

CITY OF CHICO - PROFESSIONAL SERVICES AGREEMENT

Wells Fargo Bank, N.A.
Consultant

Banking Services
Project Title

010-150-5400
Budget Account Number

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THIS PROFESSIONAL SERVICES AGREEMENT (Agreement) is entered into on November 3, 2015, between the City of Chico, a municipal corporation under the laws of the State of California, (City) and Wells Fargo Bank N.A., a corporation, (Consultant).

SECTION 1 - DESCRIPTION OF PROJECT

City desires to undertake that certain project (Project) described in EXHIBIT A, entitled “DESCRIPTION OF PROJECT,” and to engage Consultant to provide the required professional services relating to the Project.

SECTION 2 - SCOPE OF PROFESSIONAL SERVICES - BASIC; COMPLETION SCHEDULE

Consultant shall perform those basic professional services in connection with the Project as are set forth more particularly in EXHIBIT B, entitled “SCOPE OF PROFESSIONAL SERVICES - BASIC; COMPLETION SCHEDULE,” and shall complete said professional services in accordance with the completion schedule for professional services as incorporated in EXHIBIT B.

SECTION 3 - SCOPE OF PROFESSIONAL SERVICES - ADDITIONAL; COMPLETION SCHEDULE

City and Consultant agree that it may be necessary, in connection with the Project, for Consultant to perform or secure the performance of professional services other than those set forth in EXHIBIT B. In each such instance, Consultant shall advise City, in advance and in writing, of the need for such additional professional services, their cost and the estimated time, if appropriate, required to perform them. Consultant shall not proceed to perform any such required additional professional service until City has determined that such professional service is beyond the scope of the basic professional service to be provided, is required, and has given its written authorization to perform or obtain it. Each additional professional service so authorized shall constitute an amendment to this Agreement, shall be identified and sequentially numbered as “Amendment No. 1” and so forth, shall be subject to all of the provisions of this Agreement, and shall be incorporated into EXHIBIT B accordingly.

SECTION 4 - COMPENSATION

Consultant shall be compensated for professional services rendered to City pursuant to this Agreement periodically in the amounts, manner and in accordance with the payment schedule as set forth in EXHIBIT C, entitled "COMPENSATION." Amounts due to Consultant from City for professional service rendered shall be evidenced by the submission to City by Consultant of an invoice, prepared in a form satisfactory to City, setting forth the amount of compensation due for the period covered by it, and in accordance with Wells Fargo's Business Account Agreement.

SECTION 5 - RESPONSIBILITY OF CONSULTANT

By executing this Agreement, Consultant warrants to City that Consultant possesses, or will arrange to secure from others, all of the necessary professional capabilities, experience, resources and facilities necessary to provide to City the professional services under this Agreement. In procuring the professional services of others to assist Consultant in performing the professional services set forth at EXHIBIT B or additional professional services under SECTION 3 of this Agreement, Consultant shall use commercially reasonable efforts not employ or otherwise obtain the professional services of any person or entity known to Consultant or City to have, or be likely to develop during the term of this Agreement, an interest that is personally, or professionally, or financially adverse to any interest of City.

SECTION 6 - RESPONSIBILITY OF CITY

To the extent appropriate to the Project contemplated by this Agreement, City shall:

6.1 Assist Consultant by placing at Consultant's disposal all available information pertinent to the Project, including previous reports and any other data relative to design and construction of the Project.

6.2 Guarantee access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform Consultant's professional services.

6.3 Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents prepared and presented by Consultant, and render verbally or in writing as may be appropriate, decisions pertaining thereto within a reasonable time so as not to delay the progress of the services by Consultant.

6.4 Designate in writing a person to act as City's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems pertinent to Consultant's professional services.

6.5 Give prompt written notice to Consultant whenever City observes or otherwise becomes aware of any defect in the Project.

6.6 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for

completion of the Project.

SECTION 7 - INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with Consultant's use of City premises under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Consultant shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

Consultant/Subconsultant/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its directors, officials, officers, employees, agents, or volunteers.

Notwithstanding the above, Consultant's obligation to indemnify, defend and hold harmless the City, its officers, employees and agents for claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) shall be limited to the extent caused by Consultant's negligent acts, errors or omissions.

