

**SAMPLE CONTRACT
CITY OF BELLE GLADE BANKING SERVICES
CONTRACT# 02-2024**

This **City of Belle Glade Banking Services Contract** is made as of the ____ day of _____, 2024, by and between the **City of Belle Glade**, a Florida municipal corporation ("City") and _____, a foreign corporation, authorized to do business in the State of Florida ("Bank").

WITNESSETH:

WHEREAS, the City issued its Request for Proposals for Banking Services (RFP No. 02-2024) (the "RFP") which is incorporated herein as if set forth in full; and

WHEREAS, the Bank responded to the RFP by submitting its Proposal for Banking Services dated _____ (the "Proposal") (attached hereto as **Exhibit A** and incorporated herein as if set forth in full), which Proposal was duly accepted by the City in accordance with applicable law; and

WHEREAS, the Bank shall be providing non-exclusive banking services to the City under the RFP, the Proposal and as set forth herein (hereinafter collectively, "Contract" or "contract").

NOW THEREFORE, In consideration of the foregoing premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the Bank hereby agree as follows:

SECTION 1 – SERVICES; TERM AND TERMINATION; COMPENSATION

1.1 The Bank shall provide the services described in the RFP, the Bank's Proposal, and as set forth herein (collectively, "Services" or "services"). The Bank shall provide the Services to that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality at the same time the services are provided. The Bank shall comply with the performance based criteria and milestone timelines for deliverables set forth in the attached **Exhibit B** which is incorporated herein. Time is of the essence with respect to all of the Bank's services, obligations, duties, and responsibilities under this Contract.

1.2 The term of this Contract shall begin on the date set forth above and shall continue for an initial term of five (5) years with one renewal option for an additional five (5) years unless otherwise terminated as authorized herein. The renewal term shall be in accordance with the terms, conditions, and pricing of the initial term. The City may terminate this Contract at any time by giving written notice to the Bank a minimum of thirty (30) days prior to the date of termination. The Bank may terminate this Contract at any time by giving written notice to the City a minimum of ninety (90) days prior to the termination date.

1.3 The City shall compensate the Bank in accordance with the Fee Schedule attached hereto as **Exhibit C** and incorporated herein by this reference. Unless otherwise set forth in the Fee Schedule, any fees or costs that are invoiced by the Bank shall be paid by the City within thirty (30) days after receipt unless otherwise disputed. If the City requests additional goods and services not addressed in the Fee Schedule, the parties will negotiate the associated fees.

SECTION 2 – INDEMNIFICATION; SOVEREIGN IMMUNITY

2.1 Bank agrees to indemnify, defend and hold the City, its Commissioners, officers, employees, agents and representatives harmless from and against any and all liability on account of any injuries, damages, omissions, commissions, actions, causes of action, claims, suits, judgments and damages accruing, including court costs and attorney's fees at all levels of trial and appeal, (collectively, "Claims") as a result of any breach of fiduciary duty, negligence, misconduct, omission, or action on the part of Bank or any officer, director, employee, agent, independent contractor, subcontractor and/or representative of Bank which arises out of or is related to the Contract.

2.2 In addition to the Bank's obligation to indemnify and hold harmless, the Bank shall also defend, with counsel approved by the City, the City, its Commissioners, officers, employees, agents, and representatives, immediately upon tender to the Bank of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that a person other than the Bank is responsible for the claim does not relieve the Bank from its separate and distinct obligation to defend. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if the Bank asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused solely by the negligence or willful misconduct of an indemnified party, the Bank may submit a claim to the City for reimbursement of reasonable attorney's fees and defense costs in proportion to the established comparative liability of the indemnified party.

2.3 The Bank's agreement to indemnify, defend, and hold harmless set forth in this section 2 shall also include any Claims arising from copyrighted, patented, or unpatented invention, process, software, or other item manufactured or used by the Bank in the provision of services. This additional indemnification, defense, and hold harmless is more specifically described in the RFP.

2.4 Nothing contained in this provision or elsewhere in the Contract shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver and limits provided in Section 768.28, Florida Statutes, as amended from time to time. The limitations and provisions set forth in Section 768.28 are deemed to apply to this Contract to claims or actions arising in tort and/or contract.

