

## PAYTRAC PAYMENT SERVICES ADDENDUM

This PayTrac Payment Services Addendum ("Addendum") between RecTrac, LLC d/b/a Vermont Systems ("VS") and City of Delray Beach ("Customer" or "City") is intended to revise the Services Agreement, inclusive of all relevant attachments, schedules, exhibits and/or Addenda (collectively, "Agreement") previously or simultaneously executed between the Parties by adding to the Agreement the terms and conditions listed below.

- 1 **TERM.** The term of this Addendum will commence on the date executed by the Customer and will run coterminous with the Agreement for a three-year term with two one-year renewal options.
- 2 **PAYMENT SERVICES.** Customer is adding VS PayTrac Payment Services to the suite of products and services it is receiving from VS (as reflected in the Order Schedule) at the rates described in the attached Schedule A. VS will provide Customer with Payment Services pursuant to a separately executed Sub-Merchant Agreement, inclusive of Customer's Sub-Merchant Application and Agreement ("SMAA") and VS's PayTrac Payment Service Terms & Conditions, each of which shall be incorporated by reference into the Agreement.
- 3 **SOFTWARE UPDATES.** To maintain the highest level of security for payment processing, the Customer agrees to operate on the most recent release of the software within 30 days of its general release. Extended delays to update the software may impact the ability to safely process transactions and VS reserves the right to disable processing until the software is updated.
- 4 **MISCELLANEOUS.** Except as expressly revised in this Addendum, the Agreement will remain in full force and effect. If there is any conflict of inconsistencies between this Addendum and the Agreement, this Addendum will control. VS's acceptance may be evidenced by its fulfillment of the Agreement which this Addendum revises.
- 5 **INDEMNIFICATION.** VS shall indemnify and hold harmless City and its officers, employees, agents, liability, losses or damages, which City or its officers, employees, agents, may incur as a result of claims or proceedings arising out of, relating to, or resulting from the performance of the agreement by VS or its employees, agents, servants, partners, principals, or subcontractors. VS shall pay actual claims and losses in connection therewith, and shall investigate all claims, in the name of City, where applicable.
- 6 **ASSIGNMENT.** Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written notification of the other Party.
- 7 **PUBLIC RECORDS.** IF VS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.
  - a. VS shall comply with public records laws, specifically to:
    - i. Keep and maintain public records required by City to perform the service.
    - ii. Upon request from the City's custodian of public records, provide City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
    - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if VS does not transfer the records to City.
    - iv. Upon completion of the Agreement, transfer, at no cost, to City all public records in possession of VS or keep and maintain public records required by City to perform the service. If VS transfers all public records to City upon completion of the Agreement, VS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VS keeps and maintains public records upon completion of the Agreement, VS shall

meet all applicable requirements for retaining public records. All records stored electronically must be provided to City, upon request from City's custodian of public records, in a format that is compatible with the information technology systems of City.

v. If VS does not comply with this section, City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

- 8 **INSPECTOR GENERAL.** VS is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and may demand and obtain records and testimony from VS and its subcontractors and lower tier subcontractors. VS understands and agrees that in addition to all other remedies and consequences provided by law, the failure of VS or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by City to be a material breach of this Agreement justifying its termination.
- 9 **E-VERIFY.** By entering into this Agreement, VS acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." VS affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by VS, VS may be prohibited from conducting future business with City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the VS.
- 10 **GOVERNING LAW AND VENUE.** This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this contract or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs.
- 11 **FISCAL FUNDING.** The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.
- 12 **TERMINATION.** The City, at its sole discretion, reserves the right to terminate this Agreement with or without cause immediately upon providing 90 day written notice to VS. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Agreement. The City shall be liable only for reasonable costs incurred by VS prior to the date of the notice of termination.

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ATTEST:

Katerri Johnson  
Katerri Johnson, City Clerk

CITY OF DELRAY BEACH

Thomas F. Carney, Jr.  
By: Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin  
Lynn Gelin, City Attorney



RECTRAC, LLC D/B/A VERMONT SYSTEMS

By: Patrick Hayden  
Print Name: Patrick Hayden  
Title: President

STATE OF Vermont  
COUNTY OF Chittenden

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 7 day of May, 2024 by Patrick Hayden (name of person), as president (type of authority) for Vermont Systems (name of party on behalf of whom instrument was executed).

