

# ATTACHMENT 1



**U.S. BANK NATIONAL ASSOCIATION  
ASSISTANT SECRETARY'S CERTIFICATE**

I, Natasha M. Knack, an Assistant Secretary of U.S. Bank National Association, hereby certify that the following is a true and exact extract from the Bylaws of U.S. Bank National Association, a national banking association organized under the laws of the United States (the "Association").

**ARTICLE VI.  
CONVEYANCES, CONTRACTS, ETC.**

All transfers and conveyances of real estate, mortgages, and transfers, endorsements or assignments of stock, bonds, notes, debentures or other negotiable instruments, securities or personal property shall be signed by any elected or appointed officer.

All checks, drafts, certificates of deposit and all funds of the Association held in its own or in a fiduciary capacity may be paid out by an order, draft or check bearing the manual or facsimile signature of any elected or appointed officer of the Association.

All mortgage satisfactions, releases, all types of loan agreements, all routine transactional documents of the Association, and all other instruments not specifically provided for, whether to be executed in a fiduciary capacity or otherwise, may be signed on behalf of the Association by any elected or appointed officer thereof.

The Secretary or any Assistant Secretary of the Association or other proper officer may execute and certify that required action or authority has been given or has taken place by resolution of the Board under this Bylaw without the necessity of further action by the Board.

I further certify that Robert K. McGlynn, Vice President, is a duly appointed and qualified officer of the Association authorized to act under Article VI of the Bylaws of the Association and that such authority is in full force and effect as of the date hereof and has not been modified, amended or revoked.

IN WITNESS WHEREOF, I have set my hand this 23<sup>rd</sup> day of May, 2018.

(No corporate seal)

*Natasha M. Knack*

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Natasha M. Knack, Assistant Secretary

## BANKING SERVICES AGREEMENT

This Agreement for the provision of banking services is entered into this 19<sup>th</sup> day of June 2018, by and between the City of Lake Forest, a California municipal corporation ("City"), and U. S. Bank National Association ("Bank"), herein collectively referred to as the "Parties."

### RECITALS

WHEREAS, City desires to retain Bank to act as depository of City funds and as provider of banking; and

WHEREAS, City wishes to contract with a bank having experience in the receipt, safekeeping and management of municipal funds; and

WHEREAS, Bank is willing to enter into a contract with City to provide professional banking services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

### ARTICLE I - SCOPE OF SERVICES

#### 1.1 Bank's Specified Services

Bank shall perform the services as described in Exhibit A.

#### 1.2 Additional Services

Bank may perform services in addition to those listed in Section 1.1 when requested to do so by City. Compensation for any additional services performed by Bank shall be negotiated between Bank and City and incorporated into this Agreement or other mutually-executed writing prior to Bank performing such additional services.

#### 1.3 Cooperation with City

In performance of the aforementioned services, Bank shall work closely with City's City Manager, Finance Director and all other City employees having responsibility for the deposit, withdrawal and investment of City funds.

#### 1.4 Satisfactory Performance

Bank agrees to perform all services to the reasonable satisfaction of the City and within the time specified in Exhibit A. Evaluations of the work will be done by City staff or a designated individual. If the quality of the work is not satisfactory, the City, in its discretion, shall have the right to: 1) meet with Bank to review the quality of or manner in which the services are being performed and resolve matters of concern; and/or 2) terminate the Agreement as hereinafter set forth.

1.5 Compliance with Law

All services rendered hereunder shall be provided in accordance with the requirements of local, State and Federal law, all to the extent applicable to the Bank.

1.6 Familiarity with Work

By execution of this Agreement, Bank warrants that: 1) it has thoroughly investigated and considered the services to be performed; 2) it has examined the applicable provisions of local, state and federal law regarding the deposit, withdrawal, management and investment of City funds; and 3) it has carefully considered how the services should be performed.

ARTICLE II - TERM

2.1 Term of Agreement

Unless terminated earlier pursuant to the express provisions of this Agreement, the term of this Agreement shall commence on July 1, 2018 and continue until June 30, 2021.

2.2 Extension of Time

The term of this Agreement may be extended by City and Bank by written agreement with respect to each such extension at least thirty (30) calendar days prior to the date of which this Agreement or an extension thereof would otherwise have terminated. The terms and conditions of the Agreement as so extended shall be as set forth herein except that City and Bank may mutually agree, in writing, to modifications of this Agreement. There shall be no more than two, one year extensions authorized.

