FINANCE AND ADMINISTRATION DEPARTMENT - TREASURY DIVISION

ONE CITY * ONE JACKSONVILLE!

MEMORANDUM

October 10, 2016

TO: Gregory Pease, Chairman
Professional Services Evaluation Committee

FROM: Michael Weinstein, Director of Finance
Finance and Administration Department

Patrick Greive, Treasurer
Finance and Administration Department

SUBJECT: P-24-16 Purchasing Card Services

The Finance and Administration Department has negotiated with the number one ranked vendor that submitted a proposal and was selected to provide the Purchasing Card Services resulting in the attached agreement.

Accordingly, this is to recommend that the City of Jacksonville enter into a contract with Wells Fargo Bank, N.A. to provide the Purchasing Card Services. The initial contract period will be for (5) five years from date of execution of contract with (1) one additional (3) three year renewal. The maximum indebtedness is a not-to-exceed amount of $5,000.00. All other terms and conditions of the Contract are materially in alignment with the City's standard contract language and as provided in the Request for Proposals.

Attachments: WELLSONE® COMMERICAL CARD AGREEMENT

cc: Alex Baker, PSEC Specialist

117 W. Duval Street, Suite 300 | Jacksonville, Florida 32202 | Phone: 904.630.1640

WELLSONE® COMMERCIAL CARD AGREEMENT

This WellsOne® Commercial Card Agreement (this "**Agreement**") is made and entered into effective as of the date last executed below (the "**Effective Date**"), by and between Wells Fargo Bank, National Association ("**Wells Fargo**") and City of Jacksonville, FL ("**Customer**").

Introduction

This Agreement governs the Visa® *WellsOne* Commercial Card and/or MasterCard® MultiCard Commercial Card (collectively, "**Card**") issued by Wells Fargo for use by Customer and its designated employees, subsidiaries, affiliates, agents and representatives ("**Cardholders**"). In this Agreement, "Card" shall mean individually and collectively, all Visa® *WellsOne* and MasterCard® MultiCard Commercial Cards and account numbers issued to Customer, Cardholders and the associated accounts including all card-not-present transactions and account numbers. The transactions made using the Card constitute extensions of credit by Wells Fargo to Customer and not to individual employees, or agents of Customer. In order to participate in the *WellsOne* Commercial Card program, Customer shall at all times maintain ten (10) or more Cards. Attachment A-1 (Program Information), Attachment A-2 (Multiple Division Billing Program Information), if applicable, Attachment B (Program Administrator), Attachment C-1 (Fee Schedule), Attachment C-2 (Revenue Share Calculation), if applicable, Attachment D-1 (RFP P-24-16)(RFP), Attachment D-2 (Response to RFP) and Attachment E (Insurance) are incorporated into this Agreement. In addition, the following Service Descriptions will be incorporated into this Agreement if Customer or its Cardholders elect, now or hereafter, to utilize a service or functionality described therein: (i) Wells Fargo Supplier Analysis & Onboarding Commercial Card Conversion Service Description; (ii) CCER AP Control/Just-in-Time Card Service Description; (iii) MasterCard® Payment Gateway™ Service Description; (iv) Receipt Imaging Service Description; (v) Convenience Check Service Description; (vi) Custom Data Solutions Service Description; and (vii) any other Service Description with respect to an additional service or functionality related to the Card that specifically references, and provides that it is incorporated by reference into, this Agreement. Such Service Descriptions are available and may be accessed at **https://wellsoffice.wellsfargo.com/ceopub/prc/service-descriptions/index.jsp** or such other Internet website address as Wells Fargo may from time to time designate by notice to Customer. For good and valuable consideration, and intending to be legally bound hereby, Customer and Wells Fargo agree to each and every term and condition of this Agreement as set forth below:

1. **Permitted Uses of Card; Promise to Pay; Credit Limit.** The Card may be used for Cardholders' Customer-related purchasing, travel and entertainment, general payables and fleet purchases, to the extent such functionality is offered to Customer by Wells Fargo. Customer agrees that the Card shall be used for business purposes only. Customer represents and warrants that its execution of this Agreement and use of the Card will not in any way violate, conflict with, or result in a breach of any contract or agreement between Customer (or any of its affiliates) and any third party, including any client of Customer or its affiliates, and Customer will indemnify, defend and hold Wells Fargo harmless from and against any claims relating to any such actual or alleged violation, conflict or breach. In no event shall the Card be used: (i) to make, directly or indirectly, any payment or engage in any other transaction by, on behalf of or for the benefit of any person(s) relating to personal, family or household purposes (*i.e.*, in no event may the Card be used, directly or indirectly, to make or facilitate consumer payments or consumer transactions of any type, regardless of whether Customer is in the business of making or facilitating such payments or transactions); or (ii) for any transaction that is unlawful or illegal under any applicable law, including but not limited to, "**restricted transactions**" as defined in the Unlawful Internet Gambling Enforcement Act of 2006 and Regulation GG issued thereunder. Except as otherwise provided in the "Liability for Unauthorized Use" Section below, Customer agrees to pay Wells Fargo, when due, the total of all purchases made with the Card. Customer also promises to pay the total of all other fees and charges due on the Card, as stated in this Agreement or as otherwise agreed to by Customer, and all costs and expenses, including all reasonable attorney's fees, and other reasonable legal costs incurred by Wells Fargo in enforcing this Agreement. Customer agrees that the total of all transactions charged to all Cards and account numbers issued hereunder outstanding at any time shall not exceed the Credit Limit specified in Attachment A-1, or as may be changed from time to time. Customer agrees that it is responsible for repaying outstanding balances under the Card, including but not limited to those that exceed its Credit Limit. Wells Fargo may change the Credit Limit at any time and will promptly notify Customer as may be required by applicable law. Termination or expiration of this Agreement does not terminate Customer's obligation for all amounts owed pursuant to this Agreement.

