

Date of Action: 6/9/14	
Approved <input checked="" type="checkbox"/>	Denied <input type="checkbox"/>
By: <i>[Signature]</i>	

**CITY COUNCIL ACTION MEMORANDUM**

**AM No. 14-21: Authorization to extend the contract for one (1) option year and awarding renewal to Wells Fargo, in the amount of \$34,050 for the purpose of Banking Services.**

Originator: April Dwyer, Purchasing/Contracting Officer

Date: 5/8/2014

Agenda of: 6/9/2014

Route to:	Department Head	Signature	Date
X	Chief of Police	<i>[Signature]</i>	5/28/14
X	Public Works Director	<i>[Signature]</i>	5/28/14
X	Recreation & Cultural Services Director	<i>[Signature]</i>	5/28/14
X	Finance Director	<i>[Signature]</i>	5-28-14
X	Deputy Administrator	<i>[Signature]</i>	5-28-14
X	City Clerk	<i>[Signature]</i>	5/28/14

Reviewed by Mayor Verne E. Rupright: *[Signature]*

Fiscal Impact:  yes or  no

Funds Available:  yes or  no

**Account name/number/amount:**

Professional Services - Other	001-4150-415-30-34	\$19,000
Services – Other Purchased Services (various)	xxx-xxxx-xxx-50-90	\$15,050

**Attachments:** Contract for Banking Services (20 pages)

**Summary Statement:** On May 5, 2010, the City of Wasilla issued a Request for Proposal number 0503-0-2010/JJ for Banking Services. Proposals were received and reviewed from three (3) institutions. The City Council awarded the contract to Wells Fargo. This contract was for four (4) years with two (2) optional one-year extensions. The banking service fee (\$19,000) specified within may fluctuate month-to-month with banking activity. Merchant service fees (i.e., credit card fees) are separated from the above banking service fee and is budgeted within the departments of Finance, Museum, Menard Sports Center, Water and Sewer (\$15,050).

It is recommended that the City exercise their first optional year extension, beginning August 1, 2014 through July 31, 2015.

**Staff Recommendation:** Adopt AM No. 14-21.

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

Between

City of Wasilla  
290 E. Herning Avenue  
Wasilla, AK 99654  
Ph: (907) 373-9047 Fax: (907) 373-9046

and

Wells Fargo  
581 W. Parks Highway  
Wasilla, Alaska 99654  
Ph: (907) 376-6606 Fax: (907) 376-0298  
Federal Tax ID #94-1347393

WHEREAS, WMC 5.08.030 authorizes elective the mayor or the mayor's designee to engage, subject to the approval of the City Council, services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor are both necessary and in the best interests of the City of Wasilla;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Wasilla City Council.
2. **DEFINITIONS.** "City" means the City of Wasilla and any city agency identified herein. "Independent Contractor" means a person or entity that performs services and/or provides goods for the City under the terms and conditions set forth in this Contract. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.
3. **CONTRACT TERM.** This Contract shall be effective from August 1, 2010 thru July 31, 2014, unless sooner terminated by either party as specified in paragraph (10). This Contract may be extended for two (2) additional one (1) year terms, upon the prior written agreement of both parties.
4. **NOTICE.** Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of default, or without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.
5. **INCORPORATED DOCUMENTS.** The parties agree that the scope of work shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence; a Contractor's Attachment shall not contradict or supersede any City specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract:  
ATTACHMENT A: SCOPE OF WORK  
ATTACHMENT B: SCHEDULE OF PROFESSIONAL FEES AND EXPENSES  
ATTACHMENT C: REPURCHASE AGREEMENT
6. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph (5) in accordance with Attachment B – Schedule of Professional Fees and Expenses. The City does not agree to reimburse Contractor for any other expenses. Any intervening end to appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
7. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

8. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to the contract and recognize that the City is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the City no later than July 15 of the same year. A billing submitted after July 15, which forces the City to process the billing as a stale claim, will subject the Contractor to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to the City of processing the billing as a stale claim and that this amount will be deducted from the payment due to the Contractor.

9. INSPECTION & AUDIT.

- a. Books and Records. Contractor agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the City or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
- b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by a City audit representative or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.
- c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in the Contract. The retention period runs from the date of payment for the relevant goods or services by the City, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. CONTRACT TERMINATION.

