



**PURCHASING ITEM
FOR
COUNCIL AGENDA**

1. Agenda Item Number:

20

2. Council Meeting Date:

October 25, 2012

TO: MAYOR & COUNCIL

THROUGH: CITY MANAGER

3. Date Prepared: September 17, 2012

4. Requesting Department:
Management Services

5. SUBJECT: Extension of Agreement MS0-946-2777 with FIA Card Services, N.A., (Bank of America) for Procurement Card Services for a two-year period with options to renew for three additional two-year periods.

6. RECOMMENDATION: Recommend extending Agreement MS0-946-2777 with FIA Card Services, N.A., (Bank of America) for Procurement Card Services for a two-year period with options to renew for three additional two-year periods.

7. HISTORICAL BACKGROUND/DISCUSSION: Procurement cards are presently used by approximately 669 cardholders throughout the City with an annual volume spent through this program of approximately \$8.9 million, with an additional \$8 million in e-payables. Our program has expanded in the past three years from nine (9) other agencies utilizing our Agreement to a current use by twenty one (21) statewide agencies/organizations, thereby increasing the annual overall statewide spend under our program to approximately \$59 million in 2011.

8. EVALUATION PROCESS: In December 2009, Council approved an Agreement for Procurement Card Services with FIA Card Services, a subsidiary of Bank of America. At the time this Agreement was awarded, the City had 640 cardholders and our average annual spend was approximately \$2.6 million. Through the use of ghost cards, as well as the e-payables program, we've been able to increase our total annual spend to almost \$17 million. The no-cost program with Bank of America provides the City with technology which improves efficient and cost effectiveness in processing payments, easy reporting tools, on-line review and approval of transactions which helps control maverick spending, automated interface with the City's General Ledger, additional functionality and enhanced rebate opportunities. With this renewal, Bank of America is increasing our rebate basis points (bps). The City will get an additional 5 bps on spend for 2012. (1 basis point (bps) = .01%). For the incremental growth portion, if the City's 2013 (Jan - Dec) spend is \$5,000,000 more than 2012's (Jan - Dec), we would receive an additional 10 bps on the growth. If spend were to grow \$10,000,000, we would receive an additional 20 bps on the growth; if the City's program grew \$20,000,000 over the previous year, the City would receive an additional 30 bps on the growth.

9. FINANCIAL IMPLICATIONS: None

10. PROPOSED MOTION: Move to approve extension of Agreement MS0-946-2777 with Bank of America/Merrill Lynch for Procurement Card Services for a two-year period with options to renew for three additional two-year periods.

Attachment: Amendment 1

APPROVALS

11. Requesting Department

Mike Mandt for
Mike Mandt, Acting Purchasing Supervisor

12. Department Head

Dawn Lang
Dawn Lang, Management Services Director

13. Procurement Officer

Sharon Brause
Sharon Brause, CPPB, CPCP

14. City Manager

Rich Dlugas
Rich Dlugas

**ADDENDUM TO BANK OF AMERICA
CORPORATE PURCHASING CARD AGREEMENT
AGREEMENT NO.: MS0-946-2777**

THIS ADDENDUM (the Addendum") is dated _____ by and between the City of Chandler, a political subdivision of the State of Arizona ("City") and FIA Card Services, N.A., a Bank of America company ("Bank of America") and amends the Bank of America Corporate Purchasing Card Agreement between the parties dated December 15, 2009 (the "Agreement").

WHEREAS, the parties desire to add to and modify certain terms of the Agreement;

NOW, THEREFORE, for valuable consideration, the parties hereby agree as follows:

1. DEFINITIONS

Terms capitalized herein and not otherwise defined shall be given the meaning ascribed to them in the Agreement.

2. AMENDMENTS

A) Section 2.4.3 RECORDS. Section 2.4.3 is deleted in its entirety and replaced by the following:

"RECORDS. Bank of America shall retain all data and other "records" relating to the acquisition and performance of the Agreement for a rolling period of seven (7) years from the date of a transaction in accordance with its record retention policies and procedures."

B) Section 2.9 COMPLIANCE WITH APPLICABLE LAWS. Section 2.9 is amended by adding two new sections: 2.9.9 relating to Immigration Law and 2.9.10 relating to Immigration Verification to read as follows:

"Section 2.9.9 Immigration Law. In accordance with federal law and Bank of America's practice, the Bank complies with the Immigration Reform and Control Act of 1986 and employment with the Bank is contingent on the successful completion of the I-9 verification process and e-Verify. The Bank does not knowingly employ any individuals in the United States who are not legally authorized to work in the United States.

