

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

AGREEMENT

32391

THIS AGREEMENT is made and entered, in duplicate, as of June 22, 2011, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on May 3, 2011, by and between LINK2GOV CORP., a Tennessee corporation (a wholly-owned subsidiary of FIDELITY NATIONAL INFORMATION SERVICES, INC.) ("Consultant"), with a place of business at One Burton Hills Blvd., Suite 300, Nashville, Tennessee 37215, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with credit card processing services ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described in Exhibit "A".

B. Consultant may select the time and place of performance for these services; provided, however, that access to City documents, records and the like, if needed by Consultant, shall be available only during City's normal business

1 hours and provided that milestones for performance, if any, are met.

2 C. Consultant has requested to receive regular payments. City  
3 shall pay Consultant in due course of payments following receipt from Consultant  
4 and approval by City of invoices showing the services or task performed, the time  
5 expended (if billing is hourly), and the name of the Project. Consultant shall certify  
6 on the invoices that Consultant has performed the services in full conformance  
7 with this Agreement and is entitled to receive payment. Each invoice shall be  
8 accompanied by a progress report indicating the progress to date of services  
9 performed and covered by the invoice, including a brief statement of any Project  
10 problems and potential causes of delay in performance, and listing those services  
11 that are projected for performance by Consultant during the next invoice cycle.  
12 Where billing is done and payment is made on an hourly basis, the parties  
13 acknowledge that this arrangement is either customary practice for Consultant's  
14 profession, industry or business, or is necessary to satisfy audit and legal  
15 requirements which may arise due to the fact that City is a municipality.

16 D. Consultant represents that Consultant has obtained all  
17 necessary information on conditions and circumstances that may affect its  
18 performance and has conducted site visits, if necessary.

19 E. CAUTION: Consultant shall not begin work until this  
20 Agreement has been signed by both parties and until Consultant's evidence of  
21 insurance has been delivered to and approved by City.

22 2. TERM. The term of this Agreement shall commence at midnight on  
23 May 1, 2011, and shall terminate at 11:59 p.m. on April 30, 2014, unless sooner  
24 terminated as provided in this Agreement, or unless the services or the Project is  
25 completed sooner. The parties have the option to renew this Agreement for two (2)  
26 additional one (1) year periods, at the discretion of the City Manager.

27 3. COORDINATION AND ORGANIZATION.

28 A. Consultant shall coordinate its performance with City's

1 representative, if any, named in Exhibit "B", attached to this Agreement and  
2 incorporated by this reference. Consultant shall advise and inform City's  
3 representative of the work in progress on the Project in sufficient detail so as to  
4 assist City's representative in making presentations and in holding meetings on  
5 the Project. City shall furnish to Consultant information or materials, if any,  
6 described in Exhibit "C", attached to this Agreement and incorporated by this  
7 reference, and shall perform any other tasks described in the Exhibit.

8 B. The parties acknowledge that a substantial inducement to City  
9 for entering this Agreement was and is the reputation and skill of Consultant's key  
10 employee, Angela Fish. City shall have the right to approve any person proposed  
11 by Consultant to replace that key employee.

12 4. INDEPENDENT CONTRACTOR. In performing its services,  
13 Consultant is and shall act as an independent contractor and not an employee,  
14 representative or agent of City. Consultant shall have control of Consultant's work and  
15 the manner in which it is performed. Consultant shall be free to contract for similar  
16 services to be performed for others during this Agreement; provided, however, that  
17 Consultant acts in accordance with Section 9 and Section 11 of this Agreement.  
18 Consultant acknowledges and agrees that (a) City will not withhold taxes of any kind from  
19 Consultant's compensation; (b) City will not secure workers' compensation or pay  
20 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide  
21 and Consultant is not entitled to any of the usual and customary rights, benefits or  
22 privileges of City employees. Consultant expressly warrants that neither Consultant nor  
23 any of Consultant's employees or agents shall represent themselves to be employees or  
24 agents of City.

25 5. INSURANCE.

