

*Notice of Meeting and Agenda and Minutes  
October 24, 2016*

**SPECIAL, 10/24/2016 1:30:00 PM**

BE IT REMEMBERED that on October 24, 2016, there was begun and holden a SPECIAL session of the Commissioners Court of Jefferson County, Texas, with the following members and officers present and participating except those absent as indicated:

Honorable Jeff Branick, County Judge

Commissioner Eddie Arnold, Commissioner Pct. No. 1

Commissioner Brent Weaver, Commissioner Pct. No. 2

Commissioner Michael Sinegal, Commissioner Pct. No. 3

Commissioner Everette D. Alfred, Commissioner Pct. No. 4

Honorable G. Mitch Woods, Sheriff

Honorable Carolyn L. Guidry , County Clerk

When the following proceedings were had and orders made, to-wit:

**Notice of Meeting and Agenda and Minutes**  
**October 24, 2016**

Jeff R. Branick, County Judge  
Eddie Arnold, Commissioner, Precinct One  
Brent A. Weaver, Commissioner, Precinct Two  
Michael S. Sinegal, Commissioner, Precinct Three  
Everette "Bo" Alfred, Commissioner, Precinct Four



**NOTICE OF MEETING AND AGENDA  
OF COMMISSIONERS' COURT  
OF JEFFERSON COUNTY, TEXAS**  
**October 24, 2016**

Notice is hereby given that the Commissioners' Court of Jefferson County, Texas, will meet at **1:30 PM**, on the **24th** day of **October 2016** at its regular meeting place in the Commissioners' Courtroom, 4th Floor, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, Texas.

Said meeting will be a **Special** for the purpose of transacting the routine business of the County. Persons with disabilities requiring auxiliary aids for services who wish to attend this meeting should contact the County Judge's Office to arrange for assistance.

In addition to the routine business of the County, the subject of said meeting will be the following:

Immediately following Commissioners Court –Workshop to hear presentation from Texas Department of Emergency Management.

**INVOCATION: Everette "Bo" Alfred, Commissioner, Precinct Four**

**PLEDGE OF ALLEGIANCE: Eddie Arnold, Commissioner, Precinct One**

*Notice of Meeting and Agenda and Minutes*  
October 24, 2016

**PURCHASING:**

1. Consider and approve, execute, receive and file Change Order No. 3 for (IFB 15-016/JW), McFaddin National Wildlife Refuge Dune Restoration with Apollo Environmental for a decrease of \$9,702.70 for the adjustment of quantities and qualities to reflect a change in processes; bringing the total contract amount from \$3,750,236.45 down to \$3,740,533.75. This change order will increase contract working days by 16 days; bringing the total number of working days from 396 days up to 412 days. This is a Round 2.2 Disaster Project funded by the Texas General Land Office (GLO).

**SEE ATTACHMENTS ON PAGES 12 - 15**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

2. Consider and approve, receive, and file Change Order No. 1 to Job Order Contract (JOC 16-024/DC), with SETEX Construction Corp. for the remodeling of the Law Library for HVAC changes in the amount of \$4,406.39 bringing the total amount to \$89,805.63. This is in accordance with 15/041 JN-11-2015 Choice Partners JOC Texas Contract.

**SEE ATTACHMENTS ON PAGES 16 - 18**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

3. Consider and approve, execute, receive and file Amendment to Pricing AT&T Switched Ethernet Service Pricing schedule for updated MIS Ethernet bandwidth for 14 Jefferson County sites in accordance with the AT&T Master Agreement approved on June 22, 2015. Monthly updated cost is to be \$8,302.50 for a 60 month period.

**SEE ATTACHMENTS ON PAGES 19 - 23**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

**Notice of Meeting and Agenda and Minutes**  
**October 24, 2016**

4. Consider and approve to pay Schneider Electrical \$49,960.50 for the Investment Grade Audit Service and not execute a Performance Contract in accordance with RFQ 14-054/DLC.

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

5. Consider and approve disposition of law books as authorized by Local Government Code §263.152 (3).

**SEE ATTACHMENTS ON PAGES 24 - 25**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

6. Consider and approve, execute, receive and file Change Order No. 2 for (IFB 15-016/JW), McFaddin National Wildlife Refuge Dune Restoration with Apollo Environmental for a decrease of \$121,150.00 for the adjustment of quantities and qualities to reflect a change in processes; bringing the total contract amount from \$3,871,386.45 down to \$3,750,236.45. This change order will increase contract working days by 81 days; bringing the total number of working days from 315 days up to 396 days. This is a Round 2.2 Disaster Project funded by the Texas General Land Office (GLO).

**SEE ATTACHMENTS ON PAGES 26 - 28**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

## **ADDENDUMS**

**Notice of Meeting and Agenda and Minutes**  
**October 24, 2016**

7. Consider and approve a Pricing Confirmation with Aerialink for the District Clerk Office I Jury System, in an anticipated amount of \$1,982.00 annually. This cost is based upon usage.

**SEE ATTACHMENTS ON PAGES 29 - 32**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

8. Consider and approve a turn-key installation purchase of an Ephesus LED Technologies Lighting System for the Ford Park Fields from Graybar, in the amount of \$611,450.00. This purchase is in accordance with US Communities Contract MA-IS-1340234.

**SEE ATTACHMENTS ON PAGES 33 - 34**

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

**COUNTY AUDITOR:**

9. Consider and approve FY 2017 budget transfer - Health & Welfare - additional cost for computers.

120-5074-441-6002	COMPUTER EQUIPMENT	\$40.00	
120-5075-441-6002	COMPUTER EQUIPMENT	\$40.00	
120-5074-441-4011	EQUIPMENT- MISCELLANEOUS		\$40.00
120-5075-441-4011	EQUIPMENT- MISCELLANEOUS		\$40.00

**SEE ATTACHMENTS ON PAGES 35 - 37**

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

10. Consider and approve FY 2016 budget transfer for payroll accruals.

110-2027-412-1002	ASSISTANTS & CLERKS	\$198.00	
110-2027-412-1007	COURT REPORTER	\$595.00	
120-2034-412-1001	DEPARTMENT HEAD	\$76.00	

**Notice of Meeting and Agenda and Minutes**  
**October 24, 2016**

120-2034-412-1002	ASSISTANTS & CLERKS	\$391.00	
120-2034-412-1007	COURT REPORTER	\$595.00	
120-2034-412-1042	BAILIFF	\$309.00	
120-1017-415-1001	DEPARTMENT HEAD	\$452.00	
120-1017-415-1002	ASSISTANTS & CLERKS	\$1,007.00	
120-2035-412-1001	DEPARTMENT HEAD	\$139.00	
120-2035-412-1002	ASSISTANTS & CLERKS	\$391.00	
120-2035-412-1007	COURT REPORTER	\$595.00	
120-2035-412-1042	BAILIFF	\$310.00	
120-2055-412-1002	ASSISTANTS & CLERKS	\$1,072.00	
120-2055-412-1007	COURT REPORTER	\$595.00	
120-2052-412-1002	ASSISTANTS & CLERKS	\$967.00	
120-2052-412-1007	COURT REPORTER	\$595.00	
120-3072-425-1001	DEPARTMENT HEAD	\$625.00	
120-5080-429-1001	DEPARTMENT HEAD	\$740.00	
120-5080-429-1002	ASSISTANTS & CLERKS	\$449.00	
110-2027-412-2003	EMPLOYEES' INSURANCE		\$793.00
120-2034-412-2003	EMPLOYEES' INSURANCE		\$1,371.00
120-1017-415-2003	EMPLOYEES' INSURANCE		\$1,459.00
120-2035-412-2003	EMPLOYEES' INSURANCE		\$1,435.00
120-2052-412-2001	F.I.C.A. EXPENSE		\$1,562.00
120-2055-412-5077	CONTRACTUAL SERVICE		\$1,667.00
120-3072-425-2003	EMPLOYEES' INSURANCE		\$625.00
120-5080-429-2003	EMPLOYEES' INSURANCE		\$1,189.00

**SEE ATTACHMENTS ON PAGES 38 - 38**

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

11. Consider and approve FY 2017 budget transfer - County Clerk - cost for laptop.

120-1014-414-6002	COMPUTER EQUIPMENT	\$922.00	
120-1014-414-3078	OFFICE SUPPLIES		\$922.00

*Notice of Meeting and Agenda and Minutes*  
October 24, 2016

**SEE ATTACHMENTS ON PAGES 39 - 40**

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

12. Consider and approve expenditures by the Constable Pct.7 in accordance with order pursuant to section 130.908 of Texas Local Government Code. Purchase office supplies for a cost up to the amount of \$100.

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

13. Regular County Bills - check #426400 through checks #426654.

**SEE ATTACHMENTS ON PAGES 41 - 49**

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

14. Consider and approve amending Sheriff Forfeiture Budget (fund 741) in accordance with Chapter 59 of the Code of Criminal procedure for the purchase of two laptops and related equipment in the amount of \$4,100.

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

15. Consider and approve expenditures by the Constable Pct. 7 in accordance with order pursuant to section 130.908 of the Texas Local government Code. Purchase radio batteries for a cost of \$308.

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

*Notice of Meeting and Agenda and Minutes*  
*October 24, 2016*

**COUNTY CLERK:**

16. Receive and file executed contract with Hart Intercivic for purchase and use of Hart's Electronic Voting System 6.2 .1.

**SEE ATTACHMENTS ON PAGES 50 - 96**

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

17. Consider and possibly approve adoption of Hart Intercivic's Electronic Voting System 6.2.1, which includes the Hart eSlate and eSlate DAU, firmware version 4.2.13, the eScan version 1.3.14, JBC version 4.3.1, Boss Version 4.3.13, Tally version 4.3.10, Ballot Now version 3.3.11, Rally version 2.3.7 and servo version 4.2.10, said equipment to be used for early voting in person and by mail, election day voting and provisional ballots for all county elections.

**Motion by: Commissioner Alfred**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

**COUNTY COMMISSIONERS:**

18. Conduct a public hearing, to approve an Order to designate a Reinvestment Zone for GT Logistics pursuant to Sec.312.401, Texas Tax Code.

**OPEN NO COMMENTS CLOSED -**

**Action: NONE**

19. Consider and possibly approve an Order to designate a Reinvestment Zone for GT Logistics pursuant to Sec.312.401, Texas Tax Code.

**SEE ATTACHMENTS ON PAGES 97 - 106**

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

**Notice of Meeting and Agenda and Minutes**  
**October 24, 2016**

20. Consider approving a letter and authorizing its sending to individuals/organizations with events booked at Ford Park after 3/31/2017.

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

21. Consider and possibly approve performance Statement for Jefferson County regarding the TxCDBG Community Development Contract and to revise the scope of services relating to first time sewer access for the Cheek Sewer Project to increase the number of grinder pumps to 28. (Reference No.7216231)

**SEE ATTACHMENTS ON PAGES 107 - 110**

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

22. Receive and file executed Community Agreement Memorandum of Understanding between Jefferson County, Texas and Region 5 Prevention Resource Center (PRC) of the Alcohol and Drug Abuse Council of Deep East Texas.

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

23. Consider and approve the Certified Roll Jurisdiction Summary Resolution for the tax roll for the year 2016 for Jefferson County.

**SEE ATTACHMENTS ON PAGES 111 - 113**

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

*Notice of Meeting and Agenda and Minutes*  
*October 24, 2016*

**COUNTY TREASURER:**

24. Receive and File Investment Schedule for September, 2016, including the year to date total earnings on County funds.

**SEE ATTACHMENTS ON PAGES 114 - 116**

**Motion by: Commissioner Arnold**

**Second by: Commissioner Sinegal**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

25. Consider, review and possibly approve, receive and file the 2016-2017 Jefferson County Investment Policy and Procedures. (There are no changes from last year)

**SEE ATTACHMENTS ON PAGES 117 - 186**

**Motion by: Commissioner Arnold**

**Second by: Commissioner Sinegal**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

**ENGINEERING:**

26. Consider and possibly approve a Final Plat of Mid-County Industrial Park Phase I which is located off of Highway 69 North and has met all Engineering Department requirements. This property is located in Precinct No. 2.

**SEE ATTACHMENTS ON PAGES 187 - 187**

**Motion by: Commissioner Weaver**

**Second by: Commissioner Arnold**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

*Notice of Meeting and Agenda and Minutes*  
*October 24, 2016*

**RISK MANAGEMENT:**

27. Consider and possibly approve Interlocal Participation Agreement renewal for Employee and Retiree Health Benefits, with the Southeast Texas Government Employee Benefits Pool, effective January 1, 2017.

**SEE ATTACHMENTS ON PAGES 188 - 189**

**Motion by: Commissioner Sinegal**

**Second by: Commissioner Weaver**

**In favor: County Judge Branick, Commissioner Arnold, Commissioner Weaver, Commissioner Sinegal, Commissioner Alfred**

**Action: APPROVED**

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**Jeff R. Branick**  
**County Judge**



**Texas General Land Office  
Disaster Recovery**

**Construction Contract Change Order Request Form**

Engineer:	Owner (Contractor Locality):		
LJA Engineering, Inc. 5316 Highway 290 West, Suite 150 Austin, TX 78735 Phone No.:	Jefferson County 1001 Pearl Street, 3rd Floor Beaumont, TX 77701 Phone No.: 409-835-8593		
Contractor:			Apollo Environmental Strategies, Inc. P.O. Box 12114 Beaumont, TX 77726 Agreement Date: 7/27/15 Phone No.: 409-833-3330
Date: October 11, 2016 Project Code No.: Ike Round 2.2_BP225701-1_BID1 Bid Package No.: 15-0164JW	Contract	For	(Project Description): McFaddin NWR Dune Restoration CO-3
GLO Contract No.: 12-403-014-6822 Change Order No.: CO-3			
You are hereby requested to comply with the following changes from the contract plans and specifications:			
Item No.	Description of Changes: Units, Unit Prices, Change in Completion Scheduled, Etc.	Quantities, Contract Price	Increase in Contract Price
312300-1	Increase Quantity of "Berm fill above +2 ft to lines and grades" (@\$64/LF) by 592.2 LF to close gap in berm coverage west of Vastar		\$37,900.80
017113-3	Eliminate "Mobe/Demobe" for Sand Fence from Add Alternate No. 2 (Sand Fence line item from Add Alternate No. 2 eliminated in Change Orders 1 and 2)	\$34,000.00	
013540-1	Reduce Quantity of "Install Silt Fence" by 755 LF @ \$2.00 per LF.	\$1,510.00	

013540-2	Reduce Quantity of "Remove Silt Fence" by 527 LF @ \$0.50 per LF	\$263.50	
310000-3	Reduce Quantity of "Transfer of Gabion Units" by 70 EA at \$51.00 EA	\$3,570.00	
310000-4	Reduce Quantity of "Foundation & Gabion Prep, Filling with Riprap" by 70 EA @ \$84.00 LF	\$5,880.00	
S432-1	Reduce Quantity of "Additional Riprap" by 17 CY @ \$140.00 per CY	\$2,380.00	
<u>Change in Contract Price</u>	<u>Change in Contract Time (Calendar Days)</u>		
Original Contract Price: \$3,872,218.60	Original Contract Time: 255 days		
Previous Change Order(s): No. 1 to No. 1 (\$832.15)	Net Change From Previous Change Orders: 141 days		
No. 2 to No. 2 (\$121,150.00)			
Contract Price Prior to this Change Order: \$3,750,286.45	Contract Time Prior to this Change Order: 396 days		
Net Increase/Decrease of this Change Order: \$9,702.70	Net Increase/Decrease of this Change Order: 16 days		
Contract Price With all Approved Change Orders: \$3,740,533.75	Contract Time With all Change Orders: 412 days		
Cumulative Percent Change in Contract Price (+/-): -3.40%	Grantee Contract End Date: (mm/dd/yy) / /		

**JUSTIFICATION FOR CHANGE**

1. Will this Change Order increase or decrease the number of beneficiaries?	<input type="checkbox"/> Increase	<input type="checkbox"/> Decrease	<input checked="" type="checkbox"/> No Change
If there is a change, how many beneficiaries will be affected?			
	Total _____	L/M _____	
2. Effect of this change on scope of work:	<input type="checkbox"/> Increase	<input type="checkbox"/> Decrease	<input type="checkbox"/> No Change
3. Effect on operation and maintenance costs:	<input type="checkbox"/> Increase	<input type="checkbox"/> Decrease	<input type="checkbox"/> No Change
4. Are all prices in the change order dependent upon unit prices found in the original bid?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No", explain:			
5. Has this change created new circumstances or environmental conditions which may affect the project's impact, such as concealed or unexpected conditions discovered during actual construction?			
If "Yes", is an Environmental Re-assessment required?			
6. Is the Texas Commission on Environmental Quality (TCEQ) clearance still valid? (if applicable)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
7. Is the TCEQ permit approval still valid? (sewer projects only)			
a. Are the handicapped access requirements/approval still valid? (if applicable)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
9. Are other Disaster Recovery contractual special condition clearances still valid? (If no, specify):			

**NOTE:**

\* Generally, a cumulative change in the contract price in excess of 25% cannot be reviewed (18% decrease for counties).

Construction Contract Start Date: (mm/dd/yy)	7 / 27 / 15	Construction Contract End Date: (mm/dd/yy)	10 / 31 / 16
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Reimbursements of costs included in this change order are subject to review by the GLO-DR program.  
 \* This document may be executed prior to submission for GLO-DR program review, but all parties involved will be held responsible if the change order or the amendment warranted as a result of

## RECOMMENDED:

By: W. Woodham, P.E.  
 ENGINEER

Date: 10/11/2016

this change order is not in compliance with CDBG or HUD requirements.

## APPROVED:

By: Jeff R. Brantley  
 Jefferson County Judge

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

this change order is not in compliance with CDBG or HUD requirements.

## ACCEPTED:

By: June St. John

CONTRACTOR

Date: 10/14/16

**Preliminary Estimate, by estimates**

Michael Waidley

SETEX Construction

15/041JN-11 - 2015 Choice Partners JOC Texas SETEX - Basic Contract Year

- 8/18/2015 to 8/17/2016

Jefferson County Law Library [Building 171] - J16-0009

**Estimator: Michael Waidley****Change Order due to AC Scope Changes****Division Summary (MF04)**

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	\$169.68
08 - Openings	\$(3,577.00)
09 - Finishes	\$(1,852.56)
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	

**Total Components**

Priced Line Items	\$5,756.98
RSMeans BEAUMONT, TX CCI 2015Q4, 86.00%	\$(805.98)

**Material, Labor, and Equipment Totals (No Totaling Components)**

Material:	\$(3,002.90)
Labor:	\$(2,532.50)
Equipment:	\$11,292.38
Other:	\$0.00
Laborhours:	12,065.36
Green Line Items:1	\$169.68

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Priced O&P	\$11,016.86
Trades	
Assemblies	
FMR	
<b>MF04 Total (Without totalling components)</b>	<b>\$5,756.98</b>

2015 Choice Partners JOC SETEX Texas Normal (-11.0000%)	\$(544.61)
Nonpriced Line Items	

**Priced/Non-Priced**

Total Priced Items:	17	\$5,756.98
Total Non-Priced Items:	0	\$0.00
	17	\$5,756.98

**Grand Total** **\$4,406.39**

# Preliminary Estimate, by estimates

**Estimator: Michael Waidley**
**Change Order due to AC Scope Changes**

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>07 - Thermal and Moisture Protection</b>						
1 07-21-16-20-0120	Blanket insulation, for walls or ceilings, kraft faced fiberglass, 3-1/2" thick, R15, 15" wide (2680.2654/2)+(1159.2000/2) = 1,919.73	S.F.	168.0000	\$1.01	\$169.68	RSM16FAC Grn, M, L, O&P P
<b>07 - Thermal and Moisture Protection Total</b>						<b>\$169.68</b>
<b>08 - Openings</b>						
2 08-12-13-13-4500	Frames, steel, knock down, hollow metal, single, 14 ga., 8-3/4" deep, 4'-0" x 8'-0" Ea.		-2.0000	\$395.00	\$(790.00)	RSM16FAC M, L, O&P P
3 08-12-13-13-4500	Frames, steel, knock down, hollow metal, single, 14 ga., 8-3/4" deep, 4'-0" x 8'-0" Ea.		2.0000	\$395.00	\$790.00	RSM16FAC M, L, O&P P
4 08-14-16-20-0900	Doors, wood, fire, particle core, 7 face plies, "B" label, 90 minutes, oak face, 1-3/4" x 4'-0" x 7'-0"	Ea.	-2.0000	\$755.00	\$(1,510.00)	RSM16FAC M, L, O&P P
5 08-71-20-30-0020	Door hardware, door closer, rack and pinion, adjustable backcheck, 3 way mount, Ea. all sizes, regular arm		-2.0000	\$315.00	\$(630.00)	RSM16FAC M, L, O&P P
6 08-71-20-50-1600	Door hardware, doorstops, holder and bumper, for floor, aluminum	Ea.	-2.0000	\$29.50	\$(59.00)	RSM16FAC M, L, O&P P
7 08-71-20-90-0040	Door hardware, hinges, full mortise, average frequency, steel base, US26D, 4-1/2" x 4-1/2"	Pr.	-3.0000	\$76.00	\$(228.00)	RSM16FAC M, L, O&P P
8 08-74-16-50-0350	Keypad access, lockset, mechanical push-button type, complete, excludes striker/power/wiring	Ea.	-2.0000	\$575.00	\$(1,150.00)	RSM16FAC M, L, O&P P
<b>08 - Openings Total</b>						<b>\$(3,577.00)</b>
<b>09 - Finishes</b>						
9 09-05-05-30-9000	Walls and partitions demolition, minimum labor/equipment charge	Job	-1.0000	\$124.00	\$(124.00)	RSM16FAC L, O&P P
10 09-22-16-13-9000	Metal studs, minimum labor/equipment charge	Job	-1.0000	\$158.00	\$(158.00)	RSM16FAC L, O&P P
11 09-29-10-30-2195	Gypsum wallboard, on walls, fire resistant, w/compound skim coat (level 5 finish), S.F. 5/8" thick 504*2*1.15 = 1,159.20		-336.0000	\$2.13	\$(715.68)	RSM16FAC M, L, O&P P
12 09-91-23-35-0140	Paints & coatings, interior latex, doors, flush, both sides, roll & brush, primer + 2 coats, incl. frame & trim	Ea.	-2.0000	\$120.00	\$(240.00)	RSM16FAC M, L, O&P P
13 09-91-23-72-1670	Painting walls, complete, on drywall or plaster, primer and 2 finish coats, with roller, including surface preparation 2680.2654+1159.2000+708.20 = 4,547.67	S.F.	-336.0000	\$1.83	\$(614.88)	RSM16FAC M, L, O&P P
<b>09 - Finishes Total</b>						<b>\$(1,852.56)</b>

# Preliminary Estimate, by estimates

Estimator: Michael Waidley		Change Order due to AC Scope Changes				
Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>Priced O&amp;P</b>						
14 01-54-36-50-1501	Delivery Charge $1080*1.147*1.11*1.10 = 1,512.53$	Ea.	1,512.5260	\$1.00	\$1,512.53	CUSTOM E, O&P P
15 09-29-10-30-2195-5270	Gypsum board, for textured spray, add (Modified using 09-29-10-30-5270) $2680.2654+1159.20 = 3,839.47$	S.F.	-336.0000	\$0.72	\$(241.92)	CUSTOM M, L, O&P P
16 09-91-23-72-1670-8400	Walls and ceilings, interior, for light textured surfaces, add (Modified using 09-91-23-72-8400)	S.F.	-336.0000	\$0.10	\$(33.60)	CUSTOM L, O&P P
17 23-05-93-10-4500	Balancing, taps into ceiling plenums, (Subcontractor's quote including material & labor)	Ea.	9,779.8500	\$1.00	\$9,779.85	CUSTOM E, O&P P
<b>Priced O&amp;P Total</b>						<b>\$11,016.86</b>
<b>Estimate Grand Total</b>						<b>4,406.39</b>

20160629-4760-1



AMENDMENT TO PRICING SCHEDULE FOR  
AT&T SWITCHED ETHERNET SERVICE  
PROVIDED PURSUANT TO CUSTOM TERMS

201505195174UA

AT&T MA Reference No. 201505195174  
Pricing Schedule being amended (Contract ID No.):ASEDZA9G6  
AT&T Amendment Ref. No. ASE11DZA9G6

Customer ("Customer")	AT&T ("AT&T")
Jefferson County	The applicable AT&T Service-Providing Affiliate

This is an Amendment to the above referenced Pricing Schedule, last signed on July 18, 2016, and is effective on the date on which the last party signs this Amendment. The parties agree to modify the terms and conditions of the Pricing Schedule as specified herein.

Except as modified herein, all rates, terms and conditions of the Pricing Schedule remain in full force and effect.

**This Amendment is valid only if executed by both parties prior to expiration of the existing Pricing Schedule Term.**

**This Agreement shall be void if not executed by Customer and received by AT&T within 30 days of the date AT&T executed the Agreement, or if Customer alters, adds or deletes any of the provisions in the Agreement executed by AT&T.**

Customer (by its authorized representative)	AT&T (by its authorized representative)
By:	By: <i>Cheryl Wankowski</i>
Printed or Typed Name: <i>Jeff Branick</i>	Printed or Typed Name: Cheryl Wankowski
Title: <i>County Judge</i>	Title: Senior Customer Contracts
Date: <i>10/24/2016</i>	Date: 10-13-16 kg898b

ATTEST \_\_\_\_\_  
DATE \_\_\_\_\_

WK# - Interstate-InterLATA-TBD	For AT&T Administrative Use Only
Please sign by December 5, 2016	Pricing Schedule No. _____
	Original Effective Date: _____
	Effective Date of Amendment: _____

**Amendment to Pricing Schedule for AT&T Switched Ethernet Service  
Provided Pursuant To Custom Terms**

**ATTACHMENT A**

Attachment A is deleted in its entirety and replaced with the following:

**A-1 Rates and Charges; Initial Quantities**

Service Components / USOC	Quantity New	Quantity Existing	Billed Monthly Recurring Rate (MRR), per unit	Total Billed Monthly Recurring Rate (Qty x MRR)	Standard Non-recurring Charge (NRC)*, (New Service Components only), per unit	Billed Non-recurring Charge (NRC)*, (New Service Components only), per unit	Total Billed Non-recurring Charge (Qty New x Billed NRC)
Customer Port Connection - 100 Mbps / Basic / EYQEX / GEM	14	0	\$ 258.75	\$ 3,622.50	\$ 1,925.00	\$ 0.00	\$ 0.00
5Mb CIR / RealTime - Basic Only / R6EAX / GEM	9	0	\$ 265.50	\$ 2,389.50	\$ 150.00	\$ 0.00	\$ 0.00
10Mb CIR / RealTime - Basic Only / R6EBX / GEM	3	0	\$ 409.50	\$ 1,228.50	\$ 150.00	\$ 0.00	\$ 0.00
20Mb CIR / RealTime - Basic Only / R6EDX / GEM	2	0	\$ 531.00	\$ 1,062.00	\$ 150.00	\$ 0.00	\$ 0.00
<b>TOTAL billed MRR and NRC for Service Components and Quantities listed above:</b>				<b>\$ 8,302.50</b>			<b>\$ 0.00</b>
*Any difference between the standard NRC and the billed NRC has been waived.							
Charges for special construction, if needed, may also apply.							
If any CIR or CoS is decreased before the end of the Minimum Payment Period, early termination charges will not apply; the MRR for the new CIR or CoS will be the then-current Service Publication rate for the EPP term equal to the Minimum Payment Period or if no such EPP term exists then the next shorter EPP term.							

**A-2 Minimum Quantity New Commitment**

Required Installation Date	Monthly Shortfall Charge
Within six (6) months after the Effective Date, excluding AT&T delay	50% of MRR (partial months prorated) for each "Quantity New" Service Component not installed by Required Installation Date until installed or, if not installed, until the end of the Pricing Schedule Term

WK# - Interstate-InterLATA-TBD	For AT&T Administrative Use Only Pricing Schedule No. _____ Original Effective Date: _____ Effective Date of Amendment: _____
Please sign by December 5, 2016	

**Amendment to Pricing Schedule for AT&T Switched Ethernet Service  
Provided Pursuant To Custom Terms**

**A-3 Initial New and Existing Sites and Service Configuration**

Table 1 - Complete a line for each Customer Port Connection.

Port ID #	Street Address	City	State	New or Existing Service
1	900 4th St	Port Arthur	TX	New
2	7933 Viterbo Rd	Beaumont	TX	New
3	5326 Hwy 69 S	Beaumont	TX	New
4	1201 US Hwy 90	China	TX	New
5	5700 Jade Av	Port Arthur	TX	New
6	7780 Boyt Rd	Beaumont	TX	New
7	145 S 11th St	Beaumont	TX	New
8	4605 Jerry Ware Dr	Beaumont	TX	New
9	4640 Hangar Dr	Beaumont	TX	New
10	5000 Jerry Ware Dr	Beaumont	TX	New
11	5950 S 1st Av	Port Arthur	TX	New
12	7759 Viterbo Rd	Beaumont	TX	New
13	6000 Airline Dr	Beaumont	TX	New
14	19217 FM 365	Beaumont	TX	New

WK# - Interstate-InterLATA-TBD  Please sign by December 5, 2016	For AT&T Administrative Use Only  Pricing Schedule No. _____  Original Effective Date: _____  Effective Date of Amendment: _____
---	--

**Amendment to Pricing Schedule for AT&T Switched Ethernet Service  
Provided Pursuant To Custom Terms**

**Table 2 – Service Components associated with Customer Port Connections identified above.**

Port ID #	Customer Port Connection Speed	CIR Speed / Tier	Class of Service / Package	Regenerator
1	100 Mbps Basic	5 Mbps	Interactive	[Select]
2	100 Mbps Basic	20 Mbps	Interactive	[Select]
3	100 Mbps Basic	20 Mbps	Interactive	[Select]
4	100 Mbps Basic	5 Mbps	Real-Time	[Select]
5	100 Mbps Basic	5 Mbps	Real-Time	[Select]
6	100 Mbps Basic	5 Mbps	Real-Time	[Select]
7	100 Mbps Basic	5 Mbps	Real-Time	[Select]
8	100 Mbps Basic	5 Mbps	Interactive	[Select]
9	100 Mbps Basic	10 Mbps	Interactive	[Select]
10	100 Mbps Basic	10 Mbps	Interactive	[Select]
11	100 Mbps Basic	5 Mbps	Interactive	[Select]
12	100 Mbps Basic	10 Mbps	Interactive	[Select]
13	100 Mbps Basic	5 Mbps	Real-Time	[Select]
14	100 Mbps Basic	5 Mbps	Real-Time	[Select]

WK# - Interstate-InterLATA-TBD	For AT&T Administrative Use Only Pricing Schedule No. _____ Original Effective Date: _____ Effective Date of Amendment: _____
Please sign by December 5, 2016	

**Amendment to Pricing Schedule for AT&T Switched Ethernet Service  
Provided Pursuant To Custom Terms**

**Table 3 – Features associated with Customer Port Connections identified above.**

Port ID #	Add'l MAC Addresses	Alternate Serving Switch	Diverse Access	Advanced Access Failover	Enhanced Multicast
1	[Select]	[Select]	[Select]	[Select]	[Select]
2	[Select]	[Select]	[Select]	[Select]	[Select]
3	[Select]	[Select]	[Select]	[Select]	[Select]
4	[Select]	[Select]	[Select]	[Select]	[Select]
5	[Select]	[Select]	[Select]	[Select]	[Select]
6	[Select]	[Select]	[Select]	[Select]	[Select]
7	[Select]	[Select]	[Select]	[Select]	[Select]
8	[Select]	[Select]	[Select]	[Select]	[Select]
9	[Select]	[Select]	[Select]	[Select]	[Select]
10	[Select]	[Select]	[Select]	[Select]	[Select]
11	[Select]	[Select]	[Select]	[Select]	[Select]
12	[Select]	[Select]	[Select]	[Select]	[Select]
13	[Select]	[Select]	[Select]	[Select]	[Select]
14	[Select]	[Select]	[Select]	[Select]	[Select]



**JEFFERSON COUNTY PURCHASING DEPARTMENT**  
*Deborah Clark, Purchasing Agent*

---

1149 Pearl Street, Beaumont, TX 77701      Phone: 409-835-8593 Fax: 409-835-8456

**MEMORANDUM**

To: Commissioners' Court

From: Deborah Clark *DC*  
Purchasing Agent

Date: October 18, 2016

Re: Disposal of Law Books

Consider and possibly approve disposition of law books as authorized by Local Government Code §263.152 (3).