- a. City Termination for Nonappropriation. The continuation of this Contract beyond the current fiscal year is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the City Council, State Legislature and/or federal sources. The City may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Contracting Agency's funding from City, State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- b. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:
  - i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
  - ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
  - iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
  - iv. If the City materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
  - v. If it is found by the City that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City of Wasilla with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
  - vi. If it is found by the City that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

- c. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.
  - d. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:
    - i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
    - ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;
    - iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
    - iv. Contractor shall preserve, protect and promptly deliver into City possession all proprietary information in accordance with paragraph (21).
11. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$165 per hour for City employed attorneys. The City may set off consideration against any unpaid obligation of Contractor to any City agency.
12. LIMITED LIABILITY. The City will not waive and intends to assert available liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any City breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.
13. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
14. INDEMNIFICATION. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the City's right to participate, the City from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents.
15. INDEPENDENT CONTRACTOR. Contractor is associated with the City only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the City whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the City shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the City; (4) participation or contributions by either Contractor or the City to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the City. Contractor shall indemnify and hold City harmless from, and defend City against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the City. The City and Contractor shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the

work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such.

16. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the City, Contractor, as an independent contractor and not an employee of the City, must carry policies of insurance in amounts specified in this Insurance Schedule and pay all taxes and fees incident hereunto. The City shall have no liability except as specifically provided in the Contract. The Contractor shall not commence work before:
- a. Contractor has provided the required evidence of insurance to the Contracting Agency of the City, and
  - b. The City has approved the insurance policies provided by the Contractor.
  - c. Prior approval of the insurance policies by the City shall be a condition precedent to any payment of consideration under this Contract and the City's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the City to timely approve shall not constitute a waiver of the condition.
  - d. Insurance Coverage: The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by the City, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until the latter of:
    - i. Final acceptance by the City of the completion of this Contract; or
    - ii. Such time as the insurance is no longer required by the City under the terms of this Contract.
  - e. Any insurance or self-insurance available to the City shall be excess of and non-contributing with any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the City, Contractor shall provide the City with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the City and immediately replace such insurance or bond with an insurer meeting the requirements.
  - f. *Workers' Compensation and Employer's Liability Insurance*
    - i. Contractor shall provide proof of worker's compensation insurance as required of Alaska Administrative Code Title 8.
    - ii. Employer's Liability insurance with a minimum limit of \$100,000 each employee per accident for bodily injury by accident or disease.
    - iii. If this contract is for temporary or leased employees, an *Alternate Employer* endorsement must be attached to the Contractor's workers' compensation insurance policy.
  - g. *Commercial General Liability Insurance*
    - i. Minimum Limits required:
      1. \$1,000,000 General Aggregate
      2. \$1,000,000 Products & Completed Operations Aggregate
      3. \$1,000,000 Personal and Advertising Injury
      4. \$1,000,000 Each Occurrence
  - h. *Business Automobile Liability Insurance*
    - i. Minimum Limit required: \$1,000,000 Each Occurrence for bodily injury and property damage. Coverage shall be for "any auto" (including owned, non-owned and hired vehicles). The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
  - i. *Professional Liability Insurance*
    - i. Minimum Limit required: \$1,000,000 Each Claim
    - ii. Retroactive date: Prior to commencement of the performance of the contract
    - iii. Discovery period: Three (3) years after termination date of contract.
    - iv. A certified copy of this policy may be required.
  - j. *Umbrella or Excess Liability Insurance*
    - i. May be used to achieve the above minimum liability limits.
    - ii. Shall be endorsed to city it is "As Broad as Primary Policy"
  - k. *General Requirements:*

- i. Additional Insured: By endorsement to the general liability insurance policy evidenced by Contractor, *the City of Wasilla, its officers, employees and immune contractors* shall be named as additional insureds for all liability arising from the Contract.
  - ii. Waiver of Subrogation: Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.
  - iii. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
  - iv. Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the City. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence.
1. Policy Cancellation: Except for ten days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) days prior written notice to the City of Wasilla, c/o Purchasing/Contracting Officer, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address shown below.
  - m. Approved Insurer: Each insurance policy shall be:
    - i. Issued by insurance companies authorized to do business in the State of Alaska or eligible surplus lines insurers acceptable to the City and having agents in Alaska upon whom service of process may be made, and
    - ii. Currently rated by A.M. Best as "A-VII" or better.
  - n. Evidence of Insurance: Prior to the start of any Work, Contractor must provide the following documents to the contracting City:
    - i. Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the City to evidence the insurance policies and coverage required of Contractor.
    - ii. Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26) , signed by an authorized insurance company representative, must be submitted to the City to evidence the endorsement of the City as an additional insured per General Requirements, Subsection a above.
    - iii. Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.
  - o. Review and Approval: Documents specified above must be submitted for review and approval by the City prior to the commencement of work by Contractor. Neither approval by the City nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the City or others, and shall be in addition to and not in lieu of any other remedy available to the City under this Contract or otherwise. The City reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.
  - p. **Mail all required insurance documents to the Contracting Agency identified on page one of the contract. Address the required insurance documents as ATTN: PURCHASING OFFICER.**
  - q. COMPLIANCE WITH LEGAL OBLIGATIONS. Contractor shall procure and maintain for the duration of this Contract any city, borough, state or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The City may set-off against consideration due any delinquent government obligation.
17. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
  18. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability

of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

19. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by City, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the City.
20. CITY OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the City and all such materials shall be delivered into City possession by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the City. Notwithstanding the foregoing, the City shall have no proprietary interest in any materials licensed for use by the City that are subject to patent, trademark or copyright protection.
21. PUBLIC RECORDS. Pursuant to WMC 5.08.120(F), information or documents received from Contractor may be open to public inspection and copying. The City will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with Section 9.18 of the RFP, provided that Contractor thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any document that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
22. CONFIDENTIALITY. Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.
23. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this Contract:
  - a. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
  - b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.
  - c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
24. LOBBYING The parties agree, whether expressly prohibited by federal, State or local law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:
  - a. Any federal, state, county or local agency, legislature, commission, council or board;
  - b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or
  - c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.
25. WARRANTIES.
  - a. General Warranty. Contractor warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.
  - b. System Compliance. Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in



the operating and testing of the business of the City. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multicentury formulas and data values and date data interface values that reflect the century.

- 26. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the Mayor and/or City Council and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.
- 27. GOVERNING LAW: JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the City of Wasilla, without giving effect to any principle of conflict-of-interest that would require the application of the law of any other jurisdiction. Any civil action to enforce this Contract shall be brought in the trial courts for the State of Alaska at Palmer, Alaska.
- 28. ENTIRE CONTRACT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Mayor and/or City Council.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

[Signature] V.P.  
Signature, Title

9/13/2010  
Date

APPROVED:  
[Signature]  
Signature - Verne Rupright, Mayor

8-31-2010  
(Date)

ATTEST:  
[Signature]  
Kristie L. Smithers, CMC, City Clerk

[SEAL]

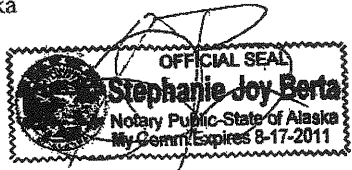
STATE OF ALASKA )  
) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on Sept. 13<sup>th</sup>, 2010,  
By David Baker, the Vice President of Wells Fargo Bank, a  
National Association corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

[Signature]  
Notary Public in and for Alaska  
My Commission

Expires 8/17/2011





## ATTACHMENT A

### SCOPE OF WORK

#### **SCOPE OF WORK**

The City of Wasilla is seeking a qualified financial institution to provide all the banking services specified in this request for proposals. Implementation of a professional services contract for banking services will begin August 1, 2010. This banking services contract will be awarded for a minimum term of three (3) years with an option to renew for two additional one (1) year terms. The City of Wasilla reserves the option to renew up to two additional twelve month intervals, under the terms specified in the Request for Proposal, by mutual agreement.

Termination of the agreement may occur by mutual consent, for the convenience of either party, or for cause, where the other party fails in any material way to perform its obligations under this contract. The latter termination requires 30 days written notice prior to the effective date of the termination.

The bank must comply with all depository regulation set forth in the Wasilla Municipal Code of Ordinances Chapter 5.04, 5.12, and applicable State and Federal laws.

The recommended compensating balance requirements should remain unchanged for the initial three-year term of the contract, but the institution may approach the City to increase the fees or compensating balance requirements based on reasonable or stated contractual cost-of-living adjustments. The City also reserves the right to negotiate specific fees or compensating balances during the contract and request amendments accordingly.

