

File No. 230754

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date July 19, 2023

Board of Supervisors Meeting Date _____

Cmte Board

- | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Original Agreement 9/1/2013</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Amendment No. 1 6/29/2018</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Amendment No. 2 4/21/2020</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Amendment No. 3 7/7/2022</u> |
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Completed by: Brent Jalipa Date July 14, 2023

Completed by: Brent Jalipa Date _____

1 [Contract Amendment - Bank of America N.A. - Banking Services - Not to Exceed
2 \$8,083,000]

3 **Resolution authorizing the Office of the Treasurer & Tax Collector to amend a**
4 **banking services agreement which enables the City and County of San Francisco to**
5 **maintain lockbox processing, pay suppliers using Paymode, and maintain several**
6 **department stand-alone depository bank accounts with Bank of America N.A, to**
7 **increase the contract amount by \$83,000 for a total amount of \$8,083,000 and extend**
8 **the contract term for an additional three months from August 31, 2023, for the total**
9 **period of August 22, 2013, through November 30, 2023, effective upon approval of**
10 **this Resolution.**

11
12 WHEREAS, Charter, Section 9.118(b), requires the Board of Supervisors to approve
13 by resolution contracts estimated to exceed \$10,000,000 or with a term exceeding ten
14 years; and

15 WHEREAS, Since 2013 Bank of America has provided to the City and County of
16 San Francisco (CCSF) lockbox processing services with complex integration to
17 departments' billing systems (i.e., EPIC), general ledger interface, unique reporting
18 requirements and security with handling sensitive and confidential data in compliance with
19 Health Insurance Portability and Accountability Act regulations and standards ("HIPAA");
20 and

21 WHEREAS, The Office of the Treasurer and Tax Collector (TTX) manages the
22 majority of incoming payments for CCSF, including all local taxes, MTA and PUC, the
23 payments processed by Bank of America are specific to healthcare, requiring both HIPAA
24 compliance and integration with EPIC, DPH's healthcare system of record; and
25

1 WHEREAS, Bank of America’s services under this contract include the pickup and
2 delivery of these payments; and

3 WHEREAS, Bank of America services enable CCSF to pay suppliers via Electronic
4 Funds Transfer (EFT) using Paymode; and

5 WHEREAS, Bank of America will continue to provide a few stand-alone depository
6 accounts; and

7 WHEREAS, TTX completed a competitive RFP process for the banking services
8 provided in this amendment, and is finalizing new contracts for these services, but needs
9 an additional three months to complete the contracting process; and

10 WHEREAS, The contract in substantially final form is on file with the Clerk of the
11 Board of Supervisors in File No. 230754; now, therefore, be it

12 RESOLVED, That the Board of Supervisors authorizes the Office of the Treasurer &
13 Tax Collector and Bank of America N.A, to execute an amended agreement, to extend the
14 contract term for an additional three months, increasing the contract amount by \$83,000 for
15 a total amount not to exceed \$8,083,000 and to extend the contract term for an additional
16 three months from August 31, 2023, for the total period of August 22, 2013, through
17 November 30, 2023, effective upon approval of this Resolution; and, be it

18 FURTHER RESOLVED, That within 30 days of the contract being fully executed by
19 all parties, the Purchaser, the Office of the Treasurer & Tax Collector shall provide the final
20 contracts to the Clerk of the Board for inclusion into the official file.

21 .

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24

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**City and County of San Francisco
Office of Treasurer and Tax Collector**

Fourth Amendment

THIS AMENDMENT (this “Amendment”) is made as of **May 16, 2023**, in San Francisco, California, by and between **Bank of America, N.A.**, (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period for 90 days; and

WHEREAS, the Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through RFP issued May 11, 2012 and this modification is consistent therewith; and

NOW, THEREFORE, Contractor and the City agree as follows;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term “Agreement” shall mean the Agreement dated **August 22, 2013** between Contractor and City, as amended by the:

First amendment,	dated June 29, 2018 , and
Second amendment,	dated April 21, 2020 , and
Third amendment,	dated July 7, 2022 .

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division (“CMD”). Wherever “Human Rights Commission” or “HRC” appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean “Contract Monitoring Division” or “CMD” respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2. Section 2 of the P-500 Agreement, term of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from August 22, 2013 to August 31, 2023 with respect to Banking Services.

Such section is hereby amended in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from August 22, 2013 to November 30, 2023 with respect to Banking Services.

2b. Paymode. Paymode fees for monthly license and cost per transaction shall be updated: Paymode License fees shall cost \$150.00 per month and Paymode Transactions shall cost \$1.155 per transaction.

2c. Currency Deposit. Currency Deposit fees for Vault shall be updated: Coin Deposit Non-Standard Bags shall cost \$4.25 per bag and Currency-Deposited shall cost \$0.03 per Note.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after August 31, 2023.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

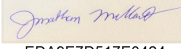
Recommended by:

Bank of America, N.A

DocuSigned by:

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Tajel Shah
Chief Assistant Treasurer
Office of the Treasurer and Tax Collector


DocuSigned by:

EDA9E7D517E0424...

Jonathan Millard
Senior Vice President
Market Executive – Public Sector Banking

City Supplier Number: 24733

Approved as to Form:

David Chiu
City Attorney

By: 
DBDA121BAB35448...
Moe Jamil
Deputy City Attorney

Umbrella Agreement for Banking Services

This Umbrella Agreement for Government Banking Services (the "Agreement") is made as of this 1 day of September, 2013, between the City and County of San Francisco (the "Client") and Bank of America, N.A., a national banking association.

