EXHIBIT 1

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ORDINANCE NO. 2012-029

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTING SERVICES AGREEMENT FOR FINANCIAL ADVISORY, ARBITRAGE REBATE AND CONTINUING DISCLOSURE SERVICES BETWEEN THE CITY OF DENTON AND FIRST SOUTHWEST COMPANY AND AFFILIATE FIRST SOUTHWEST ASSET MANAGEMENT; APPROVING THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has selected First Southwest Company and affiliate First Southwest Asset Management for the purpose of financial advisory services, continuing disclosure services, and arbitrage services; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations in the preamble are true and correct and are incorporated herewith as part of this Ordinance.

SECTION 2. The City Manager is hereby authorized to execute a professional services agreement between the City of Denton and First Southwest Company and affiliate First Southwest Asset Management, which is attached hereto and incorporated herein by reference.

SECTION 3. The City Manager, or his designee, is authorized to make the expenditures as outlined in the attached Agreement and to exercise all rights and duties of the City of Denton under the Agreement.

SECTION 4. This Ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the 21st day of February, 2012.

MARK A. BURROUGHS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: Jennifer Walters

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY:

EXHIBIT 1

CONSULTING SERVICES AGREEMENT FOR FINANCIAL ADVISORY, ARBITRAGE REBATE AND CONTINUING DISCLOSURE SERVICES

STATE OF TEXAS §

COUNTY OF DENTON §

THIS AGREEMENT is made and entered into as of the 21st day of February, 2012, by and between the City of Denton, Texas, a Texas municipal corporation, with its principal office at 215 East McKinney Street, Denton, Denton County, Texas 76201, hereinafter called "OWNER" and First Southwest Company, with an office at 777 Main Street, Suite 1200, Fort Worth, Texas 76102, hereinafter called "CONSULTANT," and CONSULTANT's affiliate, First Southwest Asset Management, Inc., with its corporate office at 325 North St. Paul Street, Suite 800, Dallas, Texas 75201, hereinafter called ("FSAM"), acting herein, by and through their duly authorized representatives.

WITNESSETH, that in consideration of the covenants and agreements herein contained, the parties hereto do mutually agree as follows:

ARTICLE I
EMPLOYMENT OF CONSULTANT

The OWNER hereby contracts with the CONSULTANT and FSAM, as independent contractors, and the CONSULTANT and FSAM hereby agree to perform the services herein in connection with the Projects as stated in the sections to follow, with diligence and in accordance with the highest professional standards customarily obtained for such services in the State of Texas. The professional services set out herein are in connection with the following described projects:

The Projects shall include, without limitation, the provision of financial advisory and continuing disclosure services to be performed by the Consultant and the provision of arbitrage rebate services to be performed by FSAM.

ARTICLE II
SCOPE OF SERVICES

The CONSULTANT and FSAM shall perform the following services in a professional manner:

A. CONSULTANT shall perform all those services set forth in the Financial Advisory Agreement attached hereto as Attachment A, which shall be attached to this Agreement and made a part hereof for all purposes as separate agreements.

B. CONSULTANT shall perform all those services set forth in the Continuing Disclosure Services Agreement attached hereto as Attachment B, which shall be attached to this Agreement and made a part hereof for all purposes as separate agreements.

C. FSAM shall perform all those services set forth in the Arbitrage Rebate Services Agreement attached hereto as Attachments C, which shall be attached to this Agreement and made a part hereof for all purposes as separate agreements.

D. If there is any conflict between the terms of this Agreement and the attached attachments to this Agreement, the terms and conditions of this Agreement will control over the terms and conditions of the attached attachments.

ARTICLE III
ADDITIONAL SERVICES

Additional services to be performed by the CONSULTANT and FSAM, if authorized by the OWNER, which are not included in the above-described Scope of Services, are described as follows: (list all additional services that may be required for the project)

Not applicable.

ARTICLE IV
PERIOD OF SERVICE

This Agreement shall become effective upon execution of this Agreement by the OWNER and the CONSULTANT and FSAM and upon issue of a notice to proceed by the OWNER, and shall remain in force during the term of the respective agreements attached hereto and any required extensions approved by the OWNER. This Agreement may be sooner terminated in accordance with the provisions in Article XII and the respective agreements may be terminated pursuant to each such agreement's terms. Time is of the essence in this Agreement. The CONSULTANT and FSAM shall make all reasonable efforts to complete the services set forth herein as expeditiously as possible and to meet the schedule established by the OWNER, acting through its City Manager or his designee.

ARTICLE V
COMPENSATION

A. COMPENSATION TERMS:

1. "Subcontract Expense" is defined as expenses incurred by the CONSULTANT in employment of others in outside firms for services in the nature of financial advisory, arbitrage rebate and continuing disclosure.

2. "Direct Non-Labor Expense" is defined as that expense for any assignment incurred by the CONSULTANT for supplies, transportation and equipment,

travel, communications, subsistence, and lodging away from home, and similar incidental expenses in connection with that assignment.

B. BILLING AND PAYMENT: For and in consideration of the professional services to be performed by the CONSULTANT and FSAM herein, the OWNER agrees to pay, based on the terms of the agreements attached hereto.

Partial payments to the CONSULTANT and FSAM will be made on the basis of detailed monthly statements rendered to and approved by the OWNER through its City Manager or his designee; however, under no circumstances shall any monthly statement for services exceed the value of the work performed at the time a statement is rendered. The OWNER may withhold the final five percent (5%) of the contract amount until completion of the Projects.

Nothing contained in this Article shall require the OWNER to pay for any work which is unsatisfactory, as reasonably determined by the City Manager or his designee, or which is not submitted in compliance with the terms of this Agreement. The OWNER shall not be required to make any payments to the CONSULTANT or FSAM when the CONSULTANT or FSAM, respectively, is in default under this Agreement.

It is specifically understood and agreed that the CONSULTANT and/or FSAM shall not be authorized to undertake any work pursuant to this Agreement which would require additional payments by the OWNER for any charge, expense, or reimbursement above the maximum not to exceed fee as stated, without first having obtained written authorization from the OWNER. The CONSULTANT and FSAM shall not proceed to perform the services listed in Article III "Additional Services," without obtaining prior written authorization from the OWNER.

C. ADDITIONAL SERVICES: For additional services authorized in writing by the OWNER in Article III, the CONSULTANT and/or FSAM shall be paid pursuant to the attached agreements. Payments for additional services shall be due and payable upon submission by the CONSULTANT and/or FSAM, and shall be in accordance with subsection B hereof. Statements shall not be submitted more frequently than monthly.

D. PAYMENT: If the OWNER fails to make undisputed payments due the CONSULTANT and/or FSAM for services and expenses within thirty (30) days after receipt of the CONSULTANT's and/or FSAM's undisputed statement thereof, prompt payment act interest as set forth in Chapter 2251 of the Texas Government Code shall be paid on the amounts due the CONSULTANT and/or FSAM. In addition, the CONSULTANT and/or FSAM may, if payment is not received by the thirty-first (31st) day after receipt of statement, after giving ten (10) days' written notice to the OWNER, suspend services under this Agreement until the CONSULTANT and/or FSAM has been paid in full all amounts due for services, expenses, and charges, provided, however, nothing herein shall require the OWNER to pay prompt payment act interest if the OWNER has a bona fide dispute with the CONSULTANT and/or FSAM concerning the payment or if the

OWNER reasonably determines that the work is unsatisfactory, in accordance with this Article V, "Compensation."

