

**INVITATION TO BID**

**BID TITLE: BANK DEPOSITORY**

**OPENING DATE: March 30, 2015**

**OPENING TIME: 9:00 A.M.**

**PLACE: ERATH COUNTY COURTROOM LOCATED ON THE  
SECOND FLOOR OF THE ERATH COUNTY COURTHOUSE**

**CONTACT PERSON: DONNA KELLY  
ERATH COUNTY TREASURER  
100 W. WASHINGTON  
STEPHENVILLE, TEXAS 76401  
(254) 965-1483  
countytreasurer@co.erath.tx.us**

## GENERAL INSTRUCTIONS TO BIDDERS

All sealed bids, along with a certified or cashier's check, must be received in the Erath County Treasurer's office located on the third floor of the Erath County Courthouse by 9:00 a.m. on March 30, 2015.

**All bid documents must be in sealed envelopes clearly marked as bank depository bid or sub depository bid. Completed bids must contain one original bid and one copy. The original bid must be clearly marked and contain all original signatures.**

Public opening of the bids will be during the regular meeting of the Erath County Commissioners' Court held in the Erath County Courtroom located on the second floor of the Erath County Courthouse.

The Commissioners' Court of Erath County reserves the right to reject in part of or in whole any or all bids, waive minor technicalities, and award the bid which best serves the interest of Erath County. **Late bids will be returned to the bidder unopened.**

Bids may be withdrawn at any time prior to the official opening. Alterations made before opening time must be initialed by bidder to guarantee authenticity.

The undersigned agrees, if this bid is accepted, to furnish all services upon which fees or interest rates are offered and upon the terms and conditions in the specifications. The period for acceptance of this bid will be thirty (30) calendar days unless a different period is noted by the bidder.

**THE COUNTY EXPRESSLY REQUESTS THAT BIDDERS NOT DISCUSS THIS ENGAGEMENT OR THE BANK'S PLANS, EXPERIENCE OR CREDENTIALS WITH ANY OTHER BANKS OR ANY MEMBER OF COMMISSIONERS' COURT UNTIL REQUESTED BY COUNTY OFFICIALS TO MAKE A PERSONAL PRESENTATION.**

The County is exempt from Federal Excise and Sales Tax; therefore, tax must not be included in this bid. Bids should be submitted on the attached bid work sheet or a similar format.

## **SPECIFICATIONS BANK DEPOSITORY**

### **GENERAL SPECIFICATIONS:**

**SCOPE OF CONTRACT**-It is the intent of the Erath County Commissioners' Court to contract with banks desiring to be designated as the Erath County Depository Bank or a Subdepository Bank. The Contract will include all Erath County Public Monies held by the Treasurer, the Registry Funds held by the District and County Clerks, funds collected by the Tax Assessor-Collector, the funds held by the Erath County Community Correction Department, any other funds collected or held under the tax identification number of Erath County.

**RESPONSE REQUIRED FOR EACH SECTION**-Each section of the Invitation to Bid requires a response from the applicant. Applicant must format responses in the same sequence as the Invitation to Bid.

**EVALUATION PROCESS-DEPOSITORY BANK**-Erath County will award the Depository Bank contract based on, but not limited to, the following criteria:

1. Bank to be located in Stephenville, Texas.
2. Bank's financial position as it effects the Bank's ability to pledge adequate securities against County funds.
3. Net rate of return on County funds.
4. Ability to meet service requirements.
5. Cost of services.
6. Cash management products available that will be necessary for Erath County banking procedures.

**EVALUATION PROCESS-SUBDEPOSITORY BANK**-Erath County will award the Subdepository Bank contract based on but not limited to, the following criteria:

1. Bank to be located in Dublin, Texas.
2. Ability to meet service requirements.
3. Cost of Services.
4. Net rate of return on County Funds.

**COMPLIANCE WITH STATUTES**-By returning the Bid Worksheet, Bank acknowledges that is understands the Revised Civil Statutes of Texas (Article 2544, et seq. of the Revised civil Statutes of Texas as revised by Local Government Code, Chapter 116.000 through 116.155, Chapter 117.021 through 117.058 that pertain to the managing and safekeeping of county funds, including but not limited to those specified and will comply with those statutes. In this document the statutes will be referred to as the "Code".

**BANK AFFILIATION**-Each bank must be a member of the Federal Reserve System and the Federal Deposit Insurance Corporation. A bidder must be a Federal or Texas Chartered bank doing business in and having a full service facility within Erath County, Texas. State chartered banks must be able to perform all services required by this invitation to bid for either the Depository bank or Subdepository bank. State chartered banks who are submitting a bid must be a member of the Federal Deposit Insurance Corporation.

**DURATION**- The contract will be effective for a period of four years beginning June 14, 2015 ending June 14, 2019 with an additional 2-year renewal option.

If a timed deposit maturity extends beyond the expiration date of the contract, the depository bank will pledge sufficient securities required for public funds to Erath County to provide for the maturity of the time deposit.

The depository bank will allow a 60 day extension of contract terms in the event that the County must transition to a new bank at the end of the contract period.

