

RESOLUTION NO. 2023 - 148

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO PIGGYBACK CENTRAL FLORIDA COUNTY EXPRESSWAY AUTHORITY CONTRACT NO. 000900 AND TO EXECUTE CONTRACT WITH BANK OF AMERICA, N.A. FOR ITSELF AND AS ASSIGNEE OF BANC OF AMERICA MERCHANT SERVICES, LLC FOR MERCHANT SERVICES

RECITALS

WHEREAS, the County is currently piggybacking the State of Florida’s contract with Bank of America for merchant services which expires June 11, 2023 and the County wished to continue these services;

WHEREAS, the Office of Management and Budget requires additional time complete an analysis of best practices for its business processes and point of sale services for its various revenue collections, then the Purchasing Department will solicit a new RFP for merchant services, which will be completed and new contracts in place before the new expiration date of March 31, 2025; and;

WHEREAS, in accordance with section 6.2.13 of the St. Johns County Purchasing Policy, entitled “Cooperative Procurement/Piggybacking, the County is authorized to utilize these services subject to the terms and conditions of the Central Florida Expressway Authority Contract No. 000900 (“Contract”) with Bank of America, N.A. for itself and Assignee of Banc of America Merchant Services, LLC; and;

WHEREAS, there is currently funding available for this service; and;

WHEREAS, the County has reviewed the terms, provisions, conditions and requirements of the Contract and finds that executing the contract serves a public purpose; and;

WHEREAS, the contract will be in substantially the same form and format as the attached draft contract.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to execute Contract to allow piggyback of the Central Florida Expressway Authority Contract No. 000900 (“Contract”) with Bank of America, N.A. for itself and Assignee of Banc of America Merchant Services, LLC, on behalf of the County.

Section 3. Upon Board approval, the County Administrator, or designee, is further authorized to execute a contract in substantially the same form and format as the attached for merchant services.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of may, 2023.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: [Signature]
Christian Whitehurst, Chair

ATTEST: Brandon Patty, Clerk
Clerk of the Circuit Court & Comptroller

By: [Signature]
Deputy Clerk

Rendition Date MAY 02 2023



AMENDMENT TO MASTER SERVICES AGREEMENT RE: PARTICIPANTS

This Amendment to Agreement Re: Participants ("Participant Amendment") dated _____ ("Effective Date") is made by and among Bank of America, N.A., for itself and as assignee of Banc of America Merchant Services, LLC ("Bank"), **CENTRAL FLORIDA EXPRESSWAY AUTHORITY** ("Lead Merchant") and the below identified Participant (each, a "Participant" and collectively, the "Participants") and supplements and amends the defined Integrated Agreement structure within the **Umbrella Agreement for Merchant Processing Services with its referenced documents ("Umbrella Agreement") between the parties dated _____** (collectively, as amended and supplemented from time to time, the "Agreement"). Lead Merchant and Bank (as amended and supplemented from time to time, all collectively the "Agreement"). For the purposes of this Participation Amendment (and the Agreement), a "Participant" shall be defined as any government entity or political subdivision located within the jurisdictional limits of the State of Florida, such as an office, department, division, bureau, board, commission, educational system or other agency, with separate statutory authority, or delegated authority from the Lead Merchant to procure services or otherwise operate under a separate tax identification number as the Lead Merchant (where applicable) that has executed a Participation Amendment. The Lead Merchant and Participants may be referred to herein individually as "Merchant" and collectively as the "Merchants".

Capitalized terms not defined in this Participant Amendment have the meanings set forth in the Agreement, whether or not the corresponding terms in the Agreement are in all capital letters.

The parties agree to the following:

A. Participants Join the Agreement; Lead Merchant Authority.

The Agreement, as stated within the Umbrella Agreement, consists of the following: (a) the Umbrella Agreement,; (b) the Master Services Agreement dated as of June 14, 2013 ("MSA"), (c) Amendment No. 1 to the Master Services Agreement dated as of July 24, 2014 ("MSA Addendum"), (d) Payeezy Services Addendum ("Payeezy Addendum"), dated as of March 30, 2020 (e) any amendments or supplements made to the Agreement after the Effective Date as more fully described herein and (f) this "Amendment to Master Services Agreement Re: Participants" signed by a Participant (the "Participant Amendment").

