

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

**ORDER APPROVING AND RATIFYING COUNTY ATTORNEY'S RETENTION OF
OUTSIDE COUNSEL TO ASSIST IN LITIGATION UNDER ALTERNATIVE
CONTINGENT FEE AGREEMENTS (AS AMENDED, REVISED, OR MODIFIED)**

On this 10th day of September, 2013, the Commissioners Court of Fort Bend County, convened at a regular meeting of the Court, sitting as the governing body of Fort Bend County, upon motion of Commissioner Patterson, seconded by Commissioner Morrison, duly put and carried, IT IS HEREBY ORDERED that:

The County Attorney's Office has been authorized to file suit on behalf of the County against Mortgage Electronic Registration Systems, Inc., MERSCORP, Inc., Bank of America, National Association, and those acting in concert with them (collectively, the "Defendants") in claims arising out of these Defendants' recordation or failure to record instruments related to promissory notes and/or mortgage obligations on real estate located in Fort Bend County, Texas, and for all appropriate legal or equitable relief.

The County Attorney has been authorized to retain outside legal counsel of his selection (Malouf & Nockels LLP, Hilliard Munoz Gonzales, LLP, and Watts Guerra LLP) to assist the County Attorney's Office in its prosecution of such litigation under the terms and provisions of the proposed alternative contingent fee agreements heretofore recommended for approval by the County Attorney, which terms and provisions have been approved.

Commissioners Court hereby finds and determines, pursuant to Texas Local Government Code § 262.024(a)(4), that the proposed alternative contingent fee agreements as originally recommended for approval by the County Attorney, and the proposed alternative contingent fee agreements as have been amended, revised, or modified by the County Attorney, and as have been further amended, revised, or modified by the County Attorney upon recommendation by the

State of Texas Comptroller's Office, are for *professional services*, requiring work that is predominantly mental or intellectual, rather than physical or manual, requiring special knowledge or attainment and a high order of learning, skill, and academic intelligence;

Commissioners Court hereby grants an exemption of these legal services from the competitive bid / proposal requirements of the County Purchasing Act, pursuant to the discretionary exemption for personal and professional services, as set forth under Texas Local Government Code § 262.024(a)(4).

Commissioners Court further finds and determines that:

- 1) there is a substantial need for the legal services;
- 2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the public agency or by the attorneys and supporting personnel of another public agency; and,
- 3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because Fort Bend County does not have appropriated or other budgeted funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees; and,

Commissioners Court hereby approves the terms and provisions of the proposed alternative contingent fee agreements as amended, revised, or modified by the County Attorney, and as further amended, revised, or modified by the County Attorney upon recommendation by the State of Texas Comptroller's Office, which agreements as further amended, revised, or modified are hereby ratified as such by Commissioners Court; and Commissioners Court hereby authorizes execution of same by the County Judge and County Attorney.

FORT BEND COUNTY



Robert E. Hebert, County Judge

ATTEST:

Dianne Wilson

Dianne Wilson, County Clerk