Thank you.

## **Law Books**

Texas Law Review

Virginia Law Review

Harvard Law Review

Texas Tech Law Review

Houston Law Review

SMU Law Review

Michigan Law Review

Columbia Law Review

Texas Bar Journal

Southwestern Law Journal

Benedict of Admiralty

United States Supreme Court Digest



## Texas General Land Office Disaster Recovery

## Construction Contract Change Order Request Form

Engineer: LJA Engineering, Inc. 5316 Highway 290 West, Suite 150 Austin, TX 78735	Owner (Contractor Locality): Jefferson County 1001 Pearl Street, 3rd Floor Beaumont, TX 77701	Contractor: Apollo Environmental Strategies, Inc. P.O. Box 12114 Beaumont, TX 77726
Phone No.: 512.439.4700	Phone No.: 409-835-8593	Agreement Date: 7/27/15 Phone No.: 409-833-3330
Date: August 2, 2016 Project Code No.: Ike Round 2.2 BP225701-1_BID1 Bid Package No.: 15-016/JW	Contract For (Project Description): McFaddin NWR Dune Restoration	GLO Contract No.: 12-403-014-6822 Change Order No.: CO-2

You are hereby requested to comply with the following changes from the contract plans and specifications:

Change in Contract Price	Change in Contract Time (Calendar Days)			
Original Contract Price: \$3,872,218.60	Original Contract Time: 255 days			
Previous Change Order(s): No. 1 to No. 1 (\$832.15)	Net Change From Previous Change Orders: 60 days			
Contract Price Prior to this Change Order: \$3,871,386.45	Contract Time Prior to this Change Order: 315 days			
Net Increase/Decrease of this Change Order: \$121,150.00	Net Increase/Decrease of this Change Order: 81 days			
Contract Price With all Approved Change Orders: \$3,750,236.45	Contract Time With all Change Orders: 396 days			
Cumulative Percent Change in Contract Price (+/-): -3.15%	Grantee Contract End Date: (mm/dd/yy) / /			
Construction Contract Start Date: (mm/dd/yy) 7 / 27 / 15	Construction Contract End Date: (mm/dd/yy) 10 / 15 / 16			

Reimbursements of costs included in this change order are subject to review by the GLO-DR program.  
 \* This document may be executed prior to submission for GLO-DR program review, but all parties involved will be held responsible if the change order or the amendment warranted as a result of this change order is not in compliance with CDBG or HUD requirements.

## RECOMMENDED:

By: W.L. Worsham, P.E.  
ENGINEER

Date: 8/2/2016

## APPROVED:

By: Daniel M. Rao  
OWNER

Date: 8/3/16

## ACCEPTED:

By: Tim Els  
CONTRACTOR

Date: 8/2/2016

ATTEST:

JEFFERSON COUNTY, TEXAS

Carolyn L. Guidry, County Clerk

Jeff R. Branick, County Judge

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

### JUSTIFICATION FOR CHANGE

1. Will this Change Order increase or decrease the number of beneficiaries?	<input type="checkbox"/> Increase	<input type="checkbox"/> Decrease	<input checked="" type="checkbox"/> No Change
If there is a change, how many beneficiaries will be affected?			
2. Effect of this change on scope of work:	<input type="checkbox"/> Increase	Total _____ L/M _____	
3. Effect on operation and maintenance costs:	<input type="checkbox"/> Increase	<input checked="" type="checkbox"/> Decrease	<input type="checkbox"/> No Change
4. Are all prices in the change order dependent upon unit prices found in the original bid?	<input type="checkbox"/> Increase	<input checked="" type="checkbox"/> Decrease	<input type="checkbox"/> No Change
If "No", explain: Three changes relate to items for which equitable adjustments were made based on owner-requested changes and actual vs. presumed site conditions.			
5. Has this change created new circumstances or environmental conditions which may affect the project's impact, such as concealed or unexpected conditions discovered during actual construction?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
If "Yes", is an Environmental Re-assessment required?			
6. Is the Texas Commission on Environmental Quality (TCEQ) clearance still valid? (if applicable)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
7. Is the TCEQ permit approval still valid? (sewer projects only)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
8. Are the handicapped access requirements/approval still valid? (if applicable)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
9. Are other Disaster Recovery contractual special condition clearance still valid? (If no, specify):	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

#### NOTE:

- \* Generally, a cumulative change in the contract price in excess of 25% cannot be reviewed (18% decrease for counties).

## PRICING CONFIRMATION ATTACHMENT



## Messaging Plan - Location Neutral Originating Numbers - 8XX (toll free)

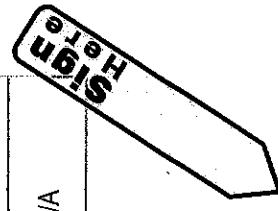
This Plan gives you access to run your traffic on US registered numbers that include Toll Free numbers 8XX (800, 833, 844, 855, 866, 877, 888) and 5XX (500, 533, 544, 566, 577) area code numbers. A Location-Neutral Number, is a number associated with a country or countries, but not to any single geographic location within that country. 8XX and 5XX numbers are tied to +1 country code in North America. These numbers are smart because they operate under few restrictions and support high quality service delivery. Note: Unlike voice, Carriers have not adopted free messaging for the end user when texting to an 8XX... message and data rates apply according to subscriber's mobile plan.

Plan Setup \$50 / Plan Monthly \$100					
NUMBER	COVERAGE	THROUGHPUT LIMIT	SMS	MMS	VOICE INBOUND
1-8XX-YYY-ZZZZ	US & Canada	Up to 20 mps	✓		✓
1-5XX-YYY-ZZZZ*	International	Up to 20 mps	✓	✓	

### Usage Fees

NUMBER	OUTBOUND SMS	INBOUND SMS	OUTBOUND MMS	INBOUND MMS
1-8XX-YYY-ZZZZ	\$0.005*	\$0.005	\$0.005	N/A

\*Outbound messages to Canada have \$.00165 surcharge fee



Initial

Confidential Document.  
Copyright © 2002—2016 Aerailink Inc. All rights reserved.  
Aerailink is a licensed FCC and CLEC carrier.

## PRICING CONFIRMATION ATTACHMENT

### AGREEMENT



This Pricing Confirmation Attachment is entered into by and between Jefferson County ("Company") and

Aerialink, Inc. ("Aerialink") (the "Parties"). This Attachment shall become effective on the 24 of October, 2016 following

Aerialink's receipt of this signed Pricing Confirmation Attachment.

#### TERM

This Pricing Confirmation Attachment shall become effective upon the Effective Date and remain in effect for the term identified below.

**Term:** 12 Months for Monthly Message Minimum Commitments, or month to month term for Monthly fee option, unless otherwise noted within each plan.

#### MONTHLY MESSAGE MINIMUM

The Minimum Monthly Fee applies when the total monthly messaging charges are less than or equal to the Minimum Monthly Fee. Otherwise the actual messaging charges apply. Other fees such as Hosting, Leasing, Voice Minutes, Carrier Activation and Message Surcharge Fees and other Third Party Charges are separate from the Minimum Monthly Message Fee and do not count toward it.

**MONTHLY MESSAGE MINIMUM:** Varies by Plan

#### YOUR FIRST INVOICE

The first invoice will look different than other invoices. That's because it includes partial (prorated) charges from the day we started your service to the beginning of the monthly billing cycle. Additionally, it may include one-time charges. These charges don't appear on your invoice every month. Depending on the service you have, one-time charges can include but are not limited to: Plan and number setup fees, carrier activation fees, one-time import fees, one-time number porting fees, integration services, etc.

#### CANCELLATION

To Cancel: email [support@aerialink.com](mailto:support@aerialink.com) with your first and last name, company name, phone number and the specific applications and services and plans you wish to cancel. If you change your mind and want to reactivate it, just email us back. If we haven't deactivated the service, you won't be charged a new setup fee to reactivate your account.

Initial

Confidential Document.

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Aerialink is a licensed FCC and CLEC carrier.

## PRICING CONFIRMATION ATTACHMENT



The Parties agree as follows:

1. Setup and Monthly fees are prepaid. Transaction fees (messages, queries, voice minutes, etc.) are paid in arrears based on usage.
2. Industry Fees and Carrier Surcharge fees are subject to change. If fees are updated or added, they will be published on our documents site. <https://docs.aerialink.net/industry-fees/> or other available location.
3. Short Codes hosted on the Aerialink network shall be managed under Aerialink's US short code national registry account. Short Code lease fees will be invoiced to you through our monthly billing process along with your other messaging fees.
4. For Long Code and Short Code Plans, the inbound per-message rate applies when your inbound messages do not exceed the number of outbound messages in any given month for any particular long code/number. If the inbound messages exceed the number of outbound messages then the outbound message rate applies to the excess inbound messages. For example, if you send 10 outbound messages and receive 30 inbound messages, then 20 inbound messages will be rated at the outbound fee.
5. Unless otherwise stated, taxes are not included in our prices and all applicable taxes are payable by Customer. All prices are in USD.

This Pricing Confirmation Attachment supersedes all prior discussion, negotiation, and agreements whether oral or written regarding the pricing offered herein and is governed by the Aerialink published Terms of Service, which is updated periodically. Refer to: <https://www.aerialink.com/legal/terms-of-service/>

IN WITNESS HEREOF the parties have caused this Pricing Confirmation Attachment to be executed by their duly authorized representatives below.

COMPANY

Jeff Branick

BY

County Judge

SIGNATURE

TITLE

10/24/2016

DATE

AERIALINK

Daniell Rangel

BY

SIGNATURE

Director of Finance, Customer & Supplier Relations

TITLE

10/20/2016

DATE

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Aerialink is a licensed FCC and CLEC carrier.

5123 Middle Rd.  
Bettendorf, IA 52722-6059  
(563)449-9477  
billing@aerialink.com

 **Aerialink™**  
Mobile Data Communications Solutions  
*Payment Address:*  
5123 Middle Road  
Bettendorf, IA 52722-6059

## ESTIMATE

**ADDRESS**

Jill Wiebusch  
District Clerk Jefferson County  
1085 Pearl St, Room 203  
Beaumont, TX 77701

**ESTIMATE # 25167****DATE 10/05/2016**

DESCRIPTION	QTY	RATE	AMOUNT
Messaging Plan - LOCATION NEUTRAL (+18XX, +15XX) Originating Numbers (NRC), Setup	1	50.00	50.00
Messaging Plan - LOCATION NEUTRAL (+18XX, +15XX) Originating Numbers (MRC)	12	100.00	1,200.00
Long Code, INTL, LEASE (MRC), +18XX	12	1.00	12.00
SMS-MO, Inbound Message (4,000/ per month)	48,000	0.005	240.00
SMS-MT, Outbound Message (8,000/ per month)	96,000	0.005	480.00

We look forward to working with you!

**TOTAL****\$1,982.00**

Accepted By

Accepted Date



5050 WASHINGTON BLVD  
BEAUMONT TX 77707-4314  
Phone: 409-842-9500  
Fax: 409-842-9667

To: SMG / FORD PARK  
5115 IH 10 SOUTH  
BEAUMONT TX 77705-4213  
Attn: JOHN HUGHES  
Phone: 409-347-1200  
Fax: 409-951-5429  
Email:

Date: 10/20/2016  
**Proj Name:** FORD PARK LED SPORTS  
**GB Project Qte#:** 0225480628  
Valid From: 07/05/2016  
Valid To: 11/20/2016  
Contact: Donald Childs  
Email: donald.childs@graybar.com

## Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

Item	Quantity	Supplier	Catalog Nbr	Description	Price	Unit	Ext.Price
<b>Notes:</b> Reference US Communities MA-IS-1340234							
100	1 EA	EPHESUS TECHNOLOGIES	EPHESUS LED TECHNOLOGIES LIGHTING SYSTEM		\$605,450.00	1	\$605,450.00
***Item Note:*** The scope of the project includes providing a full turnkey LED solution including removal of existing fixtures and installation of the new sports lighting system and controls. The scope of work is as follows (See Appendix): <ul style="list-style-type: none"> <li>• Remove and dispose of all existing metal halide sports light fixtures (400 total existing fixtures)</li> <li>• Install 312 new Ephesus All Field 750 sports lighting fixtures</li> <li>• Furnishing of (1) 120 foot drivable lift for the duration of the installation</li> <li>• Post Installation light measurements confirming light and uniformity levels based on approved design</li> <li>• Complete 10 Year Parts Warranty</li> <li>• Project schedule is negotiable</li> <li>• Final sign off with Ford Park based upon all listed requirements</li> </ul>							
200	1 EA	EPHESUS TECHNOLOGIES	OPTION #1 AIMESH CONTROL SYSTEM		\$6,000.00	1	\$6,000.00
***Item Note:*** Option #1: <ul style="list-style-type: none"> <li>• Installation and commissioning of (1) AirMesh wireless hub in concession stand-120 Volt</li> <li>• Low voltage data for wireless hub is not included</li> <li>• Doesn't include land wire to the AirMesh Hub</li> </ul>							

**Total in USD (Tax not included): \$611,450.00**

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at [www.graybar.com](http://www.graybar.com)

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepay and bill. Unless noted the estimated ship date will be determined at the time of order placement.

To: SMG / FORD PARK  
5115 IH 10 SOUTH  
BEAUMONT TX 77705-4213  
Attn: JOHN HUGHES

Date: 10/20/2016  
Proj Name: FORD PARK LED SPORTS  
GB Project Qte#: 0225480628

## Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

Item	Quantity	Supplier	Catalog Nbr	Description	Price	Unit	Ext.Price
------	----------	----------	-------------	-------------	-------	------	-----------

### GRAYBAR ELECTRIC COMPANY, INC. TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE OF ORDER; TERMINATION - Acceptance of any order is subject to credit approval and acceptance of order by Graybar Electric Company, Inc. ("Graybar") and, when applicable, Graybar's suppliers. If credit of the buyer of the goods ("Buyer") becomes unsatisfactory to Graybar, Graybar reserves the right to terminate upon notice to Buyer and without liability to Graybar.
2. PRICES AND SHIPMENTS - Unless otherwise quoted, prices shall be those in effect at time of shipment, which shall be made F.O.B. shipping point, prepaid and bill.
3. RETURN OF GOODS - Credit may be allowed for goods returned with prior approval. A deduction may be made from credits issued to cover cost of handling.
4. TAXES - Prices shown do not include sales or other taxes imposed on the sale of goods. Taxes now or hereafter imposed upon sales or shipments will be added to the purchase price. Buyer agrees to reimburse Graybar for any such tax or provide Graybar with acceptable tax exemption certificate.
5. DELAY IN DELIVERY - Graybar is not to be accountable for delays in delivery occasioned by acts of God, failure of its suppliers to ship or deliver on time, or other circumstances beyond Graybar's reasonable control. Factory shipment or delivery dates are the best estimates of our suppliers, and in no case shall Graybar be liable for any consequential or special damages arising from any delay in shipment or delivery.
6. LIMITED WARRANTIES - Graybar warrants that all goods sold are free of any security interest and will make available to Buyer all transferable warranties (including without limitation warranties with respect to intellectual property infringement) made to Graybar by the manufacturer of the goods. GRAYBAR MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE, UNLESS OTHERWISE AGREED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF GRAYBAR. PRODUCTS SOLD HEREUNDER ARE NOT INTENDED FOR USE IN OR IN CONNECTION WITH (1) ANY SAFETY APPLICATION OR THE CONTAINMENT AREA OF A NUCLEAR FACILITY, OR (2) IN A HEALTHCARE APPLICATION, WHERE THE GOODS HAVE POTENTIAL FOR DIRECT PATIENT CONTACT OR WHERE A SIX (6) FOOT CLEARANCE FROM A PATIENT CANNOT BE MAINTAINED AT ALL TIMES.
7. LIMITATION OF LIABILITY - Buyer's remedies under this agreement are subject to any limitations contained in manufacturer's terms and conditions to Graybar, a copy of which will be furnished upon written request. Furthermore, Graybar's liability shall be limited to either repair or replacement of the goods or refund of the purchase price, all at Graybar's option, and in NO CASE SHALL GRAYBAR BE LIABLE FOR INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES. In addition, claims for shortages, other than loss in transit, must be made in writing not more than five (5) days after receipt of shipment.
8. WAIVER - The failure of Graybar to insist upon the performance of any of the terms or conditions of this agreement or to exercise any right hereunder shall not be deemed to be a waiver of such terms, conditions, or rights in the future, nor shall it be deemed to be a waiver of any other term, condition or right under this agreement.
9. MODIFICATION OF TERMS AND CONDITIONS - These terms and conditions supersede all other communications, negotiations, and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, resission, discharge, abandonment, or waiver of these terms and conditions shall be binding upon Graybar unless made in writing and signed on its behalf by a duly authorized representative of Graybar. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by the party to be bound. Any proposed modifications or additional terms are specifically rejected and deemed a material alteration hereof. If this document shall be deemed an acceptance of a prior offer by Buyer, such acceptance is expressly conditional upon Buyer's assent to any additional or different terms set forth herein.
10. REELS - When Graybar ships returnable reels, a reel deposit may be included in the invoice. The Buyer should contact the nearest Graybar service location to return reels.
11. CERTIFICATION - Graybar hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. This agreement is subject to Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended, E.O. 13496, 29 CFR Part 471, Appendix A to Subpart A, and the corresponding regulations, to the extent required by law. 41 CFR 60-1.4, 60-741.5, and 60-250.5 are incorporated herein by reference, to the extent legally required.
12. FOREIGN CORRUPT PRACTICES ACT - Buyer shall comply with applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§78dd-1, et. seq.) irrespective of the place of performance, and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Buyer's country or any country where performance of that agreement or delivery of goods will occur.
13. ASSIGNMENT - Buyer shall not assign its rights or delegate its duties hereunder or any interest herein without the prior written consent of Graybar, and any such assignment, without such consent, shall be void.
14. GENERAL PROVISIONS - All typographical or clerical errors made by Graybar in any quotation, acknowledgment or publication are subject to correction. This agreement shall be governed by the laws of the State of Missouri applicable to contracts to be formed and fully performed within the State of Missouri, without giving effect to the choice or conflicts of law provisions thereof. All suits arising from or concerning this agreement shall be filed in the Circuit Court of St. Louis County, Missouri, or the United States District Court for the Eastern District of Missouri, and no other place unless otherwise determined in Graybar's sole discretion. Buyer hereby irrevocably consents to the jurisdiction of such court or courts and agrees to appear in any such action upon written notice thereof.
15. PAYMENT TERMS - Payment terms shall be as stated on Graybar's invoice or as otherwise mutually agreed. As a condition of the sales agreement, a monthly service charge of the lesser of 1-1/2% or the maximum permitted by law may be added to all accounts not paid by net due date. Visa, MasterCard, American Express, and Discover credit cards are accepted at point of purchase only.
16. EXPORTING - Buyer acknowledges that this order and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders. Buyer agrees to comply with all such laws, regulations, and orders, including, if applicable, all requirements of the International Traffic in Arms Regulations and/or the Export Administration Act, as may be amended. Buyer further agrees that if the export laws are applicable, it will not disclose or re-export any technical data received under this order to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Buyer has obtained prior written authorization from the United States Office of Export Control or other authority responsible for such matters.

Signed: \_\_\_\_\_

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at [www.graybar.com](http://www.graybar.com)

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill. Unless noted the estimated ship date will be determined at the time of order placement.

**A. CECIL WALKES, MD**  
County Health Authority  
Department Director



**JOHNNIE ROBERTS, MSW**  
Administrative Director

**JEFFERSON COUNTY**  
Public Health Department

**M E M O R A N D U M**

TO: Fran Lee, Auditing

FROM: Dr. Walkes *(Signature)*

DATE: 10/18/16

SUBJECT: Transfer of funds

I am requesting a transfer of funds from the accounts listed below:

\$40.00	from	120-5074-441-4011	to	120-5074-441-6002
\$40.00	from	120-5075-441-4011	to	120-5075-441-6002

This transfer is to cover the shortage for budgeted computer equipment in each Public Health Unit.

**UNIT 1 - 1295 Pearl Street - Beaumont, Texas 77701**  
(409) 835-8530 - Facsimile (409) 839-2353  
**UNIT 2 - 800 4<sup>TH</sup> Street - Port Arthur, Texas 77640**  
(409) 983-8380 - Facsimile (409) 983-8378

Below is the quote for the products you have requested. Please send all new requests to [texas@shi.com](mailto:texas@shi.com).

If you have any questions regarding this quote, feel free to contact me at [Jeff\\_Rosen@SHI.com](mailto:Jeff_Rosen@SHI.com).

Regards,  
Jeff



#### Pricing Proposal

Quotation #:	12287273
Description:	Microsoft Select Plus - Office Pro
Created On:	Sep-29-2016
Valid Until:	Oct-31-2016

#### County of JEFFERSON TX

**Vanessa Lachney**  
1149 Pearl Street 6th Floor  
Beaumont, TX 77701  
United States  
Phone: (409) 835-8447  
Fax: (409) 839-2388  
Email: [vlachney@co.jefferson.tx.us](mailto:vlachney@co.jefferson.tx.us)

#### Inside Account Manager

**Jeff Rosen**  
1301 South Mo-Pac Expressway  
Suite 375  
Austin, TX 78746  
Phone: 800-870-6079 ext 8686150  
Fax: (512)732-0232  
Email: [Jeff\\_Rosen@shi.com](mailto:Jeff_Rosen@shi.com)

All Prices are in US Dollar(USD)

Product	Qty	Your Price	Total
1 Microsoft Office Professional Plus 2016 - License - 1 PC - Select Plus - Win - Single Language Microsoft - Part#: 79P-05582	1	\$328.20	\$328.20
		Subtotal	\$328.20
		Shipping	\$0.00
		Total	\$328.20

#### Additional Comments

DIR SDD 2503

Please provide end-user contact information (first name, last name, and email address) for all orders. Not including this information may result in a delay in order processing.

Also, please include SHI quote number on your PO. Please contact me if you have any questions.

Thanks!

#### Retrieve your quote:

<https://www.shi.com/Quotes/Quoteinfo.aspx>

*The Products offered under this proposal are subject to the [SHI Return Policy](#), unless there is an existing agreement between SHI and the Customer.*

## PRICE LOCATION

**ACCOUNT MANAGER**  
Jason Willett  
T: (800) 625-5468 x 38086  
F: (310) 630-6518  
[jason.willett@pcnng.com](mailto:jason.willett@pcnng.com)

Jefferson County Auditors Off  
Accounts Payable  
1149 Pearl St., 7th Fl.  
BEAUMONT, TX 77701  
409-835-8447

QUOTE TOTAL:	\$1,990.00
QUOTE NO.:	S9896380
ATTN.:	VANESSA LACHNEY
ACCOUNT NO.:	32228900
PROJECT/REF.:	HEALTH & WELFARE
QUOTE DATE:	17-Oct-16
QUOTE EXPIRES:	6-Nov-16

## ORDERING INSTRUCTIONS / SPECIAL NOTES

Please make your purchase order out to 'PCIMG, Inc.' (i.e. *not* 'PCM', 'PC Mall', or 'Macmall'). P.O. must include the quote number (i.e. S123456), part numbers, a signature, and payment terms (Net 30). Please \*e-mail\* (jason.willett@pcimg.com) or fax (310-630-6518) purchase order to 'Attn: JASON WILLETT. E-mail is preferred'.

PLEASE REMIT PAYMENT TO:  
PCMG, Inc.  
File 55327  
Los Angeles, CA 90074-5327

Consider and approve FY 2016 budget transfer for payroll accrual for 50% of 10/21/16 payroll

DEPARTMENT	Account Number	Description	Increase	Decrease
JURY	110 2027 412 10	2 ASSISTANTS & CLERKS	198.00	
JURY	110 2027 412 10	7 COURT REPORTER	595.00	
JURY	110 2027 412 20	3 EMPLOYEES' INSURANCE		793.00
TREASURER	120 1017 415 10	1 DEPARTMENT HEAD	452.00	
TREASURER	120 1017 415 10	2 ASSISTANTS & CLERKS	1,007.00	
TREASURER	120 1017 415 20	3 EMPLOYEES' INSURANCE		1,459.00
60TH DISTRICT COURT	120 2034 412 10	1 DEPARTMENT HEAD	76.00	
60TH DISTRICT COURT	120 2034 412 10	2 ASSISTANTS & CLERKS	391.00	
60TH DISTRICT COURT	120 2034 412 10	7 COURT REPORTER	595.00	
60TH DISTRICT COURT	120 2034 412 10	42 BAILIFF	309.00	
60TH DISTRICT COURT	120 2034 412 20	3 EMPLOYEES' INSURANCE		1,371.00
136TH DISTRICT COURT	120 2035 412 10	1 DEPARTMENT HEAD	139.00	
136TH DISTRICT COURT	120 2035 412 10	2 ASSISTANTS & CLERKS	391.00	
136TH DISTRICT COURT	120 2035 412 10	7 COURT REPORTER	595.00	
136TH DISTRICT COURT	120 2035 412 10	42 BAILIFF	310.00	
136TH DISTRICT COURT	120 2035 412 20	3 EMPLOYEES' INSURANCE		1,435.00
COUNTY COURT AT LAW II	120 2052 412 10	2 ASSISTANTS & CLERKS	967.00	
COUNTY COURT AT LAW II	120 2052 412 10	7 COURT REPORTER	595.00	
COUNTY COURT AT LAW II	120 2052 412 20	1 FICA		1,562.00
COURT MASTER	120 2055 412 10	2 ASSISTANTS & CLERKS	1,072.00	
COURT MASTER	120 2055 412 10	7 COURT REPORTER	595.00	
COURT MASTER	120 2055 412 50	77 CONTRACTUAL SERVICES		1,667.00
CONSTABLE PCT 8	120 3072 425 10	1 DEPARTMENT HEAD	625.00	
CONSTABLE PCT 8	120 3072 425 20	3 EMPLOYEES' INSURANCE		625.00
EMERGENCY MANAGEMENT	120 5080 429 10	1 DEPARTMENT HEAD	740.00	
EMERGENCY MANAGEMENT	120 5080 429 10	2 ASSISTANTS & CLERKS	449.00	
EMERGENCY MANAGEMENT	120 5080 429 20	3 EMPLOYEES' INSURANCE		1,189.00
		TOTAL	\$ 10,101.00	\$ 10,101.00

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**MEMORANDUM**

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**TO:** COMMISSIONERS COURT  
**FROM:** FRAN LEE  
**SUBJECT:** BUDGET TRANSFER  
**DATE:** OCTOBER 19, 2016

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The following FY 2017 budget transfer for the County Clerk is necessary to cover cost of laptop. The laptop was approved by Court on 9/12/16 but the equipment was not shipped until 10/3/16.

120-1014-414-6002	Capital – Computer Equipment	\$922
120-1014-414-3078	Office Supplies	\$922

**PCM-G**

1940 E Mariposa Avenue  
El Segundo, CA 90245

## INVOICE

Page 1 of 1

Invoice Date: 10/03/16  
Account #: 0032228900  
Invoice/Order: S96942170101  
Phone: 800-739-3282 x 7196

000733 000000140

JEFFERSON COUNTY AUDITORS OFF.  
ACCOUNTS PAYABLE  
1149 PEARL ST 7TH FL  
BEAUMONT TX 77701-3635

Ship To:  
VANESSA LACHNEY  
JEFFERSON COUNTY  
COUNTY CLERK  
1001 PEARL 1ST FLOOR  
BEAUMONT, TX 77701

P.O. NUMBER		INVOICE DATE:	SHIPPED VIA	DATE SHIPPED	PAYMENT DUE DATE	
066904		10/03/16	DS Ground	10/03/16	11/02/16	
ORDERED	SHIPPED	ITEM NO.	DESCRIPTION	UNIT PRICE	Ext. Price	
1	1	P CPU 40113469	BTO LAT E5570 I5-6300U 2.4 4GB W7P64 1025615107865.1 Serial # HH6JQC2	D	921.56	921.56
1	1	N OTH 00033333	DROP SHIP HOLD GO TO SRC WEB DROPSHIPHOLD  ATTENTION: VANESSA LACHNEY TELEPHONE NUMBER: 409 835 8447 PO NUMBER: 066904 *****Thank you for your order*****	A	.00	.00

Any account not paid by due date will be subject to a FINANCE CHARGE of 1 1/2% per month on that portion of the unpaid balance which is more than 30 days past due. This is equivalent to an annual % rate of 18%. Collection fees for uncollectable accounts will also be added to unpaid balances.

PLEASE RETURN BELOW PORTION WITH PAYMENT

NAME

AMOUNT

CHECK NO.