Customer's obligations under this Agreement are contingent upon the availability of lawfully appropriated funds in accordance with applicable law.

2. **Debit Authorization.** Customer hereby authorizes and directs Wells Fargo to pay the total of all amounts charged on the Card as a result of purchases, other transactions, fees, charges, costs and expenses by debiting Customer's bank deposit account(s) as indicated on Attachment A-1 and, if applicable, Attachment A-2 (the "**Account(s)**"), on the 14th (fourteenth) calendar day (or next Business Day if the calendar day is not a Business Day) (the "**Due Date**") following the date of each *WellsOne* or MultiCard Commercial Card billing statement provided to Customer (the "**Billing Statement Date**"). Any payment received on or after the Billing Statement Date and before the Due Date will be applied to reduce the amount debited from the Account(s) on the Due Date. A "**Business Day**" shall mean any day (except Saturday or Sunday) that Wells Fargo is open for business. Wells Fargo

may also debit the Account(s) at any time for the purpose of settling Card transactions and payoffs of any fees, charges, costs and expenses as stated in this Agreement or as otherwise agreed to and owed by Customer. The Account(s) shall also be subject to the terms and conditions of any netting or setoff provisions between Customer and Wells Fargo governing the Account(s) and any linked accounts. Customer represents and warrants that Customer owns and has sole and exclusive authority over the Account(s), including the authority to grant the debit authorization under this Section Two (2), and that no third party, including any client or Customer or its affiliates, is required to consent to or otherwise authorize or approve Customer's exercise of authority with respect to such Account(s), including the grant of such debit authorization.

3. **Authorizations.** All transactions on Customer's Card are subject to prior approval by Wells Fargo (**"Authorizations"**). Wells Fargo reserves the right to limit the number of Authorizations given during any period of time (day, weekend, week, etc.) and Wells Fargo may deny an Authorization if Wells Fargo suspects that the Card is being used without Customer's permission. In the event the Authorization system is temporarily unavailable, an Authorization may be unable to be given even though the transaction would not exceed the Credit Limit and the Card is in good standing. For security reasons, Wells Fargo cannot explain the details of how the authorization system works. Wells Fargo shall not be liable for failing to give any such Authorization. Wells Fargo may, but is not required to, authorize transactions that will cause the balance on the Card to exceed the Credit Limit, and Customer agrees it is liable for any such transactions. In addition, Wells Fargo reserves the right to deny transactions or authorizations from merchants apparently engaging in the Internet gambling business or identifying themselves through the Card transaction record or otherwise as engaged in such business.

Notwithstanding the foregoing, Customer acknowledges and agrees that: (i) some or all of the Cards issued hereunder may be Cards that contain an embedded security microchip that works in tandem with personal identification number (PIN) authentication functionality (**"PIN & Chip Cards"**), rather than traditional magnetic stripe Cards; (ii) certain PIN & Chip Card transactions are authorized via Offline Authorization rather than Online Authorization; (iii) as a result, such PIN & Chip Card transactions authorized via Offline Authorization are not verified against restrictions applicable to the Customer's Card program generally or to a specific Card and/or Cardholder (such as credit limits, transaction type restrictions, etc.) prior to authorization; and (iv) Customer's liability and responsibility for PIN & Chip Card transactions shall not be in any way diminished or otherwise affected by whether such transactions have been authorized via Online Authorization or Offline Authorization. For purposes of the foregoing: (a) **"Online Authorization"** means authorization of a Card transaction via the electronic communications authorization system utilized for traditional magnetic stripe Card transactions in which transaction information with respect to each Card transaction is electronically communicated to the Card issuer (i.e. Wells Fargo) for authorization; and (b) **"Offline Authorization"** means authorization of a PIN & Chip Card transaction by communication between the PIN & Chip Card and payment terminal using defined limiting parameters stored on the PIN & Chip Card, such as a cumulative offline transaction amount limit or a consecutive offline transaction limit, but without electronic communication with and authorization by the Card issuer (i.e. Wells Fargo) as would occur with an Online Authorization.

4. **Program Administrator.** Wells Fargo will require, and is authorized to rely on, written instructions it receives from the Customer's Program Administrator(s) named on Attachment B with regard to the following matters, without limitation: issuance of individual Cards to Cardholders; establishment of and changes to credit limits on individual Cards; notification of disputed transactions; and termination of individual Cards. Customer may substitute, remove or designate additional Program Administrators by written notice to Wells Fargo signed by an authorized officer of Customer. Notwithstanding any other provision of this Agreement to the contrary, if Customer enrolls to administer its *WellsOne* or MultiCard Commercial Card program(s) using the Internet to access Card information, Customer agrees that the primary Program Administrator named on Attachment B has full authority to substitute, remove or designate additional Program Administrators, each of whom may have the full authority of a Program Administrator including authority to designate other Program Administrators, and that written notice signed by an authorized officer of Customer is required only to substitute the primary Program Administrator. The primary Program Administrator may designate in writing one or more contacts for fraud or potential fraud related matters concerning Customer's Card program (**"Fraud Contact(s)"**), and in the absence of such designation the primary Program Administrator shall be deemed to be Customer's sole Fraud Contact. Customer may, but is not required to, execute additional Attachment Bs appointing separate program administrators for divisional or affiliate Card programs established under this Agreement.

