

**TOWN OF WOODWAY
COUNCIL SPECIAL MEETING AGENDA**

**FRIDAY, OCTOBER 27, 2023
3:00 P.M.**

Woodway Town Hall | 23920 113th Place W. | Woodway, WA

3:00 P.M.		Call to Order & Roll Call
3:00 P.M.	I	Banking Services RFP – Award Contract
3:05 P.M.		Adjournment

All times are approximate.

**Anyone with a disability requiring special accommodations or anyone wishing to make a public comment for this meeting via video or audio connection should contact the Town Clerk's Office at Town Hall or call (206)542-4443 before 1:00 p.m. the Thursday preceding the Council Meeting. For TDD relay service, call (206)587-5500, or outside the Seattle area #1-800-833-6388.*

MEMO

TO: MAYOR MIKE QUINN, WOODWAY COUNCILMEMBERS
FROM: HEIDI K. S. NAPOLITINO, CLERK-TREASURER
SUBJECT:
DATE: OCTOBER 24, 2023
CC: ERIC FAISON, TOWN ADMINISTRATOR

Greetings Mayor & Councilmembers,

We are ready to conclude the Request for Proposals (RFP) process for the Town's banking services; the final step is to award the contract. This was a lengthy process, beginning at the end of August. We received three proposals. After extensive review, two were chosen as finalists.

The Deputy Clerk and I had an opportunity to meet with representatives from each of the two finalist banks. We asked several follow up questions and viewed a demo of their online banking systems. After the demos, I called references for the bank that felt like the best overall choice, based on a mix of cost and customer service.

Staff is recommending that the new banking services contract be awarded to HomeStreet Bank. The transition would begin immediately upon execution of the contract, and we should be fully functional with our new bank by the beginning of 2024. There may be a month or two of overlap with both banks, to make sure that all the loose ends are tied up.

TOWN OF WOODWAY BANKING SERVICES CONTRACT

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF WOODWAY AND HOMESTREET BANK FOR BANKING SERVICES

THIS AGREEMENT, made and entered into this _____ day of November 2023 in Snohomish County, Washington, by and between the Town of Woodway, a Washington Municipal Corporation (hereinafter referred to as "Town"), and HomeStreet Bank (hereinafter referred to as "Financial Institution").

WHEREAS, the Financial Institution has represented, and by entering into this Agreement now represents, that the Financial Institution and all employees assigned to work on any Town project are in full compliance within the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this agreement are fully qualified and properly licensed to perform the work to which they will be assigned.

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein below, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this agreement is to provide the Town with banking and financial services. The terms and conditions of relationships between the Town and the Financial Institution are specified in this agreement.

ARTICLE II. SCOPE OF WORK & CONTRACT TERM

2.1 **Scope of Work.** The Financial Institution shall furnish all labor, materials, and supplies necessary to perform the required Banking Services as stated in the Banking Services Proposal ("RFP") attached as Exhibit A and incorporated by this reference. All performance of Banking Services under this Agreement shall meet all applicable requirements of the state and federal law.

2.2 **Term.** The term of this agreement shall be four (4) years beginning _____ through _____. Upon mutual written consent, this agreement may be extended twice, each time for two (2) additional years. During any extension period, all terms and conditions of the existing Agreement shall remain in effect including any mutually approved amendments. The Financial Institution shall be authorized to begin work under the terms of this agreement upon signing of this agreement and shall begin offering banking services to the Town no later than January 1, 2024, unless a mutual written agreement is

signed to change the schedule. An extension of the time for beginning of service may be given by the Town due to conditions not expected or anticipated at the time of execution of this agreement.

- 2.3 **Compensation.** The Financial Institution will be compensated according to the rates as stated in the Banking Services Proposal ("RFP") attached as Exhibit A. Prior to expiration of the initial four-year term, the Town and the Financial Institution may negotiate fees for the term of the extension not to exceed an increase based on 90 percent of a four-year average of the June to June Consumer Price Index All Urban Consumers, Seattle-Tacoma-Bremerton Area (CPI-U). This is the CPI-U published by the U.S. Department of Labor, Bureau of Labor Statistics, P.O. Box 192766, San Francisco, California 94119-3766.

