



JOHNSON COUNTY BANK DEPOSITORY CONTRACT

This JOHNSON COUNTY BANK DEPOSITORY CONTRACT hereinafter called "DEPOSITORY CONTRACT" is made and entered into on the date last herein written by and between JOHNSON COUNTY, TEXAS, hereinafter called "**COUNTY**", and FIRST FINANCIAL BANK, N. A., a national banking association organized under the laws of the United States and authorized by law to do banking business in Johnson County, Texas and now conducting such business in said County, hereinafter called "**BANK**", and is as follows:

I.

COUNTY, through action of its Commissioners Court, hereby designates **BANK** as a depository for a four-year period beginning June 1, 2013, and continuing until May 31, 2017. **BANK** shall establish, with prior consent of **COUNTY**, new interest rates and financial terms of the contract that will take effect during the final two years of the four year contract if:

1. the new financial terms do not increase prices to the **COUNTY** by more than 10 percent; and
2. if the **COUNTY** has the option to choose to use the initial variable interest rate option or to change to the new fixed or variable interest rate options proposed by the **BANK**.

II.

During the term of this Depository Contract, the **COUNTY** will, through appropriate action of its Commissioners Court, designate the officer, or officers, who singularly or jointly will be authorized to represent and act on behalf of the **COUNTY** in any and all matters of every kind arising under this Depository Contract and to (a) execute and deliver to **BANK** an electronic fund or funds transfer agreement (and any addenda thereto), (b) appoint and designate, from time to time, a person or persons who may request withdrawals, orders for payment or transfers on behalf of **COUNTY** in accordance with the electronic fund or funds transfer agreement and addenda and (c) make withdrawals or transfers by written instrument.

III.

Exhibit "A", Johnson County Depository Pledge Contract with Addendum; Exhibit "B", Johnson County Collateral Security Agreement; and Exhibit "C", First Financial Bank, N. A.'s Bid for Depository Contract, RFP 2013-307; are attached hereto and incorporated fully as if recited herein verbatim; however, to the extent that any provision in Exhibit "A", Exhibit "B" or Exhibit "C" conflicts with any provision herein, this Johnson County Bank Depository Contract will control.

IV.

COUNTY may arrange for time deposits, and **BANK** may accept and shall hold such deposits subject to payment in accordance with the terms of the deposit. Interest shall be calculated at the rate which **BANK** has bid for the particular denomination and time period of said deposit at competitive public bidding for said deposits. Time deposits will mature on or before the expiration of this Depository Contract. All Time Deposits that mature beyond the expiration of this Depository Contract will be at contractual interest rates negotiated at the time of purchase.

V.

BANK agrees to waive service fees. On Certificates of Deposits, **BANK** will pay a rate of interest on the funds placed in the time deposits at the currently posted rates with the rate fixed for the term of the CD. On interest bearing accounts, **BANK** will pay a variable rate of interest equal to the current 91 day Treasury Bill discount rate minus 25 basis points with a floor of 15 basis points for the prior month to be applied on the Average Collected Balance in all interest-bearing deposits of the **COUNTY**.

VI.

All funds on deposit with **BANK** to the credit of the **COUNTY** shall be secured by collateral as provided for in the Public Funds Collateral Act of 1989 (Chapter 2257 of the Texas Government Code). The total market value of the collateral (which includes accrued interest or income to the extent it is not included in the market price) securing such deposits will be in an amount at least equal to the minimum market values of one hundred and ten percent (110%) of all **COUNTY'S** deposits, plus accrued interest, and reduced to the extent that such deposits are insured by an agency or instrumentality of the United States Government. The market value with respect to any securities (collateral) as of any date and priced on such date will be obtained from a primary dealer. When additional collateral is required, **BANK** will supply the additional collateral at no cost to the **COUNTY**.

VII.