2.3 Termination

Notwithstanding the term specified in Sections 1.4 or 2.1, either Party to this Agreement may terminate its obligations under this Agreement at any time by providing at least sixty (60) days advanced written notice of such intent to terminate to the other Party. Either Party may terminate its obligations under this Agreement for any reason. The sixty-day period following the delivery of notice shall be called the "Termination Period".

2.4 Effect of Termination

In the event of termination of this Agreement, City shall be liable to Bank for all services performed and compensation due to Bank for those services rendered up to the date that Bank ceases performance of those services. If City serves notice of termination upon Bank, Bank shall stop rendering services under this Agreement by the end of the Termination Period unless directed otherwise by City, and shall deliver to City all money, negotiable instruments, funds and other property currently on deposit with or held by Bank. Bank shall also deliver to City

copies of any reports or other documents relating to services performed for City under this Agreement.

### ARTICLE III - COMPENSATION

#### 3.1 Amount and Manner of Compensation

Except as provided below, for the provision of all services rendered in accordance with Exhibit B, during the term of this Agreement thereof, City shall compensate Bank in the amounts and manner provided for.

### ARTICLE IV - COORDINATION OF WORK

#### 4.1 Coordination of Work

The following officer positions of Bank (not totally inclusive) are authorized to act on Bank's behalf with respect to the services specified in this Agreement and to make all decisions in connection therewith:

Government Relationship Manager  
Treasury Management Consultant  
Government Service Banker Manager

#### 4.2 Notices

Any notices to be given under this Agreement shall be sent by prepaid mail or overnight delivery addressed as follows:

To City: City of Lake Forest  
Attn: Keith Neves  
Assistant City Manager  
25550 Commercentre Drive, Suite 100  
Lake Forest, California 92630

To Bank: U. S. Bank  
Attn: Rob McGlynn  
Vice President  
633 W. 5<sup>th</sup> Street, 24<sup>th</sup> Floor C  
Los Angeles, CA 90071

With a copy to:

U.S. Bank Commercial Customer Service  
Email: commercialcustserviceportland2@usbank.com  
Fax: (877)324-1680

### ARTICLE V - INDEPENDENT CONTRACTOR

## 5.1 Bank's Status

Bank is an independent contractor and not an employee of City. Neither City nor its employees shall have any control over the conduct of the Bank or its employees except as herein set forth, and Bank expressly warrants not to, at any time or in any manner, represent that Bank, or its officers, employees or agents, are in any manner officers, employees or agents of City. It is distinctly understood that Bank is and shall at all times remain as to City a wholly-independent contractor, and that Bank's obligations to City are solely as prescribed by this Agreement and its incorporated Exhibits.

## 5.2 Bank's Personal Services - Inducement

This Agreement contemplates that the Bank's personal services and those of its officers, employees and agents are a substantial inducement to City for entering into this Agreement. Except for assignments arising under operation of law following the acquisition of merger of the Bank, Bank may not assign any interest in this Agreement except upon consent of City. Further, Bank shall not subcontract any portion of the performance contemplated under this Agreement without prior written approval by City. Nothing in this Agreement shall be construed as preventing Bank from employing as many employees as Bank deems necessary for the proper and efficient execution of this Agreement.

# ARTICLE VI - INDEMNITY AND INSURANCE

## 6.1 Indemnity of City

Each Party shall indemnify, defend and hold free and harmless the other Party and their officers, employees and agents from and against any and all loss or liability for claims that occur or arise as a result of any negligence of such Party, its officers, employees and agents in performing any and all services rendered pursuant to this Agreement providing, however, such Party's obligation to defend, indemnify and hold free and harmless shall not arise as a result of that portion of any claim that may occur as a result of the other Party's negligence.

## 6.2 Insurance

Bank shall maintain, prior to the beginning of and for the duration of this Agreement, insurance coverage specified in Exhibit C, attached to and part of this Agreement.

