

# COUNTY of HIDALGO



EDINBURG, TEXAS 78539

HIDALGO COUNTY AUDITOR'S OFFICE  
Hidalgo County Administration Building  
2808 South Business Highway 281  
Edinburg, Texas 78539-6243  
PHONE: (956) 318-2511  
FAX: (956) 318-2577  
WEBSITE: [www.co.hidalgo.tx.us/auditor](http://www.co.hidalgo.tx.us/auditor)

May 3, 2013

Honorable Norma G. Garcia, County Treasurer  
Hidalgo County Treasurer's Office  
2810 South Business Highway 281  
Edinburg, Texas 78539

Subject: Depository Agreement

Dear Ms. Garcia:

We reviewed the Depository Agreement with Lone Star National Bank approved by Commissioners Court on April 30, 2013. Based on our review, we noted the following issues that were discussed with you in a meeting yesterday, May 2, 2013.

1. The agreement contains blanks in the first paragraph and the second WHEREAS paragraph.
2. The agreement is between the County of Hidalgo, Texas and Lone Star National Bank. However, Sections 1.1, 2.1, and 2.4 make reference to the Drainage District No. 1. We recommend that references to the Drainage District No. 1 be removed from the agreement. The Drainage District No. 1 Board of Directors should enter into a separate agreement with Lone Star National Bank.
3. Section 1.1 states: "County hereby designates, selects and appoints Bank its' County Depository for **County funds, County and District Clerk funds and Drainage District No. 1 funds.**" We recommend that this sentence be revised to read: County hereby designates, selects, and appoints Bank its' County Depository for County funds (including Community Service Agency funds, Head Start Program funds, and Urban County funds) and County Clerk and District Clerk registry funds, hereinafter collectively referred to as "County funds" and/or "County accounts."
4. Sections 1.1, 2.3, 4.1, and 4.3 make reference to loans. Please be aware that Article XI, Section 7 of the Texas Constitution, imposes conditions on the creation of debt by the County. Any loan agreements should be reviewed and approved by bond counsel prior to execution.
5. Section 1.2 provides in part: "At least sixty (60) days prior to the second anniversary date of this Agreement, **Bank**, by written notice to County, **may**, in accordance with Local Government Code Section 116.021(b), **establish**, on the basis of negotiations with County, **new interest rates and financial terms** of this Contract that will take effect during the final two years of the Contract **if the new financial terms do not increase the prices to the County by more than ten percent (10%).**"

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## HIDALGO COUNTY DISTRICT JUDGES

RICARDO P. RODRIGUEZ, JR.  
JUDGE, 92<sup>ND</sup> D.C.

RODOLFO DELGADO  
JUDGE, 93<sup>RD</sup> D.C.

J. R. "BOBBY" FLORES  
JUDGE, 139<sup>TH</sup> D.C.

ROSE GUERRA REYNA  
JUDGE, 206<sup>TH</sup> D.C.

JUAN R. PARTIDA  
JUDGE, 275<sup>TH</sup> D.C.

MARIO E. RAMIREZ, JR.  
JUDGE, 332<sup>ND</sup> D.C.

NOE GONZALEZ  
JUDGE, 370<sup>TH</sup> D.C.  
OVERSEER

LETICIA LOPEZ  
JUDGE, 389<sup>TH</sup> D.C.

AIDA SALINAS FLORES  
JUDGE, 398<sup>TH</sup> D.C.

ISRAEL RAMON, JR.  
JUDGE, 430<sup>TH</sup> D.C.

JESSE CONTRERAS  
JUDGE, 449<sup>TH</sup> D.C.

We recommend that Section 1.2 be revised to make clear that it is the County who may establish new interest rates and financial terms pursuant to Section 116.021(b) of the Local Government Code. In addition, Section 1.2 appears to imply that so long as the new financial terms do not increase the County's costs by more than 10%, the County is obligated to accept the new terms. We recommend that Section 1.2 be revised to make clear that acceptance of new interest rates and financial terms is at the County's discretion.

