

**CITY OF FAIR OAKS RANCH**

**MUNICIPAL DEVELOPMENT DISTRICT MEETING**

Wednesday, January 11, 2023 at 4:00 PM

Public Safety Training Room, Police Station, 7286 Dietz Elkhorn, Fair Oaks Ranch

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**AGENDA**

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**OPEN MEETING**

1. Roll Call - Declaration of a Quorum
2. Pledge of Allegiance

**CITIZENS and GUEST FORUM**

*To address the Board, please sign the Attendance Roster located on the table at the entrance of the Council Chambers. In accordance with the Open Meetings Act, the MDD Board may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.*

3. Citizens to be heard.

**CONSENT AGENDA**

4. Approval of the October 12, 2022 Regular MDD Board meeting minutes.

Roy Elizondo, MDD Secretary

**REPORTS**

5. Quarterly Financial & Investment Report - Q1 FY2023.

Summer Fleming, MDD Investment Officer

6. Fair Oaks Ranch Civic Center Project status update.

Tobin E. Maples, AICP, City Manager

7. Small Scope / Small-Dollar Subcommittee Report.

Mike Lovelace, Small Scope/Small-Dollar Subcommittee Chair

8. Marketing and Project Opportunities Subcommittee Report.

David Fairhurst, Marketing and Project Opportunities Subcommittee Member

**CONSIDERATION / ACTION ITEMS**

9. Consideration and possible action to approve a Resolution authorizing the District to participate in Texas CLASS investment pool.

Summer Fleming, MDD Investment Officer

10. Consideration and possible action to approve the MDD Audit Report (FY 2021-22).

Summer Fleming, MDD Investment Officer  
Michael Del Toro, ABIP Partner

11. Consideration and possible action regarding upcoming Regular MDD Board Meeting Dates.

Laura Koerner, MDD President

**ADJOURNMENT**

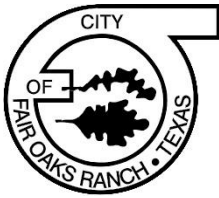
Signature of Agenda Approval: s/ Laura Koerner

Laura Koerner, President

I, Amanda Valdez, TRMC, Deputy City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the City’s website [www.fairoaksranchtx.org](http://www.fairoaksranchtx.org), both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 4:00 PM, January 8, 2023 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch Police Station is wheelchair accessible at the front main entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary’s office at (210) 698-0900. Braille is not available.



**CITY OF FAIR OAKS RANCH**  
**MUNICIPAL DEVELOPMENT DISTRICT MEETING**

Wednesday, October 12, 2022 at 4:00 PM

Public Safety Training Room in the Police Station, 7286 Dietz Elkhorn, Fair Oaks Ranch

**MINUTES**

**OPEN MEETING (at 4:00 pm)**

1. Roll Call - Declaration of a Quorum.

Present: President Laura Koerner, Vice President Nicholas DiCianni, Secretary Roy Elizondo, Treasurer Mike Lovelace, David Fairhurst, and Steven Robertson.

Absent: Rachelle Garcia

With a quorum present, the meeting was called to order at 4:00 PM.

2. Pledge of Allegiance – The Pledge of Allegiance was recited in unison.

**CITIZENS and GUEST FORUM**

3. Citizens to be heard - Christine Graham spoke regarding the need to clarify statements made at the FORHA meeting on October 11, 2022 regarding the MDD and FORHA collaboration of projects.

**CONSENT AGENDA**

4. **Approval of the July 13, 2022 Regular MDD Board meeting minutes.**

MOTION: Made by Vice President Nick DiCianni, seconded by Treasurer Mike Lovelace, to approve the Consent Agenda.

VOTE: 6-0; Motion Passed.

**REPORTS**

5. **Q4 FY 2022 Financial Update and Investment Report.**

Summer Fleming, MDD Investment Officer, presented the Fair Oaks Ranch Municipal Development District Quarterly Financial Report for the period ending September 30, 2022.

6. **Fair Oaks Ranch Civic Center Project status update.**

Tobin Maples, AICP, City Manager, provided to the MDD Board of Directors, an update on the Fair Oaks Ranch Civic Center Project.

**7. Small Scope / Small-Dollar Subcommittee Report.**

Mike Lovelace, Small Scope/Small-Dollar Subcommittee Chair, provided an update on the Small Scope/Small-Dollar Subcommittee to the Board of Directors.

**8. Marketing and Project Opportunities Subcommittee Report.**

Nick DiCianni, Marketing and Project Opportunities Subcommittee Chair, provided to the Board a report on the Marketing and Project Opportunities Subcommittee.

**CONSIDERATION / ACTION ITEMS****9. Consideration and possible action authorizing the MDD President to sign a Professional Services Agreement for Auditing Services with ABIP, P.C.**

**MOTION:** Made by Treasurer Mike Lovelace, seconded by Vice President Nick DiCianni, to authorize the MDD President to sign the Professional Services Agreement ("Engagement Letter") with ABIP, P.C. for the FY 2021-2022 audit at a cost of \$4,300 plus out of pocket expenses.

**VOTE:** 6-0; Motion Passed.

**10. Consideration and possible action to amend the MDD Financial Management Policy by adding Subsection G. Grant Award Disbursements, under Section VI. Expenditure Control.**

MDD Secretary, Roy Elizondo, presented the consideration item. Following questions and responses the language in the proposed policy amendment was modified to provide better clarity on voting for advanced funding of projects. The language presented for consideration and action was as follows:

**DISBURSEMENT OF GRANT AWARDS** - All grant awards must comply with the Texas Local Government Code Chapter 377, and MDD policies and procedures. The requirements for the release of grant funds and grant award amount must be defined in a grant award agreement between the MDD Board (grantor) and the project owner. The grant award agreement must conform to the MDD Policy for Evaluation of Development Projects. Disbursements of grant funds will be made after the project requirements are completed in accordance with the requirements set forth in the grant award agreement. On a case-by-case basis, the MDD Board may approve advance funding of a grant award by an affirmative vote of three fourths of Board members present and qualified to vote. The requirements for the advance funding arrangements must be included in the grant award agreement and should specifically address the incremental risks associated with advance funding.

**MOTION:** Made by Secretary Roy Elizondo, seconded by David Fairhurst, to approve the Resolution amending the MDD Financial Management Policy to adopt Subsection G Disbursement of Grant Awards under Section VI. Expenditure Control within the MDD Financial Management Policy.

**VOTE:** 6-0; Motion Passed.

**ADJOURNMENT**

MDD President, Laura Koerner, adjourned the meeting at 4:52 PM.

ATTEST:

\_\_\_\_\_  
Laura Koerner, MDD President

\_\_\_\_\_  
Roy E. Elizondo, MDD Secretary




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**FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT  
CONSIDERATION ITEM  
CITY OF FAIR OAKS RANCH, TEXAS  
January 11, 2023**

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AGENDA TOPIC: Quarterly Financial & Investment Report – Q1 FY2023  
 DATE: January 11, 2023  
 PRESENTED BY: Summer Fleming, MDD Investment Officer

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**INTRODUCTION/BACKGROUND:**

Pursuant to Government Code Section 2256.023 and the MDD's Investment Policy Section 11, the Investment Officer is required, on a quarterly basis, to prepare and submit to the MDD Board a written report of investment assets and the market value of the current investments.

The attached presentation is being made to comply with the Q1 FY2023 reporting requirements.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

Frequent review and reporting of the MDD's assets and investment vehicles is both prudent and necessary to verify that the MDD's investment portfolio is being managed according to the investment policy.

**LONGTERM FINANCIAL & BUDGETARY IMPACT:**

The investment portfolio shall be managed in accordance with the objectives specified in the investment policy (safety, liquidity, diversification, and yield). The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates.

**LEGAL ANALYSIS:**

N/A

**RECOMMENDATION/PROPOSED MOTION:**

This presentation is for informational purposes only and to comply with requirements under Texas Government Code Section 2256.023 and the MDD's Investment Policy.

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# Fair Oaks Ranch Municipal Development District Quarterly Financial Report

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December 2022

## About This Quarterly Financial Report

This report has been prepared by the City of Fair Oaks Ranch Finance Department. The Quarterly Financial Report is intended to provide our users (internal and external) with information regarding the MDD's financial position. This report includes information for Q1 FY2023.

This report is presented in two sections.

1. The Financial Summary section reports the performance of the major operating funds of the MDD.
2. The Quarterly Investment Report provides a summary of MDD's investment portfolio, interest earnings and a brief market outlook.

The Quarterly Financial Report is intended to provide our users with timely and relevant information. Please provide us with any comments or suggestions you may have. If you would like additional information, feel free to contact me.



Summer Fleming  
Investment Officer

7286 Dietz Elkhorn  
Fair Oaks Ranch, TX 78015  
210-698-0900

# Fair Oaks Ranch MDD

## Revenue and Expense Report December 31, 2022

	Budget	Projection	Year-to Date Actual	Percent of Budget	Actual vs Budget	Comments
<b>Revenues:</b>						
Local Sales Tax	410,000	410,000	34,948	8.5%	(375,052)	Collected through October sales.
Interest	8,000	76,000	19,042	238.0%	11,042	Interest rates with TexPool have increased.
<b>Total Revenue</b>	<b>418,000</b>	<b>486,000</b>	<b>53,991</b>	<b>12.92%</b>	<b>(364,010)</b>	
<b>Expenditures:</b>						
Supplies	250	250	-	0.00%	250	
Training/Seminars	500	500	-	0.00%	500	PFIA training to take place in February.
Miscellaneous	-	-	-	0.00%	-	
Attorney	3,500	3,500	393	11.23%	3,107	
Auditor	4,300	4,300	-	0.00%	4,300	
Professional Services	33,450	33,450	30,301	90.58%	3,149	Annual management fee paid to the City.
Insurance	50	50	50	100.00%	-	Annual insurance expense paid.
<b>Total Expenditures</b>	<b>42,050</b>	<b>42,050</b>	<b>30,744</b>	<b>73.11%</b>	<b>11,306</b>	
<b>Transfer To / (From) Fund Balance</b>	<b>375,950</b>	<b>443,950</b>	<b>23,247</b>	<b>6.18%</b>	<b>(352,703)</b>	



# Fair Oaks Ranch MDD

## Balance Sheet December 31, 2022

### Assets

Frost Bank	103,268	
TexPool	2,095,913	
Accrued Receivables	-	
Total Cash & Investments		<u>2,199,182</u>
<b>Total Assets</b>		<u><u>2,199,182</u></u>

### Liabilities

Due to City of Fair Oaks	-	
Accounts Payable	-	
		<u>-</u>

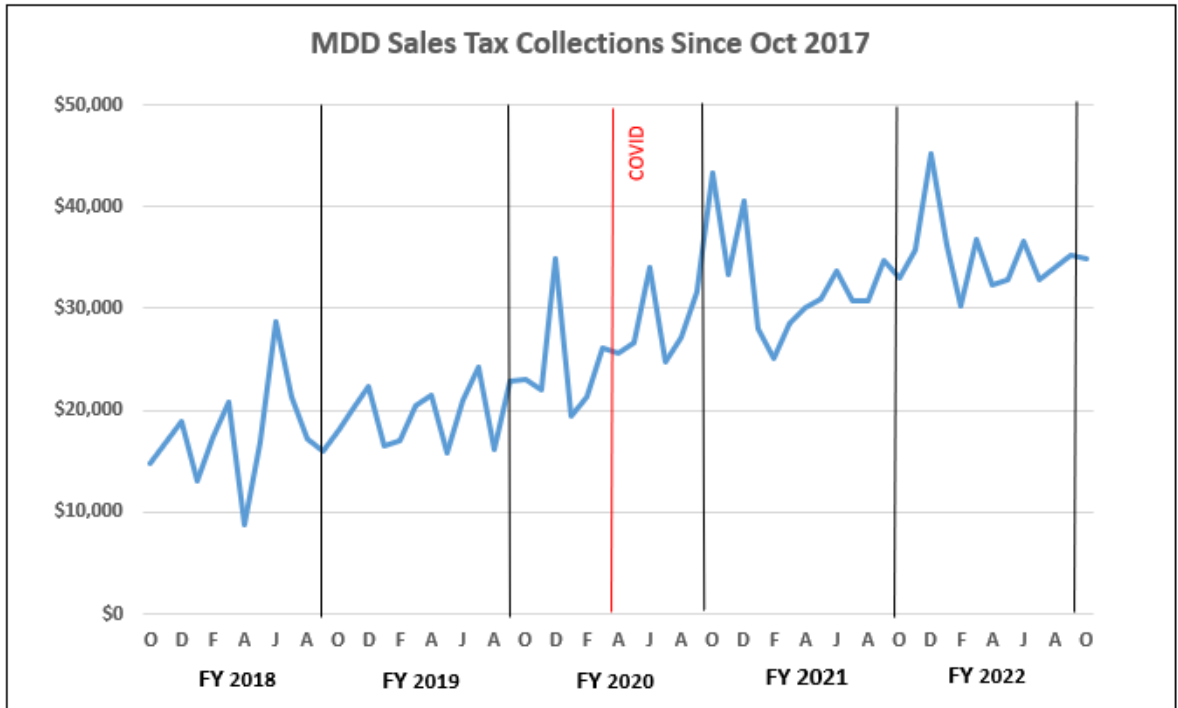
### Fund Balance

Fund Balance - Operating	100,000	
Infrastructure Improvements - Assigned	1,475,935	
Infrastructure Improvements - Committed	600,000	
Total Fund Balance		<u>2,175,935</u>
Total Revenues	53,991	
Total Expenses	30,744	
Excess Revenue over Expenses		<u>23,247</u>
<b>Total Liabilities &amp; Fund Equity</b>		<u><u>2,199,182</u></u>

# Fair Oaks Ranch MDD Investment Report

Investment Inventory 10/1/2022 - 12/31/2022									
Security	Avg Yield	Beg Bal	Transfers In / (Out)	Interest Earnings	Ending Bal	Ending Market	Interest Accrued	Weighted Avg Maturity*	Maturity Date
Frost Bank - Operating Account	0.287%	53,160	49,220	889	103,268	103,268	-	-	-
TexPool	3.51%	2,053,557	24,204	18,153	2,095,913	2,095,913	-	21 days	-
<b>TOTAL</b>		<b>2,106,718</b>	<b>73,424</b>	<b>19,042</b>	<b>2,199,182</b>	<b>2,199,182</b>			

Figures may not add due to rounding.

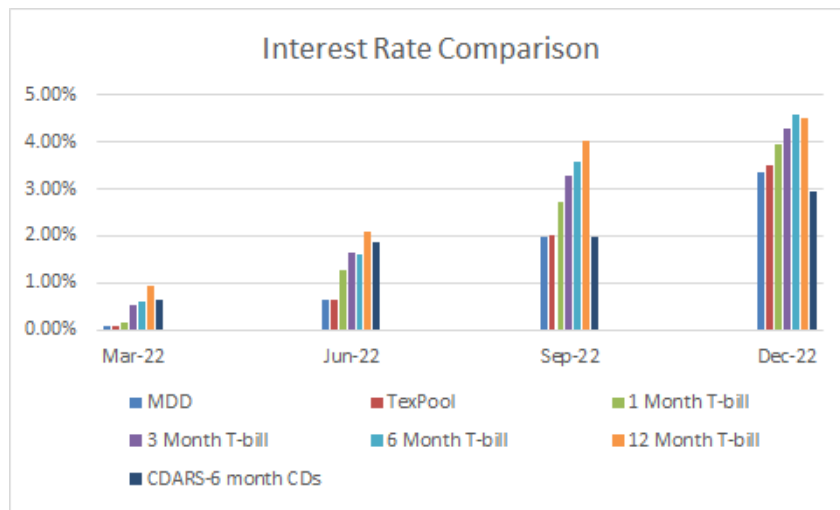


# Fair Oaks Ranch MDD Investment Report

### Interest Rate Comparison

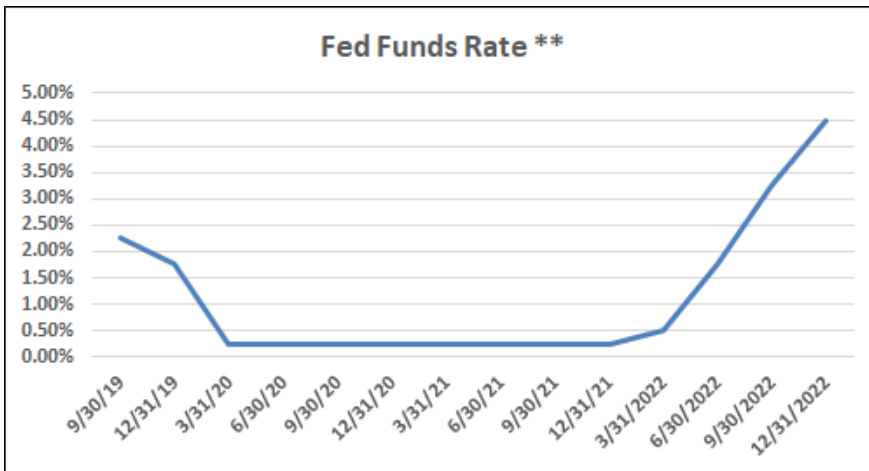
Month	MDD	TexPool	1 Month T-bill	3 Month T-bill	6 Month T-bill	12 Month T-bill	CDARS-6 month CDs
Mar-22	0.08%	0.09%	0.17%	0.52%	0.61%	0.94%	0.62%
Jun-22	0.62%	0.64%	1.26%	1.66%	1.59%	2.10%	1.85%
Sep-22	1.98%	2.03%	2.74%	3.29%	3.59%	4.03%	1.97%
Dec-22	3.36%	3.51%	3.95%	4.30%	4.60%	4.51%	2.96%

Year Average	1.51%	1.57%	2.03%	2.44%	2.60%	2.90%	1.85%
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### Key Trends:

- The Federal Reserve raised the fed funds rate by 50bps to 4.25%-4.5% during its last monetary policy meeting of 2022.
- The Fed now expects interest rates to reach 5.1% next year, 4.1% in 2024, and 3.1% in 2025.