TOTAL

## JURY FUND

OFFICE DEPOT	264.30	426483
TRI-CITY COFFEE SERVICE	18.95	426509
DAWN DONUTS	85.00	426643
		368.25**

## ROAD &amp; BRIDGE PCT.#1

APAC, INC. - TROTTI & THOMSON	148.20	426444
CARQUEST AUTO PARTS # 96	102.07	426450
M&D SUPPLY	174.14	426477
MUNRO'S	29.65	426480
SOUTHERN TIRE MART, LLC	3,794.75	426518
FASTENAL	85.29	426524
UNITED STATES POSTAL SERVICE	1.40	426539
GOLDEN TRIANGLE GLASS CO	163.82	426581
ASCO	54.85	426610
		4,554.17**

## ROAD &amp; BRIDGE PCT.#2

SPIDLE & SPIDLE	2,268.12	426436
MUNRO'S	20.00	426480
WAUKESHA-PEARCE IND., INC.	343.50	426514
BUMPER TO BUMPER	21.99	426555
CENTERPOINT ENERGY RESOURCES CORP	39.13	426556
NEW WAVE WELDING TECHNOLOGY	6.60	426571
RAMCO GROUP LLC MBE	225.39	426603
GCR TIRES & SERVICE	1,325.96	426629
MARTIN MARIEETA MATERIALS	94.64	426639
		4,345.33**

## ROAD &amp; BRIDGE PCT. # 3

SPIDLE & SPIDLE	1,920.50	426436
APAC, INC. - TROTTI & THOMSON	5,610.44	426444
BEAUMONT FRAME & FRONT END	188.50	426447
COBURN'S, BEAUMONT BOWIE (1)	75.60	426451
FARM & HOME SUPPLY	456.68	426457
GULF COAST AUTOMOTIVE, INC.	40.97	426462
ENTERGY	248.56	426463
LOUIS' YAZOO SALES & SERVICE, LLC	79.80	426475
MUNRO'S	29.45	426480
MUSTANG CAT	87.64	426481
MATHESON TRI-GAS	13.20	426510
SOUTHERN TIRE MART, LLC	203.77	426518
HOWARD'S AUTO SUPPLY	84.69	426522
LOWE'S HOME CENTERS, INC.	66.54	426543
TRACTOR SUPPLY CO	26.37	426561
BILL WILLIAMS	200.00	426564
SAM'S CLUB DIRECT	287.56	426607
A-1 MAIDA FENCE COMPANY	476.00	426635
CINTAS CORPORATION	102.33	426648
		10,198.60**

## ROAD &amp; BRIDGE PCT.#4

ABLE FASTENER, INC.	75.60	426430
SPIDLE & SPIDLE	5,196.57	426436
APAC, INC. - TROTTI & THOMSON	505.24	426444
M&D SUPPLY	88.34	426477
MUNRO'S	75.42	426480
OIL CITY TRACTORS, INC.	143.52	426484
SMART'S TRUCK & TRAILER, INC.	325.08	426495
LANSDOWNE-MOODY CO	2,353.33	426560
ON TIME TIRE	225.99	426604
ASCO	204.52	426610
SOUTHEAST TEXAS PARTS AND EQUIPMENT	126.12	426623
GCR TIRES & SERVICE	852.87	426629
MARTIN MARIEETA MATERIALS	298.22	426639
		10,470.82**

## ENGINEERING FUND

UNITED STATES POSTAL SERVICE	.69	426539	.69**
PARKS & RECREATION			

NAME	AMOUNT	CHECK NO.	TOTAL
APAC, INC. - TROTTI & THOMSON	3,552.32	426444	
AUDILET TRACTOR SALES	187.50	426445	
SPRINT WASTE SERVICES LP	310.80	426624	
GENERAL FUND			4,050.62**
TAX OFFICE			
ACE IMAGEWEAR	21.35	426493	
UNITED STATES POSTAL SERVICE	656.02	426539	
COUNTY HUMAN RESOURCES			677.37*
UNITED STATES POSTAL SERVICE	2.06	426539	
AUDITOR'S OFFICE			2.06*
UNITED STATES POSTAL SERVICE	7.49	426539	
COUNTY CLERK			7.49*
ADVANCED OFFICE SYSTEMS, INC.	531.00	426431	
KIRKSEY'S SPRINT PRINTING	4.05	426473	
OFFICE DEPOT	213.50	426483	
UNITED STATES POSTAL SERVICE	259.28	426539	
PCM-G	948.96	426576	
RICOH USA INC	566.17	426608	
COUNTY JUDGE			2,522.96*
PHILLIP DOWDEN	500.00	426442	
OFFICE DEPOT	488.79	426483	
UNITED STATES POSTAL SERVICE	4.53	426539	
ROCKY LAUDERMILK	500.00	426544	
ROBIN KRET	500.00	426577	
HARVEY L WARREN III	500.00	426583	
P DEAN BRINKLEY	500.00	426588	
DUNHAM HALLMARK PLLC	500.00	426595	
JOSHUA C HEINZ	500.00	426606	
THOMSON REUTERS-WEST	116.58	426612	
RISK MANAGEMENT			4,109.90*
OFFICE DEPOT	70.92	426483	
UNITED STATES POSTAL SERVICE	633.90	426539	
COUNTY TREASURER			704.82*
UNITED STATES POSTAL SERVICE	219.00	426539	
PRINTING DEPARTMENT			219.00*
STAR GRAPHICS COPIERS, INC.	270.00	426499	
PURCHASING DEPARTMENT			270.00*
PORT ARTHUR NEWS, INC.	1,305.41	426486	
UNITED STATES POSTAL SERVICE	2.00	426539	
GENERAL SERVICES			1,307.41*
CASH ADVANCE ACCOUNT	80.00	426470	
S.E. TEXAS REGIONAL PLANNING	115,301.61	426496	
TEXAS WORKFORCE COMMISSION	3,721.10	426504	
TRI-CITY COFFEE SERVICE	119.40	426509	
TEXAS CONFERENCE OF URBAN COUNTIES	8,595.00	426545	
DYNAMEX INC	395.40	426620	
DATA PROCESSING			128,212.51*
OFFICE DEPOT	95.59	426483	
CDW COMPUTER CENTERS, INC.	11,627.00	426525	
SPS VAR, LLC	3,900.00	426547	

NAME	AMOUNT	CHECK NO.	TOTAL
LIVE ACTION STARDOCK SYSTEMS INC	1,290.00 69.93	426597 426654	16,982.52*
VOTERS REGISTRATION DEPT			
CDW COMPUTER CENTERS, INC. UNITED STATES POSTAL SERVICE	416.13 853.31	426526 426539	1,269.44*
ELECTIONS DEPARTMENT			
HARBOR FREIGHT TOOLS OFFICE DEPOT ULINE SHIPPING SUPPLY SPECIALI UNITED STATES POSTAL SERVICE	89.57 26.99 103.53 844.50	426465 426483 426511 426539	1,064.59*
DISTRICT ATTORNEY			
RANDI A. KING KIRKSEY'S SPRINT PRINTING OFFICE DEPOT DEBORAH S. BEAVERS UNITED STATES POSTAL SERVICE MCM ELEGANTE HOTEL THOMSON REUTERS-WEST	99.26 24.95 51.03 957.02 200.40 104.65 1,922.59	426471 426473 426483 426528 426539 426559 426612	3,359.90*
DISTRICT CLERK			
UNITED STATES POSTAL SERVICE	385.42	426539	385.42*
CRIMINAL DISTRICT COURT			
GAYLYN COOPER DOUGLAS M. BARLOW, ATTORNEY AT LAW JAMES R. MAKIN, P.C. C. HADEN CRIBBS JR., PC	5,250.00 750.00 4,291.64 1,141.87	426433 426446 426592 426601	11,433.51*
58TH DISTRICT COURT			
UNITED STATES POSTAL SERVICE LEXIS-NEXIS	55.40 55.00	426539 426540	55.40*
136TH DISTRICT COURT			
UNITED STATES POSTAL SERVICE	2.79	426539	2.79*
252ND DISTRICT COURT			
UNITED STATES POSTAL SERVICE SUMMER TANNER	154.03 145.50	426539 426562	299.53*
279TH DISTRICT COURT			
UNITED STATES POSTAL SERVICE	.93	426539	.93*
317TH DISTRICT COURT			
TERRENCE HOLMES MARVA PROVO ANITA F. PROVO CHARLES ROJAS LEXIS-NEXIS GLEN M. CROCKER LANGSTON ADAMS JOEL WEBB VAZQUEZ RONALD PLESSALA ALLEN PARKER JONATHAN L. STOVALL WILLIAM FORD DISHMAN BRYAN E MCEACHERN PC TARA SHELANDER LAW OFFICE OF J SCOTT FREDERICK GORDON D FRIESZ ASHLEY CEDILLO	75.00 1,050.00 400.00 150.00 56.00 150.00 75.00 1,450.00 325.00 650.00 75.00 225.00 500.00 150.00 75.00 612.50 650.00	426466 426487 426488 426529 426540 426541 426546 426554 426572 426582 426591 426618 426621 426627 426633 426640 426647	6,668.50*

NAME	AMOUNT	CHECK NO.	TOTAL
UNITED STATES POSTAL SERVICE	46.54	426539	46.54*
JUSTICE COURT-PCT 1 PL 2			
OFFICE DEPOT	69.19	426483	69.19*
JUSTICE COURT-PCT 6			
UNITED STATES POSTAL SERVICE	22.51	426539	22.51*
COUNTY COURT AT LAW NO. 2			
OFFICE DEPOT	215.54	426483	
CHARLES ROJAS	250.00	426529	
UNITED STATES POSTAL SERVICE	11.30	426539	
LANGSTON ADAMS	650.00	426546	
JOEL WEBB VAZQUEZ	300.00	426554	
JANSON ELLIOTT BAILEY	250.00	426646	
COUNTY COURT AT LAW NO. 3			1,676.84*
OFFICE DEPOT	578.69	426483	
KEVIN PAULA SEKALY PC	250.00	426492	
UNITED STATES POSTAL SERVICE	4.79	426539	
LEXIS-NEXIS	55.00	426540	
LANGSTON ADAMS	300.00	426546	
JARED GILTHORPE	250.00	426628	
COURT MASTER			1,438.48*
UNITED STATES POSTAL SERVICE	.40	426539	.40*
MEDIATION CENTER			
OFFICE DEPOT	1,724.70	426483	
UNITED STATES POSTAL SERVICE	4.79	426539	
KARA HAWTHORN	18.00	426594	
SHERIFF'S DEPARTMENT			1,747.49*
JOHNSTONE SUPPLY	225.86	426437	
COTTON CARGO	95.00	426453	
FAST SIGNS, INC.	5.00	426458	
KIRKSEY'S SPRINT PRINTING	178.00	426473	
OFFICE DEPOT	627.57	426483	
TNT WRECKER SERVICE	52.50	426503	
MOTOROLA SOLUTIONS INC	145.87	426521	
VERIZON WIRELESS	3,191.18	426536	
UNITED STATES POSTAL SERVICE	1,064.40	426539	
TEXAS CODE BLUE LLC	795.00	426553	
INTERSTATE ALL BATTERY CENTER - BMT	939.69	426578	
TEXAS ASSOC OF HOSTAGE NEGOTIATORS	80.00	426598	
SILSBEE FORD INC	3,227.61	426622	
GALLS LLC	618.11	426636	
EXCEL MEDICAL WASTE LLC	140.00	426638	
CRIME LABORATORY			11,385.79*
AGILENT TECHNOLOGIES	698.00	426438	
OFFICE DEPOT	204.14	426483	
STERICYCLE INC	2,661.00	426531	
EXCEL MEDICAL WASTE LLC	79.80	426638	
JAIL - NO. 2			3,642.94*
JOHNSTONE SUPPLY	642.01	426437	
TEEX	150.00	426441	
FALCON CREST AVIATION SUPPLY, INC.	175.94	426456	
W.W. GRAINGER, INC.	2,736.46	426461	
JACK BROOKS RÉGIONAL AIRPORT	851.45	426469	
CASH ADVANCE ACCOUNT	640.82	426470	
KOMMERCIAL KITCHENS	219.55	426474	
M&D SUPPLY	55.58	426477	

NAME	AMOUNT	CHECK NO.	TOTAL
MOORE SUPPLY, INC.	213.79	426479	
TRIANGLE ENGINE DIST.	43.07	426508	
WESCO DISTRIBUTION, INC.	995.80	426515	
WORTH HYDROCHEM	327.00	426516	
CDW COMPUTER CENTERS, INC.	204.31	426525	
TEXAS GAS SERVICE	428.94	426549	
FIRETROL PROTECTION SYSTEMS, INC.	230.00	426574	
WORLD FUEL SERVICES	678.00	426580	
FIVE STAR CORRECTIONAL SERVICE	17,973.59	426586	
INDEPENDENT STATIONERS	449.20	426593	
MATERA PAPER COMPANY INC	1,935.35	426611	
THOMSON REUTERS-WEST	888.00	426612	
KROPP HOLDINGS INC	824.58	426615	
24 HR SAFETY LLC	20.00	426625	
LONE STAR UNIFORMS	4,962.55	426642	
ORISON MARKETING LLC	116.25	426645	
INDUSTRIAL TRANSPORTATION WASTE LLC	720.00	426649	
JUVENILE PROBATION DEPT.			36,482.24*
J WALTER BORDAGES JR PHD	345.00	426449	
UNITED STATES POSTAL SERVICE	23.64	426539	
JUVENILE DETENTION HOME			368.64*
OAK FARM DAIRY	317.34	426520	
FLOWERS FOODS	121.65	426552	
CENTERPOINT ENERGY RESOURCES CORP	322.01	426556	
AMERICAN RED CROSS	205.02	426634	
CONSTABLE PCT 1			966.02*
M&D SUPPLY	16.14	426477	
UNITED STATES POSTAL SERVICE	37.06	426539	
INFOGROUP	500.00	426609	
CONSTABLE-PCT 6			553.20*
TEXAS STATE UNIVERSITY SAN MARS	900.00	426497	
UNITED STATES POSTAL SERVICE	9.98	426539	
AGRICULTURE EXTENSION SVC			909.98*
TEXAS GARDENER MAGAZINE, INC.	24.95	426505	
DISTRICT 9 TEAFCS	150.00	426523	
UNITED STATES POSTAL SERVICE	6.71	426539	
TEXAS A&M AGRILIFE EXTENSION SERVIC	60.00	426650	
HEALTH AND WELFARE NO. 1			241.66*
ENTERGY	112.29	426464	
TEXAS MEDICAL ASSOCIATION, INC.	374.50	426506	
TEXAS PUBLIC HEALTH ASSOCIATION	32.50	426507	
AUSTIN CECIL WALKES MD PA	235.52	426513	
UNITED STATES POSTAL SERVICE	67.08	426539	
CENTERPOINT ENERGY RESOURCES CORP	47.85	426557	
AMERICAN BOARD OF PHYSICIAN	602.50	426566	
AMERICAN MEDICAL ASSOCIATION	210.00	426569	
JADA BROUSSARD	38.50	426570	
HEALTH AND WELFARE NO. 2			1,720.74*
GABRIEL FUNERAL HOME, INC.	3,000.00	426459	
TEXAS MEDICAL ASSOCIATION, INC.	374.50	426506	
TEXAS PUBLIC HEALTH ASSOCIATION	32.50	426507	
AUSTIN CECIL WALKES MD PA	235.52	426513	
AMERICAN BOARD OF PHYSICIAN	602.50	426566	
AMERICAN MEDICAL ASSOCIATION	210.00	426569	
JADA BROUSSARD	38.50	426570	
NURSE PRACTITIONER			4,493.52*
MCKESSON MEDICAL-SURGICAL INC	44.40	426527	

NAME	AMOUNT	CHECK NO.	TOTAL
EXCEL MEDICAL WASTE LLC	39.90	426638	84.30*
ENVIRONMENTAL CONTROL			
AT&T	55.30	426498	55.30*
INDIGENT MEDICAL SERVICES			
KING'S PHARMACY	219.26	426439	
LOCAL GOVERNMENT SOLUTIONS LP	3,773.00	426568	
KING'S PHARMACY BEAUMONT	617.69	426599	
CARDINAL HEALTH 110 INC	11,447.21	426614	
MAINTENANCE-BEAUMONT			16,057.16*
GUARDIAN FORCE	360.00	426432	
CITY OF BEAUMONT - LANDFILL	60.50	426443	
SANITARY SUPPLY, INC.	207.64	426491	
ACE IMAGEWEAR	72.06	426493	
MSC SYSTEMS	2,226.51	426519	
NEDERLAND FRAME SHOP	879.65	426585	
MAINTENANCE-PORT ARTHUR			3,806.36*
A&B OUTDOOR EQUIPMENT	42.75	426429	
JOHNSTONE SUPPLY	31.05	426437	
SHERWIN-WILLIAMS	569.88	426494	
TIME WARNER COMMUNICATIONS	71.40	426502	
LOWE'S HOME CENTERS, INC.	99.49	426543	
SUNBELT RENTALS	253.76	426550	
PARKER LUMBER	82.48	426587	
MEMBER'S BUILDING MAINTENANCE LLC	2,749.28	426617	
SUPPLYWORKS	2,633.86	426637	
MAINTENANCE-MID COUNTY			6,533.95*
ALL-PHASE ELECTRIC SUPPLY	268.82	426452	
B.C. MILLER ELECTRIC, INC.	257.49	426478	
ACE IMAGEWEAR	30.11	426493	
CENTERPOINT ENERGY RESOURCES CORP	72.18	426556	
SERVICE CENTER			628.60*
ACTION AUTO GLASS	253.73	426435	
SPIDLE & SPIDLE	7,294.40	426436	
W.W. GRAINGER, INC.	546.25	426461	
INTERSTATE BATTERIES OF BEAUMONT/PA	243.85	426467	
J.K. CHEVROLET CO.	271.17	426468	
KINSEL FORD, INC.	68.38	426472	
M&D SUPPLY	14.20	426477	
MUNRO'S	41.70	426480	
PHILPOTT MOTORS, INC.	1,218.86	426485	
RITTER @ HOME	6.99	426490	
S.E. TEXAS AUTO EQUIPMENT	195.00	426517	
JEFFERSON CTY. TAX OFFICE	7.50	426533	
JEFFERSON CTY. TAX OFFICE	7.50	426534	
JEFFERSON CTY. TAX OFFICE	7.50	426535	
VOYAGER FLEET SYSTEM, INC.	14,835.09	426551	
BUMPER TO BUMPER	414.44	426555	
GHX INDUSTRIAL LLC	234.00	426567	
AMERICAN TIRE DISTRIBUTORS	902.56	426573	
MIGHTY OF SOUTHEAST TEXAS	196.07	426596	
SILSBEE FORD INC	256.64	426622	
1800RADIATOR & AC	158.06	426631	
DENNIS LOWE	290.88	426652	
VETERANS SERVICE			27,464.77*
UNITED STATES POSTAL SERVICE	17.93	426539	
HILARY GUEST	114.26	426548	
MOSQUITO CONTROL FUND			132.19** 300,084.86**

NAME

AMOUNT

CHECK NO.

TOTAL

SUPERIOR TIRE & SERVICE	54.38	426440	
DYNAMIC POWER SYSTEM, INC.	161.53	426454	
JACK BROOKS REGIONAL AIRPORT	211.26	426469	
MUNRO'S	82.20	426480	
UNITED PARCEL SERVICE	3.76	426512	
CENTERPOINT ENERGY RESOURCES CORP	32.16	426556	
PARKER LUMBER	76.36	426587	
LJA ENGINEERING INC	895.83	426605	
AG AIR UPDATE	39.00	426651	
			1,556.48**
J.C. FAMILY TREATMENT			
BEAUMONT OCCUPATIONAL SERVICE, INC.	148.85	426542	
PATRICIA VELASCO	1,365.00	426644	
			1,513.85**
LAW LIBRARY FUND			
THOMSON REUTERS-WEST	2,329.70	426612	
JUVENILE GRANT R			2,329.70**
CDW COMPUTER CENTERS, INC.	28.71	426525	
GRANT A STATE AID			28.71**
BI INCORPORATED	414.12	426530	
YOUTH ADVOCATE PROGRAM	1,232.00	426565	
TJJD	43,776.91	426602	
SAN MARCOS TREATMENT CENTER	19,550.00	426653	
			64,973.03**
COMMUNITY SUPERVISION FND			
BEAUMONT TROPHIES	113.40	426448	
FRED PRYOR SEMINARS & CAREER TRACK	198.00	426489	
TIME WARNER COMMUNICATIONS	160.02	426500	
UNITED STATES POSTAL SERVICE	148.61	426539	
LOCAL GOVERNMENT SOLUTIONS LP	13,930.00	426568	
JCCSC	293.00	426590	
HIGGINBOTHAM INSURANCE AGENCY INC	581.00	426632	
			15,424.03**
JEFF. CO. WOMEN'S CENTER			
ECOLAB	82.95	426455	
LUBE SHOP	44.48	426476	
AT&T	133.66	426498	
TOWER COMMUNICATIONS, INC.	60.00	426537	
ATTABOY TERMITE & PEST CONTROL	50.00	426579	
WASTEWATER TRANSPORT SERVICES LLC	248.00	426626	
EXCEL MEDICAL WASTE LLC	39.90	426638	
			658.99**
DRUG INTERVENTION COURT			
REDWOOD TOXICOLOGY LABORATORY	117.75	426563	
CJD PORTABLE RADIOS			117.75**
MOTOROLA SOLUTIONS INC	23,855.81	426521	
			23,855.81**
HOTEL OCCUPANCY TAX FUND			
BEAUMONT TROPHIES	39.00	426448	
GOLD CREST ELECTRIC CO., INC.	252.64	426460	
ENTERGY	1,271.17	426463	
CASH ADVANCE ACCOUNT	313.03	426470	
M&D SUPPLY	103.81	426477	
MUNRO'S	88.25	426480	
OFFICE DEPOT	345.46	426483	
TIME WARNER COMMUNICATIONS	110.53	426501	
TRI-CITY COFFEE SERVICE	99.20	426509	
MATERA PAPER COMPANY INC	107.80	426611	
			2,730.89**
1957 ROAD BOND FUND			

NAME	AMOUNT	CHECK NO.	TOTAL
TIM RICHARDSON	10,500.00	426619	10,500.00**
CAPITAL PROJECTS FUND			
MHC DATACOMM	3,715.00	426575	3,715.00**
2013 REFUNDING BONDS			
THE BANK OF NEW YORK MELLON	500.00	426613	500.00**
AIRPORT FUND			
TEEX E. SULLIVAN ADVERTISING & DESIGN CENTERPOINT ENERGY RESOURCES CORP RELADYNE	1,450.00 28,300.00 171.05 1,916.14	426441 426532 426556 426616	31,837.19**
AIRPORT IMPROVE. GRANTS			
GARVER LLC	19,897.50	426584	19,897.50**
SE TX EMP. BENEFIT POOL			
GROUP ADMINISTRATIVE CONCEPTS INC	115,857.56	426589	115,857.56**
LIABILITY CLAIMS ACCOUNT			
STEVENS BALDO FREEMAN & LIGHTY LLP CALVERT EAVES CLARKE & STELLY LLP	3,130.53 8,954.61	426600 426641	12,085.14**
WORKER'S COMPENSATION FD			
TRISTAR RISK MANAGEMENT	7,547.55	426558	7,547.55**
SHERIFF'S FORFEITURE FUND			
SILSBEY FORD INC	20,927.34	426622	20,927.34**
PAYROLL FUND			
JEFFERSON CTY. - FLEXIBLE SPENDING CLEAT	14,415.00 324.00	426400 426401	
JEFFERSON CTY. TREASURER RON STADTMUELLER - CHAPTER 13	17,601.51 932.50	426402 426403	
INTERNAL REVENUE SERVICE	475.00	426404	
JEFFERSON CTY. ASSN. OF D.S. & C.O.	5,040.00	426405	
JEFFERSON CTY. COMMUNITY SUP.	10,019.39	426406	
JEFFERSON CTY. TREASURER - HEALTH	457,366.35	426407	
JEFFERSON CTY. TREASURER - GENERAL	20.00	426408	
JEFFERSON CTY. TREASURER - PAYROLL	1,660,352.23	426409	
JEFFERSON CTY. TREASURER - PAYROLL MONY/MLOA	671,172.00 173.63	426410 426411	
POLICE & FIRE FIGHTERS' ASSOCIATION TGSLC	3,028.51 372.91	426412 426413	
UNITED WAY OF BEAUMONT & N JEFFERSON	55.31	426414	
JEFFERSON CTY. TREASURER - TCDRS OPPENHEIMER FUNDS DISTRIBUTOR, INC	636,828.53 1,781.65	426415 426416	
JEFFERSON COUNTY TREASURER JEFFERSON COUNTY - TREASURER -	2,637.06 6,543.15	426417 426418	
NECHES FEDERAL CREDIT UNION	57,791.35	426419	
JEFFERSON COUNTY - NATIONWIDE TENNESSEE CHILD SUPPORT	71,657.50 115.38	426420 426421	
SBA - U S DEPARTMENT OF TREASURY CALIFORNIA STATE DISBURSEMENT UNIT	168.49 117.23	426422 426423	
WILLIAM E HEITKAMP JOHN TALTON	755.01 2,160.77	426424 426425	
IL DEPT OF HEALTCARD AND FAMILY SER BELINDA M ZURITA	49.85 230.77	426426 426427	
UNITED STATES TREASURY	2,446.30	426428	
MARINE DIVISION			3,624,631.38**
JACK BROOKS REGIONAL AIRPORT	507.70	426469	

NAME

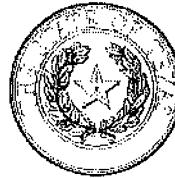
AMOUNT

CHECK NO.

TOTAL

CDW COMPUTER CENTERS, INC.	125.46	426525	
VERIZON WIRELESS	341.91	426536	
INTERSTATE ALL BATTERY CENTER - BMT	241.90	426578	
APPLIED SECURITY TECHNOLOGIES INC	105.00	426630	1,321.97**
GLO IKE ROUND 2			
APOLO ENVIRONMENTAL STRATEGIES INC	69,726.33	426434	69,726.33**
2015 PORT SECURITY GRANT			
LJA ENGINEERING INC	2,752.20	426605	2,752.20**
			4,368,561.74***

## The State of Texas



Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060  
[www.sos.state.tx.us](http://www.sos.state.tx.us)

Phone: 512-463-5650  
Fax: 512-475-2811  
TTY: 7-1-1  
(800) 252-VOTE (8683)

Carlos H. Cascos  
Secretary of State

September 7, 2016

The Honorable Carolyn Leblanc Guidry  
Jefferson County Clerk  
P.O. Box 1151  
Beaumont, Texas 77704

Dear Ms. Guidry:

We are in receipt of a copy of the proposed contract between Jefferson County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's EVS 6.2.1 which includes the Hart eSlate and eSlate DAU, both of which have firmware version 4.2.13, the eScan version 1.3.14, JBC version 4.3.1, BOSS version 4.3.13, Tally version 4.3.10, Ballot Now version 3.3.11., Rally version 2.3.7 and SERVO version 4.2.10. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore, officially, approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Ingram".  
Keith Ingram  
Director of Elections

Enclosures

KI: CA

# The State of Texas



Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060  
www.sos.state.tx.us

Phone: 512-463-5650  
Fax: 512-475-2811  
Dial 7-1-1 For Relay Services  
(800) 252-VOTE (8683)

Hope Andrade  
Secretary of State

## REPORT OF REVIEW OF HART INTERCIVIC'S VOTING SYSTEM 6.2.1

### PRELIMINARY STATEMENT

On January 17th and 18th, 2008, Hart InterCivic (the "Vendor") presented the Hart Voting System 6.2.1 for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Stephen Berger, an expert in electronic data communication systems;
2. Mr. Tom Watson, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Paul Miles, an expert in election law and procedure.

Pursuant to Section 122.035(a) of the Code, the Texas Attorney General appointed Dr. Jim Sneeringer, an expert in electronic data communication systems and Texas Attorney General's employee, Katherine Cary.

On January 17th, 2008, Secretary of State staff and two of the examiners witnessed an install of the Hart Voting System software received directly from the Independent Testing Authority. A test deck of sample ballots was processed on each voting device and the results were verified for accuracy. The findings were presented verbally to all the examiners on January 18th and the test ballots and printed reports were made available for their review.

The Vendor then demonstrated the system; the examiners further examined its accuracy and security features by processing more ballots on each device and questioning the Vendor. Examiner reports on the system are attached hereto and incorporated herein by this reference.

### BRIEF DESCRIPTION OF HART INTERCIVIC VOTING SYSTEM 6.2.1

Hart InterCivic's Voting System 6.2.1 supports both paper ballots and electronic voting. The systems' applications execute on a standard PC configured with a Windows 2000 Professional Operating System, Service Pack 4. Below is a list of all certified components of the system:

Component	Version	Description
BOSS	4.3.13	Ballot Origination Software System used to define the election.
Ballot Now	3.3.11	Paper ballot management system.
Rally	2.3.7	Application used to send election results from satellite locations.
Tally	4.3.10	Application used to tabulate election results.
eCM	1.1.7	Electronic Crypto Module Manager.
SERVO	4.2.10	Election-records and recount-management system.
JBC	4.3.1	Judges Booth Controller. The controller unit for up to 12 eSlate/DAU units. The controller unit is used to generate access codes for the voter.
eSlate	4.2.13	Direct recording electronic voting system (DRE).
eScan	1.3.14	Precinct-based scanner used for election day and absentee voting.

**NATIONAL ASSOCIATION OF STATE ELECTION DIRECTORS (NASED)**  
**QUALIFICATION NUMBER**

Hart InterCivic's Voting System 6.2.1 was qualified by NASED on August 7, 2006, under the designation N-1-04-22-22-006.

**FINDINGS**

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, Texas voting system examiner reports and comments received at the public hearing held on April 3, 2008.

Hart InterCivic Voting System 6.2.1:

1. Preserves the secrecy of the ballot;
2. Is suitable for the purpose for which it is intended;
3. Operates safely, efficiently, and accurately;
4. Is safe from fraudulent or unauthorized manipulation;
5. Permits voting on all offices and measures to be voted on at the election;
6. Prevents counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevents counting a vote on the same office or measure more than once;
9. Permits write-in voting;
10. Is capable of permitting straight-party voting;
11. Is capable of providing records from which the operation of the system may be audited; and
12. Is capable of reporting undervotes.

The Verified Ballot Option ("VBO") was presented and reviewed during the exam. Due to the lack of state and federal legislation that requires the use of a Voter Verified Paper Audit Trail ("VVPAT"), the lack of state standards, and concerns about secrecy of the ballot, the optional VBO is not approved for use in Texas elections at this time.