WHEREAS, Client issued a Request for Proposal ("RFP"), for providing banking services on May 11, 2012, (the "Services"); and

WHEREAS, the Bank was the successful bidder under the RFP, having submitted its bid response (the "Bid Response"); and

WHEREAS, the parties wish to enter into this Agreement for the purpose of defining the constituent documents of the agreement between Client and Bank regarding the Services;

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the parties hereby agree as follows:

1. Integrated Agreement. The entire and integrated agreement between Client and Bank related to the Services shall consist of this Umbrella Agreement, the negotiated City and County of San Francisco Form P-500 Agreement executed by the parties dated August 22nd, 2013 (hereinafter "City and County of San Francisco Form P-500 Agreement"), the Treasury Services Terms and Conditions, booklet ("T&C") (including the Supplemental Agreement for Overdraft Pricing, user documentation and set-up forms), as negotiated between the parties, and the Deposit Agreement. In the event of conflict among any of the provisions, the City and County of San Francisco Form P-500 Agreement will govern, followed by this Umbrella Agreement and the T&C and Deposit Agreement, in that order. The integrated agreement supersedes all prior negotiations, representations, statements and agreements, whether written or oral, regarding the Services.
2. Commencement of Performance. Except as otherwise agreed by the parties, Bank shall begin performing each Service upon execution and delivery of this Agreement and the related set-up forms. Bank shall continue to perform such Services during the term of this Agreement.
3. Term. This Agreement was for an initial term of five (5) years. The Agreement may be extended by the mutual written agreement of the parties for two subsequent two-year terms at the option of the Client under the same terms and conditions.
4. Notices. Except as may otherwise be specified in the applicable set-up form, notices to Client and Bank shall be sent to the addresses as set forth in the City and County of San Francisco Form P-500 Agreement.

Changes in the respective address set forth above may be made from time to time by any party upon written notice to the other party.

In witness whereof, the parties have executed this Agreement as of the date first written above.

City and County of San Francisco

(CLIENT'S LEGAL NAME)

By: 

(Signature)

Name: Pauline A. Marx

(Print or Type)

Title: Chief Assistant Treasurer

(Print or Type)

By: 

(Signature)

Name: Jean H. Alexander

(Print or Type)

Title: Deputy City Attorney

(Print or Type)

Bank of America, N.A.

(BANK NAME)

By: 

(Signature)

Name: KATHRYNE A DAVIS

(Print or Type)

Title: SVP, TSA

(Print or Type)

**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

**Agreement between the City and County of San Francisco and
Bank of America, N.A.**

This Agreement is made this **22nd day of August 2013**, in the City and County of San Francisco, State of California, by and between: **Bank of America, N.A.**, hereinafter referred to as “Contractor,” and the City and County of San Francisco, a municipal corporation, hereinafter referred to as “City,” acting by and through its Director of the Office of Contract Administration or the Director’s designated agent, hereinafter referred to as “Purchasing.”

Recitals

WHEREAS, the Office of the Treasurer & Tax Collector (“Department”) wishes to obtain banking and payment services as described in Appendix A (“Services”); and, WHEREAS, a Request for Proposal (“RFP”) was issued on **May 11, 2012**, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and, Now, THEREFORE, the parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City’s Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City’s obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from **August 22, 2013 to August 31, 2018**.

3. **Effective Date of Agreement.** This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.
4. **Services Contractor Agrees to Perform.** The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," incorporated by reference as though fully set forth herein.
5. **Compensation.** Compensation shall be made in monthly payments on or before the last business day of each month for work, as set forth in Section 4 of this Agreement, that the **Treasurer**, in his or her sole discretion, concludes has been performed as of the last business day of the immediately preceding month. **In no event shall the amount of this Agreement exceed eight million dollars (\$8,000,000) for the initial five year term. Actual compensation will fluctuate, based on the Services implemented, transaction volumes, and City's account balances and related earnings allowance credits.** The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved the Office of the Treasurer & Tax Collector as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments for Services under this Agreement.
6. **Guaranteed Maximum Costs.** The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.
7. **Payment; Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Contractor shall be subject to audit by City. Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."
8. **Submitting False Claims; Monetary Penalties.** Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or

approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Reserved. ("Disallowance")

10. Taxes

a. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.

b. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

11. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor or its subcontractors. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor or its subcontractors. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. **Independent Contractor.** Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. **Payment of Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a

reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, (including bank employee accidents while on bank business), injury, or illness; and

2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and aggregate for bodily injury, death and property damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide:

1) Name as Additional Insured under a blanket endorsement the City and County of San Francisco, its Officers, and Employees under its General Liability insurance policy only.

2) That such policies are primary insurance to any other insurance available to the Additional Insureds, only as it relates to Contractor's negligence arising out of Contractor's performance of services under this Agreement.

c. All policies shall endeavor to provide thirty days' advance written notice to the City of cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

g. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

i. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

j. City may make any claims to the designated agent appearing on the applicable certificate.

k. All coverages: Contractor reserves the right to obtain any and all insurance required in this Agreement through a program of self-insurance.

l. Any of the terms of conditions of this Section 15 may be waived by the City's Risk Manager in writing, and attached to this Agreement as Appendix C. Such waiver is fully incorporated herein. The waiver shall waive only the requirements that are expressly identified and waived, and under such terms and conditions as stated in the waiver.

16. Indemnification. Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold

City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

18. Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Liquidated Damages. By entering into this Agreement, Contractor agrees that in the event those Services, as set forth in Appendix A, are delayed beyond the scheduled milestones and timelines as provided in Appendix A, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the dollar sum set forth opposite each such Service in Appendix A per day for each day of delay beyond scheduled milestones and timelines is not a penalty, but is a reasonable estimate of the loss that City will incur based on the delay, established in light of the circumstances existing at the time this contract was awarded. City may deduct a sum representing the liquidated damages from any money due to Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to deliver to City within the time fixed or such extensions of time permitted in writing by Purchasing.

20. Default; Remedies

a. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

- | | |
|---|---------------------------------------|
| 8. Submitting False Claims; Monetary Penalties. | 37. Drug-free workplace policy |
| 10. Taxes | 53. Compliance with laws |
| 15. Insurance | 55. Supervision of minors |
| 24. Proprietary or confidential information of City | 57. Protection of private information |
| 30. Assignment | 58. Graffiti removal |

2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

- 1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.
- 2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- 3) Terminating all existing orders and subcontracts.
- 4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- 5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- 6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.
- 7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

- 1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.
- 2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.
- 3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.
- 4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

d. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or

lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

22. Rights and Duties upon Termination or Expiration

This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

- | | |
|---|---|
| 8. Submitting false claims | 24. Proprietary or confidential information of City |
| 9. Disallowance | 26. Ownership of Results |
| 10. Taxes | 27. Works for Hire |
| 11. Payment does not imply acceptance of work | 28. Audit and Inspection of Records |
| 13. Responsibility for equipment | 48. Modification of Agreement. |
| 14. Independent Contractor; Payment of Taxes and Other Expenses | 49. Administrative Remedy for Agreement Interpretation. |
| 15. Insurance | 50. Agreement Made in California; Venue |
| 16. Indemnification | 51. Construction |
| 17. Incidental and Consequential Damages | 52. Entire Agreement |
| 18. Liability of City | 56. Severability |
| | 57. Protection of private information |

