

**MEMORANDUM
FINANCE DEPARTMENT**

TO: Thomas Thomas, City Manager
SUBJECT: Banking Services Contract

Number: 033 - 13
Date: 10/17/12

Attached is the contract from American Bank and Trust for Banking Services. The contract is consistent with the proposal that was presented to the City and was approved previously to negotiate the terms of agreement.

Staff Recommendation:

The Finance Department recommends that the City Council approve the contract for Banking Services with American Bank and Trust and that the City Manager be authorized to sign the contract on behalf of the City of Rock Island.

Submitted by: Cynthia Parchert, Finance Director

Approved by: Thomas Thomas, City Manager



BANKING SERVICES AGREEMENT

THIS BANKING SERVICES AGREEMENT (the "Agreement") is made as of the 1st day of October, 2012 between American Bank and Trust Company, National Association (hereinafter referred to as the "Bank"), a national association organized and chartered under the laws of the United States of America and operating an office at 1600 4th Avenue, Rock Island, Illinois 61201-8615 and the City of Rock Island (hereinafter referred to as the "Client"), an Illinois municipality, located at 1528 3rd Avenue, Rock Island, Illinois 61201-8678.

AGREEMENT TERM. The Agreement term shall be for five (5) years beginning October 1, 2012 and ending September 30, 2017. The Agreement may be terminated by either party by giving Notice to the other party no less than ninety (90) calendar days before the proposed termination date.

STANDARD TERMS AND CONDITIONS. Bank agrees to abide by the "Contract Terms and Conditions" as described on page two within the Client's RFP for Banking and Related Services document mailed to prospective financial institutions on May 18, 2012.

SERVICES. The Bank shall provide the Client with certain enumerated services as the Client has defined in the Client's RFP for Banking and Related Services document mailed to prospective financial institutions on May 18, 2012:

- Section 1 – Banking Services
- Section 2 – Lockbox Services
- Section 5 – Loan Processing Services
- Section 6 – Printing and Mailing

Services will be provided as defined in the Bank's Banking and Related Services Proposal for the Client, dated June 22, 2012, (the "Bank's Proposal") within pages SP1 through SP31 except for the specific Services not subscribed to by Client due to Client accepting alternative proposals for similar services from one or more third-party financial institutions in August, 2012.

The Bank may utilize third-party vendors to provide some services as described in the Bank's Proposal. Third-party vendors may include Promotion Support Services and Global Security Services, Ltd. The Bank acts only as a billing agent for these services.

The Bank reserves the right to determine the hardware, software, and tools to be used by the Bank in performing the Services. The Bank shall retain title and all other ownership and proprietary rights in and to the Bank's proprietary materials and information, and any and all derivative works based thereon. Such ownership and proprietary rights shall include any and all rights in and to patents, trademarks, copyrights, and trade secret rights.

DESIGNATED ACCOUNT EXECUTIVE. The Bank's designated account executive and primary contact is Andrew J. Guzzo, EVP – Retail. The Bank's alternate primary contact is Lisa M. Meester, AVP – Operations. Client shall be served by the account management team as listed with respective service support contact information within the General Response section of the Bank's Proposal.

SERVICE FEES. The Client agrees to pay for specific services received under the terms of this Agreement according to the Fee Schedule quoted in the Cost of Services section of the Bank's Proposal.

COMMUNITY REINVESTMENT ACT. Client and Bank agree that this Agreement contains no minimum standard of compliance with respect to the Community Reinvestment Act. The Bank understands the Client's desire to do business with a financial institution that is in compliance with the provisions of the Community Reinvestment Act, and endeavors to maintain its current satisfactory level of CRA performance. Additionally, the Bank agrees to provide the Client with access to its CRA public access file at any time during the term of this Agreement.