ARTICLE VI
OBSERVATION AND REVIEW OF THE WORK

The CONSULTANT and FSAM will exercise reasonable care and due diligence in discovering and promptly reporting to the OWNER any defects or deficiencies in the work of the CONSULTANT or FSAM or any subcontractors or subconsultants.

ARTICLE VII
OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by the CONSULTANT and FSAM pursuant to this Agreement are instruments of service, and shall become the property of the OWNER upon the termination of this Agreement. The CONSULTANT and FSAM are entitled to retain copies of all such documents. The documents prepared and furnished by the CONSULTANT and FSAM are intended only to be applicable to this Project, and OWNER's use of these documents in other projects shall be at OWNER's sole risk and expense. In the event the OWNER uses any of the information or materials developed pursuant to this Agreement in another project or for other purposes than specified herein, CONSULTANT and FSAM are released from any and all liability relating to their use in that project.

ARTICLE VIII
INDEPENDENT CONTRACTOR

CONSULTANT and FSAM shall provide services to OWNER as independent contractors, not as employees of the OWNER. CONSULTANT and FSAM shall not have or claim any right arising from employee status.

ARTICLE IX
INDEMNITY AGREEMENT

The CONSULTANT and FSAM shall indemnify and save and hold harmless the OWNER and its officers, agents, and employees from and against any and all liability, claims, demands, damages, losses, and expenses, including, but not limited to court costs and reasonable attorney fees incurred by the OWNER, and including, without limitation, damages for bodily and personal injury, death and property damage, resulting from the negligent acts or omissions of the CONSULTANT or FSAM or its officers, shareholders, agents, or employees in the execution, operation, or performance of this Agreement.

Nothing in this Agreement shall be construed to create a liability to any person who is not a party to this Agreement, and nothing herein shall waive any of the parties' defenses, both at law or equity, to any claim, cause of action, or litigation filed by anyone not a party to this

Agreement, including the defense of governmental immunity, which defenses are hereby expressly reserved.

ARTICLE X
INSURANCE

During the performance of the services under this Agreement, CONSULTANT and FSAM shall maintain the following insurance with an insurance company licensed to do business in the State of Texas by the State Insurance Commission or any successor agency that has a rating with Best Rate Carriers of at least an A- or above:

A. Comprehensive General Liability Insurance with bodily injury limits of not less than $500,000 for each occurrence and not less than $500,000 in the aggregate, and with property damage limits of not less than $100,000 for each occurrence and not less than $100,000 in the aggregate.

B. Automobile Liability Insurance with bodily injury limits of not less than $500,000 for each person and not less than $500,000 for each accident, and with property damage limits of not less than $100,000 for each accident.

C. Worker's Compensation Insurance in accordance with statutory requirements, and Employers' Liability Insurance with limits of not less than $100,000 for each accident.

D. Professional Liability Insurance with limits of not less than $1,000,000 annual aggregate.

E. The CONSULTANT and FSAM shall furnish insurance certificates or insurance policies at the OWNER's request to evidence such coverages. The insurance policies shall name the OWNER as an additional insured on all such policies, and shall contain a provision that such insurance shall not be canceled or modified without thirty (30) days' prior written notice to OWNER and CONSULTANT and FSAM. In such event, the CONSULTANT and FSAM shall, prior to the effective date of the change or cancellation, serve substitute policies furnishing the same coverage.

ARTICLE XI
ARBITRATION AND ALTERNATE DISPUTE RESOLUTION

The parties may agree to settle any disputes under this Agreement by submitting the dispute to mediation. No mediation arising out of or relating to this Agreement may proceed without the agreement of both parties to submit the dispute to mediation. The location for the mediation shall be the City of Denton, Denton County, Texas unless a different location is agreed to by the parties.

ARTICLE XII
TERMINATION OF AGREEMENT

A. Notwithstanding any other provision of this Agreement, either party may terminate by giving thirty (30) days' advance written notice to the other party.

B. This Agreement may be terminated in whole or in part in the event of either party substantially failing to fulfill its obligations under this Agreement. No such termination will be affected unless the other party is given (1) written notice (delivered by certified mail, return receipt requested) of intent to terminate and setting forth the reasons specifying the non-performance, and not less than thirty (30) calendar days to cure the failure; and (2) an opportunity for consultation with the terminating party prior to termination.

C. If the Agreement is terminated prior to completion of the services to be provided hereunder, CONSULTANT and/or FSAM shall immediately cease all services and shall render a final bill for services to the OWNER within thirty (30) days after the date of termination. The OWNER shall pay CONSULTANT and FSAM for all services properly rendered and satisfactorily performed and for reimbursable expenses to termination incurred prior to the date of termination, in accordance with Article V "Compensation." Should the OWNER subsequently contract with a new consultant for the continuation of services on the Project, CONSULTANT and/or FSAM shall cooperate in providing information. The CONSULTANT and FSAM shall turn over all documents prepared or furnished by CONSULTANT and FSAM pursuant to this Agreement to the OWNER on or before the date of termination, but may maintain copies of such documents for its use.

ARTICLE XIII
RESPONSIBILITY FOR CLAIMS AND LIABILITIES

Approval by the OWNER shall not constitute, nor be deemed a release of the responsibility and liability of the CONSULTANT or FSAM, its employees, associates, agents, subcontractors, and subconsultants for the accuracy and competency of their designs or other work; nor shall such approval be deemed to be an assumption of such responsibility by the OWNER for any defect in the design or other work prepared by the CONSULTANT or FSAM its employees, subcontractors, agents, and consultants. CONSULTANT and FSAM retain, design responsibility and liability at all times during this Agreement and after completion of this Agreement.

ARTICLE XIV
NOTICES

All notices, communications, and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United

States mail to the address shown below, certified mail, return receipt requested, unless otherwise specified herein. Mailed notices shall be deemed communicated as of three (3) days' mailing:

To CONSULTANT:

First Southwest Company
David Medanich, Vice Chairman
777 Main Street, Suite 1200
Fort Worth, Texas 76102

To OWNER:

City of Denton
Bryan Langley, Chief Financial Officer
215 East McKinney
Denton, Texas 76201

To FSAM
First Southwest Asset Management, Inc.
William Johnson, Senior Vice President
325 North St. Paul Street, Suite 800
Dallas, Texas 75201

All notices shall be deemed effective upon receipt by the party to whom such notice is given, or within three (3) days' mailing.

ARTICLE XV
ENTIRE AGREEMENT

This Agreement, consisting of twenty (20) pages and three (3) exhibits, constitutes the complete and final expression of the agreement of the parties, and is intended as a complete and exclusive statement of the terms of their agreements, and supersedes all prior contemporaneous offers, promises, representations, negotiations, discussions, communications, and agreements which may have been made in connection with the subject matter hereof.

ARTICLE XVI
SEVERABILITY

If any provision of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, it shall be considered severable from the remainder of this Agreement and shall not cause the remainder to be invalid or unenforceable. In such event, the parties shall reform this Agreement to replace such stricken provision with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

ARTICLE XVII
COMPLIANCE WITH LAWS

The CONSULTANT and FSAM shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the work covered hereunder as they may now read or hereinafter be amended.

ARTICLE XVIII
DISCRIMINATION PROHIBITED

In performing the services required hereunder, the CONSULTANT and FSAM shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or physical handicap.

ARTICLE XIX
PERSONNEL

A. The CONSULTANT and FSAM represent that they have or will secure, at their own expense, all personnel required to perform all the services required under this Agreement. Such personnel shall not be employees or officers of, or have any contractual relations with the OWNER. CONSULTANT and FSAM shall inform the OWNER of any conflict of interest or potential conflict of interest that may arise during the term of this Agreement.