ARTICLE III. OBLIGATIONS OF THE FINANCIAL INSTITUTION

- 3.1 **Minor Changes in Scope.** The Financial Institution shall accept minor changes, amendments, or revisions, in the detail of the work as may be required by the Town when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in costs or schedules will be addressed as listed below.
- 3.2 **Extra Work.** The Town may desire to have the Financial Institution perform work or render services in connection with special projects in addition to or other than work provided by the expressed intent of the scope of work in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to this agreement, to be signed by both parties, which will set forth the nature and the scope thereof. Work under a supplemental agreement shall not proceed until executed in writing by the parties.
- 3.3 **Reports, Statements, and Other Documents.** The reports, statements, and other documents created in the course of the Town's business with the Financial Institution shall be furnished by the Financial Institution to the Town and shall become the property of the Town.

The Financial Institution will not be held liable for reuse of these documents or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Financial Institution.

- 3.4 **Public Records Act.** The Financial Institution acknowledges that the Town is subject to the Public Records Act, Chapter 42.56 RCW ("PRA"). All records owned, used, or retained by the Town are public records subject to disclosure unless exempt under the PRA, whether or not the records are in the possession or control of the Town or Financial Institution. All exemptions to the PRA are narrowly construed.

- A. Confidential Information. Any records provided to the Town by the Financial Institution which contain information that the Financial Institution in good faith believes is not subject to disclosure under the PRA shall be marked “Confidential” and shall identify the specific information that the Financial Institution in good faith believes is not subject to disclosure under the PRA and a citation to the statutory basis for non-disclosure.
- B. Responding to Public Records Requests. The Town shall exercise its sole legal judgment in responding to public records requests.
- i. The Town may rely upon the lack of notification from the Financial Institution in releasing any records that are not marked “Confidential.”
 - ii. If records identified as “Confidential” by the Financial Institution are responsive to a PRA request, the Town will seek to provide notice to Financial Institution at least ten (10) business days before the date on which the Town anticipates releasing records. The Town is under no obligation to assert any applicable exemption on behalf of the Financial Institution. The Financial Institution may seek, at its sole cost, an injunction preventing the release of information which it believes is protected. In no event will the Town have any liability to the Financial Institution for any failure of the Town to provide notice prior to release.
 - iii. If the Town, in its sole legal judgment, believes that the Financial Institution possesses records that (1) are responsive to a PRA request and (2) were used by the Town, the Town will request the records from the Financial Institution. The Financial Institution will, within ten (10) business days:
 - a. Provide the records to the Town in the manner requested by the Town; or
 - b. Obtain a court injunction, in a lawsuit involving the requester, covering all, or any confidential portion of, the records and provide any records not subject to the court injunction; or
 - c. Provide an affidavit, in a form acceptable to the Town Attorney, specifying that the Financial Institution has made a diligent search and did not locate any requested documents.
- C. Indemnification. In addition to its other indemnification and defense obligations under this Agreement, the Financial Institution shall indemnify and defend the Town from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorneys fees and litigation expenses), suits, judgments, or damages (collectively “Damages”) arising from or relating to any request for records related to this Agreement, to the extent such Damages are caused by action or inaction of the

Financial Institution. This indemnification and defense obligation shall survive the expiration or termination of this Agreement.

- 3.5 **Maintenance/Inspection of Records.** The Financial Institution shall maintain all books, records, documents, and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the Town and/or the Washington State Auditor at all reasonable times, and the Financial Institution shall afford the proper facilities for such inspection and audit.

Representatives of the Town and/or the Washington State Auditor may copy such books, accounts, and records where necessary to conduct or document an audit. The Financial Institution shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. If any audit or inspection identifies any discrepancy in such financial records, the Financial Institution shall provide the Town with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

- 3.6 **Assignment and Subcontracting.** The services to be provided by the Financial Institution shall not be assigned or subcontracted without the express written consent of the Town.
- 3.7 **Employment.** Any and all employees of the Financial Institution, while engaged in the performance of any work or services required by the Financial Institution under this agreement, shall be considered employees of the Financial Institution only and not of the Town, and any and all claims that may or might arise under the Worker's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Financial Institution or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Financial Institution.

