

PUBLIC FUNDS COLLATERAL AND PLEDGE AGREEMENT

This PUBLIC FUNDS COLLATERAL AND PLEDGE AGREEMENT (the “**Agreement**”) is dated May 10, 2023 and is by and among the [name of public entity:] Clay County (“**Public Entity**”), the Federal Home Loan Bank of Dallas (“**Safekeeping Bank**”), and Prosperity Bank, a Texas State Banking Association (“**Prosperity**”), and

WHEREAS, Public Entity has selected Prosperity as a depository for certain of its funds; and

WHEREAS, Safekeeping Bank has agreed to hold securities deposited with it by Prosperity in accordance with the terms hereof to secure deposits by Public Entity with Prosperity in excess of applicable insurance provided by the Federal Deposit Insurance Corporation (“**FDIC**”).

NOW THEREFORE, for value received and in consideration of the mutual promises and covenants herein contained, Public Entity, Prosperity, and, as applicable, Safekeeping Bank, agree as follows:

1. Collateral. Prosperity hereby agrees that deposits by Public Entity with Prosperity in excess of applicable FDIC insurance shall hereafter be secured by Prosperity pledging certain investment securities owned by Prosperity, and Prosperity does hereby so pledge, to be held by Safekeeping Prosperity (the “**Collateral**”) in an amount which shall at all times, including any accrued interest, be equal to at least 110 % of the amount by which aggregate Public Entity deposits with Prosperity exceed applicable FDIC insurance (the “**Collateral Amount**”).

If, at any time, the securities held in pledge have an aggregate market value in excess of the sum on deposit, as increased by accrued interest and decreased by the amount insured by the Federal Deposit Insurance Corporation, then the Prosperity will have the right to withdraw securities equal in amount to the amount of the excess. In the event of withdrawal, the Prosperity will promptly notify the Public Entity.

2. Safekeeping. Except as provided in Section 6, “Default,” below, such Collateral shall be subject only to the joint written instructions of at least one authorized individual of both Public Entity and Prosperity. Public Entity and Prosperity will each provide written notice of their respective authorized officers to Safekeeping Bank reasonably prior to any transaction or communication authorized by any such authorized officers. Safekeeping Bank hereby agrees to hold all Collateral deposited with it pursuant to the terms of this Agreement and the Master Transactions Agreement between Safekeeping Bank and Prosperity dated July 19, 2005, including the Terms and Conditions of Custodial Services, and to deliver such Collateral in accordance with the terms hereof and thereof. Additionally, Safekeeping Bank agrees to serve as collateral agent for Public Entity to the extent necessary to allow Public Entity to perfect its security interest granted

herein in the Collateral. Whenever pledged securities are placed by Prosperity with Safekeeping Bank, the Safekeeping Bank shall issue original safekeeping receipts within three (3) business days of such placement to Prosperity.

3. Statements. Contemporaneously with the execution of this Agreement and at the time of the substitution or release of any of the Collateral, Prosperity shall execute and deliver to Public Entity a statement describing the securities constituting the Collateral deposited to or withdrawn from the Collateral held pursuant to this Agreement. Prosperity agrees to furnish to Public Entity a statement listing a description of the securities pledged and held in safekeeping in Safekeeping Bank on at least a monthly basis. The statement will include par value, market value and maturity date of the securities held in safekeeping. The same statement will also be available upon demand of Public Entity. The Safekeeping Bank is not responsible for monitoring the type or amount of the deposits or the securities pledged by Prosperity or whether they comply with the terms of this Agreement.

4. Substitution. Prosperity shall have the right, with the prior written consent of Public Entity, to purchase and sell, and substitute or replace, any and all of the securities pledged pursuant to this Agreement with like securities. A written notice stating the par value, maturity date and market value on the proposed date of substitution must be sent to Public Entity by Prosperity prior to any substitution or exchange. If approved, the substituted securities shall thereafter be subject to all the terms and conditions of this Agreement. Safekeeping Bank shall be under no obligation or duty to confirm whether or not Prosperity has or is complying with the terms of this Section 4 and shall rely on any direction of Prosperity in this regard without any investigation or inquiry.

5. Representations. Prosperity represents to Public Entity:

a. That the Prosperity is the sole legal and actual owner of the securities utilized to collateralize Public Entity deposits;

b. That no other security interest has been, nor will be, granted in the securities utilized to collateralize Public Entity deposits; and

c. That Public Entity's deposits are insured by the FDIC up to \$250,000.00, or such other amount as may be applicable from time to time.