**RENEGOTIATIONS**-Section 116.021(b) (c) of the Code specifies:

(b) If the contract is for a four-year term, the contract shall allow the bank to establish, on the basis of negotiations with the county, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract and again for the 2-year renewal term if the new financial terms do not increase the prices to the County by more than 10%.

**INVESTMENTS MADE OUTSIDE DEPOSITORY BANKS**-Erath County reserves the right to make investments outside the Depository Bank in accordance with the Laws of the State of Texas and the Investment Policy of Erath County. All investment purchases shall be made on the delivery versus payment basis.

**The following three items are required by law and must accompany the bid in order for the financial institution to be considered for award of the bid.**

- 1. The Bank's paid-up capital stock and permanent surplus.**
- 2. The Bank's most recent Annual Financial report, and a statement showing the financial condition of the bank on the date of this application.**
- 3. The bid shall be accompanied by the required certified or cashier's check for ½ % of county revenue.**

**GOOD FAITH GUARANTEE**-A bank desiring to be the Depository bank must submit with the Bid Worksheet a certified check or a cashier's check in the amount of **\$97,686.00**. (which is one half percent of the County's revenue for the preceding year, code 116.023 (2), and one-half of one percent of the funds held by the County and District Clerk during the preceding year code 117.021(d), payable to Erath County as a guarantee of good faith. The check will be held by the County, until the Depository Bank is selected and security has been pledged in the amount of the prior daily balance of all County Funds. The check will be held by the County, until the Depository Bank is selected and security has been pledged in the amount of the prior daily balance of all County funds.

The Subdepository Bank will not require a certified check, because the balances of the two accounts will not exceed \$250,000.00 as insured by the FDIC.

Commissioners' Court shall immediately return the certified checks of the rejected applicants. The Commissioners' Court shall return the successful applicants check after the applicant has provided security for the funds or executes and files depository bond that is approved by Commissioners' Court.

**LIQUIDATED DAMAGES FOR NOT PROVIDING SECURITY**-As stated in code section 116.023:

If a bank is selected as a depository and does not provide the bond or security, the county shall retain the amount of the check as liquidated damages. The county judge shall readvertise for applications, if necessary, to obtain a depository for the county.

Good faith guarantee is not applicable to Subdepository Bank.

**SECURITY**-Within 15 days after the selection of the depository the selected Bank must qualify as the depository by providing security for the balance of all county funds. To compensate for increases or decreases in County Deposits and fluctuations of market value of pledged collateral, the minimum market value of collateral will be 110% of County deposits.

The following securities are acceptable to Erath County:

1. U.S. Treasury Notes
2. U.S. Treasury Bills
3. Government National Mortgage Association Certificates
4. Federal Farm Credit Banks Notes and Bonds
5. Federal Home Loan Banks Notes and Bonds
6. Federal national Mortgage Association Notes and Bonds
7. Federal Home Loan Mortgage Corporation Notes and Bonds
8. State of Texas Bonds
9. Bonds of City, County and Independent School Districts located in Texas with a Moody's rating of AA or better or a Standard and Poor's rating of AA or better.

**COLLATERAL MANAGEMENT**-The bank must include, as part of the Proposal, a statement as to how the bank intends to ensure on a daily basis, that sufficient collateral is pledged to protect covered accounts. Also, a detailed monthly collateral report is required. The report shall contain security descriptions, par value, current face values, and current market value.

**VALUE OF COLLATERAL**-The Bank must propose how it will value pledged securities. The County at any time may investigate the value of any of the securities that may be pledged by the Bank. The full cooperation of the Bank will be required in such instance.

**SERVICE REQUIREMENTS:**

**CONTACT PERSON**-Bank must identify a local senior level management person who will be responsible for overseeing the County's relationship, who would serve as the County's primary contact and who would be able to make decisions regarding operational aspects of this contract.

**ON-LINE SERVICES**-It is required that as a part of the bid the Depository Bank will provide an online PC communication link to the County. This program must perform the following functions.

1. Balance Inquiry
2. ACH Transactions
3. Issue Stop Payments
4. Initiate Auto Transfers
5. Initiate wire transfer
6. Verify checks that have cleared
7. Remote deposit

**STATEMENTS**-Monthly statements will include copies checks, deposit slips, transfer slips, debit and credit memos, processed for all accounts. Completed hard copy of statements shall be no later than 5 business days after the close of the month. If the checks or deposit slips are not returned in the bank statement the bank must provide compact disk with this information. A sample bank statement will be included as part of the proposal.

**PAYROLL DIRECT DEPOSIT**- Bank must provide the capability for the county to utilize "Direct Deposit" payroll processing, allowing employees to select the bank of their choice.

**COMPUTERIZED OUTPUT**- The depository bank must provide compact disk, or electronic on line transmission with all paid items each month of the accounts used by the County Treasurer that will be utilized in the bank account reconciliation process. The bank will work with the County's software provider in order to provide this service.

**TREASURY SECURITIES:** The depository bank may serve as an agent for the County to purchase US Treasury and US Government Agency Securities for the maturities requested by the County.