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

23. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not

know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City:
**Office of the Treasurer & Tax Collector
1 Dr. Carlton B. Goodlett Pl, City Hall Room 140
San Francisco, CA 94102
Pauline.marx@sfgov.org**

To Contractor: **Kathryne A. Daniels
SVP; SR TREASURY SALES MANAGER
Bank of America Mail Code: CA4-702-04-41
BUILDING B
2001 CLAYTON RD
CONCORD CA 94520-2405
Phone: 1.925.675.6229
Fax: 1.415.844.3328**

Any notice of default must be sent by registered mail.

26. Ownership of Results. Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors exclusively for City, if any, in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire. If, exclusively for City in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any

material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit, upon reasonable prior notice of at least 14 business days, City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of seven years after the date of any transaction in connection with services performed under this Agreement. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

29. Subcontracting. Other than to those subcontractors utilized by Contractor in the ordinary course of business that do not provide services exclusively in respect of this Agreement, Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

32. Earned Income Credit (EIC) Forms. Administrative Code section 120 requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide access to EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require

the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Local Business Enterprise Utilization; Liquidated Damages

a. **The LBE Ordinance.** Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

34. Nondiscrimination; Penalties

a. **Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. **Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. **Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between

the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. **Condition to Contract.** As a condition to this Agreement, Contractor shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

36. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

38. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

39. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and

further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

40. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records. If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

42. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in

Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

44. Requiring Health Benefits for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against

Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

45. Reserved. ("First Source Hiring Program")

46. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of HRC any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (HRC Contract Modification Form).

49. Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

50. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

51. Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

52. Entire Agreement. Other than as set forth in the Umbrella Agreement for Banking Services to which this Agreement is referenced as the Banking Services Agreement, this contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, “Modification of Agreement.”

53. Compliance with Laws. Contractor shall keep itself fully informed of the City’s Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

54. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of

Contractor, will be paid unless the provider received advance written approval from the City Attorney.

55. Reserved. (“Supervision of Minors”)

56. Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

57. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, “Nondisclosure of Private Information,” and 12M.3, “Enforcement” of Administrative Code Chapter 12M, “Protection of Private Information,” which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

58. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City’s property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor’s (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term “graffiti” means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner’s authorized agent, and which is visible from the public right-of-way. “Graffiti” shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

59. Food Service Waste Reduction Requirements. Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

60. Slavery Era Disclosure

a. Contractor acknowledges that this contract shall not be binding upon the City until the Director receives the affidavit required by the San Francisco Administrative Code's Chapter 12Y, "San Francisco Slavery Era Disclosure Ordinance."

b. In the event the Director of Administrative Services finds that Contractor has failed to file an affidavit as required by Section 12Y.4(a) and this Contract, or has willfully filed a false affidavit, the Contractor shall be liable for liquidated damages in an amount equal to the Contractor's net profit on the Contract, 10 percent of the total amount of the Contract, or \$1,000, whichever is greatest as determined by the Director of Administrative Services. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any monies due to the Contractor from any Contract with the City.

c. Contractor shall maintain records necessary for monitoring their compliance with this provision.

61. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

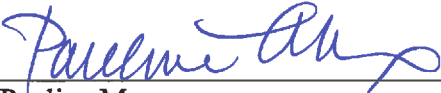
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

BANK OF AMERICA, N.A.



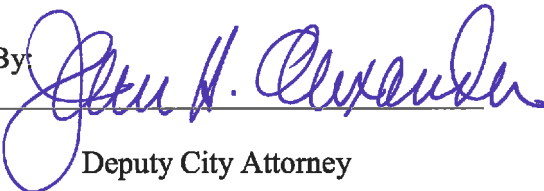
Pauline Marx
Chief Assistant Treasurer
Office of the Treasurer & Tax Collector

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.


Approved as to Form:

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

City Attorney

By 

Deputy City Attorney



Kathryne Daniels
Sr. Vice President
Western Region Sales Manager

City vendor number: 02827

Signature: _____
Name: _____
Title: _____
Department: _____

Signature: _____
Name: _____
Title: _____
Department: _____

Appendices

- A: Services to be provided by Contractor
- B: Calculation of Charges

Appendix A
Services to be provided by Contractor

1. Description of Services

The Contractor's response to Section 7, Scope of Work in the Request for Proposals dated August 3, 2012 is incorporated by reference.

2. Reports

Contractor shall submit updated responses to Section 8 of the Request for Proposals upon execution of this Agreement and upon each anniversary of this Agreement. Such data submitted shall be for the most recent period available. Contractor shall submit written reports as requested by the Office of the Treasurer & Tax Collector. Format for the content of such reports shall be determined by the Office of the Treasurer & Tax Collector. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

3. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the Office of the Treasurer & Tax Collector will be Janet Tolenada.

Appendix B
Calculation of Charges

Exhibit I, Pricing Worksheet Exhibit III, Supplemental fee/pricing schedules included in Bank of America's Response to the Request for Proposals dated August 3, 2012 is hereby incorporated by reference.

**Appendix C
Insurance Waiver**



Public Sector Banking West Region
2001 Clayton Road, Fl. 4
Concord, CA 94620-0905

Kathryne Daniels
Senior Vice President
Sr. Treasury Solutions Manager
Tel: (520) 975-6229
Fax: (415) 844-3223

August 20, 2013

Pauline Marx
Chief Assistant Treasurer
City & County of San Francisco
1 Drive Carlton B Goodlett Place
San Francisco, CA 94102

Dear Ms. Marx,

Per request of our corporate insurance department, Bank of America respectfully requests the deletion of the following paragraph 4 (c) from the Insurance provision in the Banking Payments agreement:

Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

Thank you for your consideration.