26 A. As a condition precedent to the effectiveness of this  
27 Agreement, Consultant shall procure and maintain, at Consultant's expense for the  
28 duration of this Agreement, from insurance companies that are admitted to write

1 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
2 Company or from authorized non-admitted insurance companies subject to  
3 Section 1763 of the California Insurance Code and that have ratings of or  
4 equivalent to A:VIII by A.M. Best Company, the following insurance:

5 (a) Commercial general liability insurance (equivalent in scope to  
6 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than  
7 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This  
8 coverage shall include but not be limited to blanket contractual liability,  
9 cross liability, independent contractors liability, and products and  
10 completed operations liability. City, its boards and commissions, and their  
11 officials, employees and agents shall be named as additional insureds by  
12 endorsement (on City's endorsement form or on an endorsement  
13 equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or  
14 both CG 20 10 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and  
15 CG 20 37 07 04), and this insurance shall contain no special limitations on  
16 the scope of protection given to City, its boards and commissions, and  
17 their officials, employees and agents. This policy shall be endorsed to  
18 state that the insurer waives its right of subrogation against City, its boards  
19 and commissions, and their officials, employees and agents.

20 (b) Workers' Compensation insurance as required by the California  
21 Labor Code and employer's liability insurance in an amount not less than  
22 \$1,000,000. This policy shall be endorsed to state that the insurer waives  
23 its right of subrogation against City, its boards and commissions, and their  
24 officials, employees and agents.

25 (c) Professional liability or errors and omissions insurance in an  
26 amount not less than \$5,000,000 per claim.

27 (d) Commercial automobile liability insurance (equivalent in scope  
28 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an

1 amount not less than \$500,000 combined single limit per accident.

2 B. Any self-insurance program, self-insured retention, or  
3 deductible must be separately approved in writing by City's Risk Manager or  
4 designee and shall protect City, its officials, employees and agents in the same  
5 manner and to the same extent as they would have been protected had the policy  
6 or policies not contained retention or deductible provisions.

7 C. Each insurance policy shall be endorsed to state that  
8 coverage shall not be reduced, non-renewed or canceled except after thirty (30)  
9 days prior written notice to City, shall be primary and not contributing to any other  
10 insurance or self-insurance maintained by City, and shall be endorsed to state that  
11 coverage maintained by City shall be excess to and shall not contribute to  
12 insurance or self-insurance maintained by Consultant. Consultant shall notify City  
13 in writing within five (5) days after any insurance has been voided by the insurer or  
14 cancelled by the insured.

15 D. If this coverage is written on a "claims made" basis, it must  
16 provide for an extended reporting period of not less than one hundred eighty (180)  
17 days, commencing on the date this Agreement expires or is terminated, unless  
18 Consultant guarantees that Consultant will provide to City evidence of  
19 uninterrupted, continuing coverage for a period of not less than three (3) years,  
20 commencing on the date this Agreement expires or is terminated.

21 E. Consultant shall require that all subconsultants or contractors  
22 that Consultant uses in the performance of these services maintain insurance in  
23 compliance with this Section unless otherwise agreed in writing by City's Risk  
24 Manager or designee.

25 F. Prior to the start of performance, Consultant shall deliver to  
26 City certificates of insurance and the endorsements for approval as to sufficiency  
27 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of  
28 the insurance, furnish to City certificates of insurance and endorsements

1 evidencing renewal of the insurance. City reserves the right to require complete  
2 certified copies of all policies of Consultant and Consultant's subconsultants and  
3 contractors, at any time. Consultant shall make available to City's Risk Manager  
4 or designee all books, records and other information relating to this insurance,  
5 during normal business hours.

6 G. Any modification or waiver of these insurance requirements  
7 shall only be made with the approval of City's Risk Manager or designee. Not  
8 more frequently than once a year, City's Risk Manager or designee may require  
9 that Consultant, Consultant's subconsultants and contractors change the amount,  
10 scope or types of coverages required in this Section if, in his or her sole opinion,  
11 the amount, scope or types of coverages are not adequate.

12 H. The procuring or existence of insurance shall not be  
13 construed or deemed as a limitation on liability relating to Consultant's  
14 performance or as full performance of or compliance with the indemnification  
15 provisions of this Agreement.