5. **Liability for Unauthorized Use.** Customer shall be liable for all unauthorized use of the Card in any amount at any time unless and until Customer has notified Wells Fargo that the Card or Card number has been lost, stolen or misappropriated or that the person or vehicle (in the event of a fleet program) in whose name the Card has been issued is no longer authorized to use the Card (for example, upon termination of employment). Notification concerning unauthorized use shall be made by Customer calling the customer service number most recently provided by Wells Fargo; provided however, that Customer shall cooperate with Wells Fargo to complete any required written correspondence requested by Wells Fargo. Customer shall be responsible for full payment of all purchases, fees and charges incurred prior to such notification, regardless of when actually posted to Customer's account.

6. **Visa® Liability Waiver Program/MasterCoverage® Liability Protection Program.** Subject to applicable Visa® or MasterCard® terms and conditions, as applicable, Customer may be eligible for coverage under Visa's® Liability Waiver Program

and/or MasterCard's® MasterCoverage® Liability Protection Program, which provide coverage against employee misuse of the Card. Customer should consult, as applicable, the Visa® Liability Waiver Program brochure or the MasterCard® MasterCoverage® Liability Protection Program brochure, available upon request from Wells Fargo, for terms and conditions of coverage. Customer acknowledges that Wells Fargo is not responsible for providing any form of liability protection program on Customer's behalf and that Wells Fargo makes no representations or warranties regarding any such program that may be offered by third parties.

7. **Department Cards.** In the event Customer requests Wells Fargo to issue Cards to Customer in a department, group name or other such designation not bearing a name or signature of an authorized employee or individual, all such Cards shall be deemed as **"Department Cards"**. Customer hereby represents, acknowledges and agrees that: (i) such Department Cards will be used by more than one authorized employee or individual; (ii) physical Cards may or may not be issued in conjunction with such Department Cards; and (iii) issuance of Department Cards may increase the risk of fraudulent or unauthorized use. As such, Customer is responsible for all security and protection of the Department Cards and any and all Customer procedures concerning the use of such Department Cards by its Cardholders.

8. **Billing Disputes, Chargeback Requests.** Customer may dispute amounts reflected on a billing statement that Customer reasonably believes to be incorrect because: (i) the amount shown on the billing statement does not reflect the actual face value of the transaction; (ii) the transaction shown on the billing statement did not result from the use of the Cards; (iii) the statement reflects fees not properly accrued under this Agreement; or (iv) the transaction is disputable with the honoring merchant under applicable Visa® or MasterCard® rules, as applicable; however, such dispute is subject to the procedures and liability provisions set forth in this section or other sections of the Agreement. In the event of a dispute, Customer must notify Wells Fargo of its dispute within sixty (60) days from the transaction date of purchase. Each request to Wells Fargo must be in writing and contain the following information: (i) Cardholder name; (ii) Card account number; (iii) the dollar amount of any billing dispute or suspected error; (iv) reason for the dispute; and (v) a summary of the steps already taken with the merchant to resolve the matter. Wells Fargo shall investigate the disputed amount and determine whether the amount is properly payable by Customer. Until Wells Fargo completes its investigation and determines whether the disputed amount is properly payable by Customer, Customer shall not be liable for the amount of the disputed transaction. Customer agrees that its failure to dispute a charge or other item within sixty (60) days from the transaction date of purchase shall constitute a waiver of any right the Customer may have to dispute the charge. In the event that transactions are posted to the accounts as a result of any circumstance under which the honoring merchant may be held liable under applicable Visa® or MasterCard® rules, as applicable, Wells Fargo shall attempt to charge the transaction back to the merchant in accordance with applicable Visa® or MasterCard® procedures. However, such attempted chargeback by Wells Fargo shall not relieve Customer of liability for the amount of the transaction even though the transaction may have been provisionally credited to the Customer's accounts.

9. **Default.** The occurrence of any of the following conditions or events shall constitute an **"Event of Default"** by Customer under this Agreement, in which case any unpaid balances on the Card shall become immediately due and payable, and Wells Fargo may immediately debit the Account(s) for payment of such balances: (1) a payment is not made when due or a payment to Wells Fargo is returned or reversed for any reason; (2) a term of this Agreement is breached in any way; (3) Customer or any guarantor of Customer's account defaults under the terms of (a) any other agreement with Wells Fargo or any of its subsidiaries or affiliates or (b) any loan, credit or similar agreement with any third party; (4) a bankruptcy petition is filed by or against Customer or any guarantor of Customer's account; (5) a significant change occurs in the ownership or organizational structure of Customer or in the type or (if such change is adverse) volume of Customer's business; (6) Customer or any guarantor of Customer's account becomes insolvent or is dissolved; (7) there shall exist or occur any event or condition which Wells Fargo in good faith believes impairs, or is substantially likely to impair, the prospect of payment or performance of Customer's obligations under this Agreement; (8) Customer intentionally fails to submit required information Wells Fargo deems necessary; (9) Customer's account balance exceeds the Credit Limit; or (10) any financial statement or certificate furnished to Wells Fargo in connection with, or any representation or warranty made by Customer or any other party under this Agreement shall prove to have been incorrect, false or misleading in any material respect when furnished or made.