3.8 **Indemnification/Hold Harmless.**

- A. The Financial Institution will at all times indemnify and hold harmless and defend the Town, its elected officials, officers, employees, agents, and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments, and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omission of the Financial Institution in performance of Financial Institution's professional services under this agreement. The term "Claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, involving bodily

or personal injury or death of any person or damage to any property including, but not limited to, persons employed by the Town, the Financial Institution or other person, and all property owned or claimed by the Town, the Financial Institution, or affiliate of the Financial Institution, or any other person.

- B. Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Financial Institution and the Town, its officers, officials, employees, and volunteers, the Financial Institution's liability to the Town, by way of indemnification, shall be only to the extent of the Financial Institution's negligence.
- C. The provisions of this section shall survive the expiration or termination of this agreement.
- D. For the purposes of the indemnity contained in subpart "A" of this paragraph 3.6, Financial Institution hereby knowing, intentionally, and voluntarily waives the immunity of the Industrial Insurance Act, Title 51 RCW. _____ (initials) _____ (initials)

3.9 **Insurance.** The Financial Institution shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Financial Institution, its agents, representatives, or employees.

- A. **No Limitation.** Financial Institution's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Financial Institution to the coverage provided by such insurance, or otherwise limit the Town's recourse to any remedy available at law or in equity.
- B. **Minimum Scope of Insurance.** Financial Institution shall obtain insurance of the types described below:
 - i. *Automobile Liability* insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - ii. *Commercial General Liability including Employment Practices* insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, and personal injury and advertising injury. The Town shall be named as an insured under the Financial Institution's

Commercial General Liability insurance policy with respect to the work performed for the Town.

- iii. *Workers' Compensation* coverage as required by the Industrial Insurance laws of the State of Washington.
- iv. *Professional Liability* insurance appropriate to the Financial Institution.
- v. *Cyber Liability* insurance.
- vi. *Director's & Officer's Liability* insurance.
- vii. *Fiduciary Liability* insurance.
- viii. *Fiduciary bonds* for employees of the bank.

C. Minimum Amounts of Insurance. Financial Institution shall maintain the following insurance limits:

- i. *Automobile Liability* insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- ii. *Commercial General Liability* insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.
- iii. *Professional Liability* insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.
- iv. *Cyber Liability* insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.
- v. *Director's & Officer's Liability* insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.
- vi. *Fiduciary Liability* insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.
- vii. *Fiduciary bonds* for employees of the financial institution shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

D. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provision for Automobile Liability, Professional Liability, and Commercial General Liability insurance: The Financial Institution's insurance coverage shall be primary insurance as respect the Town. Any insurance, self-insurance, or

insurance pool coverage maintained by the Town shall be in excess of the Financial Institution's insurance and shall not contribute with it.

E. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-VII.

F. **Verification of Coverage.** Financial Institution shall furnish the Town with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Financial Institution before commencement of the work. Throughout the term of this Agreement, the Financial Institution shall provide the Town with proof of insurance upon request by the Town.

3.10 **Discrimination Prohibited/Compliance with Equal Opportunity Legislation.** The Financial Institution agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age, or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or any other forms of compensation; selection for training; rendition of services. The Financial Institution further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Financial Institution understands and agrees that if it violates this nondiscrimination provision, this agreement may be terminated by the Town, and further that the Financial Institution will be barred from performing any services for the Town now or in the future, unless a showing is made satisfactory to the Town that discriminatory practices have been terminated and that recurrence of such action is unlikely.

3.11 **Unfair Employment Practices.** During the performance of his agreement, the Financial Institution agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

3.12 **Legal Relations.** The Financial Institution shall comply with all federal, state, and local laws and ordinances applicable to work to be done under this agreement. This agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.

3.13 **Independent Contractor.** The Financial Institution's relation to the Town shall at all times be as an independent contractor.

3.14 **Conflicts of Interest.** While this is a non-exclusive agreement, the Financial Institution agrees to and will notify the Town of any potential conflicts of interest in Financial

Institution's client base and will seek and obtain written permission from the Town prior to providing services to third parties where a conflict of interest is apparent. If a conflict is irreconcilable, the Town reserves the right to terminate this agreement.

