

REQUEST FOR PROPOSALS



Port of Harlingen Authority

RELEASE DATE: October 18, 2023

DEPOSITORY AND BANKING SERVICES

SUBMITTAL DEADLINE: November 13, 2023, at 4:00 P.M. (CST)

Email to : Robert@PortOfHarlingen.com

Or deliver/mail a flash drive with a PDF to:

Port of Harlingen Authority
Attention: Robert B. McDonald, Chief Financial Officer
24633 Port Rd
Harlingen, Texas 78550
Port of Harlingen Authority
RFP for Depository and Banking Services

The Port of Harlingen Authority (the Authority) is seeking competitive responses to a Request for Proposal (RFP) for Depository and Banking Services from eligible and qualified financial institutions. The initial three (3) year term shall commence January 1, 2024, and end December 31, 2026. The Authority and its depository may agree to extend the contract for one additional 2-year term under the same terms and conditions. A transition period not to exceed ninety (90) days for migration to a new financial institution at the end of the term must be provided.

Proposals will be accepted until 4:00 P.M. CST November 13, 2023, deliver/mail or email to:

Port of Harlingen Authority
Attention: Robert B. McDonald
Chief Financial Officer
24633 Port Rd
Harlingen, Texas 78550
Robert@PortOfHarlingen.com

Note: Proposals received after 4:00 P.M. November 13, 2023, will not be considered.

Questions concerning this RFP should be sent in writing via email to Robert B. McDonald, Chief Financial Officer at Robert@PortOfHarlingen.com. The deadline for submission of questions will be Tuesday October 31, 2023, at 4:00 P.M. CST.

The management of the Port of Harlingen Authority appreciates your time and effort in preparing your proposal.

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Port of Harlingen Authority RFP Depository and Banking Services

INTRODUCTION

The Port of Harlingen Authority (the Authority) is seeking competitive responses to a Request for Proposal (RFP) for Depository and Banking Services from eligible and qualified financial institutions. The Authority's current depository contract expires December 31, 2023. The depository contract will include all the uninvested funds under the care, custody, and control of the Authority.

This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by the Authority. Additional information may be made available by written request to Robert@PortOfHarlingen.com. Each proposal should be prepared simply and economically, providing a straightforward, concise description of the responder's ability to meet the requirements of this RFP. Emphasis should be on completeness, clarity, responsiveness to the requirements, and an understanding of the Authority's needs. This RFP outlines the Authority's cash management goals, specifies all required qualifications for financial institutions, delineates all required and optional banking services, details the projected activity volumes on all accounts, sets the terms of compensation, establishes contract standard provisions, and provides all proposal submission instructions.

By submitting proposals, each responder certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the work to be performed, the detailed requirements of the services to be provided, and the conditions under which the services are to be performed. Each responder also certifies that it understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the responder. If selected by the Authority, the responder will notify the Authority immediately of any material change in any matters to which the responder has made a statement, representation, or provided information.

Responders are cautioned to read the information contained in this RFP carefully and to submit a complete response to all requirements and questions as directed.

Pursuant to chapter 5013 of the Special District Local Laws Code, depositories will be selected based on a competitive process and evaluated on the following criteria:

- Must be a nationally or Texas chartered depository.
- Must be qualified as a depository for public funds in accordance with state and local laws with an office within the boundaries of the Port of Harlingen District.
- Must be fully insured by the FDIC.
- Must provide a rating from a nationally recognized rating agency.
- Must provide the most recent CRA rating.
- Must provide all requested information.
- Must comply with all requirements in the RFP.
- Must be competitive.
- Must be creditworthy and have solid financial standards.

The contract is designed to obtain the highest level of service for the Authority, to minimize banking costs, and to improve operational efficiencies.

ESTIMATED TIMELINE

Distribution of RFP	October 18, 2023
Deadline for Submission of Written Questions	October 31, 2023, 4:00 p.m.
Deadline for Submission/Delivery of Proposals	November 13, 2023, 4:00 p.m.
Board of Directors approval	December 7, 2023
Contract Commencement	January 1, 2023

SUBMISSION REQUIREMENTS

In addition to all other information, documentation, and demonstrations required by this RFP, a responsive proposal must:

- a) be clear, concise, and complete.
- b) fully detail all fees and charges
- c) include a transmittal cover letter limited to one page to include the RFP title, due date and time, and financial institution name, address, Federal TAX ID number and contact person.
- d) include a table of contents containing sufficient detail to facilitate easy reference.
- e) include the audited financial statement for the most recent fiscal year or web link.
- f) include three professional references.
- g) RFP must be signed by an appropriate depository official.

