

# AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 21-0229

**APPROVAL OF MODIFICATION NO. 6 TO CONTRACT NO. 9186 WITH THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. TO INCREASE THE CONTRACT AMOUNT BY \$1,050,000 FOR A NEW TOTAL NOT-TO-EXCEED CONTRACT AMOUNT OF \$3,800,000 FOR ONGOING BOND TRUSTEE AND PAYING AGENT SERVICES**

- WHEREAS, the Airport Commission (Commission) adopted Resolution No. 91-0210 on December 3, 1991 (as subsequently amended and supplemented, the “Master Bond Resolution”) to govern the sale and issuance of revenue bonds; and
- WHEREAS, a bond trustee and paying agent is required to, among other things, maintain bond-related funds and accounts and make timely principal and interest payments to bondholders so long as any bonds are outstanding; and
- WHEREAS, the Commission has issued and plans to issue revenue bonds and other debt instruments that will require the services of a bond trustee; and
- WHEREAS, the Master Bond Resolution sets forth the trustee’s duties and certain terms and conditions applicable to the trustee, providing that the trustee will serve in its role until it shall have been replaced due to its resignation or removal, and providing that the Commission agrees to pay fees to and expenses of the trustee for its services under the Master Bond Resolution as agreed to by the Commission and the trustee pursuant to the terms of a separate agreement; and
- WHEREAS, on November 4, 1991, the Commission adopted Resolution No. 91-0197, authorizing award of a contract with First Interstate Bank, Ltd. (now known as The Bank of New York Mellon Trust Company, N.A., and referred to herein as the Trustee), to provide bond trustee and paying agent services under the Master Bond Resolution in the amount of \$260,000; and
- WHEREAS, the Commission and the Trustee entered into an Agreement, dated March 1992 (Contract No. 9186 or the Trustee Agreement), for such services with a maximum amount of \$260,000; and
- WHEREAS, the Trustee Agreement is the “separate agreement” setting forth the terms of payment of the Trustee’s fees and expenses for its services referenced in the Master Bond Resolution; and
- WHEREAS, the Trustee Agreement does not have a stated expiration date and continues until it is terminated in accordance with the Master Bond Resolution, which also does not state an end date for the services of the Trustee and requires a replacement trustee to be in place before the Trustee can resign or be removed; and
- WHEREAS, on December 4, 2001, the Commission adopted Resolution No. 01-0360 , which authorized Modification No. 1 to the original agreement to increase the total compensation by \$600,000 for a new total not-to-exceed amount of \$860,000, which the parties executed on the same date; and

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- WHEREAS, on February 6, 2007, the Commission adopted Resolution No. 07-0035, which authorized Modification No. 2 to the original agreement, to increase the total compensation by \$900,000 for a new total not-to-exceed amount of \$1,760,000, which the parties executed on the same date; and
- WHEREAS, on November 15, 2011, the Commission adopted Resolution No. 11-0251, which authorized Modification No. 3 to the original agreement, to increase the total compensation by \$800,000 for a new total not-to-exceed amount of \$2,560,000, which the parties executed on April 1, 2012; and
- WHEREAS, on February 7, 2017, the Commission adopted Resolution No. 17-0022, which authorized Modification No. 4 to the original agreement, to increase the total compensation by \$190,000 for a new total not-to-exceed amount of \$2,750,000, which the parties executed on April 1, 2017; and
- WHEREAS, on June 1, 2018, the City and the Trustee entered into Modification No. 5, which administratively modified the original agreement to update Appendix B – Bond Trustee Services – Calculation of Charges, without increasing the not-to-exceed compensation amount; and
- WHEREAS, the Commission desires now to approve Modification No. 6 to increase the contract amount by \$1,050,000 for a new total not-to-exceed amount of \$3,800,000 to add funds to the Trustee Agreement to pay for these services for future years; and
- WHEREAS, the City’s Board of Supervisors (Board) approved the issuance of bonds under the Master Bond Resolution on January 6, 1992 (Resolution No. 34-92) and with several other subsequent Board resolutions, and confirmed the retention of The Bank of New York (a predecessor entity to the Trustee) as Trustee on May 1, 2007 (Resolution No. 235-07), but the Trustee Agreement and the previous modifications have not been presented to the Board for stand-alone approvals; and
- WHEREAS, in order to resolve any uncertainty about whether further Board approval is required, it is desirable to request Board approval under Section 9.118 of the Charter of the City and County of San Francisco for Modification No. 6, as well as retroactive Board approval of the Trustee Agreement, as modified by the previous modifications; now, therefore, be it
- RESOLVED, that this Commission hereby approves Modification No. 6 to Contract No. 9186 with The Bank of New York Mellon Trust Company, N.A., to increase the contract amount by \$1,050,000, for a new total not-to-exceed amount of \$3,800,000, for ongoing bond trustee and paying agent services under the Master Bond Resolution; and, be it further
- RESOLVED, that the Commission Secretary is hereby authorized to request Board approval under Section 9.118 of the Charter of the City and County of San Francisco for Modification No. 6, as well as retroactive Board approval of the Trustee Agreement, as modified by the previous modifications.

