

AGENDA ITEM # 17October 14, 1997

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Discuss and take appropriate action pertaining to number of dollars to be allocated for Health Benefits.

Moved Commissioner Boatright

Seconded: Judge Doerfler

Motion: To approve \$230 00 per month/per employee to be allocated for Health Benefits

Vote Motion carried 4 - 0

AGENDA ITEM # 18October 14, 1997

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Discuss and take appropriate action on arbitrage rebate program

Moved: Judge Doerfler

Seconded Commissioner Boatright

Motion: To retain First Southwest Asset Management Company for services on the arbitrage rebate program

Vote. Motion carried 4 - 0

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**AGREEMENT FOR
ARBITRAGE REBATE COMPLIANCE SERVICES
BY AND BETWEEN**

**WILLIAMSON COUNTY, TEXAS
(Hereinafter Referred to as the "Issuer")**

**AND
FIRST SOUTHWEST ASSET MANAGEMENT, INC.
an affiliate of First Southwest Company
(Hereinafter Referred to as "First Southwest")**

It is understood and agreed that the Issuer, in connection with the sale and delivery of certain bonds, notes, certificates, or other tax-exempt obligations (the "Bonds"), will have the need to determine to what extent, if any, it will be required to rebate investment earnings of the proceeds of the Bonds to the United States of America (hereinafter referred to as "Arbitrage Amount") pursuant to the provisions of Section 148(f)(2) of the Internal Revenue Code of 1986 (the "Code"). For purposes of this Agreement, the term "Arbitrage Amount" includes payments made under the election to pay penalty in lieu of rebate for a qualified construction issue under Section 148(f)(4) of the Code.

We have been requested to provide professional services to the Issuer as such services may be necessary to effect this determination and we are pleased to submit the following proposal for consideration. This proposal, if accepted by the Issuer, shall become the agreement (the "Agreement") between the Issuer and First Southwest effective at the date of its acceptance as provided for herein below.

- 1 This Agreement shall apply to all issues of tax-exempt bonds delivered subsequent to the effective date of the rebate requirements, to the extent that any particular issue does not qualify for exceptions to the rebate requirements in accordance with Section 148 of the Internal Revenue Code and related Treasury regulations.

Provisions of First Southwest

- 2 We agree to provide our professional services necessary in the determination of the Arbitrage Amount with regard to the Bonds. The Issuer will assume and pay the fee of First Southwest as such fee is set out in Appendix A attached hereto. First Southwest shall not be responsible for any extraordinary expenses incurred in connection with providing such professional services, including any costs incident to litigation, mandamus action, test case or other similar legal actions, unless First Southwest is a party to such litigation and a claim is asserted against First Southwest for work performed under this Agreement.
- 3 We agree to perform the following duties in connection with providing arbitrage rebate compliance services:
 - a. To cooperate fully with the Issuer in reviewing the schedule of investments made by the Issuer with (i) proceeds from the Bonds, and (ii) proceeds of other funds of the Issuer which, under Treasury Regulations Section 1.148 or any successor regulations thereto, are subject to the rebate requirements of the Code,
 - b. To perform, or cause to be performed, consistent with the Code and the regulations promulgated thereunder, to determine the Arbitrage Amount under Section 148(f)(2) of the Code,
 - c. To provide a report to the Issuer specifying the Arbitrage Amount based upon the investment schedule, the calculations of bond yield and investment yield, and other information deemed relevant by First Southwest.

