

THE STATE OF TEXAS   §  
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COUNTY OF HIDALGO   §

DEPOSITORY AGREEMENT

THIS AGREEMENT is made and entered into as of the 21<sup>st</sup> day of May, 2019, by and between the COUNTY OF HIDALGO, TEXAS, one of the duly organized counties and political subdivisions of the State of Texas, hereinafter called "County", and Lone Star National Bank, a national banking association with offices in Hidalgo County, Texas, hereinafter called "Bank".

WHEREAS, in response to notices placed by the County soliciting bids for the appointment of the County Depository, Bank submitted its bid for same; and

WHEREAS, as the culmination of competitive bidding, on the 9th day of April, 2019, the Commissioner's Court of County appointed Bank its County Depository; and

WHEREAS, the County and the Bank now desire to enter into a formal agreement to govern the financial relationship between them;

NOW, THEREFORE, in consideration of the mutual covenants, agreements and undertakings herein contained, County and Bank agree as follows:

I. COUNTY DEPOSITORY

1.1 Appointment of Depository. 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), County and District Clerk registry funds, hereinafter collectively referred to as "County funds" and/or "County accounts". Bank agrees to act as County Depository, pursuant to V.T.C.A.,

Local Government Code, Chapters 116 and 117, to keep and disburse all funds deposited by County with Bank and faithfully perform its duties under the terms of this Agreement. Bank shall provide County with banking services that include demand deposit accounts, investment assistance with time accounts and government securities, loan services and other banking services that are enumerated herein.

1.2. Term. Bank shall act as Depository until the County's Commissioners Court regular May term in the year 2023, and for so long thereafter as necessary in order for County to change over to any successor Depository. This Contract may be terminated by either party if a party fails to perform or otherwise breaches any of its obligations hereunder, only if, after giving notice by the terminating party of its intent to terminate, the party receiving such notice does not cure any failure or breach within sixty (60) days. At least sixty (60) days prior to the second anniversary date of this Agreement, County, by written notice to Bank, may, in accordance with Local Government Code Section 116.021(b), negotiate new interest rates and financial terms of this Contract that will take effect during the final two years of this Contract if the new financial terms do not increase the prices to the County by more than ten percent (10%). If there is no agreement between County and the Bank as to proposed changes, then the original interest rates and terms shall continue for the remaining two years. To the extent the bid attached as an exhibit contradicts this section 1.2 only, then this provision 1.2 shall control.

1.3. Applicable Law. County and Bank agree that they will, at all times, comply with the provisions of V.T.C.A., Local Government Code, Chapters 116 and 117 and County's Investment Policy, as may from time to time be amended. Further, the terms

of this Agreement shall, at all times, be subject to the Constitution of the State of Texas, and the rules and regulations promulgated by the Office of the Comptroller of the Currency, the Federal Reserve System and the Federal Deposit Insurance Corporation.

## II. DEMAND DEPOSITS AND RELATED SERVICES

2.1 Demand Deposit Accounts. Subject to the terms of all attachments and exhibits to this Agreement, Bank shall provide any and all checking accounts, including Public Fund N.O.W. checking accounts as indicated in Bank's depository bid, requested by County for County funds, County Clerk funds, District Clerk funds. Aggregate balances in County accounts greater than those required by the County to meet its current obligations will be invested. Excess funds will be placed either in interest bearing transaction accounts, or time deposits, pursuant to instructions received from County. The instructions shall be in accordance with the procedures and provisions set forth in Section III of this Agreement. The County will pay for all checks and deposit slips, which may be ordered through the Bank.

