



RESOLUTION NO. 20160726 -04

A CONTRACT FOR DEPOSITORY BANKING SERVICES WITH GUARANTY BANK & TRUST

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, TexAmericas Center has adopted an Investment Policy as required by applicable law to manage the funds of TexAmericas Center; and

WHEREAS, the Investment Policy Paragraph III.F.1 requires the TexAmericas Center Primary Depository to be selected periodically through a banking services procurement process; and

WHEREAS, TexAmericas Center has completed the formal request for proposal process for a Primary Depository; and

WHEREAS, Guaranty Bank & Trust has submitted a superior proposal and meets all requirements to be qualified as TexAmericas Center's Primary Depository; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of TexAmericas Center that the Executive Director/CEO is hereby authorized to negotiate and execute a contract with Guaranty Bank & Trust for primary depository bank services; and to execute all other agreements necessary to establish the full depository services relationship.

PASSED AND APPROVED THIS 26th day of July, 2016


Denis Washington, Chairman of the Board

ATTEST:


Melford Pierce, Secretary

DEPOSITORY BANK SERVICES AGREEMENT

THIS DEPOSITORY BANK SERVICES AGREEMENT ("Agreement") is made and entered into by and between the TexAmericas Center, Texas, ("Center"), and Guaranty Bank & Trust a banking association, organized under the laws of the United States and authorized by law to do banking business in the State of Texas ("Bank"). Center and Bank are sometimes referred to collectively as the "parties" or individually as a "party."

1. **Designation of Depository.** Center, through action of Board on July 26, 2016, hereby designates Bank as its primary depository bank for the period beginning October 1, 2016, and continuing through September 30, 2018. Center shall have the option to extend this Agreement for three (3) additional terms of one (1) year each under the same terms and conditions by giving Bank written notice of its intent to extend prior to the expiration of the then-current term.

2. **General.** All services rendered to Center by Bank under this Agreement shall be performed in accordance with accepted commercial banking standards for public fund organizations and under the overall direction and instructions of Center pursuant to Bank's standard operations, policies, and procedures.

3. **Scope of Services.** Bank agrees to provide those services as described in the TexAmericas Center Request for Application for Depository Bank Services released on April 28, 2016 ("RFA"). The RFA and Bank's response to the RFA (the "Application") are incorporated herein by reference. Bank acknowledges that all services performed by Bank are subject to the approval of Center.

4. **Center Representatives.** During the term of this Agreement, Center will, through appropriate action of its Center Board, designate the officer, or officers, who singly or jointly will be authorized to represent and act on behalf of Center in any and all matters of every kind arising under this Agreement and to (a) appoint and designate, from time to time, a person or persons who may request withdrawals, orders for payment or transfer on behalf of Center in accordance with the electronic funds or funds transfer agreement and addenda, and (b) make withdrawals or transfer by written instrument.

5. **Custodian.** Center and Bank, by execution of this Agreement, hereby designate TIB - The Independent Bankers Bank as custodian ("Custodian"), to hold in trust, according to the terms and conditions of this Agreement, the collateral described and pledged by Bank in accordance with the provisions of this Agreement.

6. **Custodian Fees.** Any and all fees associated with Custodian's holding of collateral for the benefit of Center shall be paid by Bank and Center will have no liability therefore.

7. **Entire Agreement.** The entire agreement between Bank and Center shall consist of this Agreement, Center's RFA (except to the extent Bank took specific exceptions in the Bank's Application), Bank's Application, the Custodial Agreement with Custodian, and other such bank service agreements, policies and documents as may be required and approved by the parties (collectively, the "Banking Agreements"), each incorporated by reference as they presently exist and each listed in governing order of precedence in the event of conflict among the documents. This Agreement supersedes any and all prior representations, statements, and agreements, whether written or oral. The terms and provisions of this Agreement may not be amended, altered, or waived except by mutual agreement evidenced by a written instrument signed by duly authorized representatives of both parties.

8. **Collateralization.** All funds on deposit with Bank to the credit of Center shall be secured by collateral as provided for in the Public Funds Investment Act (Chapter 2256 of the Government Code, as amended), the Public Funds Collateral Act (Chapter 2257 of the Government Code, as amended), Center's Investment Policy, and Bank's Application.

If marketable securities are pledged, the total market value of the securities securing such deposits shall be in an amount at least equal to the minimum required amount as per Center's Investment Policy. The market value of any pledged securities (collateral) must be obtained from non-Bank-affiliated sources. Bank shall monitor and maintain the required collateral margins and levels at all times.

Bank has heretofore, or will immediately hereafter, deliver to Custodian collateral of the kind and character above mentioned of sufficient amount and market value to provide adequate collateral for the funds of Center deposited with Bank. Custodian shall accept said collateral and hold the same in trust for the purposes herein stated. Said collateral or substitute collateral, as hereinafter provided for, shall be kept and retained by Custodian in trust so long as deposits of Center remain with Bank. Bank hereby grants a security interest in such collateral to Center.

If at any time the collateral in the hands of Custodian shall have a market value in excess of the required balances, Center may authorize the withdrawal of a specified amount of collateral, and Custodian shall deliver this amount of collateral (and no more) to Bank.

If surety bonds or letters of credit are utilized, Center shall agree as to the issuer and form of contract prior to the pledge. The amount of surety bonds or letters of credit will be at least equal to the minimum required amount as per Center's Investment Policy. The termination or expiration of any surety bond or letter of credit shall be a minimum of two (2) business days after Center anticipates withdrawing the secured deposit.