FINANCIAL REPORTING. Client has public access via the Internet to Bank's quarterly Call Reports. Bank will provide the audited annual financial report of its parent holding company, AmBank Holdings, Inc. and its subsidiaries on a consolidated basis to Client. To the extent allowed by the Bank's external regulatory agencies, the Bank agrees to provide the Client with a copy of its annual financial disclosure statement during the term of this Agreement.

EQUAL EMPLOYMENT OPPORTUNITY. It is the policy of American Bank & Trust Company, N.A., to provide equal employment opportunity to all persons regardless of race, color, national origin, sex, religion, age, disability, genetic information, or other characteristic protected by law. Accordingly, the Bank will maintain its Affirmative Action policy to ensure an environment of equal employment opportunity.

TAXES. Service fees assessed by the Bank under the scope of this Agreement are not currently subject to sales tax. The Client, as a municipal government entity, is currently exempt from the payment of sales tax on purchased goods and services acquired for the Client's use. The Client agrees to pay sales tax for this Agreement's invoiced services only to the extent that future applicable federal or state legislation should require a municipal government entity to be subject to sales tax. If the Bank must purchase a particular envelope, form or supply necessary to perform services contemplated by this Agreement (e.g. Utility Bill or Invoice statement paper stock or envelopes bearing the Client's name and/or address), the Client will make reasonable efforts to directly purchase such supplies to minimize sales tax expense otherwise incurred by the Bank.

RECORD RETENTION. The Bank shall retain an archive on a suitable media of the Client's account statements and paper document transactions posted to such accounts for up to eighteen (18) months following the date the original information was released by the Bank to the Client. Upon the Client's request, the Bank shall furnish within five (5) business days of receiving the request a copy of any such retained records to the Client at the disclosed research service fee.

FORM STANDARDS. The Bank shall allow the Client to use any supplier for the manufacture of paper checks or other paper forms imprinted with optical scan lines or MICR encoding. However, the supplier must adhere to the Bank's written minimum form specifications when manufacturing the forms. The Client agrees to immediately replace, at Client's or supplier's expense, any MICR encoded forms that do not meet the Bank's minimum specifications and reasonable reject-rate processing standards.

CONFIDENTIALITY. Both the Bank and the Client will, to the extent and in accordance with their policies used to protect their own information of similar importance, use their best efforts to refrain from and prevent the use of or disclosure of any confidential information of each party, disclosed or obtained by each other while performing its obligations under this Agreement except when such use or disclosure is for the purpose of providing the Services. Neither the Bank nor the Client will have an obligation of confidentiality when such disclosure is made pursuant to:

1. any law of the United States of America or the State of Illinois or the State of Iowa;
2. the order of any court or governmental agency; or
3. the rules and regulations of any governmental agency.

The Client shall remain the sole and exclusive owner of all Client data and its "Confidential Information", regardless of whether such data is maintained on magnetic tape, magnetic disk, or any other storage or processing device. All such Client data and other "Confidential Information" shall, however, be subject to regulation and examination by the appropriate auditors and regulatory agencies to the same extent as if such information were on the Client's premises.

The Client acknowledges that it has no rights in any of the Bank's software, systems, documentation, guidelines, procedures, and similar related materials or any modifications thereof, unless and except as expressly granted under this Agreement.

"Confidential Information" of either party shall mean all confidential or proprietary information and documentation of such party, whether or not marked as such including, with respect to the Client, all Client data. "Confidential Information" shall not include: (a) information which is or becomes publicly available (other than by the party having the obligation of confidentiality) without breach of this Agreement; (b) information independently developed by the receiving party; (c) information received from a third party not under a confidentiality obligation to the disclosing party; or (d) information already in the possession of the receiving party without obligation of confidence at the time first disclosed by the disclosing party. The parties acknowledge and agree that the substance of the negotiations of this Agreement, and the terms of this Agreement are considered "Confidential Information" subject to the restrictions contained herein.