Responses must provide a full explanation of services, stating acceptance of, modifications or additions to, or a statement of the inability to provide said service. Only proposals submitted in the prescribed format will be considered by the Authority.

Every effort has been made to identify all the existing services and service volumes. Fees not presented in the financial institution's proposal will not be accepted nor paid during the contract period unless the scope or nature of the service has changed, and only then after written agreement of the Authority. Therefore, responders are advised to submit a full listing of all the service fees, even if the service is not among those requested by the Authority in this RFP. Responders should take particular attention and care in completion of the fee schedule to ensure comprehension of the service and level of service offered.

Responders are encouraged to address any service not anticipated by this RFP that will create efficiencies. The Authority is interested in using the best technology to expedite and streamline cash flows and improve efficiency.

Each financial institution is cautioned of the possibility of disqualification pursuant to the provisions of Art. 2529c, VTCS, if members of the Authority's Board of Directors are officers, directors, or stockholders of the financial institution. If a member of the Authority's Board of Directors is an officer, director, or stockholder of the financial institution, the proposal must be accompanied by a certificate signed by the member and by the cashier or secretary of the financial institution certifying that the member owns and has a beneficial interest in no more than 10 percent of the financial institution's outstanding capital stock. If more than one member of the Board is an officer, director or stockholder of the financial institution, the certification must be that the combined interest is less than 10 percent.

The Authority may require presentations to be made by any responding financial institutions to clarify or expand upon information included in the proposal. Such a presentation will be at the request of the Authority and scheduled by the Authority. Financial institutions should not expect such a presentation will be requested and should, therefore, ensure that all pertinent information is included and presented clearly in the proposal.

By submission of a response, responder acknowledges that it has read and thoroughly understands the contents of this RFP, agrees to all terms and conditions stated herein, and represents that responder is willing to and able to provide the depository and banking services required by the Authority.

Responders shall submit proposals **in PDF format via electronic submission (e-mail) or on a flash drive, by mail or courier**. Additionally, a hard copy may be sent by mail or courier, but it is not required. Regardless of the form of submittal, the required submittal format standards stated below must be used and all required forms and pages included. Electronic submittals must be in pdf format.

Email submittal:

Responder assumes the risk that an emailed copy is not timely received by the Authority; or if received, cannot be opened by the Authority; or if received and can be opened is not readable or legible in whole or part, or is corrupted in whole or part. Unopenable or unreadable emailed submittals may be disqualified.

Electronic (email) submittals must be in pdf format, and signature pages must be signed, dated, scanned and included in the pdf submittal.

Email to : Robert@PortOfHarlingen.com

Subject line: RFP for Depository and Banking Services

Submittals not timely received, complete, openable, and legible (all parts readable), will not be considered. The Authority is not responsible for late submissions on account of failed or late mail or courier delivery, failure of email transmission, or otherwise; it is solely the Responder's responsibility to ensure the Authority receives the Responder's submission on time and in readable form. Submittals received later than the stated deadline will be rejected.

Proposals will be confidentially opened and reviewed by the Chief Financial Officer. The final selection of the depository will be made by the Board of Directors at the regular meeting on December 7, 2023, at 12:00 noon, CST, at the Authority office.

CLARIFICATION OF REQUIREMENTS

All requests for additional information or clarification concerning this RFP must be made in writing and emailed by October 31, 2023, 4:00 P.M CST to Robert B. McDonald (Robert@PortOfHarlingen.com). Requests and responses will be provided to all applicants upon receipt. In addition, a summary of all requests and responses will be provided to all applicants by 4:00 P.M. CST November 3, 2023. **THIS SUMMARY MUST BE INCLUDED WITH EACH PROPOSAL SUBMITAL.**

CONTRACT TERMS

The initial term will be for a three (3) year period beginning January 1, 2024, through December 31, 2026. The Authority and its depository may agree to extend the contract for one additional 2-year term. A transition period not to exceed ninety (90) days for migration to a new financial institution at the end of the term must be provided. The Authority reserves the right to open or close any number of accounts, as necessary. Services may be modified by mutual agreement.

