

RESOLUTION NO. 5868

A RESOLUTION TO AUTHORIZE THE FINANCE DIRECTOR TO SIGN A CONTRACT BETWEEN THE CITY OF ALBANY AND SEATTLE-NORTHWEST SECURITIES CORPORATION FOR FINANCIAL ADVISORY SERVICES FOR THREE YEARS, BEGINNING JANUARY 1, 2010.

WHEREAS, for several years the City of Albany has contracted for financial advisory services related to the pricing and sale of bonds, lines of credit, and urban renewal financing for the City and the Central Albany Revitalization Area (CARA) for operational needs; and

WHEREAS, financing decisions are made consistent with the City's debt policy; and

WHEREAS, the current financial advisory services contract expires December 31, 2009; and

WHEREAS, the Finance Department requested proposals from financial advisory firms through a formal competitive proposal process; and

WHEREAS, proposals were received from two qualified financial advisory firms; and

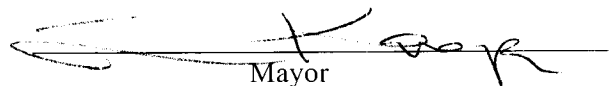
WHEREAS, the proposal from Seattle-Northwest Securities Corporation was determined to best meet the requirements of the Request for Proposals and the needs of the City and CARA; and

WHEREAS, the City desires to enter into a contract with Seattle-Northwest Securities Corporation for financial advisory services for approximately three years, commencing January 1, 2010, with an option to extend the contract up to an additional two, one-year terms.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the proposal submitted by Seattle-Northwest Securities Corporation for financial advisory services, for three years beginning January 1, 2010.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to enter into a Professional Services Agreement, Attachment A, in substantially the form that is attached and the Fee Proposal submitted by Seattle-Northwest Securities Corporation.

DATED AND EFFECTIVE THIS 9TH DAY OF DECEMBER 2009.


Mayor

ATTEST:


City Clerk

**ALBANY PROFESSIONAL SERVICES AGREEMENT
FOR AGREEMENT TO FURNISH FINANCIAL ADVISORY SERVICES
TO THE CITY OF ALBANY, OREGON**

ARTICLE I: SCOPE

For consideration set forth in Article V of this Agreement, the firm of Seattle NW Securities Corporation (SNW), a professional firm, hereinafter referred to as CONTRACTOR, agrees to provide services to the City of Albany, Oregon, a municipal corporation, hereinafter referred to as CITY. This agreement incorporates all these Standard Terms and Conditions, the promises, representations, and obligations set forth in the complete Request for Proposals, Scope of Work, and all Attachments. The CITY shall assist the CONTRACTOR by providing any and all information within its possession or control that may be reasonably helpful in the performance of the services provided herein. In the event of a conflict between the attachment and this document, the terms of this document shall control. Unless modified in writing as set forth in Article III by the parties hereto, the duties of the CONTRACTOR and the CITY shall not be construed to exceed those services and duties specifically set forth in the agreement.

The parties agree that all work products produced by CONTRACTOR in the fulfillment of its obligations under this agreement, and all information, documents and material, gathered or compiled in meeting those obligations, shall be considered property of the CITY, and shall be provided to the CITY upon completion of this agreement or termination of the agreement pursuant to Article XI.

ARTICLE II: PROFESSIONAL COMPETENCE

The services provided by CONTRACTOR, shall, in all respects, meet or exceed the standards of thoroughness, quality, and competence customarily maintained by similar professionals offering such services in the Pacific Northwest. The CONTRACTOR shall not propose solutions, which they should reasonably know will not perform as represented in the Proposal.

Jonas Biery will serve as the lead Financial Services Advisor under the terms of this Agreement. Any change in the designation of this role must be approved by the City.

The CONTRACTOR will not begin work on any of the duties and services listed in Article I until the CITY directs in writing to proceed.

ARTICLE III: MODIFICATIONS

CITY or CONTRACTOR shall not make modifications in the attached agreement or these Standard Terms and Conditions except in writing as an amendment to the agreement. Said modifications shall be agreed to by both parties, with scope of work, schedule, and compensation to be negotiated at the time the modification is proposed by either party. Modifications that do not meet these requirements shall not be binding, and no further compensation will be allowed for any work performed.

ARTICLE IV: STATE AND FEDERAL REQUIREMENTS

The CONTRACTOR covenants and agrees to comply with all of the obligations and conditions applicable to public contracts pursuant to ORS 279 Chapters A and B, as though each obligation or condition were set forth fully herein. In addition the CONTRACTOR covenants and agrees that in the performance of its duties hereunder, it will comply with all other state and federal requirements applicable to the City of Albany for projects of the type in question.

The CONTRACTOR, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

ARTICLE V: COMPENSATION

The services described in Article I shall be performed for the fees stated in the Fee Proposal, Attachment A. The City shall remit payment within thirty (30) days of receipt of a monthly billing from the CONTRACTOR. Such billing shall be only for services provided to that point.

