



REPORT TO CITY COUNCIL

DATE: AUGUST 28, 2019

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: CHRISTY PINUELAS, DIRECTOR OF FINANCE 

SUBJECT: FIRST AMENDMENT TO AGREEMENT BETWEEN CITY OF AGOURA HILLS AND WELLS FARGO, N.A, AND WELLS FARGO MERCHANT SERVICES, LLC, FOR THE NEXT THREE YEARS, ENDING APRIL 30, 2022

In April 2016 the City entered into an agreement with Wells Fargo to provide both General Banking Services and Merchant Services (credit card processing). The agreement provides the option to extend for an additional three (3) year period.

We have been satisfied with the services provided by Wells Fargo. In our General Banking Services, the City requires that the bank be able to take deposits remotely (remote capture); process our payroll through Automated Clearing House (ACH); provide online reporting capability; allow for internal control reviews when sending wires; provide a way for the City to send a list of checks written for the bank to verify when cashing checks (positive pay). Most importantly, the bank must also be able to transfer and receive monies from the state's investment fund (LAIF) within the same banking day. We are also concerned with the cost of the banking services provided.

Merchant Services are for any credit card transactions taken at City Hall. It does not include any transactions at the Recreation Center, as those are processed through Active.

Wells Fargo is maintaining fees from the 2016 contract, but is increasing our earnings rate credit from .35% to .40%. The earnings credit rate is an amount based on funds kept in the bank and reduces our fees. City fees for both banking and merchant processing have been approximately \$15,000 annually.

Wells Fargo is willing to sign the attached agreement, setting their fees for the next three years. There is a 90-day termination clause available to the City and a 120-day termination clause to the bank, should service levels not be met.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council approve the first amendment to the agreement between the City of Agoura Hills and Wells Fargo N.A., and Wells Fargo Merchant Services LLC, for three years, ending April 30, 2022; and authorize the Mayor to sign the agreement.

Attachment: Agreement

**FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS**

NAME OF CONSULTANT:	Wells Fargo Bank, NA and Wells Fargo Merchant Services, LLC
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Attn: Jeannie Kabilafkas
CONSULTANT'S ADDRESS:	14144 Ventura Boulevard, Suite 200 Sherman Oak, CA 91423
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Christy Pinuelas
COMMENCEMENT DATE:	April 30, 2019
TERMINATION DATE:	April 30, 2022
CONSIDERATION:	Amendment Amount: Total Contract Price Not to Exceed:

**FIRST AMENDMENT TO AGREEMENT BETWEEN
CITY OF AGOURA HILLS AND WELLS FARGO, N.A. and WELLS FARGO
MERCHANT SERVICES LLC**

THIS FIRST AMENDMENT is made and entered into as of April 30, 2019, by and between the City of Agoura Hills, a municipal corporation (hereinafter referred to as "City"), and Wells Fargo Bank, NA (hereinafter referred to as "Bank"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. This Amendment is made with the respect to the following facts and purposes:

a. On April 27, 2016, the City and Bank entered into that certain Agreement entitled "Agreement for Banking Services between the City of Agoura Hills and Wells Fargo Bank, N.A.". The parties now desire to extend the term of the agreement to April 30, 2022, increase the and to amend the Agreement as set forth in this Amendment.

2. Section five of the Agreement entitled "**TERM, PROGRESS AND COMPLETION**" is hereby amended to read as follows:

"This Agreement shall remain and continue in effect until no later than April 30, 2022 unless sooner terminated pursuant to the provisions of this Agreement."

3. Section three of the Agreement entitled "**COMPENSATION AND PAYMENT**" at paragraph "a" is hereby amended to read as follows:

"Except for authorized extra services (pursuant to Section 4), the total compensation payable to Bank by City for the services under this Agreement shall be earned as described in Exhibit B as amended on April 30, 2019. If City requires additional banking services from Bank that are not set forth in Exhibit A or Exhibit B, City and Bank will negotiate in good faith the addition of such services and the fees related thereto."

The rates and expenses set forth in said exhibit shall be binding upon Bank until April 30, 2022, after which any change in said rates and expenses must be approved in writing by City's Project Manager (City is to be given 90 days' notice of any rate increase request).

Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. The first paragraph of Section 6 of the Agreement entitled, "**OWNERSHIP OF DOCUMENTS**" is hereby stricken and amended to read as follows:

Bank will provide customary data and reports associated with the requested services. However, Bank is a service provider, and is not delivering "work product". Bank will retain all ownership and related rights in its intellectual property (including, but not limited to, systems, software and hardware,

regardless of location or date of development), used or developed in connection with the requested services, now and hereafter.

4. Subpart (a) of Section 8 of the Agreement entitled, "**HOLD HARMLESS AND INDEMNITY**" is hereby stricken and amended to read as follows

During the term of this Agreement, Bank will indemnify, defend and hold harmless Company and its officers, directors, employees, agents and assigns (the "Indemnified Parties") from and against all losses or damages (collectively, "Losses") arising out of, resulting from or relating to the performance of the services provided hereunder which are, in each case, directly caused in whole or in part by the negligent or intentional misconduct of Bank or any of its officers, directors, employees, agents, subcontractors or assigns, except to the extent such Losses are caused by the negligence or intentional misconduct of the Company. In no event will Bank be liable for any indirect, special, consequential or punitive damages, whether or not the likelihood of such damages was known to Bank, and regardless of the form of the claim or action or the legal theory on which it is based. Bank's liability under this indemnity will be limited to an amount not to exceed 10 times Bank fees incurred during the calendar month immediately preceding the calendar month in which such loss or damages were incurred (or, if no Bank fees were incurred in such month, Bank fees incurred in the month in which the losses or damages were incurred)

5. Section 9(1)(B)(1) is hereby stricken and amended to read as follows:

General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability per ISO 00 01 04 13 or equivalent. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

6. Section 9(1)(D)(5) is hereby stricken and amended to read as follows:

Coverage shall not be suspended, voided, canceled by either party, materially reduced in coverage or in limits that result in noncompliance with insurance requirements outlined herein except written notice within thirty (30) days has been given to the City by Bank.

7. Section 9(1)(F) is hereby stricken and amended to read as follows:

Verification of Coverage. Bank shall furnish the City with original endorsements additional insureds, effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on ISO forms or equivalent. Insurance certificates and endorsements must be received by the City's Risk Manager prior to commencement of

performance. Current insurance certificates and endorsements shall be kept on file with the City at all times during the term of this agreement.

8. Exhibit B to the Agreement is hereby amended by adding thereto the items set forth on Attachment "A" to this Amendment, which is attached hereto and incorporated herein as though set forth in full.

9. Except for the changes specifically set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this FIRST Amendment to Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Linda L Northrup, Mayor

ATTEST:

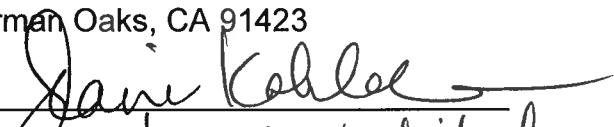
Kimberly M. Rodrigues, MMC
City Clerk
Date Approved by City
Council _____

APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

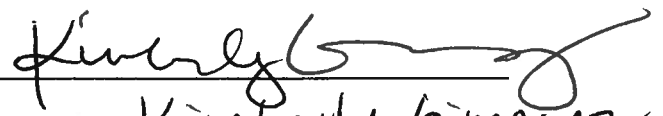
CONSULTANT/BANK

Wells Fargo Bank, NA
Jeannie Kabilfakas
14144 Ventura Boulevard, Suite 200
Sherman Oaks, CA 91423

By: 

Print Name: Jeannie Kabilfakas

Title: Local Government Relationship Manager

By: 

Print Name: Kimberly Gimenez

Title: Local Government Banking Manager

[Signatures of Two Corporate Officers Required]

EXHIBIT B

The attached fees on the Wells Fargo Treasury Management Proposal – dated July, 2019, and Wells Fargo Merchant Services, LLC – dated December, 2015, are the agreed upon fees. City and Bank expect the City's banking needs and technology to change over the next three years. If the City requires additional general banking services from Bank that are not set forth in this schedule of fees, City and Bank will negotiate in good faith the addition of such services and the related fees.

