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## **AGREEMENT FOR BOND COUNSEL SERVICES**

### **CITY OF BROKEN ARROW, OKLAHOMA GENERAL OBLIGATION BONDS**

THIS AGREEMENT is entered into as of October 6, 2020, by and between THE PUBLIC FINANCE LAW GROUP PLLC (“PFLG” or “Bond Counsel”), and the CITY OF BROKEN ARROW, OKLAHOMA (the “Issuer” or “City”), as follows:

#### **RECITALS**

WHEREAS, the Issuer desires to engage PFLG as bond counsel in connection with the issuance of general obligation bonds for the purposes of acquiring, constructing, expanding, renovating, repairing, and/or equipping certain streets, public safety facilities, quality of life projects, municipal facilities, stormwater facilities, drainage improvements, and/or community facilities (collectively, the “Project”), all as more fully set forth in the proceedings pertaining to the authorization of (i) \$67,190,000 general obligation bonds as approved at an election held on August 26, 2014 (the “2014 Election”), and (ii) \$210,525,000 general obligation bonds as approved at an election held on August 28, 2018 (the “2018 Election”, and collectively with the 2014 Election, the “Election”); and

WHEREAS, to finance all or a portion of the costs of the Project, the Issuer has heretofore issued and/or intends to issue one or more series of its General Obligation Bonds in the aggregate total principal amount of approximately \$277,715,000 (collectively, the “New Money Bonds”), as previously authorized at the 2014 Election and the 2018 Election; and

WHEREAS, the Issuer contemplates issuance of General Obligation Refunding Bonds for the purpose of refunding the outstanding portion of the Issuer’s (a) General Obligation Bonds, Series 2011A dated August 1, 2011, issued in the original principal amount of \$5,000,000, and (b) General Obligation Bonds, Series 2011B dated August 1, 2011, issued in the original principal amount of \$11,450,000 (collectively, the “Refunding Bonds”, and together with the New Money Bonds, the “Bonds”)

WHEREAS, Bond Counsel possesses the necessary professional capabilities and resources to provide the legal services required by Issuer as described in this Agreement.

## AGREEMENTS

### **1. Scope of Services.**

A. *Bond Counsel Services.* Bond Counsel will render the following services as bond counsel to the Issuer:

- (1) Consultation with representatives of the Issuer, including the City Manager, Issuer's Counsel (as hereinafter defined), Finance Director, financing and accounting staff, financial advisors, and others, with respect to the timing, terms and legal structure of the proposed financing.
- (2) Furnish full directions of all steps necessary to be taken by the City in compliance with the constitution and statutes of the State of Oklahoma for the proposed issuance of each series of Bonds.
- (3) Provide and furnish forms, outlines of procedure, resolutions or ordinances necessary for the issuance of such Bonds (the "Financing Documents").
- (4) Review of documentation with respect to any letter of credit or bond insurance policy provided in connection with each series of Bonds, if any.
- (5) Attendance at such meetings or hearings of the Issuer and working group meetings or conference calls as the Issuer may request, and assistance to the Issuer staff in preparation of such explanations or presentations to the governing body of the Issuer as they may request.
- (6) Preparation of final closing papers to be executed by the Issuer required to effect delivery of each series of Bonds and coordination of the Bond closings, including seeking the approval of each series of Bonds by the Attorney General of the State of Oklahoma.
- (7) Furnish at least three (3) transcripts of the entire proceedings, one of which shall be filed with the Attorney General of Oklahoma, one of which shall be filed with the Clerk of the City, and one of which shall accompany the Bonds.
- (8) Rendering of bond counsel's customary final legal opinion on the validity of the obligations and, with respect to the tax-exempt obligations, the exemption from gross income for federal income tax purposes and from Oklahoma personal income tax of interest thereon.

Bond Counsel and Issuer acknowledge that Issuer shall be represented by the Office of the City Attorney of the City of Broken Arrow, Oklahoma (referred to herein as "Issuer's Counsel") for the purpose of rendering day-to-day and ongoing general counsel legal services. Bond Counsel shall circulate documents to and coordinate its services with Issuer's Counsel to the extent requested by Issuer or Issuer's Counsel.