ARTICLE VI: INDEMNIFICATION

The CONTRACTOR agrees to indemnify, defend, and hold harmless the CITY, its agents, officers and employees, from and against any and all liability, claims, suits, loss, damages, costs, and expenses arising out of or resulting from the negligent or intentional acts, errors, or omissions of the CONTRACTOR, its officers, employees, or agents.

ARTICLE VII: INSURANCE

During the life of this agreement, the CONTRACTOR shall maintain the following minimum insurance:

- A. Comprehensive general liability insurance, including personal injury liability, blanket contractual liability, and broad form property damage liability. The combined single limit for bodily injury and property damage shall be not less than \$1,000,000.
- B. Automobile bodily injury and property damage liability insurance covering owned, non-owned, rented, and hired vehicles.
- C. Statutory workers' compensation and employer's liability insurance as required by state law.
- D. Professional liability insurance in the amount of \$1,000,000.

The City shall be listed as an additional insured.

ARTICLE VIII: ASSIGNMENT

This agreement is to be binding upon the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. No assignment of this agreement shall be effective until the assignee assumes in writing the obligations of the assigning party and delivers such written assumption to the other original party to this agreement.

Use of subcontractors by the CONTRACTOR or subsidiary or affiliate firms of the CONTRACTOR for technical or professional services shall not be considered an assignment of a portion of this agreement, and the CONTRACTOR shall remain fully responsible for the work performed, whether such performance is by the CONTRACTOR or subcontractors. No subcontractors shall be used without the written approval of the CITY.

Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CITY and CONTRACTOR.

ARTICLE IX: INTEGRATION

These terms and conditions and the attachments represent the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The agreement may not be modified or altered except in writing as specified in Article III.

ARTICLE X: SUSPENSION OF WORK

The CITY may suspend, in writing, and without cause, all or a portion of the work under this agreement. The CONTRACTOR may request that the work be suspended by notifying the CITY, in writing, of circumstances that are interfering with the progress of work. The CONTRACTOR may suspend work on the project in the event the CITY does not pay invoices when due. The time for completion of the work shall be extended by the number of days work is suspended. In the event that the period of suspension exceeds 90 days, the terms of the agreement are subject to renegotiation and both parties are granted the option to terminate work on the suspended portion of the project, in accordance with Article XI.

Article XI: TERMINATION OF WORK

CITY may terminate all or a portion of the work covered by this agreement for its convenience. Either party may terminate work if the other party fails to substantially perform in accordance with the provisions of the agreement. Termination of the agreement is accomplished by written notice from the party initiating termination no less than fifteen (15) days in advance of the effective date of termination. Such notice of termination shall be delivered by certified mail with a receipt for delivery returned to the sender.

In the event of termination, CONTRACTOR shall perform such additional work as is necessary for the orderly filing of documents and closing of the project. The time spent on such additional work shall not exceed 10 percent (10%) of the time expended on the terminated portion of the project prior to the effective date of termination. CONTRACTOR shall be compensated for work actually performed prior to the date of termination plus work required for filing and closing as described in this Article. Upon termination, CONTRACTOR shall provide to the CITY all work products, material, documents, etc., gathered or compiled, related to the project, whether in CONTRACTOR'S possession at the time of termination or received later.

If no notice of termination is given, relationships and obligations created by this agreement shall be terminated upon completion of all applicable requirements of this agreement.

ARTICLE XII: FORCE MAJEURE

Neither the CITY nor the CONTRACTOR shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

ARTICLE XIII: DISPUTE COSTS

In the event either party brings action to enforce the terms of this agreement or to seek damages for its breach, or arising out of any dispute concerning the terms and conditions hereby created, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs, and expenses, incurred therein, including such costs and fees as may be required on appeal.

ARTICLE XIV: COOPERATIVE PURCHASING

Pursuant to ORS 279A.205 thru 279A.215, other Public Agencies and members of the Oregon Cooperative Purchasing Program (ORCPP) may use the purchase agreement resulting from this RFP unless CONTRACTOR expressly notes in the proposal that the prices quoted are available to the City only. The condition of such use by other Agencies is that any such Agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with the CONTRACTOR; the City accepts no responsibility for performance by either the successful CONTRACTOR or such other Agency using this Agreement. With such condition, the City consents to such use by any other Public Agency.

ARTICLE XV: COURT OF JURISDICTION

The laws of the state of Oregon shall govern the validity of this agreement, its interpretation and performance, and other claims related to it. Venue for litigation shall be in Linn County, Oregon.