Each Participant hereby agrees to the terms of the Agreement with the same effect as if it had physically signed the Agreement and entered into a separate version of the Agreement with Bank; provided, however, (i) each Participant (including any Additional Participants, as defined below) acknowledges receipt of a copy of the Agreement, (ii) authorizes the Lead Merchant to act as agent for such Participant in connection with matters relating to the Agreement, including (a) administering the services provided under the Agreement (for purposes of this Participant Amendment, the "Services"), including but not limited to (a) terminating the Agreement entirely and (b) agreeing to assignments, modifications and amendments to the Agreement); any and all such actions by the Lead Merchant will be binding on the Participants; provided; however, Participants agree to reimburse Lead Merchant for any and all causes of actions, injuries, or damages arising from Lead Merchant acting as the agent of the Participants as set forth herein and (iii) with respect to each Participant, Section 5.2 of the MSA is hereby amended to read as follows:

5.2 Limitation of Liability. NOTWITHSTANDING ANYTHING IN THIS MSA TO THE CONTRARY, PROVIDER'S CUMULATIVE LIABILITY, IN THE AGGREGATE (INCLUDING OF ANY INDEMNIFICATION OBLIGATION UNDER THIS MSA OR ANY ADDENDUM OR ANY COMPONENT OF THE AGREEMENT STATED IN THE Umbrella Agreement (OR ANY LATER AMENDMENTS THERETO), WHETHER SUCH CLAIMS ARE RELATED OR UNRELATED TO ONE ANOTHER) FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES, OR DAMAGES FOR ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS MSA OR ANY ADDENDUM OR ANY COMPONENT OF THE AGREEMENT STATED IN THE UMBRELLA AGREEMENT (OR ANY LATER AMENDMENTS THERETO)) AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY SHALL NOT EXCEED THE LESSER OF, (I) \$100,000; OR (II) THE AMOUNT OF FEES RECEIVED BY PROVIDER PURSUANT TO THIS MSA FOR THE SERVICES IN THE IMMEDIATELY PRECEDING 12 MONTHS. Section 5.2 of the MSA remains unchanged with respect to Lead Merchant.

Bank may conclusively rely on Lead Merchant's authority to act for itself and to bind the Participants with respect to the foregoing. Notwithstanding any provisions to the contrary, each Participant shall be solely responsible for its own performance under the Agreement, including, but not limited to (a) presenting, managing, transmitting and responding to inquiries regarding Sales Drafts, Credit Drafts, and retrieval requests, (b) providing settlement account instructions and debit authorizations (including for Chargebacks and other amounts owed under the Agreement), (c) transmitting and receiving data and information regarding Participants (including any regarding the Participant's Sales Drafts (including Cardholder data) and other transactions), (d) coordinating and effecting Terminal changes, (e) executing set-up forms as necessary to provide the Services. The parties hereto agree that Lead Merchant is not guaranteeing the performance of any Participant under the Agreement, nor shall any Participant shall be responsible for the obligations of other Participants, and neither shall any Participant act on behalf of, or instruct Bank with respect to, any other Participant. Bank will enforce the terms of the Agreement directly against each Participant. Each Participant does not waive any defense of sovereign immunity it may have in any Claims brought by a third party against each Participant relating to the indemnity obligations under the Agreement.

B. Settlement Accounts. Each Participant will provide Bank with financial institution information necessary for Bank to transfer settlement funds resulting from such Participant's Sales Drafts ("Settlement Funds") to an account owned by each such Participant. Settlement Funds for Participants will not be transferred to settlement accounts owned by Lead Merchant nor any other Participant. Each Participant represents and warrants to Bank that no Settlement Funds of a type that, by virtue of a statutory, regulatory, contractual or other restriction, cannot be commingled with other funds or payments will be submitted to or received in any Participant settlement account.