Personally known  OR Produced Identification   
Type of Identification Produced \_\_\_\_\_

Alise Neuman  
Notary Public - State of Vermont  
Commission expires 1/31/25

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AGREED TO AND ACCEPTED BY:

City of Delray Beach (FL)

Alison Neuman  
Print Name:  
Title: Sr. Staff Accountant

5/1/24  
Date



# PAYTRAC PAYMENT SERVICE TERMS AND CONDITIONS

- 1. SUB-MERCHANT AGREEMENT.** These PayTrac Payment Service Terms and Conditions govern the terms and conditions under which RECTRAC, LLC DBA VERMONT SYSTEMS, as a payment facilitator, will agree to provide City of Delray Beach, as a sub-merchant, with certain payment-related services. For purposes of this Sub-Merchant Agreement, the sub-merchant identified in the Sub-Merchant Application and Agreement ("**SMAA**") will be identified as "**City**." These Payment Terms and Conditions, together with **City's** completed and approved SMAA, will form a binding "Sub-Merchant Agreement" between **City** and the payment facilitator identified in the SMAA (VS"). If **City** is receiving Payment Services (defined below) from VS, then your Sub-Merchant Agreement will become part of your overall Agreement with us, which Agreement includes, in addition to the Sub-Merchant Agreement, VS's Terms of Service, Privacy Policy and other referenced exhibits, schedules or addenda. Terms not defined herein shall have the meanings as set forth in Section 1 of the Terms of Service.
- 2. PAYMENT SERVICES.** Provided **City** satisfies the underwriting criteria for receipt of Payment Services and remains in compliance with the Agreement, VS will agree to provide **City** with the payment services as described in the Agreement (collectively, "**Payment Services**"). In exchange for Payment Services, **City** agrees to pay VS the rates, fees, and other charges described in the Agreement (collectively, "**Fees**"). Besides VS, there are other third parties involved in the facilitation and processing of Payment Services; these third parties include banks (i.e., acquiring bank, sponsor bank), the major card networks/associations such as Visa, Mastercard, Discover and American Express (collectively, "**Card Brands**" unless referred to individually by name), and our designated payment processor ("**Processor**"). Each of these parties serve an important function in the facilitation, processing, and settling of transactions associated with your business. By designating VS as your agent for payment facilitation services, and remaining in compliance with the terms of the Agreement (including payment of all of our Fees), **City** will receive the right to accept payments from customers, clients and/or members (collectively, "**End Users**") through validly issued bankcards ("**cards**") associated with the Card Brands, and/or, if approved, through automated clearing house transactions ("**ACH**") regulated by the National Automated Clearing House Association ("**NACHA**"). VS will only provide **City** with Payment Services for transactions run on active, non-defaulted End User agreements properly delivered to VS through the appropriate system in accordance with the Agreement's terms and conditions including, without limitation, this Sub-Merchant Agreement.