This Section 7 shall only apply if Consultant is a design professional as defined in Civil Code section 2782.8(2), specifically, architects (Business & Professions Code section 5500), landscape architects (Business & Professions Code section 5615), professional engineers (Business & Professions Code section 6701), and professional land surveyors (Business & Professions Code section 8701).

SECTION 8 - INSURANCE

Any requirements by City that Consultant carry general liability, errors and omissions, or any other type of insurance in connection with the services to be performed and/or professional services to be rendered by Consultant pursuant to this Agreement shall be as set forth in EXHIBIT D, entitled "INSURANCE PROVISIONS."

SECTION 9 - GENERAL PROVISIONS

9.1 Access to Records

Consultant shall maintain all books, records, documents, accounting ledgers, and similar materials relating to services performed for City under this Agreement on file for at least four

years following the date of final payment to Consultant by City, or otherwise in accordance with its records retention policy. Any duly authorized representative(s) of City shall have access to relevant records for the purpose of inspection, audit and copying at reasonable times, and with reasonable prior notice during Consultant's usual and customary business hours.

Consultant shall provide proper facilities to City's representative(s) for access and inspection of such records, but will not permit physical facility audits. Consultant shall be entitled to reasonable compensation for time and expenses related to such access and inspection activities, which shall be considered to be an additional professional service to City, falling under the provisions of SECTION 3 of this Agreement.

9.2 Assignment

This Agreement is binding on the heirs, successors, and assigns of the parties hereto and shall not be assigned by either City or Consultant without the prior written consent of the other.

9.3 Changes to Scope of Services - Basic Professional Services

City may at any time, upon a minimum of 10 days written notice, modify the scope of basic professional services to be provided under this Agreement. Consultant shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify City in writing. Upon agreement between City and Consultant as to the extent of said impacts to time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by City and Consultant shall constitute the Consultant's notice to proceed with the changed scope.

9.4 Compliance with Laws, Rules, Regulations

All professional services performed by Consultant pursuant to this Agreement shall be performed in accordance and full compliance with all applicable Federal, State, or City statutes, and any rules or regulations promulgated thereunder.

9.5 Conflict of Interest Code Applicability

If City's City Manager has determined that one or several of Consultant's Principal(s) or Project Manager(s) are subject to the provisions of Section 2R.04.180 of the Chico Municipal Code (the City's Conflict of Interest Code), then each such person will be required to comply with the provisions of said Code in connection with the professional services they render to the City under this Agreement. In such event, City's requirements are set forth in EXHIBIT E, entitled "CONFLICT OF INTEREST PROVISIONS," to this Agreement.

9.6 Exhibits Incorporated

All Exhibits attached to and referred to in this Agreement are hereby incorporated by this reference.

9.7 Independent Contractor

City and Consultant agree that the relationship between them created by this Agreement is that of an employer-independent contractor. Consultant shall be solely responsible for the

conduct and control of the services performed under this Agreement. Consultant shall be free to render professional consulting services to others during the term of this Agreement, so long as such activities do not interfere with or diminish Consultant's ability to fulfill the obligations established herein to City.

9.8 Integration: Amendment

This Agreement and Wells Fargo's Service Documentation (as such term is defined in the Master Agreement for Treasury Management Services) represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing signed by both parties.

9.9 Jurisdiction

This Agreement shall be administered and interpreted under the laws of the State of California.. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

9.10 Notice to Proceed: Progress: Completion

Upon execution of this Agreement by the parties, City shall give Consultant written notice to proceed with the services. Such notice may authorize Consultant to render all of the professional services contemplated herein, or such portions or phases as may be mutually agreed upon. In the latter event, City shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the services. Upon receipt of such notices, Consultant shall diligently proceed with the services authorized and complete it within the agreed time period.

9.11 Ownership of Documents
[Intentionally omitted].

9.12 Subcontracts

Consultant shall be responsible to City for the actions of persons and firms performing subcontract services. The subcontracting of services by Consultant shall not relieve Consultant, in any manner, of the obligations and requirements imposed upon Consultant by this Agreement.

9.13 Term: Termination

The term of this Agreement shall commence upon City's issuance to Consultant of a notice to proceed for all or a portion of the services, as hereinabove provided, and shall end upon City's acceptance and payment for all or such portion of the services as was authorized by such notice, including any and all retentions. Notwithstanding the foregoing, City may, in its sole discretion, terminate this Agreement at any time and for any reason whatsoever by giving at least 60 days prior written notice of such termination to Consultant. In this latter event, Consultant shall be entitled to compensation for all professional service rendered and services performed for

City to the date of such termination. Consultant may terminate services provided under this Agreement at any time for any reason whatsoever by giving at least six months written notice, or earlier in accordance with Section 4(a) and 4(b) of the Master Agreement for Treasury Management Services.