B. All services required hereunder will be performed by the CONSULTANT and/or FSAM. All personnel engaged in work shall be qualified, and shall be authorized and permitted under state and local laws to perform such services.

C. In those instances deemed necessary by the OWNER, the CONSULTANT and/or FSAM and/or their employees shall be required to submit to background checks.

ARTICLE XX
ASSIGNABILITY

The CONSULTANT or FSAM shall not assign any of its scope of work under in this Agreement, and shall not transfer any of its scope of work under this Agreement (whether by assignment, novation, or otherwise) without the prior written consent of the OWNER. Should the CONSULTANT or FSAM assign any part of the monies due under this Agreement, CONSULTANT or FSAM is required to provide written notice of the same to OWNER. Any assignment of monies due under this Agreement shall not change any of the terms or conditions of this Agreement to include but not limited to the terms and conditions for payment under this Agreement.

ARTICLE XXI
MODIFICATION

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or obligations of the parties hereunder, and unless such waiver or modification is in

writing and duly executed; and the parties further agree that the provisions of this section will not be waived unless as set forth herein.

ARTICLE XXII
MISCELLANEOUS

A. The following exhibits are attached to and made a part of this Agreement: Exhibit A, Financial Advisory Agreement; Exhibit B, Continuing Disclosure Services Agreement and Exhibit C, Arbitrage Rebate Services Agreement.

B. CONSULTANT and FSAM agree that OWNER shall, until the expiration of five (5) years after the final payment or after final completion of all work required under this Agreement, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, correspondence, to include e-mails, and records of the CONSULTANT and/or FSAM involving transactions relating to this Agreement. CONSULTANT and FSAM are required to maintain and make available all electronic records associated with this Agreement for purposes of examination. CONSULTANT and FSAM agree that OWNER shall have access during normal working hours to all necessary CONSULTANT and FSAM facilities and shall be provided adequate and appropriate working space in order to conduct audits in compliance with this section. OWNER shall give CONSULTANT and FSAM reasonable advance notice of intended audits. This paragraph shall work in conjunction with the Audit provision set forth in Article XXIII.

C. Venue of any suit or cause of action under this Agreement shall lie exclusively in Denton County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas.

D. For the purpose of this Agreement, the key persons who will perform most of the work hereunder shall be David Medanich and Shelley Weiske. However, nothing herein shall limit CONSULTANT and FSAM from using other qualified and competent members of its firm to perform the services required herein. CONSULTANT and FSAM understand that OWNER is to be informed of the removal or loss of any of the key persons working under this Agreement. CONSULTANT and FSAM also agree to provide the OWNER with notice of the name(s) of who it intends to replace the key person. OWNER shall have a right to reject any replacement key person(s) and CONSULTANT and FSAM agree to name a replacement key person(s) acceptable to the OWNER.

E. CONSULTANT and FSAM shall commence, carry on, and complete any and all projects with all applicable dispatch, in a sound, economical, and efficient manner and in accordance with the provisions hereof. In accomplishing the projects, CONSULTANT and FSAM shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being carried on by the OWNER.

F. The OWNER shall assist the CONSULTANT and FSAM by placing at the CONSULTANT's and FSAM's disposal all available information pertinent to the Projects, including previous reports, any other data relative to the Projects, and arranging for the access thereto, and make all provisions for the CONSULTANT and FSAM to enter in or upon public and private property as required for the CONSULTANT and FSAM to perform services under this Agreement.

G. The captions of this Agreement are for informational purposes only, and shall not in any way affect the substantive terms or conditions of this Agreement.

ARTICLE XXIII
RIGHT TO AUDIT

The OWNER shall have the right to audit and make copies of the books, records and computations pertaining to this agreement. The CONSULTANT and FSAM shall retain such books, records, documents and other evidence pertaining to this Agreement during the contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within 10 business days of written request. Further, the CONSULTANT and FSAM shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to this agreement, and to allow the OWNER similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the OWNER unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the CONSULTANT and/or FSAM, which must be payable within five business days of receipt of an invoice.

Failure to comply with the provisions of this section shall be a material breach of this contract and shall constitute, in the OWNER'S sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

EXHIBIT 1

IN WITNESS HEREOF, the City of Denton, Texas has caused this Agreement to be executed by its duly authorized City Manager, and CONSULTANT and FSAM have executed this Agreement through their duly authorized undersigned officer on this the 21st day of February, 2012.

CITY OF DENTON, TEXAS

Jon Fortune (Acting City Mgr)
GEORGE C. CAMPBELL, CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: Jennifer Walters

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY:

CONSULTANT

BY:
Hill A. Feinberg
Chairman and Chief Executive Officer

FSAM

BY:
Hill A. Feinberg
Chairman and Chief Executive Officer

WITNESS:

BY:

CITY OF DENTON
INSURANCE REQUIREMENTS FOR CONSULTANTS/CONTRACTORS

The Offeror's/Bidder's attention is directed to the insurance requirements below. It is highly recommended that offerors/bidders confer with their respective insurance carriers or brokers to determine in advance of its proposal or bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an offeror/apparent low bidder fails to comply strictly with the insurance requirements, that offeror/bidder may be disqualified from award of the contract. Upon award, all insurance requirements shall become contractual obligations, which the successful offeror/bidder shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Consultant/Contractor, the Consultant/Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

*As soon as practicable after notification of award, Consultant/Contractor shall file with the Purchasing Department satisfactory certificates of insurance, containing the proposal/bid number and title of the project. Consultant/Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Consultants/Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Consultant/**Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.***

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least A.

- Any deductibles or self-insured retentions shall be declared in the proposal or bid. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the Consultant/Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:

- Name as additional insured the City of Denton, its Officials, Agents, Employees and volunteers.

- That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims-made form, Consultant/Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Consultant/Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

[X] A. **General Liability Insurance:**

General Liability insurance with combined single limits of not less than **$500,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.

- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] **Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **$500,000.00** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned, hired and non-owned autos.

[__] **Workers Compensation Insurance**

Contractor shall purchase and maintain Worker's Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least $100,000 for each accident, $100,000 per each employee, and a $500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Worker's Compensation Commission (TWCC).

[__] **Owner's and Contractor's Protective Liability Insurance**

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage

shall be on an "occurrence" basis, and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Policy limits will be at least combined bodily injury and property damage per occurrence with a _____ aggregate.

[__] **Fire Damage Legal Liability Insurance**

Coverage is required if Broad form General Liability is not provided or is unavailable to the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than _____ each occurrence are required.

[X] **Professional Liability Insurance**

Professional liability insurance with limits not less than **$1,000,000.00** per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

[__] **Builders' Risk Insurance**

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

[__] **Commercial Crime**

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than _____ each occurrence are required.