10. **Term; Right to Terminate.** Subject to and not in derogation of the parties' respective rights in this Section Ten (10) or Section (12)(Changes to Agreement or to Credit Limit; Other Changes), Wells Fargo and Customer agree that the initial term of this Agreement shall commence on the Effective Date and will continue for five (5) years with one (1) option to renew for an additional three (3) year period at terms mutually agreeable; provided, however, that this Agreement will automatically continue in full force and effect thereafter unless and until terminated in accordance with this Agreement. Wells Fargo or Customer may, upon at least thirty (30) days' prior written notice to the other party, and with or without cause: (i) terminate this Agreement; (ii) terminate one or more services provided for in this Agreement; or (iii) terminate one or more Cards; provided, however, that the foregoing shall not affect Customer's ability to terminate the authority of a Cardholder as set forth below in this Section Ten (10). In addition, Wells Fargo may take any one or more of the actions referred to in the immediately preceding sentence immediately, without prior notice to Customer, upon the occurrence of an Event of Default. If Customer has enrolled in CCER, any such notice required under this Agreement may be delivered to Customer electronically in the same manner that statements are delivered. If Wells Fargo or Customer terminates the Agreement, or upon the expiration of this Agreement, (i) all Cards shall automatically

expire, (ii) Customer shall immediately, upon notice from Wells Fargo, destroy all Cards, (iii) Customer will continue to be responsible for full payment of the current balance on the Card and all purchases, fees and charges incurred before termination that post after termination, including, without limitation, recurring transactions that post after termination, and (iv) any unpaid balances on the Cards shall become immediately due and payable, and Wells Fargo may immediately debit the Account(s) for payment of such balances. If Wells Fargo terminates one or more Cards but not the Agreement, Customer shall immediately, upon notice from Wells Fargo, destroy all such Cards. Upon termination of the Agreement, Customer acknowledges and agrees that the Account(s) and any and all collateral or guarantees in support of this Agreement will remain in place for a period of sixty (60) days from the termination date to satisfy all payment obligations of Customer under this Agreement. Customer may, at any time, terminate the authority of any Cardholder to use the Card. Such termination by Customer shall become effective upon written or electronic notice via the internet to Wells Fargo along with written confirmation that the Cardholder's Card has been destroyed.

11. **Liability of Wells Fargo; No Implied Warranties.** Wells Fargo's liability hereunder shall be limited to Customer's actual money damages caused directly by Wells Fargo's breach of this Agreement (except to the extent such liability is further limited by the terms of this Agreement), and Wells Fargo shall not be liable for any other matters whatsoever, including, without limitation: (i) Customer's use of the Card; (ii) the inability of Customer to use the Card or the unavailability of Card reports or authorizations as a result of circumstances beyond Wells Fargo's control (such as, without limitation, fire, flood or the disruption of power, phone or computer service); or (iii) transmission errors or data security problems, or other acts or omissions, on the part of third parties (including, without limitation, third-party service providers in connection with transaction files sent to Customer or its designee). Notwithstanding anything contrary contained herein, in no event shall Wells Fargo be liable for any indirect, incidental, special, consequential or punitive damages, even if Wells Fargo has been advised of the possibility of any such damages. Except as expressly set forth in this Agreement, Wells Fargo makes no warranties with respect to the Card, any service related thereto, or any software used in connection therewith, including without limitation any warranty as to merchantability or fitness for a particular purpose.

12. **Changes to Agreement or to Credit Limit; Other Changes.** In addition to, and not in lieu of, Wells Fargo's termination rights in Section Ten (10) above, Wells Fargo may unilaterally, in its sole discretion: (i) change the Credit Limit for any reason, including but not limited to changes as may be required by law, upon prompt notice to Customer; and/or (ii) change any of the terms of this Agreement or any Attachments hereto upon thirty (30) days' prior written notice to Customer. Customer may change the designated Program Administrator(s) or an Account number upon an authorized officer's notice in writing or via the Internet to Wells Fargo.

13. **Foreign Currency Transactions.** If a Card is used to engage in a transaction in a currency other than U.S. dollars (**"Foreign Currency Transaction"**), that amount will be converted into U.S. dollars before posting to Customer's account.

13.1 **Foreign Currency Transaction Procedures:** If a Foreign Currency Transaction occurs, and the transaction is not converted to U.S. dollars by the merchant itself, Visa® or MasterCard®, as applicable, will convert the transaction into a U.S. dollar amount by using its currency conversion procedure in effect at the time the transaction is processed. Currently, Visa® and MasterCard® regulations and procedures provide that the currency conversion rate they use is either: (1) a wholesale market rate, which rate may vary from the rate Visa® or MasterCard® itself receives; or (2) a government-mandated rate for the applicable currency as determined under Visa® or MasterCard® regulations and procedures, as applicable. This rate may differ from the rate in effect when the transaction occurred or when it was posted to the Cardholder's account.

13.2 **Point of Sale Currency Conversion:** Some merchants outside of the United States offer Cardholders the option of having card transactions converted to U.S. dollars by the merchant itself during the transaction (**"Point of Sale Currency Conversion"**). If that option is chosen, the transaction is actually originated in U.S. dollars and the currency conversion rate is determined solely by the merchant.

