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DOCKET SUPPORTING INFORMATION
CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION

DATE: 332
11/20
November 6, 2001

SUBJECT: Approval of Bank Of America Banking Services Contract

GENERAL CONTRACT INFORMATION

Recommended Consultant: Bank Of America
Amount of this Action: 4 to 5 Million Dollars, Based on Current Level of Service
Funding Source: City

SUBCONTRACTOR PARTICIPATION

There is no subconsultant activity associated with this action.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Equal Opportunity: Required

This action authorizes City Council approval of a five (5) year banking service contract with Bank Of America. This action also authorizes the expenditure of an amount necessary to satisfy the terms of the contract, contingent upon certification of the availability of funds. Bank of America submitted a Workforce Report for their San Diego offices dated May 8 2007, which reflects 839 employees. The Workforce analysis indicates under representation in the following areas:

African American – Professional, Administrative Support
American Indian – Administrative Support
Filipino – Management and Financial, Professional, Administrative Support, Sales
Female – Professional, Sales, Administrative Support

Bank of America has been requested to submit an Equal Opportunity Plan to address planned remedies for these deficiencies.

ADDITIONAL COMMENTS

The *Work Force Analysis* is attached.

by:AMI

File: Admin WOFO 2000

Date WOFO Submitted: 5/8/2007
 Input by: SH

Goals reflect statistical labor force availability for the following: 2000 CLFA San Diego, CA

City of San Diego/Equal Opportunity Contracting
WORK FORCE ANALYSIS REPORT

FOR
 Company: Bank Of America

I. TOTAL WORK FORCE:

	Black		Hispanic		Asian		American Indian		Filipino		White		Other						
	M	F	M	F	M	F	M	F	M	F	M	F	M	F					
Mgmt & Financial	3.3%	1	2	11.8%	4	11	6.2%	6	5	0.4%	0	0	6.2%	0	0	30	24	0	0
Professional	4.0%	0	0	12.6%	7	14	6.5%	3	7	0.5%	0	0	6.5%	0	0	33	35	0	0
A&E, Science, Computer	2.8%	0	0	7.3%	0	0	16.2%	0	0	0.3%	0	0	16.2%	0	0	0	0	0	0
Technical	6.6%	0	0	14.8%	0	0	17.2%	0	0	0.4%	0	0	17.2%	0	0	1	0	0	0
Sales	3.9%	6	1	19.5%	13	6	6.8%	4	6	0.6%	0	0	6.8%	0	0	31	24	0	0
Administrative Support	7.0%	6	10	20.8%	42	131	8.8%	53	90	0.6%	0	1	8.8%	0	0	70	154	0	0
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0	0	0	0	0
Crafts	4.5%	0	0	25.8%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	0	0	0	0
Operative Workers	4.3%	0	0	38.8%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0	0	0	0	0
Transportation	8.1%	0	0	32.1%	0	0	4.5%	0	0	0.5%	0	0	4.5%	0	0	0	0	0	0
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	0	0	0	0
TOTAL		13	21		66	162		66	108		0	1		0	0	165	237	0	0

HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

	Mgmt & Financial	Professional	A&E, Science, Computer	Technical	Sales	Administrative Support	Services	Crafts	Operative Workers	Transportation	Laborers
Female Goals	39.8%	59.5%	22.3%	49.0%	49.4%	73.2%	62.3%	8.6%	36.7%	15.2%	11.1%

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS

TOTAL

TOTAL EMPLOYEES	ALL	M	F
	839	310	529

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial	2.74	3	N/A	9.88	15	5.12	5.15	11	5.85	0.33	0	N/A	5.15	0	(5.15)	33.03	42	8.97
Professional	3.96	0	(3.96)	12.47	21	8.53	6.44	10	3.57	0.50	0	N/A	6.44	0	(6.44)	58.91	56	(2.90)
A&E, Science, Computer	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Technical	0.07	0	N/A	0.15	0	N/A	0.17	0	N/A	0.00	0	N/A	0.17	0	N/A	0.49	0	N/A
Sales	3.55	7	3.45	17.75	19	1.26	6.19	10	3.81	0.55	0	N/A	6.19	0	(6.19)	44.95	37	(7.95)
Administrative Support	39.55	24	(15.55)	117.52	173	55.48	49.72	143	93.28	3.39	1	(2.39)	49.72	0	(49.72)	413.58	394	(19.58)
Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