Section 2.9.10. Immigration Verification For associate confidentiality reasons, the Bank generally does not disclose the personnel records of its associates to third parties, including I-9 or e-Verify documentation. However, if there are concerns about an

individual's eligibility to perform work in connection with the contract, contact with the client manager should be made.

Section 2.9.5 COMPLIANCE WITH APPLICABLE LAWS. Section 2.9.5 of the Agreement is deleted in its entirety and not replaced.

C) Section 8.5 SUSPENSION OR DEBARMENT. Section 8.5 of the Agreement is deleted in its entirety and replaced by the following:

"Suspension or Debarment. CITY may, by written notice to Bank of America, immediately terminate this Contract if CITY determines that Bank of America has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that Bank of America is not currently suspended or debarred. If Bank of America becomes suspended or debarred, Bank of America shall use best efforts to notify CITY as soon as reasonably practicable."

D) Section 22. TERM. Section 22 of the Agreement is deleted in its entirety and replaced by the following:

"TERM. The term of the Agreement is extended for two years from January 1, 2013 to December 31, 2014. City reserves the right, with the agreement of Bank of America, to extend the Agreement for up to three (3) additional terms of two (2) years each. City reserves the right, with the agreement of Bank of America, to extend the Agreement for up to 31 days at the end of the last term of the Agreement."

E) Schedules I, II and III. ARIZONA PUBLIC SECTOR GROUP GENERAL PRODUCT FEE SCHEDULES. Schedules I, II and III are deleted in their entirety and replaced by the attached Arizona Public Sector Group General Product Fee Schedules I, II and III.

3. RATIFICATION

All of the terms of the Agreement not expressly modified herein shall continue in full force and effect and are hereby ratified by the parties hereto.

Program Overview:

Date: _____

The **Arizona Public Sector Group** is an association of Bank of America's Purchase Card, Travel Card, Corporate Card and ePayables public sector clients. The purpose of the **Arizona Public Sector Group** is to help state and local government agencies; public schools and municipalities to grow their card programs and earn additional rebate basis points on their individual annual Transaction Volume.

SCHEDULE I - GENERAL PRODUCT FEE SCHEDULE

Payment Method and applicable fee:	Electronic Payment – No Fee
Annual Card Fee (Per Card):	Fee Waived
Late Fee: Assessed if full payment is not received by Payment Due Date. <u>Central Bill Accounts:</u> Minimum \$250.00, Maximum \$3,500.00 <u>Individual Bill Accounts:</u>	2.5% of the total balance due \$29.00 per occurrence
Periodic Finance Charge:	Prime Rate + 1.00%
Cash Advance Fee: Minimum \$5.00, no maximum	2.00% of transaction amount
Over limit Fee: <u>Central Bill Accounts:</u> Assessed when Aggregate Charge Limit is exceeded. <u>Individual Bill Accounts:</u> Assessed when any Card Limit is exceeded.	Fee Waived NA
Returned Payment Fee:	\$29.00 per occurrence
Copy Fee:	\$3.00 per copy
Logo Fee:	Logo Card Fee Waived
Unique Card Design Fee:	Custom Card Not Selected
International Transaction Fee:	1% of the U.S. Dollar amount

SELECTION OF SETTLEMENT PERIOD

Indicate the Settlement Period or number of days after the statement closing date within which payment is due.	3, 7, 14, 20 or 25 day settlement period
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SCHEDULE II - ELECTRONIC PRODUCT FEE SCHEDULE

<i>Internet Application Options:</i>	
Works Solution <i>*\$1,000,000 Annual Spend Threshold</i>	Fee Waived
Visa VIM with Workflow	Fee Waived
MasterCard Smart Data Online	Fee Waived
Visa Information Management Solution (VIM) Reporting – (for 1099 reporting if needed)	Fee Waived
MasterCard Enhanced Merchant Reporting (EMR) – (for 1099 reporting if needed)	Fee Waived
<i>Custom Interface:</i> (*With Works Ad Hoc Reporting – Never had client need this)	
<i>Interface warranty period of 1 year</i>	
Development	\$150.00 per hour
Maintenance	\$150.00 per hour
<i>Standard Electronic File Delivery Options:</i>	
EDI 811	Delivery Fee Waived
Statement Billing File	Delivery Fee Waived
File Express (MasterCard Only)	File Express Not Selected

SCHEDULE III - SCHEDULE OF REBATES

Rebate Definitions:

"Calculation Period" means, initially, the twelve (12) month period commencing January 1, 2013, and thereafter, each subsequent (12) month period.