[__] **Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

ATTACHMENT 1

[__] **Worker's Compensation Coverage for Building or Construction Projects for Governmental Entities**

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any overage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

4) obtain from each other person with whom it contracts, and provide to the contractor:

a) certificate of coverage, prior to the other person beginning work on the project; and

b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

EXHIBIT 1

CONFLICT OF INTEREST QUESTIONNAIRE — FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

OFFICE USE ONLY

Date Received

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1 **Name of person who has a business relationship with local governmental entity.**

First Southwest Company

2

☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 **Name of local government officer with whom filer has an employment or business relationship.**

Not applicable

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes ☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☐ No

D. Describe each affiliation or business relationship.

4

First Southwest Company

By: _____

Signature of person doing business with the governmental entity

_____

Date

Adopted 06/29/2007

EXHIBIT 1

CONFLICT OF INTEREST QUESTIONNAIRE — FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

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This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1 **Name of person who has a business relationship with local governmental entity.**

First Southwest Asset Management, Inc.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 **Name of local government officer with whom filer has an employment or business relationship.**

Not applicable

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

D. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes ☐ No

E. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

F. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☐ No

D. Describe each affiliation or business relationship.

4 First Southwest Asset Management, Inc.

By: _____ _____

Signature of person doing business with the governmental entity — Date

Adopted 06/29/2007

Attachment A

FINANCIAL ADVISORY AGREEMENT

This Financial Advisory Agreement (the "Agreement") is made and entered into by and between the City of Denton, Texas ("Issuer") and First Southwest Company ("FSC") effective as of the date executed by the Issuer as set forth on the signature page hereof.

WITNESSETH:

WHEREAS, the Issuer will have under consideration from time to time the authorization and issuance of indebtedness in amounts and forms which cannot presently be determined and, in connection with the authorization, sale, issuance and delivery of such indebtedness, Issuer desires to retain an independent financial advisor; and

WHEREAS, the Issuer desires to obtain the professional services of FSC to advise the Issuer regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Issuer (hereinafter referred to collectively as the "Debt Instruments") from time to time during the period in which this Agreement shall be effective; and

WHEREAS, FSC is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by Issuer during the period in which this Agreement shall be effective.

NOW, THEREFORE, the Issuer and FSC, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

SECTION I
DESCRIPTION OF SERVICES

Upon the request of an authorized representative of the Issuer, FSC agrees to perform the financial advisory services stated in the following provisions of this Section I; and for having rendered such services, the Issuer agrees to pay to FSC the compensation as provided in Section V hereof.

A. Financial Planning. At the direction of Issuer, FSC shall:

1. Survey and Analysis. Conduct a survey of the financial resources of the Issuer to determine the extent of its capacity to authorize, issue and service any Debt Instruments contemplated. This survey will include an analysis of any existing debt structure as compared with the existing and projected sources of revenues which may be pledged to secure payment of debt service and, where appropriate, will include a study of the trend of the assessed valuation, taxing power and present and future taxing requirements of the Issuer. In the event revenues of existing or projected facilities operated by the Issuer are to be pledged to repayment of the Debt Instruments then under consideration, the survey will take into account any outstanding indebtedness payable from the revenues thereof, additional revenues to be available from any proposed rate increases and additional revenues, as projected by consulting engineers employed by the Issuer, resulting from improvements to be financed by the Debt Instruments under consideration.

2. Future Financings. Consider and analyze future financing needs as projected by the Issuer's staff and consulting engineers or other experts, if any, employed by the Issuer.

3. Recommendations for Debt Instruments. On the basis of the information developed by the survey described above, and other information and experience available, submit to the Issuer recommendations regarding the Debt Instruments under consideration, including such elements as the date of issue, interest payment dates, schedule of principal maturities, options of prior payment, security provisions, and such other provisions as may be appropriate in order to make the issue attractive to investors while achieving the objectives of the Issuer. All recommendations will be consistent with the goal of designing the Debt Instruments to be sold on terms which are advantageous to the Issuer, including the lowest interest cost consistent with all other considerations.

4. Market Information. Advise the Issuer of our interpretation of current bond market conditions, other related forthcoming bond issues and general information, with economic data, which might normally be expected to influence interest rates or bidding conditions so that the date of sale of the Debt Instruments may be set at a favorable time.

5. Elections. In the event it is necessary to hold an election to authorize the Debt Instruments then under consideration, FSC will assist in coordinating the assembly of such data as may be required for the preparation of necessary petitions, orders, resolutions, ordinances, notices and certificates in connection with the election, including assistance in the transmission of such data to a firm of municipal bond attorneys ("Bond Counsel") retained by the Issuer.

B. Debt Management and Financial Implementation. At the direction of Issuer, FSC shall:

EXHIBIT 1

1. Method of Sale. Evaluate the particular financing being contemplated, giving consideration to the complexity, market acceptance, rating, size and structure in order to make a recommendation as to an appropriate method of sale, and:

a. If the Debt Instruments are to be sold by an advertised competitive sale, FSC will:

(1) Supervise the sale of the Debt Instruments;

(2) Disseminate information to prospective bidders, organize such informational meetings as may be necessary, and facilitate prospective bidders' efforts in making timely submission of proper bids;

(3) Assist the staff of the Issuer in coordinating the receipt of bids, the safekeeping of good faith checks and the tabulation and comparison of submitted bids; and

(4) Advise the Issuer regarding the best bid and provide advice regarding acceptance or rejection of the bids.

b. If the Debt Instruments are to be sold by negotiated sale, FSC will:

(1) Recommend for Issuer's final approval and acceptance one or more investment banking firms as managers of an underwriting syndicate for the purpose of negotiating the purchase of the Debt Instruments.

(2) Cooperate with and assist any selected managing underwriter and their counsel in connection with their efforts to prepare any Official Statement or Offering Memorandum. FSC will cooperate with and assist the underwriters in the preparation of a bond purchase contract, an underwriters agreement and other related documents. The costs incurred in such efforts, including the printing of the documents, will be paid in accordance with the terms of the Issuer's agreement with the underwriters, but shall not be or become an obligation of FSC, except to the extent specifically provided otherwise in this Agreement or assumed in writing by FSC.

(3) Assist the staff of the Issuer in the safekeeping of any good faith checks, to the extent there are any such, and provide a cost comparison, for both expenses and interest which are suggested by the underwriters, to the then current market.

(4) Advise the Issuer as to the fairness of the price offered by the underwriters.

2. Offering Documents. Coordinate the preparation of the notice of sale and bidding instructions, official statement, official bid form and such other documents as may be required and submit all such documents to the Issuer for examination, approval and certification. After such examination, approval and certification, FSC shall provide the Issuer with a supply of all such documents sufficient to its needs and distribute by mail or, where appropriate, by electronic delivery, sets of the same to prospective purchasers of the Debt Instruments. Also, FSC shall provide copies of the final Official Statement to the purchaser of the Debt Instruments in accordance with the Notice of Sale and Bidding Instructions.

3. Credit Ratings. Make recommendations to the Issuer as to the advisability of obtaining a credit rating, or ratings, for the Debt Instruments and, when directed by the Issuer, coordinate the preparation of such information as may be appropriate for submission to the rating agency, or agencies. In those cases where the advisability of personal presentation of information to the rating agency, or agencies, may be indicated, FSC will arrange for such personal presentations, utilizing such composition of representatives from the Issuer as may be finally approved or directed by the Issuer.

4. Trustee, Paying Agent, Registrar. Upon request, counsel with the Issuer in the selection of a Trustee and/or Paying Agent/Registrar for the Debt Instruments, and assist in the negotiation of agreements pertinent to these services and the fees incident thereto.

5. Financial Publications. When appropriate, advise financial publications of the forthcoming sale of the Debt Instruments and provide them with all pertinent information.

6. Consultants. After consulting with and receiving directions from the Issuer, arrange for such reports and opinions of recognized independent consultants as may be appropriate for the successful marketing of the Debt Instruments.

7. Auditors. In the event formal verification by an independent auditor of any calculations incident to the Debt Instruments is required, make arrangements for such services.