**AWARD OF CONTRACT**-will be executed by the Erath County Commissioner's Court and will be confirmed by an award letter. Erath County reserves the right to cancel the contract upon sixty days notice.

Bank may cancel the contract with the consent of the Erath County Commissioner's Court upon a sixty days notice. The bank must supply the authorization letter from the Board of Directors to make this a valid bid.

**ERATH COUNTY ACCOUNTS**

Erath County has 51 separate checking accounts, 9 cash management accounts with balances totaling approximately \$ 2,941,000.00 and certificates of deposits totaling \$5,125,000.00. Bids should specify minimum balance requirements.

**SUBDEPOSITORY BANK**

Erath County will have 2 accounts in the Subdepository Bank located in Dublin. This bid should also specify minimum balance requirements.

Please include the cost on the following page for the required services for Erath County.

**Structure of Accounts:**

- Non-Interest Bearing Checking Accounts
- Interest Bearing Checking Accounts
- Cash Management Accounts
- Certificates of Deposit

**Registry Funds**- Separate Individual Savings Accounts. These accounts are held by the District and County Clerks as mandated by the court. Currently the officials have approximately 7 accounts with a combined balance of \$114,066.00, but this figure will fluctuate. The accounts will be in the Clerk's name for the benefit of the beneficiary and will be registered with the beneficiary's Social Security number.

**Interest Bearing Checking Accounts:**

Variable Interest Rate should be quoted.

**Cash Management Accounts:**

These accounts allow daily liquidity to provide cash flow based on the operating needs of the county.

### **Certificates of Deposit-Variable Rate**

The variable rate should be based on a 182 Day US T-Bill rate (as determined by the most recent weekly Treasury Bill Auction) +/- the banks predetermined basis point margin.

	Less than \$100,000.00	More than \$100,000.00
Maturity 30-59 days	+/- ____basis points	+/- ____basis points
Maturity 60-89 days	+/- ____basis points	+/- ____basis points
Maturity 90-179 days	+/- ____basis points	+/- ____basis points
Maturity 180-365 days	+/- ____basis points	+/- ____basis points
Maturity over 365 days	+/- ____basis points	+/- ____basis points

### **Certificates of Deposit – Fixed interest rate**

	Less than \$100,000.00	More than \$100,000.00
Maturity 30-59 days	+/- _____%	+/- _____%
Maturity 60-89 days	+/- _____%	+/- _____%
Maturity 90-179 days	+/- _____%	+/- _____%
Maturity 180-365 days	+/- _____%	+/- _____%
Maturity over 365 days	+/- _____%	+/- _____%

**BID WORKSHEET FOR DEPOSITORY BANKS**

<b>DEPOSITORY SERVICES</b>	<b>SERVICE CHARGE</b>	<b>BALANCE REQUIRED</b>
INTEREST BEARING CHECKING ACCOUNT		_____
INVESTMENT ACCOUNTS		_____
WIRE TRANSFERS	_____	
SERVICE CHARGES ON CHECKING ACCTS.	_____	
SERVICE CHARGES ON INVESTMENT ACCTS.	_____	
COST OF DEPOSIT BOOKS	_____	
COST OF LASER CHECKS	_____	
NIGHT DEPOSITORY SERVICES-INCLUDING BAGS & KEYS	_____	
STOP PAYMENTS	_____	
TRANSFERS BETWEEN ACCOUNTS	_____	
ABIDE BY VOID STATE- MENT ON CHECKS	_____	
DIRECT DEPOSIT FOR PAYROLL	_____	
WIRE SERVICE INCOMING & OUTGOING REPETITIVE	_____ _____	
NON-REPETITIVE SERVICE CHARGE	_____	

ACH TRANSFERS \_\_\_\_\_

OUTGOING BANK INITIATED \_\_\_\_\_

COMPUTERIZED \_\_\_\_\_

STOP PAYMENTS \_\_\_\_\_

OVERDRAWN ACCOUNTS \_\_\_\_\_

RETURNED ITEMS \_\_\_\_\_

DIRECT DEPOSIT OF  
COUNTY EMPLOYEE  
PAYROLL CHECKS \_\_\_\_\_

**SHORT TERM FINANCING**

FIXED RATE \_\_\_\_\_%      VARIABLE RATE \_\_\_\_\_%

**CERTIFICATES OF OBLIGATION**

FIXED RATE \_\_\_\_\_%      VARIABLE RATE \_\_\_\_\_%

OTHER UNSPECIFIED SERVICES AND / OR COSTS NOT SPECIFIED IN THIS DOCUMENT SHOULD BE LISTED AND ATTACHED, ALONG WITH A DESCRIPTION AND UNIT PRICING.

**DEPOSITORY OR SUBDEPOSITORY BANK**

All banks must complete the affidavit below to validate the bid to be the depository or Sub-depository bank.