- 3. APPLICATION PROCESS; UNDERWRITING; APPROVAL FOR PAYMENT SERVICES.** Completion of the SMAA and submission through our standard underwriting process shall be a pre-requisite and pre-condition to **City's** receipt of Payment Services. If **City** fails to meet VS's then-current underwriting requirements, or the then-current underwriting requirements of our Processor (as applicable), VS shall not be allowed to receive Payment Services. Federal regulations such as the USA Patriot Act or FinCEN require financial institutions (i.e., banks) to verify the identity of persons seeking to open a depository account. VS's Processor, in turn, requires that VS submit certain information about each sub-merchant through underwriting prior to such sub-merchant's receipt of payment services. Information that VS may request includes, but is not limited to, basic sub-merchant information such as entity name, business address, tax number, date of formation, years in business; transaction information, processing volumes, payment types accepted, address of business locations where payments may be accepted; and information about who owns and controls the sub-merchant. It shall be **City's** sole responsibility to provide VS with all required information, to ensure the accuracy and completeness of the information provided, to provide VS with timely and accurate updates if **City's** information changes, and to make the required acknowledgements and authorizations related to Payment Services as described in the Sub-Merchant Agreement. VS (and VS's Processor, as applicable) will base underwriting decision on the information provided. If, after approval, VS discovers that certain information provided in the SMAA was false, incomplete, misleading or inaccurate, as determined by VS or VS's Processor, VS reserves the right to suspend or terminate Payment Services immediately at VS's discretion. If **City** passes underwriting and **City's** application is approved, then your SMAA will automatically convert to a Sub-Merchant Agreement which incorporates these Payment Terms & Conditions (and other documents forming the Agreement) by reference. Underwriting approval and conversion of **City's** application to a Sub-Merchant Agreement may occur without notice to **City**. **City's** failure to notify us of changes to **City's** business may be considered a material breach of the Sub-Merchant Agreement. **City** expressly authorizes VS to make business and/or personal credit inquiries (including, without limitation, credit report inquiries into your directors, officers and principals), identity-verification inquiries, transaction-verification inquiries (including, without limitation, contacting End Users to verify transactions), and any other inquiry or background check that VS considers reasonably necessary as related to **City's** provision of the Payment Services. **City** further agree to provide VS with any information or documentation requested by the Processor, the Card Brands and/or the bank(s).
- 4. DESIGNATION AS LIMITED PAYMENTS AGENT.** By entering into this Sub-Merchant Agreement, **City** is appointing VS as your limited payments agent for the sole purpose of receiving, holding and settling payments made to **City** for **City's** goods and services as validly entered in and through our system or platform. VS will settle payments that are actually received by VS to **City**, less any amounts owed to VS, including fees and other obligations, and subject to the terms and conditions of the Agreement, including without limitation, this Sub-Merchant Agreement. **City** agrees that a payment received by VS on **City's** behalf satisfies an End User's (i.e., a payor's) obligation to make payment to **City**, regardless of whether VS actually settles the payment to **City**. If VS does not settle the payment to **City**, **City** will only have recourse against VS and not the End User, as payment is deemed made by an End User to **City** upon constructive or actual receipt of funds by VS. VS will process transactions in accordance with **City's** written instructions, the agreement(s) in place with VS or End Users, and applicable law, rules or regulations.