This report is in compliance with the MDD's Investment Policy Section 11 and Texas Government Code Section 2256.023.

\* Per the MDD's investment policy, there will not be direct investment in securities maturing more than 36 months from the date of purchase. The Weighted Average Maturity of these investments is in compliance with the City's policy.

\*\* Leading indicator of rate changes to come, not an investment option for the MDD.

## **MDD Website Draft**

### **What is the MDD?**

The Municipal Development District is a Fair Oaks Ranch taxing entity that was established in 2009 with the purpose of providing a stimulus of economic growth within the City of Fair Oaks Ranch. The citizens of Fair Oaks Ranch approved a .5 cent tax to be added to the municipal sales tax as a funding source. The funds collected were to be used to help fund projects, commercial, civic and governmental, that would provide for economic, social, and civic growth envisioned.

### **Who can use the MDD funds?**

Commercial entities, civic organizations, governmental organizations and not for profit entities can apply for funding of projects that are qualified and meet standards that will provide economic growth, improve the quality of life for residents of Fair Oaks Ranch, offer social and or safety benefits to the city and its residents.

### **How does funding get approved?**

Applicants will submit a formal application, request, for consideration to the MDD that provides what the project would entail, the expected benefits to the community, a business plan, funding provided by the applicant, purposed use of funds requested and timing of the purposed project. The MDD will evaluate requests to determine if the project meets the published State and Local standards for project funding. Funding from the MDD can be partial or up to matching depending on the business case and application request. The MDD board will make the final decision on the request and will authorize the amount of funding.

### **What types of projects will be considered?**

As stated, commercial, civic, safety, or municipal projects will be considered. Projects can range from small civic projects e.g. scouting groups, FAA, 4H and the like, commercial businesses seeking funding for remodeling and enhancing current facilities, or infrastructure projects that would benefit the residents of Fair Oaks Ranch. Examples: an Eagle Scout project to provide a safety improvement to a park, a small business would like to improve signage that improves the appearance of the business, a potential business owner would like to renovate a space to meet city codes, a road construction would resolve an entrance problem for a business, a new business wishes to build a structure. These are examples but do not limit the types of projects that individuals or groups can apply for funding assistance.

### **What will not be considered?**

Funding request for commercial project that does not have committed funding from a financial or private investor, funding requests for projects outside of the City of Fair Oaks, funding requests that do not contribute to social norms, funding requests that do not meet City ordinances, funding requests for private residences, or funding requests deemed detrimental to the life style of the community.

**How do I start?**

A Business Plan should be developed providing what the project will do, how it will be implemented, who will be responsible, what benefits it will provide, timing for completion, funding the applicant has secured, and funding requested from MDD. The funding from MDD will be provided upon completion of the project. An application, see the website for the form, should be completed and accompany the Business Plan. Funding sources should be documented and will be verified prior to any decision to fund by the MDD Board. A meeting with the board will be required for the requestor to present the project and discuss the business plan.

Draft

Municipal Development District

830-368-1234 www.Fairoaksranch.com/gov

Funding Application

Applicant: \_\_\_\_\_ Business Name \_\_\_\_\_

Contact Information: Contact Name \_\_\_\_\_ Title \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Primary \_\_\_\_\_ Secondary \_\_\_\_\_ Email \_\_\_\_\_

Business Email: \_\_\_\_\_ Website \_\_\_\_\_

Address of Project: \_\_\_\_\_

Applicant Tax ID# \_\_\_\_\_

Name of Property Owner: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Tel \_\_\_\_\_

Email \_\_\_\_\_

List of Partners/Principals of the Business

Name	Title	Contact Tel	Email
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Applicant's relevant experience for the project for funding of project requested

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**Applicant Financing Source**

Bank or Financial institution providing Funding \_\_\_\_\_

Contact Name: \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_ Tel \_\_\_\_\_

Email \_\_\_\_\_ Website \_\_\_\_\_

Funding amount \_\_\_\_\_

Has Applicant received economic assistance before Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, When, Where, and from What Source \_\_\_\_\_

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**Project Information: Describe what the project entails:**

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**Project Title:**

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**Project Objective:**

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**Expected Benefits:**

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Amount of Funds Requested: \_\_\_\_\_ (Note: May not exceed 50% of total cost of the project. Funds will be released upon completion of the project.)

Estimated Total Cost of the Project: \_\_\_\_\_

(Note: Contractors detailed cost estimate must be attached)

Name of Contractor or Construction Manager:

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

Address: \_\_\_\_\_

Telephone \_\_\_\_\_ Primary \_\_\_\_\_ Mobile \_\_\_\_\_

Email address \_\_\_\_\_ Website \_\_\_\_\_

Applicants Architect: \_\_\_\_\_

Telephone \_\_\_\_\_ Primary \_\_\_\_\_ Mobile \_\_\_\_\_

Email \_\_\_\_\_ Blueprints or Rendering must be attached

Estimated Date of Project Commencement: \_\_\_\_\_

Estimated Date of Project Completion: \_\_\_\_\_

Required Documents to be attached:

1. City of Fair Oaks Ranch Building Permits, and Zoning Board approval.
2. Contractors detailed cost estimate on Contractors letterhead
3. Project Budget breakdown of all anticipated expenses
4. Plan for post construction upkeep and ongoing operations for 3 years
5. Letter from Property owner if applicant is a tenant authorizing project
6. Photographs of project location and existing structure
7. Detailed project plan and timeline for major milestones



### 8. FORHA and Unit HOA Restriction Committee Approvals (if applicable)

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• **Conditions and Acknowledgements:**

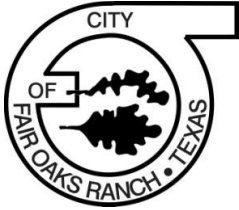
This Municipal Development District Program is subject to change or cancellation at any time by a vote of the City of Fair Oaks Ranch MDD Board of Directors. In addition, any policy or procedure described herein may be waived by official action of this same committee. The MDD reserves the right to reject any and/or all applications.

*If I am successful in obtaining FOR MDD Funding, I am obligated to maintain the funded project for a minimum of 3 years from the time I receive reimbursement. If the project is not completed, changed, or cancelled prior to the 3 year timeline without prior approval, I agree to reimburse the FOR MDD for the entire amount of the funding, this will be guaranteed through a promissory note.*

*I have read, understand and will comply with the criteria described in this application, as well as the timeline, and I certify that the above information is true and correct to the best of my knowledge. I certify that I am current with all local, state and federal taxes and business fees. I hereby acknowledge my application for MDD Funding and do authorize MDD to obtain verifications from any source named in this application*

Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_



FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT
CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
January 11, 2023



AGENDA TOPIC: Consideration and possible action to approve a Resolution authorizing the District to participate in Texas CLASS Investment Pool
DATE: January 11, 2023
PRESENTED BY: Summer Fleming, MDD Investment Officer

INTRODUCTION/BACKGROUND:

The District currently uses TexPool as an investment tool to keep currently available funds working to earn interest for the District. An important part of managing the District's portfolio is staying informed of interest rate trends and comparing TexPool rates to other investment options available under our Investment Policy.

Treasury Bills have historically offered higher rates than TexPool; however, purchasing through a secondary market such as Frost Bank or another licensed broker can be costly. Treasury Bills can also be purchased directly at auctions held by the government; however, this process would require numerous employee hours to manage the transactions.

Another option, Texas CLASS Investment Pool, is available and provides an opportunity to increase interest income because it compounds and pays interest daily. Other pools compound daily but do not pay daily. This creates additional income since the interest paid is now earning additional interest. As of December 15, 2022, Texas CLASS and Texas CLASS Government earned yields as follows:

Table with 3 columns: Investment Option, Daily Net Yield, and 7-day Net Yield. Rows include Texas CLASS and Texas CLASS Government.

Texas Cooperative Liquid Assets Securities System Trust (Texas CLASS) was created in 1996 as a local government investment pool pursuant to the Public Funds Investment Act (PFIA). Texas CLASS has four general objectives: legality, safety, liquidity, and yield. Texas CLASS has 950 participating Texas public entities including some of our peer cities such as Boerne, Kerrville, Marble Falls, Bulverde, and Shavano Park.

Texas CLASS invests in U.S. Government securities and repurchase agreements, FDIC insured and collateralized bank deposits, money market funds and in the highest rated commercial paper (CP) in accordance with the Texas Public Funds Investment Act (PFIA) 2256.

Commercial paper refers to short-term, unsecured debt obligations that are issued by financial institutions and large corporations as an alternative to costlier methods of funding. Many governments invest in commercial paper as a short-term investment for funds not immediately required, and to provide diversification and competitive rates of return. Commercial Paper is a short-term investment not registered with the SEC and usually has a maximum maturity of 270 days. It is a trillion-dollar market, and the Local Government Investment Pools in Texas can only

buy A1+, P1 and A1 rated securities. Texas CLASS has five credit analysts' whose job is to monitor the credit behind these investments.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

The District can increase its interest earnings by using this additional pool.

**LONGTERM FINANCIAL & BUDGETARY IMPACT:**

Additional interest income will allow the District to maximize revenues available for project funding.

**LEGAL ANALYSIS:**

Approved as to form.

**RECOMMENDATION/PROPOSED MOTION:**

I move to approve the Resolution authorizing the District to participate in Texas CLASS Investment Pool.

## A RESOLUTION

Item #9.

### **A RESOLUTION AUTHORIZING PARTICIPATION IN THE TEXAS CLASS INVESTMENT POOL AND DESIGNATING AUTHORIZED REPRESENTATIVES**

**WHEREAS**, the Public Funds Investment Act, Texas Government Code, Section 2256.001 et seq. (the Act) requires the governing body of each local government in this state to adopt investment policies in accordance with the terms of the act; and

**WHEREAS**, pursuant to the terms of the Act, the Fair Oaks Ranch Municipal Development District Board (the District) has previously reviewed and adopted an investment policy (the Policy) that provides in part that the funds of the local government will be invested in investments permitted by the Act in order to: (i) invest only in investments legally permitted under Texas law; (ii) minimize risk by managing portfolio investments so as to preserve principal and maintain a stable net asset value; (iii) manage portfolio investments to ensure that cash will be available as required to finance operations; and (iv) maximize current income to the degree consistent with legality, safety, liquidity; and

**WHEREAS**, pursuant to the Policy and the Act, the District has appointed Summer Fleming to act as the Investment Officer of the District; and

**WHEREAS**, the Act provides that funds under the control of the District may be invested through investment pools meeting the standards of Section 2256.016 of the Act; and

**WHEREAS**, the District has received and reviewed the Information Statement, dated April 2021 (the Information Statement), of Texas Cooperative Liquid Assets Securities System Trust (the Program), an investment pool administered by Public Trust Advisors, LLC that sets forth the information required by Section 2256.016(b) of the Act; and

**WHEREAS**, the District has determined that the investments proposed to be acquired by the Program are of a type that are permitted by the Act and are consistent with the Policy; and

**WHEREAS**, the District has determined that an investment in the Program will assist the District in achieving the goals set forth in the Policy and will tend to preclude imprudent investment activities arising out of investment transactions conducted between the District and the Program; and

**WHEREAS**, the District understands that the program operates through the Ninth Amended and Restated Trust Agreement dated as of February 25, 2021 (the Trust Agreement), that provides the terms on which the Program will operate and the rights of the Participants in the Program and sets forth the responsibilities of the Public Trust Advisors, LLC as the administrator of the Program (the Administrator) and of UMB Bank as custodian (the Custodian);

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MUNICIPAL DEVELOPMENT DISTRICT OF FAIR OAKS RANCH, TEXAS:**

**Section 1.** That the form, terms, and provisions of the Trust Agreement, a draft of which is attached hereto as Exhibit A, providing for the creation of the Program and for the rights of the Program Participants and the duties and responsibilities of the Administrator be and the same are hereby approved and adopted.

**Section 2.** That the Investment Officer be and he or she is hereby authorized and directed to execute and deliver to the Administrator and the Custodian in the name and on behalf of the District a participation certificate evidencing the agreement of the District to be bound by the Trust Agreement substantially in the form of the Trust Agreement reviewed and approved as provided for herein, together with such changes therein as may be approved by the said officer, such approval to be conclusively evidenced by the execution thereof.

**Section 3.** That the investment program established by the Trust Agreement is hereby found and determined to be consistent with the Policy and to preclude imprudent investment activities arising out of investment transactions conducted between the District and the Program.

**Section 4.** That the Board of Directors hereby officially finds and determines that the facts and recitals contained in the preamble of this Resolution are true and correct.

**Section 5.** That the Board of Directors of the Fair Oaks Ranch Municipal Development District hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted for the time required by law preceding this meeting and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter thereof were discussed, considered, and formally acted upon all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act; and be it further

**Section 6.** That the officers of the District, and each of them, shall be and each is expressly authorized, empowered, and directed from time-to-time to do and perform all acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the District all certificates, instruments, and other papers, whether or not herein mentioned, as they may determine to be necessary or desirable in order to carry out the terms and provisions of this Resolution and of the Trust Agreement hereby authorized and approved, such determination to be conclusively evidenced by the performance of such acts and things and the execution of any such certificate, financing statement, instrument, or other paper.

**Section 7.** That this Resolution shall take effect and be in full force upon and after its passage.

**PASSED, APPROVED and ADOPTED this 11<sup>th</sup> day of January 2023.**

\_\_\_\_\_  
Laura Koerner, President

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Roy Elizondo, Secretary

\_\_\_\_\_  
Denton Navarro Rocha Bernal & Zech, P.C.,  
City Attorney

# Texas CLASS<sup>®</sup>



## Registration Packet

## Welcome to Texas CLASS

We believe you have made a sound financial decision in choosing the Texas Cooperative Liquid Assets Securities System Trust (Texas CLASS). We look forward to being your trusted provider and are excited to connect with you to make your investment process a positive, easy experience.

Texas CLASS is a short-term, highly liquid investment program designed specifically for public-sector funds. It provides the opportunity to invest funds on a cooperative basis in short-term investments that are carefully selected to provide maximum safety and liquidity while generating a competitive yield.

This packet contains all the materials necessary to set up your Texas CLASS account(s). If you have any questions about the registration process or about your Texas CLASS account(s), please do not hesitate to contact us. The Texas CLASS Client Service team can be reached any business day from 8:30 a.m. to 4:30 p.m. CT by phone at (800) 707-6242 or by email at [clientservices@texasclass.com](mailto:clientservices@texasclass.com).

Thank you for choosing Texas CLASS!

Sincerely,  
The Texas CLASS Board of Trustees

## Registration Procedures

**To join Texas CLASS, please complete the following:**

- 1) Read the Trust Agreement (A copy can be found on [www.texasclass.com](http://www.texasclass.com)).
- 2) Pass the resolution authorizing participation in Texas CLASS (page 3 and 4).
- 3) Adopt the Trust Agreement by signing Exhibit D (page 5).
- 4) Complete the Entity Registration (page 6).
- 5) Complete the Authorized Contacts Form (page 7/8).
- 6) Complete the Account to be Established Form; you may open as many accounts as you wish (page 9).
- 7) Keep the original forms for your records, and send the completed packet to the Texas CLASS Client Service team by fax (855) 848-9910 or by email [clientservices@texasclass.com](mailto:clientservices@texasclass.com).

**Questions? Please contact us; we would love to hear from you!**

Texas CLASS Client Service Team  
T (800) 707-6242  
[clientservices@texasclass.com](mailto:clientservices@texasclass.com)



## Resolution to Participate

WHEREAS, the Public Funds Investment Act, Texas Government Code, Section 2256.001 et seq. (the Act) requires the governing body of each local government in this state to adopt investment policies in accordance with the terms of the Act; and

WHEREAS, pursuant to the requirements of the Act, the Board of Trustees (the Governing Body) of the Fair Oaks Ranch Municipal Development District (the Local Government) has previously reviewed and adopted an investment policy (the Policy) that provides in part that the funds of the local government will be invested in investments permitted by the Act in order to: (i) invest only in investments legally permitted under Texas law; (ii) minimize risk by managing portfolio investments so as to preserve principal and maintain a stable net asset value; (iii) manage portfolio investments to ensure that cash will be available as required to finance operations; and (iv) maximize current income to the degree consistent with legality, safety, and liquidity; and

WHEREAS, pursuant to the Policy and the Act, the Local Government has appointed Summer Fleming (the Investment Officer) to act as the investment officer of the Local Government; and

WHEREAS, the Act provides that funds under the control of a Local Government may be invested through investment pools meeting the standards of Section 2256.016 of the Act; and

WHEREAS, the Local Government has received and reviewed the Information Statement, dated December 2016 (the Information Statement), of Texas Cooperative Liquid Assets Securities System Trust (the Program), an investment pool administered by Public Trust Advisors, LLC that sets forth the information required by Section 2256.016(b) of the Act; and

WHEREAS, the Local Government has determined that the investments proposed to be acquired by the Program are of a type that are permitted by the Act and are consistent with the Policy; and

WHEREAS, the Local Government has determined that an investment in the Program will assist the Local Government in achieving the goals set forth in the Policy and will tend to preclude imprudent investment activities arising out of investment transactions conducted between the Local Government and the Program; and

WHEREAS, the Local Government understands that the Program operates through the Eighth Amended and Restated Trust Agreement dated as of April 8, 2019 (the Trust Agreement), that provides the terms on which the Program will operate and the rights of the Participants in the Program and sets forth the responsibilities of Public Trust Advisors, LLC as the administrator of the Program (the Administrator) and of Wells Fargo Bank as custodian (the Custodian);

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE LOCAL GOVERNMENT:

That the form, terms, and provisions of the Trust Agreement, a draft of which was presented and reviewed at this meeting, providing for the creation of the Program and for the rights of the Program Participants and the duties and responsibilities of the Administrator be and the same are hereby approved and adopted; and that the Investment Officer be and he or she is hereby authorized and directed to execute and deliver to the Administrator and the Custodian in the name and on behalf of the Local Government a participation certificate evidencing the agreement of the Local Government to be bound by the Trust Agreement substantially in the form of the Trust Agreement reviewed and approved at this meeting, together with such changes therein as may be approved by the said officer, such approval to be conclusively evidenced by the execution thereof; and be it further

Resolved that the investment program established by the Trust Agreement is hereby found and determined to be consistent with the Policy and to preclude imprudent investment activities arising out of investment transactions conducted between the Local Government and the Program; and be it further

Resolved that the Governing Body hereby officially finds and determines that the facts and recitations contained in the preamble of this Resolution are true and correct; and be it further

Resolved that the Governing Body hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted for the time required by law preceding this meeting and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter thereof were discussed, considered, and formally acted upon all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act; and be it further

Resolved that the officers of the Local Government, and each of them, shall be and each is expressly authorized, empowered, and directed from time-to-time to do and perform all acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the Local Government all certificates, instruments, and other papers, whether or not herein mentioned, as they may determine to be necessary or desirable in order to carry out the terms and provisions of this Resolution and of the Trust Agreement hereby authorized and approved, such determination to be conclusively evidenced by the performance of such acts and things and the execution of any such certificate, financing statement, instrument, or other paper; and be it further

Resolved that this Resolution shall take effect and be in full force upon and after its passage.

