

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2003-64

Contract Award for Bond Counsel

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	6/19/03	Discussion/Possible Action	Mandie Barnes, Deputy General Counsel Brian McCartan, Deputy Finance Director	(206) 689-3370 (206) 398-5100

Contract/Agreement Type:	3	Requested Action:	3
Competitive Procurement		Execute New Contract/Agreement	3
Sole Source		Amend Existing Contract/Agreement	
Interlocal Agreement		Contingency Funds Required	
Purchase/Sale Agreement		Budget Amendment Required	

3Applicable to proposed transaction.

OBJECTIVE OF ACTION

To obtain services of bond counsel.

ACTION

Authorizes the Executive Director to execute a contract for bond counsel services with Foster Pepper & Shefelman PLLC to provide bond counsel services for an initial three years from June 1, 2003 to May 31, 2006, with an option to extend the contract for two additional one year periods.

KEY FEATURES

- Provides for all work related to bond issuance to be paid from bond issuance fees. The fees under the new contract are substantially lower than the existing contract.
- Establishes a formula to determine the bond fee determined by the size and type of bond sold.

BUDGET IMPACT SUMMARY

There are no budget impacts for this action.

BUDGET DISCUSSION

Bond counsel fees are paid out of bond proceeds. When the agency sells bonds, it incurs a variety of transaction related fees for the parties necessary to execute the sale and marketing of the bonds, such as bond counsel, financial advisor, underwriters and rating agencies. All of these fees are subtracted out of the gross proceeds from the sale of bonds. These transaction costs are fully set aside within the agency's financial plan, which allocates 1.5% of bond

proceeds for transaction fees. As a result, bond counsel fees are not included in the agency's annual staff operating budget.

Bond counsel fees are determined by the size and type of bond sold. The contract establishes a formula to determine the bond fee. For a standard \$250 million bond sale, the existing contract would have a bond counsel fee of \$75,000. Under this contract, the bond counsel fee would be \$44,000 resulting in a saving of 42%. Under the contract, any services provided by bond counsel related to the agency's bonds would not be separately billable, but would be payable through the regular per bond issuance fee.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

All of the transaction costs related to the issuance of the bonds are set aside within the agency's financial plan, which allocates 1.5% of the bond proceeds for these types of fees.

BUDGET TABLE

Not applicable for this action.

M/W/DBE – SMALL BUSINESS PARTICIPATION

Foster Pepper & Shefelman PLLC is the prime contractor. The firm has committed to a 25% goal for M/W/DBE and small business participation. Subcontractors include one M/WBE firm and one minority owned small business firm.

EEO Commitment

Foster Pepper & Shefelman's workforce demographics are 30% women, 8% minorities of the 125 lawyers in the firm. Three of the team members are women and two are persons of color.

HISTORY OF PROJECT

Pursuant to Motion No. 48, Sound Transit executed a contract for bond counsel and disclosure counsel services with Foster Pepper & Shefelman PLLC and Preston Gates & Ellis LLP. This contract expired on March 31, 2003. Staff has determined that bond counsel services can most effectively be delivered by a single firm now that Sound Transit has completed its inaugural bond sale.

In February 2003, Sound Transit issued Requests for Proposal for bond counsel services. Four firms responded. The four firms were reviewed using criteria established in the RFP: pricing, firm knowledge and experience, knowledge and experience of key individuals, M/W/DBE participation, and Equal Employment Opportunity Commitment. The selection committee identified Foster Pepper & Shefelman PLLC as the firm that best met the criteria and that can provide bond counsel services in the best interest of Sound Transit. Bond counsel will issue legal opinions regarding the validity and tax status of bonds and debt obligations and be responsible for related legal documents, preside over all bond closings and provide other services customarily provided by bond counsel.

The contract is for an initial three-year period from June 1, 2003 to May 31, 2006, with an option to extend the contract for two additional one-year periods. Under the pricing structure, any

issue over \$250 million will be deemed an issue of \$250 million for the purposes of fee calculation. All work related to bond issuance is to be paid from bond issuance fees.

**Prior Board or Committee Actions
and Relevant Board Policies**

Motion or Resolution Number	Summary of Action	Date of Action
Motion No. 48	Authorizing Contract for Bond Counsel and Disclosure Counsel	2/20/98

CONSEQUENCES OF DELAY

Not applicable to this action.

REGIONAL PARTNERSHIP AND COOPERATION

Not applicable to this action.

PUBLIC INVOLVEMENT

Not applicable to this action.

LEGAL REVIEW

MMB 6/2/03

SOUND TRANSIT

MOTION NO. M2003-64

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to execute a contract with Foster Pepper & Shefelman PLLC for bond counsel services for an initial three-year period from June 1, 2003 to May 31, 2006, with an option to extend the contract for two additional one-year periods.

Background:

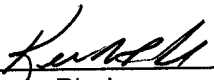
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Motion:

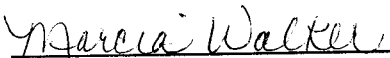
It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the Executive Director is authorized to execute a contract with Foster Pepper & Shefelman PLLC for bond counsel services for an initial three-year period from June 1, 2003 to May 31, 2006, with an option to extend the contract for two additional one-year periods.

APPROVED by Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on June 19, 2003.



Kevin Phelps
Finance Committee Chair

ATTEST:



Marcia Walker
Board Administrator