13.3 **Cross Border Transactional Fee.** For each Foreign Currency Transaction that has been converted into a U.S. dollar amount by Visa® or MasterCard®, as applicable, and for each Point of Sale Currency Conversion transaction where a non-U.S. merchant originates a transaction in U.S. dollars, Wells Fargo will charge Customer a 1% fee (**"Cross Border Transactional Fee"**).

14. **Direct Transmissions.** Customer may request to receive Card transaction data to be transmitted directly to Customer, or to a third party recipient designated by Customer, electronically from either the Card network (Visa® or MasterCard®) or its subcontractor (hereinafter, **"Direct Transmissions"**). Upon receipt of such request (which shall be in writing (including, without limitation, e-mail) and from an authorized officer or Program Administrator of Customer), Wells Fargo will arrange for such Direct Transmissions. Customer agrees that Wells Fargo will not be liable for any damages, losses, liability or any other claims whatsoever arising in any way out of transmission errors or data security issues on the part of the network or any third party (including, without limitation, any third party recipient designated by Customer) in connection with Direct Transmissions.

15. Financial Information. Promptly upon Wells Fargo's request, Customer shall provide, in form and detail satisfactory to Wells Fargo, current audited annual and certified quarterly financial statements and supporting footnotes and schedules.

16. Confidential and Proprietary Information.

(a). Customer and Wells Fargo acknowledge and agree that in connection with this Agreement, it may be necessary and/or desirable to exchange Confidential Information (as defined below). For purposes hereof, "**Confidential Information**" means all non-public, confidential or proprietary information of a party that is disclosed by such party (including any of its Representatives (as defined below)) (the "**Disclosing Party**") to the other party (the "**Receiving Party**") under or in connection with this Agreement, and includes, without limitation, financial, technical, or business information relating to the Disclosing Party, including trade secrets, marketing or business plans, strategies, forecasts, budgets, projections and pricing, customer and supplier information. Notwithstanding the above, Confidential Information does not include information that: (i) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the Receiving Party or its Representatives (as defined below) in violation of this Section Sixteen (16); (ii) is already known by the Receiving Party at the time of its disclosure by the Disclosing Party; (iii) is or becomes available to the Receiving Party from a source not known to the Receiving Party to be under an obligation of confidentiality to the Disclosing Party; or (iv) is independently developed by the Receiving Party without the use of Confidential Information.

(b). For a period of two (2) years following its disclosure to the Receiving Party, the Receiving Party will: (i) keep Confidential Information confidential and not disclose it to any other person or entity, except disclosures (A) to federal and state bank examiners, and other regulatory officials having jurisdiction over the Receiving Party, as applicable, (B) to the Receiving Party's Representatives (as defined below), (C) in the case of Wells Fargo, to i) Visa® or MasterCard®, as applicable, ii) third party payment industry service providers with whom Wells Fargo has a business relationship and has entered into a non-disclosure agreement covering such Confidential Information, iii) as described in the Wells Fargo Supplier Analysis & Onboarding Commercial Card Conversion Service Description, if applicable, (D) required by applicable law or legal process in the opinion of the Receiving Party's counsel or any of its Representative's counsel, as applicable, or (E) otherwise authorized in writing by the Disclosing Party; and (ii) use Confidential Information only in connection with this Agreement (including the evaluation, negotiation, implementation, administration and enforcement hereof). For purposes hereof, "**Representatives**" means a party's or any of its affiliates' officers, employees, agents, legal counsel, auditors or other professional advisors who need to know Confidential Information in connection with this Agreement (including the evaluation, negotiation, implementation, administration and enforcement hereof). The Receiving Party will be responsible for any failure of its Representatives to treat the Confidential Information as confidential in accordance with the terms and conditions of this Agreement. In the event that the Receiving Party or any of its Representatives is, in the opinion of its counsel, required by applicable law or legal process to disclose any Confidential Information under clause (i)(D) of the first sentence of this paragraph, then the Receiving Party, unless prohibited by law, will provide notice of such disclosure to the Disclosing Party so that the Disclosing Party, at its sole option (but without an obligation to do so) and at its sole expense, may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Section Sixteen (16).

(c). Following any termination of this Agreement, upon the Disclosing Party's request, the Receiving Party will use commercially reasonable efforts to destroy all copies of Confidential Information then in the possession of the Receiving Party; provided, however, that the Receiving Party may retain such copies as are required by applicable law or in accordance with its customary practices and procedures (any Confidential Information so retained will be held by the Receiving Party subject to this Agreement).

(d). If there is a breach of this Section Sixteen (16) by either party, the other party will have the right to seek any and all remedies at law or in equity, including without limitation appropriate injunctive relief or specific performance. The protections afforded to Confidential Information hereunder are in addition to, and not in lieu of, the protections afforded under any applicable trade secrets or other laws.

17. No Waiver; Right of Set-Off. Neither party's failure to exercise any right or to pursue any remedy under this Agreement or otherwise shall constitute a waiver thereof. Wells Fargo shall have the right to, in its sole discretion, set-off or recoup any obligation of Customer to Wells Fargo under this Agreement or otherwise against any obligation Wells Fargo owes to Customer, including a set-off against any deposit account(s) Customer has with Wells Fargo to the extent permitted by law.