CONTRACTOR:

Date: 12/16/09

Seattle-Northwest Securities

By: Corporation

CONTRACTOR

By: B. DUAS 5137

Title: Vice President

Mailing Address: 1000 SW Broadway,

Suite 1800 - Portland, OR 97205

Telephone: (503) 275-8308

Fax: (503) 275-8320

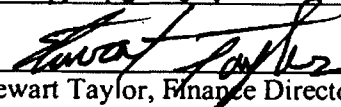
91-1172183

Corporation Tax No. (if incorporated)

Social Security No. (if individual)

CITY OF ALBANY, OREGON:

Date: 12-18-09

By: 

Stewart Taylor, Finance Director

APPROVED AS TO FORM:

By: _____
City Attorney

Attachment A – Fee Proposal

Proposal

The undersigned hereby proposes and, if selected, agrees to furnish all services in accordance with the Request for Proposal, and any Addendums, for a three year period, the term commencing January 2010 through December 2012. **Proposer will attach to this Proposal the Fee requirements requested in Section 4.8 of this RFP; these requirements include: schedules of hourly fees on a “not to exceed” basis for principals and sub-contractor services for all three years.**

Certifications --Non-Collusion

The undersigned Proposer hereby certifies that it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, potential Proposer, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Proposers or potential Proposers, or to secure through any unlawful act an advantage over other Proposers or the City. The fees and prices submitted herein have been arrived at in an entirely independent and lawful manner by the Proposer without consultation with other Proposers or potential Proposers or foreknowledge of the prices to be submitted in response to this solicitation by other Proposers or potential Proposers on the part of the Proposer, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

Conflict Of Interest

The undersigned Proposer and each person signing on behalf of the Proposer certifies, and in the case of a sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the City Council, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein. The undersigned hereby submits this Proposal to furnish all work, services systems, materials, and labor as indicated herein and agrees to be bound by the following documents: Request for Proposal, Professional Services Contract, and associated inclusions and references, specifications, Proposal Form, Proposer response, mutually agreed clarifications, appropriately priced change orders, exceptions which are acceptable to the City, and all other Proposer submittals.

Reciprocal Preference Law - Residency Resident Proposer (X) Non-Resident Proposer ()

Signature Block

The Proposer hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

B. Jonas Biery
Name

1000 W Broadway, Suite 1800
Address

Portland, OR 97205
City, State, Zip

B. JONAS BIERY
Signature

503-275-8308 / 503-275-8320
Phone Number/Fax Number

jbiery@snwsc.com
E-mail

11/13/09
Date

i. Proposers are required to submit a fee schedule for Year 1, (January through December 2010) listing the hourly rates for principals and any staff to be assigned to City of Albany projects for Financial Advisory services. Such fee schedules shall be the basis for calculating the project fixed fee.

ii. Proposers are also required to submit an estimated fee schedule for Years 2 and 3, (January 2011 through December 2012) listing the hourly rates, or a percentage increase, for principals and any staff assigned to the project.

iii. In addition, Proposer should submit similar estimates for sub-contractor services in the event that additional services beyond the scope of this RFP are required.

We propose the following hourly rates for calendar year 2010. We propose that hourly rates be increased each successive calendar year for the life of the engagement by the local Consumer Price Index.

Hourly Rates

Our hourly rates for on-going services would be billed at the following:

Vice President / Sr. Vice President	\$250/hour
Assistant Vice President	\$230/hour
Associate	\$210/hour
Other	\$150/hour

Sample Maximum Fees for Financing Transactions

Because the scope of work is vast and variable upon specific needs relating to a given project, it is difficult to provide reliable estimated project-specific maximums. Prior to engaging in any specific project or signing of a contract with the City, SNW would work with the City to determine an appropriate maximum based upon given needs and expectations. For each project, SNW would coordinate with the City Finance Director to determine whether compensation for such project would be completed on a not-to-exceed fixed fee (based upon hourly rates and anticipated hours) or on a purely hourly basis. For your convenience and reference, we have assembled indicative maximum fees for a few specific types of transactions.

<u>Financing Type</u>	<u>Sample Maximum</u>
General Obligation Bonds – public offering	\$40,000
General Obligations Bonds – bank placement	\$25,000
Revenue Bonds or Full Faith & Credit Obligations – public offering	\$50,000
Revenue Bonds or Full Faith & Credit Obligations – bank placement	\$30,000
Urban Renewal Bonds – public offering	\$55,000
Bank lines of credit	\$25,000
Refunding transactions	add \$5,000 to maximum
Other projects or transactions	to be determined

We intend these to be indicative price levels; however, we are cognizant of the fact that this framework will not cover all possible combinations of issuances. Under such situations, we would work with the City to create a payment framework that is equitable to all parties.

Expenses

In addition to the above hourly fees and/or maximums, SNW would expect to be reimbursed at cost for reasonable and necessary out-of-pocket expenses, including such items as overnight delivery and travel undertaken at the City's request.

Billing Dates

We propose billing on a monthly basis for all hourly work.

Other Requests

Although our preference would be to bill for specific projects, special requests, reports or other work on an hourly basis at the levels identified above, we would be happy to entertain and negotiate other arrangements with the City based upon the specific request and scope of work involved.