

CITY OF VANCOUVER
PROFESSIONAL SERVICES AGREEMENT No. _____
GENERAL BANKING SERVICES

This Agreement by and between the City of Vancouver, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as "City" and JPMorgan Chase Bank, N.A. hereinafter referred to as "Contractor", whose address is 1301 2nd Avenue, 24th Floor, Seattle, WA 98101-3800.

WHEREAS, the City desires to engage the Contractor to provide general banking services and other related services on an as needed basis. Contractor has agreed to offer its professional services to perform said work per City issued Request for Proposal (RFP) No. 18-20, Contractor's proposal to said RFP; this Agreement and City Council's approval on **Date** of Staff Report No. **##-##**; and

WHEREAS, the Contractor has represented by entering into this Agreement that it is fully qualified to perform the work described in this Agreement in a competent and professional manner, and to the standards required by City that are set forth in this Agreement or otherwise agreed to in writing by the parties.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

The City hereby agrees to engage the Contractor and the Contractor hereby agrees to perform, in a satisfactory and proper manner, as reasonably determined by the City, the services hereafter set forth in connection with this Agreement:

1. Statement of Work.

Contractor agrees to provide general banking services (the "Services") per RFP No. 18-20 and Contractor's response to said RFP on file in City of Vancouver Procurement Services by reference hereto made a part of this Agreement. For the avoidance of doubt, the term 'Services' (as used in this Agreement) and the scope of work to be performed under this Agreement does not include: any services for which Contractor did not submit a bid, merchant services, or procurement card services, the provision of any such services (if applicable) are subject to separate agreements between City and Contractor or its affiliate. References in this Agreement to the RFP and the Contractor's response refer only to the provisions in such documents that are applicable to the Services.

All work must be authorized and approved by the City's Project Manager in writing before any work begins. Contractor shall approach this project in a manner consistent with its customary practice. Contractor shall actively seek collaborative input from City staff.

Compensation shall be calculated based on the amount or volume of Services used by the City at the per-unit prices set forth on Exhibit A attached hereto and incorporated by reference. Compensation may be amended, by mutual agreement of the parties, for documentable circumstances not reasonably foreseeable to either party at the time the task and/or subtask is initiated, or for changes to the scope of work or deliverables requested by the City that are mutually agreed to by the parties. All deliverables must be acceptable to the City, at the reasonable discretion of the City.

This agreement is a purchase of professional services at the rates set-forth in Exhibit A attached hereto. Payment of fees and compensation for these services shall not exceed \$500,000 USD (the "Service Fee Cap") unless authorized in writing by the City, and the parties have signed an amendment according to Section 14 of this Agreement to increase the Service Fee Cap. The City shall not request any service for which expected fees would exceed the Service Fee Cap nor shall the City provide any instruction or direction to the Contractor that would cause the Contractor to incur costs or expenses that would exceed amounts the City is authorized to pay. If the City requests any service, functionality or feature that is not listed in Exhibit A, the implementation of such service, functionality or feature may be subject to additional terms and fees to be mutually agreed upon at the time of the City's request and execution of an amendment to increase the Service Fee Cap. If additional time is needed, please refer to Section 6 of this agreement. A written amendment must be attached.

In addition to the fees and compensation described above and elsewhere in this Agreement, the City shall pay and be liable to the Contractor for all costs and expenses (including, without limitation, fees, fines, taxes, interest and penalties) related to (a) the Contractor's acceptance or execution of any request, instruction or direction from the City, or any of the City's transactions; (b) any credit extended to the City in connection with the Services; or (c) the City's breach or failure to comply with this Agreement, the Services Terms or any laws, statutes, codes, rules, regulations or policies applicable to any of the City's transactions (including, without limitation, clearing house rules, funds transfer rules, Federal Reserve Operating Circulars, and the Uniform Commercial Code as in effect from time to time in the State of Washington). The foregoing costs and expenses are not subject to the Service Fee Cap.