# ARTICLE VII - MISCELLANEOUS

## 7.1 Enforcement of Agreement

This Agreement shall be construed and interpreted as to both validity and performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation

to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Bank covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

- 7.2 Disputes In the event of any dispute arising under this Agreement, the injured Party shall notify the injuring Party in writing of its contentions by submitting a claim therefor. The injured Party shall continue performing its obligations hereunder so long as the injuring party cures any default within thirty (30) days after service of said notice, or if the cure of the default is commenced within thirty (30) days of said notice and is cured within a reasonable time after commencement, provided that if the default is an immediate danger to the health, safety and general welfare, either Party may take immediate action under Section 7.1. Compliance with the provisions of this Section shall be a condition precedent to any legal action, and such compliance shall not be a waiver of either Party's right to take legal action in the event that the dispute is not cured.

7.3 Waiver

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. City's consent or approval of any act by Bank requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act of Bank. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.4 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

7.5 Attorneys' Fees

If either Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing Party.

7.6 Integration

This Agreement and Bank's Master Services Agreement and standard cash management agreements represent the entire understanding of City and Bank. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in the Agreement. This Agreement may not be altered, amended or modified except in writing by both Parties hereto.

7.7 Amendment

This Agreement may be amended at any time by the written mutual consent of both Parties. No amendment shall be effective unless written and signed by the Parties.

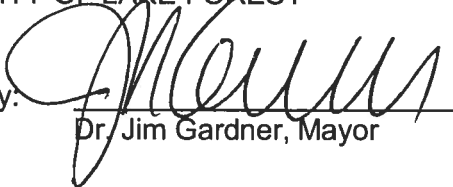
7.8 Corporate Authority

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF LAKE FOREST

By:

  
Dr. Jim Gardner, Mayor

U. S. BANK NATIONAL  
ASSOCIATION

By:



Attest:

By:

  
Acting City Clerk

Approved as to Form:

By: Best Best & Krieger LLP  
City Attorney





## **EXHIBIT A**

### **SERVICES**

#### **Qualifications**

1. A local branch of the bank is preferred to be located in the City of Lake Forest.
2. The bank must have a government banking division located in California that handles only government accounts.
3. The bank must be on the State list of Local Agency Investment Fund ("LAIF") transfers.
4. The bank must comply with State collateralization requirements.
5. The bank must be insured with Federal Deposit Insurance Corporation (FDIC) and/or Savings Association Insurance Fund (SAIF).

#### **Services**

1. Provide three (3) checking accounts with monthly statements reflecting the activity in each separate account. The three checking accounts are the general operating, payroll, and credit card clearing accounts. The payroll and credit card clearing accounts are zero-balance accounts linked to the general operating account. In addition, bank will provide the following services:
  - a) Maintenance of the three checking accounts;
  - b) Positive pay services;
  - c) Paper and electronic deposit processing;
  - d) Wire transfer deposits: Guarantee immediate credit on all wire transfers upon receipt;
  - e) Direct deposit of checks for the payroll account;
  - f) Stop payment services;
  - g) Accept and send Automated Clearing House (ACH) transactions;
  - h) Collateralize all collected balances, in excess of balances insured by the FDIC, as required by Sections 53530, et. seq., of the California Government Code;
  - i) Bank statement access on the web prior to mailed statements;
  - j) Access to on-line transactional information including processing of stop payment notices and other account maintenance or confirmation assistance. Include serial number sorting and subtotaling on disbursement checks;
  - k) Compensating balance account;
  - l) Monthly bank statements must be furnished for each account, and made available within ten (10) working days after the last calendar day. Each transaction must be identifiable and not combined with other transactions;
  - m) Monthly Account Analysis Reports will be provided within ten (10) working days after the last calendar day of the month and provide the following minimum information: average daily cash balance; Federal Reserve requirements; average daily float; average collected balance; earnings allowance; and transaction volumes and prices, including, but not limited to, account maintenance, deposits, checks paid, wire and intra-account transfers in and out, and returned checks.
2. Provide five (5) days a week courier service.

