

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

JUNE 19, 2018

TITLE:

**AUTHORIZE FOURTH AMENDED
AGREEMENT FOR MERCHANT
PAYMENT SERVICES WITH TSYS
MERCHANT SOLUTIONS, LLC
(FORMERLY TRANSFIRST, LLC)
{STRATEGIC PLAN NO. 4, 1; 7, 5F}**

CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1st Reading
- ☐ Ordinance on 2nd Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____

RECOMMENDED ACTION

Authorize the City Manager and Clerk of the Council to execute a one-year amended agreement with TSYS Merchant Solutions, LLC, ("TSYS") effective July 1, 2018 through June 30, 2019, with two, one-year extension options at the election of the City, for an amount not to exceed \$165,000 annually subject to non-substantive changes approved by the City Manager and City Attorney.

DISCUSSION

The Treasury & Customer Service Division of the Finance and Management Services Agency ("Treasury") is responsible for maintaining all monetary transactions related to City services. Currently, customers may utilize a credit card to pay City of Santa Ana assessed taxes, permits, fees, fines and other monies due for City services. Acceptance of a credit card as a form of payment involves utilizing a merchant payment services company such as TSYS (formerly known as TransFirst, LLC). TSYS currently presents MasterCard and Visa transactions on behalf of the City for all credit card payments made at City facilities, including but not limited to: City Hall Cashiering Counters, Payment Kiosk, Police Department Traffic and Records Divisions, Santa Ana Zoo, and the City's Smart Parking Meter program.

Moratorium on Imposition of Credit Card Processing Fees: On March 12, 2012, City Council authorized a moratorium on the imposition of City credit card processing fees in order to promote electronic payments and attract more on-line payments by customers. Subsequently, Treasury negotiated the reduction of the TSYS' predecessor's PRI's discount fee from 1.5% to 0% resulting in a savings of over \$55,000, which assisted in offsetting existing and future City expenditures. Pursuant to TSYS' contract (Agreement #A-2014-071), TSYS agreed to maintain the reduced rate for the full term of said agreement, and all extensions thereto.

Credit Card Processing Costs Reduction Analysis: Thereafter, in lieu of releasing an RFP for continuing merchant payment processing services, City Council authorized a three-year

agreement with Vizant Technologies, LLC, ("Vizant"), for continuous credit card processing costs reduction analysis. This agreement with Vizant was entered into in recognition of the highly commoditized nature of credit card merchant payment processing services in which price, among competent service suppliers, is a primary component of the selection process along with existing systems integrations. The agreement authorized Vizant to lead a City Request For Proposal (RFP) in the event their analysis indicated a potentially realizable long-term savings by re-bidding credit card merchant processing services. During the term of this agreement Vizant's continuous analyses indicated that no long-term net costs savings could be realized when comparing potential competing providers against TSYS's reduced credit card merchant payment processing rate, leaving out Bid costs connected to existing systems integrations & associated replacement costs.

Increases in Annual Expenditure Cap: On June 16, 2015, City Council approved a First Amended Agreement with TSYS to extend the term of the existing agreement. The resulting First Amended Agreement (Agreement #A-2015-117) included an increase in the annual expenditure cap to \$95,000. However, due to rapid growth in credit card payments made by residents and businesses because of the option to pay online and with the enhancement of the City's Electronic Billing and Payment Presentation, staff anticipated the annual cap to be exceeded by as much as \$55,000 at the conclusion of the 2015-16 fiscal year. As such, the annual cap amount was increased to the current \$165,000 per year.

Beginning November 2016, Treasury commenced a comprehensive phased-upgrade to the City's Municipal Utility Services ("MUS") enQuesta customer service & billing software that supports single sign-on customer access to the enQuesta system, enhanced Electronic Bill Payment & Presentment (EBPP), interactive bilingual voice response (IVR), a mobile app, and real time payment posting. TSYS services directly support and integrate with this upgrade and other key Treasury systems such as the city-wide cashiering system (iNovah) and the walk-up payment kiosk (LD Systems). Additionally, City vendors are in the process of completing a real-time parking citation inquiry system upgrade that will allow cashiers to provide more efficient and expedited service related to the Police Department's new parking citation processor, Data Ticket.

In addition, LD Systems, the City's payment kiosk provider is completing a hosting and application upgrade to the City's payment kiosk which will integrate with Data Ticket's inquiry system. Both the Data Ticket inquiry system together with the upgrades to the LD Systems payment kiosk will be concluded in FY 2018-19. Both sets of enhancements are pre-requisites to a future RFP for Payment Card Industry Data Security Standard (PCI DSS) compliant merchant processing services. These services would be in connection with both city-wide walk-in cashiering services and walk-up kiosk payment services. Taken together with the City's existing PCI DSS compliant online payment portal services, addressing PCI DSS compliance with respect to walk-in and walk-up customer payment services will allow the City to attain full PCI DSS compliance across all City payment processing activities.

Therefore, staff recommends extending TSYS' contract for one additional year (minimum) with two, one-year renewal options to allow the City time to fully assess the upgraded functionality of the integrated systems and the final completion of the MUS enQuesta program upgrade prior to issuing an RFP for future merchant payment services during the term of this amended agreement.

As an interim option, following the successful completion of the Data Ticket, iNovah, LD Systems payment kiosk systems integration, the City can decide to decouple kiosk credit card payments from TSYS and process these payments through a cloud based system to further advance compliance with Payment Card Industry Data Security Standard (PCI DSS) requirements.

