

CITY OF SCHERTZ

BANK DEPOSITORY AGREEMENT

THE STATE OF TEXAS §
 §
GUADALUPE COUNTY §

This Bank Depository Agreement (this "Agreement") is dated and effective (Date)_____ by and between the CITY OF SCHERTZ, TEXAS (the "City") and Schertz Bank and Trust (the "Bank"), a bank chartered by the State of Texas.

Recitals

WHEREAS, the City desires to enter into a depository contract for the deposit of the City's public funds; and

WHEREAS, the Bank has submitted a current statement showing the financial condition of the Bank of even date with the Bank's application to serve as depository; and

WHEREAS, the City, after due consideration of all proposals for City depository, has selected the Bank as the applicant offering the most favorable terms and conditions for the handling of the City's funds.

NOW, THEREFORE, the City and the Bank agree as follows:

Section 1. Designation as Depository

The City, through action of its City Council, hereby designates the Bank as its depository for banking services for a three (3) year period commencing on the execution date and extending through September 30, 2024 with two (2) options for one (1) year extensions.

Section 2. Designation of Custodian

The City and Bank hereby designate Frost National Bank (the "Custodian") to hold in trust, according to the terms and conditions of the City Request for Proposal, dated December 21, 2020 (the "RFP") and pursuant to a separate Safekeeping Agreement, attached as Exhibit A, all securities pledged as depository collateral in accordance with the City's Investment Policy.

Any and all fees from the Custodian associated with the safekeeping of securities pledged to the benefit of the City shall be borne by the Bank.

Section 3. Collateral

City time and demand deposits, inclusive of interest, in excess of the Federal Deposit Insurance Corporation insurance shall be secured at all times by collateral, acceptable to the City and in accordance with the Public Funds Collateral Act (Texas Government Code 2257, as amended), pledged by the Bank and held in trust by the Custodian named in Section 2 in an amount equal to

at least 102% of the total of those funds. The Custodian will provide a monthly report of the collateral directly to the City.

The selection of such pledged securities shall be subject only to the joint written instructions of both (a) authorized representatives of the City and (b) specifically authorized representatives of the Bank, as set forth on Exhibit B. The Bank shall have the right, with the prior written consent of the City, to substitute or replace any or all of the pledged securities with collateral acceptable to the City.

Section 4. Financial Position

The Bank will provide the City with a statement of its financial position on at least a quarterly basis. The Bank will provide an annual statement audited by its independent auditors including a letter as to its "fair representation."

Section 5. Authorized City Representative

For the term of this contract, the City and Bank designate the individuals as listed in Exhibit B as authorized to represent and act for the City and the Bank, respectively, in any and all matters including collateral assignment and substitution, and, upon further written authorization by the City with respect to the designated Bank officials, execution of agreements and transfers of funds. Any change in these representatives by either party will be made in writing to the other party.

Section 6. Scope of Services

The Bank's response to the RFP (the "Response") is attached as Exhibit C, and is incorporated into this Agreement for all purposes. If any provisions of the Response and this Agreement are in conflict, this Agreement will control. The City hereby designates its choice of Option Two for Bank Deposit Services under Attachment A to the Response (maintenance of \$500,000 combined average collected balance in lieu of Account Analysis fees).

The Bank shall provide or perform those banking services detailed in the Response (the "Services") at the rates stated. The Bank shall document the charges for the Services on a monthly account analysis submitted by the Bank to the City. The City shall, within ten (10) business days of receipt of a billing accompanied by documentation reasonably required by the City and subject to the review and approval of the Finance Director of the City make provision for payment to the Bank for Services performed in accordance with the fees stipulated in the Response.

The Bank shall faithfully perform all of its duties and obligations required by the laws of the State of Texas for public funds depositories and shall upon presentation pay all checks drawn on it against collected funds on demand deposits, and shall, at the expiration of the Agreement, turn over to its successor all funds, City-owned securities, property, and things of value held as depository.

The City shall have the power to determine and designate the character and amount of the funds to be deposited in the Bank. The City may arrange for time deposits, and Bank may accept such deposits subject to the terms of the Bank's Response.

This Agreement, along with all Exhibits and other incorporated documents shall constitute the entire Agreement between the parties.

Section 7. Bank Compensation

Subject to the service Option selected by the City in Section 6, the Bank will be compensated for any and all services rendered to City under this Agreement. The Bank agrees to offset monthly service fees against its customary earnings credit for balances in the City's own- interest bearing accounts.

Section 8. Default

The Bank shall be in default if it fails to pay all or part of a demand deposit, a matured time deposit, or a matured certificate of deposit, including accrued but unpaid interest, at a specified maturity date. The Bank shall also be in default if ruled "bankrupt", "insolvent", or "failed" by a federal or state banking regulator, or if a receiver is appointed for the Bank.

In the event of a default, failure, or insolvency of the Bank, the City shall be deemed to have vested full title to all securities pledged under this Agreement. The City is empowered to take possession of and transfer and or sell any and all securities. If the security is liquidated, any proceeds in excess of the defaulted amount, plus expenses related to liquidation, shall be returned to the Bank. This power is in addition to other remedies which the City may have under this Agreement or otherwise under law and without prejudice to its rights to maintain any suit in any court for redress of injuries sustained by the City under this Agreement.

Section 9. Non-Assignability

This Agreement is not assignable in whole or in part but is binding on the parties, their successors and assigns.

Section 10. Amendment

This Agreement shall remain in full force and effect until the end of its term or until amended, cancelled, or superseded by a new bank depository contract. No provisions of this Agreement shall be deemed waived, amended, or modified by either party unless and until such waiver, amendment, or modification is in writing and signed by the parties to this Agreement.

Section 11. Termination

This Agreement may be terminated by the City at any time with or without cause by giving thirty (30) days prior written notice to the Bank.

Section 12. Notices

All notices and correspondence to the City by the Bank or to the Bank by the City shall be deemed given when either delivered in person or deposited in the U.S. Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, addressed to the appropriate party at the following address:

If to the City: City of Schertz
 Attention: City Manager
 1400 Schertz Parkway
 Schertz, Texas 78154

If to the Bank: _____

Section 13. Governing Law

All applicable provisions and requirements of the laws of the State of Texas and the FDIC governing depositories for the City shall be a part of this Agreement.

Section 14. Precedence of Agreement

This Agreement and attached Exhibits A, B, and C constitute the sole and only agreement between the parties hereto with respect to the subject matter hereof and supersede any prior understanding, written or oral, between the parties respecting the matters herein contained.

Section 15. Legal Construction

In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision shall not affect any other provisions thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 16. Bank Authorization

The Bank represents and warrants that this Agreement is made pursuant to and is duly authorized by the Board of Directors of the Bank and recorded in the official records of the Bank.

[The remainder of this page intentionally left blank.]

EXECUTED on this the _____ day of _____, 20____.

CITY OF SCHERTZ

By: _____
Name: Dr. Mark Browne
Title: City Manager

BANK

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

EXHIBIT A

Safekeeping Agreement

EXHIBIT B

Authorized Representatives

For the term of this Agreement, the City and the Bank designate the individuals listed below as authorized to represent and act for the City and the Bank, respectively, in any and all matters including collateral assignment and substitution, and, upon further written authorization by the City with respect to Bank officials, execution of agreements and transfers of funds. Any changes in these representatives by either party will be made in writing to the other party.

CITY OF SCHERTZ

TBD

Dr. Mark Browne, City Manager

Brian James, Assistant City Manager

James Walters, Finance Director