16 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
17 contemplates the personal services of Consultant and Consultant's employees, and the  
18 parties acknowledge that a substantial inducement to City for entering this Agreement  
19 was and is the professional reputation and competence of Consultant and Consultant's  
20 employees. Consultant shall not assign its rights or delegate its duties under this  
21 Agreement, or any interest in this Agreement, or any portion of it, without the prior  
22 approval of City, except to a similarly qualified affiliate, and except that Consultant may  
23 with the prior approval of the City Manager of City, assign any moneys due or to become  
24 due Consultant under this Agreement. Any attempted assignment or delegation shall be  
25 void, and any assignee or delegate shall acquire no right or interest by reason of an  
26 attempted assignment or delegation. Furthermore, Consultant shall not subcontract any  
27 portion of its performance without the prior approval of the City Manager or designee, or  
28 substitute an approved subconsultant or contractor without approval prior to the

1 substitution. Nothing stated in this Section shall prevent Consultant from employing as  
2 many employees as Consultant deems necessary for performance of this Agreement.

3 7. CONFLICT OF INTEREST. Consultant, by executing this  
4 Agreement, certifies that, at the time Consultant executes this Agreement and for its  
5 duration, Consultant does not and will not perform services for any other client which  
6 would create a conflict, whether monetary or otherwise, as between the interests of City  
7 and the interests of that other client. And, Consultant shall obtain similar certifications  
8 from Consultant's employees, subconsultants and contractors.

9 8. MATERIALS. Consultant shall furnish all labor and supervision,  
10 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
11 necessary to or used in the performance of Consultant's obligations under this  
12 Agreement, except as stated in Exhibit "C".

13 9. OWNERSHIP OF DATA. All materials, information and data  
14 furnished to Consultant in connection with this Agreement, including but not limited to  
15 documents, estimates, calculations, studies, maps, graphs, charts, computer disks,  
16 computer source documentation, samples, models, reports, summaries, drawings,  
17 designs, notes, plans, information, material and memorandum ("Data") shall be the  
18 exclusive property of City. City shall have the unrestricted right to use and disclose the  
19 Data in any manner and for any purpose without payment of further compensation to  
20 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that  
21 Data shall not be made available to any person or entity for use without the prior approval  
22 of City. This warranty shall survive termination of this Agreement for five (5) years.

23 10. TERMINATION. Either party shall have the right to terminate this  
24 Agreement for any reason or no reason at any time by giving sixty (60) calendar days  
25 prior notice to the other party. In the event of termination under this Section, City shall  
26 pay Consultant for services satisfactorily performed and costs incurred up to the effective  
27 date of termination for which Consultant has not been previously paid. The procedures  
28 for payment in Section 1.B. with regard to invoices shall apply. On the effective date of

1 termination, Consultant shall deliver to City all Data developed or accumulated in the  
2 performance of this Agreement, whether in draft or final form, or in process. And,  
3 Consultant acknowledges and agrees that City's obligation to make final payment is  
4 conditioned on Consultant's delivery of the Data to City.

5           11. CONFIDENTIALITY. Consultant shall keep all Data confidential and  
6 shall not disclose the Data or use the Data directly or indirectly, other than in the course  
7 of performing its services, during the term of this Agreement and for five (5) years  
8 following expiration or termination of this Agreement. In addition, Consultant shall keep  
9 confidential all information, whether written, oral or visual, obtained by any means  
10 whatsoever in the course of performing its services for the same period of time.  
11 Consultant shall not disclose any or all of the Data to any third party, or use it for  
12 Consultant's own benefit or the benefit of others except for the purpose of this  
13 Agreement.

14           12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
15 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates  
16 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
17 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
18 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
19 disclosed pursuant to subpoena or court order.

20           13. ADDITIONAL COSTS AND REDESIGN.