The Authority considers all information, documentation and other materials submitted in response to this RFP to be of a non-confidential and non-proprietary nature, and therefore, shall be subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001) after the award of an agreement. If the respondent considers any part of their proposal to be confidential or proprietary, that portion of the proposal should be labeled confidential. However, the entire proposal cannot be considered confidential.

CURRENT ACCOUNT STRUCTURE AND ESTIMATED ACTIVITY

The Authority's current account structure and related activity is shown below. The Authority reserves the right to change account configuration after evaluation of received proposals and adjust, if necessary, the account structure to the most advantageous terms for the Authority.

The Authority currently uses a combination of 5 interest bearing demand deposit accounts, and low volume money market accounts. Total funds on deposit at any one time in the accounts do not normally exceed \$1,600,000 and the current combined balance is \$175,000. The average account balance for the current year was approximately \$400,000. The following table summarizes the Authority's account activity for 2023.

Account	Type	Average Monthly Deposits or Transfers In	Average Monthly Checks or Transfers Out	Average Monthly Electronic Debits/Wires Out	Account Balance Range	2023 Average Balance
Revenue	Demand	30	60	4	\$500 - 1,000,000	\$53,000
Tax Revenue	Demand	20	8	1	\$100 - 400,000	\$28,000
Payroll	Demand	4	8	0	\$28,000 - 56,000	\$8,200
Revenue	Low Volume	7	4	0	\$40,000 - 800,000	\$175,000
Tax Revenue	Low Volume	9	1	0	\$5,000 - 500,000	\$95,000

Deposits

Most deposits are made to the Revenue and Tax Revenue demand deposit accounts. Roughly half of deposits to the Revenue account are received electronically and the rest are checks received in the mail and deposited through remote deposit. All the deposits to the Tax Revenue account are received electronically.

Payroll

The Authority is currently on a semi-monthly payroll basis paying employees on the 15th and the EOM. The net payroll is approximately \$28,000 per pay period. The Authority processes payroll through ADP, who pulls money from the Payroll account two days prior to payday, for net pay, payroll taxes and payroll processing fees. In addition, funds are pulled from the Payroll account for the employees retirement plan, twice a month. Currently, the Authority has 7 employees.

REQUIRED DEPOSITORY SERVICES

(Refer to Schedule A for the Authority's Investment Policy)

A. Collateral Requirements

To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation, the funds shall be collateralized by pledged securities in accordance with the Public Funds Collateral Act, Tex. Gov't Code Sec. 2257. The Authority shall retain clearly marked receipts providing proof of the Authority's ownership.

Securities shall be pledged with the Authority no later than 10 days after the depository is notified of its selection, and prior to the actual placing of funds in the depository. The securities so pledged must satisfy the requirements of the Texas Government Code Chapters 2256 and 2257 and the Authority's Investment Policy. The original Trust Receipt issued by any Trustee Bank for pledged securities shall be filed with the Authority.

The Authority reserves the right to not accept individual securities pledged as collateral. The securities pledged shall be held in safekeeping by the Federal Reserve Bank or a third party which is not part of the depository's organization at the expense of the depository.

Upon any closing or failure of the depository or any event deemed by a state or national regulatory agency to constitute a closing or failure of the depository, title to all securities pledged pursuant to the depository contract shall be deemed to be vested in and held by the Authority. The Authority is hereby empowered to take immediate possession of all such pledged securities, whether in safekeeping at another financial institution, in possession of the Authority, or the depository.

The depository shall provide the Authority with a monthly statement of securities pledged as collateral, due 10 working days after the close of the calendar month. This securities statement shall reflect total securities itemized by the following:

- CUSIP Number
- Description
- Safekeeping Location
- Coupon
- Maturity Date
- Call Date
- Moody, S&P, and Fitch Ratings
- Face Amount
- Current Par
- Current Book Value
- Market Value

In lieu of the above form of collateral, the Authority would accept a letter of credit from a governmental agency such as the Federal Home Loan Bank.