8. Issuer Meetings. Attend meetings of the governing body of the Issuer, its staff, representatives or committees as requested at all times when FSC may be of assistance or service and the subject of financing is to be discussed.

9. Printing. To the extent authorized by the Issuer, coordinate all work incident to printing of the offering documents and the Debt Instruments.

10. Bond Counsel. Maintain liaison with Bond Counsel in the preparation of all legal documents pertaining to the authorization, sale and issuance of the Debt Instruments.

11. Changes in Laws. Provide to the Issuer copies of proposed or enacted changes in federal and state laws, rules and regulations having, or expected to have, a significant effect on the municipal bond market of which FSC becomes aware in the ordinary course of its business, it being understood that FSC does not and may not act as an attorney for, or provide legal advice or services to, the Issuer.

12. Delivery of Debt Instruments. As soon as a bid for the Debt Instruments is accepted by the Issuer, coordinate the efforts of all concerned to the end that the Debt Instruments may be delivered and paid for as expeditiously as possible and assist the Issuer in the preparation or verification of final closing figures incident to the delivery of the Debt Instruments.

13. Debt Service Schedule; Authorizing Resolution. After the closing of the sale and delivery of the Debt Instruments, deliver to the Issuer a schedule of annual debt service requirements for the Debt Instruments and, in coordination with Bond Counsel, assure that the paying agent/registrar and/or trustee has been provided with a copy of the authorizing ordinance, order or resolution.

SECTION II
TERM OF AGREEMENT

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, unless terminated by either party pursuant to Section IV of this Agreement, shall remain in effect thereafter for a period of five (5) years from such date.

SECTION III
TERMINATION

This Agreement may be terminated with or without cause by the Issuer or FSC upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. In the event of such termination, it is understood and agreed that only the amounts due FSC for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

SECTION IV
COMPENSATION AND EXPENSE REIMBURSEMENT

The fees due to FSC for the services set forth and described in Section I of this Agreement with respect to each issuance of Debt Instruments during the term of this Agreement shall be calculated in accordance with the schedule set forth on Appendix A attached hereto. Unless specifically provided otherwise on Appendix A or in a separate written agreement between Issuer and FSC, such fees, together with any other fees as may have been mutually agreed upon and all expenses for which FSC is entitled to reimbursement, shall become due and payable concurrently with the delivery of the Debt Instruments to the purchaser.

SECTION V
MISCELLANEOUS

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Texas.

2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Issuer and FSC, their respective successors and assigns; provided however, neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.

3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties hereto.

FIRST SOUTHWEST COMPANY

By:_____
David K. Medanich, Vice Chairman

By:_____
Laura Alexander, Senior Vice President

CITY OF DENTON, TEXAS

By: Jon Fortune

Title: ACTING CITY MANAGER

Date: 2/21/2012

ATTEST:

Jennifer Walters

Secretary

APPENDIX A

The fees due FSC will not exceed those contained in the fee schedule as listed below.

Base Fee – Any Issue	$25,000
Plus $1.00 per 1,000 Bonds	

The charges for ancillary services, including official statement printing, shall be levied only for those services which are reasonably necessary in completing the transaction and which are reasonable in amount, unless such charges were incurred at the specific direction of the Issuer.

The payment of charges for financial advisory services described in Section I of the foregoing Agreement shall be contingent upon the delivery of bonds and shall be due at the time that bonds are delivered.

The Issuer shall be responsible for the following expenses, if and when applicable, whether they are charged to the Issuer directly as expenses or charged to the Issuer by FSC as reimbursable expenses:

Bond counsel
Bond printing
Bond ratings
Credit enhancement
CPA fees for refunding
Official statement printing
Paying agent/registrar/trustee
Travel expenses
Underwriter and underwriters counsel
Miscellaneous, including copy, delivery, and phone charges

The payment of reimbursable expenses that FSC has assumed on behalf of the Issuer shall NOT be contingent upon the delivery of bonds and shall be due at the time that services are rendered and payable upon receipt of an invoice therefor submitted by FSC.

Attachment B

AGREEMENT
FOR
CONTINUING DISCLOSURE SERVICES
BY AND BETWEEN

CITY OF DENTON, TEXAS
(HEREINAFTER REFERRED TO AS THE "ISSUER")

AND
FSC CONTINUING DISCLOSURE SERVICES,
A DIVISION OF FIRST SOUTHWEST COMPANY

In connection with the sale and delivery of certain bonds, notes, certificates, or other municipal obligations (the "Bonds"), the Issuer has made certain undertakings to disclose to the investing public, on a periodic and continuing basis, certain information, as more fully set forth in such undertakings and as contemplated by the provisions of Securities and Exchange Commission Rule 15c2-12, as amended (the "Rule").

The Issuer has agreed to engage FSC Continuing Disclosure Services, a Division of First Southwest Company ("Continuing Disclosure Services"), to assist it with these continuing disclosure obligations, for the consideration and on the terms and conditions set forth herein, including the preparation and submission of annual reports (the "Annual Reports") and the reporting of certain specified events (the "Events"), which are set forth in the Issuer's undertakings, the Rule and in Subsection 2c. below.

This agreement (the "Agreement") between the Issuer and the Continuing Disclosure Services shall become effective as of the date of its acceptance as provided for below.

The parties agree as follows:

1. This Agreement shall apply to all issues of Bonds delivered subsequent to the effective date of the continuing disclosure requirements as specified in the Rule, to the extent that any particular issue does not qualify for exceptions to the continuing disclosure requirements of the Rule.

2. Continuing Disclosure Services agrees to perform the following in connection with providing services relating to the Issuer's continuing disclosure obligations:

    a. assist the Issuer in compiling data determined or selected by the Issuer to be disclosed;

    b. assist the Issuer in identifying other information to be considered by Issuer for continuing disclosure reporting purposes;

    c. assist the Issuer in preparing the presentation of such information, to include Annual Reports containing financial information and operating data of the type provided in the final official statement of applicable issues, and notices concerning the occurrence of the specified Events and other items listed below:

1) Principal and interest payment delinquencies
2) Non-payment related defaults
3) Unscheduled draws on debt service reserves reflecting financial difficulties
4) Unscheduled draws on credit enhancements reflecting financial difficulties
5) Substitution of credit or liquidity providers, or their failure to perform
6) Adverse tax opinions or events affecting the tax-exempt status of the security
7) Modifications to rights of security holders
8) Bond calls
9) Defeasances
10) Release, substitution, or sale of property securing repayment of the securities
11) Rating changes
12) The issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the securities of the Issuer
13) Tender offers
14) Bankruptcy, insolvency, receivership or similar proceeding
15) Mergers, consolidations, acquisitions, the sale of all or substantially all of the assets of the obligated person or their termination
16) Appointment of a successor or additional trustee or the change of the name of a trustee
17) Noncompliance with the Rule

d. assist the Issuer in distributing or filing, in the Issuer's name, the above mentioned Annual Reports, notices and audited annual financial statements to the Nationally Recognized Municipal Securities Information Repository ("NRMSIR"), which is the Municipal Securities Rulemaking Board ("MSRB"), appropriate State Information Depository ("SID"), rating agencies, and other entities, as required by the Issuer's continuing disclosure obligations.

e. provide to the Issuer confirmation of distribution or dissemination of reports and notices.

