

## **Banking Services Agreement**

**THIS AGREEMENT** made and entered into as of July 1, 2008, by and between the City of Hallandale Beach (hereinafter referred to as the "City"), located at 400 South Federal Highway, Hallandale Beach, FL, 33009, and City National Bank of Florida and its successor(s) and assignee(s) (hereinafter referred to as the "Contractor"), with offices located at 25 West Flagler Street, Miami, Florida 33130.

### **WITNESSETH:**

**WHEREAS**, the City issued, on April 4, 2008, a Request for Proposals for the provision of Banking Services for the City, RFP #FY2007-2008-001 (hereinafter referred to as the "RFP"), attached hereto as **Attachment "A"**;

**WHEREAS**, the Contractor submitted a proposal to the City dated May 2, 2008, attached hereto as **Attachment "B"**, for the provision of Banking Services;

**WHEREAS**, the Contractor desires to enter into an agreement with the City to perform such functions;

**NOW THEREFORE**, in consideration of the terms and conditions contained herein, the City and the Contractor agree as follows:

### **ARTICLE 1** **DEFINITIONS**

The following terms, as used throughout this Agreement, shall have the meaning set forth below:

Banking Services shall include, but not be limited to, the services as provided in RFP # FY2007-2008-001.

## **ARTICLE 2**

### **TERM**

The term of this Agreement shall be for a period commencing July 1, 2008 and ending June 30, 2013. The City has the option to extend the agreement for up to five (5), one year extension terms (maximum 10 years), providing: a) all terms, conditions and specifications remain the same, b) both parties agree to the extension, and c) such extension is approved in the best interest of the City. The City may elect to extend the agreement beyond the period of five (5) years by providing notice to the Contractor thirty (30) days prior to the annual termination date. The Contractor has submitted additional clarification related to the term and pricing of the agreement and is incorporated herein as Attachment "C". City Manager may have the option to extend the agreement for subsequent periods in the best interest of the City.

## **ARTICLE 3**

### **TERMINATION FOR CAUSE CLAUSE**

Any agreement with the City obtained in violation of law, any breach of fiduciary duty during the agreement term by Contractor, Contractor staff or subcontractors, and failure to comply with any of the scope of services, terms, or conditions of this RFP by the Contractor may be cause for termination. A Sub-contractor, who commits any similar violation, shall be removed from the Project and promptly replaced by a Sub-contractor acceptable to the City.

## **ARTICLE 4**

### **SCOPE OF SERVICES TO BE PROVIDED TO THE CITY**

The City has employed the Contractor to provide Banking Service to the City. The services provided by the Contractor are set forth in the City's Request for Proposal (RFP) # FY 2007-2008-001 and the Contractor's response, received, and incorporated herein by reference.

**ARTICLE 5**  
**CONSORTIUM, SUBCONTRACTS, PARTNERS**

**5.1 Signatories.** The Contractor and the City are the only signatories to this Agreement. Nothing contained herein shall be construed to create any contractual relationship between the City and any persons, or agents directly or indirectly employed by the Contractor hereunder. The Contractor agrees that it is fully responsible and liable to the City under this Agreement for any acts or omissions of the Contractor's employees, consortium partners, representatives, agents, and any other persons directly or indirectly engaged in the performance of services under this Agreement.

**ARTICLE 6**  
**PERSONNEL**

**6.1 Competence of Staff.** The Contractor agrees to employ an adequate staff of competent professional and nonprofessional persons as may be required hereunder. The Contractor is required to provide the City with resumes of key personnel assigned to the engagement for City approval. Each of the Contractor's employees assigned to perform services hereunder shall have the proper skill, training and background so as to be able to perform in a competent and professional manner. The City shall have the right to accept or reject any persons assigned by the Contractor to perform contract work for reasons deemed suitable to the City. The City shall not exercise such right in violation of City, State or Federal Law.

In the event that any of Contractor's employee is found to be unacceptable to the City, including, but not limited to, demonstration that he or she is not qualified, the City shall notify the Contractor in writing of such fact and the Contractor shall immediately remove said employee unless otherwise agreed and, if requested by the City, promptly provide a replacement acceptable to the City.

In the event that an engagement partner or a project manager ceases employment with the Contractor or is unable to perform or continue work under this Agreement

for any other reason, the Contractor must assign a replacement with the same or better qualifications, subject to the approvals stated above.

**6.2 Staff Assigned.** The Contractor agrees that it will use its reasonable efforts to assure that the persons described in Attachment "B" will continue their assignment throughout the term of this Agreement.

**6.3 Responsibility for Personnel.** All personnel performing services hereunder shall be employees or partners of the Contractor, and the Contractor alone is responsible for their work, personal conduct while performing work, labor or services under this Agreement, as well as for their direction and compensation. Nothing included in this Agreement shall impose any liability or duty upon the City to persons, firms, or corporations employed or engaged by the Contractor as coordinators, consultants, or independent contractors or in any other capacity, or as employees, servants or agents of the Contractor, to make the City liable to any person, corporation, association or any government for the acts, omissions, liabilities, obligations and taxes of whatever nature, including, but not limited to employment insurance and payroll taxes, of the Contractor or its coordinators, consultants, employees, servants, agents or independent contractors.