"Cycle Days" means the number of days from the start of the billing period to the statement date.

"Grace Days" means the number of days from the statement date that payment is due.

"Large-Ticket Interchange Transactions" means certain transactions which, based upon the type of merchant and/or transaction dollar amount, are subject to a Visa or MasterCard large ticket interchange program, as determined by and amended by Visa and MasterCard from time to time.

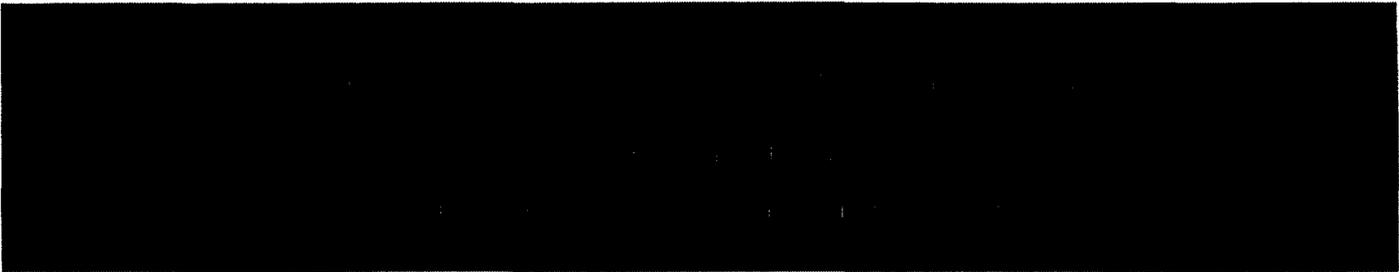
"Rebate Multiplier" means the multiplier corresponding to the Transaction Volume and Cycle and Grace Days as set forth in the Standard Rebate Multiplier Table and the multiplier corresponding to the Average Large Ticket Transaction Size and Cycle and Grace Days set forth in the Large Ticket Interchange Transactions Table below.

"Standard Transactions" means the Transaction Volume not meeting the criteria for Large-Ticket Interchange Transactions.

"Average Large Ticket Transaction Size" means the arithmetic mean of all Large Ticket Interchange Transactions billed during a Calculation Period.

"Total Credit Losses" means, for any Calculation Period, the sum of (i) Bank of America's credit losses on the Card Accounts for the Calculation Period and (ii) Bank of America's credit losses on the Card Accounts for any previous Calculation Period which have not been applied against any rebate payable pursuant to this Rebate Schedule.

"Transaction Volume" means, for any Calculation Period, the total dollar amount of purchase transactions made with the Cards during the Calculation Period, less the total dollar amount of: returned purchases, credit adjustments, Transactions resulting from Unauthorized Use, and disputed charges. Cash advances and Convenience Checks are not included in Transaction Volume.



Rebate Conditions:

The program must meet the following conditions in order to qualify for a rebate:

- (i) During the Calculation Period, Client and participating affiliates pay Bank of America the total amount of the new balance shown as due on each billing statement on or before the payment due date;
- (ii) Neither Client nor participating affiliates has breached any obligation, covenant, representation or warranty contained in the Agreement;
- (iii) For the Calculation Period, and Transaction Volume is at least **\$350,000**.

Rebate Calculation and Payment:

In the event that all of the above Rebate Conditions are met with respect to the Calculation Period, Bank of America shall pay a rebate to Company. The Rebate Multiplier basis points used to calculate the rebate earned on 12 consecutive months of transaction volume Company generate will be based on the aggregate transaction volume of all group members at the end of the Calculation Period. The rebate calculation period for any 12 month period starts on the first day of January and ends the last day of December the same year. The basis points aligned to the total aggregate Transaction Volume will be used to calculate a rebate for each **Arizona Public Sector Group** member based on their individual program Transaction Volume and Grace Days. The Rebate Multiplier basis points aligned to the aggregate Transaction Volume for Purchase Cards, Travel Cards and/or ePayables Dollar Volume Tier will be used to calculate rebates for individual group members, in accordance with the respective Multiplier Tables for Standard and Large Ticket Interchange Transactions and using the following equation:

$$\text{(Transaction Volume for Standard Transactions x Rebate Multiplier) + (Transaction Volume for Large Ticket Interchange Transactions x Rebate Multiplier) - Total Credit Losses}$$

Payment of any rebate will be made by ACH credit or other means determined by Bank of America, within ninety (90) days following the end of the Calculation Period. No rebate will be paid to any participating affiliates.