BANK has heretofore or will immediately hereinafter utilize pledged securities held by the Frost National Bank, San Antonio, Texas to provide the required collateral of the kind and character above mentioned of sufficient amount and market value to provide adequate collateral for the funds of **COUNTY** deposited with **BANK**. Said collateral as hereinafter provided for, shall be kept and retained so long as the depository relationship between **COUNTY** and **BANK** shall exist hereunder, and thereafter so long as deposits made by **COUNTY** with **BANK** hereunder, or any portion thereof, shall have not been properly paid out by **BANK** to **COUNTY** or on its order.

VIII.

BANK represents that the collateral pledged to **COUNTY** is not otherwise assigned, pledged or encumbered and that no lien, or security interest exist other than the security interest held by the **COUNTY** pursuant to this agreement. Possession of the collateral by the Frost

National Bank, San Antonio, Texas is intended as perfection of **COUNTY'S** security interest therein. **Bank** warrants that the collateral (in the form and amount required by law) is held by the Frost National Bank, San Antonio, Texas for the benefit of **COUNTY** and as security for **COUNTY'S** funds.

IX.

Should **BANK** fail at any time to pay and satisfy, when due, any check, draft, or voucher lawfully drawn against any deposit and the interest on such deposits or in any manner breach its contract with **COUNTY**, **COUNTY** shall give written notice of such failure or breach to **BANK**, and **BANK** shall have three (3) business days to cure such failure or breach. In the event **BANK** shall fail to cure such failure or breach within three (3) business days or should the **BANK** be declared insolvent by a Federal bank regulatory agency, it shall be the duty of the Frost National Bank, San Antonio, Texas upon demand of **COUNTY** (supported by proper evidence of any of the above-listed circumstances), to surrender the above-described collateral to the **COUNTY**. **COUNTY** may sell all or any part of such collateral and out of the proceeds thereof pay **COUNTY** all damages and losses sustained by it, together with all expenses of any and every kind incurred by it on account of such failure or insolvency, or sale, accounting to **BANK** for the remainder, if any, of said proceeds or collateral remaining unsold.

X.

Any sale of such collateral, or any part thereof, made by **COUNTY** hereunder may be either at public or private sale: provided, however, it shall give to both the Frost National Bank, San Antonio, Texas and **BANK** two (2) hours notice of the time and place where such sale shall take place, and such sale shall be to the highest bidder therefore for cash. **COUNTY** and **BANK** shall have the right to bid at such sale.

XI.

If **BANK** shall desire to sell or otherwise dispose of any one or more of said securities so deposited with the Frost National Bank, San Antonio, Texas, it may substitute for any one or more of such securities other securities of the same market value and of the character authorized herein. Such right of substitution shall remain in full force and may be exercised by **BANK** as often as it may desire, provided, however, that the aggregate market value of all collateral pledged hereunder, shall be at least equal to the amount of collateral required hereunder. If at any time, the aggregate market value of such collateral so deposited with the Frost National Bank, San Antonio, Texas be less than an amount at least equal to the minimum market values of one hundred and ten percent (110%) of all **COUNTY'S** deposits, plus accrued interest, and reduced to the extent that such deposits are insured by an agency or instrumentality of the United States Government, **BANK** shall immediately deposit with the Frost National Bank, San Antonio, Texas such additional collateral as may be necessary to cause the market value of such collateral to be equal to the minimum market values of one hundred and ten percent (110%) of all **COUNTY'S** deposits, plus accrued interest, and reduced to the extent that such deposits are insured by an agency or instrumentality of the United States Government. **BANK** shall be entitled to income on securities held by the Frost National Bank, San Antonio, Texas, and the

Frost National Bank, San Antonio, Texas may dispose of such income as directed by **BANK** without approval of **COUNTY**.

XII.

The Frost National Bank, San Antonio, Texas shall promptly forward to **COUNTY** copies of safekeeping or trust receipts covering all such collateral held for **BANK**, including substitute collateral as provided for herein.

XIII.