- 3.15 **Town Confidences.** The Financial Institution agrees to and will keep in strict confidence, and will not disclose, communicate, or advertise to third parties without specific prior written consent from the Town in each instance, the confidences of the Town or any information regarding the Town or services provided to the Town.

ARTICLE IV. OBLIGATIONS OF THE TOWN

- 4.1 **Payments.** The Financial Institution shall be paid by the Town for completed work for services rendered under this agreement and as detailed in the Exhibit A, Required Banking Services & Banking Services Fee Schedules, as provided herein after.

A. The Financial Institution shall compute the actual cost to service the account based on the transaction volumes and the actual services provided and also calculate a service charge credit based on compensating balances and other factors. If the charges exceed the credit, the Town shall compensate the financial institution for the excess charges. If the service charge credits exceed the service charges for the account, the financial institution will compensate the Town for excess service charge credits.

B. Such payments shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. In the event the Town elects to expand the scope of services from that set forth in Exhibit A, the Town shall pay Financial Institution an additional amount based on a time and expense basis, based upon Financial Institution's current schedule of hourly rates.

- 4.2 **Town Approval.** Notwithstanding the Financial Institution's status as an independent contractor, results of the work performed pursuant to this contract must meet the approval of the Town, which shall not be unreasonably withheld if work has been completed in compliance with the scope of work and Town requirements.

ARTICLE V. GENERAL

- 5.1 **Notices.**

Notices to the Town shall be sent to the following address:

Town of Woodway
Eric A. Faison, Town Administrator
23920 113th Place W.
Woodway, WA 98020

Phone: (206) 542-4443

Notices to the Financial Institution shall be sent to the following address:

HomeStreet Bank
[Insert Contact Information]

Receipt of any notice shall be deemed effective three (3) days after the date on certified mail receipt.

5.2 **Termination.** The right is reserved by the Town to terminate this agreement in whole or in part at any time upon ninety (90) days' written notice to the Financial Institution.

The Town reserves the right to terminate this agreement without notice if the chosen Financial Institution, for any reason:

- Is no longer designated by the Washington Public Deposit Protection Commission as a qualified public depository; or
- No longer offers the full range of required banking services listed in Exhibit A or to provide a substitute service acceptable to the Town; or
- Is sold or merges with another bank.

If this agreement is terminated, a final payment shall be made to the Financial Institution for all work that has been completed but not yet billed.

5.3 **Disputes.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed upon alternative dispute resolution of arbitration or mediation.

5.4 **Nonwaiver.** Waiver by the Town of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

TOWN OF WOODWAY

HOMESTREET BANK

By: _____
Michael S. Quinn, Mayor

By: _____ (Name)
Its _____ (Title)

Date: _____

Date: _____

ATTEST/AUTHENTICATED

By: _____
Heidi K. S. Napolitano, Clerk-Treasurer

APPROVED AS TO FORM

By: _____
Greg Rubstello, Town Attorney

Attachments:

Exhibit A: Required Banking Services & Banking Services Fee Schedules (Attachment A of RFP)

Exhibit B: Insurance Documents

EXHIBIT A:
REQUIRED BANKING SERVICES & BANKING SERVICES FEE SCHEDULES

Draft

ATTACHMENT A PROPOSAL FOR BANKING SERVICES

REQUIRED BANKING SERVICES

1. Required banking services to be provided:

Required Banking Services	Able To Provide Service
Online Services	Confirmed – see Attachment B, response to question #7
Depository	Confirmed – see Attachment B, responses to questions #7, #18 & Optional Services question #1
Electronic Fund Transfer	Confirmed – see Attachment B, response to question #9
Direct Deposit	Confirmed – see Attachment B, response to question #8
Positive Pay	Confirmed – see Attachment B, response to question #10
Overdraft Protection	Confirmed – see Attachment B, response to question #12
Account Reporting, Maintenance & Service	Confirmed – see Attachment B, response to question #7
Competitive Bidding – Interim Financing	Confirmed – see Attachment B, response to question #12
Investments	No Proposal – HSB’s response includes traditional interest-bearing deposit products, however HSB is not currently a primary investment broker-dealer.
Security of Deposits	Confirmed – see Exhibit C for confirmation of HSB’s WA Public Deposit Protection Commission status.
Security of Branch Locations	Confirmed – As a 100+ year-old Seattle based bank, HSB has no history of closing branches within the Greater Seattle-Tacoma-Everett-Bellevue area and foresees no changes to that strategy.