SECTION 3 – INDEPENDENT CONTRACTOR

The Bank is, and shall be, in the performance of all services under the Contract, an independent contractor, and not an employee, agent, or servant of the City. All persons engaged in any of the services performed pursuant to the Contract shall at all times, and in all places, be subject to the Bank's sole direction, supervision, and control. The Bank shall exercise control over the means and manner in which it and its employees perform the services.

SECTION 4 – PALM BEACH COUNTY IG; PUBLIC ENTITY CRIMES; PROHIBITION ON CONTINGENCY FEES; TRUTH IN NEGOTIATION

4.1 In accordance with Palm Beach County ordinance number 2011-009, this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. Bank should review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance and as applicable.

4.2 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Contract, Bank certifies that it and its affiliates who will perform hereunder have not been placed on the convicted vendor list maintained by the State of Florida

Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

4.3 The Bank warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Bank to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Bank any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the City shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

4.4 The Bank warrants that any wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The Bank agrees that the original fees/costs hereunder and any additions thereto shall be adjusted to exclude any significant sums by which the City determines that the fees/costs were increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the Contract (either expiration date or termination date, whichever is applicable).

SECTION 5 – TAXES; ACCESS AND AUDITS

5.1 The City is exempt from payment of Florida State Sales and Use Tax.

5.2 The Bank shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the services for at least three (3) years after completion of the Contract or longer if otherwise required by law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours and upon reasonable prior notice, at the Bank's place of business. In no circumstances will Bank be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 6 – LAW, VENUE, REMEDIES; WAIVER OF JURY TRIAL; LIMITATION OF LIABILITY; ENFORCEMENT COSTS

6.1 The Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. This provision shall supersede and specifically replace all other law, venue and remedies provisions in the Contract.

6.2 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THE CONTRACT.

6.3 The City shall not be liable to the Bank for any special, incidental or consequential damages of any kind whether or not caused by the City's negligence even if the parties have been advised of the possibility of such damages.

6.4 If any legal action or other proceeding is brought for the enforcement of the Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of the Contract, the parties agree that each party shall be responsible for its own attorney's fees.

SECTION 7 – SURVIVAL; WAIVER; SEVERABILITY; PREPARATION

7.1 Any provision of this Contract which is of a continuing nature or imposes an obligation

which extends beyond the term of this Contract shall survive its expiration or earlier termination.

7.2 Failure of a party to enforce or exercise any right under this Contract shall not be deemed a waiver of that party's right to enforce or exercise said right at any time thereafter.

7.3 If any term or provision of the Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of the Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision shall be deemed valid and enforceable to the extent permitted by law.

7.4 The Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

SECTION 8 – SCRUTINIZED COMPANIES; E-VERIFY

8.1 Bank certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate the Contract at its sole option if the Bank or any of its subcontractors are found to have submitted a false certification; or if the Bank or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract. The Bank agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under the Contract. The Bank agrees that the certifications in this section shall be effective and relied upon by the City for the term of the Contract, including any and all renewals. The Bank agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Bank shall immediately notify the City of the same.

8.2 Pursuant to Section 448.095(5), Florida Statutes, the Bank shall:

1. Register with and use the E-Verify system to verify the work authorization status of all new employees and require all subcontractors (providing services or receiving funding under this Contract) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' new employees;
2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Contract) stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien;
3. Maintain copies of all subcontractor affidavits for the duration of this Contract;
4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Contract; and
6. Be aware that if the City terminates this Contract under Section 448.095(5)(c), Florida Statutes, the Bank may not be awarded a public contract for at least 1 year after the date on which the Contract is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Contract.