2. Order of Precedence.

This Agreement is comprised of the following documents and where there is a conflict among or between any of these documents, the controlling documents shall be the first listed in the following sequence: Amendments to this Agreement; this Agreement; the Service Terms; Contractor's submitted proposal to RFP No. 18-20 and RFP No. 18-20.

"Service Terms" means the Contractor's account terms, services terms, and other document required for the administration, implementation or operation of the Services together with any addenda, schedules, supplements, and other attachments attached hereto as Exhibit B and incorporated herein by this reference.

3. Relation of Parties.

The Contractor, its subconsultants, agents and employees are independent contractors performing professional services for City and are not employees of City. The Contractor, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The Contractor, subconsultants, agents and employees shall not have the authority to bind City in any way except in connection with transactions that the City requests, instructs, or directs the Contractor to process or execute or as may be specifically provided herein.

4. E-Verify.

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

5. Time of Performance.

The service of the Contractor is to commence as of July 26, 2021. It is agreed services hereunder shall be completed by July 25, 2026.

6. Delays and Extensions of Time.

If the Contractor is delayed at any time in the progress of providing services covered by the Agreement, by any causes beyond Contractor's control, the time for performance may be extended by such time as shall be mutually agreed upon by Contractor and City and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to City.

7. Compensation and Schedule of Payments.

City shall pay the Contractor at the per-unit rates indicated in Exhibit A for the amount or volume of work performed under the terms of this Agreement. Such per-unit rates shall not be increased without City's prior written authorization in the form of a negotiated and executed amendment. Payment of all fees and compensation reflected in an account analysis statement shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals provided during the billing period covered by the statement. The Contractor shall submit monthly invoices, which shall be on the Contractor's form of account analysis, to City covering both professional fees and project expenses, if any, for fees and expenses from the previous month or billing period. Payments to Contractor shall be net 30 days.

The City reserves the right to correct any invoices paid in error according to the rates set forth in this Agreement. City and Contractor agree that any amount paid in error by City does not constitute a rate change in the amount of the contract.

During the life of this Contract, and in consideration of the City's business needs, the Contractor may make requests for compensation adjustments. In consideration of market conditions, the City may allow an annual adjustment to compensation paid for the actual cost of services. Contractor shall submit the request for consideration, together with supporting documentation, before the anniversary date of this Agreement. The City will review the request and, at its sole discretion, make a decision. If accepted, the adjustment shall become effective on the anniversary date of the Agreement and will be firm for the remainder of the contracted period. All adjustments will be authorized by written contract amendment.

8. Termination.

The City, at its sole discretion, may terminate this contract for convenience at any time for any reason deemed appropriate. Termination is effective immediately upon notice of termination given by the City.

The Contractor reserves the right to close an account and/or terminate a Service pursuant to the Service Terms and may terminate this agreement if it terminates all Services.

In the event this Agreement is terminated the City will pay the Contractor for Services performed or in the process of being performed that cannot reasonably be cancelled prior to such termination, and will reimburse the Contractor for any credit extended to the City in connection with the Services.

9. Evaluation and Compliance with the Law.

The Contractor shall have the authority to control and direct the performance and details of the work described herein. The Contractor agrees to comply with all relevant, federal, state and municipal laws, rules and regulations (“Legal Requirements”) to the extent that such Legal Requirements are binding on the Contractor in its performance of the Services. To the extent that Legal Requirements of the City currently, or in the future, impose obligations upon its Contractors or consultants that provide services contemplated in this Agreement, which are not expressly set forth in this Agreement, the Contractor will, if notified of such requirements, endeavor to comply with the same, except to the extent that it reasonably concludes that compliance with such requirement subject it to additional obligations, liability or expense or impose upon it reporting requirements of confidential or non-public information or information that it does not currently monitor. If the Contractor makes such determination, and the parties are unable to resolve these issues through mutually agreeable amendments to this Agreement, either party may terminate this Agreement for convenience upon notice to the other. Nothing in this Agreement shall be construed to require any party to (a) violate any Legal Requirement binding upon such party, (b) comply with any Legal Requirement from which it is exempt or (c) take, or refrain from taking, any action that would conflict with any request or demand of a regulatory authority, governing body or law enforcement agency.