City of Agoura Hills

Wells Fargo Treasury Management Service Pricing As of July 2019

Summary Position

Total Monthly Activity Charges	\$	1,063.43
Available Balance	\$	1,551,942.28
Earnings Credit Rate		0.40%
Earnings Allowance	\$	510.23
Balance Required to Offset Services	\$	3,130,251.77
Estimated Net Position (Shortfall)	\$	(553.20)

WF Code	Service Description	Charge Basis	Price	Monthly Volume	Activity Charges
ACH Fraud Filter					
34333	ACH CEO FRAUD FILTER REVIEW MO BASE	Account	5.00000	2	10.00
34333	ACH CEO FRAUD FILTER REVIEW MO BASE	Account	25.00000	1	25.00
34335	ACH CEO FRAUD FILTER REVIEW - ITEM	Transaction filtered	2.00000	0	0.00
	Subtotal				35.00
ACH Origination					
34342	ACH RETURN SUBSCRIPTION - ITEM	Item accessed	0.20000	0	0.00
34340	ACH CEO RETURN SUBSCRIPTION-ACCOUNT	ACH company ID	10.00000	2	20.00
ES206	ACH ORIGINATED - ADDENDA REC	Addenda record	0.05000	0	0.00
06505	ACH RETURN ADMIN -ELECTRONIC	Return	6.50000	0	0.00
06502	ACH RETURN ITEM-ELECTRONIC	Return	6.50000	0	0.00
06507	ACH RETURN UNAUTHORIZED -ELECTRONIC	Return	6.50000	0	0.00
06511	ACH RETURN UNAUTHORIZED QUALITY FEE	Return	5.00000	0	0.00
ES803	ACH PAYMENTS ONLINE BATCH RELEASE	Batch/file	2.50000	2	5.00
ES230	ACH DELETE - ITEM	Delete	5.00000	0	0.00
ES361	ACH REVERSAL - ITEM	Reversal	5.00000	0	0.00
34377	ACH PAYMENTS BASE FEE	Company ID	10.00000	1	10.00
ACH1D	ACH PAYMENTS ONE DAY ITEM	Transaction	0.25000	162	40.50
ACHYD	ACH PAYMENTS SAME DAY ITEM	Transaction	1.50000	0	0.00
ACH2D	ACH PAYMENTS TWO DAY ITEM	Transaction	0.05000	0	0.00
ES339	ACH SPECIAL INVESTIGATION	Inquiry	35.00000	0	0.00
ES481	ACH NOC - INFO REPORTING ADVICE	Transaction	5.00000	0	0.00
ES231	ACH DELETE/REVERSE - BATCH/FILE	Batch/file	5.00000	0	0.00
34330	ACH CEO SUBSCRIPTION - ACCOUNT	Account/company ID	10.00000	0	0.00
34332	ACH CEO SUBSCRIPTION - ITEM	Item accessed	0.25000	0	0.00
	Subtotal				75.50
ACH Receive					
ES344	ACH RECEIVED ITEM	Transaction	0.20000	62	12.40
	Subtotal				12.40
Account Reconciliation					
34337	CEO CHECK ISSUES-ITEM	Check issued	0.10000	304	30.40
12687	ARP AGED ISSUE RECORDS ON FILE-ITEM	Record	0.01000	555	5.55
12604	ARP OPTIONAL REPORTS	Report	15.00000	0	0.00
34350	CEO ARP STMT & RPTS MONTHLY BASE	Account	5.00000	3	15.00
	Subtotal				50.95
Branch Services					
08172	ADJ FOR CASH DEPOSITED IN WF BRANCH	Adjustment	5.00000	0	0.00
CK161	CASH DEPOSITED IN WF BRANCH	Dollar	0.00250	3,654	9.14
CK197	CASH ORDER FEE IN A WF BRANCH	Transaction	5.25000	1	5.25
CK131	ROLLED COIN FURNISHED BY WF BRANCH	Coin roll	0.15000	0	0.00
CK141	CURRENCY FURNISHED BY WF BRANCH	Dollar	0.00130	10	0.01
08052	BRANCH DEPOSIT	Deposit	1.00000	45	45.00