Except as permitted under applicable law, neither party shall use, copy, sell, transfer, publish, disclose, display, or otherwise make any of the other party's "Confidential Information" available to any third party without the prior written consent of the other party. Each party shall hold the "Confidential Information" of the other party in confidence and shall not disclose or use such "Confidential Information" other than for the purposes contemplated by this Agreement and, to the extent that the "Confidential Information" of the Client may be subject to the Privacy Regulations, as permitted by the Privacy Regulations and shall instruct their employees, agents, and contractors to use the same care and discretion with respect to the "Confidential Information" of the other party or of any third party utilized hereunder that the Bank and the Client each require with respect to their own most "Confidential Information", but in no event less than a reasonable standard of care, including the utilization of security devices or procedures designed to prevent unauthorized access to such materials. Each party shall instruct its employees, agents, and contractors (a) of its confidentiality obligations hereunder and (b) not to attempt to circumvent any such security procedures and devices. Each party's obligation under the preceding sentence may be satisfied by the use of its standard form of confidentiality agreement, if the same reasonably accomplishes the purposes here intended. All such "Confidential Information" shall be distributed only to persons having a need to know such information to perform their duties in conjunction with this Agreement. A party may disclose the other party's "Confidential Information" if required to do so by subpoena, court or regulatory order, or other legal process, provided the party notifies the disclosing party of its receipt of such process, and reasonably cooperates, at the disclosing party's expense, with efforts of the disclosing party to prevent or limit disclosure in response to such process.

The Bank shall be responsible for establishing and maintaining an information security program that is designed to (i) ensure the security and confidentiality of the Client's Data, (ii) protect against any anticipated threats or hazards to the security or integrity of the Client's Data, (iii) protect against unauthorized access to or use of the Client's Data that could result in substantial harm or inconvenience to the Client or any of its customers, and (iv) ensure the proper disposal of the Client's Data when applicable. The Client shall be responsible for maintaining security for its own systems, servers, and communications links as necessary to (a) protect the security and integrity of the Bank's systems and servers on which the Client Data is stored, and (b) protect against unauthorized access to or use of the Bank's systems and servers on which the Client's Data is stored. The Bank will (1) take appropriate action to address any incident of unauthorized access to the Client's Data and (2) notify the Client as soon as possible of any incident of unauthorized access to sensitive Client information and any other breach in the Bank's security that materially affects the Client or the Client's customers.

In the event that the Client requests the Bank to disclose to any third party or to use any of the Client's "Confidential Information", and such "Confidential Information" is or may be subject to Privacy Regulations, the Bank reserves the right, prior to such disclosure or use, (a) to review any initial, annual, opt-out, or other privacy notice that the Client issued with respect to such "Confidential Information" pursuant to the Privacy Regulations, and if requested by the Bank, the Client shall promptly provide the Bank with any such notice, and (b) to decline to disclose to such

third party or to use such "Confidential Information" if the Bank, in the Bank's sole discretion, believes that such disclosure or use is or may be prohibited by the Privacy Regulations or by any such notice.

Neither party shall refer to the other party directly or indirectly in any media release, public announcement, or public disclosure relating to this Agreement or its subject matter, in any promotional or marketing materials, lists, or business presentations, without consent from the other party for each such use or release. The Bank may include the Client's name in the Bank's customer list and may identify the Client as its customer in its sales presentations and marketing materials without obtaining the Client's prior consent. All media releases, public announcements, and public disclosures by either party relating to this Agreement or the subject matter of this Agreement including promotional or marketing material, but not including (a) announcements intended solely for internal distribution, or (b) disclosures to the extent required to meet legal or regulatory requirements beyond the reasonable control of the disclosing party, shall be subject to review and approval, which approval shall not be unreasonably withheld, by the other party prior to release. Such approval shall be deemed to be given if a party does not object to the proposed publicity within five (5) Business Days of receiving same. Disputes regarding the reasonableness of objections to the joint press release or any publicity shall be subject to the Dispute Resolution Procedures.

