

ARF-740

## REGULAR SESSION AGENDA

Date: 07/06/2010

## Amendment to Collateral Security Agreement

Submitted For: Jeff Council

Submitted By:

County Attorney

Department: Treasurer

Type of Item: Discussion Item

Renewal Agreement/ No

Appointment:

Reviewed by County Yes

Attorney's Office:

Multiple Originals Y

Y/N?:

Item #: 93-0.

~~Treasurer~~

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**Information****SUMMARY OF ITEM**

Amendment to Collateral Security Agreement

**SPECIAL HANDLING**

7-8-10 2 origs. ret. to Jeff Council, Treasurer

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**Attachments**Link: Amendment to Collateral Security Agreement

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STATE OF TEXAS           §  
                                     §  
COUNTY OF FORT BEND §

**AMENDMENT TO COLLATERAL  
SECURITY AGREEMENT**

**THIS AMENDMENT**, is made and entered into by and between Fort Bend County, (hereinafter "Depositor"), and Prosperity Bank (hereinafter "Bank").

**THAT WHEREAS**, the parties executed and accepted that certain Collateral Security Agreement, ("Agreement"), on October 6, 2008, attached hereto as Exhibit A, and incorporated by reference herein for all purposes; and,

**WHEREAS**, the parties desire to amend the Agreement to change the Trustee identified in the Agreement.

**NOW, THEREFORE**, the following changes are incorporated as if a part of the original Agreement:

To perfect the security interest of the Depositor in the collateral pledged by the Bank, the Federal Home Loan Bank of Dallas will hold the Collateral in a custody account for the benefit of the Depositor. All references to "Trustee" shall refer to the Federal Home Loan Bank of Dallas.

Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.

FORT BEND COUNTY

By: \_\_\_\_\_

Robert E. Hebert, County Judge

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

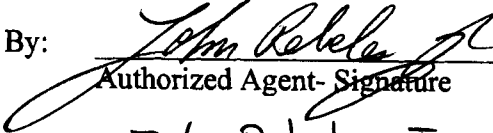
1-6-2010

ATTEST:



Dianne Wilson, County Clerk

PROSPERITY BANK

By:   
Authorized Agent- Signature

John Rebeles, Jr.  
Authorized Agent- Printed Name

Title: President, Sugar Land Banking Center

Date: 06-23-2010

# EXHIBIT A

## COLLATERAL SECURITY AGREEMENT

This COLLATERAL SECURITY AGREEMENT is made and entered into on the date herein written by and between Fort Bend County, hereinafter called "Depositor," and \_\_\_\_\_, a national banking association, organized under the laws of the United States and authorized by law to do banking business in the State of Texas, hereinafter called "Bank."

### *Background*

Depositor, through action of its governing Board, has designated Bank as a depository for funds of the Depositor. During the term of this Collateral Security Agreement, the Depositor will, through appropriate action of its governing Board, designate the officer, who will be authorized to represent and act on behalf of the Depositor in any and all matters of every kind arising under the Collateral Security Agreement. Bank's Deposit Agreement is incorporated herein for all purposes; however to the extent that any provision therein conflicts with the provision herein, this Collateral Security Agreement will control. All funds on deposit with Bank to the credit of the Depositor are required to be secured by collateral as provided for in the Texas Local Government Code; said state law is hereinafter referred to as the "Public Funds Investment Act" (PFIA).

To perfect the security interest of the Depositor in the collateral pledged by the Bank, the Federal Reserve Bank of Dallas will hold the Collateral in a custody account for the benefit of the Depositor. The said Federal Reserve Bank is hereinafter referred to as "Trustee".

NOW, THEREFORE, in consideration of the foregoing, and for other consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

### I

Bank hereby pledges to Depositor, and grants to Depositor a security interest in, those assets owned by Bank and held by Trustee for the benefit of Depositor, in accordance with the terms of this Collateral Security Agreement (hereinafter, the "Collateral"), to secure the deposits held by Bank for Depositor as required by the PFIA.

### Ia

~~Depositor requires a letter of credit from the Federal Home Loan Bank with a credit limit of a minimum of \$100 Million dollars.~~

Depositor accepts Bank's request to modify. Bank will pledge 110% of deposits with securities.

### II

The total of the market value of the Collateral securing such deposits will be in an amount at least equal to the amount of such deposits, and reduced to the extent that such deposits are insured by an agency or instrumentality of the United States government.

### III

Bank has heretofore or will immediately hereafter deliver to the Trustee Collateral of the kind and character permitted by the Depositor of sufficient amount and market value to provide adequate Collateral for the funds of Depositor deposited with Bank. Said Collateral or substitute collateral, as hereinafter provided for, shall be kept and retained by Trustee in trust so long as the depository relationship between Depositor and Bank shall exist hereunder, and thereafter so long as deposits made by Depositor with Bank hereunder, or any portion thereof, shall have been properly paid out by Bank to Depositor or on its order.