B. Automated Cash Management Information Access

The Authority strives for efficiency in its operations and full use of treasury and cash management technology. The Authority requires fully automated cash management services with daily detail and balance reporting, preferably through one portal which is secured to prevent unauthorized access to the Authority's accounts. Online transaction initiation and reporting are crucial. Automation within every service area is expected. Imaging of all checks with practical image retention and access is required, as is imaging of deposited items. Preferably, all reports, statements, and account analyses will be available in downloadable electronic form.

C. Automated Clearing House (ACH) Services

ACH services are required. The Authority continues to move toward more complete and active use of ACH, primarily collections. ACH is currently used for some vendor payments, generally the payment is initiated on the vendor's website. The depository will need to provide the Authority a mechanism to selectively permit ACH debits on certain accounts and restrict all ACH debits from certain accounts. The depository must also send a notification (alert) to the Authority of any debit transaction meeting certain criteria.

D. Wire Transfers

The Authority currently uses outgoing wire transfers to investment accounts and occasionally for certain vendor payments. Immediate credit on all incoming wires is required. Outgoing wires will be processed on the day requested. The Authority expects controls to be in place for the prevention of fraud in the wire transfer process, also controls for what accounts are charged, personnel authorized to make wire transfers, personnel authorized to approve transfers prior to sending, and verification of outgoing wire transfers. Templates for recurring wires are required. Notifications (alerts) of wires transfers in or transfers out are required.

E. Fund Transfers

The Authority routinely transfers funds between internal accounts. Immediate credit on all transfers is required. The Authority expects controls to be in place for prevention of fraud in the fund transfer process and controls for personnel authorized to make fund transfers. Notifications (alerts) of fund transfers to non-Authority accounts is required.

F. Standard Disbursement, Collection and Deposit Services

Standard disbursing services for all demand deposit accounts are required to include the payment of all Authority checks upon presentation. There will be dual handwritten signatures for internal control purposes. Checks over \$50,000 must have 2 of the authorized signatories on the Authority's checks. The depository must not honor any check over \$50,000 that does not have 2 authorized signatures. Stop payment services are also required on all accounts.

The Authority will make every effort to avoid and eliminate intra-day and overnight overdrafts. However, in the event a check or checks are presented for payment on any Authority account with insufficient funds available for payment, the Authority will require the depository to pay said check or checks and promptly notify the Authority's designated representative of the existence of the overdraft situation. The Authority agrees to cover the overdraft within a maximum of one business day. The depository must guarantee immediate credit on all incoming wire transfers and all other checks based on the depository's then published availability schedule.

G. Interest Bearing Demand Accounts

Presently the Authority utilizes 5 interests bearing demand and low volume money market accounts. Volume and average balances are detailed on page 8. Proposals to be designated as the Authority's depository shall state the interest rate to be paid on the average daily balance in demand deposit and low volume accounts and any other conditions or requirements which apply to these accounts, including minimum balances requirements per account or in aggregate.

H. Certificates of Deposits

The Authority reserves the right to invest its funds in accordance with the Public Funds Investment Act, as amended, and the Authority's approved Investment policy. The Authority has no obligation to invest its funds with or through the depository. The Authority will be allowed to purchase certificates of deposits at any approved financial institution. To make the depository RFP more comparable, the responders should quote the certificates of deposit rates (plus or minus) to the nearest corresponding Treasury Bill Asked Price published by the Wall Street Journal.

Funds placed in certificates of deposits will not be withdrawn until the date of maturity unless an unforeseen emergency arises. If funds are withdrawn prior to the maturity date of the deposit, interest to be paid by the depository will be determined in accordance with regulations of the Federal Reserve System in effect at the date of the withdrawal.

Interest on all certificates of deposits shall be due and payable at the maturity date of the deposit. For funds left on deposit longer than one year, interest shall be paid annually.

I. Monthly Statements and Account Balances

The cut-off date for statements for all the Authority accounts is the last day of each month. The Authority must be able to access statements electronically within 1 day following the cut-off. Checks (front and back) and deposited item images must be provided in a manner that the Authority can download them or save them to their internal systems.

J. Account Analysis

The Authority requires account analysis statements by individual account on any account charged a fee or that generates an earnings credit amount to include data to support the fee or earnings credit amount calculation.

K. Account Executive and Support Teams

The Authority considers the service provided to the Authority by the depository as a critical factor in the ongoing contract. To ensure a smooth contract implementation and continuation of timely responses on all services, one central account executive team must be assigned to coordinate and oversee the entire Authority relationship. The depository account executives should be available to meet with Authority staff on banking matters as needed and to review services and new technologies. Please stipulate the names of the account executive and backup along with contact information to be assigned to the Authority's account.