C. Lead Merchant Reaffirmed Obligations; Representations; Warranties and Covenants. The Lead Merchant reaffirms all of its representations, warranties, covenants, agreements, obligations and responsibilities set forth under the Agreement. Each Participant hereby represents and warrants to Bank that (a) it is a Participant as such is defined hereunder and (b) all necessary action was taken by the Participant's governing body to provide Lead Merchant all necessary power and authority to act on behalf of Participant in connection with the Agreement and the Services of such Participant as described in this Participation Amendment.

Additionally, each Merchant represents and warrants to Bank that (a) the execution and delivery of this Participant Amendment has been authorized by all necessary corporate and governmental action and does not violate any provision of law applicable to such Merchant, or any provision of such Merchant's organizational documentation or any other agreement binding upon such Merchant, (b) the person(s) executing and delivering this Participant Amendment for and on behalf of such Merchant are duly authorized to do so and (c) the information for such Merchant, as set forth below and/or in Attachment I to this Participant Amendment, including, without limitation, the tax identification number for such Merchant, is true, complete and accurate.

Each Merchant agrees that Bank's reliance and actions taken based on the representations and warranties contained in this Participant Amendment do not constitute negligence or willful misconduct. Further, each Merchant hereby agrees that Bank will not be liable, and such Merchant shall not sue or otherwise make claims against Bank for or on account of any claim for damages arising out of or relating to the Bank allowing the arrangements contemplated by this Participant Amendment.

D. Merchants; Additional Participants and New Services. All references in the Agreement to "Customer" or "CUSTOMER" shall have the same meaning as set forth in this Participant Amendment for "Merchant". Each Participant hereby acknowledges and agrees that, from time to time, the Lead Merchant may, without notice to or consent of the Participants (i) join additional entities ("Additional Participants") as parties to the Agreement by duly completing and executing (on behalf of itself and the Participants) an Accession Agreement, substantively consistent with the terms of this Participant Amendment and acceptable to Bank, at which time, such Additional Participants shall have the same rights and obligations as the Participants, and the Lead Merchant shall have the same obligations with respect to such Additional Participants as it has for the Participants and/or (ii) subscribe to additional services ("New Services") via an amendment, addendum or supplement in a form acceptable to the Bank signed by the Lead Merchant (on behalf of itself and the Participants, including any Additional Participants), at which time such New Services shall also constitute Services under the Agreement.

E. Termination. For the avoidance of doubt, Bank may suspend or terminate the provision of Services and/or the Agreement (as applicable) with respect to any Participant, as such suspension or termination rights are described in the Agreement. Bank may terminate the Agreement with respect to any Participant(s), with (90) ninety days' notice for any reason and with as much notice as is reasonably practicable under the circumstances if: (i) upon notice to Participant if, in Bank's sole discretion such termination is necessary for Bank to comply with its obligations under any Applicable Law or the Card Organization Rules; (ii) upon notice to Participant where Bank is required to do so by Applicable Law, the Card Organizations; and/or (iii) immediately if Merchant causes, or may cause, harm or loss of goodwill to the Card Organizations' systems. Any Participant may also terminate its Participant Amendment with (90) ninety days' notice for any reason. This Participant Amendment will also automatically terminate upon termination of the Agreement or the

F. Counterparts. This Participant Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Participant Amendment. Receipt of an executed signature page to the Participant Amendment by telecopy, or other electronic transmission shall constitute effective delivery thereof.

Participants Each Participant shall be as identified as set forth in the signature block to this Participant Amendment and in Attachment 1 to this Participant Amendment, attached hereto.

Fees Shall be as identified in the Agreement.

Except as modified above, the Agreement remains in full force and effect and any reference to it after the Effective Date will mean the Agreement as modified by this Participant Amendment.

This Participant Amendment is not binding on Bank unless and until signed by Bank.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

(“LEAD MERCHANT”)
Bound by Umbrella Agreement

BANK OF AMERICA, N.A.