Sincerely,

Kathryne Daniels
Senior Vice President
Senior Treasury Solutions Manager

KD:ld
cc: Jonathan Millard
Susan Siefkas

Kato, Greg

From: Matt.Hansen@sfgov.org
Sent: Tuesday, August 20, 2013 5:23 PM
To: Marx, Pauline
Cc: Fitzgerald, Elizabeth; Kato, Greg
Subject: Re: Letter to Pauline Marx; Follow up to previous email request

Hi Pauline

I actually participated via phone today but would've been nice to catch up. (Lunch soon?).

As for the request, I'm fine approving it risk seems low.

Hope all is going well.

Best
Matt

Matt Hansen, Director
Risk Management Division
City & County of San Francisco
25 Van Ness Ave., Suite 750
San Francisco, CA 94102

415-554-2302 - Direct
415-555-2300 - Main Office
415-554-2357 - Fax

Email: matt.hansen@sfgov.org

On Aug 20, 2013, at 5:15 PM, "Marx, Pauline" <pauline.marx@sfgov.org> wrote:

Sorry I missed you today at the due diligence meeting. We were on opposite ends of the agenda.

This is in reference to one of the two contracts that we are working towards signature: [Bank of America Merrill Lynch](#) (not Bank of America Merchant Services, which is the other one). We believe that the deletion is acceptable. Please give us your concurrence.

Thanks!

Pauline A. Marx
Chief Assistant Treasurer
City and County of San Francisco
City Hall - Room 140
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4638
415/554-5260 (phone)
415/554-4672 (fax)

From: Daniels, Kathrynne [<mailto:kathrynne.daniels@bami.com>]
Sent: Tuesday, August 20, 2013 11:48 AM

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

First Amendment

THIS AMENDMENT (this "Amendment") is made as of **June 29, 2018**, in San Francisco, California, by and between **Bank of America, N.A.**, ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below);
and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period, increase the contract amount, and update standard contractual clauses;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated **August 22, 2013** between Contractor and City, as amended hereby.

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division ("CMD"). Wherever "Human Rights Commission" or "HRC" appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean "Contract Monitoring Division" or "CMD" respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2. Section 2, Term of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from **August 22, 2013 to August 31, 2018**.

Such section is hereby amended to read as follows:

Subject to Section 1, the term of this Agreement shall be from **August 22, 2013 to August 31, 2020.**

Such section is hereby amended in its entirety to read as follows:

2c. Sugar-Sweetened Beverage Prohibition. Section 58 is hereby replaced in its entirety to read as follows:

58. Sugar-Sweetened Beverage Prohibition. Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

2d. Insurance. Section 15 is hereby replaced in its entirety to read as follows:

15. Insurance.

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

- 1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- 2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- 3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- 4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with the Services.
- 5) Cyber Liability policy with limits of \$2,000,000. The policy shall provide coverage from the following causes: Failure to protect confidential information from disclosure by Bank of America or entity to whom Bank of America has entrusted the confidential information including regulatory defense expenses; Failure of Bank of America's computer system security to prevent a computer attack; Crisis management (including privacy notification expenses); or Cyber-extortion.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide:

1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall endeavor to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in the Section entitled "Notices to the Parties."

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

f. Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

g. If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide

all necessary insurance.

h. Contractor reserves the right to obtain any and all insurance required in this Agreement through a program of self-insurance.

2e. Replacing "Earned Income Credit (EIC) Forms" Section with "Consideration of Criminal History in Hiring and Employment Decisions" Section. Section 32 "Earned Income Credit (EIC) Forms" is hereby replaced in its entirety to read as follows:

32. Consideration of Criminal History in Hiring and Employment Decisions.

a. Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at www.sfgov.org/olse/fco. A partial listing of some of Contractor's obligations under Chapter 12T is set forth in this Section. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

b. The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

c. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

d. Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received, base an Adverse Action on an applicant's or potential applicant for employment's, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

e. Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection 32e(d), above. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

f. Contractor or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Contractor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

g. Contractor and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Contractor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

h. Contractor understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

i. Nothing in this section shall be construed to conflict with the ability of financial service providers to comply with applicable federal law, regulation or governing authority.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:



Tajel Shah
Chief Assistant Treasurer
Office of the Treasurer & Tax Collector

Approved as to Form:

Dennis J. Herrera
City Attorney

By:



Moe Jamil
Deputy City Attorney

CONTRACTOR

Bank of America, N.A.



Jonathan Millard
Senior Vice President
Market Leader – Pacific Northwest
Municipal Banking and Markets – Public
Sector Banking

Bank of America Merrill Lynch
Bank of American N.A.
CA5-705-11-00
555 California Street, Ste 1160
San Francisco, CA 94104

City vendor number: 02827

**City and County of San Francisco
Office of the Treasurer and Tax Collector
City Hall Room 140
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

Second Amendment

THIS AMENDMENT (this “Amendment”) is made as of April 21, 2020, in San Francisco, California, by and between Bank of America, N.A., (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below);
and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and update standard contractual clauses;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term “Agreement” shall mean the Agreement dated August 22, 2013 between Contractor and City, as amended by the:

First amendment, dated June 29, 2018

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division (“CMD”). Wherever “Human Rights Commission” or “HRC” appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean “Contract Monitoring Division” or “CMD” respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2. Section 2, Term of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from August 22, 2013 to August 31, 2020.

Such section is hereby amended in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from August 22, 2013 to August 21, 2022.

2b. Limitations on Contributions. Section 42 is hereby replaced in its entirety as follows:

42. Limitations on Contributions. By executing this Agreement, Contractor acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

2c. Withholding. Section 10.c. is hereby added to "Taxes" to read as follows:

10.c. Withholding. Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld

under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Bank of America, N.A.