18. Miscellaneous; Entire Agreement; Governing Law; Counterparts; No Assignment; Independent Contractor; Severability. This Agreement contains the entire understanding between the parties on the subject matter hereof and supersedes all prior agreements, negotiations and representations. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The parties agree that venue for litigation arising out of this Agreement shall be in a court of competent jurisdiction in Jacksonville, Duval County, Florida. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same Agreement. Customer may not assign this Agreement or any of its rights, interests, or obligations

hereunder (by operation of law or otherwise). Nothing contained in this Agreement shall be construed as constituting or creating a partnership, joint venture, agency, or other association or relationship between Wells Fargo and Customer. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

19. **Compliance with Laws/Non-Discrimination.** As required by Section 126.108, *Ordinance Code*, in its performance of this Agreement, Wells Fargo must comply with any and all applicable federal, state, and local laws, rules, regulations, and ordinances ("**Laws**"), only with respect to this Agreement, as such Laws exist and may be amended from time to time, including, without limitation, Chapter 119, Florida Statutes (the Florida Public Records Law), and Section 286.011, Florida Statutes (the Florida Sunshine Law). In addition, Wells Fargo believes in and is committed to diversity. Wells Fargo recruit, hire, and promote team members based on their individual ability and experience and in accordance with Equal Employment Opportunity and Affirmative Action laws and regulations. Wells Fargo's policy is that Wells Fargo does not discriminate on the basis of race, color, gender, national origin, religion, age, sexual orientation, gender identity, genetic information, physical or mental disability, pregnancy, marital status, status as a protected veteran, or any other status protected by federal, state, or local law. Wells Fargo also strives to go beyond these basic guidelines to recruit and retain a high-caliber, inclusive workforce that reflects the growing diversity of our marketplace. Wells Fargo agrees that on written request, it will permit reasonable access to its EEO-1 report filed with the Equal Employment Opportunity Commission, provided however, that Wells Fargo shall not be required to provide access to EEO-1 reports covering periods of time more than one (1) year prior to the Effective Date.

20. **Customer Provided Card Content.** For purposes of this Agreement, "**Customer Provided Card Content**" means any and all business, division, trade or assumed names, trade dress, service marks, trademarks, logos or other words or images that Customer or its representatives supply for inclusion on any Cards issued under this Agreement. Customer will defend, indemnify and hold harmless Wells Fargo and its affiliates, as well as the employees, officers, directors and agents of Wells Fargo and its affiliates (each an "**Indemnified Party**") against all costs and expenses of the Indemnified Party (including without limitation any losses, liabilities, damages, fines, penalties or reasonable attorneys' fees) arising from or in connection with any dispute, claim, suit, action, proceeding or demand brought against an Indemnified Party relating to any actual or alleged violation of intellectual property rights of any third party as a result of the inclusion of any Customer Provided Card Content on the Cards.

21. **Foreign Personnel.** If Cards are distributed by Customer or at its instruction to Cardholders outside of the United States, Customer shall be solely responsible for complying with any applicable foreign employment and/or data privacy laws or requirements in connection therewith, including but not limited to any requirements to provide notices or disclosures to or to obtain consents from Cardholders. Wells Fargo shall have no liability for Customer's failure to comply with any such requirements.

22. **Verification of Identity.** Customer acknowledges that Wells Fargo may be required by applicable law, including Executive Order 13224 (or successor orders/legislation), to screen the names of individual Cardholders against the Specially Designated Nationals and Blocked Persons list published by the Office of Foreign Assets Control of the U.S. Department of the Treasury, or otherwise verify such person's identity. Customer agrees to cooperate with Wells Fargo in this regard and to provide to Wells Fargo personally identifiable information about any Cardholder upon Wells Fargo's request. In the event that Customer does not comply with the terms of this section, Wells Fargo will have the right, in its sole and absolute discretion, to terminate immediately any Card issued in the name of such individual(s), and Customer shall not permit such individual(s) to use any other Cards issued pursuant to this Agreement.

23. **Indemnity.** During the term of this Agreement and subject to Section Eleven (11), Wells Fargo will indemnify, defend and hold harmless Customer and its directors, employees, agents and assigns (the "**Indemnified Parties**") from and against all claims, losses, demands, liability, judgments, awards, interest, attorney's fees and costs (collectively, "**Losses**") arising out of, resulting from or relating to the performance of the services provided hereunder which are, in each case, directly caused by the breach, negligence, non-performance, or willful misconduct of Wells Fargo or any of its officers, directors, employees, agents or subcontractors.

24. **Insurance.** Wells Fargo agrees to the insurance provisions set forth on Attachment E (Insurance).

25. **Maximum Indebtedness.** With the exception of Customer's payment obligations in connection with the Cards as set forth herein, Customer's maximum indebtedness shall be $5000, which may be amended from time to time upon written agreement by both parties.

26. **Non-Discrimination Ordinance.** As required by Section 126.404, Ordinance Code, Wells Fargo represents that is has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, or handicap in all areas of employment relations throughout the term of this Agreement. Wells Fargo agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the Executive Director of the Community Relations

Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement; provided however, that Wells Fargo shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the Effective Date. Notwithstanding the foregoing, Wells Fargo reserves the right to determine, in its sole discretion, whether the request made under this ordinance is reasonable and consequently the right to refuse to produce any and all such documents requested by the City under this Ordinance.