_____		Laura Koerner, President
Authorized Signature	Date	Printed Name

_____		Roy Elizondo, Secretary
Authorized Signature	Date	Printed Name

## Exhibit D – Participation Certificate

The undersigned Fair Oaks Ranch Municipal Development District (the Local Government) does hereby request that it be admitted as a Participant pursuant to Section 2.3 of the Eighth Amended and Restated Trust Agreement (the Agreement) dated as of April 8, 2019, by and between the Participants, Wells Fargo Bank as Custodian, and Public Trust Advisors, LLC. By executing this Participation Certificate, the undersigned agrees that, upon the execution hereof by the Program Administrator, it will become subject to the same obligations and shall have the same rights as if it had executed the Agreement.

The undersigned hereby certifies that Summer Fleming (the Investment Officer) is the duly designated Representative of the undersigned as required by the Agreement.

The undersigned hereby certifies that its governing body has taken all actions required by Section 2256.016 of the Public Funds Investment Act, Texas Government Code, for it to participate in the Trust created by the Agreement.

Fair Oaks Ranch Municipal Development District

Entity Name

President

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

Accepted by Administrator (to be completed by Texas CLASS):

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

## Trust Registration

### Entity Information

Entity Name (Participant) Fair Oaks Ranch Municipal Development District

Entity Type:     City/Town         County         School District         Special District  
 Other (Specify) \_\_\_\_\_

Mailing Address 7286 Dietz Elkhorn

City Fair Oaks Ranch        Zip 78015        County Bexar

Tax ID 80-0802774        Fiscal Year End Date (Month/Day) 09/30

The Fair Oaks Ranch Municipal Development District (the Local Government) hereby wishes to invest in the following portfolio:

- Texas CLASS
- Texas CLASS Government
- Both

Texas CLASS is hereby authorized to honor any telephoned, faxed, or electronic request believed to be authentic for withdrawal of funds. The withdrawal proceeds can be sent only to the bank(s) indicated below unless changed by written instructions. Each local government is responsible for notifying Texas CLASS of any changes to its account.

### Banking Information

Bank Name Frost Bank        Bank Routing Number (ABA) 114000093

Account Title Operating Account        Account Number 260067156

Bank Contact Belle Williams        Contact's Phone Number (210)220-6182

- Wire         ACH         Both

### Additional Banking Information (Optional)

Bank Name \_\_\_\_\_        Bank Routing Number (ABA) \_\_\_\_\_

Account Title \_\_\_\_\_        Account Number \_\_\_\_\_

Bank Contact \_\_\_\_\_        Contact's Phone Number \_\_\_\_\_

- Wire         ACH         Both

## Authorized Contacts

### Representative and Authorized Signer

Mr.  Ms. Laura Koerner President  
 \_\_\_\_\_  
 Print First and Last Name Title  
 \_\_\_\_\_  
 (210)698-0900  
 \_\_\_\_\_  
 Signature Required Phone  
LKoerner@fairoaksranchtx.org (210)698-3565  
 \_\_\_\_\_  
 Email Fax

#### Email Notifications

Monthly Statements  
 Transaction Confirmations

#### Online Account

Online User Access

### Additional Contact (Optional)

Mr.  Ms. Michael B. Lovelace Treasurer  
 \_\_\_\_\_  
 Print First and Last Name Title  
 \_\_\_\_\_  
 (210)698-0900  
 \_\_\_\_\_  
 \*(Signature Required if Authorized Signer) Phone  
MLovelace@fairoaksranchtx.org (210)698-3565  
 \_\_\_\_\_  
 Email Fax

#### Permissions (must check one)

Authorized Signer to Move Funds\*  
 Read-Only Access

#### Email Notifications

Monthly Statements  
 Transaction Confirmations

#### Online Account

Online User Access

### Additional Contact (Optional)

Mr.  Ms. Summer Fleming Investment Officer  
 \_\_\_\_\_  
 Print First and Last Name Title  
 \_\_\_\_\_  
 (210)698-0900  
 \_\_\_\_\_  
 \*(Signature Required if Authorized Signer) Phone  
SFleming@fairoaksranchtx.org (210)698-3565  
 \_\_\_\_\_  
 Email Fax

#### Permissions (must check one)

Authorized Signer to Move Funds\*  
 Read-Only Access

#### Email Notifications

Monthly Statements  
 Transaction Confirmations

#### Online Account

Online User Access

## Authorized Contacts (cont.)

### Additional Contact (Optional)

Mr.  Ms. \_\_\_\_\_  
 Print First and Last Name Title

\_\_\_\_\_  
 \*(Signature Required if Authorized Signer) Phone

\_\_\_\_\_  
 Email Fax

#### Permissions (must check one)

- Authorized Signer to Move Funds\*  
 Read-Only Access

#### Email Notifications

- Monthly Statements  
 Transaction Confirmations

#### Online Account

- Online User Access

### Additional Contact (Optional)

Mr.  Ms. \_\_\_\_\_  
 Print First and Last Name Title

\_\_\_\_\_  
 \*(Signature Required if Authorized Signer) Phone

\_\_\_\_\_  
 Email Fax

#### Permissions (must check one)

- Authorized Signer to Move Funds\*  
 Read-Only Access

#### Email Notifications

- Monthly Statements  
 Transaction Confirmations

#### Online Account

- Online User Access

### Additional Contact (Optional)

Mr.  Ms. \_\_\_\_\_  
 Print First and Last Name Title

\_\_\_\_\_  
 \*(Signature Required if Authorized Signer) Phone

\_\_\_\_\_  
 Email Fax

#### Permissions (must check one)

- Authorized Signer to Move Funds\*  
 Read-Only Access

#### Email Notifications

- Monthly Statements  
 Transaction Confirmations

#### Online Account

- Online User Access



How did you hear about Texas CLASS?

Texas CLASS Representative: Tony Sekaly

Referral by: \_\_\_\_\_

Texas CLASS Website

Email

Google Search

Other: \_\_\_\_\_



# Texas CLASS<sup>®</sup>



## Trust Agreement

February 25, 2021

Texas Cooperative Liquid Assets Securities System Trust

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NINTH AMENDED AND RESTATED  
**TRUST AGREEMENT**

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Dated as of February 25, 2021

by and among

The Texas Participants that have entered into this Agreement,

UMB Bank, N.A., as Custodian

and

Public Trust Advisors, LLC, as Program Administrator

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## PREAMBLE

This Ninth Amended and Restated Trust Agreement dated as of February 25, 2021 (the Agreement) is by and among the Texas local governmental entities and public entities that have taken the actions required by Section 2256.016 of the Public Funds Investment Act, Texas Government Code, and that have either executed this Agreement or counterparts of this Agreement or Participation Certificates pursuant to Section 2.3 hereof (the Participants), UMB Bank, N.A., as Custodian (the Custodian) and Public Trust Advisors, LLC, (the Program Administrator) and amends and restates that certain Eighth Amended and Restated Trust Agreement dated as of April 8, 2019, among the Participants, the Custodian and Public Trust Advisors, LLC the Program Administrator.

WHEREAS, each Participant is permitted pursuant to Section 2256.016 of the Public Funds Investment Act, Texas Government Code, to pool its funds, or funds under its control, with any similar funds in the treasury of other Participants for the purpose of investing such funds in statutory permitted investments; and

WHEREAS, each Participant will receive a substantial benefit by agreeing to invest such funds in concert with the other Participants because of economies of scale; and

WHEREAS, it will increase the efficiency of such investment if the funds to be invested in concert are held by one entity, the Custodian, which will hold such funds and investments in its capacity as custodian for the benefit of the Participants; and

WHEREAS, it will increase the efficiency of such investment if the advisory, record-keeping and other administrative functions are performed by one entity, the Program Administrator, acting on behalf of the Board of Trustees (as hereinafter defined) and the Participants and if the investment instructions of the Participants, are transmitted through one entity, the Program Administrator, to the Custodian.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, each party hereto agrees that all moneys, assets, securities and property now or hereafter acquired by the Trust (as hereinafter defined) shall be held and managed in trust by the Board of Trustees (as hereinafter defined) for the equal and proportionate benefit of the Participants, without privilege, priority or distinction among the Participants, and subject to the terms, covenants, conditions, purpose and provisions hereof as follows:

## ARTICLE I

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### THE TRUST AND DEFINITIONS

#### 1.1 The Trust.

(a) The name of the Trust created by this Agreement shall be "Texas Cooperative Liquid Assets Securities System Trust" or "Texas CLASS." The Board of Trustees retains all rights to the use of the names "Texas CLASS" and "Texas Cooperative Liquid Assets Securities System Trust" and neither the Program Administrator nor the Custodian shall use the name without express consent of the Board of Trustees as reflected in the minutes of the Board of Trustees or another written document approved by the Board of Trustees. Any and all reports, information, data, statistics, forms, plans, procedures, studies and any other communications or form of knowledge prepared or assembled by the Program Administrator for the specific and exclusive benefit of the Board of Trustees or Texas CLASS shall become the property of the Board of Trustees and shall not be made available to any individual, Company, or organization without the prior written approval of the Board of Trustees or except as required by law. So far as may be practicable and pursuant to the provisions of this Trust Agreement, the Custodian and the Board of Trustees shall conduct the Trust's activities, execute all documents and sue or be sued under either of the foregoing names.

(b) The purpose of the Trust is to establish one or more investment pools for the Participants pursuant to Section 2256.016 of the Public Funds Investment Act, Texas Government Code, through which a Participant may pool any of its funds or funds under its control, with the same such funds of any other Participant in order to preserve principal, to maintain the liquidity of the Participant, and to maximize yield in accordance with the Public Funds Investment Act (the "Act"), Section 2256.001, et seq., Texas Government Code or other laws of the State of Texas, from time to time in effect, governing the investment of funds of a Participant or funds under its control.

(c) The Trust shall maintain an office of record in the State of Texas and may maintain such other offices or places of business as the Board of Trustees may from time to time determine. The initial office of record of the Trust shall be: c/o Bracewell LLP, Attention: Julie M. Partain, Esq., 1445 Ross Avenue, Ste 3800 Dallas, Texas 75202. The office of record may be changed from time to time by resolution of the Board of Trustees, and notice of such change of the office of record shall be given to each Participant, the Custodian and the Program Administrator.

(d) (i) The Trust shall be a trust organized and existing under the laws of the State of Texas. The Trust is not intended to be, shall not be deemed to be, and shall not be treated as a general partnership, limited partnership, joint venture, corporation, investment company or joint stock company. The Participants shall be beneficiaries of the Trust, and their relationship to the Board of Trustees shall be solely in their capacity as Participants and beneficiaries in accordance with the rights conferred upon them hereunder.

(ii) This Agreement is an agreement creating one or more investment pools within the meaning of the Act.

(e) The Board may authorize the creation of one or more different portfolios or pools, provided however, that each such portfolio or pool shall conform in all respects to the requirements of this Agreement and shall each have a separate investment portfolio and information statements and shall, in all respects, comply with the Act.

(f) The Board may authorize the use of the names "Texas Cooperative Liquid Assets Securities Systems Trust" and "Texas CLASS") in conjunction with other products, portfolios, pools and services which provide investment, financial or other cash management services to Participants and for purposes of this Agreement, such name shall include any pools or portfolios established pursuant to this Agreement. The Program Administrator may identify a name for any additional pools or portfolios established pursuant to this Agreement, subject to Board approval.

## 1.2 Definitions.

**"Account(s)"** shall have the meaning set forth in Section 5.3 (a) hereof.

**"Act"** shall have the meaning set forth in Section 1.1(b) hereof.

**"Affiliate"** means, with respect to any Person, another Person directly or indirectly in control of, controlled by or under common control with such Person, or any officer, director, partner or employee of such Persons.

**"Agreement"** means this Ninth Amended and Restated Trust Agreement dated as of February 25, 2021, as amended, by and among Public Trust Advisors, LLC, as Program Administrator, UMB Bank, N.A., as Custodian, and the Participants.

**"Balance(s)"** for each Participant means the amounts initially equal to zero that are adjusted pursuant to Article II hereof to reflect, among other things, cash investments by such Participant in each pool or portfolio established pursuant to this Agreement, within the Trust, cash payments to such Participant, a pro rata distribution of income from the earnings of each pool or portfolio established pursuant to this Agreement, in which each Participant has invested funds, investment results and expenses and fees for each pool or portfolio established pursuant to this Agreement, in which the Participant has invested.

**"Board of Trustees"** means the board of the Trustees established pursuant to Article III hereof.

**"Business Day"** means any day of the year other than (a) a Saturday or Sunday, (b) any day on which banks located in the State of Texas are required or authorized by law to remain closed, or (c) any day on which the New York Stock Exchange is closed."

**"Conflicting Provisions"** shall have the meaning set forth in Section 10.3 hereof.

**"Custodian"** means UMB Bank, N.A., as custodian, or any Person or Persons appointed, employed or contracted with by the Trust pursuant to Article V hereof.

**"Effective Date"** means the first day that execution copies of this Agreement have been executed by the Program Administrator, the Custodian, and the Chairman and Secretary of the Board of Trustees.

**"Good Standing"** means a Participant that has funded an account with Texas CLASS.



**“Investment Advisor”** shall mean any person or persons appointed, employed, or contracted with by the Board on behalf of the Trust pursuant to Article III hereof or by the Program Administrator pursuant to Article IV hereof.

**“Investment Funds”** means immediately available funds delivered by each Participant to the Custodian for investment in one or more pools or portfolios established pursuant to this Agreement but only if (i) the Representative appointed by such Participant is authorized pursuant to the laws of the State of Texas to invest such funds and (ii) the Participant has taken all actions necessary pursuant to the laws of the State of Texas to authorize the delivery and investment of such funds.

**“Investment Policy”** means that investment policy or policies containing procedures and criteria for the investment of funds in Texas CLASS and its sub-accounts, or in any other pool or portfolio established pursuant to this Trust Agreement as adopted annually by the Board of Trustees of Texas CLASS and incorporated herein by reference.

**“Investment Procedures”** means the procedures for making investments in the Investment Property set forth in Exhibit A attached hereto, as the same may be amended from time to time (notwithstanding Section 9.1(a) hereof) by the Program Administrator providing notice of such change to the Custodian and the Participants.

**“Investment Property”** means any and all securities, cash and other personal property, tangible or intangible, which is transferred, conveyed or paid to the Account(s) pursuant to Section 2.1 hereof or otherwise and all proceeds, income, profits and gains therefrom that have not been distributed to a Participant pursuant to Section 2.2 hereof, used to discharge an Investment Property Liability or offset by losses, if any, and expenses. Notwithstanding anything to the contrary, the Custodian shall not be required to hold, purchase, sell or invest in interests in real property under this Agreement, and the Participants shall not attempt to transfer such interests to the Custodian. Investment Property shall not include securities purchased in anticipation of the delivery of funds by a Participant when such funds are not actually received by the Custodian by the anticipated delivery date, and any such securities may be immediately sold and the proceeds used to pay any Person that did in fact provide monies to purchase such securities.

**“Investment Property Liability”** means any liability (whether known, unknown, actual, contingent or otherwise) incurred in connection with the Investment Property pursuant to this Agreement that is not specified in Section 6.1 hereof as being paid by the Program Administrator or specified in this Agreement as being paid directly by a Participant.

**“Investment Property Value”** means the value of the Investment Property net of the amount of the Investment Property Liabilities as determined pursuant to Section 4.5 hereof and the Valuation Procedures. Such value shall be determined separately for each pool or portfolio established pursuant to this Trust Agreement.

**“Meeting of the Board of Trustees”** means a duly called meeting of the Board of Trustees.

**“Participants”** means any municipality, county, school district or authority created under Section 52(b)(1) or (2), Article III or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, any office, department,

commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities (i) to which Chapter 2256 is applicable; (ii) that has taken the actions required by Section 2256.016 of the Act; (iii) that has executed either this Agreement or counterparts of this Agreement or Participation Certificates pursuant to Section 2.3 hereof; and (iv) that is in Good Standing.

**“Participation Certificate”** means a certificate entered into pursuant to Section 2.3 hereof.

**“Payment Procedures”** means the procedures for requesting payments out of the Investment Property set forth in Exhibit B attached hereto, as the same may be amended from time to time (notwithstanding Section 9.1(a) hereof) by the Program Administrator providing notice of such change to the Custodian and the Participants.

**“Person”** means any municipality, county, school district or authority created under Section 52(b)(1) or (2), Article III or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, any office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities, corporation, national association, natural person, firm, joint venture, partnership, trust, unincorporated organization or group.

**“Program Administrator”** means Public Trust Advisors, LLC. Or any Person or Persons appointed, employed or contracted with by the Trust pursuant to Article IV hereof.

**“Representatives”** means those persons who have been designated as Representatives by the Participants pursuant to Section 2.6 hereof.

**“Trust”** means the Texas trust created as set forth in Section 1.1 of this Agreement.

**“Trustee”** means any Representative selected pursuant to Article III hereof:

**“Valuation Procedures”** means the procedures for determining the value of the Investment Property set forth in Exhibit C attached hereto, as the same may be amended from time to time (notwithstanding Section 9.1(a) hereof) by the Program Administrator providing notice of such change to the Custodian and the Participants.