**EXHIBIT B**

**COMPENSATION**

DESCRIPTION	CHARGE PER ITEM
<b>Depository Services</b>	
Account Maintenance	\$ 4.00
Paper Credits	0.50
Electronic Credits	0.20
Paper Debits	0.10
Electronic Debits	0.10
Reject Checks Paid	\$0 for first 50, \$0.60 over 50 per account
Deposited Item-On-US	0.05
Deposit Items Returned	4.00
Deposit Item Image Viewed	1.25
Deposit Coverage	0.14575
Account Inquiry	5.00
Copy of Check/Deposit Ticket	10.00
Snapshot Statement/Copy	5.00
<b>Account Reconciliation Services</b>	
Positive Pay Only Maintenance	0.00
Positive Pay Only Per Item	0.01
Issue/Cancel Input	0.25
Issue Maintenance Confirm per File	1.00
<b>On-Line System</b>	
Current Day-Per Account	20.00
Previous Day Detail - Account	20.00
Previous Day per Item Detail	0.05
Monthly Deferred Deposit Account Statement Text	5.00
Monthly Deferred Deposit Account Statement PDF	5.00
Stop Payments Monthly Maintenance	15.00
Stop Payments per Stop	10.00
Positive Pay Monthly Maintenance	-
Issue Maintenance Monthly	10.00
Image Access Monthly Maintenance	15.00
<b>Wire Transfers</b>	
Wire Monthly Pin Maintenance	-
Voice Fed wire Non-Repetitive	20.00
Wire Transfer Special Handling	10.00
Wire Advice Fax	2.00
<b>Zero Balance Accounts</b>	
Lead	10.00
Subsidiary	5.00
<b>Image Services</b>	
Checks Paid per item Stores	0.035

Deposit Items Image per item Stores	0.035
<b>DESCRIPTION</b>	<b>CHARGE PER ITEM</b>
<b>Automated Clearing House Service</b>	
Process Run	5.00
Originated Transit Item	0.13
Originated On-US Item	0.12
Received Item	0.05
Monthly Maintenance - 3rd Party	10.00
Block Monthly Maintenance – per account	15.00
Filter Monthly Maintenance	20.00
<b>Branch Coin/Currency Services</b>	
Armored Car Service (per month)	1.00
Non Customer On US Check Cashing	-
<b>Cash Vault Service Coin/Currency</b>	
Cash Deposit Per \$100	0.11
Cash Vault Deposit	0.50
<b>Miscellaneous Charges</b>	
Cash Deposit Adjustment	6.50
Standard Cash Orders	3.00
Small Deposit Bags/Box	13.00
Mailed Receipts	0.75
Audit Confirmations	-

## EXHIBIT C

### INSURANCE REQUIREMENTS

1. Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section.

2. Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall maintain in full force and effect during the term of the Agreement the following policies of insurance.

(a) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, or equivalent, and shall be no less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits.

(b) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), or equivalent, covering bodily injury and property damage for all activities shall be in an amount of not less than \$1,000,000 combined limit for each occurrence.

(c) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

(d) Professional Liability: Professional Liability insurance with minimum limits of \$1,000,000 including coverage for negligent acts, errors or omissions. If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least two (2) years from termination or expiration of this Agreement.

3. Endorsements.

(A) The policy or policies of insurance required by Section 3.2.10.2(a), Commercial General Liability

(1) Additional Insured: The City, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement.

Additional Insured Endorsements shall be written on CG 20 26 or equivalent

(2) Cancellation: Required insurance policies shall not be canceled until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(B) The policy or policies of insurance required by Section 3.2.10.2(b) Automobile Liability shall be endorsed to provide the following:

(1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(C) The policy or policies of insurance required by Section 3.2.10.2(c), Workers' Compensation, shall be endorsed to provide the following:

(1) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

4. Primary and Non-Contributing Insurance. Except for the insurance required by Section 3.2.10.2(d) Professional Liability, all insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

5. Waiver of Subrogation. Except for the insurance required by Section 3.2.10.2(d) Professional Liability, required insurance coverages shall not prohibit Consultant from waiving the right of subrogation prior to a loss. Consultant shall waive all subrogation rights against the indemnified parties. Policies shall contain or be endorsed to contain such provisions.

6. Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver certificates of insurance. The certificates for each insurance policy shall be signed by a

person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled, Consultant shall, within ten (10) days after receipt of written notice of such cancellation, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

7. Failure to Maintain Coverage. Consultant agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Consultant until Consultant has fully complied with the insurance provisions of this Agreement. In the event that the Consultant's operations are suspended for failure to maintain required insurance coverage, the Consultant shall not be entitled to an extension of time for completion of the Services because of production lost during suspension.

8. Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A-:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

9. Insurance for Subconsultants. All Subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing Subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements. Consultant shall provide to City satisfactory evidence as required under Section 3.2.10.1 of this Agreement.