DocuSigned by:
Tajel Shah
E45D3E78545E404...
Tajel Shah
Chief Assistant Treasurer
Office of the Treasurer and Tax Collector

DocuSigned by:
Jonathan Millard
EDA9E7D517E0424...
Jonathan Millard
Senior Vice President
Market Leader – Pacific Northwest
Municipal Banking and Markets – Public
Sector Banking

Approved as to Form:

Bank of America Merrill Lynch
Bank of America N.A.
CA5-705-11-00
555 California Street, Ste. 1160
San Francisco, CA 94104

Dennis J. Herrera
City Attorney

City vendor number: 02827

By: DocuSigned by:
Moe Jamil
DBDA421BAB35448...
Moe Jamil
Deputy City Attorney

**City and County of San Francisco
Office of the Treasurer and Tax Collector
City Hall Room 140
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

Third Amendment

THIS AMENDMENT (this “Amendment”) is made as of July 7, 2022 in San Francisco, California, by and between **Bank of America, N.A.**, (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period with respect to Lockbox Services; and

WHEREAS, the Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through a RFP issued on May 11, 2012 and this modification is consistent therewith; and

NOW, THEREFORE, Contractor and the City agree as follows;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term “Agreement” shall mean the entire integrated Agreement dated **August 22, 2013** between Contractor and City as defined in Section 1 of the Umbrella Agreement for Banking Services, as amended by the:

First amendment, dated **June 29, 2018**, and
Second amendment, dated **April 21, 2020**

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division (“CMD”). Wherever “Human Rights Commission” or “HRC” appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean “Contract Monitoring Division” or “CMD” respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2. Section 2 of the P-500 Agreement, Term of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from August 22, 2013 to August 21, 2022.

Such section of the P-500 Agreement **is hereby amended in its entirety to read as follows:**

Subject to Section 1, the term of this Agreement shall be from August 22, 2013 to August 31, 2023 with respect to Banking Services.

2b. Section 17. Section 17 of the P-500 Agreement, Incidental and Consequential Damages currently reads as follows:

17. Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that the City may have under applicable law.

Such section of the P-500 Agreement **is hereby amended in its entirety to read as follows:**

17. Liability of Contractor.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR:

(A) ANY LOSS, DAMAGE (WHETHER DIRECT OR INDIRECT), INJURY, LIABILITY OR CLAIM ARISING FROM ACTS OR OMISSIONS THAT ARE IN ACCORDANCE WITH INSTRUCTIONS FROM THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES; OR

(B) ANY INDIRECT DAMAGES, EXCEPT CITY'S INDIRECT DAMAGES (1) CAUSED BY CONTRACTOR'S NEGLIGENCE, RECKLESS CONDUCT OR WILLFUL ACTS OR OMISSIONS, FRAUD, OR ILLEGAL OR UNLAWFUL ACTS; (2) THAT FALL WITHIN THE INSURANCE COVERAGE OF THIS AGREEMENT; OR (3) THAT ARE WITHIN THE SCOPE OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY AS SET FORTH IN THIS AGREEMENT; PROVIDED, HOWEVER, IN NO EVENT SHALL CONTRACTOR'S LIABILITY FOR CITY'S INDIRECT DAMAGES EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO ONE MILLION DOLLARS, \$1,000,000.00.

AS USED IN THIS SECTION 17, “INDIRECT DAMAGES” MEANS SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

2c. Exhibit-VI. Exhibit-VI, A Proposed Depository Analysis Statement, as attached, hereby updates the depository pricing as of September 1, 2022.

2d. Overdraft. \$100 million Overdraft facility will continue to be provided by Bank of America, N.A., through 12/31/22 at no cost or until CCSF has fully transitioned the main disbursement accounts to their new banking partner. Should CCSF wish to extend the facility, an unused line fee will be negotiated. Furthermore, the reference rate related to the facility is hereby replaced with the following:

“Daily SOFR Rate” means the rate per annum equal to SOFR determined for any day pursuant to the definition thereof. “SOFR” means, with respect to any applicable determination date, the Secured Overnight Financing Rate published on such date by the SOFR Administrator on the Federal Reserve Bank of New York’s website (or any successor source); provided however that if such determination date is not a U.S. Government Securities Business Day, then SOFR means such rate that applied on the first U.S. Government Securities Business Day immediately prior thereto. Any change in Daily SOFR shall be effective from and including the date of such change without further notice. If at any time the Daily SOFR Rate is less than zero, such rate shall be deemed to be zero.

Current pricing for overdrafts to CCSF accounts will be the SOFR rate plus 1.70%, as of September 1, 2022.

2e. Appendix A: Services to be provided by Contractor. Section 2. Reports, of Appendix A: Services to be provided by Contractor, is hereby waived for reporting period 2022.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Reservation of Rights. Contractor reserves all rights set forth in the T&C. In addition, notwithstanding anything to the contrary in the Agreement, the Contractor reserves the right to assign, outsource, subcontract or sell any of the Services provided. In addition, upon prior written notice of at least 90 days, the Contractor may terminate the Agreement for convenience.

5. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

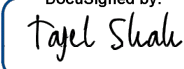
IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

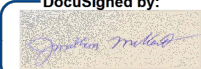
CITY

CONTRACTOR

Recommended by:

Bank of America, N.A.

DocuSigned by:

F45D3F78545F404...
Tajel Shah
Chief Assistant Treasurer
Office of the Treasurer and Tax Collector

DocuSigned by:

EDA9E7D517E0424...
Jonathan Millard
Senior Vice President
Market Executive –Public Sector Banking

Approved as to Form:

Bank of America Merrill Lynch
Bank of America N.A.
CA5-705-11-00
555 California Street, Ste. 1160
San Francisco, CA 94104

David Chiu
City Attorney

City vendor number: 02827

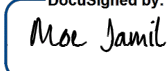
By: 
DBDA121B4B35448...
Moe Jamil
Deputy City Attorney