SECTION 9 – INSURANCE

The Bank shall, at its own expense, procure and maintain throughout the term of the Contract, with insurers licensed in the State of Florida, the types and amounts of insurance conforming to the minimum requirements set forth in the RFP. The Bank shall not commence work until the required insurance is in force and evidence of insurance has been provided to the City. An appropriate Certification of Insurance shall be satisfactory evidence of insurance. The Bank shall provide the City with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance. The insurance provided by the Bank shall apply on a primary basis. Any insurance, or self-insurance, maintained by the City shall be excess of, and shall not contribute with, the insurance provided by the Bank. Compliance with

these insurance requirements shall not limit the liability of the Bank. Any remedy provided to the City by the insurance provided by the City shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the Bank) available to the City under the Contract or otherwise. The Bank's failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which the City may immediately terminate or suspend the Contract and/or may use the services of another Bank without incurring any liability to the Bank.

SECTION 10 –SUCCESSOR AND ASSIGNS

The City and the Bank each binds itself and its partners, successors, executors, administrators, and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of the Contract. Except as set forth above, neither the City nor the Bank shall assign, sublet, convey or transfer its interest in the Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Bank.

SECTION 11 – PUBLIC RECORDS

The Bank shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (1) Keep and maintain public records required by the City to perform the service.
- (2) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the Auditor does not transfer the records to the City.
- (4) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Bank or keep and maintain public records required by the City to perform the service. If the Bank transfers all public records to the City upon completion of the Contract, the Bank shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Bank keeps and maintains public records upon completion of the Contract, the Bank shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF BANK HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BANK'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS IN THE OFFICE OF THE CITY CLERK AT 561-992-2218, OR E-MAIL [JFIGUEROA@BELLEGLADE-FL.COM](mailto:jFIGUEROA@BELLEGLADE-FL.COM), OR AT 110 DR. MARTIN LUTHER KING JR. BLVD WEST, BELLE GLADE FL, 33430.

SECTION 12 – REPRESENTATION/BINDING AUTHORITY; NOTICES

12.1 The Bank hereby represents and warrants that it has the full power and authority to enter into this Contract and fully perform its obligations hereunder without the need for any further corporate (or otherwise) consents or approvals, and that its representative below has full power,

authority, and legal right to execute and deliver this Contract and to bind and obligate the Bank with respect to all provisions, terms and conditions contained in this Contract.

12.2 All notices required in this Contract shall be sent by hand-delivery, certified mail, return receipt requested, or by nationally recognized overnight courier, and if sent to the City shall be mailed to:

City of Belle Glade
Attn: Director of Finance
110 Dr. Martin Luther King, Jr. Blvd. W.
Belle Glade, FL 33430

and, if sent to the Bank, shall be mailed to:

The foregoing may be changed if such change is provided in writing to the other party.

SECTION 13 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

The contract between the parties consists of this Contract, the RFP, the Proposal, and the recitals set forth above (i.e., whereas clauses). To the extent that there exists a conflict between this Contract and the remaining Contract documents, the terms, conditions, covenants, and/or provisions of these documents shall prevail in the following order: 1. this Contract; 2. the RFP; 3. the Proposal; and 4. all other documents incorporated herein. Wherever possible, the provisions of the Contract shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

SECTION 14 - ENTIRETY OF CONTRACTUAL AGREEMENT

The City and Bank agree that the Contract sets forth the entire contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in the Contract may be added to, modified, superseded or otherwise altered, except by written amendment executed by the parties hereto.

SECTION 15 - COUNTERPARTS

This document may be executed in one or more counterparts, each of which shall be deemed to be an original and such counterparts will constitute one and the same instrument. The parties agree to accept the execution of this document by electronic means.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year set forth above.

CITY OF BELLE GLADE

By: _____
Steve B. Wilson, Mayor

ATTEST:

Approved as to form and legal sufficiency:

Jessica Figueroa, CMC, City Clerk

Glen J. Torcivia, City Attorney

BANK: _____

[Corporate Seal, if required]

By: _____
Signature of Authorized Representative

STATE OF _____)
COUNTY OF _____)

THE FOREGOING instrument was acknowledged before me by means of • physical presence
or • online notarization on this _____ day of _____, 2024, by
_____ [name], as _____ [title] of
_____, a Foreign Corporation
authorized to do business in the State of Florida, and who is personally known to me or who has
produced the following _____ as identification.

[Notary Seal]

Notary Public, State of Florida

Print/Type Name