2. Charges for Services (all HSB Inputs in **RED**):

ITEM	UNIT PRICE	ESTIMATED MONTHLY VOLUME	ESTIMATED MONTHLY COST	ADDITIONAL COMMENTS
General Account Services:				
Monthly Account Maintenance	\$15.00	1	\$15.00	
Paper Statement Fee	\$0.00	1	\$0.00	
Electronic Statement Fee	\$0.00	1	\$0.00	
Deposit Assessment Fee	\$0.00			

Earnings Credit Rate	1.50%			
Negative Collected Rate	0.00%			
Daily earnings rate on sweep account or interest-bearing checking	1.50%			
Depository Services:				
Deposits Posted (Branch or Remote Deposit Capture)	\$0.35	6	\$2.10	
Checks Processing, Per Item (Branch or Remote Deposit Capture)	\$0.15	51	\$7.65	
ACH Credits (Received Items)	\$0.10	38	\$3.80	
Checks Written	\$0.20	31	\$6.20	
ACH Debits (Transactions Originated)	\$0.20	15	\$3.00	
Returned Deposit Item - Check	\$10.00	1	\$10.00	
Stop Payment, Per Item (Online Initiation)	\$15.00			
Currency & Coin Deposited, per \$100	\$0.13			
Negative Balance Fee (Overdraft - Per Item Charge)	\$30.00			
General ACH Services:				
ACH Online Monthly Maintenance	\$30.00	1	\$30.00	
ACH Batches Originated	\$5.00	1	\$5.00	
ACH Returns Online Reporting (Per Returned Item Fee, Reporting = \$0)	\$10.00			
Direct deposit charges (please itemize)	No additional fees outside of what is listed in other rows (\$30 monthly maintenance, \$5 / released batch, \$.20 per originated item). These fees would also not change if the Town opted to move to NACHA file import vs. manual template maintenance.			
Wire Transfer Services:				
Wire Voice PIN Maintenance - Alternative Methods Proposed	No Proposal	1	See Attachment B, response to #9b	
Incoming Domestic Wire	\$15.00			
Outgoing Domestic Wire (Online Origination)	\$15.00	1	\$15.00	

Repetitive Wire Transfer (Online Origination - Domestic)	\$15.00			
Wire Transfer Receipts	\$0.00			
Online Banking Services:				
Multi User Business Online Banking - Per User	\$0.00	3	\$0.00	
Bus Online Extended History - 18 Months	\$0.00	1	\$0.00	
Token Security	\$0.00	2	\$0.00	
Other Charges (List and Describe)				
Check Positive Pay - Monthly Maintenance	\$20.00	1	\$20.00	Current service
Check Positive Pay - Per Cleared Check	\$0.05	32	\$1.60	Current service
Check Positive Pay - Per Exception Item	\$0.10			
Check Positive Pay - Per Exception Item (Returned)	\$30.00			
ACH Positive Pay - Per Account Monthly maintenance	\$10.00		See Attachment B, response to #18	
Remote Deposit Capture - Monthly Maintenance	\$50.00		See Attachment B, response to #18	
Interest Bearing Checking - Zero Balance Sweep (Lead Account)	\$25.00		See Attachment B, response to #18	
Interest Bearing Checking - Zero Balance Sweep (Sub Account)	\$10.00		See Attachment B, response to #18	

OPTIONAL BANKING SERVICES

Optional Banking Services	Able To Provide Service	Cost
Additional Small Checking Accounts as Needed	Confirmed	Product dependent – additional information required
Remote Deposit Capture	Confirmed – see Attachment B, responses to questions #18 & Optional Services question #1	See above pricing detail + Attachment B, response to question #18
Investment Assistance	No Proposal – though connections to reputable public sector focused firms can be made	
Safekeeping Services	No Proposal – though connections to reputable public sector focused firms can be made	

EXHIBIT B: INSURANCE DOCUMENTS

Draft