

Master Contract Number: C2021-0146

Office Use Only

SUB-CONTRACT NUMBER:

C2022-0088

NOTICE OF CONTRACT RENEWAL SERVICES CONTRACT

THIS RENEWAL made and entered into this date, _____, by and between the City of Branson, Missouri (the "City") and **Arvest Bank** ("Service Provider") for renewal period **One** from **June 27, 2022** to **June 26, 2023**.

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Service Provider as follows:

1. **Renewal.** The City agrees to engage the work of the Service Provider and the Service Provider agrees to provide the services and assume the responsibilities as referenced in the original contract attached as **Exhibit 1**.

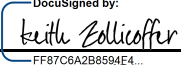
2. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Service Provider under the terms of this contract exceed the sum of **See Pricing Page – Exhibit B of original contract attached as Exhibit 1, all of which is dependent upon budget appropriations.**

3. **Missouri Immigration Law Affidavit.** After January 1, 2009, the service provider takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the services provider will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The service provider will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for an Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

SERVICE PROVIDER:

By:  2/7/2022
DocuSigned by: FF87C6A2B8594F4...
 (Signature) Date


CITY OF BRANSON, MISSOURI

Larry D. Milton
 Mayor Date

ATTEST:

Lisa K Westfall
 City Clerk Date

APPROVED AS TO FORM:

 1/31/2022
DocuSigned by: 8FB583A43E244E...
Chris Lebeck #51831
 City Attorney Date

Office Use Only MASTER CONTRACT NUMBER: C2021-0146

SERVICES CONTRACT

THIS CONTRACT made and entered into this 5th day of May, 2021, by and between the City of Branson, Missouri (the "City") and Arvest Bank ("Service Provider").

WITNESSETH:

THAT, WHEREAS, the City of Branson desires to engage the Service Provider to provide certain services hereafter more particularly described in **Exhibit A**; and

WHEREAS, the Service Provider made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Service Provider as follows:

1. **Scope of Work.** The City agrees to engage the work of the Service Provider and the Service Provider agrees to provide the services and assume the responsibilities hereinafter set forth in **Exhibit A**.

2. **Addition to Work.** The City and the Service Provider may amend the scope of work set forth in **Exhibit A**, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 7B of this contract. Any amendments shall be in written form and prepared and approved by the appointed City Officials and countersigned by the Service Provider.

3. **Exchange of Data.** All information, data, and reports as are existing, available and necessary for the carrying out of the work, shall be furnished to the requesting party without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of work.

4. **Payment for Labor and Materials.** The Service Provider agrees and binds itself to secure and pay for all personnel, labor, materials and supplies required to perform the services called for under this contract by Service Provider. Such personnel shall not be employees of or have any contractual relationship with the City except as employees of the Service Provider. All of the work required hereunder will be performed by the Service Provider or under Service Provider's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such work. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

5. **Term.** The work of the Service Provider shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. **The term of the contract will be from a date beginning on June 27, 2021 to a date ending June 26, 2022, with the option to renew the contract for four (4) additional one-year periods, or part thereof. Each additional year will require a contract and Board of Aldermen approval. In the event the contract is renewed, all terms, conditions, and provisions of the original contract shall remain the same and apply**

during the renewal period. The contract shall not bind, nor purport to bind, the City for any contractual commitment in excess of the original contract period.

6. **Costs not to Exceed.** The City is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract which cannot be exceeded unless this contract is amended. The Service Provider providing work hereunder shall be required to keep track of the amount of work performed under this contract at all times; and any work, materials, supplies or expenses in excess of the fixed sum shall not be eligible for payment. The Service Provider shall notify the City if Service Provider anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Service Provider shall establish a billing system showing the amount of money remaining on the contract which shall be shown in each monthly billing.

7. **Payment.**

A. Conditioned upon acceptable performance. The City agrees to pay the Service Provider in accordance with the terms set forth in **Exhibit B** which shall constitute complete compensation for all work to be rendered under this contract; provided, that where payments are to be made periodically to Service Provider for work rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the work performed during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of work set forth in **Exhibit A**.

B. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Service Provider under the terms of this contract exceed the sum of **See Pricing Page – Exhibit B, all of which is dependent upon budget appropriations.**

8. **Termination of Contract.**

A. Termination for breach. Failure of the Service Provider to fulfill Service Provider's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of work set forth in **Exhibit A** shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Service Provider by one of three different means: Facsimile Transmission ("FAX") if Service Provider has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Service Provider; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Service Provider or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Service Provider under this contract shall at the option of the City become its property, and the Service Provider shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Service Provider shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Service Provider.

B. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means

specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination, in the event of termination in the absence of breach.

C. **Surviving Terms.** Notwithstanding any provisions to the contrary, provisions pertaining to liability and indemnity shall survive the termination of this contract.

9. **Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.

10. **Assignment.** The Service Provider shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Service Provider from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

11. **Performance.** It is understood by the parties that time is of the essence in this contract.

12. **Discrimination.** The Service Provider agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Service Provider or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

13. **General Independent Service Provider Clause.** This contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Service Provider will be an independent Service Provider and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Service Provider will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Service Provider's activities and responsibilities hereunder. The Service Provider agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, that this agreement shall not be construed as creating any joint employment relationship

between the Service Provider and the City, and the City will not be liable for any obligation incurred by the Service Provider.

14. City Benefits. The Service Provider shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

15. Liability and Indemnity. The parties mutually agree to the following:

A. In no event shall the City be liable to the Service Provider for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid by the City under this contract. All of the provisions in the agreement are subject to the terms of Missouri Sovereign Immunity as set forth in section 537.610.2 and 537.610.5 of the Missouri Revised Statutes.