**CONDITIONS**

During the examination for this system, examiners identified two potential security concerns that are mitigated and/or eliminated if certain procedural security protocols are followed. First, examiners discovered that if existing security protocols are not followed, then it is theoretically possible to access the operating system and run or delete other programs while Tally is tabulating results. Under Election Advisory 2008-09, Section 5(f)(i-iii), issued by this office, users are required to: (1) restrict usage of the voting system to the sole purpose of election administration, and (2) restrict what software is loaded onto the voting system computer/server. In addition, Section 5(d)(i)(1-3) of the Advisory requires users to limit access to the systems through passwords and encryption keys, certain menus and software modules. Compliance with Election Advisory 2008-09 will ensure that this potential unauthorized access can be prevented and detected.

Second, examiners expressed concern that Version 6.2.1 does not have a secure OS configuration. To address this concern, the State of California required the Windows 2000 "Hardened" Operating System Security Setting be used.

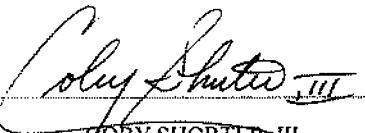
Accordingly, based on the generally positive findings of the examiners and examiner suggestions, certification of Hart InterCivic Voting System 6.2.1, is conditioned on a political subdivision employing the following procedures:

- 1) Two-person access for all Version 6.2.1 computers and servers is required: one person to log on to start the Windows 2000 OS and a second person to log on to start the specific application (e.g., BOSS, Tally, Ballot Now, eCM Manager).
- 2) A two person control team must be present any time the Tally application is open.
- 3) Version 6.2.1 Application Logs and Windows 2000 Audit Logs, which track user log-ons and log-on attempts, must be regularly reviewed by the local election officer. The Office of the Secretary of State may inspect these logs or may require the logs to be copied and mailed to this office.
- 4) Hart Windows 2000 "Hardened" Operating System Security Settings is required. Hart Windows 2000 "Hardened" Operating System Security Settings presents a table of Win2K system settings installed to achieve the "hardened" configuration. The format of the settings closely approximates that used in the applicable NIST checklist.
- 5) Each political subdivision which adopts Version 6.2.1 must file an initial written confirmation with the Office of the Secretary of State that they are in compliance with Condition Numbers 1 through 4, above, and subsequent to the initial confirmation filing, must file annual, updated confirmations.

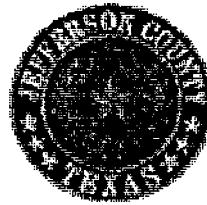
#### CONCLUSION

Accordingly, based upon the foregoing, I hereby certify the Hart InterCivic Voting System 6.2.1 for use in elections in Texas, subject to the above conditions.

Signed under my hand and seal of office, this 30<sup>th</sup> day of April, 2009.



Coby Shorter, III  
COBY SHORTER, III  
DEPUTY SECRETARY OF STATE

**AGENDA ITEM****December 22, 2014**

Consider, possibly approve and authorize the County Judge to execute a Master Agreement and Warranty, Support and License Agreement between Jefferson County and HartCivic, Inc. for purchase of the Hart Voting System.

**Fred Jackson**

---

**From:** Jeff Branick [jbranick@co.jefferson.tx.us]

**Sent:** Tuesday, December 16, 2014 9:33 AM

**To:** 'Fred Jackson'; 'Carolyn Guidry'; 'Theresa Goodness'

**Subject:** FW: Hart voting System

**Attachments:** Hart Voting System Master Agreement.pdf; Hart Voting System License Agreement.pdf; Jefferson Co Pricing Proposal 120914 December 2014 Purchase.pdf; Jefferson Co Pricing Proposal 120914 January 2015 Purchase.pdf; ESS Maintenance Bills.pdf

Fred --Please put this on next Monday's agenda.

Jeff Branick  
County Judge  
Jefferson County Courthouse  
1149 Pearl St.  
Beaumont, Texas 77701  
Phone: (409)835-8466  
Fax: (409)839-2311

---

**From:** Carolyn Guidry [mailto:guidry@co.jefferson.tx.us]

**Sent:** Monday, December 15, 2014 7:32 AM

**To:** Brent Weaver; Eddie Arnold ; Everette "Bo" Alfred ; Jeff Branick; Michael Sinegal

**Cc:** thegood@co.jefferson.tx.us

**Subject:** Hart voting System

Honorable Judge and Commissioners,

I am copying information I received in an email from the Hart representatives with the contracts which I have sent copies to Purchasing and for Legal. Also are the invoices for ES&S for the maintenance on our Voting System for the 2015-2016 period. Please contact me if there are any questions or any additional information you require.

Hart statement;

"As promised, attached please find the following information for your review:

1. Hart Voting System Master and License Agreements. These documents can be forwarded to whomever needs to review them in the County. Ken and I referenced these documents in the Workshop. They will both need to be signed by the County and Hart at the time of purchase approval.
2. December Pricing Offer, expiring December 31, 2014. We have increased our discount to include an ESS equipment buyback offer of \$75,536.60. Since ESS may not respond in a timely manner to your buyback request, Ken and I want to keep the purchase offer at the top of the Court's mind by including a buyback of your current equipment. The total discount offered for a December 2014 approval and document execution now totals \$267,356.60. This is a fantastic offer the Court should seriously consider. Since Hart's fiscal year ends in December we are able to offer a significant savings to incentivize the Court to move now.
3. January Pricing Offer, expiring January 16, 2015. The discount offered in this document is less than the December Pricing Offer and does not include an ESS equipment buyback. If the Court is unable to move forward with a purchase decision in 2014, the County will pay \$162,058.15 more than if the documents are executed in December 2014."

I spoke with Mark White with ES&S on Tuesday December 9, 2014 and he was checking the options of ESS buyback of the Voting System. As of this morning, he has not responded back.

Carolyn Guidry  
County Clerk



## HART VOTING SYSTEM

### MASTER AGREEMENT (SIGNATURE PAGE)

This Hart Voting System Master Agreement ("Agreement") is entered into by and between Hart InterCivic, Inc., a Texas corporation ("Hart"), and Jefferson County or City, ISD, Municipality, ESD, or other government entity ("Client"), a governmental subdivision of the State of Texas. This Agreement sets forth the terms under which Client will purchase from Hart the Hart Voting System ("HVS"). Defined terms used in this Agreement will have the meanings specified in Section 9, Definitions, or as otherwise set forth herein.

The following Schedules and Exhibits are attached to this Agreement and made a part hereof:

Schedule A	Hardware and Pricing and/or Customer Signed Quote
Schedule B	Hart Proprietary Software
Schedule C	Non-Hart Software
Exhibit A	Hart Voting System Warranty, License, and Support Agreement
Exhibit B	Client's Request for Proposal # _____
Exhibit C	Hart's Proposal

This Agreement is entered into as the result of negotiations between Client and Hart with respect to Client's Request for Proposal, a copy of which is attached as Exhibit B, and Hart's Proposal, a copy of which is attached as Exhibit C. Client's Request for Proposal and Hart's Proposal are incorporated herein by reference. If a conflict occurs between the terms of this Agreement (including the Schedules and Exhibit A), Client's Request for Proposal and Hart's Proposal, (a) the terms of this Agreement (including the Schedules and Exhibit A) will control over Client's Request for Proposal and Hart's Proposal and (b) the terms of Hart's Proposal will control over Client's Request for Proposal.

Client acknowledges it has read and understands this Agreement (including all Schedules and Exhibits) and is entering into this Agreement only on the basis of the terms set forth in this Agreement. There are no oral agreements, representations, or warranties. The Effective Date of this Agreement is December 31, 2014.

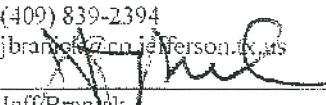
Agreed and Accepted:

#### Client

Name: Jefferson County, Texas  
Address: 1149 Pearl Street  
Beaumont, Texas 77701

#### Hart

Hart InterCivic, Inc.  
15500 Wells Port Drive  
Austin, Texas 78728  
Attn.: Phillip W. Braithwaite  
CEO

Primary Phone: (409) 835-8475  
Facsimile: (409) 839-2394  
E-mail: jbranek@co.jefferson.tx.us  
Executed By:   
Name: Jeff Branek  
Title: County Judge

800-223-4278  
800-831-1485  
pbraithwaite@hartic.com  
Phillip W. Braithwaite  
CEO

*This Agreement is effective until executed by both parties.*



In consideration for the agreements set forth herein, the parties agree as follows:

**1. Purchase of HVS Hardware and Equipment; License of Software:**

**1.1 Sale.** Hart agrees to sell and Client agrees to purchase the HVS Hardware, subject to the terms and conditions set forth in this Agreement.

**1.2 Licenses and Sublicenses.** Simultaneously upon entering into this Agreement, Hart and Client will enter into the Hart Voting System Warranty, License, and Support Agreement ("HVS License Agreement") in the form of Exhibit A, the terms of which are incorporated herein by reference. The License Agreement sets forth additional terms applicable to Client's ownership and use of the HVS Hardware and license of Hart Proprietary Software, including warranty, support of software and hardware, license of software, and other terms.

**1.3 Delivery and Installation.** Hart will cause the HVS Hardware with Software to be delivered to Client's premises on a date mutually agreed to by Hart and Client. A Hart representative may install the HVS Hardware containing the HVS Software at the Client's site on a mutually agreed upon date during Hart normal working hours, within ten (10) business days or as soon as is practicable for both Parties. Billing will occur on the date the HVS Hardware is shipped to the Client's site. If additional labor and rigging or Client-specified customization is required for installation due to Client's special site requirements, Client will pay those costs including costs to meet union or local law requirements.

(a) Hart may provide onsite and offsite project management, operational training, and Election Day support for the first election in which the Equipment and Software are used. Project management may include equipment administration, ballot programming, and support for logic and accuracy testing. Training may include administrative staff training on HVS Software and Equipment, and training for polling place officials. Professional Service days cannot be exchanged for HVS or third party equipment, software, License & Support or Maintenance fees. If the Professional Services offered under the terms of this contract are not used prior to 60 days after the date of the Client's first election in which any portion of the Equipment and Software are used, the Professional Services shall expire.

(b) Any additional training and/or professional services which may be identified and mutually agreed upon will be documented in a Service Order, including details regarding the type and location of the training and/or services and the cost for the additional training and/or services requested by the client. If agreed to and signed off in writing by Hart and Client, charges for the additional training and/or services will be invoiced to Client at Hart's then-current rates, plus travel, communication and other expenses.

**1.4 Training and Documentation.** Hart will provide to Client one (1) electronic copy of the standard user-level documentation for the Software and standard operational training for the HVS System installed at the Client's location before the first election for which the Software will be used. Hart will provide Client operational training and on-site support at the first election in which the Equipment and Software are used. Charges for additional training or support services will be invoiced to Client at Hart's then-current hourly rates, plus travel, communication, and other expenses. Any additional training or support services will be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

**1.5 User Documentation; Environmental Specifications.** Hart will provide to Client one (1) electronic copy of the applicable then-current user documentation and operator's manuals for the HVS Hardware and Software and, where applicable, environmental specifications for the Hardware. Client

shall not remove any trademark, copyright, or other proprietary or restrictive notices contained on any Hart user documentation, operator's manuals, and environmental specifications, and all copies will contain such notices as are on the original electronic media.

**1.6     Support.** Support will be provided as set forth in the HVS License Agreement.

**2.     Charges; Payments:**

**2.1     Total Purchase Price.** The Total Purchase Price is set forth in Schedule A and includes the purchase price for the Hardware, the Initial Annual Fee under the HVS License Agreement, state and local taxes (if applicable), and delivery and installation charges.

**2.2     Payments.** Client shall pay Hart the Purchase Price according to the following schedule:

1. Hart Hardware and Extended Hardware Warranty (if any) as per Schedule A – Billed Upon Shipment.
2. 3<sup>rd</sup> Party Hardware, HVS Software and 1<sup>st</sup> Year License/Support Fees (if any) - Billed Upon Shipment.
3. Professional Services – Billed Upon one or more of the following: first Election in which the Professional Services are used; receipt of Final Services Acceptance or the end of the first calendar year after receipt of Hart or 3<sup>rd</sup> Party Hardware or Software (but not later than sixty (60) days after the date of the Client's first election in which any portion of the Equipment and Software are used).

All payments are to be made to Hart at its principal office in Austin, Texas, as set forth on the Signature Page or to such other location as may be designated by Hart in a notice to Client.

**2.3     Late Charges.** If the Total Purchase Price is not paid in full within thirty (30) days after delivery of the Hardware and Software, Hart may charge Client interest on the unpaid balance until paid, at the lesser of (a) 1% per month or (b) the maximum rate allowed by law.

**2.4     Additional Charges.** Additional charges may apply to services rendered outside contracted hours or beyond normal coverage at Client's request, e.g., travel expenses, and premium and minimum charges. There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of other than Hart-recommended equipment purchased by the Client for use with the HVS. Any other additional charges must be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

**2.5     Payment Disputes.** If any dispute exists between the parties concerning the amount due or due date of any payment, Client shall promptly pay the undisputed portion. Such payment will not constitute a waiver by Client or Hart of any of their respective legal rights and remedies against each other.

**2.6     Taxes.** If Client is tax-exempt, Client will provide Hart with proof of its tax-exempt status. If Client is not tax-exempt, (a) Client will pay any tax Hart becomes obligated to pay in connection with this Agreement, exclusive of taxes based on the net income of Hart and (b) Client will pay all personal property and similar taxes assessed after shipment. If Client challenges the applicability of any such tax, Client shall pay the tax and may thereafter seek a refund.

**2.7     Suspension of Performance.** If any payment due to Hart under this Agreement is past due more than thirty (30) days, Hart may suspend performance under this Agreement until all amounts due are current.

### **3. Client Responsibilities:**

**3.1 Independent Determination.** Client acknowledges it has independently determined that the Hart Voting System purchased under this Agreement meets its requirements.

**3.2 Cooperation.** Client agrees to cooperate with Hart and promptly perform Client's responsibilities under this Agreement and the HVS License Agreement.

### **4. Title; Risk of Loss:**

**4.1 Hardware.** Subject to Section 4.3, title to Hardware will pass to Client upon delivery of the Equipment to Client. Risk of loss of, or damage to, Hardware will pass to Client upon delivery to Client.

**4.2 Confidential and Proprietary Information.** Title to Hart's Confidential and Proprietary Information will remain in Hart. Title to Confidential and Proprietary Information of Hart's suppliers and licensors will remain in the relevant suppliers and licensors.

**4.3 Proprietary Rights.** Client acknowledges and agrees that the design of the HVS, design of the HVS Hardware, Hart Proprietary Software, and any and all related patents, copyrights, trademarks, service marks, trade names, documents, logos, software, microcode, information, and material are the property of Hart. Client agrees that the sale of the HVS Hardware and license of Hart Proprietary Software and other accompanying items under this Agreement does not grant to or vest in Client any right, title, or interest in such proprietary property. All patents, trademarks, copyrights, trade secrets, and other intellectual property rights, whether now owned or acquired by Hart with respect to the HVS, HVS Hardware, and Hart Proprietary Software, are the sole and absolute property of Hart and no interest therein is being vested in Client by the execution of this Agreement or the sale of the HVS Hardware or license of the Hart Proprietary Software to Client. Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or de-compilation of any Software or Equipment. Client will have no authority or right to copy, reproduce, modify, sell, license, or otherwise transfer any rights in any proprietary property of Hart. The provisions of this Section 4.3 will survive the termination or cancellation of this Agreement and the HVS License Agreement.

### **5. Warranty Terms:**

THE WARRANTY TERMS APPLICABLE TO THE HART VOTING SYSTEM ARE SET FORTH IN THE HART VOTING SYSTEM WARRANTY, LICENSE, AND SUPPORT AGREEMENT. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES IN THE LICENSE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (A) THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE UNDER THIS AGREEMENT AND THE LICENSE AGREEMENT, AND (B) HART DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE AND NONINFRINGEMENT FOR ALL HARDWARE, SOFTWARE, AND SERVICES. THE EXPRESS WARRANTIES EXTEND SOLELY TO CLIENT. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT.

### **6. Limitation of Damages:**

6.1 EXCLUSIVE REMEDY. HART DOES NOT ACCEPT ANY LIABILITY FOR WARRANTIES BEYOND THE REMEDIES SET FORTH IN SECTION 1 OF THE LICENSE AGREEMENT. HART'S ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR ANY CLAIM CONCERNING THIS AGREEMENT AND THE HARDWARE, SOFTWARE, AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE SET FORTH IN THIS SECTION.

6.2 DISCLAIMER. CLIENT IS RESPONSIBLE FOR ASSURING AND MAINTAINING THE BACKUP OF ALL CLIENT DATA. UNDER NO CIRCUMSTANCES WILL HART BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR THE LOSS OF OR DAMAGE TO CLIENT DATA.

6.3 LIMITATION. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HART, HART'S LICENSORS, AND ANY PARTY INVOLVED IN THE CREATION, MANUFACTURE, OR DISTRIBUTION OF THE HARDWARE AND SOFTWARE AND THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT WILL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE HARDWARE, SOFTWARE, SERVICES, OR THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. IN ADDITION, HART'S TOTAL LIABILITY TO CLIENT FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THE HARDWARE, SOFTWARE, SERVICES, AND THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CLIENT TO HART UNDER THIS AGREEMENT. HART IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY CLIENT'S NEGLIGENCE OR INTENTIONAL ACTS OR FOR ANY CLAIM AGAINST CLIENT OR ANYONE ELSE BY ANY THIRD PARTY.

SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO CLIENT.

6.4 Referrals. Hart may direct Client to third parties having products or services that may be of interest to Client for use in conjunction with the Hardware and Software. Notwithstanding any Hart recommendation, referral, or introduction, Client will independently investigate and test non-Hart products and services and will have sole responsibility for determining suitability for use of non-Hart products and services. Hart has no liability with respect to claims relating to or arising from use of non-Hart products and services, including, without limitation, claims arising from failure of non-Hart products to provide proper time and date functionality.

## 7. Dispute Resolution:

7.1 Disputes and Demands. The parties will attempt to resolve any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), on a confidential basis according to the following process, which either party may start by delivering to the other party a written notice describing the dispute and the amount involved ("Demand").

7.2 Negotiation and Mediation. After receipt of a Demand, authorized representatives of the parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved after this meeting, either party may start mandatory nonbinding mediation under the commercial mediation rules of the American Arbitration Association ("AAA") or such other mediation process as is mutually acceptable to the parties.

**7.3 Injunctive Relief.** Notwithstanding the other provisions of this Section 7, if either party seeks injunctive relief, such relief may be sought in a court of competent jurisdiction without complying with the negotiation and mediation provisions of this Section 7.

**7.4 Time Limit.** Neither mediation under this section nor any legal action, regardless of its form, related to or arising out of this Agreement may be brought more than two (2) years after the cause of action first accrued.

## **8. General Provisions:**

**8.1 Entire Agreement.** This Agreement and the attachments, schedules, and exhibits hereto are the entire agreement and supersede all prior negotiations and oral agreements. Hart has made no representations or warranties with respect to this Agreement or the HVS and its components that are not included herein. This Agreement may not be amended or waived except in writing signed by an officer of the party to be bound thereby.

**8.2 Preprinted Forms.** The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Agreement will govern and the conflicting terms and conditions in the preprinted form will be void and of no effect. The terms and conditions of this Agreement, including, but not limited to, this Section 8.2, cannot be amended, modified, or altered by any conflicting preprinted terms or conditions in a preprinted form.

**8.3 Interpretation.** This Agreement will be construed according to its fair meaning and not for or against either party. Headings are for reference purposes only and are not to be used in construing the Agreement. All words and phrases in this Agreement are to be construed to include the singular or plural number and the masculine, feminine, or neuter gender as the context requires.

**8.4 GOVERNING LAW.** THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICT OF LAW PROVISIONS, UNLESS CLIENT IS A GOVERNMENTAL SUBDIVISION OF ANOTHER STATE, IN WHICH CASE THE LAWS OF THE STATE IN WHICH CLIENT IS A GOVERNMENTAL SUBDIVISION WILL CONTROL.

**8.5 Severability.** Whenever possible, each provision of this Agreement will be interpreted to be effective and valid under applicable law; but if any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof will be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, or unenforceable provision. If it is not possible to modify the provision to render it legal, valid, and enforceable, then the provision will be severed from the rest of the Agreement and ignored. The invalidity, illegality, or unenforceability of any provision will not affect the validity, legality, or enforceability of any other provision of this Agreement, which will remain valid and binding.

**8.6 Delays.** Hart is not responsible for failure to fulfill its obligations when due to causes beyond its reasonable control, including the failure of third parties to timely provide Software, Hardware, materials, or labor contemplated herein. Hart will notify Client in writing of any such delay, and the time for Hart's performance will be extended for a period corresponding to the delay. Hart and Client will determine alternative procedures to minimize delays.

**8.7 Force Majeure.** "Force Majeure" means a delay encountered by a party in the performance of its obligations under this Agreement that is caused by an event beyond the reasonable control of the party, but does not include any delays in the payment of monies due by either party. Without limiting the generality of the foregoing, "Force Majeure" will include, but is not restricted to, the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities (other than, with respect to Client's performance, the Client, and its governing entities); fires, floods, epidemics, or serious accidents; unusually severe weather conditions; and strikes, lockouts, or other labor disputes. If any event constituting Force Majeure occurs, the affected party shall notify the other party in writing, disclosing the estimated length of the delay and the cause of the delay. If a Force Majeure occurs, the affected party will not be deemed to have violated its obligations under this Agreement, and time for performance of any obligations of that party will be extended by a period of time necessary to overcome the effects of the Force Majeure.

**8.8 Compliance with Laws.** HVS Hardware and Software will meet the certification requirements in place on the effective date of the HVS Master Agreement. Client and Hart shall comply with all federal, state, and local laws in the performance of this Agreement, including those governing use of the Hardware and Software. Hardware and Software provided under this Agreement may be subject to U.S. and other government export control regulations. Client shall not export or re-export any Hardware or Software.

**8.9 Assignments.** Hart may assign this Agreement or its interest in any Hardware or Software, or may assign the right to receive payments, without Client's consent. Any such assignment, however, will not change the obligations of Hart to Client that are outstanding at the time of assignment. Client will be notified in writing if Hart makes an assignment of this Agreement. Client shall not assign this Agreement without the express written consent of Hart, such consent not to be unreasonably withheld. In the event of any permitted assignment of this Agreement, the assignee shall assume the liabilities and responsibilities of the assignor, in writing.

**8.10 Independent Contractors.** Client and Hart are independent contractors and are not agents or partners of each other. Hart's employees, agents, and subcontractors will not be entitled to any privileges or benefits of Client employment. Client's employees, agents, and contractors will not be entitled to any privileges or benefits of Hart employment.

**8.11 Notices.** Any notice required or permitted to be given under this Agreement by one party to the other must be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth on the Signature Page for the party to whom the notice is given, or on the fifth (5<sup>th</sup>) business day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the party's address set forth on the Signature Page. Each party may change its address for notice by giving written notice of the change to the other party.

**8.12 Trademarks.** eScan™, eSlate®, Judge's Booth Controller™, JBC™, Disabled Access Unit™, DAU™, Mobile Ballot Box™, Ballot Origination Software System™, BOSS™, Tally™, Rally™, FUSION™, and Ballot Now™ are trademarks of Hart.

## 9. Definitions:

"Acceptance Testing" means testing in accordance with Hart's standard Acceptance Testing Procedure.

*“Agreement”* has the meaning set forth in the Signature Page.

*“Annual Fee”* means the combined annual license, sublicense, and support fees payable by Client to Hart under the HVS Warranty, License, and Support Agreement.

*“Client”* has the meaning set forth in the Signature Page.

*“Confidential and Proprietary Information”* means Software, firmware, diagnostics, documentation (including operating manuals, user documentation, and environmental specifications), designs and configurations of Hardware, Software, and firmware, trade secrets and related documentation, and any other information confidential to Hart or its suppliers or licensors.

*“DAU™”* means the Disabled Access Unit (DAU™) created by Hart as an add-on component to an eSlate® that facilitates the performance of voting activities by disabled voters, for example, by providing an audio ballot presentation and/or accepting inputs from specialized switch mechanisms, such as head switches, breath switches, and panel switches that facilitate interaction with disabled voters, as needed.

*“Effective Date”* has the meaning set forth in the Signature Page and indicates the date this Agreement becomes effective.

*“Equipment”* means the HVS Hardware and Non-Hart Hardware listed on Schedule A.

*“eScan™”* means the eScan™ device created by Hart, consisting of a precinct digital ballot imaging device single-feed scanner that transports and scans both sides of a ballot simultaneously, and a base that provides for secure ballot storage and transport.

*“eSlate®”* means the eSlate® created by Hart and consisting of hardware including an electronically configurable, network-capable voting station that permits a voter to cast votes by direct interaction, which voting station in its present configuration created by Hart comprises an electronically configurable liquid crystal display (LCD) panel for use in displaying ballot images, a rotary input device for use in ballot navigation, and various buttons that facilitate voter options for selecting ballot choices and casting a ballot.

*“eSlate® Hardware”* means the eSlate®, JBC™, and DAU™ in the quantities listed on Schedule A.

*“Firmware”* means the Hart Proprietary Software embedded in eSlate® voting devices that allows execution of the software functions, but does not allow access to or modification of the software by an end user.

*“Force Majeure”* has the meaning set forth in Section 8.7.

*“Hart”* means Hart InterCivic, Inc., a Texas corporation.

*“Hart Proprietary Software”* means the run-time executable code and associated support files of the Ballot Origination Software System (BOSS™) Software, Tally™ Software, Rally™ Software, Ballot Now™ Software, computer code and software resident in the HVS Hardware, and other support software utilities as specified on Schedule B, consisting of computer programs and computer code owned by Hart that are licensed to Client pursuant to the Hart Voting System Warranty, License, and Support Agreement, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections,

improvements, rewrites, bug fixes, enhancements, and other modifications, including any custom modifications, to such computer programs and code that are provided to Client, and all copies of the foregoing. Hart Proprietary Software also includes all documentation provided by Hart to Client with respect to these computer programs and code, and all copies of the foregoing (electronic and hard copy).

*“Hart Voting System (HVS)”* means the HVS Hardware and the Software.

*“Hart Voting System Warranty, License, and Support Agreement”* means the Hart Voting System Warranty, License, and Support Agreement in the form of Exhibit A to be entered into by Hart and Client simultaneously upon entering into this Agreement. This Warranty covers only the HVS Hardware. Third-party equipment’s warranty is passed through to the Customer.

*“Initial Annual Fee”* means the first Annual Fee payable under the Hart Voting System Warranty, License, and Support Agreement, which is included in the Total Purchase Price.

*“Installation Date”* means, with respect to the Hart Voting System, the date Hart completes installation of the HVS with included Software.

*“JBC™”* means the Judge’s Booth Controller (JBC™) created by Hart that is a local area network controller capable of interacting with one or more eSlate® devices or DAU devices by transmitting and receiving signals that manage or control an election, e.g., by opening and closing the polls, providing or recording an audit trail of system events during an election, storing cast ballot data, and applying data security and integrity algorithms.

*“Non-Hart Hardware”* means the hardware listed on Schedule A that is not Hart’s HVS Hardware.

*“Non-Hart Software”* means the run-time executable code and associated support files of computer programs owned by third parties that are identified on Schedule C and sublicensed by Hart to Client pursuant to the Hart Voting System Warranty, License, and Support Agreement or licensed directly by the third-party licensor to Client, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications to such computer programs and code that are provided to Client, and all copies of the foregoing. Non-Hart Software also includes all documentation provided to Client with respect to these computer programs, and all copies of the foregoing.

*“Software”* means the Hart Proprietary Software and Firmware and Non-Hart Software.

*“Sublicensed Software”* means Non-Hart Software and Firmware that is identified on Schedule C as being sublicensed by Hart to Client pursuant to the Hart Voting System Warranty, License, and Support Agreement.

*“VBO™”* means the Verifiable Ballot Option unit used in conjunction with the eSlate® for a *Voter Verifiable Paper Audit Trail*.

*“Total Purchase Price”* is defined in Section 2.1.

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## SCHEDULE A

### HARDWARE AND PRICING

**Note:** This Schedule A specifically lists all hardware, software and services to be provided by Hart to the Customer under this Agreement. No other hardware, software, or services are included in this sale.

Tactile input switches are not included with the Disabled Access Unit. Tactile switches must be purchased as a separate item. Wheels are not included with the eSlate® Caddy. Wheels must be purchased as a separate item.

There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of *other than Hart-recommended hardware* purchased by the Client for use with the Hart Voting System.

The HVS System will be compliant with all certification requirements currently in place at the time the HVS System is purchased (the "Effective Date"). Software and Firmware will be upgraded as required for those Client's up-to-date on their Annual Fees. Required HVS Hardware changes mandated by rules, certification, or statutory changes will be assessed by Hart, the Client will be notified of the costs for those changes, and the Client will be required to pay for those HVS Hardware changes if they choose to have the changes completed.

Hart's training and project management obligations under this Agreement will end no later than sixty (60) days after the date of the Client's first election in which any portion of the Equipment and Software are used.

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## SCHEDULE B

HART PROPRIETARY SOFTWARE  
(if applicable)

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	INITIAL LICENSE FEE (including hardware)
One (1)	BOSS™, Tally™, Ballot Now™, SERVO™, and eCM Manager™.	Electronic Voting Software.	\$130,000.00	One (1)	\$65,030.00

Licensed Location: 1149 Pearl Street, Beaumont, Texas 77701.

**NOTE:** Hart and Client will update this Schedule as appropriate if Hart releases new Hart Proprietary Software that is made available to Client under the HVS Warranty, License, and Support Agreement.

*(The rest of this page has been intentionally left blank.)*

## SCHEDULE C

NON-HART SOFTWARE  
*(if applicable)*

Non-Hart Software Sublicensed to Client:

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	TOTAL PRICE
Five (5).	Sybase Embedded Runtime Program	Database software.	Included.	Five (5).	No Charge.

Licensed Location: 1149 Pearl Street, Beaumont, Texas 77701.

**NOTE:** Hart and Client will update this Schedule as appropriate if Hart provides new or different Non-Hart Software to Client under the HVS Warranty, License, and Support Agreement.