(“BANK”)
By: _____

Name: _____

Title: _____

Date: _____

(“PARTICIPANT”)

By: _____

Name: _____

Title: _____

Date: _____

(“PARTICIPANT”)

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT 1 TO AMENDMENT TO MASTER SERVICES AGREEMENT RE: PARTICIPANTS

<u>Legal Name</u>	<u>D/B/A</u>	<u>Address</u>	<u>Notices (if any) Name/Title/Fax</u>	<u>Tax ID #</u>	Method of Settlement (See Agreement)
					Mark one box: <input type="checkbox"/> Debit/Credit Direct Settlement Account <input type="checkbox"/> Wire Transfers/Debits to Designated Account <input type="checkbox"/> Automated Clearing House Credit/Debit to Designated Account Bank Account Number: Bank Account Name: Name & Address of Bank: Bank Officer Contact: Phone Number:
					Mark one box: <input type="checkbox"/> Debit/Credit Direct Settlement Account <input type="checkbox"/> Wire Transfers/Debits to Designated Account <input type="checkbox"/> Automated Clearing House Credit/Debit to Designated Account Bank Account Number: Bank Account Name: Name & Address of Bank: Bank Officer Contact: Phone Number:



Orlando-Orange County Expressway Authority
4974 ORL Tower Road, Orlando FL 32807
(407) 690-5000 Fax: (407) 690-5032

TO:	All Potential Bidders of Record
FROM:	Claude Miller, Director of Procurement
DATE:	February 4, 2013
SUBJECT:	Credit Card Processing Services, RFP 000900, ADDENDUM NO. 1

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated December 2012, as noted below. Acknowledge receipt of this Addendum in the space provided on the proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 6 pages.

RESPONSES TO QUESTIONS RECEIVED

1. The following questions were received from planholders of record. The Authority's response follows each question.

Q001: Is the Authority looking for a vendor to provide a Point of Sale solution and credit card processing services or a vendor that has the capability to integrate to the Authority's legacy point of sale solution?

R: The Authority is looking for a vendor to provide credit card and electronic check processing. The Authority has a full function IT department that has the capability to provide any needed integration if required.

Q002: Do you accept checks electronically? Are you interested in check conversion?

R: Yes, we currently accept checks electronically via our website and we would be interested in hearing more about electronic check conversion technology provided it does not add additional expense.

Q003: Do you have a need for Purchasing Card Level II and Level III?

R: Not at this time.

Q004: Please provide the company name, product name, and application version, including any service packs, of the Authority's current automatic payment authorization system.

R: The back office system that currently does payment processing is called TRIMS and is a one of a kind system developed by the Authority's IT staff.

Q005: What is the annual number of transactions and sales volume processed by Card Brand for each of the acceptance types, e.g., phone, face to face, Website, IVR, recurring?

R: This information can be obtained by using the pricing sheets as the amounts listed represent an average month of charges processed by the Authority. The volumes could be determined by multiplying these figures by twelve to account for an annual basis? The breakdown by each channel would be difficult to calculate but we could estimate that 80% of all charges would be recurring charges. 12% website, 6% phone and 2% face to face.

Q006: What is the annual number of transactions and sales volume processed by Card Brand for replenishments?

R: This information can be obtained by using the pricing sheets as the amounts listed represent an average month of charges processed by the Authority. The volumes could be determined by multiplying these figures by twelve to account for an annual basis?

Q007: Is the Authority storing card data today? If so, describe the security utilized.

R: The Authority currently stores card data for customers encrypted in its system. The Authority is currently a PCI compliant level II processor. Additional information regarding the security utilized may be as needed during contract negotiations or during the integration process with a successful vendor.

Q008: Is the Authority utilizing any Tokenization process today?

R: No, the Authority currently does not utilize tokenization at this time.

Q009: Is the Authority utilizing a card account updater file today? If so, how often is the file updated?

R: No, The Authority is currently not utilizing a card account updater at this time but we are interested in the process provided it does not add additional expense.