Subtotal **59.40**

<u>WF Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>	<u>Monthly Volume</u>	<u>Activity Charges</u>
Desktop Deposit/Electronic Check					
12816	DESKTOP DEPOSIT IMAGES RETRIEVED	Image	0.00000	0	0.00
15008	DESKTOP DEPOSIT DISCRETIONARY DATA	Record	0.00000	0	0.00
15017	DESKTOP DEPOSIT MONTHLY BASE	Account	25.00000	1	25.00
15003	DESKTOP DEPOSIT REPORT PER ITEM	Item reported	0.00000	0	0.00
15007	DESKTOP DEPOSIT-DEPOSIT CREDITED	Credit	0.75000	53	39.75
701	DESKTOP DEPOSIT-DEPOSITED ITEM ONUS	Check deposited	0.12000	22	2.64
706	DESKTOP DEPOSIT-DEPOSITED ITEM	Check deposited	0.12000	74	8.88
790	ELECTRONIC DEPOSIT - DEP ADJUSTMENT	Adjustment	17.00000	0	0.00
Subtotal					76.27
General Account Services					
22051	ACCT MAINTENANCE	Account	5.00000	5	25.00
CK021	DEBITS POSTED	Debit	0.20000	61	12.20
CK018	ELECTRONIC CREDITS POSTED	Credit	0.20000	142	28.40
Subtotal					65.60
General Disbursement Services					
22030	STOP PAYMENT - AUTO RENEWAL	Stop payment	3.00000	0	0.00
12670	STOP PAYMENT - ONLINE	Stop payment	15.00000	0	0.00
22202	DDA CHECKS PAID	Check paid	0.20000	246	49.20
Subtotal					49.20
Image Delivery					
12812	CEO IMAGE VIEW < 90 DAYS - ITEM	Image retrieved	1.00000	0	0.00
12815	CEO IMAGE VIEW > 90 DAYS - ITEM	Image retrieved	5.00000	0	0.00
Subtotal					0.00
Information Reporting					
34123	CEO EVENT MESSAGING SERVICE - EMAIL	Email	0.15000	240	36.00
34115	CEO PREV DAY REPORTING ITEMS LOADED	Item loaded	0.15000	549	82.35
34100	CEO PREV DAY REPORTING MAINTENANCE	Account	15.00000	3	45.00
34253	INFO REPORTING HISTORY STORAGE 120	Item loaded	0.02500	549	13.73
34252	INFO REPORTING HISTORY STORAGE 90	Item loaded	0.02000	693	13.86
46100	CEO BASIC BANKING - MONTHLY BASE	Company	20.00000	1	20.00
46102	CEO BASIC BANKING ADDL ACCT-MO BASE	Account	10.00000	4	40.00
Subtotal					250.94
Other Non TM					
IAMTH	RECOUPMENT MONTHLY	Deposit assessment	0.12750	1,562	199.16
Subtotal					199.16
Paper Checks Deposited					
001	DEPOSITED CHECKS - ON US	Check deposited	0.20000	0	0.00
002	DEPOSITED CHECK	Check deposited	0.20000	0	0.00
Subtotal					0.00
Positive Pay					
DS194	PAYEE VALIDATION MANUAL REVIEW/ITEM	Check	0.25000	0	0.00
DS191	PAYEE VALIDATION STANDARD-ITEM	Check	0.03500	0	0.00
34336	POSITIVE PAY EXCEPTION - CEO IMAGE	Image retrieved	0.25000	0	0.00
12906	POS PAY CHECK VERIFICATION CALL	Call	15.00000	0	0.00
12908	POS PAY CHECKS WITH NO ISSUE RECORD	Check	0.50000	0	0.00
12505	POSITIVE PAY EXCEPTION CHECKS RETND	Check returned	15.00000	0	0.00
12903	POSITIVE PAY EXCEPTIONS - ITEM	Exception	1.00000	0	0.00
12682	POSITIVE PAY ONLY - ITEM	Check issued	0.08000	304	24.32
12681	POSITIVE PAY ONLY MONTHLY BASE	Account	10.00000	3	30.00
Subtotal					54.32