# AFFIDAVIT

**BERORE ME**, the undersigned authority, a Notary Public in and for the State of Texas on this day personally appeared \_\_\_\_\_ know me to be the person whose name is subscribed to the following, who, after having first duly sworn, upon oath, did depose and say:

The undersigned affirms that they are fully authorized to execute this contract by providing Erath County with a Certified and Attested Resolution from a duly authorized meeting of the Board of Directors of the submitting bank authorizing or empowering the undersigned to execute this contract; that this bank has not prepared this bid in collusion with any other bidder; and that the contents of this bid as to fees, interest rates, terms, or conditions of said bid have not been communicated by the undersigned, nor by any employee or agent, to any other bidder or to any other persons engaged in this type of business prior to the official opening of this bid.

Name and address of Bank: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bidder: \_\_\_\_\_

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

Title: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Affiant \_\_\_\_\_

Name: \_\_\_\_\_

*Sworn to and subscribed before me this* \_\_\_\_\_ *day of* \_\_\_\_\_, 2015.

\_\_\_\_\_  
*Notary Public in and for the State of Texas*

LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE B. COUNTY FINANCES

CHAPTER 116. DEPOSITORIES FOR COUNTY PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 116.001. DEFINITIONS. In this chapter:

(1) "Bank" means a:

(A) bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state; or

(B) savings and loan association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

(2) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(3) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(4) "Subdepository bank" means an authorized bank, other than a depository, that holds demand deposits, not exceeding the Federal Deposit Insurance Corporation's limit, of a district, county, or precinct officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 1, eff.  
Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 234, Sec. 4, eff.  
Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, Sec. 5.009,  
eff. Sept. 1, 1999.

Sec. 116.002. MONEY AFFECTED. (a) This chapter applies to money collected or held by a district, county, or precinct officer in a county and by the officers of a defined district or subdivision in the county, including the funds of a municipal or quasi-municipal subdivision or corporation that has the power to select its own depository but has not done so. The money shall be deposited under this chapter, and the money shall be considered in fixing, and is protected by, a county depository's bond.

(b) Orders for payment, checks, and vouchers evidencing the money deposited in the county depository under Subsection (a) are subject to audit and countersignature as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. [373](#)), Sec. 21, eff. September 1, 2011.

#### SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 116.021. DEPOSITORY AND SUBDEPOSITORY CONTRACTS.  
(a) The commissioners court of a county shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, one or more banks in the county and enter a contract with each selected bank for the deposit of the county's public funds. The county shall contract with a bank under this section for a two-year or four-year contract term. On expiration of a contract under this

section, the contract may be renewed for two years under terms negotiated by the commissioners court.

(b) If the contract is for a four-year term, the contract shall allow the county to establish, on the basis of negotiations with the bank, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract.

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and subject to the same conditions as provided by Subsection (b).

(d) If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 116.024 or by negotiated bid, one or more depositories in the same manner as at the regular time.

(e) If the commissioners court selects a depository by the process provided by Subchapter C, Chapter 262, the depository may be selected by:

- (1) competitive bidding; or
- (2) another method under that subchapter that the county is qualified to use.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 2, eff.  
Sept. 1, 1991; Acts 1995, 74th Leg., ch. 65, Sec. 1, eff.  
Aug. 28, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec.  
1, eff. June 15, 2007.

Sec. 116.022. NOTICE. (a) Once each week for at least 20 days before the date to submit an application under Section 116.023(a), the county judge shall place over the judge's name in a newspaper of general circulation in

the county a notice that the commissioners court intends to receive applications from which to select a depository bank. A notice shall also be posted at the courthouse door of the county.

(b) If a newspaper is not published in the county, the newspaper notice shall be placed in a newspaper published in the nearest county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 65, Sec. 2, eff. Aug. 28, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. [2641](#)), Sec. 2, eff. June 15, 2007.

Sec. 116.023. APPLICATIONS. (a) A bank in the county that wants to be a county depository must deliver its application to the county judge or a designated representative of the judge on or before a date set by the commissioners court that is no later than the 60th day before the date of the expiration of the existing depository contract.

(b) The application must state the amount of the bank's paid-up capital stock and permanent surplus, and the application must be accompanied by:

(1) a statement showing the financial condition of the bank on the date of the application; and

(2) a certified check or cashier's check for at least one-half percent of the county's revenue for the preceding year.

(c) The certified or cashier's check that accompanies an application is a good-faith guarantee on the part of the applicant that if accepted as a county depository it will execute the bond required under this chapter. If a bank is selected as a depository and does not provide the bond, the county shall retain the amount of the check as liquidated

damages, and the county judge shall readvertise for applications, if necessary, to obtain a depository for the county.

(d) A bank in the county that wants to be a county subdepository must comply with Subsections (a) and (b)(1). The subdepository's application must include a proposal outlining its security for the county public funds to be held in addition to revenue offers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1989, 71st Leg., ch. 628, Sec. 4, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 527, Sec. 3, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. [2641](#)), Sec. 3, eff. June 15, 2007.

Sec. 116.024. SELECTION OF DEPOSITORIES AND SUBDEPOSITORIES. (a) At the meeting at which banks are to be selected as county depositories, the commissioners court shall:

(1) enter in the minutes of the court all applications filed with the county judge;

(2) consider all applications; and

(3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

(b) The commissioners court may reject those applicants whose management or condition, in the opinion of the commissioners court, does not warrant placing county funds in their possession.

