

APPROVED
A03-02-2016

BOARD OF RECREATION
& PARK COMMISSIONERS

REPORT OF GENERAL MANAGER

NO. 16-063

DATE March 02, 2016

C.D. ALL

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: WEBXPRESS GATEWAY SYSTEM CONTRACT – EXEMPTION FROM CHARTER SECTION 1022

R. Barajas _____ K. Regan _____
H. Fujita _____ *N. Williams NDIV
V. Israel _____



General Manager

Approved

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board find, pursuant to Charter Section 1022 Determinations Policy, that the proposed contract with Plug'N Play Technologies, Inc. (Plug'n Pay) for the purchase and setup of the WebXpress Gateway system for the recreation management and reservation system, approved on December 9, 2015, is exempt from Charter Section 1022, as described in the Summary of this Report.

SUMMARY:

On September 2, 2015, the Board approved the purchase of a recreation management and reservation system software licenses, equipment and services from Vermont Systems, Inc. (VSI) for a term of one (1) year with two (2), one-year renewal options (Report No. 15-194). This new recreation management and reservation system will replace an old Online Activity Catalog system from 1999 and will improve the operation, programming and scheduling services for all activities available to the public, including facility and swimming pool reservations, rental hall and tennis court scheduling, memberships, and point-of-sale purchases at various facilities and recreation centers throughout the City of Los Angeles.

On December 9, 2015, the Board approved the purchase of the Plug'n Pay WebXpress Gateway system for use with the recreation management and reservation system purchased from VSI (Report No. 15-269). This Plug'n Pay WebXpress Gateway system is the only payment card gateway system provider that is utilized by the VSI system and is compatible with both the VSI recreation management and reservation system and the Department of Recreation and Park's payment card processor, First Data Corporation.

Upon review of the proposed contract, the Mayor requested (upon City Administrative Officer (CAO) recommendation) that this Board make a finding that the proposed contract is exempt from Charter Section 1022 because the contract does not include a labor component. A request for a 1022 determination was submitted to the Personnel Department but according to the Personnel

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Department, since this proposed contract with Plug'n Pay Technologies Inc., does not have a labor component, a 1022 review is not necessary.

In accordance with Charter Section 1022 Determinations Policy, adopted by the Council on July 20, 2014 (Council File 03-1673), contracts and contract amendments not requiring Charter Section 1022 determinations include "Contractor requires use of its staff or specially trained and certified persons to install, maintain or service equipment or other product in order to maintain warranties, patent rights or due to other rational basis; or the labor component cannot reasonably be separated from the other contract elements." Based on this policy, a 1022 determination was not originally requested.

The overall cost of this contract will not exceed Seventy-Five Thousand Dollars (\$75,000.00) and will be funded through Department 89, Fund 302, Account 89712H. On May 20, 2015, the Board approved the transfer of funds in the amount of Three Million Dollars (\$3,000,000.00) to Department 89, Fund 302, Account TBD – System Developments, to modernize RAP's technologies in the areas of business applications, technology infrastructure, computational storage capacities, Internet/intranet websites, mobile web and mobile applications (Report No. 15-110).

FISCAL IMPACT STATEMENT:

This project will allow RAP to process all payment card transactions securely via the internet made through the new recreation management and reservation system.

This Report was prepared by Gino Ogtong, Management Analyst II and reviewed by Alex Yee, Director of Systems, Finance Branch

**CONTRACT BETWEEN
THE CITY OF LOS ANGELES
DEPARTMENT OF RECREATION AND PARKS
AND
PLUG'N PAY TECHNOLOGIES INC.
FOR ACQUISITION AND SETUP OF WEBXPRESS GATEWAY SYSTEM**

This Contract is entered into this _____ day of _____, 20____, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as "CITY"), and Plug'n Pay Technologies, Inc., (hereinafter referred to as "CONTRACTOR"). CITY and CONTRACTOR shall be referred to hereinafter collectively as the "Parties".

RECITALS

WHEREAS, the Department of Recreation and Parks (RAP) owns, operates, and maintains various parks and recreational facilities throughout the City of Los Angeles; and

WHEREAS, RAP has the need for a payment card gateway system and CONTRACTOR is the only vendor that has a compatible gateway system, WebXpress, that works in conjunction with the recreation management and reservation system from Vermont Systems, Inc. (VSI) and RAP's payment card processor from First Data Corporation; and

WHEREAS, pursuant to Charter Section 371(e)(10), the Board of Recreation and Park Commissioners (Board) finds that the services to be provided by CONTRACTOR, are for the performance of professional, scientific, expert or technical services and the use of competitive bidding would be undesirable, impractical or impossible as the CONTRACTOR is the sole source for the gateway system; and

WHEREAS, pursuant to Charter Section 1022 Determinations Policy, Board finds that the proposed contract is exempt from Charter Section 1022; and

WHEREAS, CONTRACTOR is experienced in providing the services of the type required, is willing to perform such service, and can provide such services to RAP; and

WHEREAS, it is in RAP's best interest to secure these services from CONTRACTOR; and

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

I. SCOPE OF SERVICES

Under the direction of RAP's Director of Systems, or representative requesting service, CONTRACTOR shall:

- A. Set up the Plug'n Pay WebXpress Gateway system to interface with the recreation management and reservation system to be purchased from and installed by Vermont Systems, Inc. (VSI); and
- B. Ensure that Plug'n Pay WebXpress Gateway system is compatible and operates properly in conjunction with the VSI system and RAP's payment card processor, First Data Corporation.