10. City Business and Occupation License.

Contractors will be required to obtain a business license when contracting with the City of Vancouver, unless allowable exemptions apply. Businesses/Contractors shall contact the State of Washington Business License Service (BLS) at: <http://bls.dor.wa.gov/file.aspx>, telephone 800-451-7985, or go to www.bls.dor.wa.gov/cities/vancouver.aspx or www.cityofvancouver.us/businesslicense, to determine whether a business license is required pursuant to VMC Ch. 5.04.

11. Liability and Hold Harmless.

In addition to maintaining the insurance coverage required under Section 12 of this Agreement, Contractor agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees and expenses incurred in connection therewith, of whatsoever kind or nature (including patent infringement or copyright claims) to the extent the same are directly caused by , the negligent performance or willful misconduct of Contractor, its employees, subcontractors, or agents in the

performance of the Services pursuant to this Agreement. This indemnity and hold harmless shall include any claim made against the City by an employee of Contractor or subcontractor or agent even if Contractor is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the concurrent negligence of both the City and the Contractor, such cost, fees and expenses shall be shared between the City and the Contractor in proportion to their relative degrees of negligence. Contractor specifically acknowledges the provisions contained herein have been mutually negotiated by the parties. Contractor is an independent contractor and responsible for the safety of its employees. Notwithstanding anything to the contrary in this Agreement: (a) the Contractor shall not be liable for any indirect, incidental, consequential, exemplary, punitive or special damages, including lost profits, regardless of the form of action or theory of recovery, even if it has been advised of the possibility of those damages or the same are reasonably foreseeable; and (b) the Contractor's obligation to indemnify, defend, save and hold harmless the City, its officials, employees and agents shall not exceed, in the aggregate, an amount equal to two (2) times the average annual fees paid or payable to the Contractor under this Agreement (exclusive of any earnings credits used to offset such fees). For the avoidance of doubt, the limitation described in clause (b) of the foregoing sentence shall not limit the insurance coverage required under Section 12 of this Agreement.

12. Insurance.

Contractor shall obtain and keep in force during the entire term of this agreement, liability insurance against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the Contractor, subcontractor or anyone directly or indirectly employed by either the Contractor or a subcontractor.

a. **Liability Insurance.** Contractor shall maintain commercial General Liability insurance with a limit of not less than one million dollars (\$1,000,000) for each occurrence and not less than one million dollars (\$1,000,000) combined single limit business automobile liability coverage. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operation and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Agreement. All liability insurance required herein shall be under a comprehensive or commercial general liability and business, policies.

b. **City Listed as an Additional Insured:** The City of Vancouver, representatives, officers, directors, and employees must be included as an additional insured on the Commercial General Liability policy and shown on the certificate as an additional insured as their interest pertain to this contract. A copy of the additional insured endorsement CG 20 10 11 85, or its equivalent CG 20 10 07 04 and CG 20 37 07 04 must be included with the certificate of insurance.

c. **The employers liability policy** must be endorsed to include "Washington Stop Gap" insurance. The limits and aggregates referenced must apply to the Stop Gap coverage as well. This must be indicated on the certificate.

d. Worker's Compensation. Contractor shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, five hundred thousand dollars (\$500,000) for each disease for each employee, and one million dollars (\$1,000,000) for each disease policy limit.

g. Bankers Blanket Bond. The Contractor shall obtain and keep in force during the entire term of this Agreement, a Fidelity/Employee Dishonesty Bond against any and all claims which may arise out of the performance of this Contract whether such work shall be by the Contractor, subcontractor or anyone directly or indirectly employed by either the Contractor or a subcontractor. The amount of coverage provided by such insurance shall be not less than ten thousand dollars (\$10,000).

h. Employment Security. The Contractor shall comply with all employment security laws of the state in which services are provided and shall timely make all required payments in connection therewith.

i. The City of Vancouver shall be listed on the Certificate as the Certificate Holder.

j. Coverage Trigger: The insurance must be written on a "occurrence" basis. This must be indicated on the certificate. Claims made policies will be accepted for professional liability coverage only.