#### 1.1. DESCRIPTION OF THE GOVERNMENT –

- 1.1.1. City Contact - The institution's principal contact with the City during the period of engagement will be Troy Tankersley, Director of Finance or a designated representative.
- 1.1.2. Account Structure - The City maintains a Central Treasury Account and three Sub-Accounts. The Sub-Accounts are for payroll, accounts payables, and credit card merchant services. The two Sub-Accounts (payroll and accounts payable) are funded daily by automatic transfers from the Central Treasury Account for any checks charged to the account that day which thereby creates a daily zero balance in the Sub-Accounts thereby maximizing the balances available for daily investments in the Central Treasury Account.
- 1.1.3. In addition to these accounts, additional demand deposit accounts may need to be established to meet the banking requirements of the City.
  - 1.1.3.1. Central Treasury Account - This account is used for routine daily operations, including but not limited to:

- 1.1.3.1.1. Deposits by City staff.
- 1.1.3.1.2. Transfer of funds to the other City accounts.
- 1.1.3.1.3. Receipt and disbursement of wire transfers.
- 1.1.3.1.4. Receipt and disbursement of ACH transactions.
- 1.1.3.1.5. This account has an average balance of over \$1.0 million with the daily balance not expected to fall below \$500,000.
- 1.1.3.1.6. Payroll Account – This account is used for processing of the employee paychecks and direct deposit transactions.
- 1.1.3.1.7. Accounts Payable Account – This account is used for processing disbursements by accounts payable.
- 1.1.3.1.8. Credit Card Merchant Services Account – This account is used for processing incoming electronic deposit credit card and auto-pay transactions.

1.2. ACCOUNT SERVICES – Services shall include the following:

- 1.2.1. The City requires the proposing institution to provide the names of a designated account executive as well as an alternative. The designated account executives must have the authority to make timely decisions in the normal course of business and will be the sole contact for any city banking issues.
- 1.2.2. The City shall have access through a computer terminal to view deposits, checks cleared, and ledger balances in all accounts.
- 1.2.3. The City shall have the ability to place stop payments, have check image retrieval, send wire transfer instructions, receive transaction confirmations and verifications of wire transfers, and communicate with the bank, all via electronic mail, an on-line PC software system or internet service. Please describe the services you offer your clients for this purpose and the security provisions included.
- 1.2.4. The City shall have the ability to use electronic funds transfer or direct deposit for its vendor payments. Please describe the services you offer your clients for this purpose. For the processing of direct deposit, we would like to know if you currently function as an ACH, or if you intend to be at some point in the near future.
- 1.2.5. The institution shall provide the City with fraud protection services on all accounts. Please describe what protection services your institution has available.

- 1.2.6. Accept and send ACH transactions and provide written and/or internet notification of ACH deposits promptly.
- 1.2.7. Accept deposits by City employees on a daily basis.
- 1.2.8. Collateralize all City accounts in conformity with Wasilla Municipal Code 5.12. The code can be referenced at <http://www.codepublishing.com/ak/wasilla.html>, section 5.12.
- 1.2.9. Provide monthly activity statements and reports for all accounts. The statement cutoff should be the last day of the month. Statements must be sent by no later than the fifth (5<sup>th</sup>) business day of the following month. The statements must provide detail on account transfers, deposits, checks paid, debit memos, credit memos, charge backs, wire transfers and transfers to and from the open overnight investment.
- 1.2.10. All Stop Payment orders will be transmitted via facsimile copy or electronically. Upon receipt of the order, the bank will examine their records and inform the City as to whether the specified check has or has not been paid. If the bank determines that the specified check has been paid, the bank will forward to the City a copy of said check. If the bank determines that the specified check has not been paid, the bank will immediately issue its internal stop payment order and confirm the execution of said order to the City. Cancellations of Stop Payment Orders, if any, will be processed as above.
- 1.2.11. If the bank utilizes document imaging and provides images of the cancelled checks in lieu of the actual cancelled check, then copies of the front and back of requested checks are to be provided. Please indicate what medium will be used (i.e. CD-ROM, download via Internet).
- 1.2.12. Should any deposited check(s) be returned due to non-sufficient funds, or for any reason, the bank will make a second attempt to collect the funds. If the same item is returned again, the bank shall forward the check(s) to the City within three (3) business days.
- 1.2.13. In the event that a City demand deposit account shows an overdraft position, the bank agrees to immediately notify the City by telephone. The bank further agrees to waive any penalties or charges if the item(s) is (are) honored by the City within one business day.
- 1.2.14. The bank will provide free locking bank bags, emergency supply of preprinted checks, preprinted checks, and preprinted, carbonless deposit slips for all accounts to the City.
- 1.2.15. The financial institution shall provide free self-inking endorsement stamps for deposited checks. Initial stock of 25 for various accounts shall be provided with an annual replacement volume of 10.

