treasurer and the requester within 5 business days.
3. The State Treasurer shall review the written statement and reply in writing to both parties within 10 business days. The State Treasurer may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute resolution process shall precede any action in a judicial or quasi-judicial tribunal.
5. Nothing in this Agreement shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

4. FINANCIAL ADVISORY SERVICES/SCOPE OF SERVICES

4.1 SERVICE SPECIFICATIONS

The Financial Advisor agrees to provide Financial Advisory Services in connection with the State's financing programs as may be requested pursuant to this Agreement.

4.2 BOND PROGRAM

1. Provide advice on all aspects of structuring bond financings that impact the State's access to credit markets, and overall borrowing costs including the use of serial and term bonds, redemption provisions, maturity schedules, bid parameters, type of sale and other financing terms.
2. Provide advice on various types of revenue bonds, variable rate obligations and different forms of public-private partnerships.
3. Participate in the preparation and review of the preliminary and final official statements and other offering documents.
4. Provide advice on the presentation of financial information to underwriters, rating agencies, credit analysts, prospective investors and other municipal market participants.

5. Assist in the preparation and evaluation of RFPs for other financial services such as underwriting, trustee services, credit enhancement, escrow verification and liquidity. Arrange for State and Local Government Securities purchases as requested.
6. Regularly monitor refunding opportunities on the portfolio of outstanding bonds.
7. Review proposed State Finance Committee resolutions and attend State Finance Committee meetings as requested.
8. Assist the State with the verification and evaluation of competitive bids. Provide assistance with the closing.
9. Prepare post-sale analysis, including spread analysis and comparisons with similar transactions. When available, communicate information regarding the distribution of bonds to investors.
10. Provide advice and strategies regarding retail sales which give preference to Washington residents.
11. Assist in the development of financial models for transportation projects. Update and revise the models as required. Perform scenario analysis to assess risk and to evaluate alternative financing strategies.
12. Assist the State with applications, if any, for loans, guarantees, or credit under a Federal program, such as the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.
13. Assist the State in the evaluation of financial Proposals.
14. Provide other services or advice as requested by the State.

4.3 LEASE PURCHASE PROGRAM/FINANCING CONTRACTS

1. Provide advice on all aspects of structuring lease financings that impact the State's access to credit markets and overall borrowing costs, including specific covenants, financing structures, bid parameters, type of sale and other financing terms.
2. Participate in the preparation and review of the preliminary and final official statements and other offering documents.
3. Estimate payment schedules and borrowing costs for proposed transactions and individual leases.
4. Provide advice on the presentation of financial information to underwriters, rating agencies, credit analysts, prospective investors and other municipal market participants.

5. Assist in the preparation and evaluation of RFPs for other financial services such as underwriting, trustee services, credit enhancement, escrow verification and liquidity. Arrange for State and Local Government Securities purchases as requested.
6. Review proposed State Finance Committee resolutions and attend State Finance Committee meetings as requested.
7. Assist the State with the verification and evaluation of competitive bids. Provide assistance with the closing.
8. Prepare post-sale analysis, including spread analysis and comparisons with similar transactions. When available, communicate information regarding the distribution of financing contracts to investors.
9. Provide guidance on post-issuance compliance.
10. Regularly monitor refunding opportunities on outstanding financing contracts by series and for individual leases. Provide estimated prepayment/defeasance schedules.
11. Assist in developing standardized credit criteria for the evaluation of local governments seeking to participate in the LOCAL program. Assist in reviewing credits and preparing local agency credit information for rating agencies.
12. Make recommendations to improve efficiency of the administration and operation of the State's Lease Purchase Program.
13. Participate in the review and revision of underlying financial and legal documents for lease/purchase or other financing contracts.
14. Assistance in the review and analysis of state and federal legislation pertaining to the State's financing programs.
15. Provide other services or advice as requested by the State.

4.4 GENERAL

1. Provide advice on general financial market conditions, market trends, new financial products and investor preferences for tax-exempt and taxable municipal bonds and financing contracts, both new money and refundings. Perform analysis related to such matters as requested.
2. Provide advice on a wide range of debt management issues including debt capacity, debt management guidelines, asset/liability management, the use of variable rate debt, the role of lease-backed financings and revenue-backed debt.
3. Provide advice related to expected assessments by rating agency and other credit analysts.