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Date WOFO Submitted: 5/8/2007
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Goals reflect statistical labor force availability for the following: 2000 CLFA San Diego, CA

City of San Diego/Equal Opportunity Contracting
WORK FORCE ANALYSIS REPORT
FOR

Company: Bank Of America

I. TOTAL WORK FORCE:

	Black		Hispanic		Asian		American Indian		Filipino		White		Other								
	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F						
Mgmt & Financial	3.3%	1	2	11.9%	4	11	6.2%	6	5	0.4%	0	0	6.2%	0	0	30	24	0	0		
Professional	4.0%	0	0	12.6%	7	14	6.5%	3	7	0.5%	0	0	6.5%	0	0	33	35	0	0		
A&E, Science, Computer	2.8%	0	0	7.3%	0	0	16.2%	0	0	0.3%	0	0	16.2%	0	0	0	0	0	0		
Technical	6.6%	0	0	14.8%	0	0	17.2%	0	0	0.4%	0	0	17.2%	0	0	1	0	0	0		
Sales	3.9%	6	1	19.5%	13	6	6.8%	4	6	0.6%	0	0	6.8%	0	0	31	24	0	0		
Administrative Support	7.0%	6	18	20.8%	42	131	8.8%	53	90	0.6%	0	1	8.8%	0	0	70	154	0	0		
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0	0	0	0	0		
Crafts	4.5%	0	0	25.8%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	0	0	0	0		
Operative Workers	4.3%	0	0	38.8%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0	0	0	0	0		
Transportation	8.1%	0	0	32.1%	0	0	4.5%	0	0	0.5%	0	0	4.5%	0	0	0	0	0	0		
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	0	0	0	0		
TOTAL		13	21		66	162		66	108		0	1		0	0		165	237		0	0

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- Mgmt & Financial
- Professional
- A&E, Science, Computer
- Technical
- Sales
- Administrative Support
- Services
- Crafts
- Operative Workers
- Transportation
- Laborers

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
83	41	42	39.8%
99	43	56	59.5%
0	0	0	22.3%
1	1	0	49.0%
91	54	37	49.4%
565	171	394	73.2%
0	0	0	62.3%
0	0	0	8.6%
0	0	0	36.7%
0	0	0	15.2%
0	0	0	11.1%
TOTAL	839	310	529

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
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Professional	3.96	0	(3.96)	12.47	21	8.53	6.44	10	3.57	0.50	0	N/A	6.44	0	(6.44)	58.91	56	(2.90)
A&E, Science, Computer	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Technical	0.07	0	N/A	0.15	0	N/A	0.17	0	N/A	0.00	0	N/A	0.17	0	N/A	0.49	0	N/A
Sales	3.55	7	3.45	17.75	19	1.26	6.19	10	3.81	0.55	0	N/A	6.19	0	(6.19)	44.95	37	(7.95)
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Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

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REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NU (FOR AUDITOR'S) 11/20
2800369
3. DATE: 11/06/2007

TO: CITY ATTORNEY
2. FROM (ORIGINATING DEPARTMENT): OFFICE OF THE CITY TREASURER

4. SUBJECT: Agreement with Bank of America for Banking Services

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Kent Morris, 533-6313, MS 51V
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Robbin Kulek, 236-6170, MS 51T
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	SEE ATTACHED				9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					A hard copy of the Request for Proposal (RFP) contract is available upon request at the City Clerk's Office. Alternatively, due to the extensive length of the RFP (174 pages), a CD is also available upon request. Estimated FY08 Funding: \$578K Estimated 5 Year Contract: \$4M - \$5M (based on level of banking services) No budget impact in FY08
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

