

VILLAGE OF SALADO
RESOLUTION No. R-2014-107

BOND COUNSEL SERVICES

A RESOLUTION OF THE VILLAGE OF SALADO, TEXAS (“VILLAGE”) APPROVING AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES BETWEEN THE VILLAGE AND ANDREWS KURTH LLP, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

WHEREAS, the Board of Aldermen of the Village of Salado (“Board”) recognizes the benefit of issuing securities, including bonds, as a financing mechanism for improvements in the Village of Salado (“Village”); and

WHEREAS, Andrews Kurth LLP (“Bond Counsel”) agrees to advise the Village for securities related matters under the terms provided in *Exhibit A*; and

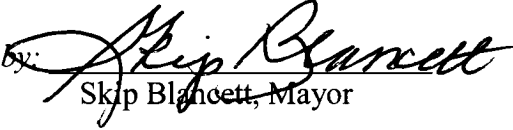
WHEREAS, the Board finds that an agreement between the Village and Bond Counsel is a legitimate public purpose and benefits the public interest.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of Salado, Texas:


1. The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.
2. The Board hereby approves the legal services agreement between the Village and Bond Counsel.
3. The Board directs the Mayor to execute the agreement.
4. The Board directs the Village Secretary to file the executed agreement among the Village records.
5. The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the 13th day of November 2014, by a vote of 4 (ayes) to 1 (nays) to 4 (abstentions) of the Board of Aldermen of Salado, Texas.

VILLAGE OF SALADO:

by: 
Skip Blanchett, Mayor

ATTEST:


Randy Stonerod, Village Secretary



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Exhibit A
Bond Counsel Services Agreement

November 11, 2014

Mayor and Board of Aldermen
Village of Salado
301 N. Stagecoach Road
P. O. Box 219
Salado, Texas 76571

Re: *Bond Counsel Services*

Dear Mayor and Aldermen:

We are pleased to submit to you a proposed agreement for Andrews Kurth LLP (“AK”) to serve as Bond Counsel with respect to bonds, certificates of obligation, notes and other debt obligations that the Village of Salado, Texas (the “City”) intends to issue. (Such bonds, certificates of obligation, notes and other obligations are collectively referred to in this letter as the “Obligations.”) When approved by you, this letter will become effective and will evidence an agreement between the City and Andrews Kurth LLP, Austin, Texas.

Basic Services

As Bond Counsel, AK would prepare all required legal proceedings and would perform certain other necessary legal work in connection with the City’s authorization, issuance and sale of each series of Obligations. Our services as Bond Counsel would include the following Basic Services, which we would carry out directly or in concert with officials and staff of the City:

- (1) Assistance, in consultation with City officials and staff and the City’s financial advisor, in the evaluation of legal matters related to financing innovations and opportunities that may arise from time to time;
- (2) Consultation with City officials and staff to review information to be included in the offering documents for each series of Obligations, but only to the extent that such information describes such series, the security therefor, their federal income tax status and our opinion;
- (3) Preparation of the ordinances authorizing issuance of each series of Obligations (the “Ordinances”) and all other instruments which comprise the transcript of legal proceedings pertaining to the authorization, issuance and sale of each such series;

officials, staff and advisors and the City's financial advisor to develop such presentations;
and

(13) Any other service necessary to the planning, authorization, issuance, sale and delivery of each series of Obligation, as may be appropriate.

Additional Services

In addition to the foregoing Basic Services, as Bond Counsel, AK is prepared to undertake the following Additional Services, as directed by the City:

(1) Preparation of necessary ordinances, resolutions, notices, Department of Justice submissions and other legal documents necessary to call and conduct an election to authorize issuance of the Obligations, if necessary;

(2) Assist with preparation of necessary ordinances, resolutions, notices and other legal documents necessary to apply for and obtain financial assistance from state or federal agencies;

(3) Disclosure work or similar services (other than the preparation of certain sections of the offering documents for the Obligations as described in paragraph (2) under Basic Services above) to assist the City in the preparation of such offering documents, on such basis and to such extent as shall be directed by the City;