Contractor shall provide evidence of all insurance required, at the City's request, by submitting an insurance certificate to the City on a standard "ACORD" or comparable form.

13. Notices.

All notices which are given or required to be given pursuant to this Agreement shall be hand delivered or mailed postage paid (with a duplicate copy sent by email) as follows:

City:

Anna Vogel
City of Vancouver
415 W 6th Street
P O Box 1995
Vancouver WA 98668-1995
Anna.vogel@cityofvancouver.us

Contractor:

Lindsay Sovde
JPMorgan Chase Bank, N.A.
1301 2nd Avenue, 24th Floor
Mail Code: WA2-3533
Seattle, WA 98101-3800
Lindsay.A.Sovde@jpmorgan.com

14. Amendments.

All changes to this Agreement, including changes to the statement of work and compensation, must be made by written amendment and signed by all parties to this Agreement.

15. Scope of Agreement.

This Agreement, together with the documents referenced in section 2 of this agreement, incorporates all the agreements, covenants and understanding between the parties hereto with respect to

the Services and are merged into this written Agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents with respect to the Services shall be valid or enforceable unless set forth in this Agreement.

16. Ratification.

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

17. Governing Law/Venue.

This Agreement shall be deemed to have been executed and delivered within the State of Washington, and, except to the extent pre-empted by federal law, in which case federal law shall govern, the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The contractor shall have legal authority to enter into this agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington or if federal jurisdiction is present, the U.S. Court for the Western District of Washington (Tacoma Division).

18. Cooperative Purchasing:

The Washington State Inter-local Cooperation Act, Ch. 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Agreement, the Contractor agrees that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without the City of Vancouver incurring any financial or legal liability for such purchases. The City of Vancouver agrees to allow other public agencies to purchase goods and services under this solicitation or contract, provided that the City of Vancouver is not held financially or legally liable for purchases and that any public agency purchasing under such solicitation or contract file a copy of this invitation and such contract in accordance with RCW 39.34.040.

Notwithstanding the foregoing, cooperative purchase under this Agreement is also subject to Contractor's approval on a case by case basis, which approval will be based on criteria determined by Contractor in its sole discretion. If Contractor approves cooperative purchase by another agency, such approval will also be conditioned upon adjustments in pricing and other terms and conditions as are mutually agreed to between Contractor and such other agency, and execution of mutually acceptable documentation. Contractor is authorized to disclose the terms of this Agreement in connection with a cooperative purchase. Any agency requesting cooperative purchase is solely responsible for ensuring that such purchase is in accordance with legal requirements binding on such agency.

19. Public Disclosure Compliance.

The parties acknowledge that the City is an "agency" within the meaning of the Washington Public Records Act, Ch 42.56 RCW, and that materials submitted by the Contractor to the City become public record. Such records may be subject to public disclosure, in whole or part and may be required to be released by the City in the event of a request for disclosure. In the event the City receives a public record request for any data or deliverable that is provided to the City and that is licensed from the Contractor, the City shall notify the

Contractor of such request and withhold disclosure of such information for not less than five (5) business days, to permit the Contractor to seek judicial protection of such information, provided that the Contractor shall be responsible for attorney fees and costs in such action and shall save and hold harmless the City from any costs, attorney fees or penalty assessment under Ch.42.17 RCW for withholding or delaying public disclosure of such information.

20. Debarment.

The Contractor certifies, based upon a search of the System for Award Management website, www.sam.gov, that it is not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

21. Nondiscrimination.

The City of Vancouver, WA is an equal opportunity employer. In the performance of this Agreement, the Government Banking division of the Contractor's Commercial Banking line of business will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap.

CITY OF VANCOUVER

A municipal corporation

CONTRACTOR:

JPMorgan Chase Bank, N.A.

Eric Holmes, City Manager

Signature

Date

Printed Name /Title

Attest:

Date

Natasha Ramras, City Clerk

Approved as to form:

Jonathan Young, City Attorney