*(The rest of this page has been intentionally left blank.)*

**EXHIBIT A****Hart Voting System Warranty, License, and Support Agreement***(See Attached Agreement)*

**EXHIBIT B****Client's Request for Proposal  
(if applicable)***(See Attached Document*

**EXHIBIT C**

**Hart's Proposal**  
*(if applicable)*

*(See Attached Document)*



### HART VOTING SYSTEM

#### WARRANTY, SUPPORT AND LICENSE AGREEMENT (SIGNATURE PAGE)

This Hart Voting System (HVS) Warranty, Support, and License Agreement ("Agreement") is entered into by and between Hart InterCivic, Inc., a Texas corporation ("Hart"), and Jefferson County ("Client"), a governmental subdivision of the State of Texas. This Agreement is entered into in connection with a Hart Voting System Master Agreement dated December 31, 2014, between Hart and Client under which Client has purchased HVS Hardware. This Agreement sets forth terms between Hart and Client applicable to Client's ownership and use of the HVS Hardware and license from Hart of Hart Proprietary Software (including Firmware), including warranty, support, license, and other terms. Defined terms used in this Agreement will have the meanings specified in Section 13, Definitions, or as otherwise set forth herein.

The following Schedules are attached to this Agreement and made a part hereof:

Schedule A	Support Contact Information
Schedule B	Hart Proprietary Software
Schedule C	Non-Hart Software
Schedule D	Initial Annual Fee

Client acknowledges it has read and understands this Agreement (including all Schedules) and is entering into this Agreement only on the basis of the terms expressly set forth in this Agreement. There are no oral agreements, representations, or warranties. The Effective Date of this Agreement is December 31, 2014.

#### Agreed and Accepted:

##### Client

Name: Jefferson County, Texas  
 Address: 1149 Pearl Street  
 Beaumont, Texas 77701

Primary Phone: (409) 835-8475  
 Facsimile: (409) 839-2394  
 E-mail: jbsa@co.jefferson.tx.us

Executed By:  
 Name: Jeff Brantley  
 Title: County Judge

##### Hart

Hart InterCivic, Inc.  
 15500 Wells Port Drive  
 Austin, Texas 78728  
 Attn.: Phillip W. Braithwaite  
 CEO  
 800-223-4278  
 800-831-1485  
 pbraithwaite@hartic.com

Phillip W. Braithwaite  
 CEO

*This Agreement is not effective until executed by both parties.*



ATTEST *Carly L. Hendry*  
 DATE 12/30/14

Attest: *Carly L. Hendry*  
 Date 10/10/16

In consideration for the agreements set forth herein, the parties agree as follows:

## 1. WARRANTY TERMS

**1.1 HVS Hardware Limited Warranty.** Hart warrants that during the warranty period the HVS Hardware purchased by Client will be free from defects in materials and workmanship and will substantially conform to the performance specifications stated in the Hart Voting System Operator's Manuals for the HVS Hardware applicable at the time of the installation of the Hardware. The new hardware warranty period is three (3) years, other than the new VBO unit(s) and/or new eScan™ unit(s), which is one (1) year, beginning ten (10) days after the shipping date of the new HVS Hardware. The used and/or refurbished hardware warranty period is ninety (90) days, beginning ten (10) days after the shipping date of the used and/or refurbished HVS Hardware. Hart will, at Hart's sole discretion, replace or repair any HVS Hardware that does not comply with this warranty, at no additional charge to Client. To request warranty service, Client must contact Hart in writing within the warranty period. Hart may elect to conduct any repairs at Client's site, Hart's facility, or any other location specified by Hart. Any replacement HVS Hardware provided to Client under this warranty may be new or reconditioned. Hart may use new and reconditioned parts in performing warranty repairs and building replacement products. If Hart repairs or replaces HVS Hardware, its warranty period is not extended and will terminate upon the end of the warranty period of the replaced or repaired HVS Hardware. Hart owns all replaced HVS Hardware and all parts removed from repaired products. Client acknowledges and agrees that this warranty is contingent upon and subject to Client's proper use of the Hart Voting System and the Exclusions from Warranty and Support Coverage set forth in Section 1.3. This warranty does not cover any HVS Hardware that has had the original identification marks and/or numbers removed or altered in any manner. The remedies set forth in this Section are the full extent of Client's remedies and Hart's obligations regarding this warranty.

If the HVS Hardware is required to be reconfigured, modified, or otherwise changed after its sale to and installation at the Client's location due to the Client's or a local, state, or federal government certification change(s) or due to any statutory changes or new requirements, Hart will determine the feasibility and cost of the required changes and advise the Client of the total amount due for those HVS Hardware changes. Upon written approval to move forward with the changes and receipt from the Client of the stated fees, Hart will complete the required HVS Hardware changes to the Client's HVS Hardware.

**1.2 Hart Proprietary Software Limited Warranty.** Hart warrants that beginning ten (10) days after the shipping of the HVS Software and for rest of the term of this Agreement, the Hart Proprietary Software will perform substantially according to the then-current functional specifications described in the applicable software Operators' Manuals accompanying such Hart Proprietary Software. To request warranty service, Client must contact Hart in writing within the warranty period. Failure to conform to the warranty must be reported in writing and be accompanied with sufficient detail to enable Hart to reproduce the error and provide a remedy or suitable corrective action (a solution that will allow the software to function appropriately as certified). Hart will make commercially reasonable efforts to remedy or provide a suitable workaround for defects, errors, or malfunctions covered by this warranty that have a significant adverse affect upon operation of the Hart Proprietary Software. Because not all errors or defects can or need to be corrected, Hart does not warrant that all errors or defects will be corrected. Client acknowledges and agrees that this warranty is contingent upon and subject to Client's proper use of the Hart Voting System and the Exclusions from Warranty and Support Coverage set forth in Section 1.3. The remedies set forth in this Section 1.2 are the full extent of Client's remedies and Hart's obligations regarding this warranty.

**1.3 Exclusions from Warranty and Support Coverage.** The warranties under this Section 1 and Software Support under Section 2 do not cover defects, errors, or malfunctions that are caused by

any external causes, including, but not limited to, any of the following: (a) Client's failure to follow operational, support, or storage instructions as set forth in applicable documentation; (b) the use of noncompatible media, supplies, parts, or components; (c) modification or alteration of the HVS, or its components, by Client or third parties not authorized by Hart; (d) use of equipment or software not supplied or authorized by Hart; (e) external factors (including, without limitation, power failure, surges or electrical damage, fire or water damage, air conditioning failure, humidity control failure, or corrosive atmosphere harmful to electronic circuitry); (f) failure to maintain proper site specifications and environmental conditions; (g) negligence, accidents, abuse, neglect, misuse, or tampering; (h) improper or abnormal use or use under abnormal conditions; (i) use in a manner not authorized by this Agreement or use inconsistent with Hart's specifications and instructions; (j) use of software on Equipment that is not in good operating condition; (k) acts of Client, its agents, servants, employees, or any third party; (l) servicing or support not authorized by Hart; or (m) Force Majeure. Hart reserves the right to charge for repairs on a time-and-materials basis at Hart's then-prevailing rates, plus expenses, and for replacements at Hart's list prices caused by these exclusions from warranty and support coverage.

**1.4 Non-Hart Equipment and Non-Hart Software Excluded.** HART MAKES NO REPRESENTATIONS OR WARRANTIES AS TO NON-HART EQUIPMENT AND NON-HART SOFTWARE, IF ANY, PROVIDED BY HART TO CLIENT, ALL OF WHICH IS SOLD, LICENSED, OR SUBLICENSED TO CLIENT "AS IS." HART HAS NO RESPONSIBILITY OR LIABILITY FOR NON-HART EQUIPMENT AND NON-HART SOFTWARE, IF ANY, PROVIDED BY HART'S DISTRIBUTORS OR OTHER THIRD PARTIES TO CLIENT. If Hart sells, licenses, or sublicenses any Non-Hart Equipment or Non-Hart Software to Client, Hart will pass through to Client, on a nonexclusive basis and without recourse to Hart, any third-party manufacturer's warranties covering the equipment or software, but only to the extent, if any, permitted by the third-party manufacturer. Client agrees to look solely to the warranties and remedies, if any, provided by the manufacturer or third-party licensor.

**1.5 Disclaimer.** THE WARRANTIES IN THIS WARRANTY TERMS SECTION GIVE CLIENT SPECIFIC LEGAL RIGHTS, AND CLIENT MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). HART'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HVS HARDWARE AND HART PROPRIETARY SOFTWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS WARRANTY TERMS SECTION. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE EXPRESS LIMITED WARRANTIES IN SECTION 1 OF THIS AGREEMENT, (A) THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE UNDER THIS AGREEMENT OR IN CONNECTION WITH THE SALE OF HVS HARDWARE AND LICENSE OF HART PROPRIETARY SOFTWARE, AND (B) HART DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, AND NONINFRINGEMENT FOR ALL HARDWARE, SOFTWARE, AND SERVICES. THE EXPRESS WARRANTIES EXTEND SOLELY TO CLIENT. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT.

## 2. SOFTWARE SUPPORT SERVICES

**2.1 Description of Software Support Services.** Subject to the terms and conditions of this Agreement, Hart will provide Client the Software Support Services described below. Support Services under this Section 2 do not cover any of the exclusions from warranty and support coverage as described under Section 1.3. If Hart, in its discretion, provides Support Services in addition to the services

described under this Section 2, Client will pay Hart for such services on a time-and-materials basis at Hart's then-prevailing rates, plus expenses, and for replacements at Hart's list prices, unless otherwise agreed in writing by Hart and Client.

**2.1.1 General Software Support.** *General Software Support* will consist of assisting the Client in the design and production of elections, including pre-election and post-election testing and general operation of the HVS.

**2.1.2 Software Support Services.** Software Support Services will consist of periodic updates and any software "bug" corrections to Hart software. A software "bug" is any malfunction that prevents the Hart software from performing substantially as described in the then-current operator's manual for such software. Because not all errors or defects can or need to be corrected, Hart does not warrant that all errors or defects will be corrected. Hart reserves the right to determine whether any reported, claimed software malfunction is in fact a "bug." Software "bugs" must be reported in writing and be accompanied with sufficient detail to enable Hart staff to reproduce the error and provide a remedy or suitable corrective action. The exclusions from warranty coverage under Section 1.3 also are exclusions from Software Support Services under this Section 2.1.2.

**2.1.3 Engineering Services.** In any case where Hart software interfaces with a third party software system, including but not limited to, the Client's voter registration system, non-Hart election management system, early voting validation system, non-Hart election systems, absentee envelope management systems, or other like systems; Hart will not be responsible for proper operation of any Hart software that interfaces with the third party software should such third party software be upgraded, replaced, modified, or altered in any way. Hart will also not be responsible for the proper operation of any Hart software running on Client's computer equipment, should Client install a new computer operating system on said equipment without advising Hart of such changes and receiving Hart's written approval. Engineering services and associated costs may be required in those situations where the Client requests Hart's review and approval of any system changes outside the original system specifications at the time of the original acceptance date of this Agreement and the Hart Voting System Master Agreement. Hart will not be responsible for the proper operation of any Hart software that interfaces with third party software should such third party software be configured or operated in any manner contrary than that described in a Statement of Work (to be attached as a mutually agreed upon Schedule to this Agreement if engineering services are requested by the Client).

**2.1.4 Client Suggestions and Recommendations.** Client may propose, suggest, or recommend changes to the Software at any time in writing to Hart. Such proposals, suggestions, or recommendations will become Hart's property. Hart may include any such proposals, suggestions, or recommendations, solely at Hart's option, in subsequent periodic Software updates, without restriction or obligation, and any implementation thereof shall become Hart's property. Hart is under no obligation to change, alter, or otherwise revise the Software according to Client's proposals, suggestions, or recommendations.

**2.2 Software Support Services Contact Information.** Support contact information is set forth in Schedule A, Support Contact Information.

### 3. SOFTWARE LICENSES AND SUBLICENSES

**3.1 Licenses and Sublicenses.** Subject to the terms and conditions of this Agreement and for so long as Client has a current Warranty, License and Support agreement in effect with Hart with respect

to the HVS Hardware and the HVS Software, Hart grants to Client a personal, nonexclusive, nontransferable, and limited license to use the Hart Proprietary Software and a personal, nonexclusive, nontransferable, and limited sublicense to use the Sublicensed Software. Hart will provide Client, and Client will be permitted to use, only the run-time executable code and associated support files of the Software for Client's internal data processing requirements as part of the HVS Voting System. The Software may be used only in the United States at the Licensed Location specified on Schedule B on the hardware or other computer systems authorized by Hart in writing. Client may temporarily transfer the Software to a backup computer system at an alternative location within Client's county of operation if the Equipment or other authorized computer system is inoperative or the Licensed Location is temporarily unavailable, provided Client must promptly give Hart written notice of such temporary transfer, including a description of the backup computer system and the alternative location. Client's use of the Software will be limited to the number of licenses specified in Schedules B and C. Only Client and its authorized employees, agents or contractors may use or access the Software. Voters are also authorized to interact with the Software, in a manner consistent with user instructions, for the sole purpose of producing a Cast Vote Record during the course of an election. Client agrees that Hart, the licensors of Sublicensed Software, and their representatives may periodically inspect, conduct, and/or direct an independent accounting firm to conduct an audit, at mutually agreed-upon times during normal business hours, of the computer site, computer systems, HVS Hardware, and appropriate records of Client to verify Client's compliance with the terms of the licenses and sublicenses granted to Client.

**3.2 Delivery and Installation.** Hart may deliver the Software at the Client's site on a mutually agreed-upon date during Hart's normal working hours.

(a) Hart may provide onsite and offsite project management, operational training, and Election Day support for the first election in which the Equipment and Software are used unless otherwise specified in writing and mutually agreed upon by Hart and Client. Project management may include equipment administration, ballot programming, and support for logic and accuracy testing. Training may include administrative staff training on HVS Software and Equipment, and training for polling place officials. Professional Service days cannot be exchanged for HVS or third party equipment, software, License & Support or Maintenance fees. If the Professional Services offered under the terms of this contract are not used prior to 60 days after the date of the Client's first election in which any portion of the Equipment and Software are used, the Professional Services shall expire.

(b) Any additional training and/or professional services which may be identified and mutually agreed upon will be documented in a Service Order, including details regarding the type and location of the training and/or services and the cost for the additional training and/or services requested by the client. If agreed to and signed off in writing by Hart and Client, charges for the additional training and/or services will be invoiced to Client at Hart's then-current rates, plus travel, communication and other expenses.

**3.3 Training and Documentation.** Hart will provide standard user-level documentation in electronic form for the Software and standard operational training before the first election for which the Software will be used. Hart will provide Client operational training and on-site support at the first election in which the Hardware and Software are used unless otherwise specified in writing and mutually agreed upon by Hart and Client. Charges for additional training or support services will be invoiced to Client at Hart's then-current hourly rates, plus travel, communication, and other expenses. Any additional training or support services will be mutually agreed to by Hart and Client and documented in writing. Hart's training and documentation obligation under this IIVS Agreement ends no later than sixty (60) days after the date of the Client's first election in which any portion of the Equipment and

Software are used.

**3.4 Protection of Software.**

(a) The HVS Hardware and Hart Proprietary Software are designed to be used only with each other and the agreed-upon Non-Hart Software and Non-Hart Equipment. To protect the integrity and security of the HVS, without the express written consent of Hart, (i) Client shall use the Software and Hardware only in connection with the HVS; (ii) Client shall not install or use other software on or with the Hardware or Software or network the Hardware or Software with any other hardware, software, equipment, or computer systems; and (iii) Client shall not modify the Hardware or Software. If Client does not comply with any provisions of the preceding sentence, then (i) the Limited Warranties under Section 1 will automatically terminate; (ii) Hart may terminate its obligation to provide Support Services under Section 2; (iii) Hart will have no further installation obligations under Section 3.2 (Delivery and Installation), and (iv) Hart will have no further obligations under Section 3.3 (Training and Documentation). Furthermore, if Client uses the Software and Hardware in combination with other software and equipment (other software or equipment being those not provided by Hart or its designees), and the combination infringes Hart proprietary patent claims outside the scope of the software license granted to Client under Section 3, Hart reserves its rights to enforce its patents with respect to those claims.

(b) Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or decompilation of any Software. Client shall not use any Software for application development, modification, or customization purposes, except through Hart.

(c) Client shall not assign, transfer, sublicense, time-share, or rent the Software or use it for facility management or as a service bureau. This restriction does not preclude or restrict Client from contracting for election services for other local governments located within Client's jurisdictional boundaries. Client shall not modify, copy, or duplicate the Software; provided, during the term of the Software licenses and sublicenses. All copies of the Software, in whole or in part, must contain all of Hart's or the third-party licensor's titles, trademarks, copyright notices, and other restrictive and proprietary notices and legends (including government-restricted rights) as they appear on the copies of the Software provided to Client. Client shall notify Hart of the following: (i) the location of all Software and all copies thereof and (ii) any circumstances known to Client regarding any unauthorized possession or use of the Software.

(d) Upon termination of Client's license or sublicense of Software, Client shall immediately discontinue all use of the Software and return to Hart or destroy, at Hart's option, the Software (and all related documentation (electronic and hard copy) and Confidential and Proprietary Information) and all archival, backup, and other copies thereof, and provide certification to Hart of such return or destruction.

(e) Client shall not publish any results of benchmark tests run on any Software.

(f) Although the Hart Proprietary Software and Sublicensed Software are protected by copyright and/or patents, they may be unpublished, and constitute Confidential and Proprietary Information of Hart and the third-party licensor, respectively. Client shall maintain the Software in confidence and comply with the terms of Section 6, Protection of Confidential and Proprietary Information, with respect to the Software.

(g) This Section 3.4 will survive the termination or cancellation of this Agreement.

**3.5 No Transfer of Title.** This Agreement does not transfer to Client title to any Software, intellectual property contained in any Software, or Confidential and Proprietary Information. Title to Hart Proprietary Software and all copies thereof, and all associated intellectual property rights therein, will remain in Hart. Title to Non-Hart Software and all copies thereof, and all associated intellectual property rights therein, will remain in the applicable third-party licensor.

**3.6 Inherently Dangerous Applications.** The Software is not developed or licensed for use in any nuclear, aviation, mass transit, or medical application or in any other inherently dangerous applications. Client shall not use the Software in any inherently dangerous application and agrees that Hart and any third-party licensor will not be liable for any claims or damages arising from such use.

#### **4. ANNUAL FEE**

**4.1 Amount of Annual Fee.** The Annual Fee is a combined licensing, sublicensing, and support fee. Client will pay Hart an Annual Fee upon execution of this Agreement and annually thereafter before each Anniversary Date. The amount of the Initial Annual Fee, payable upon execution of this Agreement, is the amount specified as the "Initial Annual Fee" on Schedule D, Initial Annual Fee. Subsequent Annual Fees are due annually before each Anniversary Date of this Agreement. Hart may adjust the amount of the Annual Fee payable on each Anniversary Date by notifying Client of any price changes with the invoice in which the adjustment is made. Unless adjusted by Hart, each Annual Fee will be the same as the immediately preceding Annual Fee.

**4.2 Invoices.** Hart will invoice Client annually ninety (90) calendar days before the due date of the Annual Fee.

**4.3 Payments.** Client must pay each invoiced Annual Fee before the Anniversary Date immediately following the date of invoice. If Client elects not to or fails to timely pay an Annual Fee, this Agreement and the licenses, sublicenses, and software support services will automatically terminate on such Anniversary Date. All payments are to be made to Hart at its principal office in Austin, Texas, as set forth on the Signature Page or to such other location as may be designated by Hart in a notice to Client.

**4.4 Additional Charges.** Additional charges may apply to services rendered outside contracted hours or beyond normal coverage at Client's request, e.g., travel expenses, and premium and minimum charges. There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of other than Hart-recommended equipment purchased by the Client for use with the HVS. Any other additional charges must be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

**4.5 Payment Disputes.** If any dispute exists between the parties concerning the amount due or due date of any payment, Client shall promptly pay the undisputed portion. Such payment will not constitute a waiver by Client or Hart of any of their respective legal rights and remedies against each other.

**4.6 Taxes.** If Client is tax-exempt, Client will provide Hart with proof of its tax-exempt status. If Client is not tax-exempt, (a) Client will pay any tax Hart becomes obligated to pay in connection with this Agreement, exclusive of taxes based on the net income of Hart and (b) Client will pay all personal property and similar taxes assessed after shipment. If Client challenges the applicability of any such tax, Client shall pay the tax and may thereafter seek a refund. Client is responsible for all

applicable taxation.

**4.7 Suspension of Performance.** If any payment due to Hart under this Agreement is past due more than thirty (30) days, Hart may suspend performance under this Agreement until all amounts due are current.

## **5. CLIENT RESPONSIBILITIES**

**5.1 Independent Determination.** Client acknowledges it has independently determined that the HVS meets its requirements.

**5.2 Cooperation.** Client agrees to cooperate with Hart and promptly perform Client's responsibilities under this Agreement. Client will (a) provide adequate working and storage space for use by Hart personnel near Equipment; (b) provide Hart full access to the Equipment and Software and sufficient computer time, subject to Client's security rules; (c) follow Hart's procedures for placing hardware warranty or software support service requests and determining if warranty remedial service is required; (d) follow Hart's instructions for obtaining hardware and software support and warranty services; (e) provide a memory dump and additional data in machine-readable form if requested; (f) reproduce suspected errors or malfunctions in Software; (g) provide timely access to key Client personnel and timely respond to Hart's questions; and (h) otherwise cooperate with Hart in its performance under this Agreement.

**5.3 Site Preparation.** Client shall prepare and maintain the installation site in accordance with instructions provided by Hart. Client is responsible for environmental requirements, electrical interconnections, and modifications to facilities for proper installation, in accordance with Hart's specifications. Any delays in preparation of the installation site will correspondingly extend Hart's delivery and installation deadlines.

**5.4 Site Maintenance; Proper Storage.** Client shall maintain the appropriate operating environment, in accordance with Hart's specifications, for the Equipment and Software and all communications equipment, telephone lines, electric lines, cabling, modems, air conditioning, and all other equipment and utilities necessary for the Equipment and Software to operate properly. Client shall properly store the Equipment and Software when not in use.

**5.5 Use.** Client is exclusively responsible for supervising, managing, and controlling its use of the HVS, including, but not limited to, establishing operating procedures and audit controls, supervising its employees, making daily backups, inputting data, ensuring the accuracy and security of data input and data output, monitoring the accuracy of information obtained, and managing the use of information and data obtained. Client will ensure that its personnel are, at all times, educated and trained in the proper use and operation of the HVS and that the Equipment and Software are used in accordance with applicable manuals, instructions, and specifications. Client shall comply with all applicable laws, rules, and regulations with respect to its use of the HVS.

**5.6 Backups.** Client will maintain backup data necessary to replace critical Client data in the event of loss or damage to data from any cause.

## **6. PROTECTION OF CONFIDENTIAL AND PROPRIETARY INFORMATION**

**6.1 Confidentiality.** Client will keep in confidence and protect Confidential and Proprietary Information (electronic or hard copy) from disclosure to third parties and restrict its use to uses expressly permitted under this Agreement. Client shall take all reasonable steps to ensure that the trade secrets and proprietary data contained in the Hardware and Software and the other Confidential and Proprietary Information are not disclosed, copied, duplicated, misappropriated, or used in any manner not expressly permitted by the terms of this Agreement. Client shall keep the Software and all tapes, diskettes, CDs, and other physical embodiments of them, and all copies thereof, at a secure location and limit access to those employees who must have access to enable Client to use the Software. Client acknowledges that unauthorized disclosure of Confidential and Proprietary Information may cause substantial economic loss to Hart or its suppliers and licensors. Each permitted copy of Confidential and Proprietary Information, including its storage media, will be marked by Client to include all notices that appear on the original. Title, copyright, and all other proprietary rights in and to the Software at all times remains vested exclusively in Hart or, as applicable, third-party licensors.

**6.2 Return of Confidential and Proprietary Information.** Upon termination or cancellation of this Agreement or, if earlier, upon termination of Client's permitted access to or possession of Confidential and Proprietary Information, Client shall return to Hart all copies of the Confidential and Proprietary Information in Client's possession (including Confidential and Proprietary Information incorporated in software or writings, electronic and hard copies).

**6.3 Intellectual Properties.** All ideas, concepts, know-how, data processing techniques, documentation, diagrams, schematics, firmware, equipment architecture, software, improvements, bug fixes, upgrades, and trade secrets developed by Hart personnel (alone or jointly with others, including Client) in connection with Confidential and Proprietary Information, HVS® Hardware, and Hart Proprietary Software will be the exclusive property of Hart.

**6.4 Support Materials.** Client acknowledges that all support materials related to the HVS are the property of Hart and include Confidential and Proprietary Information of Hart. Client agrees that it will not permit anyone other than Hart installation and support personnel and authorized County employees, agents and contractors to use such materials.

**6.5 Client Employees, Agents and Contractors.** Client will inform its employees and other agents and contractors of their obligations under this Section 6 and shall be fully responsible for any breach thereof by such personnel.

**6.6 License Back.** If Client possesses or comes to possess a licensable or sublicensable interest in any issued patent with claims that read upon the HVS, its method of operation, or any component thereof, Client hereby grants and promises to grant a perpetual, irrevocable, royalty-free, paid-up license, with right to sublicense, of such interest to Hart permitting Hart to make, have made, use, and sell materials or services within the scope of the patent claims.

**6.7 Survival.** This Section 6 will survive termination or cancellation of this Agreement.

## **7. TITLE; RISK OF LOSS**

### **7.1 Software.**

(a) *Hart Proprietary Software:* Title to Hart Proprietary Software, all copies thereof, and all associated intellectual proprietary rights therein will remain in Hart including, but not

limited to, all patents, copyrights, trade secrets, trademarks, and other proprietary rights.

(b) *Non-Hart Software*: Title to Non-Hart Software, all copies thereof, and all associated intellectual proprietary rights therein will remain in the applicable third-party licensor including, but not limited to, all patents, copyrights, trade secrets, trademarks, and other proprietary rights.

(c) *Risk of Loss*: Risk of loss to Software will pass to Client upon delivery.

**7.2 Confidential and Proprietary Information.** Title to Hart's Confidential and Proprietary Information will remain in Hart. Title to Confidential and Proprietary Information of Hart's suppliers and licensors will remain in the relevant suppliers and licensors.

**7.3 Proprietary Rights.** Client acknowledges and agrees that the design of the Hart Voting System, design of the HVS Hardware, Hart Proprietary Software, and any and all related patents, copyrights, trademarks, service marks, trade names, documents, logos, software, microcode, information, and material, are the property of Hart. Client agrees that the sale of HVS Hardware and license of Hart Proprietary Software to Client does not grant to or vest in Client any right, title, or interest in such proprietary property. All patents, trademarks, copyrights, trade secrets, and other intellectual property rights, whether now owned or acquired by Hart with respect to the HVS, HVS Hardware, and Hart Proprietary Software, are the sole and absolute property of Hart and no interest therein is being vested in Client by the execution of this Agreement or the sale of the HVS Hardware or license of the Hart Proprietary Software to Client. Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or decompilation of any Software or Hardware. Client will have no authority or right to copy, reproduce, modify, sell, license, or otherwise transfer any rights in any proprietary property of Hart. The provisions of this Section 7.3 will survive the termination or cancellation of this Agreement.

## **8. TERM OF AGREEMENT; TERMINATION**

**8.1 Term.** The initial term of this Agreement and the licenses granted herein is one (1) year commencing on the Effective Date and expiring on the first Anniversary Date.

**8.2 Renewal Terms.** Except as otherwise provided in this Agreement, Client may renew this Agreement before its expiration or termination by paying the Annual Fee invoiced by Hart, as provided in Section 4.2, before the Anniversary Date immediately following the date of invoice, as provided in Section 4.3. Each renewal term will be a one-year (1-year) term, commencing on the expiration of the prior term and expiring on the immediately following Anniversary Date.

**8.3 Defaults.** The following events will be deemed to be defaults:

(a) A party committing a material breach of any term of this Agreement or the HVS Agreement if such breach has not been cured within thirty (30) days after written notice of such breach has been given by the nondefaulting party to the defaulting party;

(b) A party filing bankruptcy, becoming insolvent, or having its business placed in the hands of a receiver, assignee, or trustee, whether by voluntary act or otherwise; or

(c) A party failing to comply in any material respect with any federal, state, or local

laws applicable to a party's performance under this Agreement or the HVS Master Agreement.

**8.4 Termination.**

(a) This Agreement will automatically terminate at the end of its then-current term if Client has elected not to or has failed to timely make full payment to Hart of the invoiced Annual Fee required to renew the term, as provided in Sections 4.3 and 8.2.

(b) Hart may terminate Software Support Services under Section 2 on thirty (30) days prior written notice to Client if Hart determines that any alterations, attachments, or modifications not made by Hart or the failure to install a software or hardware release will interfere with the provision of support.

(c) A party may terminate this Agreement before expiration of its term for default by the other party. If default occurs, the parties will have all remedies provided in this Agreement and otherwise available by statute, law, or equity.

**8.5 Survival.** Section 1.1 will survive the termination or expiration of this Agreement until the end of the warranty period stated therein. Sections 3.4(b), 3.4(c), 3.4(d), 3.4(e), 3.4(f), 6, 7.3, 8.5, 9, 11, and 12 will survive the termination or expiration of this Agreement. Section 3.1 shall survive for so long as Client has a current Warranty, License, and Support agreement in effect with Hart with respect to the HVS Hardware and the HVS Software. Notwithstanding any language to the contrary in this Agreement or another agreement, all licenses to the Software shall terminate when Client ceases to have a current Warranty, License, and Support agreement in effect with Hart with respect to the HVS Hardware and the HVS Software.

**9. LIMITATION OF DAMAGES**

**9.1 EXCLUSIVE REMEDY.** HART DOES NOT ACCEPT ANY LIABILITY FOR WARRANTIES BEYOND THE REMEDIES SET FORTH IN SECTION 1. HART'S ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR ANY AND ALL CLAIMS CONCERNING THE HVS HARDWARE PROVIDED TO CLIENT BY HART OR ITS DISTRIBUTORS, THIS AGREEMENT, AND SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE SET FORTH IN THIS SECTION.

**9.2 DISCLAIMER.** CLIENT IS RESPONSIBLE FOR ASSURING AND MAINTAINING THE BACKUP OF ALL CLIENT DATA. UNDER NO CIRCUMSTANCES WILL HART BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR THE LOSS OF OR DAMAGE TO CLIENT DATA.