2.2 Pledge of Securities. Except to the extent payment of demand deposit balances are guaranteed by the Federal Deposit Insurance Corporation, all County funds will be secured and guaranteed by a pledge to County of marketable securities of the type, nature and quality (i) authorized and allowed by, and within the time period required by, V.T.C.A., Local Government Code, Chapters 116 and 117, as may be amended from time to time, (ii) approved in advance by the County Treasurer, (iii) allowed by County's Investment Policy attached hereto as Exhibit "C", and (iv) as determined by all attachments and exhibits to this Agreement. The marketable securities meeting all four requirements above shall be referred to herein as

"Securities". The Securities shall be deposited with the safekeeping bank of Bank which is presently Frost Bank. The safekeeping bank shall be authorized to surrender to Bank from time to time all interest coupons becoming due on said Securities so deposited or interest earned and collected on any Securities deposited, or the safekeeping bank may collect said coupons or interest and deliver the proceeds thereof to Bank, so long as Bank is not in default to County under the terms of this Agreement. At any given time, all Securities pledged shall have a total market value determined by the County to be at least equal to **105%** of the uninsured aggregate demand deposit balance with the exception of the FHLB Letter of Credit which will be pledged at 100% (not subject to market value fluctuation). When the County determines that the total market value of Securities pledged by Bank is in excess of 105% of the amount required to fully insure County, the County shall authorize the safekeeping bank to release Securities to Bank in an amount equal to the excess that the County determines to exist. In the event the County determines that the market value of the Securities pledged is less than 105% of the uninsured aggregate demand deposit balance, it shall notify Bank in writing and Bank shall, within one banking day, pledge Securities determined to be sufficient by the County to cover any such deficit and immediately deposit same with its safekeeping bank.

Bank shall provide County monthly a list of the Securities pledged against County accounts and the market value of the Securities based on the relevant market. The Bank shall provide pledge/release receipts the day following any pledge changes or substitutions. The County may also obtain statements from the safekeeping bank, the cost of which shall be paid by the County.

If Bank shall desire to sell or otherwise dispose of any one or more of said securities so kept in safe keeping, it may substitute for any one or more of such securities other securities of the same market value and of the character authorized herein.

2.3 Overdrafts. Bank agrees to provide overdraft coverage to the County for each account as provided in all attachments and exhibits to this Agreement. Overdraft checks will be paid as long as the aggregate funds on deposit in all demand deposit accounts are sufficient to meet the amount of total overdrafts. All NSF items presented for payment and subsequent Overdrafts will be covered as long as the County of Hidalgo has cumulative balances in all accounts to cover the NSF/overdraft balance and the total is not to exceed \$5,000,000. If the aggregate funds are insufficient, Bank will consider a loan to provide the monies necessary to cover the overdrafts, but loan will be subject to the then current bank underwriting criteria and subject to bank approval.

2.4 Other Related Services. Bank will provide the following additional services to County at a cost either set forth in all attachments and exhibits to this Agreement, or, if the service or item is to be performed or purchased through a source outside of the Bank, then at the cost assessed by the third party, which may include but not be limited to:

- (a) Service charges on any County accounts are set forth in all attachments and exhibits to this Agreement.
- (b) Preparation of monthly statement beginning with the first day of month and ending with the last date of the month, showing debits, credits, and balances of each separate account and sequential listing of cashed checks within seven (7) working days—after calendar month-end. Statement shall also detail insufficient fund items, deposit slips, charge backs, return items, checks paid and items deposited un-encoded.

- (c) Keep a full and separate itemized account of each different class of County funds coming into its hands and; making its records available for audit by the County and its' independent auditors.
- (d) Preparation of such other reports, accounts, and records which may, from time to time, be required by County in order to properly discharge the duties as provided by the law of the Depository.
- (e) Arrange canceled checks in numerical sequence.
- (f) All checks deposited shall be honored in the demand checking account based upon Bank's funds availability schedule.
- (g) Provide a daily summary of the demand accounts, time deposits, and Securities pledged. The County may also obtain statements from the safekeeping bank regarding Securities, the cost of which shall be paid by the County.
- (h) Furnish a suitable safety deposit box or boxes if needed.
- (i) To provide suitable vault space for the County Clerk's office and other County offices and departments.
- (j) Furnish cashier's checks and/or bank drafts to the County.
- (k) Furnish night depository services, including locking bags and keys. Such bags will be available to the County on bank holidays on which County offices are open.
- (l) To furnish checks and deposit slips of the quantity, quality and type necessary for County's use.
- (m) To provide Federal Obligations investment service when needed.
- (n) Furnish wire transfers for deposits and disbursements to the County.
- (o) Stop payment on checks to the County.
- (p) Coin counting and wrapping service, as well as money straps and coin envelopes.
- (q) Endorsement stamps.
- (r) CD-ROM for bank reconciliation purposes of paid items for accounts designated by County.