PFLG and Issuer further acknowledge that the Issuer shall be represented by Municipal Finance Services, Inc., a municipal advisor pursuant to the terms of SEC Rule 15Ba1-1 (referred to herein as an “Independent Registered Municipal Advisor” or “IRMA”), or such other municipal advisor as may be selected by the Issuer from time to time. PFLG is a firm of attorneys who provide legal advice or services of a traditional legal nature to a client, and PFLG and its attorneys do not represent themselves to be a financial advisor or financial expert. Therefore, PFLG is excluded from the definition of Municipal Advisor, and PFLG does not intend to provide any advice with respect to municipal financial products or the issuance of municipal securities outside of the scope of traditional legal services and advice customarily rendered by bond counsel in public finance transactions. Notwithstanding the foregoing, in the event certain advice may be construed as beyond the scope of traditional legal services, the Issuer specifically acknowledges that PFLG may avail itself of the IRMA exemption under SEC Rule 15Ba1-1 on the basis that (i) the Issuer is represented by an Independent Registered Municipal Advisor not associated with PFLG, (ii) the Issuer hereby advises PFLG that the Issuer is represented by and will rely on the advice of its duly retained Independent Registered Municipal Advisor, and (iii) the Issuer has been advised that PFLG is not a municipal advisor and PFLG owes no federal statutory fiduciary duty to the Issuer.

In rendering opinions and performing legal services under this Agreement, PFLG shall be entitled to rely on the accuracy and completeness of information provided and certifications made by, and opinions provided by counsel to, Issuer, the Independent Registered Municipal Advisor, property owners and other parties and consultants, without independent investigation or verification.

Bond Counsel’s services are limited to those specifically set forth above. Bond Counsel’s services do not include representation of Issuer or any other party to the transaction in any litigation or other legal or administrative proceeding involving the Bonds, the Project or any other matter. Bond Counsel’s services also do not include any responsibility for compliance with state blue sky, environmental, land use, real estate or similar laws or for title to or perfection of security interests in real or personal property. Bond Counsel will not be responsible for preparing, reviewing, or opining with respect to any Official Statement and/or any Continuing Disclosure Undertakings applicable to the Bonds (if any), including but not limited to the accuracy, completeness or sufficiency of the Official Statement, Continuing Disclosure Undertaking, or other offering material relating to the Bonds. Bond Counsel’s services do not include any financial advice or analysis. Bond Counsel will not be responsible for the services performed or acts or omissions of any other participant. Also, Bond Counsel’s services will not extend past the date of issuance of the Bonds and will not, for example, include services related to rebate compliance or continuing disclosure or otherwise related to the Bonds, Bond proceeds or the Project after issuance of the Bonds.

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## **2. Compensation and Reimbursements.**

A. *Compensation for Bond Counsel Services.* For services as bond counsel to the Issuer, PFLG shall be paid at the time of issuance of each series of Bonds as set forth herein:

- i. With respect to the New Money Bonds, a fixed fee of one-half of one percent (0.50%) of the principal amount of the issued Bonds, subject to a minimum fee of \$25,000.00 per series of Bonds, and a maximum fee of \$40,000.00 per series of Bonds.
  - ii. With respect to the Refunding Bonds, a fixed fee of one-half of one percent (0.50%) of the principal amount of the issued Bonds, subject to a minimum fee of \$25,000.00 per series of Bonds, and a maximum fee of \$40,000.00 per series of Bonds.
- B. *Expenses.* PFLG shall also be paid a fixed amount of \$2,500.00 to cover expenses and transcript production and distribution in connection with each series of Bonds, provided, that any filing, publication, recording or printing costs or similar third party costs required in connection with each series of Bonds shall be paid directly by the Issuer, but if paid by PFLG on behalf of the Issuer, shall be reimbursed to PFLG on demand.
- C. *Payment.* Fees and expenses shall be payable by Issuer at the time of issuance of each series of Bonds. Payment of all fees and expenses hereunder shall be made at closing from available funds of the Issuer and shall be entirely contingent upon issuance of the Bonds.
- D. *Term of Engagement.* This Agreement shall remain in full force and effect through and including June 30, 2021 and shall be on a year-to-year basis automatically renewed for additional one-year periods on July 1 of each year until such time as all of the Bonds authorized in the Election shall be issued or this Agreement shall be otherwise terminated as provided herein.
- E. *Termination of Agreement and Legal Services.* This Agreement and all legal services to be rendered under it may be terminated at any time by written notice from either party, with or without cause. In that event, all finished and unfinished documents prepared for adoption or execution by Issuer, shall, at the option of Issuer, become its property and shall be delivered to it or to any party it may designate; provided that PFLG shall have no liability whatsoever for any subsequent use of such documents. In the event of termination by Issuer, PFLG shall be paid for all satisfactory work, unless the termination is made for cause, in which event compensation, if any, shall be adjusted in the light of the particular facts and circumstances involved in the termination. If not sooner terminated as aforesaid, this Agreement and all legal services to be rendered under it shall terminate upon issuance of the Bonds; provided that Issuer shall remain liable for any unpaid compensation or reimbursement due under Section 2 hereof. Upon termination, PFLG shall have no future duty of any kind to or with respect to the Bonds or the Issuer.