If at any time the collateral in the hands of the Frost National Bank, San Antonio, Texas shall have a market value in excess of the amount required in Article VI above, the **COUNTY** shall authorize the withdrawal of a specified amount of collateral. The Frost National Bank, San Antonio, Texas shall deliver this amount of collateral (and no more) to **BANK**, taking receipt therefore, and the Frost National Bank, San Antonio, Texas shall have no further liability for collateral so redelivered to **BANK**.

XIV.

Either **COUNTY** or **BANK** shall have the right to terminate this contract prior to the expiration date by advance written notice to the other of its election to do so, and this contract shall be void from and after the expiration of ninety (90) days after receipt of such notice, provided all provisions of this contract have been fulfilled. This contract shall not automatically renew.

XV.

When the relationship of **COUNTY** and **BANK** shall have ceased to exist between **COUNTY** and **BANK**, and when **BANK** shall have properly paid out all deposits of **COUNTY**, it shall be the duty of **COUNTY** to give the Frost National Bank, San Antonio, Texas a certificate to that effect; whereupon the Frost National Bank, San Antonio, Texas shall, with the approval of **COUNTY**, redeliver to **BANK** all collateral then in its possession belonging to **BANK**, taking its receipt therefore. An order in writing to said the Frost National Bank, San Antonio, Texas by **COUNTY** and a receipt for such collateral by **BANK** shall be a full and final release of the Frost National Bank, San Antonio, Texas of all duties and obligations undertaken by it by virtue of these presents.

XVI.

BANK and its agents, employees, officers and/or volunteers shall not, by performing work pursuant to this contract, be deemed to be employees, agents or servants of **COUNTY** and shall not be entitled to any privileges or benefits of **COUNTY** employment.

XVII.

COUNTY is a political subdivision of the State of Texas. As a governmental entity, **COUNTY** is prohibited by statute from indemnifying any other party by contract.

XVIII.

This contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Johnson County, Texas. Jurisdiction and venue for all legal purposes shall be in the state district courts in Johnson County, Texas, or the federal district courts in Dallas County, Texas.

In the event of one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

BANK shall comply with all applicable laws, ordinances and codes of the State of Texas, all local governments, and any other entities with local jurisdiction. **BANK** shall indemnify **COUNTY** in the event of non-compliance.

The waiver by either party of a breach of any provision of this contract shall not operate as or be construed as a waiver of any subsequent breach.

Any amendments of this contract shall be of no effect unless in writing and signed by all parties hereto.

XIX.

Any and all notices or communications required or permitted under this contract shall be delivered in person or mailed, certified mail, return receipt requested, as follows:

To County: Roger Harmon
County Judge
2 North Main Street
Cleburne, TX 76033
Telephone No. 817-556 -6360

To Bank: First Financial Bank, N. A.
Contact person: Craig Beskow
Address: P. O. Box 537
Cleburne, TX 76033
Telephone No: 817-202-3163

Copy to: Debbie Rice
County Treasurer
2 North Main Street, #214
Cleburne, TX 76033

Telephone No. 817-556-6340

J. R. ("Kirk") Kirkpatrick
County Auditor
2 North Main Street, #314
Cleburne, TX 76033
Telephone No. 817-556-6305

IN TESTIMONY OF WHICH, THIS CONTRACT has been executed by the COUNTY and BANK as of the date stated below. The provisions of this contract shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

JOHNSON COUNTY

By: Roger Harmon
Roger Harmon, County Judge

Date: 5-28-13

ATTEST:

Becky Williams
Becky Williams, County Clerk

Date: 5-28-13

FIRST FINANCIAL BANK, N.A.

Craig Beskow
Printed Name: Craig Beskow

Date: 5-13-13

Craig Beskow
Title: Executive Vice President & Cashier

ATTEST:
By: Sherry Leon

Date: 5/13/13

Attachments:

Exhibit "A", Johnson County Depository Pledge Contract with Addendum

Exhibit "B", Johnson County Collateral Security Agreement

Exhibit "C", First Financial Bank, N. A.'s Bid for Depository Contract, RFP 2013-307