(c) After selecting one or more county depositories, the commissioners court shall immediately return the certified checks of the rejected applicants. The commissioners court shall return the check of a successful applicant when the applicant executes and files a

depository bond that is approved by the commissioners court.

(d) The conflict of interests provisions of Section [131.903](#) apply to the selection of the depositories.

(e) After selecting one or more subdepositories, the commissioners court shall immediately notify each selected applicant of its selection. Within 15 days, the selected applicant must file a bond or other security as approved by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 4, 5, eff.  
Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 268, Sec. 29,  
eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. [2641](#)), Sec.  
4, eff. June 15, 2007.

Sec. 116.025. DESIGNATION OF DEPOSITORY OR  
SUBDEPOSITORY. When security is provided in accordance  
with Subchapter C and is approved by the commissioners  
court, the commissioners court shall, by an order entered  
in its minutes, designate the bank as a depository or  
subdepository for the funds of the county. The designation  
is effective until the end of the 60th day after the date  
fixed for the next selection of a depository or  
subdepository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 6, eff.  
Sept. 1, 1991.

Sec. 116.026. APPLICANTS OUTSIDE COUNTY. If no bank  
located in the county applies to be designated as the  
county depository, the commissioners court may advertise,  
in the same manner provided by Section [116.022](#) for

advertising for a depository within the county, for applications from banks in an adjoining county or any other county in this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.027. SELECTION OF NONAPPLICANT DEPOSITORY.

(a) If no application to be a county depository is submitted, or if all of the applications are declined, the commissioners court shall deposit the funds of the county with any one or more banks in the county or in the adjoining counties in the amounts and for the periods as the commissioners court considers advisable.

(b) A bank that receives deposits under this section shall provide security in the manner and form, and subject to the same conditions, as is required for a depository of county funds. The penalty of the security must at least equal the total amount of county funds deposited with the bank.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 116.051. QUALIFICATION AS DEPOSITORY OR SUBDEPOSITORY. Within 15 days after the date a bank is selected as a county depository or subdepository, the bank must qualify as the depository or subdepository by providing security for the funds to be deposited by the county with the bank. The depository or subdepository may secure these funds, at the option of the commissioners court, by:

(1) personal bond; surety bond; bonds, notes, and other securities; first mortgages on real property; real property; certificates of deposit; or a combination of these methods, as provided by this subchapter; or

(2) investment securities or interests in them as provided by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 15(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 527, Sec. 7, eff. Sept. 1, 1991.

Sec. 116.052. PERSONAL BOND. (a) One or more personal bonds executed and filed with the commissioners court, payable to the county judge and the judge's successors in office, qualify as security under this subchapter if:

(1) the bonds are signed by at least five solvent sureties who own unencumbered real property in the state that is not exempt from execution under the constitution and other laws of this state;

(2) the unencumbered and nonexempt real property owned by the sureties has a value at least equal to the amount of the bonds; and

(3) the bonds are approved by the commissioners court.

(b) When a bond is filed for approval with the commissioners court under Subsection (a), the sureties shall also file a statement containing:

(1) a description of the unencumbered and nonexempt real property sufficient to identify it on the ground; and

(2) the value of each tract of real property listed, including the value of the improvements on the property.

(c) After the commissioners court approves a personal bond, it shall be filed in the county clerk's office with the statement of the sureties attached to the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.053. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the county judge and the judge's successors in office and filed with the commissioners court, qualifies as security under this subchapter if the bond is approved by the commissioners court.

(b) After the commissioners court approves a surety bond, it shall be filed in the county clerk's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.054. BONDS, NOTES, AND OTHER SECURITIES.

(a) A county depository may pledge with the commissioners court as security under this subchapter:

(1) a bond, note, security of indebtedness, or other evidence of indebtedness of the United States if the evidence of indebtedness is supported by the full faith and credit of the United States or is guaranteed as to principal and interest by the United States;

(2) a bond of this state or of a county, municipality, independent school district, or common school district;

(3) a bond issued under the federal farm loan acts;

(4) a road district bond;

(5) a bond, pledge, or other security issued by the board of regents of The University of Texas System;

(6) bank acceptances of banks having a capital stock of at least \$500,000;

(7) a note or bond secured by mortgages insured and debentures issued by the Federal Housing Administration;

(8) shares or share accounts of a savings and loan association organized under the laws of this state or of a federal savings and loan association domiciled in this state if the payment of the share or share accounts is insured by the Federal Savings and Loan Insurance Corporation; or

(9) a bond issued by a municipal corporation in this state.

(b) Securities provided under this section must have a total market value equal to the amount of the depository bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.055. FIRST MORTGAGES ON IMPROVED REAL PROPERTY. (a) If approved by the commissioners court, closed first mortgages on improved and unencumbered real property located in this state that are assigned to the county judge in a duly acknowledged instrument qualify as security under this subchapter.

(b) Before approving a mortgage as security, the commissioners court shall require:

(1) a written opinion by an attorney selected by the commissioners court showing that the lien is superior to any other claim to or right in the real property; and

(2) insurance approved by the county judge covering the improvements on each tract of pledged real property and providing that a loss is payable to the county judge.