<u>WF Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>	<u>Monthly Volume</u>	<u>Activity Charges</u>
Returned Items					
CK062	CEO RETURN ITEM RETRIEVAL-IMAGE	Transaction	4.00000	0	0.00
CK064	CEO RETURN ITEM SERVICE MTHLY BASE	Customer ID	0.00000	1	0.00
34236	CEO RETURN DECISIONING PER ITEM	Transaction	4.00000	0	0.00
	Subtotal				0.00
Smart Decision					
70025	SMART DECISION-ELEC CHECK ACH	Check deposited	0.10000	42	4.20
70029	SMART DECISION-ELEC CHECK ACH ONUS	Check deposited	0.10000	5	0.50
	Subtotal				4.70
Wires Origination and Reporting					
ES139	WIRE OUT DOMESTIC - CEO	Transfer	10.00000	0	0.00
	Subtotal				0.00
Zero Balance Account (ZBA)					
DS510	ZERO BALANCE MASTER ACCOUNT MAINT	Account	50.00000	1	50.00
DS001	ZERO BALANCE MONTHLY BASE	Account	40.00000	2	80.00
	Subtotal				130.00
Total Monthly Activity Charges					1,063.43
Setup Charges					
06094	ACH FRAUD FILTER - SET UP	Account	0.00000	0	0.00
34376	ACH PAYMENTS SET UP FEE	Setup	0.00000	0	0.00
18325	WIRE ACCOUNT ADD- CEO	Account	0.00000	0	0.00
	Total Setup Charges				0.00

Balances and ECR may also be applied against Balance Based Setup Charges.

A CEO Wire book transfer is between two accounts initiated via CEO Wires Book Transfer workflow.
A Payment Manager book transfer is charged when the debit and credit accounts are setup in a single CEO Company id and entitled to Book Transfer.

Alerts Users are only charged for the first 80 events per month. There is no per company cap for billing.

This proposal was created for you based on your requirements and the services you expressed interest in. This document confirms the deposit and treasury management services and the prices that we plan to provide you based on certain assumptions including, projected volumes and other relevant information that you provided and the deposit and treasury management services you selected.

The pricing is subject to change if the actual volume and/or scope of services differ from the assumptions upon which the pricing estimate was based.

Please let us know if you believe this document does not accurately represent the prices or services you agreed to. For additional service definitions, please contact your Treasury Management Sales Consultant or visit: www.wellsfargo.com/accountanalysis

This document is a confidential pricing agreement between Wells Fargo Bank and the Customer. Neither party has the right to share this information with any entity or entities outside of their organization, without the permission of the other party.

Zero Volume Elements - Elements with zero volume are not included in the estimated monthly analysis fee but are included for disclosure purposes.
001, 002, 06094, 06502, 06505, 06507, 06511, 08172, 12505, 12604, 12670, 12812, 12815, 12816, 12903, 12906, 12908, 15003, 15008, 18325, 22030, 34236, 34330,

34332, 34335, 34336, 34342, 34376, 790, ACH2D, ACHYD, CK062, CK131, DS191, DS194,
ES139, ES206, ES230, ES231, ES339, ES361, ES481

Wells Fargo Merchant Services, L.L.C. (" WFMS ") - Pricing Terms for CITY OF AGOURA HILLS

Proposal Date : 12/09/2015

Sales Consultant: AMY AUBUCHON

Credit Card Volume	\$200,000	Communications Method	IPN
Average Transaction Size	\$350	Internet Gateway	
Number of Locations	1	Pricing Option	Interchange + Fees
Anticipated Interchange (11) Levels	Public Sector	032 020/038/307/936	
MCC Code	9399	MCC Code Description	GOVERNMENT SERVICES, NOT ELSEWHERE
American Express Industry Type	Other		

Credit Card Processing Fees (1)

Interchange Plus the following fees :

0.1800% On Gross Visa®, MasterCard®, Discover® Network Card and American Express® Sales

PIN Debit Processing Fees

\$0.23 per PIN Debit transaction (applies to completed and declined transactions)

Applicable PIN Debit Network, Switch, Service and Administrative fees are passed through on all PIN Debit transactions (completed and declined).

Applicable PIN Debit Network Interchange fees are passed through on completed PIN Debit transactions only.

Applicable Fee Schedules(10):

Payment Networks Qualification Matrix <https://www.wellsfargo.com/biz/interchangeplus>

PIN Debit Networks Fee Schedule (if applicable) <https://www.wellsfargo.com/biz/merchantdebitfees>

Payment Networks Pass-Through Fees <https://wellsfargo.com/biz/merchantpassthroughfees>

Wells Fargo Fixed Acquirer Network Fee for Visa® Accepting Merchants <https://wellsfargo.com/visanetworkfee>

Fee schedules are updated periodically. To obtain the current applicable fee schedules, please refer to the URLs above for more information. Additional schedules apply if your Pricing Option is Fixed (Non-Qual Fees). If you do not have internet access, please contact your Merchant Card Representative and request that a copy of the applicable fee schedules be mailed or faxed to you.