Provisions of the Issuer

- 4 In connection with the performance of the aforesaid duties, the Issuer agrees to the following
- a The fee and expenses due to First Southwest in providing arbitrage rebate compliance services shall be calculated in accordance with Appendix A attached hereto. The fees will be payable upon delivery of the report prepared by First Southwest for each issue of bonds during the term of the Agreement unless terminated earlier.
 - b That the Issuer will provide First Southwest, and First Southwest shall be entitled to rely upon, all information regarding the issuance of the Bonds and the investment of the proceeds therefrom, and any other information necessary in connection with calculating the Arbitrage Amount.
 - c That the Issuer will inform First Southwest of the retirement, prior to the scheduled maturity, of any Bonds included under the scope of this Agreement within 30 days of such retirement. This notification is required to provide sufficient time to comply with Treasury Regulations Section 1.148-3(g) which requires final payment of any Arbitrage Amount within 60 days of the final retirement of the Bonds.
- 5 In providing the services set forth in this Agreement, it is agreed that First Southwest shall not incur any liability for any error of judgment made in good faith by a responsible officer or officers thereof, unless it shall be proved that such error of judgment was a result of the gross negligence or willful misconduct of said officer or officers. In the event a payment is assessed by the Internal Revenue Service due to an error by First Southwest, the Issuer will be responsible for paying the correct Arbitrage Amount and First Southwest will be liable for any penalty or interest imposed on the Arbitrage Amount as a result of such error of judgment.

Bonds Issued Subsequent to Initial Contract

- 6 The services contracted for under this Agreement will automatically extend to any additional financing bonds (including financing lease obligations) issued during the stated term of this Agreement, if such bonds are subject to the rebate requirements under Section 148(f)(2) of the Code. In connection with extending the scope of this Agreement to additional financing bonds, the Issuer agrees to the following
- a The Issuer will notify First Southwest of any tax-exempt financing (including financing lease obligations) issued by the Issuer during any calendar year of this Agreement, and will provide First Southwest with such information regarding such other bonds as First Southwest deems necessary in connection with its performance of the arbitrage rebate services contracted for hereunder.
 - b At the option of the Issuer, any additional financing bonds issued subsequent to the execution of this Agreement may be excluded from the services provided for herein. The Issuer must notify First Southwest of their intent to exclude any specific financing bonds from the scope of this Agreement.

Effective Dates of Agreement

- 7 This Agreement shall become effective at the date of acceptance by the Issuer as set out herein below and remain in effect thereafter for a period of five (5) years from the date of acceptance, provided, however, that this Agreement may be terminated with or without cause by the Issuer or First Southwest upon thirty (30) days' written notice. In the event of such termination, it is understood and agreed that only the amounts due to First Southwest for services provided and expenses incurred to and including the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement. In the event this Agreement is terminated prior to its stated term, all records provided to First Southwest with respect to the investment of monies by the Issuer shall be returned to

the Issuer as soon as practicable if so requested. In addition, the parties hereto agree that upon termination of this Agreement First Southwest shall have no continuing obligation to the Issuer regarding any service contemplated herein


Acceptance of Agreement

- 8 This Agreement is submitted in duplicate originals. When accepted by the Issuer, it, together with Appendix A attached hereto, will constitute the entire Agreement between the Issuer and First Southwest for the purposes and the consideration herein specified

Acceptance will be indicated on both copies and the return of one executed copy to First Southwest.

Respectfully submitted,

FIRST SOUTHWEST ASSET MANAGEMENT, INC


Authorized Representative

Date 9/2/97


FIRST SOUTHWEST COMPANY

By _____
Authorized Representative

Date _____

ISSUER'S ACCEPTANCE CLAUSE

The above and foregoing is hereby in all things accepted and approved by Williamson County, on
this the 14th day of October, 19 97

By 
Authorized Representative
County Judge
Title

APPENDIX A - FEES

The Bonds to be initially covered under this contract include all issues of tax-exempt bonds delivered subsequent to the effective dates of the rebate requirements, to the extent that any particular issue does not qualify for exceptions to the rebate requirements in accordance with Section 148 of the Internal Revenue Code and related Treasury regulations. The fee for all bonds included in this contract shall be

Description	Annual Fees Per Computation Year (1)
Base Fee Per Computation Year:	\$1,800
<i>Additional Charges for</i>	
Debt Service Reserve Funds	\$500
Commingled Funds	500
Transferred Proceeds	500
Debt Service Fund Residual Calculations (Excess Tax Collections)	500
Variable/Floating Rate Bond Issue	1,000
Yield Restriction Analysis/Yield Reduction Computation	500
Commercial Paper:	
Per allocated issue to perform arbitrage rebate computation	4,000
Penalty Calculations:	
Semiannual fee for each issue of Bonds, regardless of issue size	1,000