## ARTICLE II

### PARTICIPANTS

#### 2.1 Investments.

(a) Each Participant shall have the right from time to time to invest Investment Funds for credit to such Participant’s Balance. A Participant that wishes to make such an investment shall notify the Program Administrator acting on behalf of the Board of Trustees and follow the Investment Procedures set forth in Exhibit A. Upon such investment in accordance with

Exhibit A, the Participant shall have an undivided beneficial interest in the Investment Property.

(b) The Balance of a Participant shall be increased upon the investment of Investment Funds by an amount equal to the amount of such Investment Funds.

(c) No later than the next Business Day after a Participant has made an investment of Investment Funds, the Custodian shall deliver a confirmation to the Program Administrator. The Program Administrator shall retain a copy of the confirmation in its records.

(d) Any funds that the Program Administrator is informed do not meet the conditions set forth in clauses (i) or (ii) of the definition of Investment Funds shall be returned to the Participant investing such funds by the Custodian at the request of the Program Administrator and such Participant shall bear all of the costs and liabilities associated with the return of such funds.

(e) There is no maximum or minimum amount that must be invested pursuant to this Agreement nor are there any maximum or minimum limitations on the aggregate amount of Investment Funds that any Participant may have invested at one time.

(f) The execution of a certificate for participation, in substantially the form attached as Exhibit D, shall constitute the express written authorization to deposit, withdraw, invest, transfer and manage funds of the Participant required by Section 2256.005(f) of the Act.

## 2.2 Payments.

(a) Each Participant shall have the right from time to time to request, in accordance with the Payment Procedures set forth in Exhibit B hereto, that the Program Administrator notify the Custodian to pay to the Participant (by the transfer of the proceeds received from the sale or maturity of securities held by the Custodian), or on its behalf, any amount (rounded to the nearest whole cent) that is less than or equal to the Participant's Balance at the time that payment is made pursuant to such request. Except as provided in Exhibit B, there shall be no limitation on the period of time that Investment Funds must be invested through the Trust prior to such payment.

(b) Upon the receipt of any payment request, the Program Administrator shall notify the Custodian, in writing or orally to be followed by written confirmation, of the payment request from the Participant, and the requested amount (rounded to the nearest whole cent) shall be paid (by the transfer of the proceeds received from the sale or maturity of securities held by the Custodian) by the Custodian to, or on behalf of, such Participant as provided in Exhibit B.

(c) Whenever any payment is made to, or on behalf of, any Participant pursuant to Section 2.2 (b) hereof, such Participant's Balance shall be reduced by the Program Administrator by the amount of such payment.

(d) Each Participant agrees that, without prior notice, the right to payments may be temporarily suspended or postponed for the whole or any part of any period (i) during which trading in fixed income securities generally in any national trading market shall have been suspended or minimum prices or maximum daily charges shall have been established on such market, (ii) a general banking moratorium shall have been declared by federal or Texas state authorities or (iii) there shall have occurred any outbreak, or material escalation, of hostilities,

or other calamity or crisis, the effect of which on the financial markets of the United States is such as to make it impracticable (a) to dispose of the Investment Property because of the substantial losses which might be incurred or (b) to determine the Investment Property Value in accordance with the Valuation Procedures set forth in Exhibit C from time to time. The Custodian and each Participant shall be notified as soon as practicable orally or in writing by the Program Administrator in the event that such a suspension or postponement is commenced. Such a suspension or postponement shall not itself directly alter or affect a Participant's Balance. Such a suspension or postponement shall take effect at such time as is determined by the Program Administrator, and thereafter there shall be no right to request or receive payment until the first to occur of: (a) in the case of (i) or (ii) above, the time at which the Program Administrator declares the suspension or postponement at an end, which declaration shall occur on the first day on which the period specified in clause (i) or (ii) above shall have expired; and (b) in the case of (iii) above, the end of the first day on which the period specified in clause (iii) above is no longer continuing as determined by the Program Administrator. Any Participant that requested a payment prior to any suspension or postponement of payment may withdraw its request at any time prior to the termination of the suspension or postponement. Notwithstanding anything contained in this Section 2.2(d) to the contrary, if during a suspension or postponement period, a Participant demands in writing the right to receive a payment and it is not impossible to accommodate such demand, the Program Administrator shall make all reasonable efforts to effectuate such payment demand.

### 2.3 Additional Participants After Initial Execution.

(a) Any local government or state agency as defined in the Act of the State of Texas that has the authority to pool any of its money pursuant to Section 2256.016 of the Act that wishes to become a party to this Agreement after the Effective Date may do so by taking the actions required by Section 2256.016 of the Act and by executing either a counterpart to this Agreement or a Participation Certificate attached hereto as Exhibit D and delivering the counterpart or the original executed Participation Certificate to the Program Administrator. The Program Administrator shall provide written notification monthly to the Board of Trustees and the Custodian of the admission of a new Participant. Any entity that becomes a Participant pursuant to this Section 2.3 shall have the same rights and obligations hereunder as the other Participants.

### 2.4 Termination of Participation.

(a) Any Participant may withdraw from this Agreement at any time upon written notice to the Program Administrator, who shall notify the Custodian and the Board of Trustees upon receipt of such notice of withdrawal. Upon its withdrawal from this Agreement, a Participant shall cease to have any rights or obligations under this Agreement except for any obligations arising on or before the date of withdrawal. A notice of withdrawal shall be deemed to constitute (i) a request under the Payment Procedures that an amount equal to the requesting Participant's entire Balance(s) as of the date of such notice be paid to such Participant and (ii) a termination of the Board of Trustees' trust relationship hereunder with the Participant. No withdrawal shall become effective until such Participant's Balance(s) is equal to zero, and

until such time, such Participant shall continue to possess all of the rights, and to be subject to all of the obligations, arising from this Agreement.

(b) Any Participant that breaches any material covenant contained in Article VIII hereof or for which any of the representations contained in Article VII hereof ceases to be true shall be deemed to have given a notice of withdrawal pursuant to Section 2.4(a) hereof immediately upon such breach or cessation, but shall not be deemed to have requested the payment of its Balance(s) unless and until it either makes an actual payment request or the Program Administrator determines that such a breach or cessation has occurred.

**2.5 Receipt of Statements and Reports; Requests.**

(a) The Program Administrator, on behalf of the Board of Trustees, shall provide to each Participant a copy of the statements prepared pursuant to Section 4.2 hereof and of the reports prepared pursuant to Section 4.3 hereof applicable to such Participant.

(b) In addition, each Participant may direct the Program Administrator to provide a statement of the value of the Participant’s Balance(s) as of the date of the request, provided such request is received by the Program Administrator by 4:00 p.m. CST on a given day.. The Program Administrator shall provide such statement, subject only to account activity as of such date.

(c) On behalf of each Participant, the Program Administrator shall maintain the records relating to such Participant in a manner that records the Participant’s Balance(s) as one or more subaccounts or other special accounts to accommodate the desire of such Participant to segregate a portion of its Investment Funds. The Program Administrator shall maintain a separate record for each Participant and shall record the individual transactions involving each such Participant and the total value by subaccount of all investments or portions thereof belonging to each such Participant.

(d) No Participant shall be entitled to any reports or statements applicable solely to another Participant.

**2.6 Representatives.**

(a) Each Participant shall designate a Representative to act for the Participant hereunder (the “Representative”) for all purposes, including, without limitation, to give consents on behalf of the Participant and to receive notices on behalf of the Participant. Pursuant to Section 2256.005 (f) of the Act, such Representative shall be the investment officer that is empowered by the charter, ordinances or other rules or regulations of the Participant to direct the investment of such Participant’s Investment Funds. The Representatives, in their capacity as Representatives shall not be required to devote their entire time to duties under the Agreement. To the extent permitted by law, each Representative may designate additional persons who may act on behalf of the Representative to transmit the Representative’s instructions to the Program Administrator, the Custodian or the Board of Trustees.

(b) Each Representative shall be the official responsible for the investment of Investment Funds into the Trust and all payments made from the Trust for the Participant represented by such Representative. In making such investments and payment requests,

each Representative shall use judgment and care to achieve the following objectives in the indicated order: (i) preservation and safety of principal, (ii) liquidity, and (iii) yield.

2.7 Liability.

No Representative shall be subject to any personal liability whatsoever to any person, in connection with the Investment Property or affairs of the Board, other than liability arising from the bad faith, willful misfeasance, gross negligence or reckless disregard of duty by such Representative of a Participant. No Representative of a Participant who is made a party to any suit or proceeding to enforce any such liability shall on account thereof be held to any personal liability.

**ARTICLE III**

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**TRUSTEES AND THE BOARD OF TRUSTEES**

3.1 Selection of Trustees.

(a) Each calendar year, the Program Administrator shall call, upon at least fifteen days’ written notice to the Participants, a meeting of the Participants for the purpose of selecting Trustees for the Trust. If the Program Administrator shall fail to call such a meeting, any two Participants may call such a meeting by providing at least fifteen days’ written notice to the other Participants. At such meeting, the Participants may nominate persons to serve as Trustees of the Trust. In order to qualify to be nominated as a Trustee, a candidate must be a Representative. The number of Trustees to be selected shall be determined by the Participants at such meeting, provided that the number of Trustees shall be an odd number of three (3) or more. In order to be elected as a Trustee, a candidate must receive a majority of the votes of the Participants present and voting at such meeting. A quorum for such meeting shall be the lesser of (i) fifteen Participants or (ii) ten percent of the total number of Participants determined at the time the notice of the meeting is sent. If a quorum is not present, the meeting may be adjourned to a future time and place set at such meeting. Each Participant shall be entitled to one vote regardless of the amount of funds invested in the Trust. To the extent permitted by law, each Representative may designate a person who may act on behalf of the Representative at a meeting of Participants.

(b) The Program Administrator shall send written notice to the Participants and the Custodian listing the names of the Trustees elected at each annual meeting.

3.2 Board of Trustees.

The Board of Trustees shall be made up of all of the Trustees elected by the Participants or designated pursuant to Section 3.5 hereof. The Board of Trustees shall supervise the Trust and the affairs of the Trust and shall act as the liaison between the Participants and the Custodian and the Program Administrator. The Board of Trustees shall appoint an advisory board to advise the Trust, as required by the Act. The Board of Trustees shall have the power to administer the affairs of the Trust and to enter into contracts and agreements on behalf of the Trust in order to effectuate the terms of this Agreement. The Board of Trustees shall have the power to select all of the Trust’s consultants, including, without limitation, the Program Administrator and the Custodian, subject to the terms of this Agreement. The Trustees shall

select by majority vote a chairman of the Board of Trustees, and may select such other officers of the Board of Trustees, including, without limitation, a vice chairman and a secretary, as the Trustees deem appropriate. In the absence of the chairman, the vice chairman, if any, shall have the power to act in place of the chairman hereunder.

### 3.3 General Powers.

Subject to the rights of the Participants as provided herein, the Board shall have, without other or further authorization, power to administer the Trust and the affairs of the Trust. The Board may do and perform such acts and things as in their sole judgment and discretion are necessary and proper for the administration of the Trust and the investment of the Trust Property, but shall invest with the degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation, but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital.

### 3.4 Legal Title.

Title to all of the Trust Property shall be vested in the Trust on behalf of the Participants who shall be the beneficial owners. The Trust shall have full and complete power to cause legal title to any Trust property to be held, on behalf of the Participants, by or in the name of the Trust, or in the name of any other person as nominee, on such terms, in such manner, and with such powers as the Board may determine, so long as in its judgment the interest of the Trust is adequately protected.

### 3.5 Power to Contract, Appoint, Retain and Employ.

(a) The Board is responsible for the investments of the Trust consistent with the investment policies established in this Trust Agreement and for the general administration of the business and affairs of the Trust conducted by officers, agents, employees, administrators, investment advisors, distributors or independent contractors of the Trust. However, members of the Board are not required to devote their entire time to the business and affairs of the Trust or to personally conduct the routine business of the Trust. Consistent with their responsibilities, the Board may appoint, employ, retain or contract on behalf of the Trust with any persons the Board may deem necessary or desirable for the transaction of the affairs of the Trust, and the expenses relating to such persons shall be Investment Property Liabilities. The Board may appoint, employ, retain or contract on behalf of the Trust with such persons for the purpose of :

- (i) Serving as Investment Advisor to the Trust;
- (ii) Serving as Program Administrator of the Trust;
- (iii) Serving as Custodian for the Trust;
- (iv) Furnishing reports to the Trust and provide research, economic, and statistical data in connection with the Trust's investments;
- (v) Acting as consultants, accountants, technical advisors, attorneys, brokers, underwriters, corporate fiduciaries, escrow agents, depositories, custodians, agents for collection, insurers or insurance agents, or in any other capacity deemed by the Board to be necessary or desirable;

(vi) Acting as attorney-in-fact or agent in the purchase or sale or other disposition of investments, and in the handling, prosecuting, or other enforcement of any lien or security securing investment; or

(vii) Assisting in the performance of such other functions necessary in the management of the Trust.

(b) The same person may serve simultaneously as the Program Administrator and as the Investment Advisor, but no person serving as the Program Administrator or the Investment Advisor may serve as the Custodian.

### 3.6 Meetings.

Meetings of the Board of Trustees may be called by the Program Administrator at any time, and shall be called by the Program Administrator upon the request of at least two Trustees, on at least seventy-two hours' notice to each Trustee and shall be held at the time and place and for the purposes stated in the call of the meeting. There shall be at least one meeting of the Board of Trustees in each calendar year.

### 3.7 Delegation; Committees; Bylaws; Policies; Procedures.

The Board shall have full and complete power to delegate from time to time to one or more of their number (who may be designated as constituting a Committee of the Board) or to officers, employees or agents of the Trust (including without limitation, the Program Administrator, the Custodian, or the Investment Advisor) the doing of such acts and things and the execution of such instruments as the Board may from time to time deem expedient and appropriate in the furtherance of the business affairs and purposes of the Trust. The Board may adopt and, from time to time, amend or repeal by-laws, policies or procedures for the conduct of the business of the Trust. Such by-laws, policies or procedures, may, among other things, define the duties of the respective officers, agents, employees and representatives of the Trust.

### 3.8 Term.

The term of office for Trustees elected pursuant to Section 3.1(a) hereof shall commence thirty days after the notice specified in Section 3.1(c) is sent to the Participants and the Custodian. The term of office for Trustees selected pursuant to Section 3.5 hereof shall commence immediately upon such selection. Each Trustee shall hold office until the first to occur of: (a) the Trustee's resigning, (b) the Trustee ceasing to be a Representative of a Participant, (c) the Trustee's death, (d) the Trustee's being adjudicated incompetent or otherwise losing the capacity to discharge the duties of the office of a Trustee and (e) the term of office of the Trustee's successor having begun pursuant to this Section 3.8.

### 3.9 Vacancies.

If any Trustee resigns or is removed or otherwise ceases to serve, the remaining Trustees may designate a qualified successor to fill such vacancy until the next annual meeting of Participants.

### 3.10 Costs.

The expenses of each Representative to attend the annual meeting shall be borne by each Participant. The reasonable out-of-pocket expenses of the Trustees incurred in the



performance of their duties hereunder and of attending a meeting of the Board of Trustees shall be Investment Property Liabilities.

**3.11 Investment Officer.**

The chairman of the Board of Trustees, ex officio (or in the absence of the chairman, the vice chairman, if any), shall be the investment officer for the Trust as required by Section 2256.005 (f) of the Act.

**3.12 Public Proceedings.**

Notwithstanding anything contained in this Agreement, the Board of Trustees shall comply with the applicable provisions of Chapter 552 of the Texas Government Code.

**3.13 Telephone Participation.**

Upon the occurrence of an emergency or unforeseeable circumstances requiring immediate action, a Representative may participate in a meeting of Participants and a Trustee may participate in a meeting of the Board of Trustees through the use of a conference telephone, provided that such Representative or Trustee is able to hear the deliberations of the other Representatives or Trustees, respectively, and the other Representatives or Trustees are able to hear such Representative or Trustee, respectively, simultaneously.

**3.14 Liability.**

No Trustee or officer of the Board shall be subject to any personal liability whatsoever to any person, in connection with the Investment Property or affairs of the Board, other than liability arising from the bad faith, willful misfeasance, gross negligence or reckless disregard of duty by such Trustee or officer; and all persons shall look solely to the Investment Property for satisfaction of claims of any nature arising in connection with the affairs of the Board. No member or officer of the Board who is made a party to any suit or proceeding to enforce any such liability shall on account thereof be held to any personal liability.

**3.15 Insurance.**

The Board shall have full and complete power to purchase and pay for, entirely out of Trust property, insurance policies insuring the Trust, the Trustees, officers, employees and agents of the Trust individually against all claims and liabilities of every nature arising by reason of holding or having held any such office or position, or by reason of any action alleged to have been taken or omitted by the Trust or any such person, officer, employee and agent, including any action taken or omitted that may be determined to constitute negligence, whether or not the Trust would have the power to indemnify such person against such liability. The Board may instruct the Program Administrator to obtain such insurance on behalf of the Board in such amount as the Board and the Program Administrator shall deem adequate to cover all foreseeable liabilities to the extent available at reasonable rates.

## ARTICLE IV

### PROGRAM ADMINISTRATOR

#### 4.1 Appointment; General Provisions.

(a) The Participants hereby appoint Public Trust Advisors, LLC as the Program Administrator under this Agreement, subject to the overall supervision of the Board of Trustees, for the period and on the terms set forth in this Agreement.

(b) Public Trust Advisors, LLC accepts such appointment and agrees to render the services and to assume the obligations set forth herein, for the compensation herein provided.