**9.3 LIMITATION.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HART, HART'S LICENSORS, AND ANY PARTY INVOLVED IN THE CREATION, MANUFACTURE, OR DISTRIBUTION OF THE HARDWARE, SOFTWARE, AND PERFORMANCE OF SERVICES UNDER THIS AGREEMENT WILL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE HARDWARE, SOFTWARE, SERVICES, OR THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH

DAMAGES ARE FORESEEABLE. IN ADDITION, HART'S TOTAL LIABILITY TO CLIENT FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THE HARDWARE, SOFTWARE, SERVICES, AND THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CLIENT TO HART UNDER THIS AGREEMENT. HART IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY CLIENT'S NEGLIGENCE OR INTENTIONAL ACTS OR FOR ANY CLAIM AGAINST CLIENT OR ANYONE ELSE BY ANY THIRD PARTY.

SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO CLIENT.

**9.4 Referrals.** Hart may direct Client to third parties having products or services that may be of interest to Client for use in conjunction with the Equipment and Software. Notwithstanding any Hart recommendation, referral, or introduction, Client will independently investigate and test non-Hart products and services and will have sole responsibility for determining suitability for use of non-Hart products and services. Hart has no liability with respect to claims relating to or arising from use of non-Hart products and services, including, without limitation, claims arising from failure of non-Hart products to provide proper time and date functionality.

## **10. INFRINGEMENT INDEMNITY**

**10.1 Indemnity.** Hart, at its own expense, will defend and indemnify Client against claims that the HVS Hardware or Hart Proprietary Software infringe a United States patent, copyright, or misappropriate trade secrets protected under United States law, provided Client (a) gives Hart prompt written notice of such claims; (b) permits Hart to control the defense and settlement of the claims; and (c) provides all reasonable assistance to Hart in defending or settling the claims.

**10.2 Remedies.** As to HVS Hardware or Hart Proprietary Software that is subject to a claim of infringement or misappropriation, Hart may (a) obtain the right of continued use of the HVS Hardware or Hart Proprietary Software for Client or (b) replace or modify the HVS Hardware or Hart Proprietary Software to avoid the claim. If neither alternative is available on commercially reasonable terms, then, at the request of Hart, any applicable Software license and its charges will end, Client will cease using the applicable HVS Hardware and Hart Proprietary Software, Client will return to Hart all applicable HVS Hardware and return or destroy all copies of the applicable Hart Proprietary Software, and Client will certify in writing to Hart that such return or destruction has been completed. Upon return or Hart's receipt of certification of destruction, Hart will give Client a credit for the price paid to Hart for the returned or destroyed HVS Hardware and Hart Proprietary Software, less a reasonable offset for use and obsolescence.

**10.3 Exclusions.** Hart will not defend or indemnify Client if any claim of infringement or misappropriation (a) is asserted by an affiliate of Client; (b) results from Client's design or alteration of any HVS Hardware or Hart Proprietary Software; (c) results from use of any HVS Hardware or Hart Proprietary Software in combination with any non-Hart product, except to the extent, if any, that such use in combination is restricted to the HVS designed by Hart; (d) relates to Non-Hart Software or Non-Hart Equipment alone; or (e) arises from Client-specified customization work undertaken by Hart or its designees in response to changes in Hart Proprietary Software or Non-Hart Software that are made in response to Client specifications.

**10.4 EXCLUSIVE REMEDIES.** THIS SECTION 10 STATES THE ENTIRE LIABILITY

OF HART AND CLIENT'S SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT AND TRADE SECRET MISAPPROPRIATION.

## 11. DISPUTE RESOLUTION

**11.1 Disputes and Demands.** The parties will attempt to resolve any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), on a confidential basis according to the following process, which either party may start by delivering to the other party a written notice describing the dispute and the amount involved ("Demand").

**11.2 Negotiation and Mediation.** After receipt of a Demand, authorized representatives of the parties will meet at a mutually agreed-upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved after this meeting, either party may start mandatory nonbinding mediation under the commercial mediation rules of the American Arbitration Association ("AAA") or such other mediation process as is mutually acceptable to the parties.

**11.3 Injunctive Relief.** Notwithstanding the other provisions of this Section 11, if either party seeks injunctive relief, such relief may be sought in a court of competent jurisdiction without complying with the negotiation and mediation provisions of this Section 11.

**11.4 Time Limit.** Neither mediation under this section nor any legal action, regardless of its form, related to or arising out of this Agreement may be brought more than two (2) years after the cause of action first accrued.

## 12. GENERAL PROVISIONS

**12.1 Entire Agreement.** This Agreement and the attachments, schedules, and exhibits hereto are the entire agreement and supersede all prior negotiations and oral agreements. Hart has made no representations or warranties with respect to this Agreement or the HVS and its components that are not included herein. Client acknowledges and agrees that Hart has no responsibility or liability under the HVS Master Agreement except to the extent, if any, that Hart is a party to the HVS Master Agreement. This Agreement may not be amended or waived except in writing signed by an officer of the party to be bound thereby.

**12.2 Preprinted Forms.** The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Agreement will govern and the conflicting terms and conditions in the preprinted form will be void and of no effect. The terms and conditions of this Agreement, including, but not limited to, this Section 12.2, cannot be amended, modified, or altered by any conflicting preprinted terms or conditions in a preprinted form.

**12.3 Interpretation.** This Agreement will be construed according to its fair meaning and not for or against either party. Headings are for reference purposes only and are not to be used in construing the Agreement. All words and phrases in this Agreement are to be construed to include the singular or plural number and the masculine, feminine, or neuter gender as the context requires.

**12.4 GOVERNING LAW.** THIS AGREEMENT WILL BE GOVERNED BY THE LAWS

OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICT OF LAWS PROVISIONS, UNLESS CLIENT IS A GOVERNMENTAL SUBDIVISION OF ANOTHER STATE, IN WHICH CASE THE LAWS OF THE STATE IN WHICH CLIENT IS A GOVERNMENTAL SUBDIVISION WILL CONTROL.

**12.5 Severability.** Whenever possible, each provision of this Agreement will be interpreted to be effective and valid under applicable law; but if any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof will be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, or unenforceable provision. If it is not possible to modify the provision to render it legal, valid, and enforceable, then the provision will be severed from the rest of the Agreement and ignored. The invalidity, illegality, or unenforceability of any provision will not affect the validity, legality, or enforceability of any other provision of this Agreement, which will remain valid and binding.

**12.6 Delays.** Hart is not responsible for failure to fulfill its obligations when due to causes beyond its reasonable control, including the failure of third parties to timely provide Software, Equipment, materials, or labor contemplated herein. Hart will notify Client in writing of any such delay, and the time for Hart's performance will be extended for a period corresponding to the delay. Hart and Client will determine alternative procedures to minimize delays.

**12.7 Force Majeure.** "Force Majeure" means a delay encountered by a party in the performance of its obligations under this Agreement that is caused by an event beyond the reasonable control of the party, but does not include any delays in the payment of monies due by either party. Without limiting the generality of the foregoing, "Force Majeure" will include, but is not restricted to, the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities (other than, with respect to Client's performance, the Client, and its governing entities); fires, floods, epidemics, or serious accidents; unusually severe weather conditions; and strikes, lockouts, or other labor disputes. If any event constituting Force Majeure occurs, the affected party shall notify the other party in writing, disclosing the estimated length of the delay and the cause of the delay. If a Force Majeure occurs, the affected party will not be deemed to have violated its obligations under this Agreement, and time for performance of any obligations of that party will be extended by a period of time necessary to overcome the effects of the Force Majeure.

**12.8 Compliance with Laws.** HVS Hardware and Software will meet the certification requirements in place on the effective date of the HVS Master Agreement. Client and Hart shall comply with all federal, state, and local laws in the performance of this Agreement, including those governing use of the Hardware and Software. Hardware and Software provided under this Agreement may be subject to U.S. and other government export control regulations. Client shall not export or re-export any Hardware or Software.

**12.9 Assignments.** Hart may assign this Agreement or its interest in any Hardware or Software, or may assign the right to receive payments, without Client's consent. Any such assignment, however, will not change the obligations of Hart to Client that are outstanding at the time of assignment. Client will be notified in writing if Hart makes an assignment of this Agreement. Client shall not assign this HVS Agreement without the express written consent of Hart, such consent not to be unreasonably withheld. In the event of any permitted assignment of this Agreement, the assignee shall assume the liabilities and responsibilities of the assignor, in writing.

**12.10 Independent Contractors.** Client and Hart are independent contractors and are not agents

or partners of each other. Hart's employees, agents, and subcontractors will not be entitled to any privileges or benefits of Client employment. Client's employees, agents, and contractors will not be entitled to any privileges or benefits of Hart employment.

**12.11 Notices.** Any notice required or permitted to be given under this Agreement by one party to the other must be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth on the Signature Page for the party to whom the notice is given, or on the fifth business day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at their address set forth on the Signature Page. Each party may change its address for notice by giving written notice of the change to the other party.

**12.12 Trademarks.** eScan™, eSlate®, Judge's Booth Controller™, JBC™, Disabled Access Unit™, DAU™, Mobile Ballot Box™, Ballot Origination Software System™, BOSS™, Tally™, Rally™, FUSION™, and Ballot Now™ are trademarks of Hart.

### 13. DEFINITIONS

“*Agreement*” has the meaning set forth on the Signature Page.

“*Anniversary Date*” means each anniversary of the Effective Date.

“*Annual Fee*” means the combined annual license, sublicense, and support fees payable by Client to Hart as described in Section 4.

“*Client*” has the meaning set forth on the Signature Page.

“*Confidential and Proprietary Information*” means Software, firmware, diagnostics, documentation (including operating manuals, user documentation, and environmental specifications), designs and configurations of Equipment, Software and firmware, trade secrets and related documentation, and any other information confidential to Hart or its suppliers or licensors.

“*DAU™*” means the Disabled Access Unit (DAU™) created by Hart as an add-on component to an eSlate® that facilitates the performance of voting activities by disabled voters, for example, by providing an audio ballot presentation and/or accepting inputs from specialized switch mechanisms, such as head switches, breath switches, and panel switches that facilitate interaction with disabled voters, as needed.

“*Effective Date*” has the meaning set forth in the Signature Page and indicates the date this Agreement becomes effective.

“*Equipment*” means the HVS Hardware and Non-Hart Equipment.

“*eScan™*” means the eScan™ device created by Hart, consisting of a precinct digital ballot imaging device single-feed scanner that transports and scans both sides of a ballot simultaneously, and a base that provides for secure ballot storage and transport.

“*eSlate®*” means the eSlate® created by Hart and consisting of hardware including an electronically configurable, network-capable voting station that permits a voter to cast votes by direct

interaction, which voting station in its present configuration created by Hart comprises an electronically configurable liquid crystal display (LCD) panel for use in displaying ballot images, a rotary input device for use in ballot navigation, and various buttons that facilitate voter options for selecting ballot choices and casting a ballot.

*“Firmware”* means the Hart Proprietary Software embedded in eSlate® voting devices that allows execution of the software functions, but does not allow access to or modification of the software by an end user.

*“Force Majeure”* has the meaning set forth in Section 12.7.

*“Hart”* means Hart InterCivic, Inc., a Texas corporation.

*“Hart Proprietary Software”* means the run-time executable code and associated support files of the Ballot Origination Software System (BOSS™) Software, Tally™ Software, Rally™ Software, Ballot Now™ Software, computer code, and software resident in the HVS Hardware and other support software utilities as specified on Schedule B, consisting of computer programs and computer code owned by Hart that are licensed to Client pursuant to this Agreement, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications, including any custom modifications, to such computer programs and code that are provided to Client, and all copies of the foregoing. Hart Proprietary Software also includes all documentation provided by Hart to Client with respect to these computer programs and code and all copies of the foregoing.

*“Hart Voting System (HVS)”* means the HVS Hardware and the Software.

*“Hart Voting System Master Agreement”* means the agreement, between Client and Hart or Hart’s authorized distributor of HVS Hardware, under which Client has purchased the HVS Hardware and limited HVS Software licenses. The HVS Master Agreement is identified on the Signature Page.

*“HVS”* means the Hart Voting System.

*“HVS Hardware”* means the eSlate® units, JBC™ units, and DAU™ units purchased by Client pursuant to the Hart Voting System Master Agreement and any other associated written agreements.

*“Initial Annual Fee”* means the first Annual Fee, in the amount specified as the “Initial Annual Fee” on Schedule D, which is payable upon execution of this Agreement.

*“Installation Date”* means, with respect to the Hart Voting System, the date Hart completes installation of the HVS with included Software.

*“JBC™”* means the Judge’s Booth Controller (JBC™) created by Hart that is a local area network controller capable of interacting with one or more eSlate® devices or DAU devices by transmitting and receiving signals that manage or control an election, e.g., by opening and closing the polls, providing or recording an audit trail of system events during an election, storing cast ballot data, and applying data security and integrity algorithms.

*“Non-Hart Equipment”* means the equipment, if any, not consisting of HVS Hardware that was sold to Client by Hart or Hart’s distributor for use with, and in connection with the sale of, the HVS Hardware.

***"Non-Hart Software"*** means the run-time executable code and associated support files of computer programs owned by third parties that are identified on Schedule C and sublicensed by Hart to Client pursuant to this Agreement or licensed directly by the third-party licensor to Client, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications to such computer programs and code that are provided to Client, and all copies of the foregoing. Non-Hart Software also includes all documentation provided to Client with respect to these computer programs, and all copies of the foregoing.

***"Software"*** means the Hart Proprietary Software and Firmware, and Non-Hart Software.

***"Sublicensed Software"*** means Non-Hart Software that is identified on Schedule C as being sublicensed by Hart to Client pursuant to this Agreement.

***"VBO™"*** means the Verifiable Ballot Option unit used in conjunction with the eSlate® for a *Voter Verifiable Paper Audit Trail*.

*(The rest of this page is intentionally left blank.)*

**SCHEDULE A****SUPPORT CONTACT INFORMATION**

The following contact information is to be used by Client for submitting Support requests to Hart InterCivic, Inc.:

Client Support Center:	1-866-275-4278 (1-866-ASK-HART)
Client Support Center Fax:	1-512-252-6925 or 1-800-831-1485
E-mail Address:	<a href="mailto:hartsupport@hartic.com">hartsupport@hartic.com</a>
Team Track:	<a href="https://hartsupporthartic.com">https://hartsupporthartic.com</a>
Hart InterCivic, Inc. Switchboard:	1-800-223-HART (4278)
Client Support Manager:	

The following contact information is to be used by Hart for contacting Client on Software Support Service requests:

Primary Client Contact Point ("CCP"):	Carolyn Guidry
First Alternate CCP:	Theresa Goodness

*The rest of this page intentionally left blank.*

## SCHEDULE B

HART PROPRIETARY SOFTWARE  
(if applicable)

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	INITIAL LICENSE FEE (including hardware)
One (1)	BOSS™, Tally™, Ballot Now™, SERVO™, and eCM Manager™.	Electronic Voting Software.	\$130,000.00	One (1)	\$65,030.00

Licensed Location: 1149 Pearl Street, Beaumont, Texas 77701.

**NOTE:** Hart and Client will update this Schedule as appropriate if Hart releases new Hart Proprietary Software that is made available to Client under the HVS Warranty, License, and Support Agreement.

*(The rest of this page intentionally left blank.)*

**SCHEDULE C****NON-HART SOFTWARE**  
*(If applicable)*

Non-Hart Software Sublicensed to Client:

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	TOTAL PRICE
Five (5).	Sybase Embedded Runtime Program	Database software.	Included.	Five (5).	No Charge.

Licensed Location: 1149 Pearl Street, Beaumont, Texas 77701.

**NOTE:** Hart and Client will update this Schedule as appropriate if Hart provides new or different Non-Hart Software to Client under this HVS Warranty, License, and Support Agreement.

*(The rest of this page intentionally left blank.)*

**SCHEDULE D****INITIAL ANNUAL FEE**

Initial Annual Fee: \$65,030.00

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## Hart Voting Systems Jefferson Pricing Proposal

**1****Hart Voting Systems Pricing Quotes****2****Hart Voting Systems Leasing Quotes (5 Year Term)**





**Hart Voting Systems  
Leasing Quote  
Jefferson County, TX  
Leasing Summary**

2

**Lessee:** Jefferson County, TX

**Lease Structure:** Five (5) annual lease payments in arrears with purchase option

**Equipment Lease Amount:** \$1,707,363.40 Hart Voting Systems

**Interest Rate:** 2.720%

**Estimated Lease Payment Dates (Assume Deal Executed 12/31/14) \***

1st Payment	12/31/2015	\$369,835.22
2nd Payment	12/31/2016	\$369,835.22
3rd Payment	12/31/2017	\$369,835.22
4th Payment	12/31/2018	\$369,835.22
5th Payment	12/31/2019	\$369,835.22

\* Final Payment amounts and schedule to be determined by Lessor after credit approval.



**MEMORANDUM**

To: Jefferson County, Texas  
 From: Phillip W. Braithwaite, CEO  
 Date: November 18, 2014  
 Re: Proposal for Implementation of Hart Voting System

Pursuant to our conversation regarding the potential acquisition of a Hart Voting System by the County, I am pleased to offer you the following proposal.

- County to acquire the eSlate® voting system via Buy Board.
- County to lease the purchase price of the eSlate voting system via a partnership of Hart and Leasing Company (subject to their credit approval)

In the future, if the County elects to procure Hart's Verity™ system, then the County may elect to terminate its eSlate Voting System lease after the third annual lease payment is made. Should it choose this option, the County will return its used eSlate voting equipment to Hart, and Hart will provide the funds required to settle the remaining lease obligation.



**Election Systems & Software**  
 6055 Paysphere Circle  
 Chicago, IL 60674  
 (877) 377-8683

INVOICE NO.	PAGE
909085	1
INVOICE DATE	10/06/14

**BILL TO:** Jefferson County, Texas  
 County Clerks Office  
 1149 Pearl St

Beaumont, TX 77704-3638

**SHIP TO:** Jefferson County, Texas  
 County Clerks Office  
 1149 Pearl St

Beaumont, TX 77704-3638

ACCOUNT NO.	CUSTOMER P.O. NUMBER	TERMS		ORDER NO.	SALES REP.	
QTY. ORDERED	DESCRIPTION			UNIT PRICE	UOM DISC. %	EXTENDED PRICE
110164	HMA/FMA 2015-2015	NET 90 DA	991781	2861	ES&S DEL	

Coverage Date 01/01/15-12/31/15  
 Election Ref: NA

30.00	Bronze HDW Mtc-IVO	56.000000 EA	1,680.00
425.00	Bronze HDW Mtc-IVO	57.120000 EA	24,276.00
1.00	Firmware Usage Agrmt-650	353.940000 EA	353.94
30.00	Firmware Usage Agrmt-iVotronic	30.000000 EA	900.00
425.00	Firmware Usage Agrmt-iVotronic	31.620000 EA	13,438.50
1.00	Gold-HDW Mtc/Support-650	2705.040000 EA	2,705.04

0	USD	.00
		.00
		.00

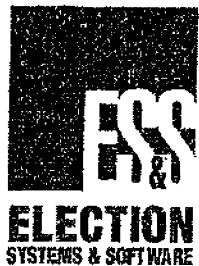
FREIGHT DISCOUNT	.00
SHIPPING & HANDLING	.00
<b>TOTAL</b>	<b>43,353.48</b>
	USD

INVOICE NO.	ACCOUNT NO.	AMOUNT
909085	110164	43,353.48 USD

Election Systems & Software  
 (877) 377-8683

PLEASE DETACH AND RETURN THIS STUB WITH YOUR PAYMENT.  
 THANK YOU!

TX TX1



**Election Systems & Software**  
 6055 Paysphere Circle  
 Chicago, IL 60674  
 (877) 377-8683

INVOICE NO.	PAGE
917467	1
INVOICE DATE	
12/04/14	

**BILL TO:** Jefferson County, Texas  
 County Clerks Office  
 1149 Pearl St

Beaumont, TX 77704-3638

**SHIP TO:** Jefferson County, Texas  
 County Clerks Office  
 1149 Pearl St

Beaumont, TX 77704-3638

ACCOUNT NO.	CUSTOMER/PO NUMBER	TERMS	ORDER NO.	SALES REP.	SHIP VIA
110164	SMA 2015-2016	NET 90 DA	1002301	2861	FS&S DEL
QTY ORDERED	DESCRIPTION		UNIT PRICE	UOM DISC %	EXTENDED PRICE

Coverage Date 02/28/15-02/28/16

Election Ref: NA

1.00	Sftw Maint Agrmt-Unity EDM Election Data Manager	2690.630000 EA	2,690.63
1.00	Sftwr Maint Agrmt-BOD Ballot on Demand	1076.250000 EA	1,076.25
1.00	Sftwr Maint Agrmt-Unity BIM Ballot Image Manager	2152.500000 EA	2,152.50
1.00	Sftwr Maint Agrmt-Unity ERM Election Reporting Manager	1722.000000 EA	1,722.00
1.00	Sftwr Maint Agrmt-Unity HPM Hardware Programming Manager	10762.500000 EA	10,762.50
1.00	Sftwr Maint Agrmt-Unity IVIM Ivotronic Image Manager	2587.730000 EA	2,587.73

0	CSD	.00
		.00
		.00

FREIGHT DISCOUNT	.00
SHIPPING & HANDLING	.00
TOTAL	20,991.61
	USD

INVOICE NO.	ACCOUNT NO.	AMOUNT
917467	110164	20,991.61 USD

Election Systems & Software

ABA Routing No: 071000039  
 Account No: 5800923556

PLEASE DETACH AND RETURN THIS STUB WITH YOUR PAYMENT.  
 THANK YOU!

TX TX1

**AGENDA ITEM****October 24, 2016**

Consider and possibly approve an Order to designate a Reinvestment Zone for GT Logistics pursuant to Sec.312.401, Texas Tax Code.

STATE OF TEXAS § IN THE COMMISSIONERS COURT  
COUNTY OF JEFFERSON § OF JEFFERSON COUNTY, TEXAS

AN ORDER OF THE COMMISSIONERS COURT OF JEFFERSON  
COUNTY, TEXAS DESIGNATING A REINVESTMENT ZONE  
PURSUANT TO SEC 312. 401 OF THE TAX CODE  
(THE PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT)

BE IT REMEMBERED at a meeting of Commissioners Court of Jefferson County, Texas, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 on motion made by \_\_\_\_\_, Commissioner of Precinct No \_\_\_\_, and seconded by \_\_\_\_\_, Commissioner of Precinct No \_\_\_\_, the following Order was adopted

WHEREAS, the Commissioners Court of Jefferson County, Texas desires to create the proper economic and social environment to induce the Investment of private resources in productive business enterprises located in the county and to provide employment to residents of the area; and,

WHEREAS, it is in the best interest of the County to designate the GT Logistics facility in the Port Arthur, TX ETJ a reinvestment zone, pursuant to Sec. 312. 401, Tax Code (The Property Redevelopment and Tax Abatement Act)

IT IS THEREFORE ORDERED BY THE COMMISSIONERS COURT OF JEFFERSON COUNTY, TEXAS

- Section 1. That the Commissioners Court hereby designates the property, (GT Logistics Project Gateway, 1998 Hwy 73, Port Arthur, TX 77640(mailing purposes only), Jefferson County, Texas, further described in the legal description attached hereto as Exhibit "A", and made apart hereof for all purposes, as a Reinvestment Zone (the "Zone")
- Section 2. That the Commissioners Court finds that the Zone area meets the qualifications of the Texas Redevelopment and Tax Abatement Act (hereinafter referred to as the "Act".)
- Section 3. That the Commissioners Court has heretofore adopted Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones in Jefferson County, Texas
- Section 4. That the Commissioners Court held a public hearing to consider this Order on the 24<sup>th</sup> day October, 2016.

Section 5. The Commissioners Court finds that such improvements are feasible and will benefit the Zone after the expiration of the agreement

Section 6. The Commissioners Court finds that creation of the Zone is likely to contribute to the retention or expansion of primary employment in the area and/or would contribute to attract major investments that would be a benefit to the property and that would contribute to the economic development of the community

Section 7. That this Order shall take effect from and after its passage as the law in such cases provides.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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JEFF R. BRANICK  
County Judge

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COMMISSIONER EDDIE ARNOLD  
Precinct No. 1

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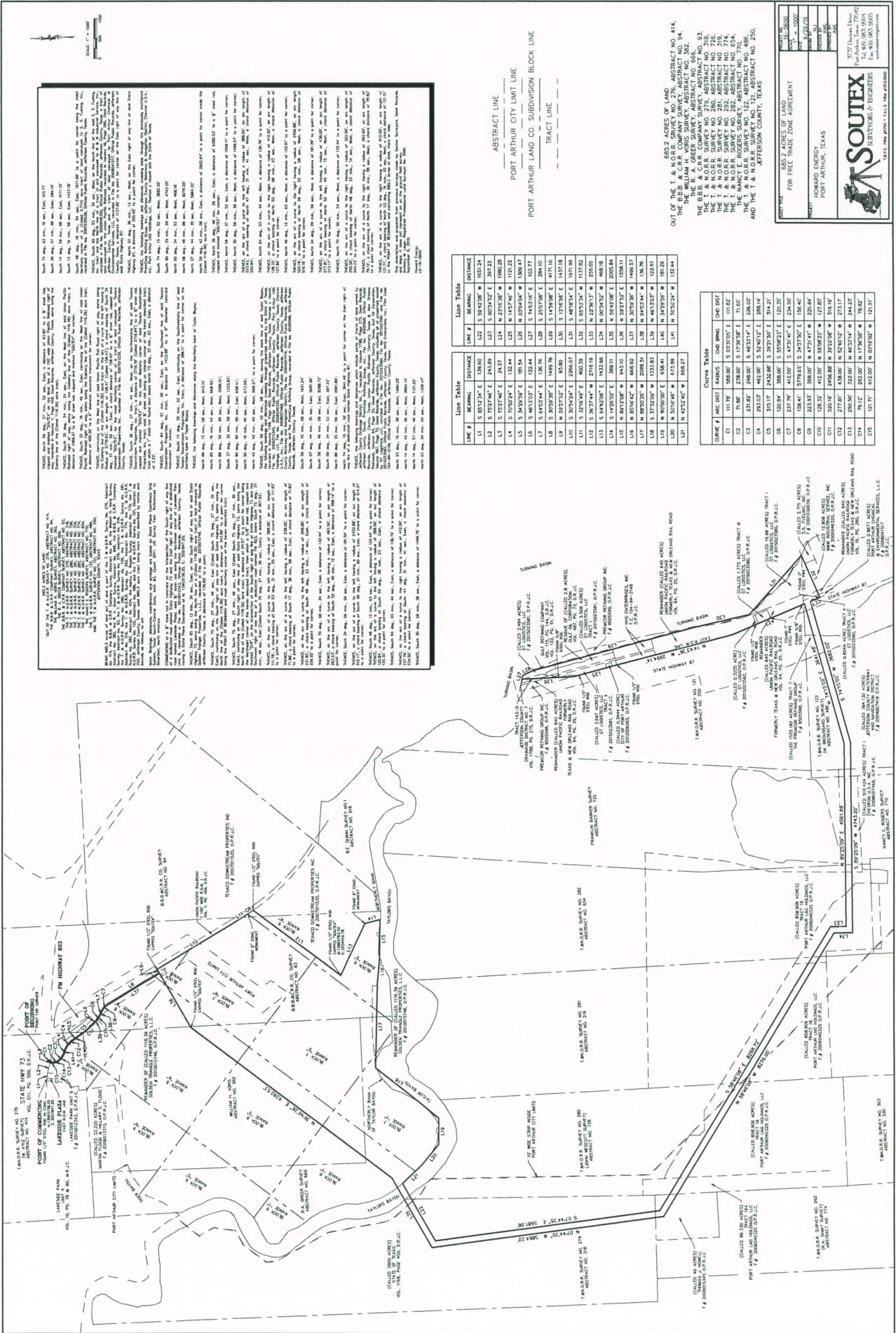
COMMISSIONER MICHAEL S. SINEGAL  
Precinct No. 3

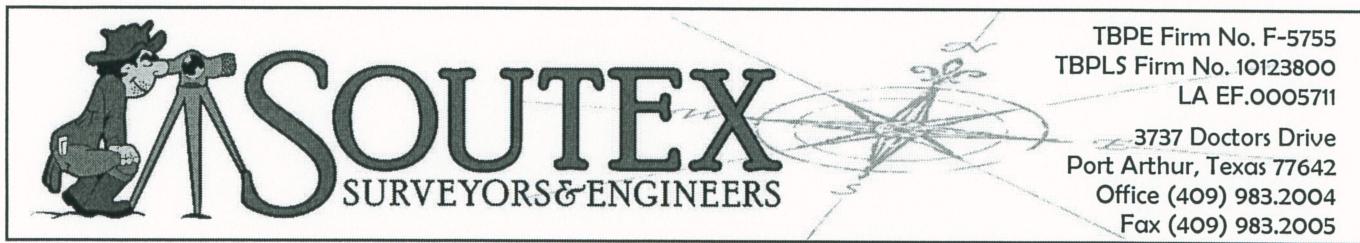
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COMMISSIONER BRENT A. WEAVER  
Precinct No. 2

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COMMISSIONER EVERETTE D. ALFRED  
Precinct No 4





**599.7 ACRES OF LAND**

**OUT OF THE T. & N.O.R.R. SRUVEY NO. 276, ABSTRACT NO. 414,  
 THE B.B.B. & C.R.R. COMPANY SURVEY, ABSTRACT NO. 94,  
 THE WILLIAM H. VORIS SURVEY, ABSTRACT NO. 382,  
 THE R. A. GREER SURVEY, ABSTRACT NO. 666,  
 THE B.B.B. & C.R.R. COMPANY SURVEY, ABSTRACT NO. 93,  
 THE T. & N.O.R.R. SURVEY NO. 279, ABSTRACT NO. 318,  
 THE T. & N.O.R.R. SURVEY NO. 280, ABSTRACT NO. 726,  
 THE T. & N.O.R.R. SURVEY NO. 281, ABSTRACT NO. 319,  
 THE T. & N.O.R.R. SURVEY NO. 292, ABSTRACT NO. 774,  
 THE T. & N.O.R.R. SURVEY NO. 282, ABSTRACT NO. 654,  
 THE NANCY E. ROGERS SURVEY, ABSTRACT NO. 770,  
 AND THE T. & N.O.R.R. SURVEY NO. 122, ABSTRACT NO. 486,  
 JEFFERSON COUNTY, TEXAS**