Should one or more of the above rebate conditions not be met, Bank of America will be under no obligation to pay any rebate, although Bank of America may, in its sole discretion, determine to pay a rebate in an amount determined by Bank of America. Bank of America's payment of a rebate in such circumstance will in no way obligate Bank of America to pay a rebate with respect to any subsequent Calculation Period if the rebate conditions have not been met.

STANDARD MULTIPLIER TABLE

And

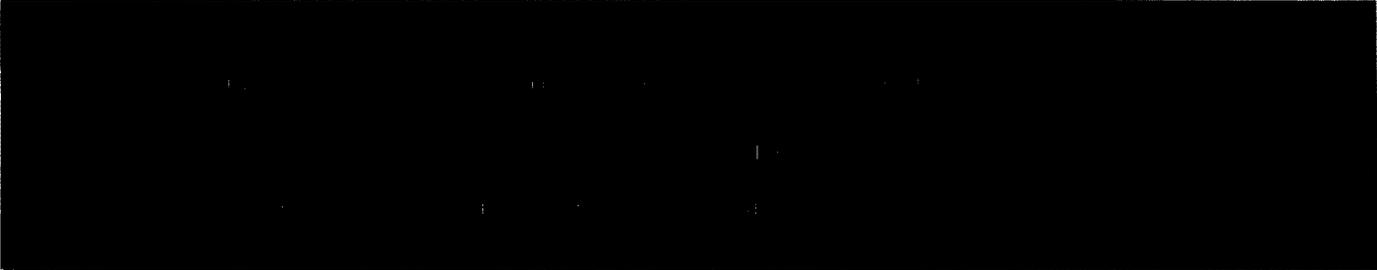
LARGE TICKET MULTIPLIER TABLE

Arizona		Cycle days	7	14	14	30	30	30	30	30
Annual USD Card Volume Tiers Excludes Large Ticket			Grace days	3	3	7	3	7	14	20
		REBATE BASIS POINTS								
\$1,000,000	\$1,999,999		110	106	101	96	92	83	76	70
\$2,000,000	\$2,999,999		115	111	106	101	97	88	81	75
\$3,000,000	\$4,999,999		140	136	131	126	122	113	106	100
\$5,000,000	\$7,499,999		144	140	135	130	126	117	110	104
\$7,500,000	\$9,999,999		147	143	138	133	129	120	113	107
\$10,000,000	\$14,999,999		150	146	141	136	132	123	116	110
\$15,000,000	\$19,999,999		152	148	143	138	134	125	118	112
\$20,000,000	\$29,999,999		153	149	144	139	135	126	119	113
\$30,000,000	\$39,999,999		154	150	145	140	136	127	120	114
\$40,000,000	\$49,999,999		155	151	146	141	137	128	121	115
\$50,000,000	\$59,999,999		156	152	147	142	138	129	122	116
\$60,000,000	\$74,999,999		157	153	148	143	139	130	123	117
\$75,000,000	\$99,999,999		158	154	149	144	140	131	124	118
\$100,000,000	\$124,999,999		159	155	150	145	141	132	125	119
\$125,000,000	+		160	156	151	146	142	133	126	120

(1 BPS = .01% or 60 BPS = .60% or .006)

Large Ticket Interchange		Cycle days	7	14	14	30	30	30	30	30
Qualified Transactions			Grace days	3	3	7	3	7	14	20
Annual Volume		REBATE BASIS POINTS								
\$0	+		100	96	91	86	82	73	66	60

- 1) Bank of America will pay an additional five basis points rebate for each contract renewal. By way of example, if Company executes a renewal of the current contract in 2012, then the Standard Transaction Rebate Multiplier will increase five basis points (0.0005 or 0.05%) above the Standard Transaction Rebate Multiplier shown in paragraph 2.1 above.
- 2) If Company executes a renewal in 2014, then the Standard Transaction Rebate Multiplier for the 2014 and the 2015 Calculation Periods will increase ten basis points (0.001 or 0.10%) above the Standard Transaction Rebate Multiplier shown in paragraph 2.1 above.
- 3) If Company executes a renewal in 2016, then the Standard Transaction Rebate Multiplier for the 2016 and the 2017 Calculation Periods will increase fifteen basis points (0.0015 or 0.15%) above the Standard Transaction Rebate Multiplier shown in paragraph 2.1 above.



Transaction Volume Growth Incentive

Bank of America wishes to further incent the use of Card (Purchase Card and ePayables) by the Local Public Bodies.