(4) Preparation of the "Blue Sky" surveys or securities registration services;

(5) In the case of a series of Obligations, or a portion thereof, that is issued to refund prior bonds of the City, providing advice regarding federal income tax and other issues unique to refunding transactions;

(6) Services rendered in connection with documentation related to credit or liquidity facilities or enhancements or other special structuring techniques or devices to be employed in connection with the issuance of variable rate obligations, unusual issues arising in connection with the City's financial reports or audits, special federal income tax issues, and any other special services not ordinarily required in connection with the issuance of fixed rate obligations;

(7) Services rendered in connection with the issuance of bonds or other obligations by entities acting on behalf of the City; and

(8) After the closing of any series of the Obligations and upon specific request of the City, providing assistance to the City concerning questions and issues that may arise prior to the maturity of the Obligations.

Fee for Basic Services

Unless otherwise agreed to by the City and AK, for all Basic Services performed hereunder in connection with the issuance and sale of Obligations, as defined in this letter, AK will be paid a fee with respect to each series of Obligations on the basis of \$1.00 per \$1,000 of proceeds; subject, however, to a minimum fee of \$25,000 for each series of Obligations. For any revenue bonds or refunding bonds, our fee will be \$1.35 for each \$1,000 of proceeds of bonds actually sold, with a minimum fee of \$27,500. Unless otherwise agreed to by the City and AK, our fee for Basic Services for each series of Obligations will be contingent on the issuance of such Obligations.

Fee for Additional Services

The fee for any Additional Bond Counsel Services provided by AK will be determined on an hourly rate basis, applying rates then charged by AK for the same or similar services performed by attorneys and paralegals of similar experience for other clients; provided, however, that the Village Administrator shall approve of the hourly rate in writing prior to the additional services being rendered and additional fees being applied. The total fee for Additional Services prior to and in connection with the closing of any series of Obligations will not exceed the fee charged for Basic Services for such series.

Payment for Services and Reimbursement of Expenses

Payment of all fees for services as Bond Counsel will be made after the issuance and delivery of the series of the Obligations in connection with which such services are performed and within thirty (30) days after receipt by the City of an approved invoice therefor.

AK will be reimbursed for its reasonable and actual out-of-pocket expenses, such as the cost of reproduction of documents, out-of-town travel, long-distance telephone, telecopy and similar expenses, deliveries, filing fees and all items paid for by AK on behalf of the City, incurred in connection with the performance of any services hereunder.

Miscellaneous

The City acknowledges that it is aware that AK represents many other governmental entities, companies and individuals. It is possible that during the time that we are representing you, some of our present or future clients will have disputes or transactions with you. You agree that we may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not substantially related to our work for you even if the interests of such clients in those other matters are directly adverse. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of our representation of you, we have obtained proprietary or other confidential information of a nonpublic nature, that, if known to such other client, could be used in any other such other matter by such client to your material disadvantage.

(4) Attendance at meetings, to the extent required or requested by the City or the City's financial advisor, to discuss the sizing, timing or sale of each series of Obligations;

(5) Preparation and submission of transcripts of legal proceedings pertaining to the issuance of each series of Obligations to the Attorney General of the State of Texas to obtain an approving opinion and to obtain the registration of the Obligations by the Comptroller of Public Accounts, as required by law;

(6) Supervision of the printing of each series of Obligations and the delivery thereof to the purchasers, including, if requested, solicitation of bids from bond printers under the direction of the City to obtain the lowest possible printing costs for the City;

(7) Review of certified proceedings and performance of such additional duties as are necessary for the delivery, at the closing of each series of Obligations, of an approving opinion, based on facts and law existing as of its date, generally to the effect that such series has been duly issued, executed and delivered in accordance with the Constitution and laws of the State of Texas, that the Obligations of each series constitute valid and legally binding obligations of the City as described in the respective ordinance (subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws in effect from time to time relating to or affecting the enforcement of rights of creditors of political subdivisions) and, when the Obligations are so delivered, that interest on such series of Obligations is excludable from the gross income of the owners thereof for federal income tax purposes under then existing law;