3. Issuer acknowledges and agrees to the following:

a. Continuing Disclosure Services will be compensated for the performance of services with respect to assisting the Issuer with preparation and submission of continuing disclosure reports in accordance with the schedule as set forth below:

1) $2,500 per year for assistance in preparation and distribution of each annual report and assistance in distribution of audited annual financial statements, if Issuer is exempt from requirements other than filing with the SID, or

$3,500 per year for assistance in preparation and distribution of each annual report and assistance in distribution of audited annual financial statements, if Issuer is not exempt from filing reports with the SID and NRMSIR, plus

2) $100 minimum fee for assistance in preparation and distribution of each notice concerning occurrence of an Event or noncompliance with the Rule; in addition, a fee of $125 per hour for all time in excess of five (5) hours spent in assisting with preparation and distribution of each notice concerning occurrence of an Event or noncompliance with the Rule.

b. Issuer will provide to Continuing Disclosure Services, and Continuing Disclosure Services shall be entitled to rely upon, all information regarding the issuance of the Bonds, including the final official statement and the Issuer's commitment or undertaking regarding continuing disclosure as contained in the resolution authorizing issuance of the Bonds or separate contract or agreement; annual financial information and operating data of the type provided in the final official statement; information concerning the occurrence of an Event or noncompliance with the Rule; and any other information necessary to prepare continuing disclosure reports.

c. Issuer will provide to Continuing Disclosure Services, and Continuing Disclosure Services shall be entitled to rely upon, annual written confirmation of all outstanding Bond issues for which the issuer has a continuing disclosure obligation.

d. Issuer will provide to Continuing Disclosure Services all information required for preparation of each Annual Report, including financial information and operating data of the type provided in the final official statement and other information deemed necessary by Issuer, no later than 45 days prior to the date on which each Annual Report is due.

e. Issuer will provide full and complete copies of the audited annual financial statement no later than ten (10) days prior to the date on which it is due.

f. Issuer will notify Continuing Disclosure Services immediately upon the occurrence or immediately upon the Issuer's knowledge of the occurrence of each Event or noncompliance with the Rule, and the Issuer will immediately provide all information necessary for preparation of the notice of occurrence of each such Event or noncompliance with the Rule.

g. Issuer shall have the sole responsibility for determining the disclosure to be made in all cases. The Issuer shall review and provide approval of the content and form of all continuing disclosure reports and notices, with the exception of the following, which will be filed automatically on the Issuer's behalf, unless the Issuer has notified Continuing Disclosure Services otherwise in writing: bond calls, defeasances, and rating changes. In the event of a disagreement between the Issuer and Continuing Disclosure Services regarding the disclosure to be made, either the Issuer or Continuing Disclosure Services may, but neither is obligated to, terminate this Agreement by written notice to the other party.

h. A separate Annual Report will be prepared and distributed for each type of security pledge in effect for outstanding financing issues or Bonds of the Issuer.

i. Issuer will inform Continuing Disclosure Services of the retirement of any Bonds included under the scope of this Agreement within 30 days of such retirement.

4. In the event that Continuing Disclosure Services and the Issuer determine that advice of counsel is appropriate with respect to any question concerning disclosure, then (i) the Issuer may consult with its counsel, or (ii) the Issuer may authorize Continuing Disclosure Services

to seek legal advice from independent counsel regarding the disclosure. The Issuer agrees that it shall be responsible for the fees and expenses of its own counsel. The Issuer agrees to reimburse Continuing Disclosure Services the fees and expenses of independent counsel, if paid by Continuing Disclosure Services, for advice rendered pursuant to authorization by the Issuer.

5. The Issuer agrees to hold harmless and to indemnify Continuing Disclosure Services and its employees, affiliates, officers, directors, and agents from and against any and all claims, damages, losses, liabilities, reasonable costs and expenses whatsoever (including attorneys' fees and expenses) which Continuing Disclosure Services may incur by reason of or in connection with the distribution of information in the disclosure reports in accordance with this Agreement, except to the extent such claims, damages, losses, liabilities, costs and expenses result directly from Continuing Disclosure Services' willful misconduct or gross negligence in the distribution of such information.

   In order to provide for just and equitable contribution, if a claim for indemnification pursuant to the foregoing indemnification provision is made, but it is determined in an appropriate proceeding that such indemnification may not be enforced, even though the express provisions hereof provide for indemnification in such case, then the Issuer, on the one hand, and Continuing Disclosure Services, on the other hand, shall contribute to the claims, damages, losses, liabilities, costs and expenses to which Continuing Disclosure Services may be subject in accordance with the relative benefits received by Issuer, on the one hand, and Continuing Disclosure Services, on the other hand, and also the relative fault of Issuer, on the one hand, and Continuing Disclosure Services, on the other hand, in connection with the acts or omissions which resulted in such claims, damages, losses, liabilities, costs or expenses; and relevant equitable considerations shall also be considered. Notwithstanding the foregoing, Continuing Disclosure Services, shall not be obligated to contribute any amount hereunder that exceeds the amount of fees previously received by Continuing Disclosure Services pursuant to this Agreement.

6. The fees and expenses due to Continuing Disclosure Services in providing Continuing Disclosure Services shall be calculated in accordance with Section 3a. of this Agreement. The fees will be invoiced each year during the term of the Agreement, unless terminated earlier, and fees will be payable within 30 days of receipt of invoice, except that the fees for the first year's service will be invoiced and be payable upon acceptance of this Agreement.

   In addition, the Issuer agrees to reimburse Continuing Disclosure Services for the following expenses: (i) legal fees and expenses of counsel incurred by Continuing Disclosure Services pursuant to the terms of Section 4. above, and (ii) other out-of-pocket expenses reasonably incurred by Continuing Disclosure Services in performing its obligations hereunder. The Issuer shall remit payment for expenses to Continuing Disclosure Services within 30 days of receipt of invoice.

7. **Bonds Issued Subsequent to Agreement:** The provisions of this Agreement will include additional municipal bonds and financings (including financing lease obligations) issued during the stated term of this Agreement, if such bonds are subject to the continuing disclosure requirements. In this connection, the Issuer agrees that the Issuer will notify Continuing Disclosure Services of any municipal bonds and financing (including financing lease obligations) issued by the Issuer during any fiscal year of the Issuer during the term of this Agreement, and will provide Continuing Disclosure Services with such information as shall be necessary in order for Continuing Disclosure Services to perform the services contracted for hereunder.

8. **Effective Dates of Agreement:** This Agreement shall become effective as of the date of acceptance by the Issuer as set out below and remain in effect thereafter for a period of five (5) years from the date of acceptance. This agreement may be terminated with or without cause by the Issuer or Continuing Disclosure Services upon thirty (30) days' written notice to the other party. In the event of such termination, it is understood and agreed that only the amounts due to Continuing Disclosure Services 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 Continuing Disclosure Services by the Issuer shall be returned to the Issuer as soon as practicable. In addition, the parties hereto agree that upon termination of this Agreement Continuing Disclosure Services shall have no continuing obligation to the Issuer regarding any service contemplated herein. Notwithstanding the foregoing, all indemnification, hold harmless and/or contribution obligations, pursuant to Section 5 of this Agreement, shall survive any termination, regardless of whether the termination occurs as a result of the expiration of the term hereof or the Agreement is terminated sooner by either the Issuer or Continuing Disclosure Services under this Section 8, pursuant to Subsection 3.g., or otherwise.