L. Zero Balance Accounts (ZBA)

The Authority does not currently utilize a ZBA but is interested in utilizing one or more ZBA. The proposal should indicate whether a ZBA is available, and any costs or requirements associated with a ZBA.

M. Other Services

The Authority is interested in additional services for possible use during the contract period. These services are not required but will be evaluated in terms of feasibility.

N. Board Resolution

The Board of Directors or designated committee of the successful financial institution will be required to provide a FIRREA compliant resolution of certificate approving the award of the agreement and commitment for delivery of the collateral to the custodian not later than 5 days before the commencement of the agreement period. The following is an extract of the FIRREA requirement from the FDIC Code:

e) **AGREEMENTS AGAINST INTERESTS OF CORPORATION.--**

(1) **IN GENERAL.--**No agreement which tends to diminish or defeat the interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured depository institution, shall be valid against the Corporation unless such agreement--

(A) is in writing,

(B) was executed by the depository institution and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the depository institution,

(C) was approved by the board of directors of the depository institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

(D) has been, continuously, from the time of its execution, an official record of the depository institution.

CHARGES FOR SERVICES

Unless stated otherwise on the proposal, the Authority will assume that the service charges for accounts will be waived. This will include charges for incoming wires, outgoing wires, stop payment requests, account inquiries, statement copies, cashier checks, ACH transactions, collateral fees, same day transaction fees, overdraft fees or other items as needed to properly service our accounts.

FINANCIAL INSTITUTION ERRORS

Financial institution errors resulting in fees or lost interest to the Authority must be reimbursed by the financial institution.

RIGHT OF AUTHORITY

RIGHT OF AUTHORITY TO CANCEL REQUEST FOR PROPOSALS, TO ELECT NOT TO AWARD, TO REJECT RESPONSES, AND TO WAIVE INFORMALITIES OR IRREGULARITIES

The Authority expressly reserves the right to cancel this RFP at any time without obligation or liability to any responders or potential responders; to elect not to award contracts as a result of the RFP; to reject any or all responses; to waive any informality or irregularity in any response received; and to be the sole judge of the respective merits of the responses received. Responders are solely responsible for all costs related to making a response to this RFP; the Authority will not be responsible for any costs to a responder or potential responder even if, without limitation, the RFP is canceled, or the responder's response is disqualified for any reason.

By submitting a response, you agree that you are solely responsible for any and all costs involved or incurred by you or on your behalf by any third party in or related to the preparation and submission of your response and the provision of any additional information required by the Authority or of participation in any interview or presentation desired by the Authority, regardless of whether or not your response is considered or is rejected for any reason, or whether or not you are selected to be the depository.

CONFLICT OF INTEREST

The responder shall not offer or accept gifts or anything of value, nor enter into any business arrangement with any employee, official or agent of the Authority.

By signing the proposal, the responder certifies and represents to the Authority the responder has not offered, conferred, or agreed to confer any pecuniary benefit or other thing of value for the receipt of special treatment, advantage, information, recipient's decision, opinion, recommendation, vote or any other exercise of discretion concerning this RFP.

EQUAL OPPORTUNITY IN AUTHORITY BUSINESS CONTRACTING

Race, religion, sex, color, ethnicity, and national origin are not used as criteria in the Authority's business contracting practices. Every effort is made to ensure that all persons regardless of race, religion, sex, color, ethnicity, and national origin have equal opportunity to compete or make proposals for contracts and other business opportunities with the Authority.

INQUIRIES AND INTERPRETATIONS

Responses to inquiries that directly affect an interpretation or change to the RFP will be issued in writing by the Authority as an addendum to the RFP. All such addenda issued before the time that responses are due shall be considered part of this RFP.

Only replies to inquiries that are made by the Authority issuing addenda to this RFP shall be binding. Oral and other interpretations or clarifications are without legal effect and should not be relied on.