- 1.2.16. The financial institution shall provide a safe deposit box suitable for storage of data backup tapes.
  - 1.2.17. The financial institution will execute outgoing wire transfers via internet, facsimile or phone upon request by an authorized agent of the City.
  - 1.2.18. The financial institution must provide for the direct deposit of the City payroll. The City employs approximately 150 employees and processes payroll bi-weekly. Currently, approximately 140 of these employees are using direct deposit. Please specify how you would process direct deposit of the City's payroll for those who conduct business with your institution and whether you are able to act as a clearing house for direct deposit to other institutions. The deposits should be recorded to the accounts on the same business day or no later than the next business day following the receipt of information from the City of Wasilla.
  - 1.2.19. The financial institution will invest all available funds of the City in repurchase agreements until the next business day. The overnight repurchase rate will be quoted as a rate equal to the average bond equivalent yield on the 91-day U.S. Treasury Bill plus any basis points agreed to in the contract adjusted as of the auction dates. The method of interest calculation (360 or 365 days) will be specified by the financial institution.
  - 1.2.20. A monthly report is to be provided which is to include the amount of funds available daily for investment with corresponding interest rates and earnings.
  - 1.2.21. Institutions must be capable of providing systems and support for acceptance of credit card payments to the City. The City currently accepts VISA, MasterCard, Discover, and debit cards.
- 1.3. REPURCHASE AGREEMENT – SEE BELOW
- 1.3.1. General Information - It is the intent of the City to maximize its earnings on the daily surplus cash balances. The Financial institution will execute a daily Repurchase Agreement for the available funds in the Central Treasury after the transfers to the sub-accounts. Repurchase Agreements will be executed exclusively against obligations of the U.S Government and/or its agencies, and not against securities of lesser quality. The collateral for the Repurchase Agreement shall be held in a third party financial institution in the City of Wasilla's name.
  - 1.3.2. Requested Conditions - Each day, any remaining balance in the Central Treasury Account which exceeds the amount of that day's deposit into the Central Treasury account is automatically available for immediate investment in repurchase securities. Deposits comprised of matured investments and/or wired funds are available for immediate investment on the same day deposited.

- 1.3.2.1. All Purchased Securities will be securities of the U.S. Government and/or its agencies.
- 1.3.2.2. The Seller shall maintain compliance with applicable federal regulatory standards and guidelines regarding capital adequacy and net capitalization.
- 1.3.2.3. All transactions shall be accomplished through "delivery vs. payment" unless an agreement is made between the Buyer and the Seller prior to the transfer of funds.
- 1.3.2.4. No security may be substituted for the Purchased Securities.
- 1.3.2.5. For the Margin Ratio section of the agreement, it is understood that securities will be collateralized at 102%.
- 1.3.2.6. A copy of the Master Repurchase Agreement should be included with each proposal. The minimum amount required for an investment along with the minimum incremental amount should be clearly stated.
- 1.3.2.7. At the beginning of the next business day, all balances shall be transferred back to the City's Central Treasury account along with the interest earned on the overnight weekend transaction.
- 1.3.2.8. Please list the monthly lease cost for **Repurchase Agreement**.

#### 1.4. OPTIONAL SERVICES

- 1.4.1. Each proposal submitted, as part of the response in the Technical Section, should address the topics of PC /On-line Banking and Positive Pay and the benefits thereof as compared to the City's Demand Deposit Accounts. The response should also include tangible costs such as computer software and hardware and communications expenditures, and intangible costs such as employee training and conversion.
- 1.4.2. The City of Wasilla is looking for a financial institution that will provide the City with an account for the custody and safekeeping of its investment portfolio.
- 1.4.3. Services to be provided are:
  - 1.4.3.1. Hold approximately 10 to 30 securities that are fed wireable and/or DTC eligible.
  - 1.4.3.2. Collect income and principal and provide a high quality money market fund or other "sweep" vehicle for holding cash equivalents.
  - 1.4.3.3. Provide monthly statements to the City as well as an investment manager.