4. Provide training to OST staff on a variety of financial topics, as requested. Provide training on public finance sizing and structuring software, such as DBC Finance.
5. Assist OST in providing financial training for other State agencies and local governments.
6. Provide advice on statutory and regulatory matters: changes proposed and/or implemented by Congress, the U.S. Treasury, the IRS and other regulatory agencies.
7. Assist OST in outreach to prospective investors.
8. Provide other services or advice as requested by the State.

5. AGREEMENT TERM AND TERMINATION

5.1 TERM OF AGREEMENT AND SURVIVORSHIP OF TERMS

The initial term of this Agreement shall be for the period commencing and ending _____. At the State's sole option the Agreement may be extended for one or more times for up to a total of three additional years.

5.2 TERMINATION AND REMEDIES

5.2.1 Termination for Convenience: The State may terminate this contract, in whole or in part, at any time and for any reason by giving thirty (30) calendar days written termination notice to the other party.

5.2.2 Termination for Reduction in Funding or Withdrawal of Authority: In the event that the State's funding from any source is withdrawn, reduced, or limited, or the authority of the State to perform any of its duties is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to its normal completion, the State may terminate this Agreement, in whole or in part, without the thirty day notice requirement, subject to renegotiating at the State's discretion under those new funding limitations and conditions.

5.2.3 Termination for Breach: The State shall be entitled, by written or verbal notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms herein, and to retain all other rights against the Financial Advisor by reason of the Financial Advisor's breach as provided by law.

If it is subsequently found that the Financial Advisor was not in breach, the rights and obligations of the parties shall be the same as if a notice of termination had been issued pursuant to section 5.2.1.

The State Contract Administrator shall issue a written notice of breach providing a period not to exceed thirty (30) calendar days in which the Financial Advisor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate the Financial Advisor's liability for damages.

If the breach remains, after the Financial Advisor has been provided the opportunity to cure, the State may do one or more of the following:

5.2.1.1 Exercise any remedy provided by law;

5.2.1.2 Terminate this Agreement and any related contracts or portions thereof, by written or verbal notice;

5.2.1.3 Seek damages, if any apply.

5.2.4 Termination by Mutual Agreement: The State and the Financial Advisor may terminate this contract in whole or in part, at any time, by mutual agreement.

5.2.5 Termination Procedure: Upon termination of this contract the State, in addition to any other rights provided in this contract, may require the Financial Advisor to deliver to the State any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

The State shall pay to the Financial Advisor the agreed upon price, if separately stated, for completed work and services accepted by the State, and the amount agreed upon by the Financial Advisor for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by the State, and (d) the protection and preservation of property.

The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

5.2.6 Termination-related Obligations Antecedent to Date of Termination: Upon nearing the end of the final term of this Agreement, and without respect to either the cause or time of such termination, the Financial Advisor shall take all reasonable and prudent measures to facilitate and ensure an orderly transition to the successor Financial Advisor during the term of this Agreement. Where the Financial Advisor receives a notice of termination, it shall comply with all instructions in the notice, except as otherwise directed by the State Contract Administrator.

5.2.7 Termination for Merger or Acquisition: Substitution of another organization to act as Financial Advisor under this Agreement may occur in the event of a merger or acquisition, provided the State's Contract Administrator is given written notice by the Financial Advisor, not less than sixty (60) calendar days prior to the effective date of such merger or acquisition. In this event, the successor Financial Advisor shall provide an automatic continuation of all terms of this Agreement, provided the successor Financial Advisor can meet all required terms of the Agreement. However, the State reserves the right to terminate the Agreement in the event a successor Financial Advisor is substituted by submitting notice of

termination within the 60 calendar days prior to the effective date of such merger or acquisition.

5.3 FORCE MAJEURE

5.3.1 Definition: Neither party shall be liable to the other or deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising Due Care. Force majeure shall include acts of God, war, terrorism, riots, strikes, fire, floods, earthquakes, epidemics, or other similar occurrences.