21           A. Any costs incurred by City due to Consultant's failure to meet  
22 the standards required by the scope of work or Consultant's failure to perform fully  
23 the tasks described in the scope of work which, in either case, causes City to  
24 request that Consultant perform again all or part of the Scope of Work shall be at  
25 the sole cost of Consultant and City shall not pay any additional compensation to  
26 Consultant for its re-performance.

27           B. If the Project involves construction and the scope of work  
28 requires Consultant to prepare plans and specifications with an estimate of the



1 cost of construction, then Consultant may be required to modify the plans and  
2 specifications, any construction documents relating to the plans and specifications,  
3 and Consultant's estimate, at no cost to City, when the lowest bid for construction  
4 received by City exceeds by more than ten percent (10%) Consultant's estimate.  
5 This modification shall be submitted in a timely fashion to allow City to receive new  
6 bids within four (4) months after the date on which the original plans and  
7 specifications were submitted by Consultant.

8 14. AMENDMENT. This Agreement, including all Exhibits, shall not be  
9 amended, nor any provision or breach waived, except in writing signed by the parties  
10 which expressly refers to this Agreement.

11 15. LAW. This Agreement shall be governed by and construed pursuant  
12 to the laws of the State of California (except those provisions of California law pertaining  
13 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and  
14 regulations of and obtain all permits, licenses and certificates required by all federal, state  
15 and local governmental authorities.

16 16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
17 constitutes the entire understanding between the parties and supersedes all other  
18 agreements, oral or written, with respect to the subject matter in this Agreement.

19 17. INDEMNITY.

20 A. Consultant shall indemnify, protect and hold harmless City, its  
21 Boards, Commissions, and their officials, employees and agents ("Indemnified  
22 Parties"), from and against any and all liability, claims, demands, damage, loss,  
23 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
24 costs and expenses, including attorneys' fees, court costs, expert and witness  
25 fees, and other costs and fees of litigation, directly arising out of (1) Consultant's  
26 breach of its obligations contained in this Agreement, or (2) negligent or willful  
27 acts, errors, omissions or misrepresentations committed by Consultant, its officers,  
28 employees, agents, subcontractors, or anyone under Consultant's control, in the

1 performance of work or services under this Agreement (collectively "Claims" or  
2 individually "Claim").

3 B. In addition to Consultant's duty to indemnify, Consultant shall  
4 have a separate and wholly independent duty to defend Indemnified Parties at  
5 Consultant's expense by legal counsel approved by City, from and against all  
6 Claims, and shall continue this defense until the Claims are resolved, whether by  
7 settlement, judgment or otherwise. City shall notify Consultant of any Claim, shall  
8 tender the defense of the Claim to Consultant, and shall assist Consultant, as may  
9 be reasonably requested, in the defense.

10 C. If a court of competent jurisdiction determines that a Claim  
11 was caused by the sole negligence or willful misconduct of Indemnified Parties,  
12 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the  
13 court determines negligence by the Indemnified Parties, or (2) reduced by the  
14 percentage of willful misconduct attributed by the court to the Indemnified Parties.

15 D. The provisions of this Section shall survive the expiration or  
16 termination of this Agreement.

17 18. AMBIGUITY. In the event of any conflict or ambiguity between this  
18 Agreement and any Exhibit, the provisions of this Agreement shall govern.

19 19. COSTS. If there is any legal proceeding between the parties to  
20 enforce or interpret this Agreement or to protect or establish any rights or remedies under  
21 it, the prevailing party shall be entitled to its costs, including reasonable attorneys' fees.

22 20. NONDISCRIMINATION.

23 A. In connection with performance of this Agreement and subject  
24 to applicable rules and regulations, Consultant shall not discriminate against any  
25 employee or applicant for employment because of race, religion, national origin,  
26 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
27 disability. Consultant shall ensure that applicants are employed, and that  
28 employees are treated during their employment, without regard to these bases.

1 These actions shall include, but not be limited to, the following: employment,  
2 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
3 termination; rates of pay or other forms of compensation; and selection for training,  
4 including apprenticeship.