- 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPT.	<i>Nail R. Mansour</i>	11/6/07	8	COO	<i>[Signature]</i>	11/6/07
2	EAS			9	CITY ATTORNEY	<i>[Signature] (SRS)</i>	11/6/07
3	ECCP	<i>Oliver Jones for Celia Griffin</i>	11/6/07	10	ORIGINATING DEPT.	<i>Nail R. Mansour</i>	11/6/07
4	LIAISON OFFICE	<i>[Signature]</i>	11/6/07				
5	FINANCIAL MANAGEMENT	<i>Mary Heuin</i>	11/6/07		DOCKET COORD:	<i>[Signature]</i>	DOCKET LIAISON <i>[Signature]</i>
6	AUDITOR	<i>[Signature]</i>	11/6/07		COUNCIL PRESIDENT	<input type="checkbox"/> SPOB	<input type="checkbox"/> CONSENT
7	DEPUTY CHIEF				<i>ns</i>	<input type="checkbox"/> REFER TO:	<input checked="" type="checkbox"/> ADOPTION

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Authorize the Mayor or his designee to execute a five (5) year banking services contract with Bank of America.
2. Authorize the City Comptroller to expend an amount necessary to satisfy the terms of the contract, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer. It is estimated that approximately \$578K will be expended in Fiscal Year 2008.

11A. STAFF RECOMMENDATIONS:
Adopt the resolution

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): CITYWIDE
COMMUNITY AREA(S): CITYWIDE
ENVIRONMENTAL IMPACTS: THIS ACTIVITY IS NOT A "PROJECT" AND IS THEREFORE EXEMPT FROM CEQA PURSUANT TO STATE CEQA GUIDELINES SECTION 15060(C)(2)
HOUSING IMPACT: NONE
OTHER ISSUES: NONE

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED:		REPORT NO.:
ATTENTION:	Council President and City Council	
ORIGINATING DEPARTMENT:	Office of the City Treasurer	
SUBJECT:	Approval of Bank of America Banking Services Contract	
COUNCIL DISTRICT(S):	Citywide	
CONTACT/PHONE NUMBER:	Kent Morris, Chief Investment Officer/619-533-6313 Robbin Kulek, Treasury Operations Manager/619-236-6170	

REQUESTED ACTION:
Authorize approval of the five (5) year contract with Bank of America.

STAFF RECOMMENDATION:
The Mayor's staff is recommending that the City Council approve the five (5) year banking services contract with Bank of America.

EXECUTIVE SUMMARY:
Under City Charter §45, the City Treasurer is responsible for selection of the City's banking services provider. Traditionally, this selection is made every five (5) years following an extensive RFP process. The official Banking Services RFP documentation and subsequent Bidders' Conference encouraged regular and joint venture proposals from local banking services organizations, as well as Disadvantaged Business Enterprise (DBE) firms. As a result of the Banking Services RFP issued in April 2007, five financial institutions submitted qualifying proposals which were evaluated by a multi-departmental Banking Services RFP Review Committee.

Bank of America was selected to provide the City's core banking services and Wells Fargo Bank was selected for securities clearance banking services. San Diego Metropolitan Credit Union was selected to provide electronic direct deposit payroll services. All banking contracts will commence on December 1, 2007 and will be in effect for five (5) years. The Bank of America contract is the only banking services contract that requires Council approval due to the amount of the contract. Despite requesting a greater breadth of services, including extensive electronic banking services, the overall five year contract price is projected to decrease by approximately 6.7%, or \$55,000 per year, as compared to the existing contract.

Background

A Banking Services RFP was issued by the Office of the City Treasurer on April 12, 2007 after an extensive Citywide survey of current and anticipated departmental banking services requirements. The Banking Services RFP was posted on the Purchasing website and commercial banks and credit unions were contacted requesting that proposals be submitted. A Bidders' Conference was held on May 1, 2007 to answer questions concerning the Banking Services RFP and the City's technical requirements. Responding banks were required to submit comprehensive bids for all City requirements in each major or optional service category as specified in the RFP.

RFP Response and Evaluation

The City received five qualifying proposals from the following financial institutions: Wells Fargo Bank, US Bank, San Diego Metropolitan Credit Union, Comerica Bank and Bank of America. The City's Banking Services RFP Review Committee reviewed the City's banking services requirements and evaluated all qualifying proposals. The Committee was comprised of representatives from the Office of the City Treasurer, Comptroller, Purchasing, Debt Management and the Water Department. All proposals were evaluated for pricing over the contract term, responsiveness to the RFP and the City's banking services requirements, credit ratings, compliance with Council Policy 900-09 (San Diego specific Community Reinvestment programs), staff experience, community reinvestment (CRA) ratings, and commitment to equal opportunity in the workplace.