- (s) Direct Deposit service for payroll checks.
- (t) Research statement reproduction.
- (u) Monthly report of the market value of Securities pledged. The County may also obtain statements from the safekeeping bank, the cost of which shall be paid by the County.
- (v) Provide ledger credit on the same banking day as deposits occur (holidays and weekends excepted). Subject to the then current bank availability schedule in attached bid exhibits. This includes same credit on wire transfers of funds from the Federal and State government, subject to the Banks wire transfer times and agreement in the attached bid exhibits.
- (w) Daily ledger and average balance reporting delivered daily to the departments of the County designated to receive same by County Judge.
- (x) Bank personnel and bookkeeping time dedicated solely to County, as needed.
- (y) Bond and coupon service.
- (z) Work up of night deposit bags.
- (aa) Cashing of nonbank customer's checks drawn on County accounts.
- (bb) Daily mail delivery of all charge back items to departments of County.
- (cc) Cut-off statements provided weekly and monthly.
- (dd) Automated Clearing House services.
- (ee) Safekeeping services for all trust accounts of County.
- (ff) Checks and statement physically delivered to County offices at statement cycle time.
- (gg) Provide any other services normally rendered banking customers that are exempt from service charges by any banking regulation.

### III. TIME DEPOSITS

3.1 Investments in Government Securities. County and Bank agree that all County funds not placed in demand deposit accounts in accordance with Section II of

this Agreement, will be invested by County in accordance with V.T.C.A., Local Government Code, Chapters 116 and 117, in direct debt securities of the United States or in other authorized investments as set out in said statute and in conformity with County's Investment Policies, as may from time to time be amended. County shall only invest funds that are not, in County's sole discretion, required to pay County's immediate obligations. All such investments shall be in County's name. The County shall receive 100% of the yield on all investments. Investment decisions made by the County will be based solely on the decisions of the County and all risks appurtenant thereto shall be borne by the County.

3.2 Purpose of Investments. County will conduct a thorough analysis of its finances and will make projections and estimate funding needs over the term of this Agreement. Based on this analysis, and in accordance with County's Investment Policies, County will purchase using approved brokers of the County, with the funds transferred if needed by the Bank, debt securities of the United States of America and its agencies or other investments permitted by the applicable statute or will deposit funds in a federally insured time deposit at other financial institutions and will match the maturities of all of these investments with County's anticipated funding needs. Bank will provide assistance to County in developing its projections; however, it shall be County's duty, not Bank's, to make accurate projections of its cash flows and funding needs and to match its investment decisions to these estimates.

3.3 Procedures for Security Purchases. County will be solely responsible for its investments in accordance with County's Investment Policies. Bank agrees to provide limited assistance and counseling to County regarding investment portfolio

management and analysis without charge, but the responsibility for all investment decisions shall remain solely with the County. Bank agrees to provide daily to the County Treasurer's Office, market value valuation and collateralization reports of Securities and investments made pursuant to this Agreement. Bank shall remit all audit reports required by County within a reasonable length of time.

3.4 Underestimates of Funding Requirements. If at any time County finds that its funding needs are greater than those projected at the time the Securities were purchased, Bank will consider a loan if necessary to cover the shortage in funds to County in accordance with the provisions of Section IV, below.