Exhibit-VI

A Proposed Depository Analysis Statement



San Francisco, CA City & County of

Period: September 1, 2022 to August 31, 2023

Bid Term(year): 1 year term

AFP	Service Description	Proposed
Balance And Compensation Information		
000202	LEDGER OVERDRAFT PER DAY	\$10.0000
000230	DEPOSIT BANK ASSESSMENT	\$0.0000
Total Balance And Compensation Information		
General Account Services		
010000	ACCOUNT MAINTENANCE	\$3.0000
010000	DEPOSITORY+ SUB ACCT MAINT	\$3.0000
010000	REMOTE DEPOSIT ACCOUNT MAINT	\$10.0000
010010	INTEREST BEARING ACCOUNT MAINTENANCE	\$3.0000
010020	ZBA-DEPOSITORY+ MASTER MAINT	\$3.0000
010021	ZBA-SUBSIDIARY ACCOUNT MAINT	\$3.0000
010100	DEBITS POSTED-OTHER	\$0.0100
010101	CREDITS POSTED-ELECTRONIC	\$0.0100
010101	CREDITS POSTED-OTHER	\$0.0100
010112	ZBA PER TRANSACTION	\$0.0000
010310	DEPOSIT ACCOUNT STMTS OVER 1	\$0.0000
010310	PAPER DEPOSIT STATEMENT MAILED	\$0.0000
010320	CHECKS PAID - REPORT	\$5.0000
010399	STATEMENT SORTING-SUBTOTALING	\$0.0000
010400	ANALYSIS MONTHLY TRANS MAINT	\$50.0000
010610	PHOTOCOPY-MANUAL	\$2.0000
010610	PHOTOCOPY-SELF SERVICE	\$2.0000
019999	REMOTE DEPOSIT CKC IMAGE PROC	\$0.0200
019999	REMOTE DEPOSIT ITEM STORAGE	\$0.0000
Total General Account Services		
Lockbox Services		
050000	WLBX LOCKBOX MAINT PER BOX	\$75.0000
050000	WLBX-EDC MONTHLY MAINTENANCE	\$200.0000
0500ZZ	LOCKBOX-MONTHLY CHARGES (Warrants)	\$319.0000
050100	WLBX LOCKBOX PROC PER ITEM	\$0.2200
050115	WLBX MATCH-COMPARE	\$0.1500
05011L	WLBX DOCUMENT RETURN PKG PREP	\$40.0000
05011N	WLBX PAID IN FULL CHECK REVIEW	\$0.1000
05011P	WLBX CHECK DATE REVIEW	\$0.1000
05011P	WLBX WALK-IN COURIER PKG ITEM	\$2.0000
05011R	WLBX IMAGE DOCUMENTS IMAGED	\$0.0180
05011R	WLBX-EDC HL IMAGE TRANS MAINT	\$175.0000
05011R	WLBX-EDC IMAGE FILE PER IMAGE	\$0.0400
05011R	WLBX-EDC-ENHANCED CORR PROCESS	\$0.6200

A Proposed Depository Analysis Statement**San Francisco, CA City & County of**

AFP	Service Description	Proposed
050120	WLBX DUAL SIDED IMAGE MAINT	\$75.0000
050126	WLBX DATA CAPTURE	\$0.0100
050131	WLBX PAYEE VALIDATION PER ITEM	\$0.0984
05013A	WLBX CARD PAYMENT REJECT	\$2.7500
050300	WLBX DEPOSIT PREP PER DEPOSIT	\$1.1000
050400	WLBX CASHPRO REC MAINTENANCE	\$50.0000
050405	WLBX IMAGEDROP MAINTENANCE	\$0.0000
050405	WLBX IMAGEDROP PER FILE	\$5.0000
050405	WLBX IMAGEDROP PER IMAGE	\$0.0000
050413	WLBX COURIER DELIVERY OF PKG	\$520.5100
050422	WLBX CASHPRO REC ARCHIVE 6M-1Y	\$0.0350
050424	WLBX CASHPRO REC ARCHIVE 7 YR	\$0.0525
050424	WLBX CASHPRO REC PER IMAGE	\$0.0100
050424	WLBX IMAGE PDF MAINTENANCE	\$0.0000
050530	WLBX CORRESPONDENCE	\$0.3500
050530	WLBX REJECTED ITEM	\$0.3500
050540	WLBX MISC GOODS RETURNED	\$50.0000
109999	WLBX-EDC EOB PROCESSED	\$0.5900
Total Lockbox Services		
Depository Services		
100000	BANKING CENTER DEPOSIT	\$0.5000
100007	QBD-NIGHT DROP DEPOSIT	\$0.5000
10001A	CURR-COIN DEP-\$100-QBD-ND	\$0.0800
10001Z	CURR-COIN DEP-\$100-BKG CTR	\$0.0800
100040	CHANGE ORDER BKG CTR	\$0.0000
100049	CURR SUPP \$100-BKG CTR	\$0.0000
100100	VAULT DEPOSIT	\$0.2000
100102	CURR DEPOSITED-PER NOTE-VLT	\$0.0280
100111	COIN DEPOSIT-NON STD BAG-VLT	\$2.0657
100113	COIN DEPOSIT-STD BAG-VLT	\$1.0657
10011Z	SAFE-RECYCLER CURR DEP-\$100	\$0.0100
100141	CHANGE ORDER-AUTO OR STNDG-VLT	\$0.5000
100144	COIN SUPP ROLL-VLT	\$0.1000
100148	CURR SUPP-\$100-NONSTD-VLT	\$0.0600
10014A	CURR SUPP-\$100-STD-VLT	\$0.0400
100200	CHECK DEPOSIT-ICL or RDSO	\$0.2000
100200	CHECK DEPOSIT-PAPER	\$0.2000
100209	TRANSMISSION MAINTENANCE	\$100.0000
100229	IMAGE DEPOSITED ITEMS-ICL	\$0.0150
100229	IMAGE DEPOSITED ITEMS-RDSO	\$0.0150
10022Z	CHECKS DEPOSITED-BKG CENTER	\$0.0300
10022Z	CHECKS DEPOSITED-CASH VAULT	\$0.0300
10022Z	CHECKS DEPOSITED-LOCKBOX	\$0.0200