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Community Reinvestment

The Banking Services RFP Review Committee gave special consideration to evaluating each bank's commitment to community reinvestment. Bank of America displayed a strong commitment to invest in the San Diego community. The bank's most recent Community Reinvestment Act rating was outstanding. Additionally, the bank highlighted its involvement in areas such as affordable housing, small business, consumer loans, and economic development. In 2007, two additional full service banking centers will open, one in the Gaslamp District and the other in the Southcrest area. The bank also outlined its grant program to assist nonprofit organizations that give back to the San Diego community (e.g. San Diego Opera, the Old Globe Theatre, United Way of San Diego, Zoological Society of San Diego, YMCA of San Diego County, San Diego Urban League, Senior Community Centers, Community Housing Works, along with many others). Due to the breadth and detail of the bank's proposal, it was the Committee consensus that Bank of America did an exceptional job of displaying its involvement and support in the San Diego community.

Summary

Based on the recommendation of the Banking Services RFP Review Committee to the City Treasurer, the five (5) year contract for core banking services is being awarded to Bank of America. This selection is based on their response to the Banking Services RFP, customer service qualifications, and aggressive pricing structure which will save the City of San Diego approximately \$275,000 over the life of the new contract for core banking services.

FISCAL CONSIDERATIONS:

The five (5) year banking services contract cost is approximately \$4M to \$5M, based on the current level of banking services Citywide. Fiscal Year 2008 Citywide banking services are estimated at \$578K. The total contract savings, based on Bank of America's RFP pricing schedule is estimated to save the City \$275K over the term of the contract. Funding is appropriated in the current Fiscal Year 2008 operating budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

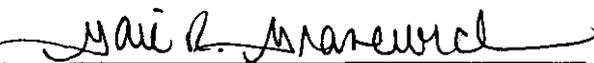
Not applicable

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

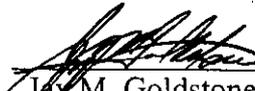
Not applicable

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Bank of America



Gail R. Granewich
City Treasurer



Jay M. Goldstone
Chief Operating Officer

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Banking Services FY08 Funding Sources					
Fund #	Department #	Org #	Object Acct	Job Order #	Total Amount
100	444	2050	4222	008207	\$ 508.17
100	050	113	4222	001200	\$ 1,010.52
41400	730	2105	4222	007335	\$ 21,745.36
100	444	2050	4687	008203	\$ 970.31
100	052	2101	4222	007401	\$ 3,917.76
100	444	2050	4222	008214	\$ 1,084.06
100	444	2050	4222	008202	\$ 1,239.32
100	052	2000	4222	007550	\$ 5,034.30
100	890	3006	4222	003006	\$ 4,160.63
100	890	3007	4222	003007	\$ 1,201.41
100	890	3002	4222	003002	\$ 1,043.74
100	890	3005	4222	003005	\$ 704.38
100	890	3008	4222	003008	\$ 1,292.87
100	890	3005	4222	003005	\$ 1,035.51
100	443	2654	4222	026541	\$ 1,978.31
100	041	2350	4223	005711	\$ 491.40
10509	10509		3217	010509	\$ 1,137.50
100	537	2850	4222	008608	\$ 22,715.56
100	449	2552	4222	044952	\$ 661.71
100	073	1003	4222	001003	\$ 209.65
100	310	3001	4222	001006	\$ 3,026.42
100	310	1001	4222	001006	\$ 614.99
10360	10360		4884	003150	\$ 3,462.76
10360	10360		77744	003150	\$ 176.47
41200	752	2101	4222	002222	\$ 4,490.15
41400	730	2203	4222	007354	\$ 17,605.70
100	072	2000	4222	010911	\$ 2,950.54
100	444	2050	4222	008221	\$ 1,894.24
41300	1300	1266	4222	001165	\$ 8,818.46
100	441	2006	4222	044117	\$ 199.15
100	052	2804	4222	002804	\$ 19,545.96
100	052	2500	4222	002850	\$ 27,613.85
41300	1300	1266	4222	001165	\$ 79,789.89
100	110	6400	4222	006400	\$ 704.55
100	110	5340	4222	005340	\$ 704.55
100	444	2050	4222	008205	\$ 542.05
41400	730	2055	4222	007325	\$ 106,125.60
100	444	2050	4222	008209	\$ 419.44
41500	760	275	4222	002341	\$ 46,577.95
100	052	2000	4222	007200	\$ 180,898.03
					\$ 578,303.22