(c) An insurance policy required under Subsection (b) must be issued by a stock fire insurance company or mutual fire insurance company that has a \$100,000 surplus in excess of all legal reserves and other liabilities.

(d) A mortgage accepted as security under this section shall immediately be recorded in each county in which part of the real property is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.056. REAL PROPERTY. (a) If approved by the commissioners court, improved and unencumbered real property, pledged directly by deed of trust to a trustee selected by the commissioners court, with the county judge as beneficiary, qualifies as security under this subchapter.

(b) Before approving real property offered as security, the commissioners court shall require:

(1) a written opinion by an attorney selected by the commissioners court showing that the lien is superior to any other claim to or right in the real property; and

(2) insurance approved by the county judge covering the improvements on the pledged real property and providing that a loss is payable to the county judge.

(c) An insurance policy required under Subsection (b) must be issued by a stock fire insurance company or mutual fire insurance company that has a \$100,000 surplus in excess of all legal reserves and other liabilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.0565. CERTIFICATE OF DEPOSIT. (a) A certificate of deposit qualifies as security under this subchapter if the certificate is:

(1) held in the custody of a Federal Reserve Bank for safekeeping and made the subject of a valid pledge agreement designating the county as the beneficiary of the pledge agreement;

(2) insured in full by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(3) described in detail by a safekeeping receipt issued to the county by the Federal Reserve Bank having custody of the certificates; and

(4) issued with the county as registered owner.

(b) A person to whom presentment of a certificate of deposit pledged to secure county funds is made may not pay or otherwise accept the certificate unless the certificate or the safekeeping receipt required by this section has been endorsed by the county and the depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 15(b), eff. Aug. 28, 1989.

Sec. 116.057. CONDITION OF PERSONAL BOND OR CONTRACT FOR SECURITIES. (a) A personal bond provided or a contract for the pledge of securities under this subchapter must be conditioned that the depository will:

(1) faithfully keep the county funds and faithfully perform all duties and obligations imposed by law on the depository;

(2) pay all checks drawn on a demand deposit account in a depository on presentation by the county treasurer;

(3) pay all checks drawn on a time deposit account on presentation after the expiration of the required period of notice; and

(4) account for the county funds as required by law.

(b) A suit on a personal bond or a contract for securities provided or pledged under this subchapter must be tried in the county for which the depository is selected.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.058. AMOUNT OF SECURITY REQUIRED. (a)

Personal or surety bonds that secure county deposits must be in an amount equal to the estimated highest daily balance of the county, as determined by the commissioners court. However, the commissioners court may not estimate the highest daily balance at an amount that is less than 75 percent of the highest daily balance of the county for the preceding year, less the amount of bond funds received and expended.

(b) Securities pledged to secure county funds on deposit in a depository must be in an amount equal to the amount of those funds. However, real property securities may not be required in an amount greater than 25 percent of the assessed value of the property in the county, as shown by the certified tax roll for the preceding year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.059. VALUATION OF REAL PROPERTY PROVIDED AS SECURITY. The commissioners court shall investigate all real property security and determine the value at which the property will be accepted. The commissioners court may not accept real property as security at a value greater than 50 percent of the reasonable market value of the property covered by a mortgage unless the mortgage is insured or guaranteed by the Federal Housing Administration.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.060. SECURITY NOT REQUIRED FOR FEDERALLY INSURED DEPOSITS. A depository is not required to provide security for the deposit of county funds to the extent the deposits are insured under 12 U.S.C.A. Sections 1811-1832.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 116.081. NEW BOND. (a) The commissioners court may by written order require a depository to execute a new bond whenever the commissioners court considers it advisable or considers it necessary for the protection of the county.

(b) Except for an additional bond required under Section 116.087, if a depository fails for any reason to file the required new bond within five days after the date the depository is served with a copy of the order, the commissioners court may select a new depository in the same manner as it would select a depository at the regular time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.082. SUBSTITUTION OF SECURITIES. (a) After reasonable notice to the commissioners court, a depository is entitled to substitute one type of security for another or replace particular securities with others of the same type if the substituting or replacing security meets the requirements of law and is approved by the commissioners court. Instead of approval of each substitute or replacement security by the commissioners court, the commissioners court may:

(1) adopt a procedure for approving a substitute or replacement security under this section; and

(2) designate a county employee or official, including a county judge, to approve the substitute or replacement security under the procedure adopted under Subdivision (1).

(b) The county judge shall execute the necessary instruments to transfer to the depository or its order a lien withdrawn from real property for which another security is substituted.

(c) The commissioners court may direct the manner in which securities pledged in place of personal or surety bonds are to be deposited.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 2003, 78th Leg., ch. 742, Sec. 1, eff. June 20, 2003.