EQUIPMENT. The Client shall initially obtain and maintain on its premises and at its expense such communications equipment, workstation terminals and Internet browser software as may be necessary to facilitate access to and receipt of the Services, except as otherwise specified elsewhere in this Agreement or the related Appendices. If the Bank or the Client receives notice from a third-party hardware or software provider that an involuntary change/upgrade in hardware or software is necessary to maintain the functionality of a Service, (such as, but not limited to, a hardware processing chip or circuit configuration, a workstation or network operating system, or a particular version of an Internet browser application) the Bank and the Client will coordinate the respective equipment, hardware or software changes and upgrades at their respective on-premise sites at their respective expense to continue the Bank's delivery and the Client's access to and receipt of the Services. Under these involuntary change circumstances, the Client may choose to terminate receiving the specific services impacted by the involuntary change(s) without a termination penalty upon thirty (30) days advance Notice to the Bank.

DISASTER RECOVERY. The Bank maintains off-site disaster recovery capabilities, which permit the Bank to recover from an on-premise disaster and continue providing services to the Client within a commercially reasonable period. The Client shall not consider the Bank to be in default of this Agreement if the Bank can resume the delivery of all enumerated Services to the Client within five (5) business days following the occurrence and declaration of a disaster.

If appropriate, the Bank shall relocate all affected services to an alternate disaster recovery site as expeditiously as possible after declaration of a disaster, and shall coordinate with the Client all requisite telecommunications modifications necessary to achieve full connectivity to the disaster recovery site, in material compliance with all regulatory requirements.

In the event the Bank is unable to resume the services to the Client within the time periods specified in this Agreement, the Client shall have the right to terminate this Agreement upon Notice.

DEFAULT / TERMINATION. The Bank shall consider the failure of the Client to pay any Service Fee due the Bank to be an event of Default. The Client shall consider the failure of the Bank to provide the enumerated Services in a commercially reasonable manner, and no other or higher degree of care, to be an event of Default.

DEFAULT REMEDIES. If an event of Default occurs on the part of the Client, the Bank may only:

- a. notify the Client of the specific default(s) and allow the Client a minimum of ten (10) business days to satisfactorily correct the Default condition;
- b. terminate the Agreement upon ninety (90) business days notice to the Client; and

- c. file suit for or otherwise obtain payment from the Client of any Service Fees past due pursuant to the Agreement, plus reasonable attorney, collection and legal fees incurred by the Bank to obtain payment of any Service Fees past due pursuant to the Agreement. No compensation for damages shall be claimed or sought by the Bank.

If an event of Default relating to providing the enumerated Services in a commercially reasonable manner occurs on the part of the Bank, the Client may only:

- a. Notify the Bank of the specific default(s) and allow the Bank a minimum of ten (10) business days to satisfactorily correct the Default condition;
- b. terminate the Agreement upon ninety (90) business days notice to the Bank; and
- c. file suit or otherwise obtain payment for an aggregate amount not to exceed the amount of fees paid by the Client to the Bank under the terms of this Agreement during the three (3) months immediately preceding the event of Default, plus reasonable attorney, collection and legal fees incurred by the Client to obtain payment.

THE ABOVE-DESCRIBED LIMITATIONS ON THE CLIENT'S REMEDIES APPLY ONLY TO ANY FAILURE OF THE BANK TO PROVIDE THE SERVICES ENUMERATED IN THIS AGREEMENT IN A COMMERCIALY REASONABLE MANNER, AND SHALL NOT LIMIT OR RESTRICT ANY OTHER RIGHTS OR REMEDIES WHICH THE CLIENT MAY HAVE IN CONNECTION WITH ANY OTHER ACT OR OMISSION OF THE BANK; PROVIDED, HOWEVER, THAT THE BANK IN NO EVENT WILL BE LIABLE FOR ANY INDIRECT INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED BY THE CLIENT INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR BUSINESS OPERATION LOSS, REGARDLESS OF WHETHER THE BANK WAS ADVISED OF THE POSSIBLE OCCURRENCE OF SUCH DAMAGES.