6. Default. Prosperity shall be in default if it fails to pay all or any part of a "collected" demand deposit, a matured time deposit, or a matured certificate of deposit, including accrued but unpaid interest, at the specified maturity date. Prosperity shall also be in default if ruled "bankrupt," "insolvent," or "failed" by federal or state banking regulators, or if a receiver is appointed for the Prosperity.

7. Proceeds. In the event of a default of Prosperity, Public Entity shall give written notice of such default to Prosperity, and Prosperity shall have three (3) business days to cure such default. In the event Prosperity fails to cure such default within such 3 business day period, Public Entity shall then be deemed to have vested full title to all

approved securities pledged pursuant to this Agreement. The investment officer of Public Entity will then certify the uncured default in writing to the Safekeeping Bank, describing the default and failure to cure in detail, with a copy to Prosperity. Safekeeping Bank will then deliver to the investment officer of the Public Entity all securities deposited hereunder without requiring further authorization, release or direction from Prosperity. Public Entity is hereby then empowered to take possession of and transfer or sell any and all securities pledged pursuant to this Agreement. If the security is transferred, ownership of the security will transfer entirely to Public Entity. If the security is liquidated, any proceeds over the value of the defaulted amount of the matured investment, including accrued interest, plus reasonable expenses related to the liquidation transaction, shall be returned to Prosperity. This power is in addition to other remedies which Public Entity may have under this Agreement and without prejudice to its rights to maintain any suit in any court for redress of injuries sustained by Public Entity under this Agreement. Prosperity does hereby release and discharge Safekeeping Bank from any liability for the release of the pledged securities to the Public Entity in accordance with the provisions of this paragraph.

8. Duties.

a. Prosperity shall faithfully do and perform all of the duties and obligations required by the laws of the State of Texas for depositories of Public Entity, and shall upon presentation pay all checks drawn on it by the duly authorized representatives of Public Entity against collected funds of Public Entity on demand deposit, and shall at the expiration of the term for which it has been chosen as depository of Public Entity turn over to its successor all funds, property and things of value coming into its hands as depository.

b. Safekeeping Bank agrees to perform all duties hereof and to indemnify the Public Entity for any reasonable loss, cost, or expense, including reasonable attorney's fees, resulting from its failure to perform the duties imposed upon it by this Collateral and Pledge Agreement unless such loss can be demonstrated by Safekeeping Bank to have been due to a cause or causes beyond the reasonable control of Safekeeping Bank (such as acts of God, acts of the public enemy, insurrections, riots, explosions, or other cataclysmic events) or to have been caused in whole or in part by the error, dishonesty, omission, fraud, embezzlement, theft or negligence of the Public Entity, its employees, its officers, its agents, or its directors.

9. Non-Assignability. This Agreement is not assignable in whole or in part but is binding on the parties hereto, their successors and assigns.

10. Law Governing. The laws of the State of Texas, without regard to its conflicts of law principles, but including without limitation all applicable provisions and requirements governing depositories for public entities, shall govern this Agreement.

11. Director Authorization. Prosperity represents and warrants that this Agreement is made pursuant to and is duly authorized by the Board of Directors of Prosperity.

12. Safekeeping Fees. Any and all fees associated with the safekeeping of securities for benefit of Public Entity which Safekeeping Prosperity shall charge shall be borne by Prosperity.

13. County Agreement Terms. In the event that Public Entity is a County in the State of Texas, the following provision applies: the parties understand and agree that Texas Local Government Code Section 116.021 requires a depository contract of the nature of this Agreement that is for a term of four years to allow the County to establish, on the basis of negotiations with Prosperity, new interest rates and financial terms of the contract that will take effect during the final two (2) years of the four-year contract. The parties agree that, notwithstanding anything else to the contrary in this Agreement, in the event they enter into such negotiations but are unable to come to agreement upon any such new interest rates or financial terms, Prosperity may, at its option, terminate this Agreement upon written notice to the County without cost or penalty.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

WITNESS the execution hereof this 10th day of May, 2023.

PUBLIC ENTITY: [Name of Public Entity:] CLAY COUNTY

By: [Signature]

Name: MARK COMPTON

Title: COUNTY TREASURER

PROSPERITY BANK

By: Frida Bazan

Name: Frida Bazan

Title: AVP Accounting Treasury

SAFEKEEPING BANK:

FEDERAL HOME LOAN BANK OF
DALLAS

By: _____

Name: _____

Title: _____