#### IV. LOAN SERVICES

4.1 Loan Terms. Bank agrees to consider loans to County throughout the term of this Agreement, but makes no commitments to make any loan. The interest rate charged on all loans will be at a rate equal to the prime rate set by the Wall Street Journal, which, for the purposes hereof, is defined as the base rate on corporate loans at large United States money center commercial banks, as published daily in the Money Rates section of the Wall Street Journal, (the "Prime Rate"). The interest rate shall be adjusted daily to the Prime Rate in effect.

4.2 Unsecured Credit. Bank shall grant to County an unsecured revolving line of credit up to \$5,000,000, subject to the then bank credit guidelines and approval, said line of credit to be used to cover any outstanding overdrafts. The line of credit shall be evidenced by loan documents other than this Agreement.

4.3 Secured Credit. Bank may make loans to County which are 100% secured by a pledge of Securities owned by County. Total amount of secured loans

shall be limited to the total market value of County's Securities portfolio. All secured loans shall be subject to then bank credit guidelines and approval.

## V. GENERAL PROVISIONS

5.1 All obligations of the parties created hereunder are to be performed in Hidalgo County, Texas.

5.2 Should any provision of this Agreement be declared invalid, illegal or void it is the intent of the parties that all other provisions remain fully enforceable.

5.3 All section and paragraph headings contained herein are for informational purposes only and are not intended to be binding upon the actual contents of the sections and paragraphs and, in the event of a conflict between headings and contents, the contents of each section and paragraph shall rule.

5.4 All notices or demands of any kind, which the parties may be required or may desire to serve upon each other under the terms of this Depository Agreement may be served upon the parties by leaving a copy of such demand or notice with the party or by mailing a copy thereof by registered or certified mail, postage prepaid, addressed to:

If to County:	County of Hidalgo, Texas Attn: County Judge 302 West University Drive Edinburg, Texas 78539
If to Bank:	Lone Star National Bank Vipul Patel, EVP Chief Investment Officer 520 E. Nolana Avenue McAllen, Texas 78504
If to Safekeeping bank:	Frost Bank Eileen Slater, SVP P.O. Box 1600 San Antonio, TX 78296

or at such other address or addresses at which may be designated by the parties in writing to each other.

**5.5 Nondiscrimination:** The Agreement and all related activities shall be conducted in a manner that does not discriminate against any person on a basis prohibited by applicable law or policy, including without limitation to race, color, national origin, religion, sex, age, veteran status, or disability.

5.6 Additional Documents: The parties hereto covenant and agree that they will execute each such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this contract/agreement.

5.7 For purposes of illustration of Bank provided services hereunder, and not for the purposes of limitation of any services provided by Bank hereunder, Bank agrees to perform the services described in Bank's County Depository Bid Form attached hereto, and incorporated herein by reference. In the event of a conflict between the provisions of this agreement and those contained in Bank's County Depository Bid Form, other than as to 1.2 above, the provisions of the Bid, as agreed to by the Parties, shall control.

**Signatures follow on the next page.**

**HIDALGO COUNTY, TEXAS**

By: \_\_\_\_\_  
Richard F. Cortez, County Judge

**ATTEST:**

\_\_\_\_\_  
Arturo Guajardo, Jr. County Clerk

**LONESTAR NATIONAL BANK**

By: \_\_\_\_\_  
Vipul Patel, EVP & Chief Investment Officer

**ATTEST:**

\_\_\_\_\_  
Cashier

**SAFEKEEPING BANK:  
FROST BANK**

By: \_\_\_\_\_  
Printed Name:

Title:

**ATTEST:**

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Cashier, Safekeeping Bank

Approved As To Form:  
Office of District Attorney

By: \_\_\_\_\_  
Victor M. Garza  
Assistant District Attorney

Date: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF HIDALGO   §

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Richard F. Cortez, County Judge of Hidalgo County, Texas, on behalf of said County.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF HIDALGO   §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2019, by Vipul Patel, of Lone Star National Bank, a national banking association, on behalf of said association.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, a \_\_\_\_\_ of Frost Bank, a state banking association, on behalf of said association.

\_\_\_\_\_  
Notary Public, State of Texas