Provision of Notices

Provision of information, delivery of certification and notices of Events and noncompliance with the Rule, unless directed otherwise in writing, shall be sent to:

City of Denton, Texas
215 East McKinney
Denton, TX 76201
Bryan Langley
Chief Financial Officer
Phone: (940) 349-8224
Fax: (940) 349-7206
Email: Bryan.Langley@cityofdenton.com

FSC Continuing Disclosure Services,
a Division of First Southwest Company
325 North St. Paul Street, Suite 800
Dallas, Texas 75201
Attention: Julie James
Vice President for Continuing Disclosure
Phone: (214) 953-8701
Fax: (214) 953-4050
Email: julie.james@firstsw.com

Acceptance of Agreement

9. This Agreement is submitted in duplicate originals. When accepted by the Issuer, it will constitute the entire Agreement between the Issuer and Continuing Disclosure Services for the purposes and the consideration specified above.

Acceptance will be indicated on all copies and returned to Continuing Disclosure Services. An executed original will be returned for your files.

Respectfully submitted,

FSC Continuing Disclosure Services, a Division of First Southwest Company

By _____
Hill A. Feinberg
Chairman and Chief Executive Officer

By _____
Julie James
Vice President

Date _____

ACCEPTANCE CLAUSE

The above and foregoing is hereby in all things accepted and approved by the City of Denton, Texas, on this the 21st day of February, 2012.

By _____
Authorized Representative

ACTING CITY MANAGER
Title

Attachment C

AGREEMENT FOR
ARBITRAGE REBATE COMPLIANCE SERVICES
BETWEEN
CITY OF DENTON, TEXAS
(Hereinafter Referred to as the "Issuer")
AND
FIRST SOUTHWEST ASSET MANAGEMENT, INC.
(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 "***Obligations***"), will have the need to determine to what extent, if any, it will be required to rebate certain investment earnings (the amount of such rebate being referred to herein as the "***Arbitrage Amount***") from the proceeds of the Obligations to the United States of America pursuant to the provisions of Section 148(f)(2) of the Internal Revenue Code of 1986, as amended (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 are pleased to submit the following proposal for consideration; and if the proposal is accepted by the Issuer, it 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 Obligations delivered subsequent to the effective date of the rebate requirements under the Code, except for (i) issues which qualify for exceptions to the rebate requirements in accordance with Section 148 of the Code and related Treasury regulations, or (ii) issues excluded by the Issuer in writing in accordance with the further provisions hereof, (iii) new issues effected in a fashion whereby First Southwest is unaware of the existence of such issue, (iv) issues in which, for reasons outside the control of First Southwest, First Southwest is unable to procure the necessary information required to perform such services.

Covenants of First Southwest

2. We agree to provide our professional services in determining the Arbitrage Amount with regard to the Obligations. 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 on behalf of Issuer in connection with providing such professional services, including any costs incident to litigation, mandamus action, test case or other similar legal actions.

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 Obligations, 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, calculations to determine the Arbitrage Amount under Section 148(f)(2) of the Code; and

   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. In undertaking to provide the services set forth in paragraph 2 and this paragraph 3, First Southwest does not assume any responsibility for any record retention requirements which the Issuer may have under the Code or other applicable laws, it being understood that the Issuer shall remain responsible for compliance with any such record retention requirements.

Covenants of the Issuer

4. In connection with the performance of the aforesaid duties, the Issuer agrees to the following:

   a. The fees 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 Obligations during the term of this Agreement.

   b. The Issuer will provide First Southwest all information regarding the issuance of the Obligations and the investment of the proceeds therefrom, and any other information necessary in connection with calculating the Arbitrage Amount. First Southwest will rely on the information supplied by the Issuer without inquiry, it being understood that First Southwest will not conduct an audit or take any other steps to verify the accuracy or authenticity of the information provided by the Issuer.

   c. The Issuer will notify First Southwest in writing of the retirement, prior to the scheduled maturity, of any Obligations 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 Obligations. In the event the Issuer fails to notify First Southwest in a timely manner as provided hereinabove, First Southwest shall have no further obligation or responsibility to provide any services under this Agreement with respect to such retired Obligations.

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 and, except to the limited extent set forth in this paragraph, shall not incur any liability for any other errors or omissions, unless it shall be proved that such error or omission 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's liability shall not exceed the amount of any penalty or interest imposed on the Arbitrage Amount as a result of such error.

Obligations Issued Subsequent to Initial Contract

6. The services contracted for under this Agreement will automatically extend to any additional Obligations (including financing lease obligations) issued during the term of this Agreement, if such Obligations are subject to the rebate requirements under Section 148(f)(2) of the Code. In connection with the issuance of additional Obligations, the Issuer agrees to the following:

   a. The Issuer will notify or cause the notification, in writing, to 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 Obligations as First Southwest may request in connection with its performance of the arbitrage rebate services contracted for hereunder. If such notice is not provided to First Southwest with regard to a particular issue, First Southwest shall have no obligation to provide any services hereunder with respect to such issue.

b. At the option of the Issuer, any additional Obligations to be issued subsequent to the execution of this Agreement may be excluded from the services provided for herein. In order to exclude an issue, the Issuer must notify First Southwest in writing of their intent to exclude any specific Obligations from the scope of this Agreement, which exclusion shall be permanent for the full life of the Obligations; and after receipt of such notice, First Southwest shall have no obligation to provide any services under this Agreement with respect to such excluded Obligations.

Election to Pay Penalty in Lieu of Rebate

7. The services contracted for under this Agreement will automatically extend to any additional financing obligations issued during the stated term of this Agreement, if an election was made (prior to delivery of the Obligations) to pay penalty in lieu of rebate for a qualified construction bond issue under Section 148(f)(2) of the Code. In connection with extending the scope of this Agreement to include computations of penalty, the Issuer agrees to the following:

a. The Issuer will notify First Southwest of any financing obligations issued by the Issuer during any calendar year of this Agreement for which a penalty election was made. The Issuer will provide First Southwest with such information regarding the investment and expenditure of such obligations as First Southwest deems necessary in connection with its performance of the penalty calculation services contracted for hereunder.

b. At the option of the Issuer, any additional financing obligations issued subsequent to the execution of this Agreement may be excluded from the services provided for herein. The Issuer must notify First Southwest in writing of its intent to exclude any specific financing obligations from the scope of this Agreement.

Effective Date of Agreement

8. 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 prior written notice to the other party. In the event of such termination, it is understood and agreed that only the amounts due to First Southwest for services provided and extraordinary 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 the completion of 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 following written request by Issuer. In addition, the parties hereto agree that, upon termination of this Agreement, First Southwest shall have no continuing obligation to the Issuer regarding any arbitrage rebate related services contemplated herein, regardless of whether such services have previously been undertaken, completed or performed.

Acceptance of Agreement

9. This Agreement is submitted in duplicate originals. When accepted by the Issuer in accordance with the terms hereof, 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. In order for this Agreement to become effective, it must be accepted by the Issuer within sixty (60) days of the date appearing below the signature of First Southwest's authorized representative hereon. After the expiration of such 60-day period, acceptance by the Issuer shall only become effective upon delivery of written acknowledgement and reaffirmation by First Southwest that the terms and conditions set forth in this Agreement remain acceptable to First Southwest.

Governing Law

10. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflicts of laws.

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

Respectfully submitted,

FIRST SOUTHWEST ASSET MANAGEMENT, INC.

By _____
Hill A. Feinberg, Chairman, Chief Executive Officer

Date _____

ISSUER'S ACCEPTANCE CLAUSE

The above and foregoing is hereby in all things accepted and approved by

CITY OF DENTON, TX, on this the 21st day of February, 2012.

By _____
Authorized Representative

Title ACTING CITY MANAGER

Printed Name JON FORTUNE

APPENDIX A – FEES

The Obligations to be covered initially under this contract include all issues of tax-exempt obligations delivered subsequent to the effective dates of the rebate requirements, under the Code, except as set forth in Section I of the Agreement.