(c) The Participants and the Board of Trustees agree that the Program Administrator shall invest the Investment Property in investments meeting the criteria set forth in Exhibit E and in the Investment Policy applicable to each pool or portfolio established pursuant to this Trust Agreement, and in a manner that maintains the AAA or equivalent rating of Texas CLASS and any other pool or portfolio established pursuant to this Trust Agreement. The Program Administrator is directed to cause Investment Property of each Participant to be invested in investments meeting the criteria set forth in Exhibit E and in the Investment Policy applicable to each pool or portfolio established pursuant to this Trust Agreement and in a manner that maintains the AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service, of any pool or portfolio established pursuant to this Agreement. The Board and the Participants delegate no investment discretion to the Program Administrator hereunder to invest in investments not meeting the criteria set forth in Exhibit E and the Program Administrator expressly refuses to accept any delegation of such discretion. The decision concerning which criteria shall be contained on Exhibit E shall remain at all times under the control of the Board of Trustees. The Board of Trustees shall ensure that the criteria set forth on Exhibit E are permitted by, and consistent with the standards and the duty of care set forth in, the Act.

(d) Each Participant directs the Custodian to act, and the Custodian agrees to act, in accordance with the instructions of the Program Administrator who shall act in a manner consistent with this Agreement. The Program Administrator shall at no time have custody of, possession of, or physical control over, any of the Investment Property. If a Participant in error delivers Investment Funds for investment to the Program Administrator instead of to the Custodian, the Program Administrator shall immediately transfer such Investment Funds to the Custodian. The Program Administrator shall not be liable for any act or omission of the Custodian, but shall be liable for the Program Administrator's acts and omissions as provided herein. Under no circumstance shall the Program Administrator be authorized or permitted to withdraw, or instruct the Custodian to withdraw, Investment Property maintained with the Custodian unless acting upon the request of a Participant pursuant to Section 2.2(a).

#### 4.2 Monthly Statements.

(a) Within 15 days subsequent to the end of each month, the Program Administrator shall, on behalf of the Board of Trustees, prepare and submit to each Participant which was a

Participant during such month a statement setting forth the information required by Section 2256.016(c)(2) of the Act.

(b) The Program Administrator, upon the request of a Participant, shall furnish to the Participant a statement of such Participant's Balance(s) as of the date of such request, subject only to account activity as of such date provided that such request is received by the Program Administrator by 5:00 p.m. CST on a given date.

#### 4.3 Reports.

(a) The Program Administrator shall prepare or cause to be prepared:

(i) at least annually a report of operations containing a statement of the Investment Property and the Investment Property Liabilities and statements of operations and of net changes in net assets prepared in conformity with generally accepted accounting principles consistently applied and

(ii) at least annually an opinion of an independent certified public accountant on such financial statements based on an examination of the books and records of the Program Administrator with respect to the Investment Property, performed in accordance with generally accepted auditing standards. A copy of such signed report of operations and accountant's opinion shall be filed with the Board of Trustees and the Participants within ninety (90) days after the close of the period covered thereby.

(b) The Program Administrator shall provide to the Board, on an annual basis, the Certification substantially as set forth in Exhibit H.

(c) The Program Administrator shall provide to the Board, the Securities and Exchange Commission form ADV filing of Public Trust Advisors, LLC within ninety (90) days of such filing.

(d) The Program Administrator shall provide to the Board, on an annual basis, Public Trust Advisors, LLC's disaster/contingency plan for the protection of the assets of Texas CLASS and any other pool or portfolio established pursuant to this Trust Agreement.

#### 4.4 Investment Activities and Powers.

Subject to the supervision of the Board of Trustees, and consistent with Section 4.1(c), the investment criteria set forth in Exhibit E and in the Investment Policies, the Program Administrator shall perform the following services:

(a) advise the Board of Trustees concerning investments which appear to the Program Administrator to be advantageous to the Participants within the investment criteria set forth in Exhibit E and within all applicable law, provided, however, the Board of Trustees shall have the duty to inform the Program Administrator of any changes to the Act;

(b) implement or cause to be implemented securities transactions for the Trust on behalf of the Board of Trustees and the Participants as permitted by the investment criteria set forth in Exhibit E (including, without limitation, by executing or causing to be executed on behalf of and as an agent of the Trust agreements and other documents containing representations, warranties and covenants that are common or standard for such agreements and documents within the investment industry) or, despite the intention of the parties hereto

to always have the Investment Property fully invested, cause the Custodian to hold the Investment Property uninvested in a custodial account maintained for the benefit of the Trust;

(c) from time to time, review the permitted investments and the investment criteria set forth in Exhibit E and, if circumstances and applicable law permit, recommend changes in such permitted investments and such investment criteria;

(d) provide such advice and information to the Participants and the Board of Trustees on matters related to investments as the Participants or the Board of Trustees may reasonably request, including, without limitation, research and statistical data concerning the Investment Property and other matters within the scope of the permitted investments and investment criteria set forth in Exhibit E;

(e) advise whether and in what manner all rights conferred by the Investment Property should be exercised;

(f) prepare such information and material as may be required in the implementation of the Valuation Procedures or the computation of the Balances and the preparation of any and all records and reports required by this Agreement or applicable laws; and

(g) employ, consult with, obtain advice from and exercise any of the Program Administrator's rights or powers under this Agreement through the use of agents, including investment advisors, brokers, dealers, auditors and legal counsel (who may be counsel to the Program Administrator or the Board of Trustees) or other advisors. Notwithstanding Section 10.9 hereof, the Program Administrator may transmit information concerning the Investment Property and the Participants to such agents.

#### 4.5 Daily Calculation of Program Value and Rate of Return.

(a) The Program Administrator shall calculate the Investment Property Value once on each Business Day at the time and in the manner provided in the Valuation Procedures.

(b) Upon performing the valuation specified in Section 4.5(a) hereof, the Program Administrator shall calculate (rounding off to the nearest whole cent) the Balance of each Participant and each Balance of each of the Participants shall be adjusted proportionately so that the total Balances of all the Participants equals the Investment Property Value.

(c) For purposes of calculating the Investment Property Value, the amount of any uncertain or contingent Investment Property Liability shall be deemed to be equal to the amount of the reserve, if any, against such Investment Property Liability that has been approved from time to time by the Program Administrator.

(d) For purposes of calculating the Investment Property Value, if the value of any part of the Investment Property is uncertain or contingent, the value of such part of the Investment Property shall be deemed to be equal to the amount determined from time to time by the Program Administrator.

(e) The Program Administrator shall calculate daily the rate of return earned on the Investment Property.

#### 4.6 Administration of Program.

The Program Administrator shall perform the following administrative functions on behalf of the Board of Trustees in connection with the implementation of this Agreement:

(a) collect and maintain for such time period as may be required under any applicable federal or Texas law written records of all transactions affecting the Investment Property or the Balances, including, but not limited to (a) investments by and payments to or on behalf of each Participant; (b) acquisitions and dispositions of Investment Property; (c) pledges and releases of collateral securing the Investment Property; (d) determinations of the Investment Property Value; (e) adjustments to the Participants' Balances; and (f) the current Balance and the Balances at the end of each month for each Participant. There shall be a rebuttable presumption that any such records are complete and accurate. On behalf of each Participant, the Program Administrator shall maintain the records relating to such Participant in a manner that subdivides the Participant's Balance into subaccounts or other special accounts to accommodate the desire of such Participant to segregate a portion of its Investment Funds;

(b) assist in the organization of the annual meeting required by Section 3.1(a) hereof and of Meetings of the Board of Trustees, including preparation and distribution of the notices and agendas therefor;

(c) respond to all inquiries and other communications of Participants, if any, which are directed to the Program Administrator, or, if any such inquiry or communication is more properly addressed by an officer of the Custodian, referring such inquiry or communication to such person and coordinating his response thereto;

(d) pay all Investment Property Liabilities in accordance with this Agreement from the Investment Property; and

(e) engage in marketing activities to promote participation of Texas governmental entities in the Trust.

#### 4.7 Resignation and Removal.

(a) The Program Administrator may resign as Program Administrator upon the giving of at least sixty (60) days' prior written notice of such resignation to the Board of Trustees and the Custodian.

(b) A majority of the Board of Trustees may remove the Program Administrator upon the giving of at least sixty (60) days' prior written notice to the Program Administrator and the Custodian.

(c) In the event that the Program Administrator shall give notice of its resignation or if the Board of Trustees shall give notice of the removal of the Program Administrator, a majority of the Board of Trustees shall appoint a successor.

(d) Upon notification of the removal or resignation of the Program Administrator, the Program Administrator shall deliver to the Board all data and records pertaining to Texas CLASS and its Participants within 60 days of the notification of removal or resignation, provided, however, that the Program Administrator may retain copies of any such data and records required to be retained by it by law or in compliance with the requirements of its corporate records retention policy. The Program Administrator shall continue to administer

Texas CLASS until a successor program administrator is appointed by the Board under the terms of this Agreement.

(e) If a new program administrator is not appointed by the Board within 60 days of a notification of removal or resignation of the Program Administrator, the Program Administrator shall continue to administer Texas CLASS until a successor program administrator is selected, but shall be compensated for such administration pursuant to an agreement to be negotiated between the Program Administrator and the Board.

**4.8 Liability.**

(a) Each Participant agrees that the Program Administrator and its officers, directors, agents and employees shall not be liable for any action performed or omitted to be performed or for any errors of judgment made in good faith in connection with any matters to which this Agreement relates, provided that such disclaimer shall not relieve any of them for liability arising from negligence, malfeasance, material breach of this Agreement by the Program Administrator or violation of applicable law by any of them ("Program Administrator Liabilities"). Nothing herein shall constitute a waiver or limitation of any rights which the Participants may have under any federal or state securities laws.

(b) Each Participant, the Board of Trustees and the Custodian understand that in performing its services hereunder the Program Administrator will rely on information provided by others and agree that the Program Administrator is not responsible for the accuracy of such information.

**4.9 Power to Receive Investment Advice.**

The Program Administrator shall have the right, at its own cost, to receive investment advice concerning the Investment Property from any other third party. Notwithstanding the provisions of Section 10.9 hereof, the Program Administrator may transmit information concerning the Investment Property and the Participants such other third parties in order to obtain such investment advice. The Program Administrator shall notify the Board of Trustees if any third parties are retained. pursuant to this Section 4.9 within 45 days of such retention.

**4.10 Advice to Other Clients.**

It is understood that the Program Administrator performs investment advisory services for various clients. The Participants agree that the Program Administrator may give advice and take action with respect to any of its other clients which may differ from the advice given to, or the timing or nature of action taken with respect to, the Investment Property; provided that the policy and practice of the Program Administrator is not to favor or disfavor consistently or consciously any client or class of clients in the allocation of investment opportunities and that, to the extent practical, such opportunities are allocated among clients over a period of time on a fair and equitable basis. Nothing herein contained shall be construed so as to prevent the Program Administrator or any of its directors, officers, employees, shareholders or affiliates in any way from purchasing or selling any securities for its or their own accounts prior to, simultaneously with or subsequent to any recommendation or actions taken with respect to the Investment Property or impose upon the Program Administrator any obligation to purchase or sell or to recommend for purchase or sale for the Investment Property any security which the Program Administrator or any of its shareholders, directors, officers, employees or affiliates may purchase or sell for its or their own accounts or for the

account of any other client, advisory or otherwise; provided always, however, that the Program Administrator shall use its best efforts to maximize the gains for the Investment Property in a manner consistent with the investment criteria set forth in Exhibit E hereof.

#### 4.11 Special Sub-accounts.

Notwithstanding anything in this Agreement to the contrary, the Program Administrator from time to time may propose to the Participants that the Participants establish specially designated subaccounts with investment, payment procedures, fees or other characteristics different from those set forth in this Agreement. Such characteristics may include, without limitation, certain restrictions on amounts to be invested, holding periods prior to payments or certain other conditions to be met for payments, such as possible payment penalties, or additional fees for administering such specially designated subaccounts. A Participant in its sole discretion may create any such special subaccount using the same procedures for establishing other subaccounts set forth in this Agreement. The establishment of such special subaccounts shall not be deemed an amendment of this Agreement. Any special subaccount that is created pursuant to this Section 4.11 shall be subject to the terms set forth in the proposal of the Program Administrator until the terms governing such special subaccount are amended pursuant to this Agreement. The Program Administrator may calculate the return realized by such special subaccounts separate and apart from the returns realized by other subaccounts maintained for each Participant.

#### 4.12 Intellectual Property.

(a) The Trust will own all Intellectual Property related to the name "Texas Cooperative Liquid Assets Securities System Trust" and "Texas CLASS." For purposes of this section, "Intellectual Property" shall mean all of the rights, relating to the names, "Texas Cooperative Liquid Assets Securities System Trust" and "Texas CLASS" including copyrights, trademark and service mark rights, trade dress rights, rights of publicity, web site and the internet domain rights. Public Trust Advisors, LLC makes no representation or warranty that it owns any Intellectual Property rights in those names, or that there are no third parties who may claim rights to intellectual property rights in or associated with the names.

(b) Public Trust Advisors, LLC hereby assigns all Intellectual Property rights that it has or may have that are not otherwise conveyed by other instrument or party, to the Trust. Public Trust Advisors, LLC represents and warrants to the Board that it has the right and authority to transfer to the Trust all Intellectual Property that it has or may have, in each case to the extent such Intellectual Property is reasonably necessary for the Trust's ownership, operating and full enjoyment of the name "Texas Cooperative Liquid Assets Securities System Trust" and "Texas CLASS". The Board assigns to Public Trust Advisors, LLC an irrevocable license during the term of Public Trust Advisors, LLC's tenure as Program Administrator to use all Intellectual Property rights described herein in connection with the administration of the Trust.

## ARTICLE V

### THE CUSTODIAN

#### 5.1 Appointment and Acceptance; Sub-Custodians.

(a) UMB Bank, N.A., as Custodian, is appointed by each of the Participants to be the Custodian for the collective interests of the Participants under this Agreement for the period and on the terms set forth herein. The Participants hereby delegate to the Custodian the authority to hold legal title to investments purchased with their funds pursuant to Section 2256.016(d) of the Act. UMB Bank, N.A., as Custodian, accepts such appointment and agrees to render the services and to assume the obligations set forth herein, for the compensation herein provided.

(b) The Custodian may employ other banks and trust companies as sub-custodians, including without limitation, affiliates of the Custodian. The appointment of a sub-custodian under this Section shall not relieve the Custodian of any of its obligations under this Agreement.

(c) No Investment Funds or Investment Property received or held by the Custodian pursuant to this Agreement shall be accounted for in any manner which might cause such Investment Funds or Investment Property to become assets or liabilities of the Custodian.

#### 5.2 Resignation and Removal; Successors.

(a) The Custodian may resign upon the giving of at least sixty (60) days prior written notice to the Board of Trustees and the Program Administrator. A majority of the Board of Trustees may remove the Custodian upon at least sixty (60) days prior written notice to the Custodian and the Program Administrator. Notwithstanding the foregoing, the resignation or removal of the Custodian shall not be deemed effective unless a successor shall have been chosen pursuant to Section 5.2(b) hereof. In the event that assets remain in the possession of the Custodian due to the failure of the Board of Trustees to appoint a successor custodian, the Custodian shall be entitled to compensation for its services during such period, and the provisions of this Agreement relating to the duties and obligations of the Custodian shall remain in full force and effect. In the event no successor is agreed upon within one hundred eighty (180) days from the date of such written notice, the Custodian shall be entitled to petition a court of competent jurisdiction to appoint a successor custodian and shall be reimbursed by the Trust for any direct court costs and expenses (including, without limitation, attorneys' fees) in a total amount not to exceed \$100,000 relating thereto.

(b) In the event that the Custodian shall give notice of its resignation or if the Board of Trustees shall give notice of the removal of the Custodian, a majority of the Board of Trustees shall appoint a successor provided, however, that so long as the Program Administrator is required to pay the fees of the Custodian pursuant to Article VI hereof, the appointment of such successor Custodian shall require the prior written consent of the Program Administrator.

#### 5.3 Powers.

(a) (i) The Custodian is authorized and directed to open and maintain, and the Custodian shall open and maintain, one or more custody accounts for the benefit of the Trust



(the "Account") in the name of "[Name of Custodian] as Custodian for the Benefit of Texas CLASS" (and/or the name of such other pool or portfolio as established pursuant to this Trust Agreement) and will accept for safekeeping and for credit to the Accounts, in accordance with the terms hereof, all securities representing the investment of Investment Funds pursuant to Section 2.1 hereof, and the income or earnings derived therefrom. The Custodian may accept funds hereunder for the purchase of securities to be held by the Custodian and shall not be required to make an independent determination whether such funds are Investment Funds.

(ii) Except as provided in Section 5.3(c)(iii), all securities and other noncash Investment Property held in each Account shall be physically segregated from other securities in the possession of the Custodian and from other pools or portfolios established pursuant to this Trust Agreement and shall be identified as subject to this Agreement.

(b) In accordance with instructions of the Program Administrator who shall act in a manner consistent with this Agreement, the Custodian shall, for the account and benefit and burden of the Participants:

(i) receive and deliver Investment Funds and all other Investment Property in accordance with the requests of Participants pursuant to Article II and Exhibits A and B hereof;

(ii) exchange securities in temporary or bearer form for securities in definitive or registered form; and surrender securities at maturity or earlier when advised of a call for redemption;

(iii) make, execute, acknowledge and deliver as Custodian, any and all documents or instruments (including but not limited to all declarations, affidavits and certificates of ownership) that may be necessary or appropriate to carry out the powers granted herein;

(iv) make any payments incidental to or in connection with this Section 5.3(b);

(v) sell, exchange or otherwise dispose of any and all Investment Property free and clear of any and all interests of the Trust and any and all Participants, at public or private sale, with or without advertisement; and execute and deliver any deed, power, assignment, bill of sale, or other instrument in connection therewith;

(vi) with respect to enforcing rights in connection with the Investment Property: (a) collect, sue for, receive and receipt for all sums of money or other personal property due; (b) consent to extensions of the time for payment, or to the renewal of any securities, investments or obligations; (c) engage or intervene in, prosecute, defend, compromise, abandon or adjust by arbitration or otherwise any actions, suits, proceedings, disputes, claims, demands or things relating to the Investment Property; (d) foreclose on any personal property, security or instrument securing any investments, notes, bills, bonds, obligations or contracts that are part of or relate to the Investment Property; (e) exercise any power of sale, and convey good title thereunder free of any and all interests of any and all Participants, and in connection with any such foreclosure or sale, purchase or otherwise acquire title to any personal property; (f) be a party to the reorganization of any Person and transfer to and deposit with any corporation, committee, voting trustee or other Person any securities,

investments or obligations of any Person which form a part of the Investment Property, for the purpose of such reorganization or otherwise; (g) participate in any arrangement for enforcing or protecting the interests of the holders of such securities, investments or obligations and to pay any assessment levied in connection with such reorganization or arrangement; (h) extend the time (with or without security) for the payment or delivery of any debts or personal property and to execute and enter into releases, agreements and other instruments; and (i) pay or satisfy any debt or claims; and

(vii) exercise all other rights and powers and to take any action in carrying out the purposes of this Agreement.