ANTI-LOBBYING PROVISION

DURING THE PERIOD BETWEEN THE ISSUANCE OF THIS RFP AND THE CONTRACT AWARD, NO RESPONDERS, INCLUDING THEIR PRINCIPALS OR OTHER OWNERS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS AND REPRESENTATIVES, SHALL DISCUSS OR PROMOTE THEIR PROPOSAL WITH ANY MEMBER OF THE AUTHORITY'S BOARD OF DIRECTORS OR STAFF OTHER THAN THE PERSON DESIGNATED IN THIS RFP TO WHOM QUESTIONS ARE TO BE DIRECTED, EXCEPT UPON THE REQUEST OF THE AUTHORITY IN THE COURSE OF AUTHORITY-SPONSORED INQUIRIES, BRIEFINGS, INTERVIEWS, OR PRESENTATIONS.

This provision is not meant to preclude responders from discussing other matters with Authority Board members or Authority staff. The policy is intended to create a level playing field for all potential responders, assure that contract decisions are made in public, and to protect the integrity of the RFP process. Its purpose is to stimulate competition, prevent favoritism and secure the best work and materials at the lowest practicable price, for the best interests and benefit of the Authority. Violation of this provision may result in disqualification of the responder.

NO ARBITRATION; DISPUTE RESOLUTION

The Authority reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. In the event of a dispute arising under any agreement awarded related to this RFP, the parties will first attempt to resolve any disputes amicably. If they are unable to do so within thirty (30) days, they agree to participate in good faith within sixty (60) days thereafter in non-binding mediation in Cameron County, Texas, or as otherwise agreed, and to do so before they resort to other means, including but not limited to legal action such as filing suit. If the parties cannot agree to a mediator, they agree that a mediator shall be chosen for them by the Austin (Texas) Dispute Resolution Center. Each party will bear its own costs of participation in the mediation; and the parties agree to share equally the fees and other direct costs of mediation (such as the mediator's fees and expenses, costs of mediation site, etc.).

The Authority shall not be subject to any arbitration process prior to exercising its unrestricted right to seek a judicial remedy, or without the Authority's written consent to arbitration. The remedies set forth herein or in any contract awarded are cumulative and not exclusive and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.

WAIVER OF CLAIMS

EACH RESPONDER BY SUBMISSION OF A RESPONSE TO THIS REQUEST FOR PROPOSALS WAIVES ANY CLAIMS IT HAS OR MAY HAVE AGAINST THE AUTHORITY, ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, AND REPRESENTATIVES, AND OTHER CONSULTANTS, CONNECTED WITH, RELATED TO, OR ARISING FROM THIS REQUEST FOR PROPOSALS OR THE RESPONSE, INCLUDING, WITHOUT LIMITATION, THE ADMINISTRATION OF THE REQUEST FOR PROPOSALS, THE RESPONSE EVALUATIONS, AND THE SELECTION OR NON-SELECTION OF THE RESPONDENT AS A DEPOSITORY. SUBMISSION OF A PROPOSAL INDICATES RESPONDENT'S ACCEPTANCE THAT SOME SUBJECTIVE JUDGMENTS MUST BE MADE BY THE AUTHORITY DURING THE EVALUATION AND SELECTION PROCESS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH RESPONDENT WAIVES ANY CLAIM IT HAS OR MAY HAVE AGAINST THE ABOVE-NAMED PERSONS AND ENTITIES BASED ON INFORMATION, OPINIONS, JUDGMENTS, RECOMMENDATIONS, OR DECISIONS CONTAINED IN SUCH EVALUATIONS AND SELECTIONS.

CHOICE OF LAW; VENUE; JURISDICTION

Any claim or dispute concerning, arising from, or related to this RFP, and response to it, or any contract awarded under it shall be subject to the laws of the State of Texas, without giving effect to its choice of law provisions. Venue for any such claim or dispute shall be and lie exclusively in the state and county courts of Cameron County, Texas; and by submitting a Proposal, the respondent agrees to submit to the personal jurisdiction of such courts.

ATTORNEYS' FEES

The party prevailing in any adjudication, as the term "adjudication" is defined in Texas Local Government Code section 271.151 or successor statutes, of a claim by or against the Authority by a selected provider, or by or against a selected provider by the Authority, concerning, arising under, or related to any Agreement awarded related to this RFP, or the performance of it, will be entitled to recovery of reasonable and necessary attorney fees that are equitable and just, and costs, as permitted by Texas Local Government Code section 271.153 or its successor statute(s); provided, however, that this provision does not itself waive any governmental or other immunity the Authority may otherwise enjoy.