Q010: Is the Authority utilizing any third-party POS systems, payment interfaces, applications, middleware, software, or payment gateways today? If so, please identify each company name, product name, and version, including service packs, and how it is used in conjunction with each method of payment, e.g., acceptance face-to-face, phone, Web, IVR, recurring, etc.

R: The Authority's system was developed by in house IT staff but we do interface to ChasePaymentech via their SDK (software development kit).

Q011: In what payment processing capacity are the ID TECH MINI MAG-IDMB-335133B devices being used?

R: They are used to provide credit card swipe data to be input into our system for one- time payments.

Q012: PSR 11, Secondary Back-Up Provisions for Normal On-Line Transaction Processing Operations: What hardware that the Authority utilizes today is being referred to?

R: This question speaks to the Authority's desire to continue normal operations if the primary access to the processor is down. In the event certain equipment is needed the Authority would need to be made aware. Currently the Authority has redundant routers that have been provided by the processor.

Q013: How does the Authority intend to authorize Micro Payments? In real time or via a batch process?

R: If the Authority would utilize this functionality in the future it would be need in real time.

Q014: How does the Authority intend to handle a decline transaction on Micro Payments?

R: In the event we utilize micro payments we would request another form of payment from the customer.

Q015: How many total merchant numbers does the Authority utilize today? Specify for batch replenishment, Website, face-to face, and phone.

R: Depending on how you define merchant numbers the Authority would have 10 or 12. Currently the Authority has 10 merchant numbers related to channels of payments. These ten merchant numbers are then rolled up under two master merchant numbers.

Q016: How is the Authority's Frame Relay connection configured today and what is the current back up and DR communication?

R: The configuration could be discussed providing a successful bid. The current disaster recovery process is redundant frame connection with redundant dial up connections. The Authority's toll collections system and all major functionality are redundant.

Q017: Is it the Authority's intention to move from Frame Relay communication connectivity to Internet communication connectivity? If so will this communication method be utilized for all payment transactions?

R: No, but the Authority would be open to a discussion on communication connectivity once a successful bidder is identified.

Q018: Is the Authority accepting payment for Visa, MasterCard, Discover, and American Express Card Brands today?

R: Yes, those are the brands we currently accept.

Q019: What is the average number of transactions submitted in a batch replenishment file for authorization and what is the peak number of transactions submitted?

R: The average is under 500 transactions. The peak allowed is 999.

Q020: Are batch replenishment transactions captured for settlement at the time of authorization (host capture) or is a settlement file submitted at end of day?

R: Multiple batches are processed daily but settlement and transfer of funds is done at the end of the day.

Q021: Are batch replenishment transactions processed via the Chase Paymentech Salem platform?

R: Transactions are currently processed via Chase Paymentech Tampa platform with the Salem platform as the emergency backup site.

Q022: Are ACH transactions authorized today in real time?

R: No, they are not.

Q023: Who funds the Authority today for Discover transactions?

R: Discover funds those transactions

Q024: Who funds the Authority today for American Express transactions?

R: AMEX funds those transactions

Q025: How does the Authority intend to process after the conclusion of the contract with Chase Paymentech on April 30, 2013?

- **Is the intention to be live with a new provider by April 30, August 1, or within 60 days of issuing the notice to proceed?**
- **If you do not intend to be live with a new provider by April 30, do you intend to pursue a month-to-month contract with Chase Paymentech?**
- **When do you intend to issue the notice to proceed?**

R: Our intention is to execute a contract as soon as possible after completion of a successful RFP and in the event of a vendor unseating the incumbent vendor to begin processing on August 1, 2013.

Q026: Section 6, Response to Scope of Services, Reporting, page PSR-10 requests sample reports. These reports will take up a large number of the limited 20 page response. Can report samples be excluded from the 20 page limitation?

R: Yes

Q027: Does Exhibit A, Scope of Services, require a response?

R: No, the submitted Proposal shall address the scope through the Proposal Submittal Requirements.

Q028: If we include a Table of Contents, is this page counted in the 20-page limit?

R: No

END OF ADDENDUM NO. 1