- 1.4.3.4. Settle trades on a delivery versus payment (DVP) basis. After initial portfolio set-up we anticipate modest trade activity.
  - 1.4.3.5. The portfolio size will begin at approximately \$7,000,000 (7 million) in value.
  - 1.4.3.6. Please provide a fee schedule and anticipated annual charges (in dollars) for these services.
- 1.4.4. Purchasing Cards – The City has a limited number of procurement/commercial credit cards in use for restricted governmental payments and travel reservations. This service has internet online reporting, merchant category code/SIC code features and dollar limits. Please provide a description of your services available.
- 1.4.4.1. Describe the product you would recommend to the City. The description should include, at a minimum:
    - 1.4.4.1.1. Explain the advantages and disadvantages of a purchasing card program.
    - 1.4.4.1.2. What purchasing card or cards do you have?
    - 1.4.4.1.3. Do you have a dedicated group that services your purchasing card services?
    - 1.4.4.1.4. Describe the instructional materials you provide to cardholders.
    - 1.4.4.1.5. Describe the transaction restrictions and limitations you offer and how they are applied (i.e., directly to a card or a group of cards, UPC codes, etc.).
    - 1.4.4.1.6. What are the fees or charges per card?
    - 1.4.4.1.7. Describe the types of reports that are available.
    - 1.4.4.1.8. Describe the requirements for direct PC or Internet connection, including any hardware or software requirements.
    - 1.4.4.1.9. How does your purchasing card differ from your competition?
- 1.4.5. Automated Teller Machines – The City requests two (2) Automated Teller Machines: one (1) located at City Hall and one (1) located at the Curtis D. Menard Sports Center.
- 1.5. CONVERSION SUPPORT – If your institution is selected, detail the following:

- 1.5.1. The level of support you would commit to facilitate the City's conversion to your systems.
  - 1.5.2. Define the number of staff you would make available to support the conversion. Indicate the nature of their professional or technical qualifications.
  - 1.5.3. Describe the type of support you would require of the City in terms of staff and equipment.
  - 1.5.4. Provide an outline and time schedule of the tasks necessary to facilitate conversion.
- 1.6. CUSTOMER SUPPORT – Detail the following:
- 1.6.1. The City's primary contact(s) and a copy of their résumés.
  - 1.6.2. Describe how your customer support for general banking issues is structured.
  - 1.6.3. Describe if staff, in addition to the primary contact person, will be assigned to the City's account.
- 1.7. MISCELLANEOUS ITEMS - Outline any financial institution incentive programs for City employees:
- 1.7.1. Free or reduced cost checking accounts.
  - 1.7.2. Reduced rate loans.
  - 1.7.3. Other free or reduced cost services provided to financial institutions customer's employees.
- 1.8. EXPLANATION OF PROPOSAL FORMS - The use of the Proposal Forms or copies thereof is required of all proposals. No proposal will be considered without amounts being placed on these forms. If the bank is unable to meet or exceed the requirements specified, then the phrase "No Proposal" should be entered for that particular item.
- The City reserves the right to eliminate any individual service contained in the RFP, if based  
on analysis, the fees for providing the service are excessive, or if the service proposed can be  
performed in an alternative manner.
- 1.9. ACTIVITY BASED COST PROPOSAL FOR FINANCIAL SERVICES - The Activity Based Cost Schedule form (Section 6.3) is intended to provide the City with a format by which to evaluate the activity based cost of the financial services proposed by the respondent. Please complete the Charge per Unit column for each line item in the schedule as follows:



- 1.9.1. Indicate the cost per unit you are willing to commit to for each itemized service you will provide. Please indicate if the cost per unit is dependent on the actual activity volume.
- 1.9.2. Please indicate your proposed Unit of Measurement if different from that defined. If you will be providing an itemized service at no charge to the City, please indicate as \$0.00.
- 1.9.3. If an itemized service is included as part of the charge of another line item, please indicate so by referencing the line item number under which it is included.
- 1.9.4. Please indicate the formula used to calculate the earnings on compensating balances in the account(s). How frequently are earnings calculated?
- 1.9.5. If you will not be providing a particular service, please indicate as "No Proposal".

The respondent may add any additional services to the list provided if such services are considered necessary in order to provide the level of service contemplated in this RFP. Please indicate the type of service contemplated, the Unit of Measurement, and the Cost per Unit of each item added. All respondents are required to complete this schedule.