5 B. It is the policy of City to encourage the participation of  
6 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
7 procurement process, and Consultant agrees to use its best efforts to carry out  
8 this policy in its use of subconsultants and contractors to the fullest extent  
9 consistent with the efficient performance of this Agreement. Consultant may rely  
10 on written representations by subconsultants and contractors regarding their  
11 status. Consultant shall report to City in May and in December or, in the case of  
12 short-term agreements, prior to invoicing for final payment, the names of all  
13 subconsultants and contractors hired by Consultant for this Project and information  
14 on whether or not they are a Disadvantaged, Minority or Women-Owned Business  
15 Enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec.  
16 637).

17 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
18 accordance with the provisions of the Ordinance, this Agreement is subject to the  
19 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
20 Long Beach Municipal Code, as amended from time to time.

21 A. During the performance of this Agreement, the Consultant  
22 certifies and represents that the Consultant will comply with the EBO. The  
23 Consultant agrees to post the following statement in conspicuous places at its  
24 place of business available to employees and applicants for employment:

25 "During the performance of a contract with the City of Long Beach,  
26 the Consultant will provide equal benefits to employees with spouses and its  
27 employees with domestic partners. Additional information about the City of  
28 Long Beach's Equal Benefits Ordinance may be obtained from the City of

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1 Long Beach Business Services Division at 562-570-6200.”

2 B. The failure of the Consultant to comply with the EBO will be  
3 deemed to be a material breach of the Agreement by the City.

4 C. If the Consultant fails to comply with the EBO, the City may  
5 cancel, terminate or suspend the Agreement, in whole or in part, and monies due  
6 or to become due under the Agreement may be retained by the City. The City  
7 may also pursue any and all other remedies at law or in equity for any breach.

8 D. Failure to comply with the EBO may be used as evidence  
9 against the Consultant in actions taken pursuant to the provisions of Long Beach  
10 Municipal Code 2.93 et seq., Contractor Responsibility.

11 E. If the City determines that the Consultant has set up or used  
12 its contracting entity for the purpose of evading the intent of the EBO, the City may  
13 terminate the Agreement on behalf of the City. Violation of this provision may be  
14 used as evidence against the Consultant in actions taken pursuant to the  
15 provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor  
16 Responsibility.

17 22. NOTICES. Any notice or approval required by this Agreement shall  
18 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
19 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
20 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a  
21 copy to the City Engineer at the same address. Notice of change of address shall be  
22 given in the same manner as stated for other notices. Notice shall be deemed given on  
23 the date deposited in the mail or on the date personal delivery is made, whichever occurs  
24 first.

25 23. COPYRIGHTS AND PATENT RIGHTS.

26 A. Consultant shall place the following copyright protection on all  
27 Data: © City of Long Beach, California \_\_\_\_\_, inserting the appropriate year.

28 B. City reserves the exclusive right to seek and obtain a patent

1 or copyright registration on any Data or other result arising from Consultant's  
2 performance of this Agreement. By executing this Agreement, Consultant assigns  
3 any ownership interest Consultant may have in the Data to City.

4 C. Consultant warrants that the Data does not violate or infringe  
5 any patent, copyright, trade secret or other proprietary right of any other party. As  
6 of the effective date of this Agreement, Consultant warrants that software, if any,  
7 licensed under this Agreement does not violate or infringe any patent, copyright,  
8 trade secret of any other party.

9 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
10 that Consultant has not employed or retained any entity or person to solicit or obtain this  
11 Agreement and that Consultant has not paid or agreed to pay any entity or person any  
12 fee, commission or other monies based on or from the award of this Agreement. If  
13 Consultant breaches this warranty, City shall have the right to terminate this Agreement  
14 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct  
15 from payments due under this Agreement or otherwise recover the full amount of the fee,  
16 commission or other monies.

17 25. WAIVER. The acceptance of any services or the payment of any  
18 money by City shall not operate as a waiver of any provision of this Agreement or of any  
19 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
20 Agreement shall not constitute a waiver of any other or subsequent breach of this  
21 Agreement.