(c) (i) with respect to Investment Property held by the Custodian hereunder, the Custodian shall collect all income or other payments, release and deliver such Investment Property, and take any other action as directed by the Program Administrator, with respect to dividends, splits, distributions, spinoffs, puts, calls, conversions, redemptions, tenders, exchanges, mergers, reorganizations, rights, warrants or any other similar activity relating to the Investment Property held in the Account. The Custodian shall request direction of the Program Administrator upon receipt of actual notice of any such activity. For purposes of this paragraph, the Custodian shall be deemed to have actual notice if the Program Administrator informs the Custodian of such activity or if Custodian received information concerning any such activity through data services or publications to which it normally subscribes. Custodian shall make available to Program Administrator, upon reasonable request, a list of the data services and publications to which Custodian subscribes. If the Custodian does not have actual notice of such activity, any such activity will be handled by the Custodian on a "best efforts" basis.

The Custodian shall not be under any obligation or duty to take action to effect collection of any amount, if the assets on which such amount is payable are in default and payment is refused after due demand or presentation. The Custodian will, however, promptly notify the Program Administrator in writing of such default and refusal to pay.

The Custodian is not authorized and shall not disclose the name, address or security positions of the Participants in response to requests concerning shareholder communications under Section 14 of the Securities Exchange Act of 1934, the rules and regulations thereunder, and any similar statute, regulation, or rule in effect from time to time;

(ii) the Custodian shall promptly deliver or mail to the Program Administrator all forms of proxies and all notices of meetings received by the Custodian relating to Investment Property held under this Agreement and, upon receipt of instructions from the Program Administrator, shall execute and deliver such proxies or other authorizations as may be required. Neither the Custodian nor its nominee shall vote any Investment Property or execute any proxy to vote the same or give any consent to take any other action with respect thereto (except as otherwise herein provided) unless directed to do so by Program Administrator upon receipt of instructions;

(iii) the Custodian shall hold the Investment Property (a) in its vaults physically segregated and held separate and apart from other property of the Custodian; (b) in its account at The Depository Trust Company or other depository, sub-custodian or clearing corporation; or (c) in a book entry account with the Federal Reserve Bank, in

which case a separate accounting of the Investment Property shall be maintained by the Custodian at all times. The Investment Property held by any such depository, sub-custodian, clearing corporation or Federal Reserve Bank may be held in the name of their respective nominees, provided, however, that the custodial relationship and the interests of the Trust or the Participants regarding such Investment Property shall be noted on the records kept by the Program Administrator and the custodial relationship on behalf of the Trust or the Participants shall be noted on the records of the Custodian and, to the extent possible, the Custodian shall cause the custodial relationship on behalf of Trust or the Participants to be noted on the records of such depository, sub-custodian, clearing corporation or Federal Reserve Bank. The Custodian shall not be obligated or liable for costs, expenses, damages, liabilities or claims (including attorneys' or accountants' fees) which are sustained or incurred by reason of any action or inaction of the Federal Reserve Bank book-entry system, The Depository Trust Company or any other central depository or clearing agency which it is or may become standard market practice to use for the comparison and settlement of securities trades, provided, however, that nothing in this sentence shall relieve the Custodian of its obligations set forth in Section 5.1(b) hereof regarding banks or trust companies selected as sub-custodians; and

(iv) the Custodian shall hold and physically segregate for each Account all Investment Property owned by each Account other than Investment Property held pursuant to 5.3(c)(iii)(b) and (c) above. Investment Property physically held by the Custodian (other than bearer securities) may be registered in the name of any nominee of Custodian, provided that the records of the Custodian provide that such Investment Property is held in a custodial capacity and that such Investment Property is not an asset of the Custodian or such nominee. All Investment Property accepted by Custodian under the terms of this Agreement shall be in negotiable form.

**5.4 Custodial Relationship; Custodian Records.**

(a) The Custodian shall hold the Investment Property in its capacity as custodian for the benefit of the Trust. The Investment Property shall be custodial property of the Custodian and shall not be, or be deemed to be, an asset of the Custodian. Each Participant has an undivided beneficial interest in the Investment Property to the extent of such Participant's Balance.

(b) The Custodian shall maintain its own internal records concerning the Account(s) and the transactions contemplated by this Agreement, and the Custodian shall cause all of such records to reflect the custodial relationship created by this Agreement and the fact that the Investment Property in each Account belongs to the Trust for the collective benefit of the Participants in each pool or portfolio established pursuant to this Trust Agreement, respectively. Notwithstanding the foregoing, the Program Administrator shall maintain all records regarding each Participant's beneficial interest in such Investment Property, and such records shall conclusively determine the beneficial interests of each Participant in the Investment Property segregated between the pools or portfolios in which such Investment Property is held. The records maintained by such Program Administrator shall be conclusively determinative of the beneficial interests of the Participants in each pool or portfolio established pursuant to this Trust Agreement; it being understood that the Custodian shall not be obligated to maintain records concerning the beneficial interest of individual Participants in the Investment Property.

### 5.5 Reliance on Instructions.

(a) The Custodian is authorized to accept and shall be fully protected if it relies upon the instructions given by any authorized officer, employee or agent of the Program Administrator, including any oral instructions which the individual receiving such instructions on behalf of the Custodian believes in good faith to have been given by an authorized officer, employee or agent of the Program Administrator, and all authorizations shall remain in full force and effect until canceled or superseded by subsequent instructions received by the appropriate account officer of the Custodian. The authorized officers, employees or agents of the Program Administrator shall be only such persons as are designated in writing to the Custodian by the Program Administrator. The Custodian may rely on instructions received by telephone, tested telex, TWX, facsimile transmission or by bank wire which the Custodian believes in good faith to have been given by an authorized person. The Custodian may also rely on instructions transmitted electronically through a customer data entry system or any similar electronic instruction system acceptable to the Custodian. Any instructions delivered to the Custodian by telephone shall promptly thereafter be confirmed in writing by an authorized person, but the Custodian will incur no liability for the Program Administrator's failure to send such confirmation in writing. Instructions are deemed given to the Custodian when actually received by the Custodian.

(b) In the absence of bad faith or negligence on its part, the Custodian may conclusively rely, as to the truth and correctness of the statements expressed in notices, certificates or documents submitted to it, and the Custodian need not investigate any fact or matter stated in any such notice, certificate or document submitted to it or verify the accuracy of the contents thereof.

### 5.6 Degree of Care.

(a) The Custodian shall hold the Investment Property in the Account(s) with the same degree of care and protection with which it holds its own property. The Custodian agrees that it shall be responsible for any loss of Investment Property caused solely by the negligence or bad faith of the Custodian or its agents or any material breach of this Agreement by the Custodian. The Custodian is hereby released from liability except for liability arising from the negligence or bad faith of the Custodian or its agents or from any material breach of this Agreement by the Custodian. In the event of any such loss of Investment Property, the Custodian shall promptly replace the Investment Property or the value thereof and the value of any such loss of rights or privileges resulting from such loss. The Custodian shall not be responsible for the acts or omissions or solvency of any broker or agent selected by the Program Administrator to effect any transactions for the Account(s).

(b) The Custodian shall not be liable for any error of judgment made in good faith by an employee, officer or agent of the Custodian, unless it was proved that the Custodian was negligent in ascertaining the pertinent facts.

(c) Except as provided in Section 5.6(a), the Custodian shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers unless it receives indemnity satisfactory to it for repayment of such funds or against such risk of liability.

(d) The Custodian shall have no discretion whatsoever with respect to the management, disposition or investment of Investment Property and is not a fiduciary to the

Program Administrator or the Participants. During the term of this Agreement, the Custodian may, with respect to questions of law and construction of this Agreement, apply for and obtain, at the cost of the Custodian, the advice and opinion of counsel of its choice and shall be fully protected with respect to anything done or omitted by it in good faith in conformity with such advice or opinion. The Custodian shall have no duties except those that are specifically set forth in this Agreement. The Custodian shall only be responsible for custody hereunder of Investment Property delivered to it and then only while such Investment Property is held in the Account.

(e) Special Damages. Except with respect to Section 5.2(a) above, in no event shall any Party to this Agreement be liable for attorneys' fee or for special, indirect, consequential, or punitive damages arising under or in connection with this Agreement.

5.7 Subrogation.

At the election of a majority of the Board of Trustees, the Trust shall be entitled to be subrogated to the rights of the Custodian, with respect to any claim against any other Person or institution which the Custodian may have, as a consequence of any loss or damage to the Investment Property. In such event, the Board of Trustees shall consult with the Custodian concerning selection of counsel and management of any litigation to recover for such loss.

5.8 Insurance.

(a) The Custodian shall maintain insurance coverage the following types and amounts with limits agreed to be the Board of Trustees:

- (b) Financial Institution Bond - \$100,000,000
- (c) Professional Liability - \$30,000,000

5.9 Setoff.

The Custodian shall not have, and shall not seek to enforce, any right of setoff, recoupment or similar rights against the Investment Property for any amounts owed to the Custodian pursuant to this Agreement.

## ARTICLE IV

### TRUST EXPENSES

6.1 Expenses.

(a) In consideration of the performance of its obligations hereunder, the Program Administrator shall receive a fee from the Trust as set forth on Exhibit F, which fee shall be paid from the earnings of the Trust. The Program Administrator's fee shall be an Investment Property Liability. The Program Administrator shall submit a monthly bill to the chairman of the Board of Trustees for approval stating the amount of the fee for the previous month and providing sufficient information to demonstrate that the fee was calculated in accordance with Exhibit F. The chairman of the Board of Trustees is hereby given the authority to approve or disapprove the bills submitted by the Program Administrator. After receiving the approval of the chairman of the Board of Trustees of such bills, the Program Administrator shall submit

such bills to the Custodian for payment and the Custodian shall pay such bills from the earnings of the Trust. If the chairman of the Board of Trustees does not approve the bills submitted by the Program Administrator within 60 days of their submittal, the Program Administrator may present the bills to the Board of Trustees for review and approval.

(b) From its fee, the Program Administrator shall pay the following costs and expenses:

- (1) the Custodian's fee as set forth in Exhibit I;
- (2) all custodial and securities clearance transaction charges;
- (3) the costs of third parties retained by the Program Administrator to render investment advice pursuant to Section 4.9;
- (4) all Investment Property record-keeping expenses;
- (5) the costs of preparing monthly and annual reports;
- (6) the costs related to sales, marketing and client service (including website maintenance and certain conference sponsorships);
- (7) the cost of valuing the Investment Property;
- (8) outgoing wire charges of the Custodian and the costs of Participant communications, including Participant surveys and mailings;
- (9) the costs of the Trust's auditors and legal counsel;
- (10) the costs of meetings of the Participant or the Board of Trustees;
- (11) outgoing wire charges of the Custodian and the cost of obtaining a rating, if any;
- (12) expenses for Board and Participant meetings, including Board travel and education expenses; and
- (13) the costs of Insurance for the Board and the Trust.

The Program Administrator and the Board of Trustees shall annually establish a budget for the Board's expenses, including, without limitation, the expenses of the Board and committee meetings, the Participant meeting(s), Board travel and education expenses, legal fees, audit fees and insurance the Program Administrator shall facilitate the payment of these expenses on behalf of the Board from its fee.

(c) Any expenses not paid by Public Trust Advisors, LLC above shall be as mutually agreed upon by the Program Administrator and the Board of Trustees.

## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

#### 7.1 Representations and Warranties of Each Participant.

Each Participant hereby represents and warrants that:

(a) the Participant has taken all necessary actions and has received all necessary approvals and consents and adopted all necessary resolutions, including, without limitation, as required by Section 2256.016(a) of the Act in order to execute and deliver this Agreement and to perform its obligations hereunder, including, without limitation, the appointment of the Trustees as Trustees, the appointment of the Custodian as Custodian and the appointment of the Program Administrator as Program Administrator; and

(b) the execution, delivery and performance of this Agreement by the Participant are within the power and authority of the Participant and do not violate the laws of the State of Texas applicable to the Participant itself and not to the other parties hereto or the Participant's charter or its organizational statute, instrument or documents or any other applicable local ordinance, resolution, rule or regulation; and

(c) the execution, delivery and performance of this Agreement has been duly authorized and this Agreement is the legal, valid and binding obligation of the Participant enforceable against the Participant in accordance with its terms subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization, and similar laws now or hereafter in effect relating to creditors' rights generally, and subject to general principles of equity (whether applied in a proceeding at law or in equity); and

(d) the certificates delivered heretofore or hereafter by the Participant pursuant to this Agreement, as of the date specified therein, are true and complete and contain no material misstatements of fact or omissions that render them misleading; and

(e) the execution, delivery and performance of this Agreement do not conflict with or result in the breach or termination of, or otherwise give any other person the right to terminate, or constitute a default, event of default or an event with notice or lapse of time or both would constitute a default or an event of default under the terms of any contract or permit to which the Participant is a party or by which the Participant or its properties are bound; and

(f) the proposed investment strategies of the Trust are consistent with, and are contemplated by the investment strategy adopted by the Participant pursuant to Section 2256.005(d) of the Act.

#### 7.2 Representations and Warranties of the Custodian.

The Custodian hereby represents and warrants that:

(a) the Custodian is a duly organized and validly existing national banking organization, organized under the laws of the United States with an office in Dallas, Texas and is duly qualified to conduct business in the State of Texas; and

(b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of the Custodian and this Agreement is the legal, valid and binding obligation of the Custodian enforceable against the Custodian in accordance with its terms subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and similar laws now or hereafter in effect relating to creditors' rights generally or the rights of creditors of banks, and subject to general principles of equity (whether applied in a proceeding at law or in equity); and

(c) the performance by the Custodian of its obligations under this Agreement does not violate any laws, rules or regulations of the State of Texas applicable to the Custodian itself and not to the other parties hereto.

### 7.3 Representations and Warranties of the Program Administrator.

The Program Administrator hereby represents and warrants that:

(a) the Program Administrator is a duly organized and validly existing Colorado limited liability company, and is an investment advisor duly registered under the Investment Advisers Act of 1940; and

(b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of the Program Administrator and this Agreement is the legal, valid and binding obligation of the Program Administrator, enforceable against the Program Administrator, in accordance with its terms subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and similar laws now or hereafter in effect relating to creditors' rights generally, and subject to general principles of equity (whether applied in a proceeding at law or in equity); and

(c) the performance by the Program Administrator of its obligations under this Agreement does not violate any laws, rules or regulations of the State of Texas applicable to the Program Administrator itself and not to the other parties hereto.

## ARTICLE VIII

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### COVENANTS

#### 8.1 Source of Investments.

Each Participant hereby covenants that it will invest pursuant to Section 2.2 only Investment Funds that are permitted to be invested by it pursuant to the laws of the State of Texas and any charter, instrument, organizational document or organizational statute applicable to such Participant and any state or local ordinance, resolution, rule or regulation applicable to such Participant, and that it will perform all actions required by the laws of the State of Texas and any charter, instrument, organizational document or organizational statute applicable to such Participant and any state or local ordinance, resolution, rule or regulation applicable to such Participant to be done prior to such investment.



## 8.2 Truth of Representations and Warranties.

Each party to this Agreement hereby covenants that it shall withdraw from this Agreement prior to the time any of the representations and warranties made by it in Article VII hereof ceases to be true.

# ARTICLE IX

## AMENDMENT AND TERMINATION

### 9.1 Amendment.

(a) Unless explicitly set forth otherwise herein, this Agreement may be amended only by a writing consented to by the Program Administrator, the Custodian and the Trust, acting through the Board of Trustees.

(b) Any amendment executed pursuant to Section 9.1(a) hereof will be effective thirty (30) days after notice is mailed to the Participants setting forth such amendment and stating that the last consent required by Section 9.1(a) hereof has been obtained.

(c) Notwithstanding the foregoing, Exhibit E may be amended by a writing consented to by a majority of the Board of Trustees. Any such amendment shall become effective thirty (30) days after notice is mailed to the Program Administrator, the Custodian and the Participants setting forth such amendment and stating that such amendment has been consented to by a majority of the Board of Trustees.

(d) Notwithstanding the foregoing, Exhibits A, B and C may be amended by the Program Administrator. Any such amendment shall become effective thirty (30) days after notice is mailed to the Participants and the Custodian setting forth such amendment.

(e) Notwithstanding the foregoing, Exhibit G may be amended by an amendment consented to by the Program Administrator and the Custodian. Any such amendment shall become effective upon the obtaining of such consents.

(f) All Participants that remain Participants after any amendment becomes effective shall be deemed to have consented to the amendment.

### 9.2 Termination.

(a) This Agreement shall continue in full force and effect unless terminated as set forth in this Section 9.2. This Agreement may be terminated at any time pursuant to a duly adopted amendment hereto. This Agreement shall terminate automatically if this Agreement is not amended to name a new Custodian or Program Administrator on or before the day that is immediately prior to the date on which the resignation, withdrawal or removal of the Custodian or Program Administrator would otherwise become effective.