5.3.2 Notification: If either party is delayed by force majeure, said party shall provide reasonable notice to the other party that there will be delay or non-delivery of reports or services. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended for a period equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement.

5.3.3 Rights Reserved: The State reserves the right to suspend the Agreement and/or purchase services from the best available source during the time of force majeure, and the Financial Advisor shall have no recourse against the State.

5.4 CONFLICT OF INTEREST

The Financial Advisor warrants that it presently 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 required under this contract.

6. CONTRACT ADMINISTRATION

6.1 ORDER OF PRECEDENCE

6.1.1 The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions.

6.1.2 If any provision of this Agreement shall be deemed to be in conflict with any statute or rule of law, such provisions shall be deemed modified to conform to said statute or rule of law. In the event of any inconsistency in this Agreement, the inconsistency shall be resolved in the order of precedence stated below:

6.1.1.1 Applicable Federal and State Statutes and Regulations.

6.1.1.2 The most recently adopted amendment.

6.1.1.3 The Terms and Conditions of this Agreement.

6.1.1.4 Exhibit A – Schedule of Fees.

6.2 LIMITATION OF STATE’S AUTHORITY

Only the State Contract Administrator, or delegate by writing, shall have the express, implied, or apparent authority to alter, amend, modify, assign or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, assignment, modification, or waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by the State and the Financial Advisor unless otherwise provided herein.

6.3 STATE CONTRACT ADMINISTRATOR

The State Contract Administrator for this Agreement and will provide oversight of the activities conducted hereunder. The State Contract Administrator will manage this Agreement on behalf of the State, and will be the principal point of contact for the Financial Advisor concerning the Financial Advisor’s performance hereunder. The Financial Advisor will be notified, in writing, when there is a change in staffing and a new Contract Administrator is assigned to this Agreement.

6.4 FINANCIAL ADVISOR’S ACCOUNT MANAGER

The Financial Advisor shall appoint an individual who will be the Account Manager for the State account. The Financial Advisor’s Account Manager will be the principal point of contact for the State concerning the Financial Advisor’s performance hereunder. The Financial Advisor’s Account Manager will also serve as the focal point for business matters, support coordination, and administrative activities. The Financial Advisor shall notify the State, in writing, if a new Account Manager is assigned.

6.5 ADVANCED PAYMENTS PROHIBITED

No advance payment shall be made for services furnished by the Financial Advisor pursuant to this Agreement.

6.6 INVOICE

The invoice should include itemized hourly charges by transaction, project, or activity as identified by the State Contract Administrator. The invoice should also include separately itemized requests for reimbursement for out of pocket expenses.

Invoices must be submitted quarterly, as follows:

July 1 through September 30—invoice must be received no later than October 31.

October 1 through December 31—invoice must be received no later than January 31.

January 1 through March 31—invoice must be received no later than April 30.

April 1 through June 30—invoice must be received *no later than July 10*.

Timing for receipt of invoices may be changed or modified at the sole discretion of the State.

6.7 PAYMENT

Payments shall be due and payable within thirty (30) days after receipt of properly prepared and submitted invoices.

6.8 TAXES

It is mutually agreed and understood that all payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Financial Advisor's staff shall be the sole liability of the Financial Advisor.

7. FINANCIAL ADVISOR'S RESPONSIBILITIES

7.1 RESPONSIBILITY OF FINANCIAL ADVISOR TO ACT WITH DUE CARE

The Financial Advisor shall exercise Due Care in performing its services hereunder.

7.2 PURCHASE AND SALE OF STATE BONDS, NOTES, OR CERTIFICATES OF PARTICIPATION (COP)

The Financial Advisor is precluded from underwriting or purchasing *any* securities issued by the State from the date on which securities are priced until the transaction has closed, or as further restricted by regulatory agencies.

7.3 CONFIDENTIALITY OF STATE RECORDS

7.3.1 The Financial Advisor acknowledges that material and information which has or will come into its possession or knowledge in connection with this Agreement, or its performance, may consist of confidential and proprietary data, the disclosure of which to, or use by, third parties could be damaging.