2.14 Notice

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service or, alternatively, by personal delivery or overnight courier service addressed to the parties as follows:

To City: City Manager or City Manager
 City of Chico City of Chico
 P. O. Box 3420 411 Main Street
 Chico, CA 95927-3420 Chico, CA 95928

To Consultant: Dennis Loo, Senior Regional Industry Specialist
 Wells Fargo Bank, N.A.
 1510 Arden Way, Suite 300
 Sacramento, CA 95815

or by electronic transmission, if City has provided an e-mail address to be used for such purpose.

SECTION 10 - SPECIAL PROVISIONS

This Agreement shall include all special provisions, if any, as are set forth on EXHIBIT F, entitled "SPECIAL PROVISIONS."

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first set forth above.

CITY:



Mark Orme, City Manager*

CONSULTANT:



By: Eric Rozendahl, District Manager

*Authorized pursuant to Section 3.08.060 of the Chico Municipal Code.

APPROVED AS TO FORM:



Vincent C. Ewing, City Attorney*

*Approved pursuant to The Charter of the City of Chico § 906(D)

APPROVED AS TO CONTENT:



Frank Fields, Admin. Services Director

*Reviewed by Risk Management, Human Resources, Finance and Information Systems.

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EXHIBIT A

DESCRIPTION OF PROJECT

Consultant shall provide deposit and treasury management services.

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EXHIBIT B

SCOPE OF PROFESSIONAL SERVICES - BASIC; COMPLETION SCHEDULE

Scope of Professional Services - Basic

The Consultant shall provide deposit and treasury management services including those services specifically listed on the Wells Fargo Treasury Management Proposal (attached hereto as Attachment 1).

The term of this agreement shall be through December 31, 2018 unless extended by an amendment to this Agreement.

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EXHIBIT C

COMPENSATION

Compensation for services shall be in accordance with the fees as indicated in the Wells Fargo Treasury Management Proposal (attached hereto as Attachment 1).

Contractor agrees to waive all fees not covered by the earnings credit rate as indicated on Attachment 1 through May 4, 2016 (six months from the date of the agreement).

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EXHIBIT D

INSURANCE PROVISIONS

NONE.

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EXHIBIT E

CONFLICT OF INTEREST PROVISIONS

NONE.

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EXHIBIT F

SPECIAL PROVISIONS

NONE.



City of Chico
Wells Fargo Treasury Management Proposal
Pricing based on August 2015 activity