(b) Upon the termination of this Agreement pursuant to this Section 9.2:

(i) The Custodian, the Board of Trustees, the Trust and the Program Administrator shall carry on no business in connection with the Investment Property except for the purpose of satisfying the Investment Property Liabilities and winding up their affairs in connection with the Investment Property;

(ii) The Custodian, the Board of Trustees, the Trust and the Program Administrator shall proceed to wind up their affairs in connection with the Investment Property, and all of the powers of the Custodian, the Board of Trustees, the Trust and the Program Administrator under this Agreement shall continue until the affairs of the Custodian, the Board of Trustees, the Trust and the Program Administrator in connection with the Investment Property shall have been wound up, including, but not limited to, the power to collect amounts owed, sell, convey, assign, exchange, transfer or otherwise dispose of all or any part of the remaining Investment Property to one or more persons at public or private sale for consideration which may consist in whole or in part of cash, securities or other property of any kind, discharge or pay Investment Property Liabilities, and do all other acts appropriate to liquidate their affairs in connection with the Investment Property; and

(iii) After paying or adequately providing for the payment of all Investment Property Liabilities, and upon receipt of such releases, indemnities and refunding agreements as each of the Custodian, the Board of Trustees, the Trust and the Program Administrator deem necessary for their protection, the Program Administrator shall direct the Custodian to distribute the remaining Investment Property, in cash or in kind or partly in each, among the Participants according to their respective proportionate Balances.

(c) Upon termination of this Agreement and distribution to the Participants as herein provided, the Program Administrator shall execute and lodge among the records maintained in connection with this Agreement an instrument in writing setting forth the fact of such termination, and the Program Administrator, the Custodian, the Board of Trustees and the Participants shall thereupon be discharged from all further liabilities and duties hereunder, the Trust shall cease, and the rights and benefits of all Participants hereunder shall cease and be canceled and discharged; provided that Sections 4.6(a), 4.8 and 5.6 hereof shall survive any resignation or termination of the Program Administrator or the Custodian or any termination of this Agreement.

(d) If this Agreement is terminated pursuant to Section 9.2 (a) hereof because of the resignation and/or removal of the Program Administrator, such resignation and/or removal shall be postponed until the instrument contemplated by Section 9.2(c) hereof has been executed and lodged among the records maintained in connection with this Agreement.

(e) Notwithstanding the above, one or more separate pools or portfolios established pursuant to this Trust Agreement may be terminated and its assets distributed to the Participants of that pool or portfolio. The dissolution of a pool or portfolio established pursuant to this Trust Agreement does not affect any other pool or portfolio established pursuant to this Trust Agreement. No pool or portfolio established pursuant to this Agreement shall have any right to or claim on the assets of any other pool or portfolio established pursuant to this Agreement.

## ARTICLE X

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### MISCELLANEOUS

#### 10.1 Governing Law.

This Agreement is executed by the Participants and delivered in the State of Texas and with reference to the laws thereof, and the rights of all parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Texas.

#### 10.2 Counterparts.

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

#### 10.3 Severability.

The provisions of this Agreement are severable, and if any one or more of such provisions (the "Conflicting Provisions") are in conflict with any applicable laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Agreement and this Agreement may be amended pursuant to Section 9.1 hereof to remove the Conflicting Provisions; provided, however, that such conflict or amendment shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted prior to the discovery or removal of the Conflicting Provisions.

#### 10.4 Pools Separately Managed.

Separate pools or portfolios established and operated pursuant to the Trust Agreement shall be managed and operated separately and independently by the Program Administrator. There shall be no co-mingling of funds between pools or portfolios and Participants in one pool or portfolio established pursuant to this Trust Agreement shall have no claim on the funds or assets of another pool or portfolio established pursuant to this Trust Agreement, and investment earnings shall remain in the pool or portfolio in which they are realized.

#### 10.5 Gender; Section Headings and Table of Contents.

(a) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(b) Any-headings preceding the texts of the several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

10.6 No Assignment.

No party hereto may sell, assign, pledge or otherwise transfer any of its rights or benefits under this Agreement to any other Person, and any purported sale, assignment, pledge or other transfer shall be null and void.

10.7 No Partnership.

Other than the creation of the Trust by the Participants hereunder, no provision of this Agreement shall create or constitute an association of two or more Persons to carry on as co-owners a business for profit, and none of the parties intends this Agreement to constitute a partnership or any other joint venture or association.

10.8 Notice.

Unless oral notice is otherwise allowed in this Agreement, all notices required to be sent under this Agreement:

(a) shall be in writing;

(b) shall be deemed to be sufficient if given by (i) depositing the same in the United States mail, postage prepaid, or (ii) electronically transmitting such notice by any means such as by facsimile transmission, telegraph, telex or computer hookup; or (iii) by depositing the same with a courier delivery service, addressed to the person entitled thereto at his address or phone number as it appears on the records maintained by the Program Administrator;

(c) shall be deemed to have been given on the day of such mailing, transmission or deposit; and

(d) any of the methods specified in Section 10.7(b) shall be sufficient to deliver any notice required hereunder, notwithstanding that one or more of such methods may not be specifically listed in the sections hereunder requiring such notice.

10.9 Entire Agreement.

Except with respect to the letter described in Exhibit G between the Custodian and the Program Administrator, this Agreement shall constitute the entire agreement of the parties with respect to the subject matter and shall supersede all prior oral or written agreements in regard thereto.

10.10 Confidentiality.

(a) All information and recommendations furnished by the Program Administrator to the Participants or the Board of Trustees that is marked confidential and all information and directions furnished by the Program Administrator to the Custodian shall be regarded as confidential by each such Person to the extent permitted by law. The Program Administrator and the Custodian shall regard as confidential all information concerning the Investment Property and the affairs of the Trust and Participants. Nothing in this paragraph shall prevent any party from divulging information as required by law or from divulging to civil, criminal, bank or securities regulatory authorities where such party may be exposed to civil or criminal proceedings or penalties for failure to comply or to prevent the Program Administrator from distributing copies of this Agreement or the aggregate value of the Trust to third parties, provided, however, confidential information shall not include (i) information that is

independently developed or obtained by a party without the use of information provided by any other party; or (ii) information that is otherwise available to the public.

(b) In the event that on-line terminals or similar electronic devices are used for communication from the Program Administrator to the Custodian, or from the Participants to either the Program Administrator or the Custodian, the Program Administrator and the Participants agree to safeguard and maintain the confidentiality of all passwords or numbers and to disclose them only to such of its employees and agents as reasonably require access to the information concerning the Investment Property. The Custodian agrees to safeguard and maintain the confidentiality of all passwords or numbers and to limit access to this information for the purpose of acting pursuant to this Agreement. The Custodian and the Program Administrator may electronically record any instructions given by telephone, and any other telephone discussions with respect to the Account or transactions pursuant to this Agreement.

#### 10.11 Disputes.

In the event of any dispute between the parties, the parties agree to attempt to resolve the dispute through negotiation or a method of alternative dispute resolution. No litigation shall be commenced without a certification by an authorized officer, employee, or agent of any party that the dispute cannot be resolved by negotiation or alternative dispute resolution provided in writing at least 10 days before commencing legal action.

#### 10.12 Majority of Participants.

Whenever any provision hereof refers to a majority of the Participants, such majority shall be determined based upon the number of Participants at that time and shall not be determined by a reference to the Balance of each Participant.

#### 10.13 Writings.

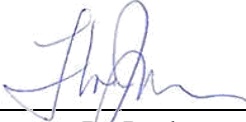
Whenever this Agreement requires a notice, instruction or confirmation to be in writing or a written report to be made or a written records to be maintained, it shall be sufficient if such writing is produced or maintained by electronic means or maintained by any other photo static, photographic or micrographic data storage method such as microfiche as well as on paper.


#### 10.14 Effective Date.

This Agreement shall become effective on the Effective Date.


IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in its name and on its behalf as of the date first written above.

PUBLIC TRUST ADVISORS, LLC


By:   
Name: Thomas D. Jordan  
Title: Chief Executive Officer

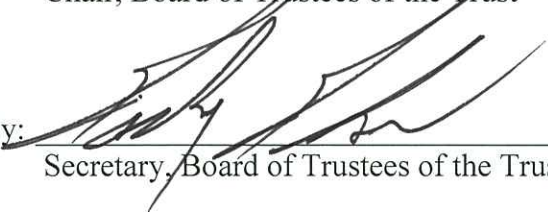
By:   
Name: Chris M. DeBow  
Title: Managing Partner

UMB BANK, N.A.  
as Custodian

By:   
Name: David M. Paldino  
Title: Senior Vice President

THE PARTICIPANTS IN THE TRUST THAT HAVE  
ENTERED INTO THIS AGREEMENT

By:   
Chair, Board of Trustees of the Trust

By:   
Secretary, Board of Trustees of the Trust

## EXHIBITS

### EXHIBIT A

#### INVESTMENT PROCEDURES

- 1) A Participant shall provide notification to the Program Administrator via methods acceptable to the Program Administrator indicating the amount to be invested, and if more than one fund or account with Texas CLASS has been established by the Program Administrator, into which fund or account such amount shall be invested (there is no minimum investment). The Participant shall instruct its bank depository to wire Investment Funds to the corresponding account at the Custodian.
  - 2) Receipt of the Program Administrator prior to the cut-off time established pursuant to the Texas CLASS website, accessible at <http://www.texasclass.com>, of notification of Investment Funds being deposited will cause the value of the Investment Funds to be credited and earn interest on the same Business Day.
  - 3) Receipt by the Program Administrator after the cut-off time established pursuant to the Texas CLASS website, accessible at <http://www.texasclass.com>, of notification of Investment Funds being deposited will cause the value of the Investment Funds to be credited and earn Interest on the next Business Day.
  - 4) If Investment Funds for which notification of deposit has been given, are not received (except if the Participant can show the contribution procedures have been followed) by the end of the Business Day on which such notification is given, the Program Administrator shall deduct the value of such Investment Funds from the Participant's Balance if previously credited.
- If the Participant fails to instruct its bank depository to wire Investment Funds before the cut-off time established pursuant to the Texas CLASS website, accessible at <http://www.texasclass.com>, on the day notice of the deposit is provided the Program Administrator, the Participant's Balance shall be charged interest equal to any interest earned on such failed deposit for each day the Participant's Balance was credited with the deposit before the date the deposit was received. If the Participant can show the contribution procedures have been followed, and, notwithstanding, the Investment Funds are not received, then the Program Administrator shall seek to obtain such Investment Funds from the party responsible for failure of delivery.
- 5) Participants are prohibited from withdrawing Investment Funds credited to their Balance(s) pursuant to (2) or (3) above, until such Investment Funds are received by the Custodian.
  - 6) These Investment Procedures may be amended from time to time pursuant to Section 9.1(d) hereof, provided, however, that the Program Administrator will only change the times set forth above after consulting with the Custodian.



**EXHIBIT B**

**PAYMENT PROCEDURES**

The payment procedures below apply to Texas CLASS and Texas CLASS Government Only pools. In the event the Board elects to introduce a portfolio or pool pursuant to this Agreement which does not provide for same-day liquidity, such disclosures will be provided to Participants within the portfolio or pools separate Information Statement.

- 1) The Participant shall provide notification to the Program Administrator via methods acceptable to the Program Administrator indicating the amount to be withdrawn, and if more than one fund or account within Texas CLASS has been established, from which fund or account such amount shall be withdrawn.
- 2) The Participant shall indicate the payee and include wire or ACH instructions.
- 3) Requests for withdrawals received by the Program Administrator by the cut-off time established pursuant to the Texas CLASS website, accessible at <http://www.texasclass.com> will be processed to permit payment on the Business Day.
- 4) Requests for withdrawals received by the Program Administrator after the cut-off time established pursuant to the Texas CLASS website, accessible at <http://www.texasclass.com>, will be processed the following Business Day.
- 5) Participants may only request withdrawals from an account of an amount not to exceed their Balance in such account at the time payment is made pursuant to such request.
- 6) Requests for withdrawals received in accordance with (3) above by the Program Administrator shall be wired or processed through ACH in accordance with the Participant's instructions after noon on such Business Day and the funds so wired or processed through ACH shall be immediately available funds.
- 7) These Payment Procedures may be amended from time to time pursuant to Section 9.1(d) hereof, provided, however, that the Program Administrator will only change the times set forth above after consulting with the Custodian.

**EXHIBIT C****VALUATION PROCEDURES****1. Portfolio Valuation.**

At least daily, the Investment Property Value shall be determined on a mark to market basis as follows:

The Program Administrator shall determine the market value of the specific investment holdings for the Texas CLASS pool or portfolio. The market values shall be obtained from one or more sources that the Program Administrator believes to be reliable for providing such information. A credible pricing source will be used by the Program Administrator to price the underlying securities on a daily basis.

Alternatively, the Investment Property Value may be determined using the amortized cost valuation method. The amortized cost valuation method involves initially valuing a security at its cost and thereafter accreting to maturity any discount or amortizing to maturity any premium, regardless of the impact of fluctuating interest rates on the market value of the instrument.

**2. Amendment.** These Valuation Procedures may be amended from time to time pursuant to Section 9.1(d) hereof.

**EXHIBIT D**

**PARTICIPATION CERTIFICATE**

The undersigned \_\_\_\_\_ does hereby request that it be admitted as a Participant pursuant to Section 2.3 of the Ninth Amended and Restated Trust Agreement (the "Agreement") dated as of February 25, 2021 by and between the Participants, UMB Bank, N.A., as Custodian, and Public Trust Advisors, LLC By executing this Participation Certificate, the undersigned agrees that, upon the execution hereof by the Program Administrator, it will become subject to the same obligations and shall have the same rights as if it had executed the Agreement.

The undersigned hereby certifies that \_\_\_\_\_ is the duly designated Representative of the undersigned as required by the Agreement.

The undersigned hereby certifies that its governing body has taken all actions required by Section 2256.016 of the Public Funds Investment Act, Texas Government Code, in order for it to participate in the Trust created by the Agreement.

\_\_\_\_\_  
(Name of Participant)

PARTICIPANT EXECUTION DATE By: \_\_\_\_\_

Name:  
Title:

Accepted:

Public Trust Advisors, LLC.

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

Name:  
Title:

**EXHIBIT E**

**INVESTMENT CRITERIA**

1. General Objectives

- a. **Legality:** invest only in investments legally permissible under Texas law.
- b. **Safety:** minimize risk by managing portfolio investments so as to preserve principal and maintain a stable asset value. The Trust shall be managed so that the Trust shall receive the highest rating for a local government investment pool from a nationally recognized statistical rating organization for so long as such a rating is required by Texas law.
- c. **Liquidity:** manage portfolio investments to ensure that cash will be available as required to finance Participants’ operations.
- d. **Yield:** maximize current income to the degree consistent with legality, safety and liquidity.

2. General Standard

All investments made on behalf of the Trust shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person’s own affairs, not for speculation but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives in order of priority:

- 1. preservation of safety of principal;
- 2. liquidity; and
- 3. yield.

3. Investments

Investment Funds may be invested in any or all of the legal investments specified in Sections 2256.009 through 2256.016, Public Funds Investment Act, Texas Government Code, as the same may be hereafter amended, or in any successor statute, but only to the extent that such investments would be permitted by Rule 2a-7, as amended from time to time, promulgated by the United States Securities and Exchange Commission pursuant to the Investment Company Act of 1940, as amended (the “Rule”) if the Rule were applicable to the Trust. The investment criteria for any additional pools or portfolios established pursuant to the Agreement may provide for a more limited investment criteria or investment in only certain investments specified in the Public Funds Investment Act.

4. Amendments

These Investment Criteria may be amended from time to time pursuant to Section 9.1(c) hereof.

**EXHIBIT F**

**PROGRAM ADMINISTRATOR’S FEE**

For the performance of its obligations under this Agreement, the Program Administrator will charge a fee from the Investment Property Value (the “Daily Fee”) for each pool or portfolio established pursuant to this Agreement. This Daily Fee will accrue on a daily basis and be paid monthly in arrears and prorated for any portion of the month in which this Agreement is in effect.

The Daily Fee shall be calculated as follows: The Investment Property Value is multiplied by the Applicable Fee Rate and is divided by 365 or 366 days in the event of a leap year to equal the Daily Fee accrual. The Investment Property Value shall be based on the current day’s settled shares outstanding. For weekend days and holidays, the settled shares outstanding for the previous business day will be utilized for the calculation of fees.

The Applicable Fee Rate shall be determined monthly on the first business day of each month for each pool or portfolio established pursuant to this Agreement, and shall be calculated according to the schedule below which is applicable to each pool or portfolio established pursuant to this Agreement:

	<u>Cumulative Balance</u>	<u>Fee %</u>
First	\$1,000,000,000	.120%
Next	\$1,000,000,000	.110%
Next	\$1,000,000,000	.100%
Next	Over \$3,000,000,000	.090%

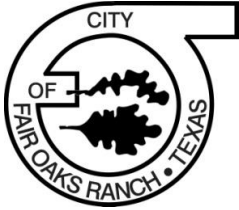
Fees may be voluntarily waived from time-to-time and at the sole discretion of the Program Administrator. Periodic fee waivers may be required to adjust the fund’s yield performance based upon various market conditions. Any such waived fees shall be communicated to the Board of Trustees.

**EXHIBIT G**

## CUSTODIAN'S FEE

**Rate Schedule**

The Program Administrator shall pay to the Custodian the costs and fees specified in the Fee Schedule effective April 1, 2021, from the Custodian to the Program Administrator, as amended from time to time by the Program Administrator and the Custodian pursuant to Section 9.1(e) hereof.



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**FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT  
CONSIDERATION ITEM  
CITY OF FAIR OAKS RANCH, TEXAS  
January 11, 2023**

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Item #10.

AGENDA TOPIC: Consideration and possible action to approve the MDD Audit Report (FY 2021-22)

DATE: January 11, 2023

PRESENTED BY: Summer Fleming, MDD Investment Officer  
Michael Del Toro, ABIP Partner

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**INTRODUCTION/BACKGROUND:**

The Board of the MDD requires that its financial statements are reviewed by an independent auditor on an annual basis.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

An annual review of the financial records of the MDD serves as a check on the accuracy of records, compliance with accounting methods, and soundness of financial practices, including internal controls.

**LONGTERM FINANCIAL & BUDGETARY IMPACT:**

N/A

**LEGAL ANALYSIS:**

N/A

**RECOMMENDATION/PROPOSED MOTION:**

I move to approve the MDD's 2021-2022 Audit Report.