DISCLAIMER AND LIMITATION OF LIABILITY

NEITHER THE AUTHORITY NOR ITS BOARD MEMBERS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS OR REPRESENTATIVES (ALL COLLECTIVELY, "**AUTHORITY PARTIES**"), WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES THAT RESULT OR ARISE FROM OR UNDER ANY CONTRACT AWARDED RELATED TO THIS RFP. RESPONDER'S SOLE REMEDY FOR BREACH OF THAT AGREEMENT BY THE AUTHORITY WILL BE TERMINATION FOR CAUSE BY THE RESPONDER AND PAYMENT OF ANY FEES, REIMBURSEMENTS, OR OTHER PAYMENTS ACCRUED AND DUE THE RESPONDER UNDER THE TERMS OF THE AGREEMENT, SUBJECT TO THE AUTHORITY'S RIGHT OF SET-OFF.

INDEMNITY

THE PROVIDER UNDER ANY CONTRACT AWARDED RELATED TO THIS RFP SHALL INDEMNIFY AND HOLD THE AUTHORITY AND AUTHORITY PARTIES HARMLESS FROM ANY AND ALL CLAIMS, SUITS AND PROCEEDINGS OF ANY KIND OR CHARACTER (COLLECTIVELY "CLAIMS") ASSERTED BY THIRD PARTIES AGAINST THE AUTHORITY OR AUTHORITY PARTIES CONCERNING, RELATED TO, OR ARISING FROM RESPONDER'S PERFORMANCE OF ANY SERVICES UNDER THIS AGREEMENT, FOR WHICH AND ONLY TO THE EXTENT ANY SUCH CLAIMS ARE BASED IN WHOLE OR PART ON ASSERTIONS ABOUT THE ACTS OR OMISSIONS OF RESPONDER, ITS OFFICERS, PARTNERS, OWNERS OR OTHER PRINCIPALS OR SHAREHOLDERS, JOINT VENTURERS, AFFLIATES, PARENTS, SUBSIDIARIES, EMPLOYEES, AGENTS, OR REPRESENTATIVES. It is not intended that responder indemnify the Authority or Authority Parties for the consequences of the negligence of the Authority or an Authority Party.

ABOUT THIS DOCUMENT

This document is a Request for Proposal. It differs from an Invitation to Bid in that the Authority is **seeking a solution, not a bid/quotation** meeting firm specifications for the lowest price. As such, proposals will be evaluated based upon criteria formulated around the most important features of a depository, of which quality, references, availability, capability, locations, or customer service may be overriding factors. Meeting all specifications stated in RFP may not be determinative in the issuance of a contract. The proposal evaluation criteria should be viewed as standards that measure how well a responder's approach meets the desired requirements and needs of the Authority. The criteria that will be used and considered in evaluation for award are set forth in this document. **The Authority reserves the right to select, and subsequently recommend for an award, the depository that best meets its required needs and quality levels.**

EVALUATION PROCESS

The Authority will review and evaluate the responses to this RFP according to the criteria identified below. The Authority may ask for additional information or interview responders as it deems necessary, in order to be able to prudently determine which responder best meets the needs of the Authority. Such additional information or interviews will be at no cost to the Authority.

Criteria for evaluation include the factors identified below, and any other factors that are deemed necessary to select the depository(s) that will meet the needs of the Authority:

- Nationally or Texas Chartered Depository.
- Qualified Depository with an office within the boundaries of the district.
- Fully insured by the FDIC.
- Provided requested information.
- Complied with all requirements in the RFP.
- Ability to perform and provide the required and requested services.
- Competitiveness.
- Credit worthiness.
- Transition cost.
- Interest paid on interest bearing accounts.
- Customer service

The award will be based on the proposal judged to be in the best interest of the Authority, and the judgment in this regard shall be considered final. Any contract resulting from this request shall be awarded to the financial institution providing the best overall value to the Authority.

Submission of a proposal indicates the responder's acceptance of the evaluation technique and recognition that some subjective judgments must be made by the Authority during the evaluation process.

SELECTION

Selection will be based on the Authority's determination of which proposal is determined to be the most advantageous to the Authority, considering the relative importance of evaluation factors included in this RFP.