II. TERMS OF PERFORMANCE

- A. The term of this Contract shall be for one (1) year, with two (2), one-year options to extend, for a potential term of three (3) years. The first (1st) year term of the Contract shall become effective on the date the gateway account is setup. The Contract shall thereafter be automatically renewed for a one (1) year extension up to a total three (3) year term unless either party notifies the other party no later than ninety (90) days prior to the end of the current term that it does not wish to renew this Contract.
- B. CONTRACTOR shall provide materials, equipment, and personnel necessary for performance of services as described under Section I - SCOPE OF SERVICES. CONTRACTOR shall bear all costs for any necessary permits, insurance, taxes and all matters required for compliance with this contract.
- C. CONTRACTOR understands that services shall be provided only on an as-needed basis by RAP, and that RAP, in entering into this contract, guarantees no minimum amount of business or compensation to CONTRACTOR.
- D. CONTRACTOR shall comply with the mandatory City terms and conditions in performing this contract with RAP, as described in the Standard Provisions for City Contracts (Rev. 3/09), attached hereto and incorporated herein by reference as Appendix A.
- E. RAP shall have the right to cancel this contract for breach if CONTRACTOR fails to perform any of the terms, conditions and covenants of this contract and/or upon termination of the VSI contract for the recreation management and reservation system.
- F. Representatives with formal notice addresses provided below are the parties authorized to administer this Contract, and to whom formal notices, demands, and communications shall be given:

The Representative of RAP shall be:

Alex Yee, Director of Systems
City of Los Angeles, Department of Recreation and Parks
Finance Division
221 N. Figueroa St., Suite 450
Los Angeles, CA 90012

Email: Alex.Yee@lacity.org
Telephone No.: (213) 202-3290
Fax Number: (213) 202-4310

The Representative of the CONTRACTOR shall be:

Name: Barbara Volpe
Position: Operations Manager
Address: 1363-26 Veterans Highway. Hauppauge, NY 11788
Email: barbara@plugnpay.com
Telephone No.: 800-945-2538 ext. 7738
Fax No.: 631-360-1213

III. COMPENSATION AND SCHEDULE OF PAYMENT

- A. RAP shall pay CONTRACTOR for services rendered under this contract, an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00) over the entire potential three (3) year term. The fee shall include the WebXpress Gateway system initial setup fee of One Hundred and Fifty Dollars (\$150.00) and the per transaction fee of maximum Six Cents (\$0.06) for each chargeable transaction. A Fifteen Dollar (\$15.00) monthly minimum fee will be charged if there are less than two hundred (200) transactions in any given month.

After the first (1st) year, the per transaction fee will be reviewed with the intent to lower the transaction fee based upon the actual transaction volume, with the understanding that the per transaction fee will not be lowered to less than Five Cents (\$0.05) per transaction.

- B. To receive payment, CONTRACTOR shall submit invoices to RAP's Chief Accountant or designee detailing all cost charges, number of transactions billed and supporting documentation. The invoice shall conform to City standards and include, at a minimum, the following information:
1. Name and address of CONTRACTOR
 2. Date of invoice and service period covered
 3. Description of completed tasks and itemized amount due for tasks
 4. Certification by a duly authorized officer
 5. Remittance address (if different from CONTRACTOR address)

All invoices shall be submitted on CONTRACTOR's letterhead, containing CONTRACTOR's official logo, or other unique and identifying information such as the name and address of CONTRACTOR.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. The City will not compensate CONTRACTOR for costs incurred in invoice preparation. The City may request changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation to substantiate charges at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

IV. RATIFICATION

At the request of RAP, and because of the need therefor, CONTRACTOR began performance of the services required hereunder prior to the execution of this contract. By its execution hereof, RAP hereby accepts such services subject to all of the terms, covenants, and conditions of this contract, and CONTRACTOR's performance of such services.

V. INCORPORATION OF DOCUMENTS

This contract and incorporated documents represent the entire integrated contract of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following document is incorporated and made a part hereof by reference:

Appendix A	Standard Provisions for City Contracts (Rev. 3/09);
Appendix B	Plug'n Pay (PNP) WebXpress Gateway Fee Quote dated October 21, 2015

The order of precedence in resolving conflicting language, if any, in the documents shall be: (1) This contract and (2) Appendix A.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives on the dates indicated:

Executed this _____ day
of _____, 20__

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS

By _____
PRESIDENT

By _____
SECRETARY

Executed this _____ day
of _____, 20__

PLUG'N PAY TECHNOLOGIES, INC.

By _____
PRESIDENT

By _____
SECRETARY

Approved as to Form:

Date: _____

MICHAEL N. FEUER,
City Attorney

By _____
DEPUTY CITY ATTORNEY