5. **DESIGNATED ACCOUNT.** City will be required to open and maintain a business bank account with a U.S.-chartered bank (City's "Designated Account," or, if City has more than one account, City's "Designated Accounts"). Each sub-merchant entity must have its own Designated Account and the name on the Designated Account must match the sub-merchant's legal entity name or registered doing-business-as name. All remits or other deposits to City as associated with Payment Services will be made into City's Designated Account(s).
6. **PROHIBITED ACTIVITIES.** In receiving Payment Services, City shall not, through City or a third party: (a) submit any transaction to VS that was previously charged back and subsequently returned to City, irrespective of cardholder approval; (b) knowingly submit any transaction that is illegal or that City should have known was illegal (you acknowledge that such transaction must be legal in both City's and the cardholder's jurisdiction); (c) submit a transaction that City knows, or should have known, is either fraudulent or not authorized by the cardholder; (d) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed, nor request a Card Verification Value 2 ("CVV2") for a card-present transaction, nor retain or store any portion of the magnetic-stripe data subsequent to the authorization of a sales transaction, nor any other data prohibited by the Card Brands operating regulations or this Sub-Merchant Agreement, including CVV2; (e) add a surcharge to transactions except as expressly permitted by, and in full compliance with, the Card Brands operating regulations; (f) charge a minimum or maximum amount for a transaction unless expressly authorized by, and in full compliance with, the Card Brands operating regulations; (g) disburse funds in the form of cash unless City is participating in full compliance with a program supported by a Card Brand for such cash disbursements and in full compliance with the Card Brand's operating regulations; (h) submit a transaction that does not result from an act between City and a cardholder; (i) accept a card issued by a U.S. issuer to collect or refinance an existing debt, unless expressly authorized by, and in full compliance with, Card Brand operating regulations; (j) request or use a card account number for any purpose other than as payment for your goods or services; (k) add any tax to transactions, unless applicable law expressly requires that you are permitted to impose a tax (in such event, any tax amount, if allowed, must be included in the transaction amount and not collected separately); (l) process transactions for, receive payments on behalf of, or redirect payments to a third party (unless required by law); (m) copy, modify, adapt, translate, reverse engineer, decompile, or disassemble, in any way, any portion of the Payment Services; (n) interfere with or violate any other of our services or End User's right to privacy or other rights, or harvest or collect personally identifiable information about End Users without their express consent, including using any robot, spider, site search or retrieval application, or other manual or automatic device or process to retrieve, index, or data-mine; (o) defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights of others; (p) transmit or otherwise make available in connection with the Payment Services any virus, worm, trojan horse, time bomb, web bug, spyware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component; (q) interfere with or disrupt the operation of the Payment Services, or the servers or networks that host the Payment Services or make them available, or violate any requirements, procedures, policies, or regulations of such servers or networks; (r) sell, license, or exploit for any commercial purposes any use of or access to the Payment Services other than as permitted by us; (s) forward any data generated from the Payment Services without our prior written consent; (t) sublicense any or all of the Payment Services to any third party; and/or (u) transfer or assign City's account password or credentials, even temporarily, to a third party. We reserve the right to monitor City and City's End User's use of the Payment Services to ensure compliance with the Agreement including, without limitation, this Sub-Merchant Agreement and applicable law. If we determine that City is not in compliance with the Sub-Merchant Agreement, VS reserves the right to take appropriate remedial action including, without limitation, suspending or terminating Payment Services, or suspending or terminating City's access to the system or platform. In receiving Payment Services, City further acknowledges, represents and warrants that City will not make Payment Services available to (i) any person who appears of the U.S. Department of Treasury Office of Foreign Assets Control Specially Designated Nationals list; (ii) any person who is less than 18 years of age; (iii) any person or entity who has been previously terminated for cause by us, or any of our affiliates; and (iv) who is not domiciled in the U.S.
7. **SUB-MERCHANT REPRESENTATIONS.** City represents and warrants that (a) City is at least 18 years of age; (b) if an individual account, you are a sole proprietorship validly existing in the United States, Canada, or its territories, and if an entity, that the entity was validly formed, registered and is in good standing in at least one of the fifty United States, Canada, or its territories; (c) City has never been placed on the MasterCard MATCH system or the Combined Terminated Merchant File, and if so, you have disclosed this to us; and (d) all transactions are bona fide and no transaction involves the use of a Card for any purpose other than the purchase of goods or services from City.
8. **END USERS.** VS is not a party to any contract or business relationship that City may have with End Users, and VS shall have no obligations or liability under any such agreement or business relationship. City is solely responsible for your own products and services, and for the content and legality of your own contracting documents with End Users ("End User Agreements"). Notwithstanding the foregoing, to the extent VS determines that the language in City's End User Agreement is inadequate to protect VS's interests or authorize Payment Services (and, specifically, the billing of End User accounts for your products and/or services), VS may require City to include a payment authorization provision acceptable to VS in your End User Agreement. If City fails to include such a provision in City's End User Agreements, VS may consider this a material breach of the Sub-Merchant Agreement and/or suspend Payment Services (permanently or temporarily) based on your non-compliance. VS makes no representations or guarantees with respect to End User fund availability, that a transaction is or will be authorized or processed, or that a transaction will not later result in a chargeback or reversal. If VS is providing City with "fully-managed" Payment Services, then, in addition to City's other authorizations, City expressly authorizes VS to contact City's End Users at the telephone number listed in their End User Agreement, or at the End User's contact information available in the