**BEING** 599.7 acres of land out of and a part of the T & N.O.R.R. Survey No. 276, Abstract No. 414, the B.B.B. & C.R.R. Company Survey, Abstract No. 94, the William H. Voris Survey, Abstract No. 382, the R. A. Greer Survey, Abstract No. 666, the B.B.B. & C.R.R. Company Survey, Abstract No. 93, the T. & N.O.R.R. Survey No. 279, Abstract No. 318, the T. & N.O.R.R. Survey No. 280, Abstract No. 726, the T. & N.O.R.R. Survey No. 281, Abstract No. 319, the T. & N.O.R.R. Survey No. 292, Abstract No. 774, the T. & N.O.R.R. Survey No. 282, Abstract No. 654, the Nancy E. Rogers Survey, Abstract No. 770, and the T. & N.O.R.R. Survey No. 122, Abstract No. 486, Jefferson County, Texas; said 599.7 acre tract being more fully described by metes and bounds as follows, to wit:

*Note: Bearings, distances, coordinates and acreage are based on State Plane Coordinate Grid System, Texas South-Central Zone, NAD 83, Epoch 2011, US Survey Feet. Referenced to SmartNet, North America.*

**COMMENCING** at a  $\frac{1}{2}$ " steel rod in concrete on the intersection of the South right of way line of a dedicated road named State Highway 73 and the East right of way line of a dedicated road named Lakeside Plaza; said  $\frac{1}{2}$ " steel rod being the Northwest corner of Lakeside Park Unit 6, recorded in File No. 2010012343, Official Public Records, Jefferson County, Texas; having a State Plane Coordinate of N: 13903138.25, E: 3551847.25;

**THENCE**, South 85 deg., 12 min., 34 sec., East, on the South right of way line of said State Highway 73, same being the North line of a (Called 1116.39) acre tract of land conveyed to Golden Triangle Properties, L.L.C., recorded in File No. 2010015746, Official Public Records, Jefferson County, Texas, a distance of 139.60' to a point;

**THENCE**, South 75 deg., 27 min., 46 sec., East (Called South 75 deg., 27 min., 26 sec., East), continuing on the South right of way line of said State Highway 73, same being the North line of the (Called 1116.39) acre tract, a distance of 243.89' to a point for corner being the **POINT OF BEGINNING** and most Northerly corner of the herein described tract;

**THENCE**, South 75 deg., 27 min., 46 sec., East (Called South 75 deg., 27 min., 26 sec., East), continuing on the South right of way line of said State Highway 73, same being the North line of the (Called 1116.39) acre tract, a distance of 24.57' to a point for corner being the Northeast corner of the herein described tract; from which a 5/8" steel rod, capped and marked "CLR", on the intersection of the South right of way line of State Highway 73 and the Southwest right of way line of a dedicated road named FM 823, bears South 75 deg., 27 min., 46 sec., East (Called South 75 deg., 27 min., 26 sec., East), a distance of 367.93';

**THENCE**, on the arc of a curve to the left having a radius of 588.00', an arc length of 111.78', a chord bearing of South 03 deg., 31 min., 05 sec., East, a chord distance of 111.62' to a point for corner;

**THENCE**, on the arc of a curve to the left having a radius of 238.00', an arc length of 71.88', a chord bearing of South 17 deg., 36 min., 58 sec., East, a chord distance of 71.60' to a point for corner;

**THENCE**, on the arc of a curve to the left having a radius of 298.00', an arc length of 231.82', a chord bearing of South 48 deg., 33 min., 14 sec., East, a chord distance of 226.02' to a point for corner;

**THENCE**, South 70 deg., 50 min., 24 sec., East, a distance of 132.44' to a point for corner;

**THENCE**, on the arc of a curve to the left having a radius of 462.00', an arc length of 293.03', a chord bearing of South 52 deg., 40 min., 12 sec., East, a distance of 288.14' to a point for corner;

**THENCE**, South 34 deg., 29 min., 59 sec., East, a distance of 181.54' to a point for corner;

**THENCE**, on the arc of a curve to the left having a radius of 2432.88', an arc length of 515.17', a chord bearing of South 39 deg., 21 min., 50 sec., East, a chord distance of 514.21' to a point for corner;

**THENCE**, South 46 deg., 13 min., 03 sec., East, a distance of 122.44' to a point for corner;  
**THENCE**, on the arc of a curve to the left having a radius of 388.00', an arc length of 120.84', a chord bearing of South 55 deg., 08 min., 23 sec., East, a chord distance of 120.35' to a point for corner;

**THENCE**, South 64 deg., 03 min., 44 sec., East, a distance of 136.76' to a point for corner;

**THENCE**, on the arc of a curve to the right having a radius of 412.00', an arc length of 237.79', a chord bearing of South 47 deg., 31 min., 41 sec., East, a chord distance of 234.50' to a point for corner;

**THENCE**, South 30 deg., 59 min., 38 sec., East, a distance of 1499.76' to a point for corner;

**THENCE**, North 59 deg., 27 min., 52 sec., East, a distance of 93.80' to a  $\frac{1}{2}$ " steel rod, capped and marked "SOUTEX" on the West line of a 100' wide Union Pacific Railroad right of way, recorded in Volume Y, Page 459, Deed Records, Jefferson County, Texas, same being the Easterly line of the (Called 1116.39) acre tract;

**THENCE**, South 30 deg., 54 min., 24 sec., East, on the West line of said Union Pacific Railroad right of way, same being the Easterly line of the (Called 1116.39) acre tract, a distance of 2266.07 to a  $\frac{1}{2}$ " steel rod, capped and marked "SOUTEX" for corner;

**THENCE**, South 32 deg., 16 min., 49 sec., East, continuing on the West line of said Union Pacific Railroad right of way, same being the Easterly line of the (Called 1116.39) acre tract, a distance of 400.39' to a 6" diameter concrete monument for corner;

**THENCE**, continuing on the West line of said Union Pacific Rail Road right of way, same being the Easterly line of the (Called 1116.39) acre tract on the arc of a curve to the left having a Radius of 5779.65', an arc length of 158.41' (Called 158.43'), a chord bearing of South 34 deg., 37 min., 50 sec., East, a chord distance of 158.40' to a  $\frac{1}{2}$ " steel rod, capped and marked "SOUTEX", for the most Northerly corner of a tract of land conveyed to Texaco Downstream Properties, Inc., recorded in File No. 2007011535, Official Public Records, Jefferson County, Texas;

**THENCE**, South 36 deg., 37 min., 44 sec., West, on the Northwesterly line of said Texaco Downstream Properties, Inc. tract, a distance of 2716.19' (Called 2716.64') to a  $\frac{1}{2}$ " steel rod, capped and marked "SOUTEX" for the most Westerly corner of said Texaco Downstream Properties, Inc. tract; said  $\frac{1}{2}$ " steel rod being an interior corner of the herein described tract; from which a 1" steel rod found bent bears North 73 deg., 32 min., 03 sec., East, a distance of 3.23';

**THENCE**, South 64 deg., 42 min., 06 sec., East, on the Southwest line of said Texaco Downstream Properties, Inc. tract, a distance of 1433.98' to a 6" diameter concrete monument for corner;

**THENCE**, South 14 deg., 26 min., 02 sec., East, continuing on the Southwesterly line of said Texaco Downstream Properties, Inc. tract, a distance of 389.11' to a point for corner on the Northerly bank of Taylor Bayou;

**THENCE**, the following bearings and distances along the Northerly bank of Taylor Bayou;

North 89 deg., 12 min., 08 sec., West, 943.10'

North 85 deg., 16 min., 42 sec., West, 668.92';

North 88 deg., 50 min., 26 sec., West, 2089.51';

South 37 deg., 32 min., 09 sec., West, 1333.83';

South 39 deg., 00 min., 44 sec., West, 691.93';

North 90 deg., 00 min., 00 sec., East, 658.41';

North 50 deg., 16 min., 46 sec., West, 673.99';

North 42 deg., 52 min., 40 sec., West, 668.27'; to a point for corner;

**THENCE**, leaving the bank line of said Taylor Bayou, the following bearings and distances crossing through properties owned by the State of Texas, recorded in Volume 1168, Page 450, Deed Records, Jefferson County, Texas, Thomas J. Howell, File No. 2006015345, Official Public Records, Jefferson County, Texas, Port Arthur LNG Holdings, LLC, File No. 2006040325, Official Public Records, Jefferson County, Texas, Chevron U.S.A., Inc., File No. 2008027468, Official Public Records, Jefferson County, Texas, Jefferson County Waterway and Navigation District, File No. 2004007419, Official Public Records, Jefferson County, Texas, and The PremCorp Refining Group, recorded in File No. 9505598, Official Public Records, Jefferson County, Texas;

South 59 deg., 42 min., 08 sec., West, 1651.24'

South 07 deg., 44 min., 35 sec., East, 5681.06'

South 58 deg., 46 min., 08 sec., East, 8288.72'

South 00 deg., 34 min., 52 sec., East, 397.22'

North 89 deg., 25 min., 09 sec., East, 4561.89';

North 74 deg., 15 min., 02 sec., East, 2336.29' to a point for corner;

**THENCE**, South 21 deg., 28 min., 28 sec., East, a distance of 160.80' to a point for corner; **THENCE**, the following bearings and distances crossing back through the previously mentioned PremCorp Refining Group, Inc., Jefferson County Waterway & Navigation District, Chevron U.S.A., Inc., Port Arthur LNG Holdings, LLC, Thomas J. Howell and the State of Texas;

South 74 deg., 15 min., 02 sec., West, 2373.63';

South 89 deg., 25 min., 09 sec., West, 4743.20'

North 00 deg., 34 min., 52 sec., West, 468.18'

North 58 deg., 46 min., 08 sec., West, 8276.05'

North 07 deg., 44 min., 35 sec., West, 5864.22'

North 59 deg., 42 min., 08 sec., East, a distance of 2005.84' to a point for corner inside the (Called 1116.39) acre tract;

**THENCE**, North 36 deg., 46 min., 26 sec., East, a distance of 6282.53' to a  $\frac{1}{2}$ " steel rod, capped and marked "SOUTEX", for corner;

**THENCE**, North 59 deg., 27 min., 52 sec., East, a distance of 1558.11' to a point for corner;

**THENCE**, North 30 deg., 59 min., 38 sec., West, a distance of 1499.57' to a point for corner;

**THENCE**, on the arc of a curve to the left having a radius of 388.00', an arc length of 223.93', a chord bearing of North 47 deg., 31 min., 41 sec., West, a chord distance of 220.84';

**THENCE**, North 64 deg., 03 min., 44 sec., West, a distance of 136.76' to a point for corner;

**THENCE**, on the arc of a curve to the right having a radius of 412.00', an arc length of 128.32', a chord bearing of North 55 deg., 08 min., 23 sec., West, a chord distance of 127.80' to a point for corner;

**THENCE**, North 46 deg., 13 min., 03 sec., West, a distance of 122.61' to a point for corner;

**THENCE**, on the arc of a curve to the right having a radius of 2456.88', an arc length of 520.16', a chord bearing of North 39 deg., 22 min., 08 sec., West, a chord distance of 519.19' to a point for corner;

**THENCE**, North 34 deg., 29 min., 59 sec., West, a distance of 181.29' to a point for corner;

**THENCE**, on the arc of a curve to the left having a radius of 438.00', an arc length of 277.81', a chord bearing of North 52 deg., 40 min., 12 sec., West, a chord distance of 273.17' to a point for corner;

**THENCE**, North 70 deg., 50 min., 24 sec., West, a distance of 132.44' to a point for corner;

**THENCE**, on the arc of a curve to the right having a radius of 322.00', an arc length of 250.50', a chord bearing of North 48 deg., 33 min., 14 sec., West, a chord distance of 244.23' to a point for corner;

**THENCE**, on the arc of a curve to the right having a radius of 262.00', an arc length of 79.12', a chord bearing of North 17 deg., 36 min., 58 sec., West, a chord distance of 78.82' to a point for corner;

**THENCE**, on the arc of a curve to the right having a radius of 612.00', an arc length of 121.71', a chord bearing of North 03 deg., 16 min., 02 sec., West, a chord distance of 121.51' to the **POINT OF BEGINNING** and containing 599.7 acres of land, more or less.

This description was prepared from previous surveys made by Soutex Surveyors, Deed Records and Maps. It does not represent an on the ground field survey.  
Anthony M. Leger, Registered Professional Land Surveyor No. 5481.  
September 6, 2016.

**Howard Energy**  
**LS-16-0600-A**

**AGENDA ITEM****October 24, 2016**

Consider and possibly approve performance Statement for Jefferson County regarding the TxCDBG Community Development Contract and to revise the scope of services relating to first time sewer access for the Cheek Sewer Project to increase the number of grinder pumps to 28. (Reference No.7216231)

---

**EXHIBIT A**  
**PERFORMANCE STATEMENT**  
**COUNTY OF JEFFERSON**

All activities funded with TxCDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income (LMI) persons, aid in the prevention or elimination of slums or blight, or meet community development needs having a particular urgency.

Contractor shall carry out the following activities in the target area identified in the Application. The Contractor shall ensure that the amount of funds expended for each activity described does not exceed the amount specified for such activity in the Budget.

**CURRENT NEED**

Residents in the unincorporated community of Cheek, located in Jefferson County, do not have access to public sewer service and rely upon failing septic systems, resulting in a threat to public health. Additionally, residents in an unincorporated area of Jefferson County on Shady Lane Road, do not have access to public sewer service and rely upon failing septic systems, resulting in a threat to public health.

The Contractor certifies that the activity (ies) carried out under this contract will meet the National Objective of benefitting LMI persons with at least 51% of the beneficiaries qualifying as LMI.

**ACTIVITIES**

**Rehabilitation: Single-Unit Sewer Service** Contractor shall provide first-time sewer access to residents in the unincorporated community of Cheek. Contractor shall install twelve (12) grinder pumps, twelve (12) sewer yard service lines, mitigate all existing septic systems, and all associated appurtenances. TxCDBG funds shall not fund a yard service line on private property to a household that does not qualify as LMI. Residents will be served by the West Jefferson County Municipal Water District. Construction shall take place on Brooks Road, Faith Road, Landry Lane, Boyt Road, Phillips Street, Lawhon Road, Moonglow Road, Martel Street.

These activities shall benefit twenty-seven (27) persons, of which twenty-seven (27) or one hundred percent (100%) are of low- to moderate-income.

**Sewer Improvements** Contractor shall provide first-time sewer access to residents on Shady Lane. Contractor shall install approximately four thousand five hundred ninety-five linear feet (4,595 l.f.) of three-inch (3") to four-inch (4") force main, boring, manholes, pavement repair, and all associated appurtenances. Residents will be served by the West Jefferson County Municipal Water District. Construction shall take place on Shady Lane Road, from East Lane and Main Lane.

These activities shall benefit sixty-eight (68) persons, of which fifty-seven (57) or eighty-four percent (84%) are of low- to moderate-income.

**Rehabilitation: Single-Unit Sewer** Contractor shall provide first-time sewer access to residents on Shady Lane. Contractor shall install six (6) grinder pumps, six (6) sewer yard service lines, mitigate all existing septic systems, and all associated appurtenances. TxCDBG funds shall not fund a yard service line on private property to a household that does not qualify as LMI. Residents will be served by the West Jefferson County Municipal Water District. Construction shall take place on Shady Lane.

These activities shall benefit fifteen (15) persons, of which fifteen (15) or one hundred percent (100%) are of low- to moderate-income.

**Acquisition**

Contractor shall acquire the easement for the sewer improvement project site. Contractor shall carry out all acquisition of needed real property, easements, and/or rights-of-way in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Sec. 4601 et. seq.) and HUD implementing regulations (24 C.F.R. Part 42).

**Engineering**

Contractor shall ensure that the amount of Department funds expended for all eligible project-related engineering services, including preliminary and final design plans and specifications, all interim and final inspections, and all special services does not exceed the amount specified for engineering in the Budget.

**General Administration**

Contractor shall ensure that the amount of Department funds expended for all eligible project-related administration activities, including the required annual program compliance and fiscal audit does not exceed the amount specified for administration in the Budget.

Ms. Suzanne Barnard  
Texas Department of Agriculture  
Office of Rural Affairs  
PO BOX 12847  
Austin, Texas 78711

RE: Response to TXCDBG Community Development (CD) Fund Award- 90-day Item

Ms. Barnard:

In response to your August 31, 2016 letter, the County reassessed the viability of the Shady Lane Area project. After much consideration, it is the County's desires to revise its current application and proposed Performance Statement in the following manner:

- Delete the entire Shady Lane Area Project
- Transfer all funding to the Cheek Area Project
- Increase the number of grinder pumps to be installed in the Cheek project to twenty-eight (28)

A revised Table 2 is attached. The County will provide the necessary survey information for the additional beneficiaries by November 4, 2016.

If you require additional information, please feel free to contact Vivian Ballou at 409-719-7657. Thank you again for the opportunity to update the County's application.

Sincerely,

Jeff Branick  
County Judge

## RESOLUTION

BE IT RESOLVED PURSUANT TO THE TEXAS PROPERTY TAX CODE, SECTION 26.09, THAT COMMISSIONERS' COURT OF JEFFERSON COUNTY HEREBY APPROVE THE 2016 TAX ROLL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

---

JEFF BRANICK  
County Judge

---

EDDIE ARNOLD  
Commissioner, Precinct No. 1

---

MICHAEL SINEGAL  
Commissioner, Precinct No. 3

---

BRENT WEAVER  
Commissioner, Precinct No. 2

---

EVERETTE D. ALFRED  
Commissioner, Precinct No. 4

Sworn to and subscribed before me, the undersigned authority, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

---

CAROLYN GUIDRY, County Clerk

ALLISON NATHAN GETZ  
TAX ASSESSOR-COLLECTOR



TERRY WUENSCHEL  
CHIEF DEPUTY

October 13, 2016

Patrick Swain  
County Auditor  
Jefferson County  
Beaumont, TX

Dear Patrick:

Attached is the **2016 Certified Tax Roll Summary**. Pursuant to the Texas Property Tax Code, Section 26.09, this certified tax roll summary should be approved at the next Commissioners' Court meeting. After the approval, please return the resolution for retention in the Tax Office.

If you should have any questions or require further information, please feel free to call.

Sincerely,

A handwritten signature in black ink that reads "Allison Nathan Getz".

ALLISON NATHAN GETZ, PCC  
Assessor-Collector of Taxes  
Jefferson County, Texas

ANG:db

Attachment

cc: Fran Lee

grandrcp.ltr.16

10/11/2016 03:32 pm  
tc502\_juris\_summary.rep v1.12  
Request Seq.: 2602867

Tax Collection System - JEFFERSON COUNTY  
Certified Roll Jurisdiction Summary  
Processing For Tax Year: 2016 County Code: ALL Tax Unit: ALL

Page 2 of 34

Jurisdiction:		1 JEFFERSON COUNTY			
Total Parcels:	152,759	Tax Rate:	0.3650000	Opt Hom:	0.2000000
Market Value:	30,834,343,421	State Hom:	0	Opt O65:	40,900
		State O65:	0		0
		Disabled:	40,000	Opt Disabled:	0
AG Exclusion Count:	3,952	AG Exclusion Amt:	397,021,258		
Timber Exclusion Count:	424	Timber Exclusion Amt:	19,177,343		
HS Capped Count:	2,286	HS Capped Amt:	17,476,404		
Assessed Value:	30,400,668,416				
Prorated-Exxx Count/Amt:	6,875	1,521,731,165	Prorated-Exxx Count/Amt:	2	96,469
100% Exempt Vet Count/Amt:	470	52,612,890	Charitable Org Count/Amt:	1	69,020
Chdo Count/Amt:	68	3,964,422	Low Income Housing Count/Amt:	2	3,355,100
Pro Youth Associations Count/Amt:	21	7,775,710	Abatement Count/Amt:	16	1,091,948,438
Prorated-Exx Count/Amt:	5	2,169,080	Pollution Control Count/Amt:	169	1,333,169,312
Pro Schools Count/Amt:	93	41,458,885	Hb366 Count/Amt:	118	25,877
Pro Misc Exemps Count/Amt:	128	6,635,430	Goods In Transit Count/Amt:	1	28,710
Pro Charitable Functions Count/Amt:	35	4,998,570			
State Homestead Count:	0	State Homestead Amt:			
Local Homestead Count:	52,718	Local Homestead Amt:	1,173,587,667		0
State Over 65 Count:	0	State Over 65 Amt:			0
Local Over 65 Count:	18,200	Local Over 65 Amt:	675,505,409		
Surviving Spouse Count:	115	Surviving Spouse Amt:	4,330,739		
State Disabled Count:	0	State Disabled Amt:			0
Local Disabled Count:	4,373	Local Disabled Amt:	155,331,093		
Total VET Count:	1,157	Total VET Amt:	11,142,480		
*VET Surviving Spouse Count:	30	*VET Surviving Spouse Amt:	288,040		
*Included in the Total VET Count/Amt					
Partial Exempt Values:	2,019,897,388				
Taxable Value:	24,310,731,950				
Total Levy Amt:	88,047,145.07				
Late AG Penalty Count:	34	Late AG Penalty Amt:	730.47		
Late Rendition Penalty Count:	2,703	Late Rendition Penalty Amt:	80,561.15		
Frozen Account Count:	21,598				
Frozen Homesite Value:	2,208,950,993				
Frozen Taxable Value:	964,000,757				
Unfrozen Levy Amt:	3,518,603.10				
Frozen Levy Amt:	2,758,307.36				
Frozen Levy Loss Amt:	760,295.74				
Total Non-Exempt Parcel Count:	152,759				



Joleen E. Fregia  
 Chief Deputy  
 E-Mail  
[joleen@co.jefferson.tx.us](mailto:joleen@co.jefferson.tx.us)

Tim Funchess  
 County Treasurer  
 1149 Pearl Street – Basement  
 Beaumont, Texas 77701

Office (409) 835-8509  
 Fax (409) 839-2347  
 E-Mail  
[tfuncsess@co.jefferson.tx.us](mailto:tfuncsess@co.jefferson.tx.us)

October 18, 2016

Judge Jeff R. Branick and  
 Commissioners Court  
 Jefferson County Courthouse  
 Beaumont, Texas 77701

Gentlemen:

Enclosed is the Investment Schedule as of September 30, 2016, including interest earnings.

The weighted average yield to maturity on the County's investments is 1.345%. The interest rate on funds invested in an investment account at Wells Fargo is currently .10%.

The 90 day Treasury interest rate on September 30, 2016 was 0.25% and the interest on your checking accounts for the month of September was .10%

Included in the attached report are the balances for the County's pledged collateral.

This report meets the requirements for investment officers in compliance with the Texas Government Code. Title 10, Section 2256.023.

This should be on the agenda October 24, 2016, to be received and filed.

Sincerely,

A handwritten signature in black ink that reads "Tim Funchess".

Tim Funchess, CCT, CIO  
 Enclosure

Agenda should read:

Receive and File Investment Schedule for September, 2016, including the year to date total earnings on County funds.

**JEFFERSON COUNTY  
MONTH END SEPTEMBER 30, 2016 INVESTMENT SCHEDULE**

FISCAL YEAR 2015-2016			
YIELD TO MATURITY AND INTEREST EARNINGS			
MONTH	90 DAY T. BILL YIELD	INVESTMENT INTEREST EARNED	CHECKING ACCOUNT YIELD
OCTOBER	0.084%	\$34,161.39	0.261%
NOVEMBER	0.190%	\$31,363.78	0.284%
DECEMBER	0.168%	\$22,437.18	0.320%
JANUARY	0.354%	\$34,256.33	0.498%
FEBRUARY	0.346%	\$45,241.64	0.150%
MARCH	0.224%	\$33,796.62	0.150%
APRIL	0.230%	\$30,228.42	0.150%
MAY	0.323%	\$40,643.63	0.150%
JUNE	0.261%	\$41,801.69	0.100%
JULY	0.290%	\$12,109.57	0.100%
AUGUST	0.310%	\$7,511.48	0.100%
SEPTEMBER	0.250%	\$4,954.49	0.100%
<b>ANNUAL TOTALS</b>		<b>\$ 338,506.22</b>	



2016-2017

## *Jefferson County*

### Investment Policy and Procedures

**Jeff R. Branick**

County Judge

**Eddie Arnold**  
Commissioner, Pct. 1

**Brent A. Weaver**  
Commissioner, Pct. 2

**Michael Sinegal**  
Commissioner, Pct. 3

**Everette "Bo" Alfred**  
Commissioner, Pct. 4

**Tim Funchess**  
County Treasurer/Investment Officer

# JEFFERSON COUNTY

## INVESTMENT POLICY AND PROCEDURES

### **1.0 INVESTMENT STRATEGY**

	<b>PAGE #</b>
<b>1.01 Jefferson County Pooled Cash Funds .....</b>	<b>4</b>
<b>1.02 Other funds of Jefferson County .....</b>	<b>4</b>

### **2.0 INVESTMENT SCOPE**

<b>2.01 Legal Authority to Invest .....</b>	<b>5</b>
<b>2.02 County Investment Portfolio Structure .....</b>	<b>5</b>
<b>2.03 Applicability of Policy .....</b>	<b>5</b>

### **3.0 INVESTMENT OBJECTIVES AND PRIORITIES**

<b>3.01 General Statement .....</b>	<b>5</b>
<b>3.02 Safety of Principal .....</b>	<b>5</b>
<b>3.03 Maintenance of Adequate Liquidity .....</b>	<b>5</b>
<b>3.04 Desired Diversification .....</b>	<b>6</b>
<b>3.05 Rate of Return on Investments .....</b>	<b>6</b>
<b>3.06 Maturity .....</b>	<b>6</b>
<b>3.07 Quality and Education of Investment Manager.....</b>	<b>6</b>

### **4.0 INVESTMENT RESPONSIBILITY AND CONTROL**

<b>4.01 Delegation of Investment Authority .....</b>	<b>6</b>
<b>4.02 Investment Advisory Committee .....</b>	<b>6</b>
<b>4.03 Fiduciary, Prudence, and Ethical Standards .....</b>	<b>7</b>
<b>4.04 Liability of Investment Officer .....</b>	<b>7</b>
<b>4.05 Accounting and Audit Control .....</b>	<b>7</b>
<b>4.06 Subject to Audit .....</b>	<b>7</b>

### **5.0 INVESTMENT REPORTING**

<b>5.01 Monthly Reporting .....</b>	<b>7</b>
<b>5.02 Quarterly Reporting .....</b>	<b>8</b>

	PAGE #
<b>6.0 INVESTMENT INSTITUTIONS</b>	
<b>6.01 Depository Bank .....</b>	<b>8</b>
<b>6.02 Broker/Dealers .....</b>	<b>8</b>
<b>6.03 Approval of Broker/Dealers .....</b>	<b>8</b>
<b>7.0 INVESTMENT INSTRUMENTS</b>	
<b>7.01 Bank Investments .....</b>	<b>9</b>
<b>7.02 Direct Investments .....</b>	<b>9</b>
<b>8.0 INVESTMENT PROCEDURES</b>	
<b>8.01 Confirmation of Trade .....</b>	<b>9</b>
<b>8.02 Delivery Versus Payment .....</b>	<b>9</b>
<b>8.03 Safekeeping Institution .....</b>	<b>10</b>
<b>9.0 COLLATERAL AND SAFEKEEPING</b>	
<b>9.01 Collateral or Insurance .....</b>	<b>10</b>
<b>9.02 Safekeeping .....</b>	<b>10</b>
<b>9.03 Collateral Reporting .....</b>	<b>10</b>
<b>10.0 INVESTMENT POLICY REVIEW AND AMENDMENT</b>	
<b>10.01 Review Procedures .....</b>	<b>10</b>
<b>10.02 Changes to the Investment Policy .....</b>	<b>10</b>

#### **ATTACHMENTS, EXHIBITS, AND APPENDICES**

<b>Appendix A:</b>	<b>Govt. Code Title 10: Chapter 2256</b> <b>The Public Funds Investment Act</b>
<b>Appendix B:</b>	<b>Govt. Code Title 10: Chapter 2257</b> <b>The Public Funds Collateral Act</b>
<b>Exhibit #1:</b>	<b>Broker/Dealer Certification</b>
<b>Exhibit #2:</b>	<b>Approved List of Broker/Dealers</b>
<b>Exhibit #3:</b>	<b>Approving Order: Jefferson County Commissioners Court</b>

## 1.0 INVESTMENT STRATEGY

**1.01 Jefferson County Pooled Cash Funds:**  
Funds included are: **Road and Bridge**  
**Debt Service**  
**Jury**  
**General**  
**Library**  
**Mosquito Control**  
**Airport**  
**Engineering**  
**Parks and Recreation**  
**Special Revenue**  
**Capital Projects**  
**Internal Service**

**1.0101** The funds of Jefferson County, that are invested, are invested by matching the maturity of investments with liabilities. Investments are made with the intention of holding to maturity, but with the ability to liquidate should funds be needed at any time. This strategy is achieved by utilizing highly liquid short term Certificates of Deposit, Treasury Bills and Obligations of the United States or its agencies and instrumentalities with a stated final maturity of three years or less.

**1.02 Other funds of Jefferson County:**  
Funds included are: **Tax Office**  
**Community Supervision**  
**State Fee Officers**  
**Child Support**  
**Other account with surplus funds**

**1.0201** Other funds of Jefferson County, that are invested, are invested by matching maturity of investments with cash needs. Investments are made with the intention of holding to maturity, but with the ability to liquidate should funds be needed at any time. This strategy is achieved by utilizing highly liquid, short term, Treasury Bills and Obligations of the United States or its agencies and instrumentalities with a stated final maturity of three years or less.

## **2.0 INVESTMENT SCOPE**

### **2.01 Legal Authority to Invest**

**TEXAS GOVERNMENT CODE ANN., sec. 2256.003 et seq. (Vernon 1995)** authorizes the Commissioners Court to invest county funds.

### **2.02 County Investment Portfolio Structure**

This investment policy applies to all financial assets of all funds of the County of Jefferson, Texas, at the present time and any funds to be created in the future and other funds held in custody by the County Treasurer, unless expressly prohibited by law or unless it is in contravention of any depository contract between Jefferson County and any depository bank.

### **2.03 Applicability of Policy**

This policy governs the investment of all financial assets of all funds of Jefferson County, and are managed in compliance with this policy and all applicable state and federal laws.

## **3.0 INVESTMENT OBJECTIVES AND PRIORITIES**

### **3.01 General Statement**

This policy serves to satisfy the statutory requirements of the **TEXAS GOVERNMENT CODE, ANN., Title 10, Section 2256, Public Funds Investment Act**, to define and adopt a formal investment policy.

### **3.02 Safety of Principal**

The primary objective of Jefferson County is to ensure the safety of principal in all funds and to avoid speculative investing.

### **3.03 Maintenance of Adequate Liquidity**

The secondary objective of Jefferson County is to strive to maintain adequate liquidity, through scheduled maturity of investments, to cover the cash needs of the county consistent with the objectives of this policy.