Sec. 116.083. RELEASE OF EXCESS SECURITY. If the securities pledged by a depository to secure county funds exceed the amount required under this chapter, the commissioners court shall permit the release of the excess.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.084. INADEQUATE SECURITY. If for any reason the county funds on deposit with the county depository exceed the amount of security pledged, the depository shall immediately pledge additional security with the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.085. SOLVENCY OF PERSONAL SURETY. (a) At least twice each year while a personal bond securing the county's deposits is in effect, the commissioners court shall investigate the solvency of each surety on the bond. The commissioners court may require the surety to make an itemized and verified financial statement correctly showing the surety's financial position and, if the bond requires the surety to own real property, identifying each tract of real property owned by the surety and stating its value.

(b) The commissioners court shall require a depository to provide a new bond meeting the requirements of this chapter if a financial statement provided under Subsection (a) indicates that:

- (1) a surety is insolvent;
- (2) a surety's net worth is less than the amount required by this chapter;
- (3) the assets listed on the statement are depreciated or their value is in any way impaired; or
- (4) real property required by the bond has been disposed of or encumbered and the value of the surety's remaining unencumbered and nonexempt real property is inadequate to meet the requirements of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.086. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. Whenever the commissioners court considers it necessary for the protection of the county, the commissioners court may investigate the solvency of a surety company that issues a bond on behalf of a depository of county funds or investigate the value of securities pledged by a depository to secure county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.087. ADDITIONAL BOND. (a) If after a county establishes a depository the county or a subdivision of the county receives funds from the sale of bonds or otherwise, at the next meeting of the commissioners court, or as soon afterward as is practical, the commissioners court may make written demand on the depository to provide an additional bond in an amount equal to the amount of funds received. If county funds derived from the sale of county securities during the term of a depository bond are deposited with the depository, the commissioners court shall require an additional bond in an amount equal to the additional county funds. The depository shall continue the additional bond in effect as long as the additional funds remain in the depository.

(b) The depository may cancel this extra or special bond and concurrently substitute a new bond for it as the additional funds are reduced. However, the additional bond must always at least equal the amount of the additional funds.

(c) If a depository does not provide an additional bond under Subsection (a) within 30 days after the date the commissioners court demands the additional bond, the commissioners court may withdraw the additional funds from the depository by the draft of the county treasurer and deposit them in a solvent national or state bank that has a combined capital stock and surplus greater than the amount of the additional funds. The commissioners court may leave the additional funds on deposit with this alternative bank until the county depository files the required additional bond with the commissioners court, after which the commissioners court shall redeposit the balance of the additional funds with the county depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.088. RELEASE OF SURETY COMPANY. (a) A surety company may be relieved of its obligations under a surety bond executed on behalf of a county depository after the 30th day after the date it gives written notice to the commissioners court requesting to be released.

(b) A surety company is not relieved under Subsection (a) of liability for a loss sustained by the county before the expiration of the bond.

(c) If a depository's surety company requests to be relieved from its obligations under Subsection (a), the depository shall provide further security acceptable to the commissioners court to secure county funds under this chapter. The depository shall provide the further security before termination of the surety's obligations under the

bond. The new security shall be filed in the county clerk's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.089. SURRENDER OF INTEREST ON SECURITIES. On the request of a county depository, the commissioners court shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the commissioners court if the securities remaining pledged by a depository are adequate to meet the requirements of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 116.111. CHARACTER AND AMOUNT OF DEPOSITS. The commissioners court may determine and designate the character and amount of county funds that will be demand deposits and that will be time deposits. The commissioners court may contract with a depository for interest on time deposits at any legal rate under a federal law or under a rule adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.112. INVESTMENT OF FUNDS. (a) The commissioners court may direct the county treasurer to withdraw any county funds deposited in a county depository that are not immediately required to pay obligations of the county and invest those funds as provided by this section unless such an investment or withdrawal is prohibited by

law or the withdrawal is contrary to the terms of the depository contract.

(b) The funds may be invested in accordance with Subchapter A, Chapter 2256, Government Code. In addition to the obligations, certificates, and agreements described by that Act, the funds may be invested in certificates of deposit issued by a state or federal savings and loan association domiciled in this state, the payment of which is insured in full by the Federal Savings and Loan Insurance Corporation or its successor.

(c) If a county purchases a security repurchase agreement, the agreement must be purchased under a master contractual agreement that specifies the rights and obligations of both parties and that requires that securities involved in the transaction be held in a safekeeping account subject to the control and custody of the county.

(d) Repealed by Acts 1989, 71st Leg., ch. 754, Sec. 2, eff. June 15, 1989.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 15(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 754, Sec. 1, 2, eff. June 15, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 116.113. DEPOSIT OF FUNDS. (a) Immediately after the commissioners court designates a county depository, the county treasurer shall transfer to the depository all of the county's funds and the funds of any district or municipal subdivision of the county that does not select its own depository. The treasurer shall also immediately deposit with the depository to the credit of the county, district, or municipality any money received after the depository is designated.

(b) A county tax assessor-collector shall immediately deposit in the county depository taxes collected on behalf of the state, the county, or a district or municipal subdivision of the county. The taxes remain on deposit pending the preparation and settlement of the assessor-collector's report on the tax collections.