9. **Pledge Receipts.** Custodian shall promptly forward to Center copies of pledge receipts covering all such collateral held for Bank, including substitute collateral as provided for herein.

10. **Substitution of Collateral.** If Bank shall desire to sell or otherwise dispose of any one or more of said securities so deposited with Custodian, with the advance written approval of Center, 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 Custodian be less than the total sum of Center's funds on deposit with Bank, Bank shall immediately deposit with Custodian such additional collateral as may be necessary to cause the market value of such collateral to equal the total amount of required collateral. Bank shall be entitled to income on securities held by Custodian, and Custodian may dispose of such income as directed by Bank without approval of Center.

11. **Withdrawal of Collateral.** If at any time the collateral in the hands of Custodian shall have a market value in excess of the sum of the balances due Center by Bank as required by Center's Investment Policy, Center shall authorize the withdrawal of a specific amount of collateral. Custodian shall deliver this amount of collateral (and no more) to Bank, taking its receipt therefore, and Custodian shall have no further liability for collateral so redelivered to Bank.

12. **Default.** Should Bank fail at any time to pay and satisfy, when due, any check, draft, or voucher lawfully drawn against any deposits and the interest on such deposits or in any manner breach the Banking Agreements with Center, Center shall give written notice of such failure or breach to Bank, and

Bank shall have one (1) business day to cure such failure or breach. In the event Bank shall fail to cure any such failure or breach within one (1) business day or should Bank be declared insolvent by a Federal banking regulatory agency, it shall be the duty of Custodian, upon demand of Center, to surrender the above described collateral to Center, or it shall be the duty of the surety bond or letter of credit provider to perform under the terms of their respective contract.

Center may sell any part of such collateral, or receive all or any part of a surety bond or letter of credit settlement, and out of the proceeds thereof, pay Center 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, and account to Bank for the remainder, if any, of said proceeds or collateral remaining unsold.

13. **Sale of Collateral.** Any sale of such collateral, or any part thereof, made by Center hereunder may be either at public or private sale, provided however, it shall give both Custodian 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. Center and Bank shall have the right to bid at such sale.

14. **Release of Collateral.** When the relationship of Center and Bank shall have ceased and when Bank shall have properly paid out all deposits of Center, it shall be the duty of Center to give Custodian notice to that effect; whereupon Custodian shall, with the approval of Center, redeliver to Bank all collateral then in its possession belonging to Bank. An order in writing to Custodian by Center and a receipt for such collateral by Bank shall be a full and final release of Custodian of all duties and obligations undertaken by it by virtue of these presents.

15. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Whenever a reference is made herein to either party, such reference shall include the party's successors and assigns.

16. **Compensation.** Center and Bank agree that any compensation for the performance of all duties and services is set forth in the Application accepted by Center. Except as may otherwise be provided in the Banking Agreements, said compensation shall constitute full payment for all services, liaison, products, materials, and equipment required to provide the professional banking services, including services, materials, training, equipment, travel, overhead, and expenses. Fees shall be fixed for the term of the Banking Agreements, including all extensions.

17. **Consideration.** The Banking Agreements are executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

18. **Counterparts.** The Banking Agreements shall be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature shall also be deemed to constitute an original if properly executed.

19. **Authority to Execute.** The individuals executing the Banking Agreements on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing the Banking Agreements to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute the Banking Agreements in order for the same to be an authorized and binding on the party for whom the individual is signing and that each individual affixing his or her signature hereto is authorized to do so,

20. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Texas. Bowie County, Texas shall be the venue for any lawsuit arising out of this Agreement.

21. **Notices.** Except as may otherwise be specified in the applicable service-level agreements and/or set-up forms, any demand, notice, request, instruction, designation, or other communication(s) required in writing under this Agreement shall be personally delivered or sent certified mail, return receipt requested, to the other party as follows:

Bank: Guaranty Bank & Trust
2202 Saint Michael Drive
Texarkana, TX 75503

Center: Scott Norton
Executive Director/CEO
TexAmericas Center
107 Chapel Lane
New Boston, Texas 75570

Changes to notice information may be made by either party with written notification to the other party.

22. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the parties, shall, if possible, agree on a legal, valid, and enforceable substitute provision that is as similar in effect to the illegal, invalid, or unenforceable provision as possible. The remaining portion of the Agreement not declared illegal, invalid, or unenforceable shall remain valid and in full force and effect for the term remaining.

23. **Binding Commitment.** Bank hereby acknowledges itself duly and firmly bound for the faithful performance of all the duties and obligations required by applicable law, including the Government Code and Local Government Code, such that all funds deposited with it as depository shall be faithfully kept by it and accounted for according to law.

24. **Continuation.** Unless this Agreement is terminated sooner, Bank's designation as the primary Center Depository will remain continuously in effect through September 30, 2018, subject to execution of the extension options.

Executed by the undersigned duly authorized officers of the parties hereto:

TEXAMERICAS CENTER, TEXAS

By: Scott Norton
Name: Scott Norton
Title: Executive Director/CEO
Date: 7/26/16

ATTEST:
By: Marla Byrd
Name: Marla Byrd
Title: Exec. Assistant / Office Manager

GUARANTY BANK & TRUST

By: Robert Irwin
Name: Robert Irwin
Title: President - Texarkana
Date: 7/27/2016

ATTEST
By: Rebecca A Thompson
Name: Rebecca A Thompson
Title: AVP