DISPUTE RESOLUTION. All disputes arising under or in connection with this Agreement shall initially be referred to the representatives of each party who customarily manage the relationship between the parties. If such representatives are unable to resolve the dispute within five (5) business days after referral of the matter to them, the Bank's chief executive officer and Client's City Manager shall attempt to resolve the dispute. Neither party shall commence legal proceedings with regard to a dispute until completion of the dispute resolution procedures except to the extent necessary to preserve its rights or maintain a superior position against other creditors or claimants. During the pendency of the dispute resolution proceedings, the Bank shall continue to provide the services so long as the Client shall continue to pay all undisputed amounts to the Bank in a timely manner.

INSOLVENCY. In addition to the Default / Termination rights set forth above, subject to the provisions of Title 11, United States Code, if either the Bank or the Client becomes or is declared insolvent or bankrupt, is the subject to any proceedings relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations, or is subject to regulatory sanction by any Federal Regulator, then the other party may, by giving written notice to such party, may terminate this Agreement as of a date specified in such notice of termination; provided that the foregoing shall not apply with respect to any involuntary petition in bankruptcy filed against a party unless such petition is not dismissed within sixty (60) days of such filing.

PERFORMANCE WARRANTY. The Bank represents and warrants to the Client that:

- a. the Bank's computer systems are capable of performing in accordance with the terms of this Agreement; and
- b. the software programs used to process the Client's data are owned or licensed by the Bank, free of all claims or encumbrances.
- c. if the Bank modifies or substitutes any service in the Agreement, that said new service shall meet or exceed the original specifications for the service as agreed to in this Agreement.

PERFORMANCE WARRANTY EXCLUSIONS. Except as may be expressly agreed in writing by the Bank and the Client, the Bank's Performance Warranty does not apply to defects, problems, or failures caused by the Client's nonperformance of obligations essential to the Bank's performance of its obligations; and/or defects, problems, or failures caused by an event of *force majeure*.

DISCLAIMER OF ALL OTHER WARRANTIES. Except as described in this Agreement, the Bank disclaims all other warranties, whether written, oral, expressed or implied including, without limiting the generality of the foregoing, any warranty of merchantability or fitness for a particular purpose.

NO WAIVER OF PERFORMANCE. Failure by either party at any time to require performance by the other party, or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards a subsequent action.

DUTY OF ORDINARY CARE. In providing the enumerated services, the Bank shall owe a duty of ordinary care to the Client, and if it omits making a transfer of funds or if it makes an untimely or improper transfer, or otherwise improperly debits or credits the Client's account, then as liquidated damages to discharge its liability therefore, the Bank shall, upon notice thereof, return any funds improperly sent, make any failed transfer of funds, reverse any improper debit or credit, and in addition, pay the Client or receiving bank an amount equal to the interest on the principal funds from the date they should have been sent until they are sent or until the request therefore has been withdrawn. The rate of interest shall be the Federal Funds Rate set for the period involved by the Federal Reserve Bank of Chicago. The Client shall have a duty to reasonably discover and to immediately notify the Bank as soon as it learns of any failed or improper transfer of funds or improper debit or credit.

FORCE MAJEURE. The Bank shall not be liable to the Client if the Bank's fulfillment or performance of any terms or provisions of this Agreement is delayed or prevented by revolution or other civil disorders, wars, acts of enemies, strikes, non-availability of electricity or data/voice communications through third-party utility providers, non-availability of critical support replacement equipment due to circumstances beyond the control of the Bank, labor disputes, fires, floods, acts of God, federal, state or municipal action, statute, ordinance or regulation, or, without limiting the foregoing, any other causes not within its reasonable control, and which by the exercise of reasonable diligence it is unable to prevent, whether of the class of causes hereinbefore enumerated or not.