## **ARTICLE 7** **INSURANCE REQUIREMENTS/INDEMNIFICATION**

Contractors shall procure and maintain for the duration of and in full compliance with the contract insurance against claims for injuries to persons and damage to property which may arise from or in connection with their performance hereunder by the contractor, his agents, representatives, employees and subcontractors. The cost of such insurance shall be included in the contractor's bid.

### **I. Minimum Scope of Insurance**

- A. Commercial General Liability, including:
  - 1. Premises and Operations.
  - 2. Products and Completed Operations.
  - 3. Blanket Contractual Liability.

(see Hold Harmless Agreement and #VII below).

4. Independent Contractors.
5. Broad Form Property Damage.
6. Personal Injury Liability.
7. Incidental Medical Malpractice.
8. Fire Legal Liability

B. Workers' Compensation Insurance.

C. Employer's Liability Insurance.

## II. Minimum Limits of Insurance

A. Commercial General Liability:

\$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

B. Workers' Compensation:

Workers' Compensation Insurance as required by the State of Florida. If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.

C. Employer's Liability:

\$100,000 limit per occurrence,

\$500,000 annual aggregate for disease,

\$100,000 limit for disease of an individual employee.

## III. Deductibles and Self-Insured Retentions

A. Deductibles/Self-Insurance Retentions Defined:

All deductibles and self-insured retentions must be shown clearly on the Certificates of Insurance and approved by the City.

B. Retention Levels:

The City has the option to reduce or eliminate any deductible or self-insured retention maintained by the contractor.

IV. Other Insurance Provisions

The policies shall contain the following provisions:

A. Additional Insured, Certificate Holder and Breach of Warranty Clause:

All insurances shall include as Additional Insured and Certificate Holder the City of Hallandale. There are not to be any special limitations on the protection being provided to the City, its officials, officers, employees or volunteers.

B. Contractor's Insurance is Primary:

The contractor's insurance coverages shall be primary insurance with respect to the City's, its officials', officers', employees', and volunteers' insurances. Any insurance and self-insurance maintained by the City, its officials, officers, employees, or volunteers shall be excess of the contractor's insurances and shall not contribute with it.

C. Coverage Guaranteed:

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

D. Occurrence Basis:

The contractor's insurances shall be on an occurrence basis as opposed to a claims-made basis. In other words, claims which occur during the policy period can be reported months or years later and still be paid, if they occur during the policy period. Claims-made policies cover only claims which occur and are made during the policy period. In the event occurrence based insurance is not available, use of claims-made insurance may be considered acceptable in limited circumstances, subject to written approval by the Risk Manager.

E. 30 Days Notice:

The following clause shall be included in all policies: This policy shall not be suspended, voided, or cancelled by either party, or a reduction or revision in coverage or limits of coverage except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City.

F. Separation of Insureds:

The definition of insured shall read as follows: "The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability". The company, in this context, being the contractor's insurance company.

1. If no such definition of the insured is quoted in the insurance, the contractor must provide "Cross Liability Clause" or "Severability of Interests Clause" endorsements for all liability insurances.

#### V. Acceptability of Insurance Company

##### A. Best Rating:

Insurance coverage must be with a company with a Best rating A.VII or better.

##### B. Florida State Licensed:

All insurance policies and bonds herein required of the contractor shall be written by a company authorized and licensed to do insurance business in the State of Florida and be executed by agents licensed as agents by the State of Florida.

#### VI. Verification of Coverage

##### A. Certificates and Endorsements Provided:

The contractor shall furnish the City with a certificate of insurance specifically stating the bid number and title and with original endorsements affecting coverage. The certificates and endorsements must be received and approved before any work commences.

##### B. Authorized Signatures:

The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

##### C. Coverage Continuation:

Insurance coverage required in these specifications shall be in force throughout the agreement. Should the contractor fail to provide acceptable evidence of current insurance within seven (7) days of receipt of written notice at any time during the agreement, the City shall have the right to consider the agreement breached and justifying termination thereof.

Compliance by the contractor and subcontractors with the foregoing requirements as to carrying insurance and furnishing copies of the insurance policies shall not relieve the contractor and all subcontractors of their liabilities and obligations under this agreement.

If coverage on the certificates of insurance is shown to expire prior to completion of all terms of the agreement with the City, the contractor shall furnish certificates of insurance evidencing renewal of such coverage to the City.

VII. Hold Harmless Agreement/Indemnity

CONTRACTOR shall at all times hereafter indemnify and hold harmless the City, its officers, agents, servants, and employees against any and all claim, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act of omission of the City and of CONTRACTOR, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this AGREEMENT including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property, from any and all claims, suits, actions, damages, and causes of actions which might arise for any personal injury, loss of life, or

other actions by third persons including, but not limited to contractor, its subcontractors, material, supplies, laborers, agents, invitees, licensees, servants, employees or assigns, sustained in the performance of any product, service, act or omission resulting from this Agreement, and to defend any action or proceeding brought hereon, and from and against any orders, judgments, executions, levies and decrees, including those for punitive damages, as may be entered therein.