6. What are "interest bearing transaction accounts" referred to in Section 2.1?
7. Section 2.2 "Pledge of Securities" provides in part that "all County **demand deposits** will be secured and guaranteed by a pledge to County of marketable securities." This implies that only demand deposits – not County time deposits, County Clerk funds, or District Clerk funds – will be collateralized. We recommend that "County demand deposits" be substituted for "County funds as defined in Section 1.1." (See recommendation #3 above for revision to Section 1.1)
8. Section 2.2 provides in part: "(ii) approved in advance by the County Judge." We recommend that approval be made by the County Treasurer instead of the County Judge.
9. The first paragraph of Section 2.2 has the phrase "(hereinafter referred to as "Securities")" after item (ii) instead of item (i).
10. The first paragraph of Section 2.2 makes reference to the County's Investment Policy. However, the Policy is not included as an attachment or exhibit to the agreement.
11. In the second paragraph of Section 2.2, the phrase "demand deposit accounts" should be replaced with "County accounts."
12. Section 2.2, 2.4(g), and 2.4(u) require the Bank to provide to the County information regarding pledged securities. We recommend that the correspondent bank (currently Frost National Bank) provide statements regarding pledged securities directly to the County.
13. Section 2.3 discusses overdrafts. Our understanding of this section is that the bank will provide overdraft coverage up to \$1M so long as the County has aggregate funds on deposit to cover the overdraft amounts. If the County does not have sufficient aggregate funds on deposit to cover the overdraft, the Bank will consider providing a loan to the County to cover the overdrafts.

What happens if the County has aggregate funds available but the overdrafts exceed \$1M? Is the overdraft coverage up to \$1M when there are sufficient aggregate funds on deposit provided at no cost to the County or is the overdraft coverage provided through a revolving line of credit referred to in Section 4.2.

14. Section 2.4(a) should be revised to read "Service charges on any County accounts are set forth in all attachments and exhibits to this Agreement."
15. Section 2.4(b) should be revised to require that the monthly statement be provided within five (5) days instead of "seven (7) working days." If the bank statement cannot be mailed within five

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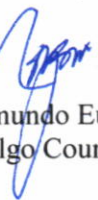
**HIDALGO COUNTY DISTRICT JUDGES**

days, electronic access to the bank statement within five days of the calendar month-end should be provided.

16. Section 2.4(v) makes reference to Schedule 4 and Schedule 5; however, these schedules are not included as attachments or exhibits.
17. What are the "cut-off statements provided weekly and monthly" under Section 2.4(dd).
18. What is the "statement cycle time" referred to under Section 2.4(gg).
19. Section 5.5 states that "the provisions of the Bid shall control." This section should be revised to include exceptions for the following:
  - a. The bank's response to Item 8 on Page 3 of the bid (Exhibit B) states that the fee schedule is subject to change. The fees (financial terms) should be fixed for the first two years of the contract. The County may establish, on the basis of negotiations with the Bank, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract.
  - b. The bank's response to Item 9 on Page 3 of the bid (Exhibit B) states that the County will not earn interest on any non-certificate of deposit balances. However, certain County funds/grants are required to be deposited in interest bearing accounts.
20. Finally, the banks response to Item 27 of Page 9 of the bid (Exhibit B) gives the County two options for collateralizing the County's funds. Who is authorized to choose an option? At what point will the option need to be made?

Please contact the Purchasing Department or legal counsel in order to incorporate our recommendations into the final executed agreement. If you have any questions, please call me at (956) 318-2511 ext. 4604.

Respectfully,



Raymundo Eufrazio, CPA  
Hidalgo County Auditor

cc Honorable Ramon Garcia, Hidalgo County Judge  
Mr. Sergio Cruz, Budget Officer  
Ms. Martha L. Salazar, Purchasing Agent

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