As noted in your Merchant Agreement, Payment Networks change their rates/fees from time to time. They are likely to revise rates/fees on 4/16/2016. To learn more about impacts to fee schedules resulting from Payment Network changes, please visit the URLs above or request an updated schedule.

Other Processing Fees

Set-Up Fee	\$95.00
Monthly Minimum Processing Fee(9)	\$0.00 per month
Chargeback Fee (2)	\$15.00 per chargeback
Monthly Service Fee (per location)	\$10.00 per month
Clover™ Services Fee (per Device ID) (14)	N/A
Voice Authorization Fee	\$0.75 per attempt
Annual Fee	\$95.00 per location
Authorization/EDC Fee - Visa (Credit and Non-PIN Debit) (3)	\$0.000 per attempt
Authorization/EDC Fee - MasterCard® (Credit and Non-PIN Debit)(3)	\$0.000 per attempt
Authorization/EDC Fee - Discover® (Credit and Non-PIN Debit)(3)	\$0.000 per attempt
Authorization/EDC Fee – American Express (Credit and Prepaid) (3)	\$0.000 per attempt
Interchange Clearing Fee (12)	N/A
Applies to Visa, MasterCard, Discover Network Card (Credit and Non-PIN Debit) and American Express (Credit and Prepaid)	

Annual Compliance Support Fee (5)		\$0.00 per location
PCI Compliance Service Program Fee (8)		\$0.00 per month, per location
Non-validation PCI Compliance Fee (8)		\$25.00 per month, per location
Equipment Installation Fee		\$0.00 One time fee
Electronic Address Verification Service Fee		\$0.050 per attempt
Voice (Manual) Address Verification Fee		\$2.000 per attempt
Card Imprinter Option	# of imprinters	N/A
Rush Shipping		\$ 0.00
Foreign Handling Fee (on Visa/MasterCard foreign card transactions)		0.20% on foreign card sales
Non Bank Card Authorization (6) Applies only to American Express EDC and Discover EDC		\$0.220 per attempt
Non Bank Card Capture Fee Applies only to American Express EDC and Discover EDC		\$0.030 per attempt
Statement Billing Fee (Paper Statement) (7)		\$10.00 per month
Terminal Reprogramming Fee (Terminal)	# of Terminals: 0	\$0.00 One time fee
Terminal Reprogramming Fee (Integrated Terminal)	# of Terminals: 0	\$0.00 One time fee
Security Swap Fee for PIN Debit	# of PIN Pads: 0	\$0.00 One time fee

Processing Solutions

Type	Quantity	Financing Method	Total w/o TAX
First Data FD130 Duo	1	PURCHASE	\$399.00
First Data FD35 EMV	1	PURCHASE	\$219.00

(1) Clients may elect to participate in the Discover Network Card program or the Discover EDC program, but not both. Under the "Discover Network Card program," Clients receive all Discover-related authorization, processing and settlement services from WFMS. Under the "Discover EDC program," Clients enter into a direct agreement with Discover, and WFMS provides only authorization and capture services related to Discover Network Cards. Clients may also elect to participate in the American Express program or the American Express EDC program, but not both. Under the "American Express program," Clients receive all American Express-related authorization, processing and settlement services from WFMS. Under the "American Express EDC program," Clients enter into a direct agreement with American Express, and WFMS provides only authorization and capture services related to American Express Cards. In all cases, any services provided by WFMS for Discover and American Express transactions are subject to the terms of Client's Agreement with WFMS.

(2) Client acknowledges and understands that an authorization only indicates the availability of the Cardholder's credit at the time the authorization is requested. It does not warrant that the person presenting the card is the rightful Cardholder, nor is it an unconditional promise or guarantee that you will not be subject to a chargeback or debit.

(3) Authorization/EDC Fee applies to all Visa, MasterCard, Discover Network Card and American Express approvals (pre-authorizations, authorizations and authorization reversals), denials, batch inquiries, batch entry transactions and includes any transaction fees and capture fees. This fee does not apply to Discover EDC and American Express EDC.