WELLS FARGO BANK, NATIONAL ASSOCIATION

Authorized Officer: Leslie E. Skipper, SVP

Signature: _____

Title: SVP

Date: October 5, 2016

City of Jacksonville, FL

Authorized Officer: _____

Signature: _____

Title: _____

Date: _____

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT A - 1
PROGRAM INFORMATION

CUSTOMER NAME	City of Jacksonville, FL
TAX ID	59-6000344
ADDRESS	117 West Duval Street Suite 300 Jacksonville, FL 32202
CREDIT LIMIT	$
ACCOUNT(S)	

Billing Settlement Account:	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	2112600405014
ROUTING NUMBER	121000248
BILLING STATEMENT CYCLE*	Monthly

*Applies to purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees. Other fees hereunder will be billed separately on a monthly basis.

Fee/Analysis Account:	**For other fees under this Agreement, as amended and supplemented from time to time (including other fees specified in Attachment C-1)****
BANK NAME	Wells Fargo
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	

** If no account specified, same as Billing Settlement Account

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT A-2, MULTIPLE DIVISION BILLING
PROGRAM INFORMATION

CUSTOMER NAME	City of Jacksonville, FL
ACCOUNT(S)	

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT B - PROGRAM ADMINISTRATOR

Please provide the following information about each Program Administrator:

City of Jacksonville, FL

Customer Name

Enter Division Name, if applicable

*The Attachment B to the Agreement may be updated at a later date in accordance with the terms of Section 4 of the Agreement, however it will replace the original Attachment B and all current Program Administrators of Customer must be included.

PROGRAM ADMINISTRATOR (*Primary*)
Main point of contact for day to day business

(Name / Title)

(Physical Street Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

PROGRAM ADMINISTRATOR (*Secondary*)

(Name / Title)

(Physical Street Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

PROGRAM ADMINISTRATOR (*Secondary*)

(Name / Title)

(Physical Street Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

PROGRAM ADMINISTRATOR (*Secondary*)

(Name / Title)

(Physical Street Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

(add additional pages as necessary)

Select the Program Administrator above designated to receive all Visa® *WellsOne* Commercial Cards and/or MasterCard® MultiCard Commercial Cards*: _____
*Card delivery must be a physical address

Select the Program Administrator above designated to receive billing statements: _____

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT C-1
FEE SCHEDULE
CUSTOMER NAME: City of Jacksonville, FL
DATE: April 12, 2016

STANDARD FEES:

ONE TIME FEES:

Set-up Fee	$ 3000 Waived
On-site Implementation Fee	$ Not Selected
Miscellaneous	

RECURRING FEES:		**Ramp up period* through which fee is waived:**
Program Maintenance	$ Waived /Month	No ramp up period
CCER Reporting Solution	$ Waived /Month	No ramp up period
Transaction Fee	$ Waived /Transaction	No ramp up period
Card Issuance	$ Waived /Account	No ramp up period

**The ramp up period will begin the month the program is in its final stage of implementation. For example, if a program with a 6 month ramp up period is implemented on any day in January, January is month one. The ramp up period will end June 30. The first charges will be for July, seen on the August Account Analysis statement.*

MISCELLANEOUS FEES (Applicable Only If Customer Elects and/or Uses This Service):

Receipt Imaging:	
Initial Set-up	$ 500
Year 1 Archival Cost	$ 0.05/Imaged Page
Years 2-7 Archival Costs	$ 0.03/Imaged Page (per year)
Cash Advance Fee	2%/$2 minimum
Cross-Border Transactional Fee	1 % / Transaction
Card Artwork	$ 450
Manual Reports	$ 175/ Report
Rush Card	$ 10/Incident
Phone Re-Training	$ 175 Waived/Incident
Convenience Check:	
Transaction Fee	2%/$2 minimum
Program Maintenance	$ 250/Month
Returned Check Fee	$ 29/Incident
Stop Payment Fee	$ 25/Incident
Convenience Check Copy	$ 10/Check Copy
Custom Data Solutions	
Custom Report Set-up	$100/ Hour
Custom File Mnthly Maint	$ 100/ Month
Custom File Transmission	$ 5/ transmission

- No fees are assessed until customer begins using service
- For those customers who opt to use ACH reimbursement for out-of-pocket expenses, separate ACH fees will apply.
- For those customers who opt to use CCER AP Control, Separate Payment Manager fees may apply.
- For those customers who opt to use the Commercial Card Expense Reporting solution, accessed through the Commercial Electronic Office (CEO), separate CEO access charges may apply.

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT C-2
REVENUE SHARE CALCULATION
CUSTOMER NAME: City of Jacksonville, FL

Revenue Share Schedule:
Revenue Share will be paid within forty-five (45) days following the end of each Program Year on Net Purchase Volume for such Program Year. For purposes of this Attachment C-2, **"Program Year"** shall mean the twelve month period beginning January 1 and ending December 31.

Standard Revenue Share Schedule

Net Purchase Volume *			Revenue Share
$ 0	to	$ 2,999,999	0 Basis points (bps)
$ 3,000,000	to	$ 9,999,999	120 bps
$ 10,000,000	to	$ 19,999,999	147 bps
$ 20,000,000	to	$ 29,999,999	160 bps
$ 30,000,000	to	$ 39,999,999	165 bps
$ 40,000,000	to	$ 49,999,999	170 bps
$ 50,000,000	to	$ 74,999,999	173 bps
$ 75,000,000	to	$ 99,999,999	177 bps
$ 100,000,000 and above			180 bps

Custom Interchange Revenue Share Schedule

Net Purchase Volume* of Custom Interchange Transactions	Revenue Share
$ 1.00 and above	60 - basis points (bps)

Commencing after the Program Year ending December 31, 2016 and annually thereafter (**"Anniversary Date"**), the Revenue Share amount to be paid to Customer (if any) shall be calculated and applied retroactively by multiplying the applicable Revenue Share bps times the Net Purchase Volume for the previous Program Year. No Revenue Share shall be owed for the previous Program Year if: (i) Customer terminates this Agreement prior to the Anniversary Date, or (ii) Wells Fargo terminates this Agreement for an Event of Default prior to the Anniversary Date. No Revenue Share shall be owed for the previous Program Year if the Customer's average transaction size for such Program Year is less than $200.