22 26. CONTINUATION. Termination or expiration of this Agreement shall  
23 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
24 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

25 27. TAX REPORTING. As required by federal and state law, City is  
26 obligated to and will report the payment of compensation to Consultant on Form 1099-  
27 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
28 resulting from payments under this Agreement. Consultant shall submit Consultant's

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1 Employer Identification Number (EIN), or Consultant's Social Security Number if  
2 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of  
3 Financial Management. Consultant acknowledges and agrees that City has no obligation  
4 to pay Consultant until Consultant provides one of these numbers.

5 28. ADVERTISING. Consultant shall not use the name of City, its  
6 officials or employees in any advertising or solicitation for business or as a reference,  
7 without the prior approval of the City Manager or designee.

8 29. AUDIT. City shall have the right at all reasonable times during the  
9 term of this Agreement and for a period of five (5) years after termination or expiration of  
10 this Agreement to examine, audit, inspect, review, extract information from and copy all  
11 books, records, accounts and other documents of Consultant relating to this Agreement.

12 30. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
13 designed to or entered for the purpose of creating any benefit or right for any person or  
14 entity of any kind that is not a party to this Agreement.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

LINK2GOV CORP., a Tennessee corporation (a wholly-owned subsidiary of FIDELITY NATIONAL INFORMATION SERVICES, INC.)

By Valarie M. Sanders, 2011

~~John M. Reynolds~~  
~~Senior Vice President~~ Valarie M. Sanders  
Contract Manager

"Consultant"

OCT 06 2011

CITY OF LONG BEACH, a municipal corporation

By [Signature] Assistant City Manager

City Manager EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"City"

This Agreement is approved as to form on Nov 9, 2011.

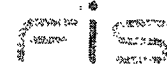
ROBERT E. SHANNON, City Attorney

By [Signature] Deputy

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# EXHIBIT “A”





### Exhibit A: Pricing

PayDirect will provide to the Client transaction processing (merchant) services to existing and new applications under a Citizen/Convenience Fee Funded pricing model. PayDirect reserves the right to not accept any payment type in situations where doing so may be in violation of the rules and regulations governing that payment type. This Option is specifically designed for those applications that do NOT qualify for the Visa Tax Program and which follow the standard set of rules and regulations that govern the Convenience Fees.

#### Merchant Services

A fixed convenience fee is set up-front for all payment applications based on the average payment size of credit card transactions<sup>1</sup>. Once established, the fee would remain fixed for an initial period for all payment amounts for the payment application. After the initial period, the average payment amount would be reviewed regularly and adjusted if the average payment falls into a different pricing category. This methodology is utilized to meet the requirements of several Card Association regulations regarding the disallowance of different fees for different payment types for an individual payment application and the disallowance of a percentage-based fee for Visa convenience fees in a non-Visa Tax Program payment application.

In some cases where the range of transaction sizes varies too greatly, an average transaction size may not be established for some applications. In these cases, a percentage-based convenience fee of 2.35% (with \$1.59 minimum) will be necessary, which will disallow Visa.

Following are the convenience fee based applications outlined in RFP No. FM 10-024. The average transaction amount has been outlined per each department based on the information provided by the City.

The convenience fee for any new departments/agencies opting into the contract will be negotiated and a document will be signed by FIS and the City's Director Financial Management or its designee.

Revenue Source	Garage Sale Permits	Animal Care Licenses (Altered and Unaltered)		Parking Citations	Utility Bills	Business Licenses	Billing and Collections
Average Transaction Amount	\$17	\$20	\$90	\$47	\$143	\$417	\$481
Pay By Phone	\$1.59	\$1.59	\$3.75	\$1.59/citation <sup>2</sup>	\$3.75	\$5.00 <sup>3</sup>	\$5.00 <sup>3</sup>
Pay by Phone w/Rep (POS)	\$1.59	\$1.59	\$3.75	\$1.59/citation <sup>2</sup>	\$3.75	\$5.00 <sup>3</sup>	\$5.00 <sup>3</sup>
Pay Online				\$1.59/citation <sup>2</sup>	\$3.75	\$5.00 <sup>3</sup>	\$5.00 <sup>3</sup>
Pay Online w/Electric Check	\$0.95	\$0.95	\$0.95	\$0.95/citation <sup>2</sup>	\$0.95	\$0.95	\$0.95

<sup>1</sup>The existing applications outlined in the RFP have been grandfathered into the price chart above. All new applications that have an average transaction size of up to \$50 may also use the convenience fee rate of \$1.59 as outlined in Exhibit A, Option A. Pricing will be agreed upon between the City of Long Beach and FIS for any new applications that have an average transaction size greater than \$50.