STRATEGIC PLAN ALIGNMENT

Approval of this item assists the City in meeting Goal #4 City Financial Stability, Objective #1 (maintain a stable, efficient and transparent financial environment) and Goal #7 - Team Santa Ana, Objective #5F (explore opportunities to engage with outside agencies, both private and public, to share information and increase efficiencies).

FISCAL IMPACT

Funds up to the amount of \$165,000 in account no. (various-62300) will be budgeted and available on an allocated basis in various departmental accounts, upon Council approval, for contract term FY 2018-19.

During each optional term FY 2019-20 and FY 2020-21, funds up to the amount of \$165,000 will likewise be budgeted in account no. (various-62300) and available on an allocated basis in various departmental accounts.

APPROVED AS TO FUNDS AND ACCOUNT:


Francisco Gutierrez
Executive Director
Finance and Management Services Agency

Exhibit: 1. Fourth Amended Agreement

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FOURTH AMENDMENT TO AGREEMENT

THIS FOURTH AMENDMENT TO AGREEMENT, is entered into on this 19th day of June 2018, by and between TSYS Merchant Solutions, LLC, formerly TransFirst, LLC (hereinafter "Consultant"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (hereinafter "City"), collectively "the Parties".

RECITALS:

- A. The Parties entered into a payment processing services agreement (Agreement #A-2014-071) dated April 18, 2014 (hereinafter "said Agreement") by which Consultant has provided payment processing services to the City.
- B. The Parties subsequently entered into a First Amendment to that Agreement (A-2015-117) on June 17, 2015 to increase the Compensation and Term of said Agreement.
- C. The Parties thereafter entered into a Second Amendment to that Agreement (A-2016-148) on June 17, 2016 to increase the Compensation of said Agreement.
- D. The Parties next entered into a Third Amendment to that Agreement (A-2017-135) on June 17, 2017 to extend the Term of said Agreement.
- E. In accordance with the terms and conditions of said Agreement, the Parties now wish to further amend the Term of said Agreement to provide for a one (1) year extension beginning July 1, 2018 and ending June 30, 2019, with the option exercisable by the City, to renew said Agreement for up to two additional one (1) year periods. The first period covering July 1, 2019 through June 30, 2020, and the second period covering July 1, 2020 through June 30, 2021. Each extension to be exercised by the City separately prior to the expiration of the previous extension period.
- F. The Parties also now wish to amend and add Compensation for the extended Term.
- G. The Parties also now wish to amend the Scope of Services to provide the City with the right to bifurcate said Agreement and de-couple Consultant's payment kiosk related credit card authorization function from the City's iNovah cashiering system to permit merchant processing services to be accomplished by a City authorized Payment Card Industry Data Security Standard (PCI DSS) compliant third party.

WHEREFORE, in consideration of the covenants contained in said Agreement, and subject to all the terms and conditions of said Agreement, except those amended in the aforementioned First, Second, and Third Amendments to said Agreement the parties agree as follows:

- 1. The Parties hereto desire to amend Section 3. of said Agreement (TERM). This Fourth Amendment to Agreement shall commence on July 1, 2018 and terminate on June 30, 2019; unless City exercises its option to extend the Agreement for up to two

additional one (1) year extension periods. The first period beginning July 1, 2019 and ending June 30, 2020, and the second option period beginning July 1, 2020 and ending June 30, 2021, or unless terminated earlier in accordance with Section 12 of this Agreement. Exercise of City's option to extend the Agreement for either extension period shall be made via a separate and distinct writing to Consultant executed by the City Manager and City Attorney issued prior to the expiration of the previous extension period.

2. The Parties hereto desire to amend Section 2. of said Agreement (COMPENSATION) to extend the increase in annual compensation agreed to by the parties pursuant to the Second Amendment to Agreement to include the two-year extended term of this Fourth Amendment to Agreement. The total sum to be expended under the amended term of this Agreement in any one (1) year shall not exceed \$165,000, and thereafter shall not exceed \$165,000 for any subsequent yearly extension of said Agreement.
3. The Parties hereto desire to amend Section 1. of said Agreement (SCOPE OF SERVICES). The Parties hereto desire to amend Section 1 of said Agreement to provide City with the right to bifurcate said Agreement and decouple the Consultant's payment kiosk related credit card authorization functions from iNovah and have these services be accomplished by a City authorized Payment Card Industry Data Security Standard (PCI DSS) compliant third party. During the Term of this Agreement and any extension hereto, but beginning not sooner than January 1, 2019, City may upon ninety (90) days prior written notice by the City's Executive Director of Finance and Management Services, terminate Consultant's services in connection with credit card transactions initiated via City's payment kiosk. Whereupon City shall have the right to continue Consultant's services for payment kiosk credit card transactions on a month-to-month basis and fully terminate such services, with no termination penalty or fees by providing fifteen (15) days written notice of its intent to terminate said payment kiosk related services.
4. This Fourth Amendment to said Agreement must be signed below and may be signed in counterpart and delivered by fax, email as a PDF (Portable Document Format) file attachment, or by other means that displays the original or a copy of the signatures. Any subsequent amendments may be signed and delivered in the same manner.

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{Signatures on following page}

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to Agreement on the date and year first written above.

ATTEST:


CITY OF SANTA ANA

MARIA D. HUIZAR
Clerk of the Council

RAUL GODINEZ II
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

By: 
Lisa Storck
Assistant City Attorney

RECOMMENDED FOR APPROVAL: TSYS Merchant Solutions, LLC

Francisco Gutierrez, Executive Director
Finance & Management Services Agency

Name:

Title:

Tax ID#