Bank will pay each participating Local Public Body an incremental Card Transaction Volume Growth incentive, as follows

\$5mm incremental growth = 10 BPS

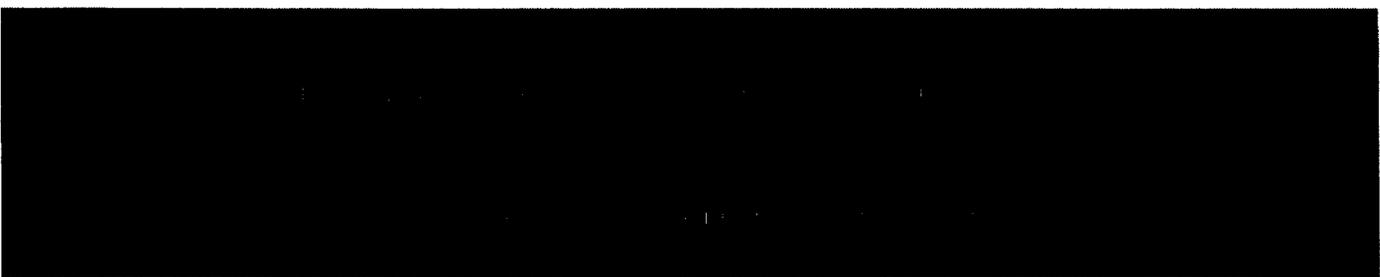
\$10mm incremental growth = 20 BPS

\$20mm incremental growth = 30 BPS

If the Local Public Body's Card Standard Transaction Volume growth exceeds Five Million Dollars during an annual Calculation Period, then Bank will pay ten basis points (0.10%) on the Card Standard Transaction Volume that is growth over the previous highest annual Calculation Period Standard Transaction Card Volume.

If the Local Public Body's Card Standard Transaction Volume growth exceeds Ten Million Dollars during an annual Calculation Period, then Bank will pay twenty basis points (0.20%) on the Card Standard Transaction Volume that is growth over the previous highest annual Calculation Period Standard Transaction Card Volume.

If the Local Public Body's Card Standard Transaction Volume growth exceeds Twenty Million Dollars during an annual Calculation Period, then Bank will pay thirty basis points (0.30%) on the Card Standard Transaction Volume that is growth over the previous highest annual Calculation Period Standard Transaction Card Volume.



By way of example,

- 1) If the Local Public Body had year 1 ePayables volume of \$5mm, then the year 1 Card growth incentive would be \$5mm times 0.10%, which would be Five Thousand Dollars (\$5,000.00).
- 2) If the Local Public Body had year 2 ePayables volume of \$15mm, then the year 2 Card growth incentive would be \$10mm times 0.20%, which would be Twenty Thousand Dollars (\$20,000.00).
- 3) If the Local Public Body had year 3 ePayables volume of \$50mm, then the year 3 Card growth incentive would be \$35mm times 0.30%, which would be One-Hundred Five Thousand Dollars (\$105,000.00).

Payment of any growth incentive will be made by ACH credit or other means determined by Bank of America, within ninety (90) days following the end of the applicable annual Calculation Period.

Nothing in this Schedule of Fees and Charges is intended to state a term for the Agreement. For the avoidance of doubt, any period of time set forth in the Schedule of Fees and Charges applies solely to pricing terms, but only to the extent the Agreement has not been terminated as set forth in the Agreement.

Notwithstanding anything to the contrary in the Agreement or this Schedule of Fees and Charges, all fees and charges are subject to change upon 30 days prior written notice to you if an event external to Bank of America increases the cost or decreases the revenue to Bank of America (e.g., decreases to interchange revenue paid to Bank of America by a card association, increases to funding costs due to interest rate changes or deterioration in your financial condition) in connection with providing this card program to you.

END OF PRICING SCHEDULES

Acknowledgement

By signature of an authorized representative(s), you agree to the terms and conditions of this Schedule of Fees and Charges presented herein. This form must be signed in ink by an authorized representative(s) and submitted with the original signature to your Bank representative.

CLIENT(S)

**FIA Card Services, N.A., a company of
Bank of America**

[CLIENT NAME]

By: _____
(Signature) (Date)

Name: _____
(Print or Type)

Title: _____
(Print or Type)

By: _____
(Signature) (Date)

Name: _____
(Print or Type)

Title: _____
(Print or Type)

By: David Randolph 9/21/12
(Signature) (Date)

Name: David Randolph
(Print or Type)

Title: VP. CARD Account Manager
(Print or Type)

By: _____
(Signature) (Date)

Name: _____
(Print or Type)

Title: _____
(Print or Type)