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*I hereby certify that the foregoing resolution was adopted by the Airport Commission  
at its meeting of* \_\_\_\_\_

DEC 7 2021

\_\_\_\_\_  
Secretary



**MEMORANDUM**

December 7, 2021

TO: AIRPORT COMMISSION  
Hon. Larry Mazzola, President  
Hon. Eleanor Johns, Vice President  
Hon. Everett A. Hewlett, Jr.  
Hon. Jane Natoli  
Hon. Malcolm Yeung

21-0229

DEC 7 2021

FROM: Airport Director

SUBJECT: Approval of Modification No. 6 to Contract No. 9186 with The Bank of New York Mellon Trust Company, N.A. to Increase the Contract Amount by \$1,050,000 for a New Total Not-To-Exceed Contract Amount of \$3,800,000 for Ongoing Bond Trustee and Paying Agent Services

DIRECTOR'S RECOMMENDATION: APPROVE MODIFICATION NO. 6 TO CONTRACT NO. 9186 WITH THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. TO INCREASE THE CONTRACT AMOUNT BY \$1,050,000 FOR A NEW TOTAL NOT-TO-EXCEED AMOUNT OF \$3,800,000 FOR ONGOING BOND TRUSTEE AND PAYING AGENT SERVICES AND DIRECT THE COMMISSION SECRETARY TO REQUEST APPROVAL BY THE BOARD OF SUPERVISORS.

**Executive Summary**

The Bank of New York Mellon Trust Company, N.A. (Trustee) provides ongoing independent bond trustee and paying agent services under Contract No. 9186 (Contract). These services are required by Resolution No. 91-0210, as amended and supplemented (the Master Bond Resolution), to be in place for the life of the revenue bonds issued by the Commission. Staff recommend increasing the Contract amount by \$1,050,000 for a new total not-to-exceed contract amount of \$3,800,000 in order to maintain bond trustee and paying agent services. Staff also recommends authorizing the Commission Secretary to request Board of Supervisors approval under Section 9.118 of the Charter of the City and County of San Francisco for Modification No. 6, as well as retroactive approval of the Contract, as modified by the previous modifications.

**Background**

The Commission adopted Resolution No. 91-0197 on November 4, 1991, authorizing award of the Contract to the Trustee in the amount of \$260,000, to provide bond trustee and issuing and paying agent services required under the Master Bond Resolution (see Attachment A). The Contract was established without an expiration date and will continue until the Contract is terminated in accordance with the Master Bond Resolution, which also does not state an end date for the services of the Trustee and requires a replacement trustee to be in place before the Trustee can resign or be removed.

As indicated in the following table, Staff periodically returns to the Commission when necessary to add funds to the Contract to pay for these services for future years.