- 1.10. ALTERNATIVE COST PROPOSALS FOR FINANCIAL SERVICES - Can you recommend any other mechanisms by which the cost for banking services provided to the City can be reduced or eliminated?
- 1.11. SUMMARY - All financial institutions are requested to complete the form "Proposal for Financial Services", attach the requested forms, reports, the attachments and return the package to the City in accordance with the instructions within this RFP.
- 1.12. MINIMUM QUALIFICATIONS -- The minimum qualifications required to respond to this RFP are as follows:
  - 1.12.1. Be a Federal or State of Alaska chartered commercial financial institution.
  - 1.12.2. Be a member of the Federal Reserve System.
  - 1.12.3. Provide insurance on accounts through the Federal Deposit Insurance Company or National Credit Union Administration.
  - 1.12.4. Have a physical branch located in the City of Wasilla.
  - 1.12.5. Provide collateralization of all monies deposited in excess of FDIC/NCUA limits in accordance with Wasilla Municipal Code (WMC) 5.12. All pledged collateral must be held in the collateral custodial account of the City of Wasilla under a formal tri-party Agreement.

- 1.12.6. Provide an overnight repurchase agreement on the daily remaining balance of the City of Wasilla's concentration account
- 1.12.7. The Institution must have adequate organization, facilities, equipment, and personnel to insure prompt and efficient services to the City. The City reserves the right before recommending any award to inspect the facilities, organization, and financial condition or to take any other action necessary to determine ability to perform in accordance with specifications, terms, and conditions.

ATTACHMENT B

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

**2. COST**

2.1. SCHEDULE OF PROFESSIONAL FEES AND EXPENSES - The following list of activities represents an average number of transactions per month. It is an estimate of the number of transactions. It is not a guarantee of either a minimum number of transactions, or a maximum number of transactions. Blank lines are provided for your use in providing for any other items which are normally charged per transaction. The City will not incur fees for the first year of the contract. Fees will begin incurring on year two of the contract.

Description of Activity	Monthly Average Charge	Charge per Unit	Estimated Monthly Total Charges
<b>Required Compensating Balance per Month</b>			
<b>Central Treasury Account</b>			
Deposits Credited	65	\$ 0.50	
Items Deposited – average per deposit	30	\$ 0.08	
Wire Transfers – Incoming	2	\$ 10.00	
Wire Transfers – Outgoing	2	\$ 15.00	
ACH Items	8	\$ 0.10	
Debit and Credit Memo's	2	\$ 0.10	
Returned Checks (from deposits)	4	\$ 2.50	
Tax Payments – EFT	4	\$ 0.08	
Other (specify)		\$ 10.00	
<b>Payroll Account<sup>50</sup></b>			
Checks Paid	40	\$ 0.15	
Stop Payments	0	\$ 6.00	
Direct Deposit on Employee Accounts	280	\$ 0.08	
Batch fee for Direct Deposit		\$ 2.50	
Monthly fee for ACH Services per settlement account		\$ 25.00	
<b>Accounts Payable Account</b>			
Checks Paid	277	\$ 0.15	
Stop Payments	1	\$ 6.00	
Electronic Credits	25	\$ 0.10	
Transfers	8	\$ 0.25	
Other (specify)			
<b>Merchant Services</b>			
Debit	21	\$ 0.10	
Electronic Credits	67	\$ 0.10	
Information Services	450	N/A	
<b>Miscellaneous</b>			
Deposit Bags with locks	10	No Charge	
Endorsement Stamps	10	No Charge	

Other (specify)			
Other (specify)			
Other (specify)			
<b>Additional Required Services</b>			
PC/On-line Banking. Cost should include tangible cost such as computer software and intangible costs such as employee training and data conversion.		Please refer to Footnote (1)	
Positive Pay or Fraud Filtering to Deter Check Fraud			
Provide an account for the custody and safekeeping of the City of Wasilla's investment portfolio.		\$ 10.00	
Purchasing Cards/Credit Cards		\$ 35.00	
Fees to process debit card charges for city services		\$ 1.50	
Fees to process American Express credit card charges for city services		\$ 1.00	
Fees to process Discover credit card charges for city services		\$ 0.03	
Fees to process MasterCard credit card charges for city services		\$ 0.05	
Fees to process Visa credit card charges for city services		Please refer to Footnote (2)	
Fees, if any, for safe deposit box for tape storage			
Merchant services equipment fees		Please refer to Footnote (3)	
Fees to process direct pay		Please refer to Footnote (3)	
Fees for Automated Teller Machines		Please refer to Footnote (3)	
Other Services		Please refer to Footnote (3)	

Footnotes:

(1) PC/Online banking at Wells Fargo does not require any software download except for WellsImage CD service. All training, during and after implementation are included at no additional cost. Please see below for cost pertaining to information and optional services:

<b>Information Services:</b>	<b>Per Unit</b>
CEO Previous Day Subscription Detail Item	0.10000
CEO Previous Day Subscription Monthly Base	20.00000
CEO Basic Banking - Monthly Base	25.00000
CEO Basic Banking Additional Account	10.00000
CEO Basic Banking - Transfer	0.25000
<b>Image Delivery:</b>	
Image File Import Maintenance Per Product	100.00000
Image File Import Posted Items - Image	0.00000
WellsImage Paid Check Per CD	50.00000
WellsImage paid Check Per Item	0.06000
<b>Remote Deposit Capture:</b>	
Desktop Deposit Credit Posted	0.30000
Smart Decision Electronic Check Conversion - OnUS	0.04000

Smart Decision Electronic Check conversion - Transit		0.70000
Desktop Deposit - Wells Fargo Deposited Item		0.05500
Desktop Deposit - Non-Wells Fargo Deposited Item		0.08500
<b>Setup Fees:</b>		
Positive Pay		25.00000
WellsImage Set up - 1st Account		25.00000
WellsImage Viewer Software/Install		100.00000
Image File Import Setup 1st Product		50.00000
<b>(2) Wells Fargo Institutional Retirement and Trust (Investments): Fee Schedule</b>		
The following fee schedule covers Custody Services. Fees are based on the market value of all assets in the account (except as noted below) as of the last business day of each fee period. This schedule assumes assets consisting only of U.S. exchange listed securities and mutual funds held in book entry. No fees will be charged on Wells Fargo Money Market Funds.		
<u>Account Administration:</u>		
Four and one half basis points (.045%) of the market value up to \$10 million. Three basis points (.30%) of the market value above \$10 million. Annual minimum fee \$2,500.00.		
<u>Transaction Fees:</u>		
Security purchase, sale, maturity, delivery, receipt, redemption or call \$15.00 each. Wire transfers \$10.00 each.		
<u>Miscellaneous Fees:</u>		
Wells Fargo Bank N.A. will be entitled to additional compensation for extra extraordinary services necessary to administer the account. Fees are subject to change at any time. Fees will be charged to the account monthly. anticipated annual charges for a \$7,000,000 portfolio, with 30 transactions per year, will be approximately \$3,600.00.		
<b>(3) Wells Fargo Merchant Services: Interchange Plus Pricing Model (see attached interchange table)</b>		
<b>**Interchange (cost) + VISA or MC Assessment + Wells Fargo Assessment**</b>		
VISA Assessment (Pass through)		.0925% on gross sales per transaction
MasterCard Assessment (Pass through)		.11 cents per transaction
Wells Fargo Assessment		= 12.5 cents per transaction

### 3. PAYMENT

3.1. Payment for financial services may be debited upon receipt of statement.

## ATTACHMENT C

### REPURCHASE AGREEMENT

#### 3.2. REPURCHASE AGREEMENT – SEE BELOW

3.2.1. General Information - It is the intent of the City to maximize its earnings on the daily surplus cash balances. The Financial institution will execute a daily Repurchase Agreement for the available funds in the Central Treasury after the transfers to the sub-accounts. Repurchase Agreements will be executed exclusively against obligations of the U.S Government and/or its agencies, and not against securities of lesser quality. The collateral for the Repurchase Agreement shall be held in a third party financial institution in the City of Wasilla's name.

3.2.2. Requested Conditions - Each day, any remaining balance in the Central Treasury Account which exceeds the amount of that day's deposit into the Central Treasury account is automatically available for immediate investment in repurchase securities. Deposits comprised of matured investments and/or wired funds are available for immediate investment on the same day deposited.

3.2.2.1. All Purchased Securities will be securities of the U.S. Government and/or its agencies.

3.2.2.2. The Seller shall maintain compliance with applicable federal regulatory standards and guidelines regarding capital adequacy and net capitalization.

3.2.2.3. All transactions shall be accomplished through "delivery vs. payment" unless an agreement is made between the Buyer and the Seller prior to the transfer of funds.

3.2.2.4. No security may be substituted for the Purchased Securities.

3.2.2.5. For the Margin Ratio section of the agreement, it is understood that securities will be collateralized at 102%.

3.2.2.6. A copy of the Master Repurchase Agreement should be included with each proposal. The minimum amount required for an investment along with the minimum incremental amount should be clearly stated.

3.2.2.7. At the beginning of the next business day, all balances shall be transferred back to the City's Central Treasury account along with the interest earned on the overnight weekend transaction.

3.2.2.8. Please list the monthly lease cost for **Repurchase Agreement**.