<sup>2</sup>Per citation.

<sup>3</sup>Contingent upon City's average transaction remaining as is (plus/minus 20%). Should it vary outside of that range, FIS reserves the right to increase/decrease the convenience fee appropriately.

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PayDirect Pricing Proposal



Ancillary Fees and Services

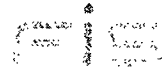
Reporting and Statement Fee	Waived	Per Application Per Month
ACH and eCheck Returns	Waived	Per Event
Chargebacks and Adjustments	Waived	Per Event
Voice Authorizations	Waived	Per Event
Next Day Settlement Fee	n/a	Wired Funds Required
Wired Funds Fee	\$15.00	Per Event
Standard Settlement Fee	n/a	Included if Next Day Settlement and Wired Funds are not utilized.
ACH Settlement Fee	Waived	Per Event

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# PayDirect Pricing Proposal



## Merchant Services

PayDirect will provide to the Client transaction processing (merchant) services to existing and new applications under an Agency Funded Interchange Pass-through pricing model. PayDirect reserves the right to not accept any payment type in situations where doing so may be in violation of the rules and regulations governing that payment type.

Following are the agency funded based applications outlined in RFP No. FM 10-024.

- Recurring Marina
- Walk-In Services

Visa and MasterCard Interchange Rate <sup>5</sup>	Pass-through <sup>6</sup>	Per Transaction and Volume
Discover Discount Rate	Pass-through <sup>7</sup>	Per Transaction and Volume
American Express Discount Rate	Pass-through <sup>8</sup>	Per Transaction and Volume
PIN or PINless Debit Card Network Rate	Pass-through <sup>9</sup>	Per Transaction and Volume
BillMeLater Network Rate	Pass-through <sup>10</sup>	Per Transaction and Volume
ACH/eCheck Processing Payment Processing Fee <sup>11</sup>	\$0.15 0.09%	Per Transaction Per Volume
Transaction Based Rate <sup>12</sup>	\$0.15	Per Transaction
Payment Gateway Fee- IP <sup>13</sup>	\$0.05	Per Transaction
Payment Gateway Fee – Dial <sup>14</sup>	\$0.10	Per Transaction

<sup>4</sup>To utilize these rates, no convenience fees may be passed on to the citizen.

<sup>5</sup>Credit, Checkcard, and Signature Debit included.

<sup>6</sup> Pass-through includes all Interchange Qualifications rates (per volume and per item fees), dues, acquirer fees, and assessments. These rates may vary by card type, transactions, and over time, and rates are subject to change solely at the determination of the association or issuer.

<sup>7</sup> Pass-through includes all Discover Network rates (per volume and per item fees) and acquirer fees. Rates are subject to change solely at the determination of the network.

<sup>8</sup> Pass-through includes all American Express Network rates (per volume and per item fees) and acquirer fees. Rates are subject to change solely at the determination of the network.

<sup>9</sup> Pass-through includes all Debit Network rates (per volume and per item fees) and acquirer fees. These rates may vary by network and rates are subject to change solely at the determination of the networks.

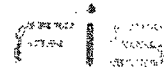
<sup>10</sup> Pass-through includes all BillMeLater Network rates (per volume and per item fees) and acquirer fees. These rates will vary by repayment

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# PayDirect Pricing Proposal



timeframe (Standard and 90 Days with No Payments) and rates are subject to change solely at the determination of the network.

<sup>11</sup> Applies to the following Payment Types: Visa, MasterCard, PIN or PINless Debit, and BillMeLater

<sup>12</sup> All Payment Types included, Credit, Debit, ACH

<sup>13</sup> IP Based, All Payment Types included, Credit, Debit, ACH.