- (1) A "Computation Year" represents a one year period from the delivery date of the issue to the date that is one year after the delivery date, and each subsequent one-year period thereafter. Therefore, if a calculation is required that covers more than one "computation year," the annual fee is multiplied by the number of computation years contained in the calculation being performed. For example, if the first calculation performed for an issue covers three computation years, the fee for that calculation would be three times the annual fees stated above.

EXPLANATION OF ADJUSTMENTS TO BASE FEE

- Debt Service Reserve Funds.** The authorizing documents for many revenue bond issues require that a separate fund be established (the "Reserve Fund") into which either bond proceeds or revenues are deposited in an amount equal to some designated level, such as average annual debt service on all parity bonds. This Reserve Fund is established for the benefit of the bondholders as additional security for payment on the debt. In most instances, the balance in the Reserve Fund remains stable throughout the life of the bond issue. Reserve Funds, whether funded with bond proceeds or revenues, are subject to the rebate requirement and must be included in any calculations of rebate.
- Commingled Fund Allocations.** By definition, a commingled fund means that the proceeds of any particular bond issue have been deposited in a fund that contains amounts that are not part of that bond issue. It is common for issuers to commingle bond proceeds with either operating revenues or other bond proceeds. The arbitrage regulations, while

permitting the commingling of funds, require that bond proceeds be "carved-out" for purposes of calculating rebate. Interest must be allocated to the portion of the commingled fund that represents bond proceeds of the issue in question.

- 3 **Transferred Proceed Calculations.** When a bond issue is refinanced (refunded) by another issue, special calculations referred to as transferred proceeds calculations may have to be performed. Under the regulations, when proceeds of a refunding issue are used to pay principal on a prior issue, a prorata portion of the refunded bond proceeds are treated as "transferred" to the refunding issue. Although no funds are physically transferred from one issue to another, it is often necessary to perform these paper calculations for rebate purposes.
- 4 **Debt Service Fund Residual Calculations.** Because tax rates are established using an estimated collection percentage, it is not uncommon for the balance in the debt service fund (often referred to as the Interest & Sinking Fund) to exceed the amount necessary to pay the current year's debt service requirements. When the Tax Reform Act of 1986 was passed, Congress instructed that excess amounts in a debt service fund be treated as a "reserve fund," thereby subjecting the excess balance to the rebate requirements. To the extent that any amounts deposited in the debt service fund remain for more than thirteen months on a first-in, first-out basis, that excess is classified as a "reserve fund portion" until used for payment of debt service. In most instances, the "No-Arbitrage Certificate" related to the issue will describe the rebate requirements associated with the debt service fund.
- 5 **Variable/Floating Rate Bond Issues.** Additional time is required to perform the arbitrage rebate calculations for variable rate bonds. A bond is a variable rate bond if the interest rate paid on the bond is dependent upon an index which changes subsequent to the issuance of the bonds. The computational requirements of a variable rate issue are more complex than those of a fixed rate issue and, accordingly, require significantly more time to calculate. For example, it is necessary to evaluate both a five-year yield as well as one-year yield increments to determine which yield is most beneficial to the issuer.
- 6 **Yield Restriction Analysis/Yield Reduction Computations.** The Internal Revenue Code provides that proceeds of a bond issue may not be invested above the yield on the bond unless an applicable exception applies which provides a temporary period during which proceeds are not yield restricted. First Southwest provides analysis to determine the amount of proceeds which must be yield restricted and provides computations to verify that the proceeds have been properly restricted. Failure to properly restrict proceeds may result in the bonds being declared taxable. In addition, the 1993 Treasury Regulations provide that a yield reduction payment may be made in lieu of yield restricting proceeds. First Southwest will provide the necessary computations to determine the amount of yield reduction payment which must be made.