The fee for any Obligations under this contract shall only be payable if a computation is required under Section 148(f)(2) of the Code. In the event that any of the Obligations fall within an exclusion to the computation requirement as defined by Section 148 of the Code or related regulations and no calculations were required by First Southwest to make that determination, no fee will be charged for such issue. For example, certain obligations are excluded from the rebate computation requirement if the proceeds are spent within specific time periods. In the event a particular issue of Obligations fulfills the exclusion requirements of the Code or related regulations, the specified fee will be waived by First Southwest if no calculations were required to make the determination.

First Southwest's fee for arbitrage rebate services is based upon a fixed annual fee per issue. The annual fee is charged based upon the number of years that proceeds exist subject to rebate from the delivery date of the issue to the computation date.

First Southwest's fees are payable upon delivery of the report. The first report will be made following one year from the date of delivery of the Obligations and on each computation date thereafter during the term of the Agreement. The fees for computations of the Arbitrage Amount which encompass more, or less, than one Computation Year shall be prorated to reflect the longer, or shorter, period of work performed during that period.

The fee for each of the Obligations included in this contract shall be based on the table below.

Additionally, due to significant time saving efficiencies realized when investment information is submitted in an electronic format, First Southwest passes the savings to its clients by offering a 10% reduction in its fees if information is provided in a spreadsheet or electronic text file format.

Description	Annual Fee
ANNUAL FEE	**$1,400**
COMPREHENSIVE ARBITRAGE COMPLIANCE SERVICES INCLUDE:	
• Commingled Funds Analysis & Calculations • Spending Exception Analysis & Calculations • Yield Restriction Analysis & Calculations (for yield restricted Project Funds, Reserve Funds, Escrow Funds, etc.) • Parity Reserve Fund Allocations • Transferred Proceeds Calculations • Universal Cap Calculations • Debt Service Fund Calculations (including earnings test when required) • Preparation of all Required IRS Paperwork for Making a Rebate Payment / Yield Reduction Payment • Retention of Records Provided for Arbitrage Computations • IRS Audit Assistance • Delivery of Rebate Calculations Each Year That Meets the Timing Requirements of the Audit Schedule • On-Site Meetings, as Appropriate, to Discuss Calculation Results / Subsequent Planning Items	**INCLUDED**
OTHER SERVICES AVAILABLE:	
IRS Refund Request – Update calculation, prepare refund request package, and assist issuer as necessary in responding to subsequent IRS Information Requests	**$750**
Commercial Paper Calculations – Per allocated issue	**$1,600**

EXPLANATION OF TERMS:

a. **Computation Year:** A "Computation Year" represents a one year period from the delivery date of the issue to the date that is one calendar 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. If a calculation includes a portion of a computation year, i.e., if the calculation includes 1 ½ computation years, then the base fee will be multiplied by 1.5.

b. **Electronic Data Submission:** The data should be provided electronically in MS Excel or ASCII text file (comma delimited text preferred) with the date, description, dollar amount, and an activity code (if not in debit and credit format) on the same line in the file.

c. **Variable/Floating Rate Bond Issues:** Special services are also 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 is subject to 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. The additional complexity is primarily related to the computation of the bond yield, which must be calculated on a "bond year" basis. Additionally, the regulations provide certain flexibility in computing the bond yield and determining the arbitrage amount over the first IRS reporting period; consequently, increased calculations are required to determine which bond yield calculation produces the lowest arbitrage amount.

d. **Commingled Fund Allocations:** By definition, a commingled fund is one that contains either proceeds of more than one bond issue or proceeds of a bond issue and non-bond proceeds (i.e., revenues) of $25,000 or more. The arbitrage regulations, while permitting the commingling of funds, require that the proceeds of the bond issue(s) be "carved out" for purposes of determining the arbitrage amount. Additionally, interest earnings must be allocated to the portion of the commingled fund that represents proceeds of the issue(s) in question. Permitted "safe-harbor" methods (that is, methods that are outlined in the arbitrage regulations and, accordingly, cannot be questioned by the IRS under audit), exist for allocating expenditures and interest earnings to issues in a commingled fund. First Southwest uses one of the applicable safe-harbor methods when doing these calculations.

e. **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 cases, the balance in the Reserve Fund remains stable throughout the life of the bond issue. Reserve Funds, whether funded with bond proceeds or revenues, must be included in all rebate calculations.

f. **Debt Service Fund Calculations:** Issuers are required under the regulations to analyze the invested balances in their debt service funds annually to determine whether the fund depletes as required during the year and is, therefore, "bona fide" (i.e., potentially exempt from rebate in that year). It is not uncommon for surplus balances to develop in the debt service fund that services an issuer's tax supported debt, particularly due to timing differences of when the funds were due to be collected versus when the funds were actually collected. First Southwest performs this formal analysis of the debt service fund and, should it be determined that a surplus balance exists in the fund during a given year, allocates the surplus balance among the various issues serviced by the fund in a manner that is acceptable under IRS review.

g. **Earnings Test for Debt Service Funds:** Certain types of bond issues require an additional level of analysis for the debt service fund, even if the fund depletes as required under the regulations

and is "bona fide." For short-term, fixed rate issues, private activity issues, and variable rate issues, the regulations require that an "earnings test" be performed on a bona fide debt service fund to determine if the interest earnings reached $100,000 during the year. In cases where the earnings reach or exceed the $100,000 threshold, the entire fund (not just the surplus or residual portion) is subject to rebate.

h. **Transferred Proceeds Calculations:** When a bond issue is refinanced (refunded) by another issue, special services relating to "transferred proceeds" calculations may need to be performed. Under the regulations, when proceeds of a refunding issue are used to retire principal of a prior issue, a pro-rata portion of the unspent proceeds of the prior issue becomes subject to rebate and/or yield restriction as transferred proceeds of the refunding issue. The refunding issue essentially "adopts" the unspent proceeds of the prior issue for purposes of the arbitrage calculations. These calculations are required under the regulations to ensure that issuers continue to exercise due diligence to complete the project(s) for which the prior bonds were issued.

i. **Universal Cap:** Current regulations provide an overall limitation on the amount of gross proceeds allocable to an issue. Simply stated, the value of investments allocated to an issue cannot exceed the value of all outstanding bonds of the issue. For example, this situation can occur if an issuer encounters significant construction delays or enters into litigation with a contractor. It may take months or even years to resolve the problems and begin or resume spending the bond proceeds; however, during this time the debt service payments are still being paid, including any scheduled principal payments. Thus, it's possible for the value of the investments purchased with bond proceeds to exceed the value of the bonds outstanding. In such cases, a "de-allocation" of proceeds may be required to comply with the limitation rules outlined in the regulations.

j. **Yield Restriction Analysis/Yield Reduction Computations:** The IRS strongly encourages issuers to spend the proceeds of each bond issue as quickly as possible to achieve the governmental purpose for which the bonds were issued. Certain types of proceeds can qualify for a "temporary period," during which time the proceeds may be invested at a yield higher than the yield on the bonds without jeopardizing the tax-exempt status of the issue. The most common temporary period is the three-year temporary period for capital project proceeds. After the end of the temporary period, the proceeds must be yield restricted or the issuer must remit the appropriate yield reduction payment when due. First Southwest performs a comprehensive yield restriction analysis when appropriate for all issues having proceeds remaining at the end of the applicable temporary period and also calculates the amount of the yield reduction payment due to the IRS.