A Proposed Depository Analysis Statement



San Francisco, CA City & County of

AFP	Service Description	Proposed
100310	CHECKS DEPOSITED-FOREIGN ITEM	\$1.0000
100400	RETURNS-CHARGEBACK	\$0.6000
100401	IRI RETURNS IMAGE TRANS MAINT	\$150.0000
100401	RETURNS-ADDITIONAL ADVICE	\$0.3000
100402	RETURNS-RECLEAR	\$0.3000
100419	LARGE ITEM RETURNED	\$10.0000
100430	RETURNS-MAKER REQUIRED	\$0.3000
100499	RETURNS-E-MAIL IMAGES	\$0.3000
100501	DEPOSIT CORRECTION-CASH	\$1.0000
100502	DEPOSIT CORRECTION-NONCASH-RDS	\$1.0000
101010	MTHLY COURIER ARMORED CARRIER	\$12,680.4900
109999	MAIL NOTIF-DCN OR RECEIPT-VLT	\$1.0000
109999	SAFECONNECT-RECYCLER MAINT	\$100.0000
Total Depository Services		
Paper Disbursement Services		
150102	GENERAL DISB CKS PAID-IMAGE	\$0.0800
150102	GENERAL DISB CKS PAID-TRUNC	\$0.0150
150122	PAYEE POSITIVE PAY MAINTENANCE	\$5.0000
150210	PAYEE POSITIVE PAY ISSUE MATCH	\$0.0100
150310	POSITIVE PAY EXCEPTIONS	\$1.0000
150322	ARP POSITIVE PAY RETURN-OTHER	\$4.6900
150410	STOP PAY AUTOMATED<=12 MONTHS	\$1.0000
150410	STOP PAY AUTOMATED>12 MONTHS	\$1.0000
150500	NON-RELATIONSHIP CK CASHED	\$0.0000
150500	NON-RELATIONSHIP CK CASHED-CA	\$0.0000
151099	ARP PPAY NO RECON INPUT ITEM	\$0.0100
151350	CASHPRO IMAGE SUBSCRIPTION	\$10.0000
151350	IMAGEDROP FILE MAINTENANCE	\$5.0000
151351	CASHPRO ONLINE IMAGE RETRIEVAL	\$0.1000
151351	IMAGE ARCHIVE-90 DAYS	\$0.0000
151353	IMAGEDROP PER FILE	\$0.0050
151353	IMAGEDROP PER ITEM	\$0.0050
159999	ARP PPAY INPUT FILE-TRANS	\$0.0000
Total Paper Disbursement Services		
Paper Disb Recon Services		
150030	ARP PPAY MAINT-NO RECON	\$10.0000
159999	ARP AUTO CHECK RETURN MAINT	\$10.0000
200010	ARP FULL PPAY MAINT-PAPER SUPP	\$15.0000
200020	ARP PARTIAL PPAY MAINT-SUPP	\$10.0000
200110	ARP FULL PPAY INPUT PER ITEM	\$0.0100
200120	ARP PARTIAL PPAY ITEM	\$0.0100
200209	ARP VOID CANCEL ITEMS	\$0.0000
200301	ARP RECON OUTPUT FILE	\$2.0000

A Proposed Depository Analysis Statement



San Francisco, CA City & County of

AFP	Service Description	Proposed
200305	CASHPRO ARP REPORTS	\$0.0000
200309	ARP OUTPUT PROCESSING PER ITEM	\$0.0000
200401	ARP SUB-ACCOUNTING	\$0.0000
209999	GLOBAL DIGITAL DISB-MAINT	\$100.0000
209999	GLOBAL DIGITAL DISB-ZELLE ITEM	\$1.0000
Total Paper Disb Recon Services		
General ACH Services		
250000	ACH LV-MONTHLY MAINTENANCE	\$10.0000
250000	ACH MONTHLY MAINTENANCE	\$70.0000
250000	ACH POSITIVE PAY ACCT MAINT	\$5.0000
250100	ACH OFF US DEBITS	\$0.0200
250100	ACH ON US DEBITS	\$0.0200
250100	ACH ON US DEBITS-SAME DAY	\$0.0200
250101	ACH OFF US CREDITS	\$0.0200
250101	ACH OFF US CREDITS-SAME DAY	\$0.0200
250101	ACH ON US CREDITS	\$0.0200
250101	ACH ON US CREDITS-SAME DAY	\$0.0200
250102	ACH LV OFF US ITEMS	\$2.5000
250102	ACH LV OFF US ITEMS-SAME DAY	\$3.5000
250102	ACH LV ON US ITEMS-SAME DAY	\$1.5000
25010B	EXPRESS TAX (EFTPS) ONLINE PMT	\$2.5000
250120	ACH ORIGINATED ADDENDA	\$0.0500
250150	ACH BLOCKS AUTH INSTRUCTIONS	\$0.3500
250200	ACH DEBIT RECEIVED ITEM	\$0.0070
250201	ACH CREDIT RECEIVED ITEM	\$0.0070
250201	ACH CREDIT RECEIVED ITEM	\$0.0070
250302	ACH RETURN ITEM	\$2.0000
250312	ACH UNAUTHORIZED ENTRY	\$4.5000
250400	ACH OUTPUT-FILE	\$20.0000
250400	ACH REPORTS-ELECTRONIC	\$1.0000
250501	ACH INPUT-FILE	\$10.0000
250504	ACH INPUT-ECHANNEL	\$10.0000
250640	ACH DELETE-REVERSAL	\$10.0000
250701	ACH REPORTS-FAX	\$2.1081
250800	PAYMODE CON TRANSACTION	\$0.0400
250800	PAYMODE TRANSACTION	Tiered \$0.5000
250800	PAYMODE TRANSACTION	Tiered \$0.2000
251040	ACH INPUT-BATCH	\$10.0000
251050	ACH BLOCKS AUTH ADD-CHANGE	\$1.0000
251050	ACH BLOCKS AUTH MAINTENANCE	\$1.0000
251070	ACH NOTIF OF CHANGE (NOC)	\$1.2500
251110	PAYMODE CON MTHLY LICENSE	\$115.0000
251110	PAYMODE LICENSE	\$100.0000