REGULATORY ASSURANCES. The Bank and the Client acknowledge and agree that the performance of these services will be subject to regulation and examination by the Client's external auditors or regulatory agencies to the same extent as if such Services were being performed by the Client. Upon request, the Bank agrees to provide any appropriate assurances to such external auditors or agency and agrees to subject itself to any required examination or regulation.

OWNERSHIP OF DATA. The Client is the owner of all its data supplied by the Client to the Bank for processing hereunder. The Bank shall provide the Client with all copies of the Client's data, in the format selected by the Bank at no cost, upon termination of this Agreement.

CHANGE OF CONTROL / SUCCESSORS AND ASSIGNS. The Bank's duties and responsibilities under this Agreement are transferable to a successor or assigns only in the event the regulatory authority governing the Bank approves a change of control transaction. Performance of duties and responsibilities under this Agreement by such successor or assigns shall meet or exceed the service specifications of this Agreement.

NOTICES. Any notices required or permitted by this Agreement shall be in writing and delivered by hand or by posting in the U.S. Mail, First Class with postage prepaid, to the following addresses:

To Bank:

American Bank and Trust Company, N.A.
Attn: Andrew J. Guzzo, EVP – Retail
3730 18th Avenue
Rock Island, IL 61201-3023

To Client:

City of Rock Island
Attn: Cynthia L. Parchert
1528 Third Avenue
Rock Island, IL 61201-8678

SUBSEQUENT AGREEMENT PROPOSAL. The Client has the right to request a modification to the listed services, or request new services during the term of this Agreement. Upon receiving such a request, the Bank shall develop a proposal responding to the request and submit said proposal to the Client. The Client shall accept, suggest amendments, or reject the Bank's proposal within thirty (30) calendar days of the date of the Bank's proposal. Upon acceptance, the revised or new service shall become a part of this Agreement, subject to the terms and conditions of this Agreement, for the then remaining term of this Agreement.

AGREEMENT SECTION HEADINGS & APPENDICES. Section headings and appendices are for reference purposes only and shall not affect the interpretation or meaning of this Agreement.

LIMITATION OF LIABILITY/MAXIMUM DAMAGES ALLOWED. Either party may seek equitable remedies, including injunctive relief, for a breach of the other party's obligations under this Agreement, prior to commencing the dispute resolution procedures. Independent of, severable from, and to be enforced independently of any other provision of this Agreement, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE OTHER PARTY'S RIGHTS) IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND--including lost profits, loss of business, or other economic damage, and further including injury to property, AS A RESULT OF BREACH OF ANY WARRANTY OR OTHER TERM OF THIS AGREEMENT, INCLUDING ANY FAILURE OF PERFORMANCE, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF. Notwithstanding any other provision of this Agreement, and for any reason, including breach of any duty imposed by this Agreement or independent of this Agreement, and regardless of any claim in contract, tort (including negligence) or otherwise, the Bank's total, aggregate liability under this Agreement shall in no circumstance exceed payments made to the Bank by the Client for the services during the three (3) months prior to the act or event giving rise to such claim. No lawsuit or other action may be brought by either party hereto, or on any claim or controversy based upon or arising in any way out of this Agreement, after one (1) year from the date on which the cause of action arose regardless of the nature of the claim or form of action, whether in contract, tort (including negligence), or otherwise; provided, however, the foregoing limitation shall not apply to the collection of any amounts due the Bank under this Agreement. In addition to and not in limitation of any other provision of this Agreement, each party hereby knowingly, voluntarily, and intentionally waives any right to recover from the other party, and the Client waives any right to recover from the Bank or any eligible provider, any economic losses or damages in any action brought under tort theories, including, misrepresentation, negligence and/or strict liability, and/or relating to the quality or performance of any products or services provided by the Bank. For purposes of this waiver, economic losses and damages include monetary losses or damages caused by a defective product or service except personal injury or damage to other tangible property. Even if remedies provided under this Agreement shall be deemed to have failed of their essential purpose, neither party shall have any liability to the other party under tort theories for economic losses or damages.