7.3.2 The Financial Advisor, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this Agreement, to release it only to authorized employees requiring such information, and not to release, sell or disclose it to any other party.

7.3.3 Access to such information shall not be granted except as authorized by law or agency rule.

7.3.4 Notwithstanding anything apparently to the contrary in the preceding provisions of this Section, the Financial Advisor may release the material and information described in this Section to its internal and external auditors (whether employees of the Financial Advisor or others) for official use and may also release it pursuant to a subpoena or other order issued by a court of competent jurisdiction.

The Financial Advisor shall promptly notify the State of any such subpoena or order upon its receipt.

7.4 REGISTRATION WITH THE DEPARTMENT OF REVENUE

The Financial Advisor shall complete registration with the Department of Revenue, and be responsible for payment of all taxes due on payments made under this Agreement.

7.5 LICENSING AND ACCREDITATION STANDARDS

The Financial Advisor shall comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Agreement.

The Financial Advisor and any individual performing services under this Agreement must meet the registered municipal advisor requirements as set forth by the Municipal Securities Rulemaking Board (MSRB) for the life of the Agreement. If either the Financial Advisor or any individual who, for whatever reason, ceases to be registered, must immediately notify the State Contract Administrator and such individual will be precluded from providing services to the State under this Agreement.

7.6 WORKERS' COMPENSATION INSURANCE COVERAGE

The Financial Advisor shall provide or purchase applicable workers' compensation insurance coverage prior to performing work under this Agreement. The State will not be responsible for payment of industrial insurance premiums for the Financial Advisor, or any subcontractor, or employee of the Financial Advisor, which might arise under the workers' compensation insurance laws during performance of duties and services under this Agreement. Should the Financial Advisor fail to secure workers' compensation insurance coverage or fail to pay premiums on behalf of employees, the State may deduct the amount of premiums owing from the amounts payable to the Financial Advisor under this Agreement and transmit the same to the appropriate workers' compensation insurance fund.

7.7 ADVERTISING

The Financial Advisor shall not advertise or publish information concerning this Agreement in any form or media without prior written consent from the State.

7.8 AUDITING

The Financial Advisor shall permit representatives of the State Treasurer, an auditor selected by the State, and/or the Auditor of the state of Washington or their authorized assistant to examine the records of the Financial Advisor relating to the services rendered under this Agreement. If the Financial Advisor has contracted with a subcontractor(s), the Financial Advisor shall require such entities to provide similar access to the designated State officials or their representatives.

Any audits required by this section which do not necessitate the compilation of records in addition to those which are otherwise required by other sections of this Agreement may be conducted without notice. Any audits required by this section which require the compilation of records in addition to those which are otherwise required by this Agreement may be conducted upon ten (10) days' written notice from the State to the Financial Advisor. In either case, the State must provide written notice to the Financial Advisor as to the purpose and expected length of time for such audit.

The provisions of this section shall remain in effect for eighteen (18) months after the expiration, or sooner termination, of this Agreement.

7.9 RECORDS RETENTION

The Financial Advisor shall maintain all books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. The Financial Advisor shall retain such records for a period of six years following the end of the term of the Agreement. At no additional cost, these records, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by the State, personnel duly authorized by the State, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

7.10 ACCESS TO DATA

The Financial Advisor shall provide access to data generated under this Agreement to the State, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions and recommendations of any reports submitted by the Financial Advisor, including computer models and methodology for those models.

7.11 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35

The Financial Advisor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in areas of employment, public accommodations, state and local government services, and telecommunications.

7.12 ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the terms of this Agreement, each party agrees to bear its own attorney fees and costs.

7.13 CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the State may, in its sole discretion, by written notice to the Financial Advisor terminate this Agreement if it is found after due notice and examination by the State Contract Administrator that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any similar statute involving the Financial Advisor in the procurement of, or performance under this Agreement.