THIS PRINT COVERS CALENDAR ITEM NO. \_\_\_\_\_

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AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED  
MAYOR

LARRY MAZZOLA  
PRESIDENT

ELEANOR JOHNS  
VICE PRESIDENT

EVERETT A. HEWLETT, JR.

JANE NATOLI

MALCOLM YEUNG

IVAR C. SATERO  
AIRPORT DIRECTOR

Contract Modification (Date)	Contract Authority
Original Contract (Mar 1992)	\$ 260,000
Modification No. 1 (Dec 2001)	600,000
Modification No. 2 (Feb 2007)	900,000
Modification No. 3 (Apr 2012)	800,000
Modification No. 4 (Apr 2017)	190,000
Modification No. 5 <sup>1</sup> (Jun 2018)	0
Modification No. 6 (Proposed Dec 2021)	1,050,000
Total Authority	\$3,800,000

<sup>1</sup>Modification No. 5 updated the Calculation of Charges and did not require Commission approval.

### **Modification No. 6**

The Commission has paid the Trustee approximately \$2,671,540 in fees through November 30, 2021. The attached resolution approves Modification No. 6 to increase the Contract amount by \$1,050,000 for a new total not-to-exceed contract amount of \$3,800,000. This is conservatively estimated to cover the costs of bond trustee and paying agent services for the next five years following the date of this memorandum.

### **Board Approval**

As described above, the Contract dates back to 1992 and has been modified five times, including four previous modifications that cumulatively exceed \$500,000. Charter Section 9.118 requires Board of Supervisors' (Board) approval of certain contracts with a term that exceeds ten years, and modifications to such contracts that exceed \$500,000. The Contract and prior modifications were not presented to the Board for stand-alone approvals; given the unique structure of the Contract, which is intertwined with the Master Bond Resolution, the Airport, in consultation with the City Attorney's office, considered the Contract and modifications to be approved in the ambit of the Board's multiple approvals of the issuance of bonds under the Master Bond Resolution. For the proposed Modification No. 6, the City Attorney's office advised Staff that to resolve any uncertainty about whether further Board approval is required, the safest course is to seek Board approval for both Modification No. 6 and the Contract, as previously modified. Therefore, the attached resolution authorizes the Commission Secretary to request Board approval under Section 9.118 of the Charter of the City and County of San Francisco for Modification No. 6, as well as retroactive approval of the Contract, as modified by the previous modifications.

### **Recommendation**

I recommend the Commission adopt the attached resolution approving Modification No. 6 to Contract No. 9186 with The Bank of New York Mellon Trust Company, N.A to increase the contract amount by \$1,050,000 for a new total not-to-exceed contract amount of \$3,800,000 to provide ongoing bond trustee and paying agent services and direct the Commission Secretary to request approval by the Board of Supervisors.



Ivar C. Satero  
Airport Director

Prepared by: Jan Mazyck  
Chief Financial Officer

Attachments

## ATTACHMENT A

### **BOND TRUSTEE AND PAYING AGENT SERVICES**

The Bank of New York Mellon Trust Company, N.A. provides bond trustee and paying agent services to the Commission under the Master Bond Resolution, including services related to the Airport's fixed rate revenue bonds, variable rate revenue bonds, outstanding interest rate swap, and other financing agreements.

Regular services provided by the Trustee include:

- Investment of reserve funds held by the Trustee under the direction of the Commission.
- Prompt reporting on investment yields and other information requested by the Commission.
- Payment of principal and interest on revenue bonds to bondholders, at the time and in the manner required by the Master Bond Resolution and the related supplemental resolutions.
- Providing notices to bondholders.
- Maintenance of books of registration for revenue bonds.
- The transfer and exchange of revenue bonds and other financing mechanisms.
- Prompt and timely assistance on trustee and paying agent issues related to short-term debt and other funding mechanisms instituted by the Commission.