# CITY OF FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT

FINANCIAL STATEMENTS

FOR THE FISCAL YEAR ENDED  
SEPTEMBER 30, 2022

**abip**

CPAs | ADVISORS

CLIENT **FOCUSED.** RELATIONSHIP **DRIVEN.**



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September 30, 2022

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**INDEPENDENT AUDITOR'S REPORT**

To the Board of Directors of  
City of Fair Oaks Ranch Municipal Development District  
Fair Oaks Ranch, Texas

**Opinions**

We have audited the accompanying financial statements of the governmental activities and the major fund of the City of Fair Oaks Ranch Municipal Development District (the “District”), a component unit of the City of Fair Oaks Ranch, Texas, as of and for the year ended September 30, 2022, and the related notes to the financial statements, which collectively comprise the District’s basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the District, as of September 30, 2022, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

**Basis for Opinions**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor’s Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the District, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

**Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District’s ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

## Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

### Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

ABIP, PC

San Antonio, Texas  
January 11, 2023

MANAGEMENT’S DISCUSSION AND ANALYSIS

Our discussion and analysis of the financial performance of the City of Fair Oaks Ranch Municipal Development District (the “District”), a component unit of the City of Fair Oaks Ranch, Texas (the “City”), provides an overview of the District’s financial activity for the fiscal year ended September 30, 2022. It should be read in conjunction with the accompanying financial statements.

FINANCIAL HIGHLIGHTS

- The District’s assets exceeded its liabilities by \$2,175,935 (net position) at September 30, 2022.
- The District’s total revenues were \$435,038 while total expenses were \$40,535, thereby increasing the District’s net position by \$394,503.
- The District reported an ending fund balance of \$2,175,935 an increase of \$394,503.

DISTRICT’S HIGHLIGHTS

The City of Fair Oaks Ranch Municipal Development District was formed on May 7, 2011 as a political subdivision of the State of Texas and the City of Fair Oaks Ranch in accordance with Chapter 377 of the Texas Local Government Code. It receives all of the proceeds from a 1/2 cent sales tax approved by a vote of the citizens in 2011 for economic development in the City of Fair Oaks Ranch and the Bexar County and Kendall County ETJ.

USING THIS ANNUAL FINANCIAL REPORT

This annual report consists of three parts: management’s discussion and analysis, basic financial statements, and required supplementary information. The statement of net position and activities provide information on the District as a whole. The District’s net position, the difference between assets and liabilities, provides one way to measure financial health or financial position of the District.

Statement of Net Position

Table 1 shows all assets and liabilities of the District and is presented on the accrual basis of accounting. The total net position is \$2,175,935 as of September 30, 2022.

TABLE 1  
CITY OF FAIR OAKS MUNICIPAL DEVELOPMENT DISTRICT  
STATEMENT OF NET POSITION  
SEPTEMBER 30,

	2022	2021
Cash and investments	\$ 2,106,718	\$ 1,716,836
Accounts receivable	69,254	65,441
Total assets	<u>2,175,972</u>	<u>1,782,277</u>
Accounts payable	<u>37</u>	<u>845</u>
Unrestricted net position	<u><u>\$ 2,175,935</u></u>	<u><u>\$ 1,781,432</u></u>

## Statement of Activities

Table 2 shows summarized expenses and revenues of the District and is also presented on the accrual basis of accounting. General revenues consist primarily of the 1/2 cent sales tax the District collects from retail sales within the City of Fair Oaks Ranch.

TABLE 2  
CITY OF FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT  
CHANGE IN NET POSITION  
SEPTEMBER 30,

	<u>2022</u>	<u>2021</u>
General revenues	\$ 421,183	\$ 389,676
Investment income	<u>13,855</u>	<u>686</u>
Total revenues	<u>435,038</u>	<u>390,362</u>
Administrative expenses	-	350
Professional services	40,485	36,671
Insurance	<u>50</u>	<u>50</u>
Total expenses	<u>40,535</u>	<u>37,071</u>
Changes in net position	<u>\$ 394,503</u>	<u>\$ 353,291</u>

## BUDGET ANALYSIS

The District adopted a budget for the 2022 fiscal year with \$396,500 in revenues and \$42,850 in expenditures. Actual revenue exceeded the budget by \$38,538, and actual expenditures were \$2,315 less than the budget.

## ANALYSIS OF THE DISTRICT'S FUNDS

There are currently no differences between the government-wide financial statements and the fund statements of the District.

**Description of Current and Expected Conditions** – The District has budgeted \$418,000 in revenues and \$42,050 in expenditures for the 2023 fiscal year, with \$375,950 going to reserves for future capital projects.

## CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT

This financial report is designed to provide a general overview of the District's finances and to show the District's accountability to its taxpayers. If you have any questions about this report or need additional financial information, contact the City of Fair Oaks Ranch Municipal Development District at 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas 78015.

## **BASIC FINANCIAL STATEMENTS**

STATEMENT OF NET POSITION

September 30, 2022

ASSETS

Cash and cash equivalents	\$ 2,106,718
Accounts receivable	<u>69,254</u>
Total assets	<u>2,175,972</u>

LIABILITIES

Accounts payable	<u>37</u>
------------------	-----------

NET POSITION

Unrestricted	<u><u>\$ 2,175,935</u></u>
--------------	----------------------------

The accompanying notes are an integral part of these statements.

## STATEMENT OF ACTIVITIES

For the year ended September 30, 2022

REVENUES	
Sales taxes	\$ 421,183
Investment income	<u>13,855</u>
Total revenues	<u>435,038</u>
EXPENSES	
Administrative expenses	-
Professional services	40,485
Insurance	<u>50</u>
Total expenses	<u>40,535</u>
CHANGE IN NET POSITION	394,503
NET POSITION - BEGINNING	<u>1,781,432</u>
NET POSITION - ENDING	<u><u>\$ 2,175,935</u></u>

The accompanying notes are an integral part of these statements.



BALANCE SHEET

September 30, 2022

ASSETS	
Cash and cash equivalents	\$ 2,106,718
Accounts receivable	<u>69,254</u>
Total assets	<u><u>\$ 2,175,972</u></u>

LIABILITIES AND FUND BALANCE	
Liabilities:	
Accounts payable	\$ 37

FUND BALANCE	
Committed for:	
Infrastructure improvements	600,000
Assigned for:	
Infrastructure improvements	1,475,935
Unassigned fund balance	<u>100,000</u>
Total fund balances	<u><u>2,175,935</u></u>
 Total liabilities and fund balance	 <u><u>\$ 2,175,972</u></u>

RECONCILIATION OF THE BALANCE SHEET  
TO THE STATEMENT OF NET POSITION:

TOTAL FUND BALANCE	<u>\$ 2,175,935</u>
TOTAL NET POSITION	<u><u>\$ 2,175,935</u></u>

The accompanying notes are an integral part of these statements.

STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCE

For the year ended September 30, 2022

REVENUES	
Sales taxes	\$ 421,183
Investment income	<u>13,855</u>
Total revenues	<u>435,038</u>
EXPENDITURES	
Administrative expenditures	-
Professional services	40,485
Insurance	<u>50</u>
Total expenditures	<u>40,535</u>
Net change in fund balance	<u>394,503</u>
BEGINNING FUND BALANCE	<u>1,781,432</u>
ENDING FUND BALANCE	<u><u>\$ 2,175,935</u></u>
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE TO THE STATEMENT OF ACTIVITIES:	
NET CHANGE IN FUND BALANCE	<u>\$ 394,503</u>
CHANGE IN NET POSITION	<u><u>\$ 394,503</u></u>

The accompanying notes are an integral part of these statements.

## NOTES TO THE FINANCIAL STATEMENTS

September 30, 2022

(1) Summary of significant accounting policies

## Financial reporting entity

The City of Fair Oaks Ranch Municipal Development District (the “District”) is a political subdivision of the State of Texas and the City of Fair Oaks Ranch in accordance with Chapter 377 of the Texas Local Government Code. The District was created May 7, 2011 to act on behalf of the City for promotion, development and enhancement of economic development within the City of Fair Oaks Ranch. As a separate legal entity whose Board of Directors is appointed by, and whose budget must be approved by the City Council of the City of Fair Oaks Ranch, the District is considered a component unit of the City of Fair Oaks Ranch.

The financial statements of the District have been prepared in conformity with generally accepted accounting principles (GAAP), as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing government accounting and financial reporting principles. The financial statements present the financial position and results of operations of the District only.

## Basis of presentation

The government-wide financial statements are presented in accordance with GASB 34, which mandates government-wide financial statements of net position and activities, and are presented on the economic resources measurement focus and accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when incurred, regardless of the timing of the related cash flows. It also requires that fixed assets be recorded at cost less accumulated depreciation.

Governmental funds use the modified accrual basis of accounting. Under this method, revenues are recognized in the accounting period in which they become both available and measurable (flow of current financial resources measurement focus). Expenditures are recognized in the accounting period in which the fund liability is incurred, if measurable.

## Budgets

The District adopts annual operating, and, if necessary, capital budgets which are approved by the City Council. Formal budgetary accounting is employed as a management control. The budgets can be amended by the Board of Directors, subject to City Council approval. Actual expenditures cannot legally exceed budgeted appropriations at the fund level. All budgeted appropriations lapse at the end of each fiscal year.

## Cash and cash equivalents

Cash and cash equivalents include cash deposits and investments with a maturity date within three (3) months of the date acquired by the District.

## Sales tax revenue

In 2011, the citizens of the City of Fair Oaks Ranch approved by a vote an additional one-half of one percent (1/2 cent or \$0.005) local sales and use tax to be used by the District for economic development within the City of Fair Oaks Ranch and the Bexar County and Kendall County ETJ.

## NOTES TO THE FINANCIAL STATEMENTS

September 30, 2022

(1) Summary of significant accounting policies (continued)

## Fund balance

Committed – represents amounts that can only be used for the specific purpose imposed by formal action of the Board. Those committed amounts cannot be used for any other purpose unless the Board removes or changes the specified use by taking the same type of formal action it employed to previously commit those amounts.

Assigned – represents amounts which the District intends to use for a specific purpose but do not meet the criteria of restricted or committed.

Unassigned – represents the residual balance that may be spent on any other purpose of the District.

When an expenditure is incurred for a purpose in which multiple classifications are available, the District considers committed or assigned balances spent first before unassigned.

## Net position

Net position represents the difference between assets and liabilities.

## Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

## Implementation of new accounting principles

The District adopted the provisions of GASB Statement No. 87, *Leases*. The objective of this statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. The statement requires recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized inflows of resources or outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. A lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources.

NOTES TO THE FINANCIAL STATEMENTS

September 30, 2022

(2) Deposits and investments

Deposits

*Custodial credit risk* – at September 30, 2022, the carrying amount of the District’s deposits in the bank was \$53,160 and the bank balance was the same. The bank balance was fully covered by federal deposit insurance.

Investments

The District is required by Government Code Chapter 2256, The Public Funds Investment Act, to adopt, implement, and publicize an investment policy. That policy must address the following areas: (1) safety of principal and liquidity, (2) portfolio diversification, (3) allowance investments, (4) acceptable risk levels, (5) expected rates of return, (6) maximum allowable stated maturity of portfolio investments, (7) maximum average dollar-weighted maturity allowed based on the stated maturity date for the portfolio, (8) investment staff quality and capabilities, and (9) bid solicitation preferences for certificates of deposit.

The Public Funds Investment Act (“Act”) requires an annual audit of investment practices. Audit procedures in this area conducted as a part of the audit of the basic financial statement disclosed that in the areas of investment practices, management reports and establishment of appropriate policies, the District has adhered to the requirements of the Act. Investment practices of the District were in accordance with local policies. The Act determines the types of investments which are allowable for the District. These include, with certain restrictions, 1) obligations of the U.S. Treasury, U.S. agencies, and the State of Texas, 2) certificates of deposit, 3) money market mutual funds, and 4) eligible public funds investment pools.

The District’s investments at September 30, 2022 were as shown below:

	<u>Rating</u>	<u>Value</u>	<u>Weighted Average Maturity (Days)</u>
TexPool	AAAm	<u>\$ 2,053,557</u>	24
(valued at amortized cost)			

Custodial credit risk

For an investment, this is the risk that, in the event of the failure of the counterparty, the District will not be able to recover the value of its investments or collateral securities that are in possession of an outside party. All of the District’s investments are held by its agents in the District’s name.

Interest rate risk

In accordance with its investment policy, the District manages its exposure to declines in fair values by limiting the weighted average maturity of its operating investment portfolio to less than 13 months. The District’s investment policy limits the final stated maturity of any security to no more than two years. As a matter of policy, the District holds all investments to maturity.

Credit risk

The District’s investment policy states that investments in local government pools will be no lower than AAA or AAA-m or an equivalent rating by at least one nationally recognized rating service.

## NOTES TO THE FINANCIAL STATEMENTS

September 30, 2022

(2) Deposits and investments (continued)

## Investment accounting policy

The District's general policy is to report money market investments and short-term participating interest-earning investment contracts at amortized cost and to report nonparticipating interest-earning investment contracts using a cost-based measure. However, if the fair value of an investment is significantly affected by the impairment of the credit standing of the issuer or by other factors, it is reported at fair value. All other investments are reported at fair value unless a legal contract exists which guarantees a higher value. The term "short-term" refers to investments which have a remaining term of one year or less at time of purchase. The term "nonparticipating" means that the investment's value does not vary with market interest rate changes. Nonnegotiable certificates of deposit are examples of nonparticipating interest-earning investment contracts.

## Public funds investment pools

Public funds investment pools in Texas ("Pools") are established under the authority of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and are subject to the provisions of the Public Funds Investment Act (the "Act"), Chapter 2256 of the Texas Government Code. In addition to other provisions of the Act designed to promote liquidity and safety of principal, the Act requires Pools to: 1) have an advisory board composed of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool; 2) maintain a continuous rating of no lower than AAA or AAA-m or an equivalent rating by at least one nationally recognized rating service; and 3) maintain the market value of its underlying investment portfolio within one half of one percent of the value of its shares. TexPool is an investment pool that meets these criteria.

TexPool is an investment pool in which the Comptroller of Public Accounts is the sole officer, director, and shareholder of the Texas Treasury Safekeeping Trust Company (the Trust Company), which is authorized to operate the pool. Federated Investors, Inc. manages the assets under an agreement with the Comptroller, acting on behalf of the Trust Company. TexPool is reported at amortized cost and does not have any limitations or restrictions on participants' withdrawals.

(3) Litigation

Management of the District is not aware of any pending litigation.

**REQUIRED SUPPLEMENTARY INFORMATION**

STATEMENT OF REVENUES, EXPENDITURES, AND  
CHANGES IN FUND BALANCE – BUDGET AND ACTUAL

For the year ended September 30, 2022

	Budgeted Amounts		Actual Amounts 2022	Variance with Final Budget Positive (Negative)	Actual Amounts 2021
	Original	Final			
<b>REVENUES</b>					
Sales taxes	\$ 395,000	\$ 395,000	\$ 421,183	\$ 26,183	\$ 389,676
Investment income	<u>1,500</u>	<u>1,500</u>	<u>13,855</u>	<u>12,355</u>	<u>686</u>
Total revenues	<u>396,500</u>	<u>396,500</u>	<u>435,038</u>	<u>38,538</u>	<u>390,362</u>
<b>EXPENDITURES</b>					
Administrative expenditures	850	850	-	850	350
Professional services	41,950	41,950	40,485	1,465	36,671
Insurance	50	50	50	-	50
Capital contribution	<u>353,650</u>	<u>353,650</u>	<u>-</u>	<u>353,650</u>	<u>-</u>
Total expenditures	<u>396,500</u>	<u>396,500</u>	<u>40,535</u>	<u>355,965</u>	<u>37,071</u>
Excess (deficiency) of revenues over (under) expenditures	-	-	394,503	394,503	353,291
FUND BALANCE - BEGINNING	<u>1,781,432</u>	<u>1,781,432</u>	<u>1,781,432</u>	<u>-</u>	<u>1,428,141</u>
FUND BALANCE - ENDING	<u>\$ 1,781,432</u>	<u>\$ 1,781,432</u>	<u>\$ 2,175,935</u>	<u>\$ 394,503</u>	<u>\$ 1,781,432</u>



**NOTES TO REQUIRED SUPPLEMENTARY INFORMATION**

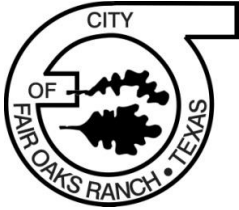
**September 30, 2022**

Budgetary information

The budget is prepared in accordance with accounting principles generally accepted in the United States of America. The District maintains strict budgetary controls. The objective of these controls is to ensure compliance with legal provisions embodied in the annual appropriated budget approved by the City Council and as such is a good management control device.

Budgetary preparation and control is exercised at the department level. Actual expenditures may not legally exceed appropriations at the fund level.

The District does not use encumbrances.



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**FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT  
CONSIDERATION ITEM  
CITY OF FAIR OAKS RANCH, TEXAS  
January 11, 2023**

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Item #11.

AGENDA TOPIC: Consideration and possible action regarding upcoming Regular MDD Board Meeting Dates  
DATE: January 11, 2023  
PRESENTED BY: Laura Koerner, MDD President

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**INTRODUCTION/BACKGROUND:**

MDD By Laws require a minimum of two meetings each fiscal year (Article II, Section 3). This item exceeds the requirement and proposes to continue conducting quarterly regular meetings. Special meetings will be called as needed. All meetings (regular or special) are open and announced in accordance with the Texas Open Meetings Act.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

The purpose of this action is to set a known MDD regular meeting date each quarter in the months of April 2023, July 2023, October 2023, and January 2024. This provides a better planning cycle for citizens, board members, and staff. Special meetings may be called between quarterly meetings as required.

**BUDGETARY IMPACT:**

Attorney fees will be slightly increased due to the quarterly meeting frequency. However, the increased meeting frequency will benefit in reducing the length of each meeting, resulting in minimum budgetary impact.

**LEGAL ANALYSIS:**

N/A

**RECOMMENDATION/PROPOSED MOTION:**

I move that the Board set the following dates for their known quarterly MDD regular meetings:

- April \_\_, 2023 at \_\_\_\_\_.
- July \_\_, 2023 at \_\_\_\_\_.
- October \_\_, 2023 at \_\_\_\_\_.
- January \_\_, 2024 at \_\_\_\_\_.