### **3. Nature of Engagement; Relationships With Other Parties.**

The role of bond counsel, generally, is to prepare or review the procedures for issuance of the bonds, notes or other evidence of indebtedness and to provide an expert legal opinion with respect to the validity thereof and other subjects addressed by the opinion. Consistent with the historical origin and unique role of such counsel, and reliance thereon by the public finance market, Bond Counsel's role as bond counsel under this Agreement is to provide an opinion and related

legal services that represent an objective judgment on the matters addressed rather than the partisan position of an advocate.

In performing its services in connection with the Bonds, Bond Counsel will act as special counsel to Issuer with respect to issuance of the Bonds; i.e., Bond Counsel will assist the Issuer's Counsel in representing Issuer but only with respect to validity of the Bonds and the Financing Documents, and the tax status of interest on the Bonds, in a manner not inconsistent with the role of bond counsel described above.

Issuer acknowledges that PFLG regularly performs legal services for many private and public entities in connection with a wide variety of matters. For example, PFLG has represented, is representing or may in the future represent other public entities, underwriters, trustees, rating agencies, insurers, credit enhancement providers, lenders, contractors, suppliers, financial and other consultants/advisors, accountants, investment providers/brokers, providers/brokers of derivative products and others who may have a role or interest in the Bond financing or that may be involved with or adverse to Issuer in this or some other matter. PFLG agrees not to represent any such entity in connection with the Bonds, during the term of this Agreement, without the consent of Issuer. Given the special, limited role of bond counsel described above, Issuer acknowledges that no conflict of interest exists or would exist, and waives any conflict of interest that might appear actually or potentially to exist, now or in the future, by virtue of this Agreement or any such other attorney-client relationship that PFLG may have had, have or enter into, and Issuer specifically consents to any and all such relationships.

#### **4. Limitation of Rights to Parties; Successor and Assigns.**

Nothing in this Agreement or in any of the documents contemplated hereby, expressed or implied, is intended or shall be construed to give any person other than Issuer and PFLG any legal or equitable right or claim under or in respect of this Agreement, and this Agreement shall inure to the sole and exclusive benefit of Issuer and PFLG.

PFLG may not assign its obligations under this Agreement without written consent of Issuer except to a successor partnership or corporation to which all or substantially all of the assets and operations of PFLG are transferred. Issuer may assign its rights and obligations under this Agreement to (but only to) any other public entity that issues the Bonds (if not the Issuer). Issuer shall not otherwise assign its rights and obligations under this Agreement without written consent of PFLG. All references to PFLG and Issuer in this Agreement shall be deemed to refer to any such successor of PFLG and to any such assignee of Issuer and shall bind and inure to the benefit of such successor and assignee whether so expressed or not.

#### **5. Counterparts.**

This Agreement may be executed in any number of counterparts and each counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same Agreement.

**6. Notices.**

Any and all notice pertaining to this Agreement shall be sent by U.S. Postal Service, first class, postage prepaid to:

PFLG:

The Public Finance Law Group PLLC  
5657 N. Classen Boulevard, Suite 100  
Oklahoma City, OK 73118  
Attention: Allan A. Brooks, III or Nathan D. Ellis

ISSUER:

City of Broken Arrow, Oklahoma  
PO Box 610  
Broken Arrow, OK 74013-0610  
Attention: City Manager

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Issuer and PFLG have executed this Agreement by their duly authorized representatives as of the date provided above.

**THE PUBLIC FINANCE LAW GROUP PLLC**

By: \_\_\_\_\_  
Nathan D. Ellis

**CITY OF BROKEN ARROW, OKLAHOMA**

By: \_\_\_\_\_  
Title: Mayor  
Date: October 6, 2020