In the event this Agreement is terminated as provided above, the State shall be entitled to pursue the same remedies against the Financial Advisor as it could pursue in the event of a breach of the contract by the Financial Advisor. The rights and remedies of the State provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

7.14 COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the State. The State shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Financial Advisor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the State effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under this Agreement, but that incorporate pre-existing materials not produced under this Agreement, the Financial Advisor hereby grants to the State a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Financial Advisor warrants and represents that it has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the State.

The Financial Advisor shall exert all reasonable effort to advise the State, at the time of delivery of Materials furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. The State shall receive prompt written notice of each notice or claim of infringement received by the Financial Advisor with respect to any data delivered under this Agreement. The State shall have the right to modify or remove any restrictive markings placed upon the data by the Financial Advisor.

7.15 COVENANT AGAINST CONTINGENT FEES

The Financial Advisor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Financial Advisor for the purpose of securing business. The State shall have the right, in the event of breach of this clause by the Financial Advisor, to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

7.16 DISALLOWED COSTS

The Financial Advisor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

7.17 DUPLICATE PAYMENT

The State shall not pay the Financial Advisor, if the Financial Advisor has charged or will charge the State or any other party under any other contract or agreement, for the same services or expenses.

7.18 SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

7.19 SITE SECURITY

While on State premises, the Financial Advisor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

7.20 TREATMENT OF ASSETS

- A. Title to all property furnished by the State shall remain in the State. Title to all property furnished by the Financial Advisor, for the cost of which the Financial Advisor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the State upon delivery of such property by the Financial Advisor. Title to other property, the cost of which is reimbursable to the Financial Advisor under this contract, shall pass to and vest in the State upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the State in whole or in part, whichever first occurs.
- B. Any property of the State furnished to the Financial Advisor shall, unless otherwise provided herein or approved by the State, be used only for the performance of this contract.

- C. The Financial Advisor shall be responsible for any loss or damage to property of the State which results from the negligence of the Financial Advisor or which results from the failure on the part of the Financial Advisor to maintain and administer that property in accordance with sound management practices.
- D. If any State property is lost, destroyed or damaged, the Financial Advisor shall immediately notify the State and shall take all reasonable steps to protect the property from further damage.
- E. The Financial Advisor shall surrender to the State all property of the State prior to settlement upon completion, termination or cancellation of this contract.
- F. All reference to the Financial Advisor under this clause shall also include Financial Advisor's employees, agents or Subcontractors.

7.21 PRIVACY

Personal information collected, used or acquired in connection with this Agreement shall be used solely for the purposes of this Agreement. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the State or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The State reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the contractor through this Agreement. The monitoring, auditing or investigating may include but is not limited to “salting” by the State. Contractor shall certify the return or destruction of all personal information upon expiration of this Agreement. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State for any damages related to the Contractor’s unauthorized use of personal information.

7.22 WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by authorized representative of the State.

8. CONTRACT EXECUTION

8.1 COUNTERPARTS

This Agreement is to be executed in duplicate originals and each duplicate shall be deemed an original copy of the Agreement signed by each party, for all purposes.
[SIGNATURE PAGE FOLLOWS]

8.2 SIGNATURE BLOCKS

In Witness Whereof the parties hereto, having read this Agreement in its entirety, including all attachments hereto, do agree in each and every particular and certify as to having authorization to contract on behalf of the party represented.

APPROVED
State of Washington,
Office of the State Treasurer

APPROVED

The Honorable James L. McIntire
State Treasurer

Date

Date

APPROVED AS TO FORM
State of Washington
Office of the Attorney General

Assistant Attorney General

Date

Exhibit A
Schedule of Fees

1. Total compensation

Total compensation paid pursuant to this Agreement, including reimbursement for out-of-pocket expenses, shall not exceed two-million dollars (\$2,000,000) for all Financial Advisory Services.

2. Hourly Rate for Financial Advisor Services

3. Out of Pocket Expenses

In addition to the advisory fees above, _____ will be reimbursed for all approved out-of-pocket expenses including travel, hotels, meals, copying, telephone calls and overnight mail. Such out-of-pocket expenses are capped at \$20,000 per year. To qualify for reimbursement, all travel must be pre-approved in writing by the state and is subject to the regulations applicable to state employee travel.