<sup>14</sup> Dial Based, All Payment Types included, Credit, Debit, ACH.

## Ancillary Fees and Services

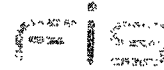
Reporting and Statement Fee	Waived	Per Application Per Month
ACH and eCheck Returns	\$4.95	Per Event
Chargebacks and Adjustments	\$9.95	Per Event
Voice Authorizations	Waived	Per Event
Next Day Settlement Fee	n/a	Wired Funds Required
Wired Funds Fee	\$15.00	Per Event
Standard Settlement Fee	n/a	Included if Next Day Settlement and Wired Funds are not utilized.
ACH Settlement Fee	Waived	Per Event

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# PayDirect Pricing Proposal



## Standard Application and Services

PayDirect will provide to agency application and services to existing and new applications under a Hosted Environment Pricing Model utilizing a standard or turnkey product. Applications requiring deviation from a standard template may require a custom product. PayDirect reserves the right to not accept any payment type in situations where doing so may be in violation of the rules and regulations governing that payment type.

New Application Setup	Waived	Per Application at Setup
Hosting and Maintenance	Waived	Per Application Per Month
IVR Voice Talent Recording	\$1000.00	Per Recording Event
Application Training – Remote	Waived	Per event
Application Training – Onsite	\$50.00	Per hour
Collateral Marketing – Design	Quoted per Campaign	Per Campaign
Collateral Marketing – Printing and Distribution	Quoted per Campaign	Per Campaign
IVR Line Fee <sup>15</sup> (For Agency Funded IVR Only)	\$0.10	Per Minute

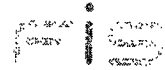
<sup>15</sup>IVR Based, All Payment Types included, Credit, Debit, ACH, successful or unsuccessful transactions.

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PayDirect Pricing Proposal



Custom Development Application and Services

PayDirect will provide to agency application and services to existing and new applications under a Hosted Environment Pricing Model utilizing development of a custom application. PayDirect reserves the right to not accept any payment type in situations where doing so may be in violation of the rules and regulations governing that payment type.

New Application Setup	\$500.00	Per Application at Setup
API Development	\$2,500 + Resource Rate	Per Application
WEB Development	\$2,000 + Resource Rate	Per Application
IVR Development	\$3,500 + Resource Rate	Per Application
Resource Rate	\$150.00	Per Hour
IVR Voice Talent Recording	\$1000.00	Per Recording Event
Hosting and Maintenance	\$150.00	Per Application Per Month
Custom Application Service Provider Fee	\$0.10	Per Transaction
Application Training – Remote	Waived	Per event
Application Training – Onsite	\$50.00	Per hour
Collateral Marketing – Design	Quoted per Campaign	Per Campaign
Collateral Marketing – Printing and Distribution	Quoted per Campaign	Per Campaign
IVR Line Fee <sup>16</sup> (For Agency Funded IVR Only)	\$0.10	Per Minute

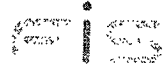
<sup>16</sup>IVR Based, All Payment Types included, Credit, Debit, ACH, successful or unsuccessful transactions.

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PayDirect Pricing Proposal



Purchase Rates

PayDirect will provide to Client actual device names and costs at time of order or upon request. Where possible, options will be provided.

Device	Cost + 15%	Per Item
Shipping	Pass-through	Per Event
Deployment/Encryption	Pass-through	Per Event
Cables	Pass-through	Per Event
Supplies	Pass-through	Per Event

Rental Rates

PayDirect will provide to Client actual device names and costs at time of order or upon request. Where possible, options will be provided.

Device	Available upon demand	Available upon demand	Per Item Per Month
Shipping	Pass-through	Pass-through	Per Event
Deployment/Encryption	Pass-through	Pass-through	Per Event
Cables	Pass-through	Pass-through	Per Event
Supplies	Pass-through	Pass-through	Per Event

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# EXHIBIT “B”

City’s Representative:

Pamela Horgan, Manager

Commercial Services Bureau



# EXHIBIT “C”

Materials/Information Furnished: None

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