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO TO APPROVE AN AGREEMENT BETWEEN THE
CITY OF SAN DIEGO AND BANK OF AMERICA FOR
GENERAL BANKING SERVICES

WHEREAS, the City of San Diego [City] issued a Banking Request for Proposal [RFP] dated April 12, 2007; and

WHEREAS, the Bank of America [Bank] submitted a bid in response to the City's RFP and was selected to provide general banking services for five (5) years; and

WHEREAS, the terms of the Agreement between the City and the Bank are expressed in the Memorandum of Agreement [MOA] (attached as Exhibit 1); and

WHEREAS, the current agreement for banking services terminates on December 1, 2007;

WHEREAS, the Agreement calls for an expenditure not to exceed \$578,303.22 for Fiscal Year 2008, and

WHEREAS, the activity is exempt from California Environmental Quality Act pursuant to CEQA guidelines section 15060(c)(2); NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, as follows:

Section 1. That the foregoing recitals are true and correct.

Section 2. That the Mayor, the Chief Operating Officer or the Chief Financial Officer, in consultation with the City Attorney, is hereby authorized and directed to cause to be executed the Agreement with Bank of America to provide general banking services.

Section 3. That the City Auditor and Comptroller is hereby authorized to expend an amount not to exceed \$578,303.22 for Fiscal Year 2008 for general banking services, contingent upon Auditor and Comptroller certifying that the funds necessary for expenditure are or will be on deposit with the City Treasurer.

Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Sanna R. Singer
Deputy City Attorney

SRS:jdf
11/6/2007
Or.Dept:FIN
R-2008-404

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

MEMORANDUM OF AGREEMENTParties

This Memorandum of Agreement ("MOA") is hereby made by and among BANK of AMERICA ("Proposer") and the City of San Diego ("City"), collectively referred to as the "Parties," to memorialize their acceptance of the terms of the contract resulting to the Proposer's successful proposal in response to the City's Request for Proposal ("RFP") No. 8576-07-L.

Recitals

WHEREAS, the Proposer has submitted a proposal in response to the RFP, and in doing so has agreed that, should the proposal be successful, it will be bound by the terms of the Contract Documents as defined in the RFP: including the RFP; the City of San Diego's General Provisions for Proposals dated January 18, 2005 ("General Provisions"); the proposal submitted (technical and price volume); the City's award letter(s); the proposer's Best and Final Offer (if any); the City's written acceptance of any exceptions to clarifications incorporated in the proposal (if any); any exhibits, attachments, or addenda to any of the aforementioned documents; and any documents incorporated therein by reference;

WHEREAS, the City has determined that the Proposer's proposal is the winning proposal and intends to award the contract to the Proposer on that basis;

THEREFORE, the Parties agree to the following:

Agreement

The Parties mutually agree that, as a result of the City's acceptance of the Proposer's proposal in response to the RFP, the Parties shall be mutually bound by the Contract Documents, as defined above. To the extent terms and conditions of the Contract Documents conflict with one another, the order of priority will be as follows: (1) the RFP takes precedence over conflicting terms in the General Provisions; (2) the General Provisions take precedence over conflicting terms in the proposal; and (3) exceptions and clarifications noted in the proposal take precedence over conflicting terms in the RFP and General Provisions only if expressly agreed to by the Parties in writing prior to execution of this MOA.

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The Parties further agree that the Contract Documents, as defined above and memorialized in this MOA, constitute the entire agreement between the Parties.

Accepted and Agreed,

City of San Diego

Proposer

By: Jay M. Goldstone, COO

By: Gwen Fiorito

Date: _____

Date: Nov. 6, 2007

I HEREBY APPROVE the form and legality of the foregoing agreement this ____ day of _____, 2007.

MICHAEL J. AGUIRRE, City Attorney

By: _____

Michael P. Calabrese
Chief Deputy City Attorney