The fee for any Bonds under this contract shall only be payable if a computation is required under Section 148(f)(2) of the Internal Revenue Code of 1986, as amended. In the event that any of the Bonds, comply with an exclusion to the computation requirement as defined by Section 148 of the Internal Revenue Code or related regulations and no calculations were required by First Southwest to make that determination, the specified fee will be waived by First Southwest. For example, certain bonds are excluded from the rebate computation requirement if the proceeds are spent within specific time periods. In the event one of the above-captioned Bonds fulfill the exclusion requirements of the Internal Revenue Code or related regulations, the specified fee will be waived by First Southwest if no calculations were required to make the determination.

Recognizing that computational complexities are reduced when all or the majority of the gross proceeds of an issue are expended, it is First Southwest's policy to reduce fees to the following levels, as appropriate

Per issue fees will be reduced to the following

<input type="checkbox"/> Proceeds expended Liability updated but no report issued	\$200
<input type="checkbox"/> Proceeds expended Liability updated and report issued	500
<input type="checkbox"/> Reserve Fund only	1,000
<input type="checkbox"/> Escrow Fund only	1,000
<input type="checkbox"/> Rebate Fund only	500
<input type="checkbox"/> Preparation of IRS reporting package	500
<input type="checkbox"/> Yield Restriction/Yield Reduction Computation only	1,800

First Southwest's fees are payable upon delivery of the report prepared by First Southwest, commencing one year after the date of delivery of the Bonds and on each computation date thereafter during the term of the Agreement, unless terminated earlier

The fees for computations of Arbitrage Amount which encompass more, or less, than one full year of investment data performed during the same computation period shall be prorated to reflect the longer, or shorter, period of work performed during that period.

**FIRST ADDENDUM TO
AGREEMENT FOR
ARBITRAGE REBATE COMPLIANCE SERVICES
BY AND BETWEEN**

**WILLIAMSON COUNTY, TEXAS
(Hereinafter Referred to as the Issuer)**

**AND
FIRST SOUTHWEST ASSET MANAGEMENT, INC.
an affiliate of First Southwest
(Hereinafter Referred to as "First Southwest")**

Whereas, the above-referenced agreement (the "Agreement") included an Appendix A which states the fees to be charged by First Southwest for worked performed under the Agreement, and

Whereas, Appendix A did not include a special fee structure for computation services for TexPool participants meeting specific provisions,

Therefore, Appendix A to the Agreement is amended to add the following fee structure

\$750 annual per issue calculation fee when 100% of the proceeds are invested in a separate TexPool account for that issue, or a

\$250 annual per issue discount from First Southwest's standard fee structure when at least 25% of the average annual balance of the issue is invested in a separate TexPool account

To be eligible for this special fee structure, a participant must adhere with the following provisions

The proceeds must be invested in a separate TexPool account, or accounts, and not commingled with any other funds or bond issues,

Participant must contract separately with First Southwest to perform the arbitrage rebate calculations for desired bond issues, and

Special fees apply only to computational periods beginning after May 12, 1997

This Amendment is submitted in duplicate originals. When accepted by the Issuer, it, together with the Agreement and Appendix A, will constitute the entire Agreement between the County and First Southwest for the purposes and the consideration herein

specified Acceptance will be indicated on both copies and the return of one executed copy to First Southwest

Respectfully submitted,

FIRST SOUTHWEST

By Sander Wilson
Authorized Representative

Date 9/16/97

ACCEPTANCE CLAUSE

The above and foregoing is hereby in all things accepted and approved by
Williamson County, on this the 14th day of
October, 1997

By John C. Daefler
Authorized Representative
County Judge
Title

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AGENDA ITEM # 19

October 14, 1997

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Consider approving inter-local agreement between Springwoods MUD and Williamson County Sheriff's Department.

Moved Commissioner Boatright

Seconded Commissioner Hays

Motion To approve inter-local agreement between Springwoods MUD and Williamson County Sheriff's Department.

Vote Motion carried 4 - 0

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