### **3.04 Desired Diversification**

**It will be the policy of Jefferson County to diversify its portfolio to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer or a specific class of investment. Investments of the County shall always be selected that provide for stability of income and reasonable liquidity.**

**3.05 Rate of Return on Investments**

**It will be the objective of Jefferson County to earn the maximum rate of return allowed on its investments within the policies imposed by its safety and liquidity objectives and state and federal law governing investment of public funds.**

**3.06 Maturity**

**Portfolio maturities will be structured to achieve the highest return of interest consistent with liquidity requirements of the County's cash needs. No investment shall have a legal stated maturity of more than thirty six (36) months.**

**3.07 Quality and Capability of Investment Manager**

**It is the County's policy to provide periodic training in investments for the County Treasurer through courses and seminars offered by professional organizations and associations in order to insure the quality and capability of the County Treasurer in making investment decisions, in compliance with Sec. 2256.008 of the Public Funds Investment Act.**

## **4.0 INVESTMENT RESPONSIBILITY AND CONTROL**

**4.01 Delegation of Investment Authority**

**In accordance with Sec. 2256.005 of the Public Funds Investment Act, the County Commissioners Court, may invest County funds that are not immediately required to pay obligations of the County. The County Treasurer, hereby appointed as Investment Officer, shall develop and maintain written administrative procedures for the operation of the investment program, consistent with this investment policy.**

**4.02 Investment Advisory Committee**

**The Investment Advisory Committee reviews investment policies and procedures, investment strategies, and investment performance. Members of the Committee should be composed of the County Judge or his designee, County Auditor, County Treasurer, the Head of the Civil Division of the District Attorney's Office and an appointee representing the Commissioners Court. The Chairman will be elected by the Committee, and meetings will be called no less than annually and as needed.**

**4.03 Fiduciary, Prudence, and Ethical Standards**

Jefferson County adopts the prudent fiduciary rule as applied in the then prevailing circumstances, when managing the County's portfolio, within the applicable legal and policy constraints. The prudent person rule is restated as follows:

"Investments must be made with the judgement and care, under prevailing circumstances, which persons of prudence, discretion and intelligence would exercise in the management of their own affairs for investment, not for speculation, considering the probable safety of their capital as well as the probable income to be derived."

#### **4.04 Liability of Investment Officer**

In accordance with Sec. 113.005, Texas Local Government Code, the County Treasurer is not responsible for any loss of the county funds through the failure or negligence of a depository. This section does not release the Treasurer from responsibility for a loss resulting from the official misconduct or negligence of the Treasurer, including a misappropriation of the funds, or from responsibility for funds until a depository is selected and the funds are deposited.

#### **4.05 Accounting and Audit Control**

The Jefferson County Treasurer will establish liaison with the Jefferson County Auditor in preparing investment forms to assist the County Auditor for accounting and auditing control.

#### **4.06 Subject to Audit**

The Jefferson County Treasurer is subject to audit by the Jefferson County Auditor. In addition, it is the policy of the Jefferson County Commissioner's Court, at a minimum, to have an annual audit of all County funds by an independent auditing firm. The Jefferson County Treasurer and the county's investment procedures shall be subject to the annual and any special audits as required.

### **5.0 INVESTMENT REPORTING**

#### **5.01 Monthly Reporting**

In accordance with Texas Government Code, Title 10, Sec. 2256.023, the Jefferson County Treasurer will report in writing monthly to Commissioners' Court and to the County Auditor. The report shall include a detailed listing of all purchases, sales and payments, and description of each security held.

#### **5.02 Quarterly Reporting**

In accordance with Texas Government Code, Title 10, Sec. 2256.023, the Jefferson

County Treasurer will report quarterly the portfolio statistics, listing the type and description of investment in detail, the broker/dealer used for purchase, the yield to maturity, the stated maturity date, and the previous and current market value.

## 6.0 INVESTMENT INSTITUTIONS

### 6.01 Depository Bank

Fully collateralized Time Deposits, Certificates of Deposit, and interest-bearing checking accounts shall be placed at the County Depository Bank under a depository contract executed by Jefferson County Commissioners' Court and in compliance with V.C.T.A., Texas Local Government Code, Chapter 116 and Chapter 117.

### 6.02 Broker/Dealers

The Jefferson County Treasurer shall invest county funds through the Federal Reserve Bank book entry system, consistent with federal and state law and the current Bank Depository contract. Purchases shall be made with:

- 6.0201 U.S. Government Securities Dealers maintaining a National Association of Securities Dealers Series 7 license, and with knowledge of Institutional Investing, recommended by the County Treasurer, the Jefferson County Investment Advisory Committee, and approved by Commissioners Court. Dealers must comply with Section 6.03 of this Investment Policy to be selected.
- 6.0202 The Capital Markets Division of the Depository Bank.
- 6.0203 Investment Pools meeting the standards of Section 2256.016 of the Texas Public Funds Investment Act.

### 6.03 Approval of Broker/Dealer

The Jefferson County Treasurer reviews the applications of the broker/dealer/financial institutions for compliance with this policy and recommends institution must demonstrate possession of the following criteria:

- 6.0301 Institutional investment experience,
- 6.0302 Good references from public fund investment officers.
- 6.0303 Adequate capitalization per the Capital Adequacy Guidelines for Government Securities Dealers published by the New York Federal Reserve Bank.
- 6.0304 An understanding of this Investment Policies and Procedures Manual,
- 6.0305 Regulation by the Securities and Exchange Commission (SEC),
- 6.0306 Membership in good standing in the National Association of Securities Dealers, Inc., and

**6.0307 Valid licensure from the State of Texas.**

## **7.0 INVESTMENT INSTRUMENTS**

**The Jefferson County Treasurer shall use any or all of the following authorized investment instruments consistent with governing law and this policy:**

### **7.01 Bank Investments**

- 7.0101 Fully collateralized Time Deposits.**
- 7.0102 Fully collateralized Certificates of Deposit.**
- 7.0103 Fully collateralized interest-bearing checking accounts.**
- 7.0104 Fully collateralized sweep accounts**

### **7.02 Direct Investments**

- 7.0201 United States Treasury Securities.**
- 7.0202 Obligations of the United States or its agencies and instrumentalities, with a legal stated maturity of no more than thirty six (36) months.**
- 7.0203 Excluded in the direct investments are derivative securities including but not limited to Collateralized Mortgage Obligations.**
- 7.0204 Investment Pools meeting the standards of Section 2256.016 of the Texas Public Funds Investment Act.**

## **8.0 INVESTMENT PROCEDURES**

### **8.01 Confirmation of Trade**

A confirmation of trade will be provided by the broker/dealer to the Jefferson County Treasurer for every purchase of an investment security. This trade ticket and confirmation will become a part of the file that is maintained on every investment security.

### **Delivery Versus Payment**

It will be the policy of the County that all Treasury, and Government Agency securities shall be purchased using the delivery vs. Payment (DVP) method through the Federal Reserve System. By so doing, County funds are not released until the county has received, through the Federal Reserve wire, the securities purchased.

### **Safekeeping Institutions**

All purchased securities shall be held in safekeeping by the County, or a County account in a third party financial institution, or with a Federal Reserve Bank.

## **9.0 COLLATERAL AND SAFEKEEPING**

### **9.01 Collateral or Insurance**

The Jefferson County Treasurer shall insure that all county funds are fully collateralized or insured consistent with federal and state law and the current Depository Contract in one or more of the following manners:

- 9.0101 FDIC insurance coverage**
- 9.0102 United States Government Bonds, Notes, and Bills**
- 9.0103 Securities of federally-sponsored U. S. Agencies and instrumentalities of the United States Government.**
- 9.0104 Letters of Credit issued by the Federal Home Loan Bank of Dallas.**

### **9.02 Safekeeping**

Securities pledged as collateral shall be deposited in trust with the Federal Reserve Bank, or another disinterested third party bank, under an appropriate legal contract. The amount of such securities pledged shall be determined by their market value.

### **9.03 Collateral Reporting**

The Treasurer of Jefferson County shall report to the County Commissioners' Court valuation of all collateral compared to all county deposits on a monthly basis. Collateral deficiencies should be identified and immediately corrected through additional collateral deposited or reductions in the volume of deposited funds.

## **10.0 INVESTMENT POLICY REVIEW AND AMENDMENT**

### **Review Procedures**

The Jefferson County Commissioners' Court shall review its investment policy and investment strategies not less than annually.

### **Changes to the Investment Policy**

The County Treasurer and the Investment Advisory Committee, must review the Jefferson County Investment Policy not less than annually and recommend any changes to the Commissioners' Court.

**EXHIBIT 1****Certification**

## CERTIFICATION

I hereby certify that I have personally read and understand the investment policy and procedures of Jefferson County, and have implemented reasonable procedures and controls designed to fulfill those objectives and conditions. Transactions between this firm and Jefferson County, will be directed towards precluding imprudent investment activities and protecting the Counties from credit risk.

All the sales personnel of this firm dealing with Jefferson County's accounts have been informed and will be routinely informed of the County's investment horizons, limitations, strategy, and risk constraints, whenever we are so informed.

This firm pledges due diligence in informing the County of foreseeable risks associated with financial transactions connected to this firm.

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(Firm)

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(Firm Representative)

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(Representative's Title)

---

(Registration or Dealer Number)

---

(Signature)

---

(Date)

**EXHIBIT 2**

**APPROVED LIST OF BROKER/DEALERS**

## **Approved List of Broker/Dealers**

**National Alliance Securities**  
**Howard LeDet**  
**2245 Texas Drive**  
**Suite 300**  
**Sugar Land, TX 77479**

**Wells Fargo Bank**  
**Josh Rodriguez**  
**6250 Delaware Street**  
**Beaumont, Texas 77706**

**Wells Fargo Capital Markets**  
**Chuck Landry**  
**1445 Ross Ave., Suite 420**  
**Dallas, Texas 75202**

**Coastal Securities, Inc.**  
**Tony D. Sekaly**  
**920 Memorial City Way, 11<sup>th</sup> Floor**  
**Houston, TX 77024**

**David McElwain**  
**Hilltop Securities Independent Network, Inc.**  
**1800 St. James Place, Suite 210**  
**Houston, TX 77056**

**Texas Class**  
**Danny King**  
**2435 N. Central Expressway, Suite 1200**  
**Richardson, TX 75080**  
**(C/O Karen Proctor)**

**EXHIBIT 3**

**APPROVING ORDER**

ORDER APPROVING  
JEFFERSON COUNTY INVESTMENT POLICY AND PROCEDURES

Upon a motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, unanimously adopted the following policies and procedures, and the same are hereby approved, received and ordered filed.

ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2016

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Jeff R. Branick  
County Judge

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Commissioner Eddie Arnold  
Precinct No. 1

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Commissioner Michael Sinegal  
Precinct No. 3

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Commissioner Brent A. Weaver  
Precinct No. 2

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Commissioner Everette D. Alfred  
Precinct No. 4

ATTEST:

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Carolyn L. Guidry  
Jefferson County Clerk

## **APPENDIX A**

### **Chapter 2256-Public Funds Investment Act**

## GOVERNMENT CODE

## TITLE 10. GENERAL GOVERNMENT

## SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

## CHAPTER 2256. PUBLIC FUNDS INVESTMENT

## SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b) (1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

- (1) a local government;
- (2) a state agency;
- (3) a nonprofit corporation acting on behalf of a local government or a state agency; or
- (4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

Sec. 2256.004. APPLICABILITY. (a) This subchapter does not apply to:

- (1) a public retirement system as defined by Section 802.001;
- (2) state funds invested as authorized by Section 404.024;
- (3) an institution of higher education having total endowments of at least \$95 million in book value on May 1, 1995;
- (4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;
- (5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or
- (6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;
- (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and
- (4) include:
  - (A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

- (1) orally;
- (2) in writing;
- (3) electronically; or
- (4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

- (1) understanding of the suitability of the investment to the financial requirements of the entity;
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so

adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685, Sec.

1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 1421,  
Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. For purposes of this subsection, a business organization includes investment pools and an investment management firm under

contract with an investing entity to invest or manage the entity's investment portfolio. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If

review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 1, eff. June 17, 2011.

Sec. 2256.006. STANDARD OF CARE. (a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

- (1) preservation and safety of principal;
- (2) liquidity; and
- (3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS. (a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 2, eff. June 17, 2011.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 222 (H.B. 1148), Sec. 1

(a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the

chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) except as provided by Subsections (b), (e), and (f), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 1248  
(H.B. 870), Sec. 1

(a) Except as provided by Subsections (a-1), (b), and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(a-1) In addition to the requirements of Subsection (a)(1), the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a school district or a municipality shall attend an investment training session not less than once in a two-year period that begins on the first day of the school district's or municipality's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the school district or municipality, or by a designated investment committee advising the investment officer as provided for in the investment policy of the school district or municipality.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(f) Subsection (a)(2) does not apply to an officer of a municipality if the municipality:

- (1) does not invest municipal funds; or
- (2) only deposits municipal funds in:
  - (A) interest-bearing deposit accounts; or
  - (B) certificates of deposit as authorized by Section 2256.010.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 3, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 222 (H.B. 1148), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1248 (H.B. 870), Sec. 1, eff. September 1, 2015.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 4, eff. June 17, 2011.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES. (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 128 (H.B. 256), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 5, eff. June 17, 2011.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS.

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)

(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 6, eff. June 17, 2011.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING PROGRAM. (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

- (i) 2256.009;
- (ii) 2256.013;
- (iii) 2256.014; or
- (iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

- (A) pledged to the investing entity;
- (B) held in the investing entity's name; and
- (C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

- (A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or
- (B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES. A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER.

Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 270 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS. (a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(3) has a dollar-weighted average stated maturity of 90 days or fewer; and

(4) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years;

(3) is invested exclusively in obligations approved by this subchapter;

(4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and

(5) conforms to the requirements set forth in Sections 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS. (a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS. (a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

- (A) the types and percentage breakdown of securities in which the pool is invested;
- (B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
- (C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;
- (D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
- (E) the size of the pool;
- (F) the number of participants in the pool;
- (G) the custodian bank that is safekeeping the assets of the pool;
- (H) a listing of daily transaction activity of the entity participating in the pool;
- (I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;
- (J) the portfolio managers of the pool; and
- (K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in

accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 7, eff. June 17, 2011.

Sec. 2256.017. EXISTING INVESTMENTS. An entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 8, eff. June 17, 2011.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501 (f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm

in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY.

(a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 7 (S.B. 495), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to

other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1371 (S.B. 894), Sec. 1, eff. September 1, 2009.

Sec. 2256.0203. AUTHORIZED INVESTMENTS: PORTS AND NAVIGATION DISTRICTS. (a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 804 (H.B. 2346), Sec. 1, eff. September 1, 2011.

Sec. 2256.0204. AUTHORIZED INVESTMENTS: INDEPENDENT SCHOOL DISTRICTS. (a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Corporate bonds are not an eligible investment for a public funds investment pool.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1347 (S.B. 1543), Sec. 1, eff. June 17, 2011.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST.

(a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. 121 (S.B. 1464), Sec. 1, eff. September 1, 2005.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk

assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 9, eff. June 17, 2011.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b), this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

#### SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on

receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.

## **APPENDIX B**

### **Chapter 2257-Public Funds Collateral Act**

## GOVERNMENT CODE

## TITLE 10. GENERAL GOVERNMENT

## SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

## CHAPTER 2257. COLLATERAL FOR PUBLIC FUNDS

## SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2257.001. SHORT TITLE. This chapter may be cited as the Public Funds Collateral Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.002. DEFINITIONS. In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 31.002(a), Finance Code.

(2) "Control" has the meaning assigned by Section 31.002(a), Finance Code.

(3) "Deposit of public funds" means public funds of a public entity that:

(A) the comptroller does not manage under Chapter 404; and

(B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(4) "Eligible security" means:

(A) a surety bond;

(B) an investment security;

(C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

(D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security;

(E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

(F) a letter of credit issued by a federal home loan bank.

(5) "Investment security" means:

(A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and backed by its full faith and credit;

(B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or

(C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(6) "Permitted institution" means:

(A) a Federal Reserve Bank;

(B) a clearing corporation, as defined by Section 8.102, Business & Commerce Code;

(C) a bank eligible to be a custodian under Section 2257.041; or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(7) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(8) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(9) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(10) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.48(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 254, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.70, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.63, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 783 (H.B. 2103), Sec. 1, eff. June 17, 2011.

Sec. 2257.0025. HIGH-RISK MORTGAGE SECURITY. (a) For purposes of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

Added by Acts 1997, 75th Leg., ch. 254, Sec. 2, eff. Sept. 1, 1997.

Sec. 2257.003. CHAPTER NOT APPLICABLE TO DEFERRED COMPENSATION PLANS. This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401(k) and 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.004. CONFLICT WITH OTHER LAW. This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.005. CONTRACT GOVERNS LEGAL ACTION. A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER B. DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. COLLATERAL REQUIRED. A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.022. AMOUNT OF COLLATERAL. (a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

- (1) increased by the amount of any accrued interest; and
- (2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The total value of eligible security described by Section 45.201(4)(D), Education Code, to secure a deposit of public funds of a school district must be in an amount not less than 110 percent of the amount of the deposit as determined under Subsection (a). The total market value of the eligible security must be reported at least once each month to the school district.

(c) The value of a surety bond is its face value.

(d) The value of an investment security is its market value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 201, Sec. 46, eff. Sept. 1, 2003.

Sec. 2257.023. COLLATERAL POLICY. (a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:

(1) the security of the institution that obtains or holds an investment security;

(2) the substitution or release of an investment security; and

(3) the method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.024. CONTRACT FOR SECURING DEPOSIT OF PUBLIC FUNDS.

(a) A public entity may contract with a bank that has its main office or a branch office in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:

(1) possession of the collateral;

(2) substitution or release of an investment security;

(3) ownership of the investment securities of the bank used to secure a deposit of public funds; and

(4) method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.006, eff. Sept. 1, 1999.

Sec. 2257.025. RECORDS OF DEPOSITORY. (a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.16, eff. Sept. 1, 1997.

Sec. 2257.026. CHANGE IN AMOUNT OR ACTIVITY OF DEPOSITS OF PUBLIC FUNDS. A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER C. CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. DEPOSIT OF SECURITIES WITH CUSTODIAN. (a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

(A) is designated by the comptroller as a state depository;

(B) has its main office or a branch office in this state; and

(C) has a capital stock and permanent surplus of \$5 million or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank;

(4) a federal home loan bank; or

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian pursuant to Section 404.031(e).

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 1010, Sec. 1, eff. June 17,

1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.17, eff. Sept. 1, 1997;

Acts 1999, 76th Leg., ch. 344, Sec. 5.007, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 3, eff. September 1, 2009.

Sec. 2257.042. DEPOSIT OF SECURITIES WITH PERMITTED INSTITUTION. (a) A custodian may deposit with a permitted institution an investment security the custodian holds under Section 2257.041.

(b) If a deposit is made under Subsection (a):

(1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;

(2) the trust receipt the custodian issues under Section 2257.045 shall show that the custodian has deposited the security in a permitted institution; and

(3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.043. DEPOSITORY AS CUSTODIAN OR PERMITTED INSTITUTION. (a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds by a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.044. CUSTODIAN AS BAILEE. (a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section 61.003, Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter 8 or 9, Business & Commerce Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.045. RECEIPT OF SECURITY BY CUSTODIAN. (a) On receipt of an investment security, a custodian shall immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity.

(b) For a deposit of public funds under Subchapter F, the custodian shall issue and deliver to the comptroller a trust receipt for the pledged security.

(c) For any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, the custodian shall:

(1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

(d) The custodian shall issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 1, eff. June 14, 2013.

Sec. 2257.046. BOOKS AND RECORDS OF CUSTODIAN; INSPECTION.

(a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

(d) At the request of the appropriate public entity officer, the public entity's custodian shall provide a current list of all pledged investment securities. The list must include, for each pledged investment security:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.18, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 2, eff. June 14, 2013.

Sec. 2257.047. BOOKS AND RECORDS OF PERMITTED INSTITUTION. (a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state the name of the custodian that deposits an investment security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.048. ATTACHMENT AND PERFECTION OF SECURITY INTEREST.

(a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER D. AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. AUDITS AND EXAMINATIONS. As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

(1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and

(2) report any significant or material noncompliance with this chapter to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.062. PENALTIES. (a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

(1) did not maintain reasonable compliance with this chapter; and

(2) failed to remedy a violation of this chapter within a reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

(1) has not maintained reasonable compliance with this chapter; and

(2) has acted in bad faith by not remedying a violation of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.063. MITIGATING CIRCUMSTANCES. (a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section 2257.062, including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section 2257.026.

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.064. REINSTATEMENT. The comptroller may reinstate a depository's designation as a state depository if:

(1) the comptroller determines that the depository has remedied all violations of this chapter; and

(2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

#### SUBCHAPTER E. EXEMPT INSTITUTIONS

Sec. 2257.081. DEFINITION. In this subchapter, "exempt institution" means:

(1) a public retirement system, as defined by Section 802.001; or

(2) the permanent school fund, as described by Section 43.001, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.31, eff. Sept. 1, 1997.

Sec. 2257.082. FUNDS OF EXEMPT INSTITUTION. An exempt institution is not required to have its funds fully insured or collateralized at all times if:

(1) the funds are held by:

(A) a custodian of the institution's assets under a trust agreement; or

(B) a person in connection with a transaction related to an investment; and

(2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.083. INVESTMENT; SELECTION OF DEPOSITORY. This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER F. POOLED COLLATERAL TO SECURE

##### DEPOSITS OF CERTAIN PUBLIC FUNDS

Sec. 2257.101. DEFINITION. In this subchapter, "participating institution" means a financial institution that holds one or more deposits of public funds and that participates in the pooled collateral program under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.102. POOLED COLLATERAL PROGRAM. (a) As an alternative to collateralization under Subchapter B, the comptroller

by rule shall establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions. The rules must provide that deposits of public funds of a county are not eligible for collateralization under the program. The comptroller shall provide for a separate collateral pool for any single participating institution's deposits of public funds.

(b) Under the pooled collateral program, the collateral of a participating institution pledged for a public deposit may not be combined with, cross-collateralized with, aggregated with, or pledged to another participating institution's collateral pools for pledging purposes.

(c) A participating institution may pledge its pooled securities to more than one participating depositor under contract with that participating institution.

(d) The pooled collateral program must provide for:

(1) participation in the program by a participating institution and each affected public entity to be voluntary;

(2) uniform procedures for processing all collateral transactions that are subject to an approved security agreement described by Section 2257.103; and

(3) the pledging of a participating institution's collateral securities using a single custodial account instead of an account for each depositor of public funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.103. PARTICIPATION IN POOLED COLLATERAL PROGRAM. A financial institution may participate in the pooled collateral program only if:

(1) the institution has entered into a binding collateral security agreement with a public agency for a deposit of public funds and the agreement permits the institution's participation in the program;

(2) the comptroller has approved the institution's participation in the program; and

(3) the comptroller has approved or provided the collateral security agreement form used.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.104. COLLATERAL REQUIRED; CUSTODIAN TRUSTEE. (a) Each participating institution shall secure its deposits of public funds with eligible securities the total value of which equals at least 102 percent of the amount of the deposits of public funds covered by a security agreement described by Section 2257.103 and deposited with the participating institution, reduced to the extent that the United States or an instrumentality of the United States insures the deposits. For purposes of determining whether collateral is sufficient to secure a deposit of public funds, Section 2257.022 (b) does not apply to a deposit of public funds held by the participating institution and collateralized under this subchapter.

(b) A participating institution shall provide for the collateral securities to be held by a custodian trustee, on behalf of the participating institution, in trust for the benefit of the pooled collateral program. A custodian trustee must qualify as a custodian under Section 2257.041.

(c) The comptroller by rule shall regulate a custodian trustee under the pooled collateral program in the manner provided by Subchapter C to the extent practicable. The rules must ensure that a custodian trustee depository does not own, is not owned by, and is independent of the financial institution or institutions for which it holds the securities in trust, except that the rules must allow the following to be a custodian trustee:

- (1) a federal reserve bank;
- (2) a banker's bank, as defined by Section 34.105, Finance Code; and
- (3) a federal home loan bank.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.105. MONITORING COLLATERAL. (a) Each participating institution shall file the following reports with the comptroller electronically and as prescribed by rules of the comptroller:

(1) a daily report of the aggregate ledger balance of deposits of public agencies participating in the pooled collateral program that are held by the institution, with each public entity's funds held itemized;

(2) a weekly summary report of the total market value of securities held by a custodian trustee on behalf of the participating institution;

(3) a monthly report listing the collateral securities held by a custodian trustee on behalf of the participating institution, together with the value of the securities; and

(4) as applicable, a participating institution's annual report that includes the participating institution's financial statements.

(b) The comptroller shall provide the participating institution an acknowledgment of each report received.

(c) The comptroller shall provide a daily report of the market value of the securities held in each pool.

(d) The comptroller shall post each report on the comptroller's Internet website.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.106. ANNUAL ASSESSMENT. (a) Once each state fiscal year, the comptroller shall impose against each participating institution an assessment in an amount sufficient to pay the costs of administering this subchapter. The amount of an assessment must be based on factors that include the number of public entity accounts a participating institution maintains, the number of transactions a participating institution conducts, and the aggregate average weekly deposit amounts during that state fiscal year of each participating institution's deposits of public funds collateralized under this subchapter. The comptroller by rule shall establish the formula for determining the amount of the assessments imposed under this subsection.

(b) The comptroller shall provide to each participating institution a notice of the amount of the assessment against the institution.

(c) A participating institution shall remit to the comptroller the amount assessed against it under this section not later than the 45th day after the date the institution receives the notice under Subsection (b).

(d) Money remitted to the comptroller under this section may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.107. PENALTY FOR REPORTING VIOLATION. The comptroller may impose an administrative penalty against a participating institution that does not timely file a report required by Section 2257.105.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.108. NOTICE OF COLLATERAL VIOLATION; ADMINISTRATIVE PENALTY. (a) The comptroller may issue a notice to a participating institution that the institution appears to be in violation of collateral requirements under Section 2257.104 and rules of the comptroller.

(b) The comptroller may impose an administrative penalty against a participating institution that does not maintain collateral in an amount and in the manner required by Section 2257.104 and rules of the comptroller if the participating institution has not remedied the violation before the third business day after the date a notice is issued under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.109. PENALTY FOR FAILURE TO PAY ASSESSMENT. The comptroller may impose an administrative penalty against a

participating institution that does not pay an assessment against it in the time provided by Section 2257.106(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.110. PENALTY AMOUNT; PENALTIES NOT EXCLUSIVE. (a) The comptroller by rule shall adopt a formula for determining the amount of a penalty under this subchapter. For each violation and for each day of a continuing violation, a penalty must be at least \$100 per day and not more than \$1,000 per day. The penalty must be based on factors that include:

- (1) the aggregate average weekly deposit amounts during the state fiscal year of the institution's deposits of public funds;
- (2) the number of violations by the institution during the state fiscal year;
- (3) the number of days of a continuing violation; and
- (4) the average asset base of the institution as reported on the institution's year-end report of condition.

(b) The penalties provided by Sections 2257.107-2257.109 are in addition to those provided by Subchapter D or other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.111. PENALTY PROCEEDING CONTESTED CASE. A proceeding to impose a penalty under Section 2257.107, 2257.108, or 2257.109 is a contested case under Chapter 2001.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.112. SUIT TO COLLECT PENALTY. The attorney general may sue to collect a penalty imposed under Section 2257.107, 2257.108, or 2257.109.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.113. ENFORCEMENT STAYED PENDING REVIEW. Enforcement of a penalty imposed under Section 2257.107, 2257.108, or 2257.109 may be stayed during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A participating institution that cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the comptroller to contest the affidavit as provided by those rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.114. USE OF COLLECTED PENALTIES. Money collected as penalties under this subchapter may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.



October 13, 2016

Jefferson County Commissioners' Court  
1149 Pearl Street  
Beaumont, Texas 77701

Honorable Judge Jeff Branick and Commissioners' Court:

On behalf of the Southeast Texas Government Employee Benefits Pool Board of Trustees, I am pleased to present 2017 renewal rates for your current employee benefits through the risk pool. We are proud of the partnerships we have developed with the groups in the pool and are determined to continue to meet your employees' needs for high quality benefits while managing costs.

### **MEDICAL PLAN OPTIONS**

The following rates reflect a 7% increase for Active Employees. Jefferson County currently offers Plan 333 to its active employees. Effective January 1, 2017,

<b>Medical Plan 333 (Active Employees)</b>	
<b>Employee only</b>	\$610.56
<b>Employee &amp; Spouse</b>	\$1,404.65
<b>Employee &amp; Child</b>	\$1,236.70
<b>Family</b>	\$1,610.38

The following rates reflect a 7% increase for Retirees under 65 years of age. Jefferson County currently offers Plan 333 to its retirees.

<b>Medical Plan 333 (Retirees)</b>	
<b>Retiree only</b>	\$1,069.92
<b>Retiree &amp; Spouse</b>	\$2,461.45
<b>Retiree &amp; Child</b>	\$2,167.15
<b>Family</b>	\$2,821.96
<b>Spouse Only</b>	\$1,391.52
<b>Child Only</b>	\$1,097.23

Jefferson County  
Page 2

### **DENTAL PLAN OPTIONS**

The following rates reflect no change for 2017.

	Dental High Plan	Dental Basic Plan
<b>Employee only</b>	\$26.63	\$17.85
<b>Employee &amp; Child</b>	\$57.35	\$37.33
<b>Employee &amp; Spouse</b>	\$57.35	\$37.33
<b>Family</b>	\$97.49	\$57.63

### **LIFE INSURANCE AND LONG TERM DISABILITY INSURANCE**

Basic Life, Supplemental Life and Long Term Disability rates will not change for 2017.

#### **Age 65 & Over Retiree Benefits**

There is a 2.8% overall rate increase for the Age 65 & Over Retiree Benefits offered through Group Administrative Concepts, which includes the Hartford Medicare Supplement and Express Scripts Medicare Part D drug coverage. The new rate is \$309.34 per member per month.

In accordance with your Interlocal Participation Agreement, your agreement will automatically renew effective January 1, 2017, unless written notice of the intent to terminate the agreement is received sixty (60) days prior to the renewed term.

If you have any questions concerning the benefits, rate changes, or if there is anything else we can help you with, please don't hesitate to give us a call. We will be happy to assist in any way we can.

Sincerely,

Kim Isaacs  
Administrator

CC: Patrick Swain, Chairperson

**Special, October 24, 2016**

There being no further business to come before the Court at this time,  
same is now here adjourned on this date, October 24, 2016