NO INDIVIDUAL BOARD MEMBER OR STAFF MEMBER OF THE AUTHORITY HAS THE POWER TO COMMIT THE AUTHORITY LEGALLY OR FINANCIALLY TO ANY CONTRACT, AGREEMENT OR PURCHASE ORDER FOR GOODS OR SERVICES UNLESS SPECIFICALLY AUTHORIZED TO DO SO BY THE AUTHORITY'S BOARD OF DIRECTORS OR BY A PERSON TO WHOM THE BOARD HAS EXPRESSLY DELEGATED SUCH AUTHORITY.

ACCEPTANCE OR REJECTION OF PROPOSALS

The Authority reserves the right to accept or reject any or all proposals or parts of proposals and to waive any formalities and technicalities and to accept the proposal most advantageous to the Authority.

ACKNOWLEDGMENTS AND ACCEPTANCE

The undersigned has reviewed the Authority’s RFP depository and banking services, the Investment Policy, attachments, and other referenced documents, and certifies that it has adequate personnel, equipment, and facilities to fulfill the services requirements required or requested in the Authority’s depository and banking services RFP.

The responder agrees to abide by all the terms and conditions stated in the Authority’s RFP and attached schedules except as stated below.

Exceptions to the Authorities RFP:

Name

Title

Signature of Authorized Depository Official

Date

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CONFLICT OF INTEREST QUESTIONNAIRE CHAPTER 176

Texas Local Government Code chapter 176 requires vendors contracting with, or merely seeking to contract with, a local governmental entity to make certain disclosures regarding any covered familial relationships with a “local government officer”, or regarding gifts or other gratuities provided to, or financial or business relationships with, a local government officer or members of the officer’s immediate family. Your submission of a response to this RFP will trigger your obligation under chapter 176 to file the appropriate disclosure with the Authority. The Form CIQ you should use is available on the Texas Ethics Commission website.

Chapter 176 of the Local Government Code requires the Authority management and Board of Directors to file a Conflicts Disclosure Statement regarding their relationships with Authority vendors (including bidders and potential vendors).

The law also requires that any vendor who contracts, or seeks to contract, with the Authority for the sale or purchase of property, goods or services (including a bidder on an Authority contract) file a "Conflict of Interest Questionnaire" regarding the vendor's business relationships, if any, with Authority management and/or the Board of Directors.

Compliance is the responsibility of each individual, business or agent who is subject to the law's filing requirement. Questions about compliance should be directed to your legal counsel.

NOTE: THIS FORM MUST BE COMPLETED AND INCLUDED IN THE BID/PROPOSAL

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TEXAS GOVERNMENT CODE 2252.908 DISCLOSURE OF INTERESTED PARTIES

House Bill 1295, adopted by the 84th Legislature, created §2252.908, Texas Government Code. Section 2252.908 requires a business entity entering into certain contracts with a governmental entity or state agency to file with the governmental entity or state agency a disclosure of interested parties (Form 1295) at the time the business entity submits the signed contract to the governmental entity or state agency.

§2252.908, Texas Government Code requires the commission to adopt rules necessary to implement the new disclosure requirement and to prescribe the disclosure form. Section 2252.908 requires the disclosure form to be signed by the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury. Section 2252.908 applies only to a contract that requires an action or vote by the governing body of the governmental entity or state agency before the contract may be signed or has a value of at least \$1 million. Section 2252.908 provides definitions of certain terms occurring in the section. House Bill 1295 provides that §2252.908 applies only to a contract entered into on or after January 1, 2016.

An interested party is defined as a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

Contractors are required to acquire Form 1295 via the Texas Ethics Commission website. This requires registration, generation of Form 1295 with a unique Certificate Number & filing date, printing the form, notarizing, and returning the form to the Authority. Once the form is received by the Authority, the person associated with the project will log-in to the Texas Ethics Commission portal and acknowledge receipt of the form not later than the 30th day after the date the contract for which the form was filed binds all parties to the contract. This will complete the form for the contract with which the form is associated. The completed form will be made available via the Texas Ethics Commission website.

Form 1295 can be generated via the Texas Ethics Commission web portal located at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

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SCHEDULE A: PORT OF HARLINGEN AUTHORITY INVESTMENT POLICY

The Port of Harlingen Authority Investment Policy is incorporated as part of this RFP and will be provided as a separate document.