A Proposed Depository Analysis Statement



San Francisco, CA City & County of

AFP	Service Description	Proposed
251211	ACH INTERNATIONAL ITEMS	\$3.5000
259999	ACH REPORTS-MAIL	\$0.0000
Total General ACH Services		
EDI Services		
300010	CASHPRO CONNECT REC TRAN MAINT	\$250.0000
300222	EDI REPORT PER ACCOUNT	\$3.0000
300225	CASHPRO CONNECT REC MAINT	\$10.0000
300229	CASHPRO CONNECT REC INVOICES	\$0.0500
Total EDI Services		
Wire & Other Funds Trnsf Svcs		
300221	CASHPRO CONNECT REC ITEMS	\$0.2500
350000	CASHPRO GP ACCTS ENTITLED	\$0.0000
350000	WIRE MONTHLY SUBSCRIPTION	\$10.0000
350103	ELEC WIRE OUT-DOMESTIC	\$4.0000
350113	ELEC WIRE OUT-USD INTL	\$9.5000
350113	ELEC WIRE OUT-USD INTL-CHG OUR	\$35.0000
350120	CASHPRO ACCOUNT TRANSFER	\$1.0000
350123	ELEC WIRE OUT-BOOK DB	\$1.0000
350300	INCOMING DOMESTIC WIRE	\$1.0000
350310	INCOMING USD INTL WIRE-CHG BEN	\$5.0000
350310	INCOMING USD INTL WIRE-CHG OUR	\$0.0000
350320	BOOK CREDIT	\$1.0000
350412	WIRE ADVICE-MAIL	\$2.0000
350521	WIRE OUT-DRAWDOWN RESPONSE	\$5.5000
350550	PH OR STND ORDER TMLT STORG	\$0.5000
350599	CASHPRO GP CUST MNT TMLT STRG	\$0.5000
Total Wire & Other Funds Trnsf Svcs		
Information Services		
400052	CASHPRO ONLINE PDR ACCOUNT	\$4.0000
400055	CASHPRO ONLINE CDR ACCOUNT	\$4.0000
400110	CASHPRO CONNECT PDR ACCT	\$4.0000
400110	CASHPRO CONNECT PDR ITEM	\$0.0150
400110	CASHPRO TRANSMISSION PDR ACCT	\$1.6000
400110	CASHPRO TRANSMISSION PDR ITEM	\$0.0150
400272	CASHPRO ONLINE PDR ITEM	\$0.0150
400275	CASHPRO ONLINE CDR ITEM	\$0.0150
400299	CASHPRO ONLINE SUBSCRIPTION	\$15.0000
400299	CASHPRO REPORT EMAIL SCHEDULED	\$0.4939
400299	CASHPRO REPORTING SUBSCRIPTION	\$15.0000
400340	CASHPRO ONLINE RESEARCH ITEM	\$0.0900
400810	SWEEP ACTIVITY REPORT	\$5.0000
Total Information Services		

A Proposed Depository Analysis Statement



San Francisco, CA City & County of

TOTAL ACTIVITY CHARGES

One Time Service Charges

Depository Services

100830	SUPPLIES-BAGS,TICKETS,MISC	COST
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Total Depository Services

Paper Disbursement Services

150810	SUPPLIES-CHECKS,STAMPS	COST
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Total Paper Disbursement Services

TOTAL ONE TIME SERVICE CHARGES

Prices are valid for 90 days from receipt of this pro-forma.
Other fees may be assessed in accordance with Bank of America's Schedule of Fees.

Confidential to Bank of America



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 230754

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Amanda Wentworth	(415) 554-4871
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
TTX Treasurer and Tax Collector	amanda.wentworth@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR Bank of America, N.A.	TELEPHONE NUMBER 951.233.1221
STREET ADDRESS (including City, State and Zip Code) 555 California Street, Suite 1160, San Francisco, CA 9	EMAIL jonathan.millard@bofa.com

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 230754
DESCRIPTION OF AMOUNT OF CONTRACT \$8,083,000		
NATURE OF THE CONTRACT (Please describe) Banking and Payment Services.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Moynihan	Brian	Board of Directors
2	Allen	Sharon L.	Board of Directors
3	Bies	Susan S.	Board of Directors
4	Bramble, Sr.	Frank P.	Board of Directors
5	de weck	Pierre J. P.	Board of Directors
6	Donald	Arnold W.	Board of Directors
7	Hudson	Linda P.	Board of Directors
8	Lozano	Monica C.	Board of Directors
9	May	Thomas J.	Board of Directors
10	Nowell, III	Lionel L.	Board of Directors
11	Ramos	Denise L.	Board of Directors
12	Rose	Clayton S.	Board of Directors
13	White	Michael D.	Board of Directors
14	Woods	Thomas D.	Board of Directors
15	Yost	R. David	Board of Directors
16	Zuber	Maria T.	Board of Directors
17	Moynihan	Brian	CEO
18	Knox	Kathleen A.	Other Principal Officer
19	Athanasia	Dean	Other Principal Officer

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Leitch	David	Other Principal Officer
21	Bessant	Catherine P.	Other Principal Officer
22	Bhasin	Aditya	Other Principal Officer
23	Bronstein	Sheri B.	Other Principal Officer
24	Nguyen	Thong M	Other Principal Officer
25	Donofrio	Paul M.	Other Principal Officer
26	Sieg	Andy	Other Principal Officer
27	Mogenson	Lauren	Other Principal Officer
28	O'Neill	Holly	Other Principal Officer
29	Scrivener	Tom M.	Other Principal Officer
30	Stewart	Wendy H.	Other Principal Officer
31	Greener	Geoffrey S.	Other Principal Officer
32	Thompson	Bruce	Other Principal Officer
33	Katziff	Christine P	Other Principal Officer
34	Anaya	Raul A.	Other Principal Officer
35	Bolan	D. Steve	Other Principal Officer
36	Borthwick	Alastair	Other Principal Officer
37	Demare	James P.	Other Principal Officer
38	Koder	Matthew M.	Other Principal Officer

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39	Levine	Aron	Other Principal Officer
40	Mensah	Bernard A	Other Principal Officer
41	Berkshire Hathaway, Inc.		Shareholder
42			
43			
44			
45			
46			
47			
48			
49			
50			
<input type="checkbox"/>	Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.		

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<p>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</p> <p>BOS Clerk of the Board</p>	<p>DATE SIGNED</p>
---	---------------------------



Treasurer & Tax Collector
CITY AND COUNTY OF SAN FRANCISCO

José Cisneros
TREASURER

June 16, 2023

Angela Calvillo, Clerk of the Board Board of Supervisors
1 Dr. Carlton B. Goodlett Place,
Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find a proposed resolution for Board of Supervisors approval, which authorizes the Office of the Treasurer & Tax Collector to enter into a contract extension with Bank of America. The following accompanying documents are included:

- Copy of signed contract amendment between City and County of San Francisco and Bank of America.
- Copies of the original contract and all contract amendments between City and County of San Francisco and Bank of America.
- Completed Ethics Commission Form SFEC-126

Thank you,

Amanda Fried
Chief of Policy and Communications
(415) 554-0889