### IV

Bank shall cause Trustee to accept said Collateral and hold the same in trust for the purpose herein stated.

### V

Should Bank fail at any time to pay and satisfy when due, any check, draft, or voucher lawfully drawn against any deposit, or in case Bank becomes insolvent, or fails to maintain adequate collateral as required by this Agreement, or in any manner breaches its contract with Depositor, Depositor shall give written notice of such failure, insolvency, or breach to Bank, and Bank shall have three days to cure such failure, insolvency, or breach. In the event Bank shall fail to cure such failure, insolvency, or breach within three days, it shall be the duty of Trustee, upon demand of Depositor (supported by proper evidence of any of the above-listed circumstances), to surrender the above-described Collateral to the Depositor. Depositor may sell all or any part of such Collateral and out of the proceeds thereof pay Depositor all damages and losses sustained by it, together with all expenses of any and every kind incurred by it on account of such failure or insolvency, or sale, accounting to Bank for the remainder, if any, of said proceeds or Collateral remaining unsold.

### VI

Any sale of such Collateral, or any part thereof, made by Depositor hereunder may be either at public or private sale; provided, however, it shall give to both Depositor and Bank three days' notice of the time and place where such sale shall take place, and such sale shall be to the highest bidder therefore for cash. Depositor and Bank shall have the right to bid at such sale.

### VII

If Bank shall desire to sell or otherwise dispose of any one or more of said securities so deposited with Trustee, it may substitute for any one or more of such securities other securities of the same market value and of the character authorized by the Depositor, and shall be approved by the County Treasurer by signature prior to substitution. Such right of substitution shall remain in full force and may be exercised by Bank as often as it is desired; provided, however, that the aggregate market value of all collateral pledged hereunder shall be at least equal to the amount of collateral required hereunder. If at

any time the aggregate market value of such Collateral so deposited with Trustee is less than the total sum of the Depositor's funds on deposit with said Bank, Bank shall immediately deposit with Trustee such additional Collateral as may be necessary to cause the market value of such Collateral to equal the total amount of required Collateral. Failure of the bank to adequately monitor the collateral and to cure any deficiencies within three business days will subject the Bank to the penalties prescribed in the next paragraph of this Agreement. Depositor shall have the right to reject substituted collateral by the Bank. Bank shall be entitled to income on securities held by Trustee, and Trustee may dispose of such income as directed by Bank without approval of Depositor, provided a breach of contract does not exist.

Any time the collateral is determined to be insufficient (i.e., a breach of contract) for a period exceeding three business days, the Bank will be required to maintain an additional 5 percent collateral over and above the requirement contained in the PFIA. This additional 5 percent collateral requirement will be made for each deficiency that was not cured within three business days after the collateral deficiency occurred during the period of this contract. To the extent that this provision is being implemented during the contract period, Section IX is suspended. This penalty will occur automatically without any notification by the Depositor to the Bank.

### VIII

Bank shall cause Trustee to promptly forward within three business days to Depositor copies of safekeeping or trust receipts covering all such Collateral held for Bank, including substitute Collateral as provided for herein.

### IX

If at any time the Collateral in the hands of Trustee shall have a market value in excess of the sum of balances due Depositor by Bank, the Depositor shall authorize the withdrawal of a specified amount of collateral and Trustee may deliver this amount of Collateral (and no more) to Bank, taking its receipt therefor, and Trustee shall have no further liability for collateral so redelivered to Bank.

Either Depositor or Bank shall have the right to terminate this Agreement by advance written notice to the other of its election to do so, and this Agreement shall be void from and after the expiration of sixty days after the receipt of such notice, provided all provisions of this Agreement have been fulfilled.

### X

When the relationship of Depositor and Bank shall have ceased to exist between Depositor and Bank, and when the Bank shall have properly paid out all deposits of Depositor, it shall be the duty of Depositor to give Trustee written notice to that effect; whereupon Trustee shall, with the approval of Depositor, redeliver to Bank all Collateral then in their possession belonging to Bank, taking its receipt therefore.


Executed this 30 day of September 2008, undersigned duly authorized officers of parties hereto.

FOR DEPOSITORY BANK:

  
(Signature)

President - Prosperity Bank  
(Title) Sugar Land Banking Center

FOR DEPOSITOR: FORT BEND COUNTY

  
(Signature) Robert Hebert

County Judge 10/6/08  
(Title)

This Collateral Security Agreement was approved by the Board of Directors of the Bank on September 30, 2008.