



**CITY OF FORT LAUDERDALE**  
**City Commission Agenda Memo**  
**REGULAR MEETING**

**#15-0659**

**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Lee R. Feldman, ICMA-CM, City Manager

**DATE:** September 1, 2015

**TITLE:** Motion to Approve Three-Year Contract for Banking Services with Wells  
Fargo Bank, N.A.

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**Recommendation**

It is recommended that the City Commission award a three-year contract for banking services to Wells Fargo Bank, N.A., (Wells Fargo), in substantially the form attached; authorize the City Manager to approve two, one-year renewal options, contingent upon appropriation of funds; and authorize the Director of Finance and Deputy Director of Finance as the City's initial "Company Administrators."

**Background**

On August 21, 2012, (12-1193), the City Commission awarded a three-year contract to TD Bank, National Association (TD Bank) for depository services. The City and TD Bank were unable to reach agreement on the terms of a final agreement. On June 4, 2013, (13-0665) the Commission authorized staff to cancel the award to TD Bank. The Commission also authorized City officials to execute the proper documents to extend the contract with Wells Fargo for eighteen months under the existing terms and conditions and at current costs.

The background for the solicitation process for a new contract included the following:

June 2014 - The Procurement Services Division issued Request for Proposals (RFP) 745-11437 for banking services.

July 2014 - The RFP closed with a total of five responses. Proposals were received from Bank of America Corporation (Bank of America), JPMorgan Chase & Co. (JPMorgan), SunTrust Banks, Inc. (SunTrust), TD Bank and Wells Fargo.

The RFP required bidders to provide a proposal detailing what type of partnership they would be willing to form with the City to stabilize neighborhoods in our community. Wells Fargo included the following programs as their partnership project:

- The Leading the Way Home® Priority Markets Initiative, which provides grant support for neighborhood stabilization projects.
- The UrbanLIFTSM community grant program which provides support to local nonprofits for large neighborhood improvement projects.
- The Community Development Mortgage Program assists Broward County residents who are low- to-moderate income with the purchase of a home.
- The Low Income Housing Tax Credits (LIHTC) investment and lending activity provides affordable housing throughout Florida.

December 2014 - The evaluation committee consisting of Peter Jarman, Accountant II; Darlene Pfeiffer, Business Manager; Dawn Johnson, Senior Accountant; and Cyril Spiro, Chairman of Regent Bank met with Richard Ewell, Senior Procurement Specialist, to evaluate the proposals and rank the firms according to the evaluation criteria as shown in the table below.

		Wells Fargo	SunTrust	TD Bank	JPMorgan	Bank of America
<b>Evaluation Criteria</b>	<b>Weight</b>	<b>RANK</b>	<b>RANK</b>	<b>RANK</b>	<b>RANK</b>	<b>RANK</b>
Ability to perform	10%	1	2	3	4	5
Cost	30%	1	3	2	4	5
Funds Availability	5%	1	2	3	4	5
Interest Rates	10%	1	2	3	4	5
Earnings Credit	10%	1	2	3	4	5
Strength & Stability	10%	1	2	3	4	5
Convenience	5%	1	2	3	4	5
Previous service & relationship	5%	1	2	3	4	5
CRA Plan	10%	1	2	3	4	5
Partnership	5%	1	2	3	4	5
<b>OVERALL RANKING</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>

Wells Fargo was the lowest cost and first ranked proposer. The approving contract will provide full-service banking services to the City of Fort Lauderdale. The contract comprises items normally associated with municipal banking operations, including check clearing, deposits, automated clearinghouse transfer operations, electronic banking and reconciliation services.

The City Attorney's Office cautions as follows:

- a) The terms in the Commercial Account Agreement, Laws governing this agreement, page 26, include application of New York's version of Article 4A of the Uniform Commercial Code, Funds Transfers, rather than Florida law.
- b) The terms in the Commercial Electronic Office (CEO) Service Description under item 4, Administration of the CEO, subsection 4.2, Self-Administration, include the authority of each Company Administrator and Administrator to enroll the City in additional Services.
- c) Section 9, Rejected Entries, of the ACH Origination Service Description provides in part: "If Company requests Bank repair an Entry or File and Bank attempts to do so, Bank will not be liable if it is unable to make the requested repair. Company will pay all charges and expenses Bank incurs in connection with any repair or attempted repair." The concern is that there is no limit. Section 10, Cancellation, Amendment, Reversal, provides in part that, "[t]o the extent permitted by applicable law, Company [the City] will be responsible for any losses actually incurred or expenses actually paid by Bank in connection with its effecting or attempting to effect Company's request." Again, the concern is that there is no limit. Subsection 19.1, Warranties, General, provides in part: "To the extent permitted by applicable law, Company will be responsible [for] any loss Bank incurs as the result of a breach of a warranty made by Bank in connection with any Entry Bank originates upon the instructions received from Company, except to the extent that the loss resulted from Bank's own gross negligence or intentional misconduct." The concerns are twofold: 1.) that there is no limit, and 2.) the City would not be responsible for such loss in the event of the Bank's own gross negligence or intentional misconduct, but would be responsible for such loss in the event of the Bank's simple negligence.

### **Resource Impact**

There will be no net fiscal impact to the City in the remainder of fiscal year 2015. The net positive impact for fiscal year 2016 is anticipated at \$30,000 (\$170,000 interest revenue and \$140,000 in banking fees).

### **Strategic Connections**

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Internal Support Cylinder of Excellence, specifically advancing:

- Goal 12: Be a leading government organization, managing resources wisely and sustainably.
- Objective 1: Ensure sound fiscal management

This item advances the *Fast Forward Fort Lauderdale Vision Plan 2035: We are United*.

### **Attachments**

Exhibit 1 – Bid Tabulation

Exhibit 2 – Final Rankings

Exhibit 3 – Wells Fargo Proposal

Exhibit 4 – Wells Fargo Addendum

Exhibit 5 – Banking Services Agreement and Service Documentation Descriptions

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Prepared by: AnnDebra Diaz, Finance  
Linda Blanco, Finance

Department Director: Kirk W. Buffington, Finance