(c) If a commissioners court that controls school district funds elects to transfer the funds during a school year from a county depository to another bank, the school district may require the commissioners court to delay the transfer until the earlier of the end of the school district's current fiscal year or the next September 1.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.114. COLLECTIONS BY DEPOSITORY. A county depository shall collect all checks, drafts, and demands for money deposited with it by the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.115. CLEARINGHOUSE FOR MULTIPLE DEPOSITORIES. If the funds of a county are deposited with more than one depository, the commissioners court shall by order name one of the depositories to act as a clearinghouse for the others. All county orders for payment are finally payable at the depository named as the clearinghouse.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 22, eff. September 1, 2011.

Sec. 116.116. OBLIGATIONS PAYABLE AT COUNTY DEPOSITORY. (a) A county depository shall pay a check or

order for payment drawn by the county treasurer against funds deposited with the depository on presentation of the check or order if the funds subject to the check or order are in the possession of the depository, and, in the case of a time deposit, if the agreed period of notice has expired.

(b) If the commissioners court selects a depository in another county under Section 116.026, the depository shall file a statement with the county treasurer designating the place in the county governed by the commissioners court where, and the person by whom, deposits by the treasurer may be received and checks will be paid, or the place in another county where deposits may be made and checks may be paid. The statement must be filed within five days after the date notice is given to the depository of its selection.

(c) An order for payment or check, including an order or check issued prior to September 1, 1993, issued by the county treasurer in settlement of a claim against a county that is not presented for payment before the 366th day following the date of issuance is overdue and nonnegotiable. The sum of the overdue order or check shall be credited as revenue to the county if delivery to the payees was attempted or occurred within a reasonable time following the issuance of the order or check. No right to full settlement of a proper unpaid claim is extinguished by this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 326, Sec. 1, eff. June 5, 1991; Acts 1993, 73rd Leg., ch. 931, Sec. 1, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 329, Sec. 1, eff. May 26, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 23, eff. September 1, 2011.

Sec. 116.117. STATEMENTS OF ACCOUNT. A depository shall make a detailed monthly statement to the commissioners court at each regular term of the court. The statement must show the daily balance credited to each of the funds on deposit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.118. DEBTS PAYABLE OTHER THAN AT COUNTY TREASURY. The commissioners court may instruct the county treasurer to deposit money adequate to pay a bond, coupon, or other indebtedness of the county at a place other than at the county treasury if by its terms the indebtedness is payable on maturity at the other location and if the payment is otherwise made in the manner required by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.119. REQUIREMENTS FOR AUDITING AND COUNTERSIGNING UNAFFECTED. This chapter does not affect the application of a law or regulation providing for auditing and countersigning.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.120. COLLECTION OF CERTAIN OVERDUE COUNTY ORDERS FOR PAYMENT OR CHECKS. (a) This section applies only to an order for payment or check issued by a county treasurer in settlement of a claim against a county that has not been presented for payment.

(b) A person attempting to recover funds from the county for a check or order for payment issued by the county treasurer may not charge the person to whom the check or order was issued and on whose behalf the attempted recovery is made, or that person's successors or assigns, a

fee in an amount equal to more than 10 percent of the face value of the check or order.

(c) A county treasurer may collect a reasonable research fee to determine if a claim submitted under this section is valid. The treasurer may include the costs of inquiries to depository banks, research of accounting records, and other similar actions in setting the fee. A county treasurer may require the fee to be paid before a claim may be processed or researched under this section.

Added by Acts 1997, 75th Leg., ch. 142, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 24, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 25, eff. September 1, 2011.

#### SUBCHAPTER F. LIABILITIES

Sec. 116.151. LIABILITIES OF SURETIES ON SEPARATE BONDS. If a county depository provides separate bonds to secure county funds, each surety under a bond is liable only for that part of a loss resulting from the failure of the depository that bears to the total loss the same ratio as the amount of the bond bears to the total amount of all bonds and securities held by the county for the protection of the funds covered by the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.152. SUBROGATION OF SURETIES. If a personal surety or a surety company pays for a loss to a county under a depository bond, the surety is subrogated to the rights of the county in an amount equal to the amount of the surety's payment. However, the amount of the

subrogation may not exceed the amount of the deposit secured by the surety at the time of the depository's default.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.153. PRO RATA RECOVERY BY STATE AND COUNTY. If a county depository becomes insolvent and it becomes necessary to resort to the depository's bond or bonds to recover funds of the county and the state, the state and county are entitled to share pro rata in the recovery.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.154. LIABILITY OF DEPOSITORY PENDING COLLECTION OF DEPOSITS. A county depository that uses due diligence to collect a check, draft, or demand for money deposited by the county with the depository is not liable for the collection until the proceeds have been received by the depository. The depository shall charge the county and the county shall pay a collection expense that the depository may not pay or absorb because of a federal law or a regulation adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.155. FAILURE OF DEPOSITORY TO PAY CHECK OR ORDER FOR PAYMENT. A depository that does not pay a check or order for payment as required by Section 116.116(a) is liable for and shall pay to the holder 10 percent of the amount of the check or order for payment, and the commissioners court shall revoke the order creating the depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. [373](#)), Sec.  
26, eff. September 1, 2011.