(5) The Annual Compliance Fee will be assessed and deducted from Client's Settlement Account at each anniversary date after the effective date.

(6) Non Bank Card Authorization Fee applies to all approvals (pre-authorizations, authorizations and authorization reversals), denials, batch inquiries and batch entry transactions.

(7) The monthly Statement Billing Fee can be waived if Client elects to access the monthly statement online instead of receiving a paper copy by mail. After Business Track access has been activated, please contact Customer Service at 1-800-451-5817 to request that paper statements no longer be mailed. If Business Track access is terminated by Client or as a result of inactivity, paper statements will be reinstated with the applicable monthly Statement Billing Fee. Enroll anytime at businesstrack.com.

(8) The monthly PCI Compliance Service Program Fee and Non-validation PCI Compliance Fee are part of the mandatory PCI Compliance Service Program. These fees apply to Level 4 Clients who utilize a gateway or value added reseller (VAR). The program includes access to TrustKeeper, a Trustwave PCI Compliance solution to help Client comply with the Payment Card Industry Data Security Standards (PCI DSS) requirements. Clients are required to register and complete a PCI DSS certification process by visiting <https://pci.trustwave.com/wellsfargo>. If Client does not comply or fails the PCI DSS certification process, Client will be charged a monthly Non-validation PCI Compliance Fee until the account becomes compliant.

(9) If the total discount fee for Visa, MasterCard, Discover Network Card and American Express transactions in a given month is less than the Monthly Minimum Processing Fee, then in addition to the total discount fee Client will be charged an amount equal to the Monthly Minimum Processing Fee minus the total discount fee.

(10) Dues, assessments and any applicable pass-through fees are disclosed in the schedules referenced under the "Applicable Fee Schedules" section and the related footnote.

(11) American Express charges Program Pricing fees and not Interchange, and these fees are subject to change.

(12) The Interchange Clearing Fee (ICF) will be charged on transactions that may be considered higher risk and/or are processed at a higher expense level. These types of transactions can be identified on Client's Payment Networks Qualification Matrix by looking at the "ICF applies" column. If the interchange program level has been identified by a "YES" in this column, then the ICF will apply to that type of transaction.

(14) If Client purchases or leases the Clover Mobile and/or the Clover Mini device(s) and does not have a Clover Station on the same merchant account number, then the Clover Services Fee does not apply and will not be charged. If Client purchases or leases the Clover Mobile and/or the Clover Mini device(s) with the Clover Station(s) or already has the Clover Station(s) on the same merchant account number, then the Clover Services Fee will apply only to the Clover Station(s).

If Client does not follow proper authorization procedures, a \$50 chargeback handling fee will be assessed on MasterCard transactions.

American Express may charge Client an excessive disputes fee in the amount of \$5 for each Disputed Charge if Client is in American Express' Immediate Chargeback Program or \$15 for each Disputed Charge if Client is not in the Immediate Chargeback Program.

Client is responsible for any charges assessed by outside third parties that are not disclosed on the proposal. To the extent that this pricing proposal includes pricing for third party products and services, WFMS disclaims legal liability and responsibility for said products and services. Client's agreement with the third party provider shall govern Client's relationship with the third party provider. In the event that WFMS is billed for the third party's services, Client will reimburse WFMS for such services.

Client acknowledges and understands that WFMS shall have no responsibility or liability for any third party hardware or software procured and used by Client. To the extent Client has any issues, concerns or liability related to such hardware or software, Client must deal directly with the third party provider from whom Client procured the hardware or software. In no event will WFMS be responsible for any indirect, incidental or consequential damages that Client may incur as a result of using any third party hardware or software.

WFMS proposal and associated pricing is based on the information provided. Any difference to our stated understanding may affect the proposed pricing. Without a signed agreement, this proposal expires 60 days from the proposal date stated above.

See Section 41.3 of the Program Guide for early termination fees.

Rounding. In the event the amount being billed to Client for any line item on this pricing proposal includes a total ending in less than a full cent, WFMS will either round such amount up or down to the nearest cent.

Fees for supplies, shipping, handling and applicable sales tax may apply and are subject to change without notice. Additional information is available upon request.