*** "Net Purchase Volume" shall mean total volume minus credits and cash advances (if applicable).** Wells Fargo will segregate or exclude Custom Interchange Transactions as defined and described below and as qualified by Visa® or MasterCard®, as applicable. The term **"Custom Interchange Transaction"** as used herein shall mean (i) certain transactions subject to select large ticket transaction requirements, qualified and determined by Visa or MasterCard®, as applicable, in its sole and absolute discretion and (ii) transactions with merchants participating in promotional interchange programs offered by Visa® or MasterCard® (including the Visa Partner Program or the MasterCard Partner Program) that qualify for non-standard promotional interchange rates. Such Visa® or MasterCard®, as applicable, large ticket transaction qualification requirements for large ticket interchange shall include, but not be limited to, custom payment service qualification with Level II and Level III data included with the transaction. Notwithstanding anything to the contrary contained herein, Wells Fargo may, in its reasonable discretion, exclude any Custom Interchange Transaction for which the interchange rate is below a minimum threshold established by Wells Fargo for purposes of Revenue Share calculation.

The following terms and conditions shall apply under this Attachment: i) Customer must obtain an annual minimum Net Purchase Volume of $3,000,000 per Program Year, which may include Custom Interchange Transactions, to receive a Revenue Share payment under this Attachment, and ii) if such Custom Interchange Transactions are segregated, the Custom Interchange Revenue Share Schedule will apply to the Net Purchase Volume for such segregated transactions.

If Customer utilizes the MasterCard® Payment Gateway™: (i) any transaction in an amount greater than or equal to $100,000.00 made using the MasterCard® Payment Gateway™ will not be included in Customer's Net Purchase Volume, as a Custom Interchange Transaction or otherwise, for purposes of calculating Revenue Share payable to Customer hereunder and no Revenue Share will be payable to Customer in respect of any

such transaction; and (ii) any transaction in an amount below $100,000.00 made using the MasterCard® Payment Gateway™ will be included in Customer's Net Purchase Volume for purposes of calculating Revenue Share payable to Customer hereunder and, subject to the conditions herein with respect to Customer's eligibility to receive a Revenue Share payment, will be separately segregated and paid at a rate separately agreed in writing by the parties, or in the absence of such written agreement, at the rate set out in the MasterCard® Payment Gateway™ Service Description.

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT D-1
RFP

[see attached]

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT D-2
Response to RFP

[see attached]

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT E
Insurance

Insurance. Without limiting its liability under this Agreement, Wells Fargo and subcontractors of any tier shall procure and maintain at their sole expense, during the term of the Agreement, insurance of the types and in the minimum amounts stated below:

SCHEDULE	LIMITS
Workers Compensation	Florida Statutory Coverage
Employer's Liability	$1,000,000 Each Accident
(Including appropriate Federal Acts)	$1,000,000 Disease Policy Limit
	$1,000,000 Each Employee/Disease

Wells Fargo's insurance shall cover Wells Fargo, employees for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act and any other applicable federal or state law.

Commercial General Liability

$1,000,000	General Aggregate
$2,000,000	Products & Completed Ops Aggregate
$1,000,000	Personal/Advertising Injury
$1,000,000	Each Occurrence
$ 50,000	Fire Damage

Automobile Liability $1,000,000 Combined Single Limit
(Coverage for all automobiles-owned, hired or non-owned)

(Customer shall be included as an additional insured under all of the above Commercial General Liability coverage and Automobile Liability. Such insurance shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of Customer.)

Professional Liability $5,000,000 Per Claim

(Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this agreement and with a three year reporting option beyond the annual expiration date of the policy).

Umbrella Liability $2,000,000 Each Occurrence/Agg.

(The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow form the underlying coverages and provide on an Occurrence basis all coverages listed above and shall be included in the Umbrella policy.)

Fidelity Bond $5,000,000 Per Loss

A. Said insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better. Prior to commencing Services,

Certificates of Insurance approved by Customer's Division of Insurance & Risk Management demonstrating the maintenance of said insurance shall be furnished to Customer. Wells Fargo shall provide Customer thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal.

B. Anything to the contrary notwithstanding, the liabilities of Wells Fargo under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage. Neither approval nor failure to disapprove insurance furnished by Wells Fargo shall relieve Wells Fargo or its sub-vendors from responsibility to provide insurance as required by the contract.

C. The deductible amounts for any peril shall be deemed usual and customary in the insurance industry. Wells Fargo shall be responsible for payments of its deductible(s).

D. Depending upon the nature of the Services and accompanying exposures and liabilities, Customer may, at its sole option, require additional insurance coverage in the amounts responsive to those liabilities, which may or may not require that Customer also be named as an additional insured.

A. This insurance will be primary and not contributory.