(8) Prior to and in connection with the closing of each series of Obligations, giving advice to the City to enable appropriate officials to comply with the arbitrage requirements of the Internal Revenue Code of 1986 as they affect the Obligations, including yield restrictions and rebate requirements;

(9) Attendance at bond sale, signing, closing and all other meetings and conferences as deemed necessary by the City Council or other responsible City official or staff;

(10) Preparation of Federal Income Tax Form 8038-G;

(11) At the closing of each series of Obligations, delivery of an opinion regarding the applicability of federal and state securities laws to such series, the eligibility of the Obligations for investment by various fiduciaries and other regulated investors and the validity and enforceability of security agreements, indentures and other documents related to the Obligations and the security therefor;

(12) Attendance at rating agency presentations, investor meetings or other presentations relating to the marketing of the Obligations and consultation with City

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Nothing herein shall be construed as creating any personal liability on the part of any officer of the City, and this agreement may be terminated by the City by giving thirty (30) days' written notice to AK.

If this proposed agreement for the services of AK as Bond Counsel is satisfactory, please evidence your acceptance and approval by executing three copies in the space provided below.

Very truly yours,

ANDREWS KURTH LLP

By: 

Jerry V. Kyle, Jr.

APPROVED:

VILLAGE OF SALADO, TEXAS

By: 

Mayor, Village of Salado, Texas

BOARD OF ALDERMAN

AGENDA ITEM MEMORANDUM

11/13/14
Item #4C
Consent Agenda
Page 1 of 2

DEPT/DIVISION REVIEW: Kim Foutz, City Administrator

ITEM DESCRIPTION: 2014-107-R: Consideration and possible action on a Resolution of the Village of Salado to approve an agreement with Andrews Kurth LLP to serve as Bond Counsel with respect to bonds, certificates of obligation, notes and other debt obligations for the Village of Salado

COMMITTEE RECOMMENDATION: Staff recommends approval as submitted.

ITEM SUMMARY AND ANALYSIS: In preparation for the future wastewater treatment plant and associated infrastructure, the Village needs to acquire bond counsel services for the issuance and sale of bonds. Please see the attached agreement for services. Highlights of the agreement include:

- Prepare all required legal proceedings and perform legal work for City's authorization, issuance and sale of each series of obligations
- Assist in the evaluation of legal matters related to financing innovations and opportunities
- Review information to be included in the offering documents for each series of Obligations
- Preparation of the ordinances authorizing issuance of each series of Obligations and all other instruments
- Attendance at meetings to discuss the sizing, timing or sale of each series
- Preparation and submission of transcripts of legal proceedings to the Attorney General of Texas to obtain an approving opinion and registration of the Obligations by the Comptroller of Public Accounts
- Supervision of the printing of each series and delivery to purchasers
- Review of certified proceedings
- Provide advice to comply with arbitrage requirements
- Attendance at bond sale, signing, and closing and other meetings
- Preparation of Federal Income Tax Form 8038-G
- At the closing of each series, deliver an opinion regarding the applicability of federal and state securities laws to such series, the eligibility of the Obligations for investment by various fiduciaries and other regulated investors, and validity and enforceability of security agreements, indentures, and other documents.
- Attendance at rating agency presentations, investor meetings and provide advice on presentations

FISCAL IMPACT: Basic fee for services: The bond counsel will be paid fees with respect to each series of Obligations on the basis of \$1.00 per \$1,000 of proceeds; subject to a minimum fee of \$25,000 for each series of Obligations. For any revenue bonds or refunding bonds, the fee is \$1.35 for each \$1,000 proceeds of bonds actually sold, with a minimum fee of \$27,500. The fee for additional services will be on an hourly rate basis, applying rates than charged for the same or similar services performed by attorneys and paralegals of similar experience for other clients. Provided however, that additional services must be approved in advance, in writing by the Village Administrator.

ATTACHMENTS:

Resolution Approving Agreement

Bond Counsel Services Agreement