B. The Service Provider shall defend, indemnify, and hold the City harmless from and against all claims, losses, actions, causes of action, demands and liabilities arising out of personal injuries, including death, and damage or impairment to property or any rights which are caused by the Service Provider arising out of or in any way connected with this contract. Service Provider further agrees to defend, indemnify and hold the City harmless from and against any claims, losses and liabilities arising out of the award of this contract to the Service Provider.

C. The Service Provider shall indemnify and hold the city harmless from all wages or overtime compensation due its employees and from any and all claims by Subcontractors in rendering work pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

16. Notices. All notices required or permitted herein under and required to be in writing may be given by FAX or by first class mail addressed to City and Service Provider at the addresses provided. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 4:30 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

17. Jurisdiction. This contract and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the service provider takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the services provider will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The service provider will provide with their bid specifications and bonding information a statement that the company has such a

program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ ____ If this box is checked, then the requirement for an Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. **Entire Agreement.** This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

20. **Compliance with Laws.** Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state and federal taxes and assessments owed by Contractor is current.

21. **Safety.** Contractor and subcontractors performing service for the City are required and shall comply with all applicable Occupational Safety and Health Administration (OSHA). All contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site.

22. **Contact Information:** City of Branson
Attn: Contract Management
110 W Maddux St., Ste. 205
Branson, MO 65616
417-337-8522

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

SERVICE PROVIDER:

By: [Signature] 5/5/21
(Signature) Date

Name: Keith Zollicoffer
(Printed Name)

Title: Dir. Comm. CC Pmt Solutions

Company Name: ARVEST

Address: 5000 ROGERS AVE

FT. SMITH, AR 72903

Phone: 479-573-1134

E-Mail: Kzollicoffer@arvest.com

Tax ID: 71-018700

CITY OF BRANSON, MISSOURI

[Signature] 6/11/2021
Larry D. Milton Mayor Date

ATTEST:
[Signature]
Lisa K Westfall
City Clerk



APPROVED AS TO FORM:

[Signature] #51831 4/30/21
Chris Lebeck #51831 Date
City Attorney

Exhibit A

Arvest Bank
5000 Rogers Ave
Fort Smith, AR 72903

SCOPE OF WORK

1. Purpose: Arvest Bank agrees to provide purchase card (p-card) services in accordance with the requirements of all applicable federal and state statutes and the following specifications.
2. Background: The City has approximately 150 active purchase cards issued to City employees. The amount spent on purchasing cards is approximately \$2.5 million per year.
3. General Requirements:
 - 3.1 The City of Branson currently receives monthly statements and pays once a month. Indicate the monthly fee, if any, associated with this program and the rebate structure provided by your program.
 - 3.2 Arvest Bank agrees to provide the services outlined below:
 - 3.2.1 Provide a complete purchasing card program. This includes software, set-up, technical support, administrator/user manuals and assistance in the implementation of this program.
 - 3.2.2 No Cost Reporting System to include:
 - A. In-person training
 - B. Open/close new card online in real-time
 - C. Increase/decrease individual limits in real-time
 - D. Review transactions as they post
 - E. Provide direct feed from Visa, or approved equal, to accounting system
 - F. Provide spending data in a City specific flat file format
 - G. Support staff available to work with City's IT department
 - H. Ten (10) standard reports for audit purposes
 - 3.2.3 Provide technical support to convert the database if necessary to current operating system, Central Square.
 - 3.2.4 Provide a line of credit to the City of Branson with individual cardholder limits established by the City of Branson and enforced by the service provider's blocking controls.
 - 3.2.5 Ability to block certain transactions based on the MCC code.
 - 3.2.6 Provide individual credit card account numbers for each employee

cardholder, which are subsidiary to the City of Branson's parent account.

- 3.2.7 Capture data from the transactions made with the purchasing card.
- 3.2.8 Electronically transmit data received from the vendors to the City on a monthly basis.
- 3.2.9 Maintain the confidentiality of employee cardholder's names and addresses.
- 3.2.10 Other services offered by the provider should be specified in the proposal with the related fees for the services.
- 3.2.11 Online administration ability.
- 3.2.12 Ability for cardholders to view their credit limits and other activity online.
- 3.2.13 Replacements for lost or stolen purchasing cards must be sent via Fed Ex or UPS to the City of Branson within three business days.
- 3.2.14 The p-card program and all related reports and correspondence must be PCI compliant.

4. Financial Data

In order to establish the financial strength of the proposing institution, the following ratios will be derived and furnished by the proposing institution for the previous quarter:

- A. Liquidity:
 - 1. Bank loans to deposits.
 - 2. Loans to assets minus plant and equipment.
 - 3. Cash and equivalents to total assets.
 - 4. Percentage of assets maturing in one year.
 - 5. Cash and equivalents to deposits.
- B. Asset Quality:
 - 1. Current loan losses to total loans.
 - 2. Reserves as a percentage of total loans.
 - 3. Nonperforming loans to total loans.
- C. Profitability:
 - 1. Return on earning assets.
 - 2. Return on equity.
- D. Strength:
 - 1. Capital to deposits.
 - 2. Capital to loans.

3. Capital to assets.

E. Management:

1. Net charge-offs to loans.
2. Income before security transactions to assets.

Exhibit B

PRICING PAGE

Arvest Bank provided pricing information as specified below to provide Purchase Card (P-Card) Services in accordance with the terms and conditions of the contract.

001. Rebate Offered	1.39	%
002. Purchasing Cards	\$ 0	ea.
003. Technical Support	\$ 0	/ yr.
004. Electronic Transmission of Data	\$ 0	/ yr.
005. Customer Service Support	\$ 0	/ yr.
006. Other Services Offered by Provider	\$ 0	/ yr.
007. Total Annual Fee	\$ 0	/ yr.