INSURANCE AND INDEMNITY. The Bank shall maintain for its own protection fidelity bond coverage for its personnel and insurance coverage for loss from fire, disaster or other causes contributing to interruption of normal services.

The Client shall indemnify the Bank from, and defend the Bank against, and pay any final judgments awarded against the Bank, resulting from any claim brought by a third party against the Bank based on the Client's use of the services to support its operations, the Bank's compliance with the Client's specifications or instructions, or the Bank's use of trademarks or data supplied by the Client.

The Bank shall indemnify the Client from, defend the Client against, and pay any final judgment awarded against the Client, resulting from any claim brought by a third party against the Client based on the Bank's alleged infringement of any patent, copyright, or trademark of such third party under the laws of the United States, unless and except to the extent that such infringement is caused by the Bank's compliance with the Client's specifications or instructions, or the Bank's use of trademarks or data supplied by the Client.

AUTHORITY. The Bank warrants that the Bank has the right to provide the services, using all computer software required for that purpose. The Bank is a national association validly existing and in active status under the laws of the United States of America. It has all the requisite corporate power and authority to execute, deliver, and perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement have been duly authorized by the Bank. No approval, authorization, or consent of any governmental or regulatory authorities is required to be obtained or made by the Bank in order for the Bank to enter into and perform its obligations under this Agreement.

The Client warrants that the Client has all required licenses and approvals necessary to use the services in the operation of its business. The Client is validly existing and in good standing under the laws of the state of its incorporation. It has all the requisite corporate power and authority to execute, deliver, and perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement have been duly authorized by the Client, and this Agreement is enforceable in accordance with its terms against the Client. No approval, authorization, or consent of any governmental or regulatory authorities is required to be obtained or made by the Client in order for the Client to enter into and perform its obligations under this Agreement.

In the event that the Client requests the Bank to disclose to any third party or to use any of the Client's confidential information, and such confidential information is or may be subject to the Privacy Regulations, such disclosure or use shall be permitted by the Privacy Regulations and by any initial, annual, opt-out, or other privacy notice that the Client issued with respect to such confidential information pursuant to the privacy regulations.

MISCELLANEOUS. This Agreement shall be construed and governed by the laws of the state of Illinois. No amendment of this Agreement shall be effective unless in writing and signed by the Bank and by the Client. This Agreement, including its appendices, constitutes the entire understanding of Bank and Client with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth herein and therein. This Agreement supersedes all prior negotiations, agreements, and undertakings between the parties with respect to such subject matter. Neither party shall solicit the employees of the other party for employment during the term of this Agreement, for any reason. The foregoing shall not preclude either party from employing any such employee (a) who seeks employment with the other party in response to any general advertisement or solicitation that is not specifically directed towards employees of such party or (b) who contacts the other party on his or her own initiative without any direct or indirect solicitation by such party.

The Client and the Bank hereby knowingly, voluntarily and intentionally waives any and all rights it may have to a trial by jury in respect of any litigation based on, or arising out of, under, or in connection with, this Agreement or any course of conduct, course of dealing, statements (whether verbal or written), or actions of the Bank or the Client, regardless of the nature of the claim or form of action, contract or tort, including negligence.

IN WITNESS WHEREOF, the Bank and the Client have caused this Agreement to be executed in its names by their respective authorized signers as of the date first above written.

AMERICAN BANK AND TRUST COMPANY, N.A.

CITY OF ROCK ISLAND, ILLINOIS

By: Andrew J. Guzzo
Title: Executive Vice President

By: Thomas Thomas
Title: City Manager

Attest:

Attest:

By: John T. Kustes
Title: EVP – Operations / COO

By:
Title:

Seal

Seal