Hold Harmless/Insurance Agreement

CONTRACTOR shall obtain and maintain contractual liability insurance in adequate limits under this indemnity and hold harmless provision. Further, the CONTRACTOR will notify his insurance agent without delay of the existence of the Hold Harmless Agreement within this agreement, and furnish a copy of the Hold Harmless Agreement to his Insurers. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Attorney, any sums due to CONTRACTOR under this Agreement may be retained by the City until all City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment or interest by the City.

CONTRACTOR acknowledges that the person(s) signing this Agreement has the authority to bind it.

**VIII. Limited Contractual Relationship**

Nothing contained in these contract specifications shall be construed as creating any contractual relationship between any of the contractor's subcontractors or suppliers and the City.

The contractor shall be as fully responsible to the City for acts and omissions of all subcontractors and suppliers and of all persons employed by the subcontractors and suppliers, as the contractor is for acts and omissions of persons directly employed by the contractor.

**A. Joint Venture:**

The parties agree that this agreement shall be the whole and total agreement between the parties, and the contractor is undertaking its activities as for its sole use and benefit and this agreement or the activities resulting there from shall in no way be construed to be a joint undertaking with the City, nor is the City in any way assuming responsibility or benefits of the contractor's activity. The contractor acts independently and in its own right, risk and responsibilities. The City assumes no direction, control, responsibility or liability for the activities of the contractor and, by the execution of this agreement, does not endorse or undertake any activity heretofore conducted by the contractor.

**IX. Other Requirements**

**A. Subcontractors' Insurance Requirements:**

Contractors shall include all subcontractors as it's insured under its policies or shall furnish separate certificates and all endorsements for each subcontractor's coverages. All overages for subcontractors shall be subject to all the requirements stated herein.

**ARTICLE 8**  
**PAYMENTS**

Based on the terms of the Agreement there are no fees or payments to the Contractor

**ARTICLE 9**  
**GENERAL**

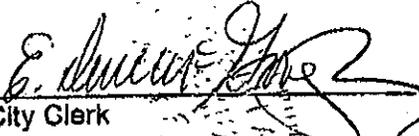
**9.1 Entire Agreement.** This Agreement, together with Appendices A, B, and C constitutes the entire understanding between the parties with respect to its subject matter

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature. CITY OF HALLANDALE BEACH through its authorization to execute same by Commission action on the 18<sup>th</sup> of June 2008, signing by and through its City Manager duly authorized to execute same.

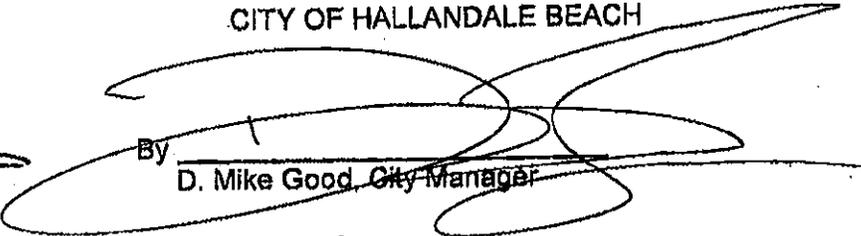
CITY

ATTEST:

CITY OF HALLANDALE BEACH

  
City Clerk

By

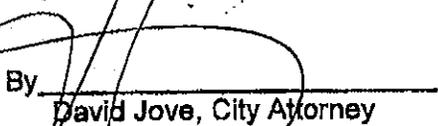
  
D. Mike Good, City Manager

8/26/8

Date

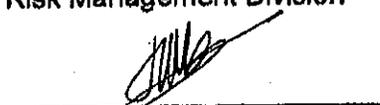
Approved as to form by  
City Attorney

By

  
David Jove, City Attorney

Approved as to surety company qualifications, insurance requirements, and insurance documentation:

Risk Management Division

  
Director



CONTRACTOR MUST EXECUTE THIS AGREEMENT AS INDICATED BELOW.  
USE CORPORATION OR NONCORPORATION FORMAT, AS APPLICABLE.

If the Company President does not sign the Agreement, there must be a Secretary's Certificate Form provided to the City of Hallandale Beach, Florida indicating designee signing, has the authority to sign.

(If incorporated sign below).

CONTRACTOR

ATTEST:

\_\_\_\_\_  
(Secretary)

\_\_\_\_\_  
City National Bank of Florida

By Armin F. Lovenvirth  
(Signature and Title) VICE PRESIDENT

(Corporate Seal)



Armin F. Lovenvirth Vice President  
(Type Name and Title Signed Above)

13 day of August, 2008.

(If not incorporated sign below).

CONTRACTOR

WITNESSES:

\_\_\_\_\_  
(Name)

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

By \_\_\_\_\_

\_\_\_\_\_  
(Type Name Signed Above)

\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_.

CITY REQUIRES THREE (3) FULLY-EXECUTED AGREEMENTS.