<u>Service Description</u>	<u>Price</u>	<u>Monthly Volume</u>	<u>Activity Charges</u>
BALANCE & COMPENSATION INFORMATION			
RECOUPMENT MONTHLY	0.12750	7,489	954.85 *
Subtotal			954.85
GENERAL ACCOUNT SERVICES			
ACCOUNT MAINTENANCE-CHEXSTOR	20.00000	2	40.00
DEBITS POSTED	0.20000	57	11.40
CEO BASIC BANKING - TRANSFER	1.50000	2	3.00
DESKTOP DEPOSIT CREDIT POSTED	1.25000	21	26.25
CEO WELLSTAX PAYMENT	2.50000	1	2.50
CEO WELLSTAX SUBSCRIPTION PER ACCT	6.00000	1	6.00
Subtotal			89.15
DEPOSITORY SERVICES			
CV CASH ONLY OR CHECK ONLY DEPOSIT	0.75000	32	24.00
CEO RETURN ITEM RETRIEVAL-IMAGE	3.50000	2	7.00
CEO RETURN ITEM SERVICE MTHLY BASE	0.00000	1	0.00
RETURN ITEM - CHARGEBACK	12.00000	2	24.00
RETURN ITEM REDEPOSITED	8.00000	1	8.00
CEO RETURN DECISIONING PER ITEM	3.50000	2	7.00
SMART DECISION ELEC CHECK ACH ONUS	0.10500	1	0.11
SMART DECISION ELEC CHK ACH TRANSIT	0.10500	1	0.11
CASH VAULT COIN DEP-PARTIAL/MIX BAG	12.00000	11	132.00
CASH VAULT COIN DEPOSIT-STD BAG	3.50000	51	178.50
CASH VAULT CURRENCY/COIN DEPOSITED	0.00130	63,400	82.42
CASH VAULT MONTHLY BASE	35.00000	1	35.00
DESKTOP DEPOSIT-WFARGO DEPOSIT ITEM	0.15000	349	52.35
DESKTOP DEPOSIT-NON WFARGO DEP ITEM	0.15000	1,396	209.40
Subtotal			759.88
PAPER DISBURSEMENT SERVICES			
POSITIVE PAY EXCEPTION - CEO IMAGE	2.00000	1	2.00
ONLINE IMAGE VIEW < 90 DAYS - ITEM	3.50000	0	0.00
POS PAY CHECK VERIFICATION CALL	15.00000	0	0.00
POSITIVE PAY EXCEPTION CHECKS RETND	20.00000	0	0.00
POSITIVE PAY ONLY - ITEM	0.08000	538	43.04
POSITIVE PAY ONLY MONTHLY BASE	35.00000	2	70.00
STOP PAYMENT - ONLINE	15.00000	0	0.00
DDA CHECKS PAID	0.20000	538	107.60
CEO SEARCH	0.99000	0	0.00
Subtotal			222.64
PAPER DISBURSEMENT RECON SERVICES			
CEO REGISTER INPUT - ITEM	0.20000	538	107.60
ARP AGED ISSUE RECORDS ON FILE-ITEM	0.01000	1	0.01
POSITIVE PAY EXCEPTIONS - ITEM	6.00000	1	6.00
Subtotal			113.61

<u>Service Description</u>	<u>Price</u>	<u>Monthly Volume</u>	<u>Activity Charges</u>
GENERAL ACH SERVICES			
ELECTRONIC CREDITS POSTED	0.20000	166	33.20
ACH RECEIVED ITEM	0.20000	195	39.00
ACH PAYMENTS ONLINE BATCH RELEASE	5.00000	2	10.00
ACH PAYMENTS BASE FEE	40.00000	1	40.00
ACH PAYMENTS ONE DAY ITEM	0.25000	143	35.75
ACH PAYMENTS TWO DAY ITEM	0.25000	769	192.25
ACH CEO FRAUD FILTER REVIEW MO BASE	5.00000	1	5.00
ACH CEO FRAUD FILTER REVIEW MO BASE	25.00000	1	25.00
ACH CEO FRAUD FILTER REVIEW - ITEM	14.00000	0	0.00
ACH NOC - FAX ADVICE	8.00000	1	8.00
ACH CEO SUBSCRIPTION - ACCOUNT	80.00000	1	80.00
ACH CEO SUBSCRIPTION - ITEM	0.75000	50	37.50
Subtotal			505.70
WIRE & OTHER FUNDS TRANSFER SERVICE			
WIRE-OUTGOING DOMESTIC-CEO	13.00000	5	65.00
Subtotal			65.00
INFORMATION SERVICES			
CEO EVENT MESSAGING SERVICE - EMAIL	0.75000	21	15.75
CEO BASIC BANKING - MONTHLY BASE	25.00000	1	25.00
CEO BASIC BANKING ADDL ACCT-MO BASE	12.00000	1	12.00
Subtotal			52.75
Total Monthly Activity Charges			2,763.58
Summary Position			
Total Monthly Activity Charges			\$ 2,763.58
Available Balance			\$ 6,916,163.97
Earnings Credit Rate			0.40%
Earnings Allowance			\$ 2,349.60
Balance Required to Offset Services			\$ 8,134,724.09
Estimated Net Position (Shortfall)			\$ (413.98)

Setup Charges

WELLSTAX ACCESS CODE SET UP	10.00000	1	10.00
ACH PAYMENTS SET UP FEE	375.00000	1	375.00
ACH FRAUD FILTER - SET UP	50.00000	2	100.00
CEO WIRE ACCOUNT ADD	30.00000	2	60.00
Total Setup Charges			545.00

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

The above pricing estimate is based on certain assumptions drawn from projected volume, scope of services and/or other information you have provided. 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.

Wells Fargo Bank, N.A. will allocate a fee to recover the cost of deposit insurance premiums. The Recoupment Fee is assessed on the Average Ledger Balance in your interest bearing and non-interest bearing accounts.