

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement ("Agreement") dated December 5th, 2006 is made between City of Redlands, a municipal corporation located at 35 Cajon Street, Redlands, California 92373 ("City") and Bank of America, National Association, a national bank organized under the laws of the United States of America ("Bank"). City and Bank are sometimes individually referred to herein as a "Party" and together, as the Parties.

RECITALS

WHEREAS, City made various deposits to its bank account on or about September 23, 2005; and

WHEREAS, one of the bundles of checks accompanying the City deposit on September 23, 2005 totaling no more than \$141,092.16 has become missing; and

WHEREAS, Bank has requested the cooperation of the City in obtaining certain information about the check payors (for the purposes of contacting the payors to recover these funds) included in the missing bundle of checks, if available [customer name, customer address, customer telephone number, dollar amount of check, check number, customer's bank name, customer's bank account number]; and

WHEREAS, this cooperation may allow persons other than City employees to view information the City deems confidential (the "Confidential Information"); and

WHEREAS, Bank and City (the "Parties") wish to safeguard the confidentiality of the Confidential Information that City will make available to Bank, and the privacy of the City's customers.

In consideration of the foregoing premises and covenants contained herein, the parties agree as follows:

1. As used herein, the term "Confidential Information" means any written documents or written information, including in electronic form, and any copy thereof, disclosed to Bank for the purposes of this Agreement, including, but not limited to, financial information, operational data, client information, computer programs, and any part or components thereof; information, the disclosure of which could reasonably be expected to result in or cause a financial loss or gain to Bank, City, or a third party; and financial information that will assist Bank in recovering the funds represented by the missing bundle of checks.
2. "City" includes all departments and divisions of the City.
3. Bank agrees that all Confidential Information shall remain the sole and exclusive property of City. Nothing in this Agreement constitutes a license or grant of any rights in or to any Confidential Information to Bank. Upon City's request, Bank will promptly return all Confidential Information in its possession, custody, or control, together with any copies thereof.
4. Bank agrees to use reasonable and customary care to hold all Confidential Information disclosed to it in confidence and shall not, except as is specifically authorized herein, disclose any such Confidential Information to any other party. Subject to the preceding, Bank may disclose Confidential Information (i) to those of Bank's directors, officers, employees, legal counsel, legal advisors and accountants (herein referred to as its "Representatives") who need to be advised of such Confidential Information for the sole purposes of evaluating Bank's efforts to recover the funds from

the missing bundle of checks. Such disclosure to any such Representatives shall be made only under the same conditions of confidentiality set forth herein, (ii) to the extent necessary to protect Bank or employees, officers, directors, independent contractors, or agents of Bank or any affiliate of Bank, in the judgment of Bank and with the written permission of the City, in connection with any claim or dispute involving Bank arising out of missing bundle of checks.

5. The term "Confidential Information" does not include information which (i) is or becomes part of the public knowledge through no fault of Bank, its employees, officers, directors, agents, or independent contractors after disclosure by City to Bank. (ii) was lawfully received by Bank from an independent third party without any breach of confidentiality by that third party without restriction and without breach of this Agreement or (iii) is subject to disclosure by law or by legal obligation.

6. The City retains all rights regarding its choice of remedies for Bank's breach of this Agreement.

7. Bank shall indemnify, hold harmless, and defend City and its elected officials, officers and employees from and against any and all claims, damages, losses, liabilities, recoveries, settlements, costs, and expenses (including interest, penalties, attorneys' fees, accounting fees, and expert witness fees), arising out of or related to: (i) any unauthorized use or disclosure of any Confidential Information by Bank; or (ii) any other breach of this Agreement by Bank.

8. Neither of the Parties may assign any or all of its rights or obligations under this Agreement without the prior written consent of the other, except that either of the Parties may assign its rights and/or obligations under this Agreement to any wholly-

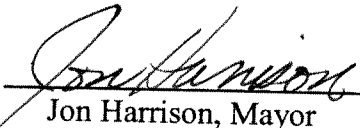
owned subsidiary or to its successor in interest in connection with its merger or consolidation of itself into another business entity or name or its sale of all or substantially all of its assets, stock, or interest without prior written consent. Any unauthorized assignment is void. For any authorized assignment, this Agreement will bind and inure to the benefit of any assignees or successors in interest.

9. This Agreement constitutes the entire agreement of the Parties with respect to matters set forth in this Agreement and supersedes any prior understanding or agreement, oral or written, with respect to such matters. This Agreement may not be amended or modified except by a writing executed by duly authorized representatives of both parties.

10. This Agreement is made under and shall be governed by and construed in accordance with the laws of the State of California. Any litigation arising out of this Agreement shall be filed in the San Bernardino Superior Court, San Bernardino District.

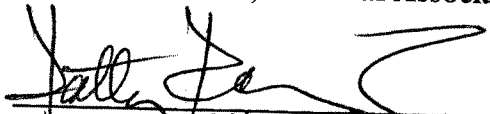
11. In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement, the prevailing Party shall, in addition to costs and other relief, be entitled to recover its reasonable attorneys' fees, including fees for in-house counsel of the Parties.

City of Redlands

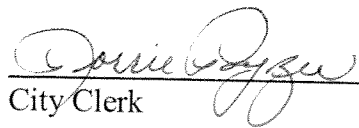
By: 

Jon Harrison, Mayor

Bank of America, National Association


Title: VICE PRESIDENT

Attest:


City Clerk