system or platform, about any matter pertaining to billing or payment on the End User's account including, without limitation, communications about past due balances that may be owed. It shall be City's sole responsibility to obtain End User consent for such communications in writing, making clear that these communications may take place by phone, email, text or voicemail message using pre-recorded voice messages or an automatic telephone dialing system. You agree hold us harmless for any liability related to or arising from our interactions with your End Users including, without limitation, our communications with your End Users about matters related to Payment Services.

9. **REGULATORY STATUS.** In providing Payment Services to City, VS is City's designated agent for certain payment facilitation services, as integrated with VS's proprietary technologies, but always acting at City's direction in accordance with the contracts that have been entered into including, without limitation, the Sub-Merchant Agreement. City is not a bank, money transmitter or other money services business. The Payment Services that VS offers and the payment transactions that VS helps to facilitate involve the use of VS's own proprietary technologies and the efforts of third parties such as banks, the Card Brands, and our Processor.
10. **TERM; TERMINATION OF PAYMENT SERVICES.** The term of this Sub-Merchant Agreement will run concurrently with the Term as described in City's Agreement. As applicable, if VS has entered into a Master Vendor Agreement with City's franchisor, then the term of this Sub-Merchant Agreement will run concurrently with the Term as described in the Master Vendor Agreement. Both Parties shall have the right to terminate this Sub-Merchant Agreement at any time for any reason, or for no reason, with a 90 day prior written notification, and shall have no liability to the other party for any such termination. Upon termination, City shall immediately cease using the Payment Services. VS shall have the right to delete City's Designated Account information upon termination of the Sub-Merchant Agreement, but VS shall also have the right, at our choosing, to retain copies of such information for up to five (5) years at our cost. This Sub-Merchant Agreement shall terminate immediately if a bank, the Card Brands or our Processor require VS to terminate the Sub-Merchant Agreement. Upon termination of Payment Services for any reason, City shall remain liable for any and all outstanding Fees owed.
11. **TAXES.** It is your sole responsibility to determine what, if any, taxes apply to the sale of City's products and services, or the payments City receives in connection with City's use of VS's Payment Services ("Taxes"). It is solely City's responsibility to assess, collect, report, or remit the correct tax to the proper taxing authority. VS is not obligated to, nor will VS determine whether Taxes apply, or calculate, collect, report, or remit any Taxes to any tax authority arising from any transaction. City acknowledges that VS will satisfy all IRS reporting requirements as required by law, including providing the IRS with an information return on your card transactions and third-party network transactions. VS will also comply with any lawful orders, garnishments or tax levies associated with your account. This provision shall be read in conjunction with, and not in conflict of, any tax-related provision in the Terms of Service.
12. **CARD BRAND RULES.** If City accepts cards issued by any of the major Card Brands, then in addition to these Payment Terms and Conditions, City will also be obligated to comply with Card Brand rules and regulations, the terms of which are incorporated by reference herein. The operating regulations for each of the major Card Brands can be accessed at the links below:
  - **VISA:** [usa.visa.com/merchants/operations/op\\_regulations.html](https://usa.visa.com/merchants/operations/op_regulations.html)
  - **Mastercard:** <https://www.mastercard.us/en-us/business/overview/support/rules.html>
  - **American Express:** [www.americanexpress.com/merchanttopguide](https://www.americanexpress.com/merchanttopguide)
  - **Discover:** <https://www.discovernetwork.com/en-us/faq>
  - For transactions involving ACH, a copy of the NACHA operating rules and guidelines are available at [www.achrulesonline.org](https://www.achrulesonline.org).

Nothing in this Sub-Merchant Agreement shall be read or construed to interfere with or lessen the right of the Processor, the bank(s), or the Card Brands to terminate this Sub-Merchant Agreement; and, if this occurs, such termination shall not be considered a material breach of the Agreement by VS. In the event of a conflict between this Sub-Merchant Agreement and the Card Brand's operating regulations, the Card Brand operating regulations will control. With respect to the Card Brand operating regulations, City acknowledges and agrees that: (a) City will be responsible for the actions of City's employees and agents; (b) City will comply with all applicable laws and regulations and all applicable parts of the operating regulations, including those parts regarding the ownership and use of Card Brand marks; (c) City will notify VS, as City's payment facilitator, of any third-party that will have access to Cardholder Data; (d) City will comply with, and will contractually require your suppliers and agents to comply with, the provisions of the Cardholder Information Security Program (CISP) and PCI DSS, or other security program as required by a Card Brand and demonstrate compliance with these security obligations; and (e) Card Brands may conduct, or direct another party to conduct, an audit of City at any time, and City must comply in all material respects with such audit until its completion.

13. **AMERICAN EXPRESS OPT-BLUE PROGRAM.** The following provision only applies if City is participating in the American

Express Opt-Blue Program, as controlled by the American Express OptBlue Program operating regulations. As a participant in the American Express Opt-Blue Program: (a) City must comply with, and accept American Express cards in accordance with the terms of this Sub-Merchant Agreement and the American Express Merchant Operating Guide, as such terms may be amended from time to time; (b) City acknowledges that the American Express Merchant Operating Guide is incorporated by reference into this Sub-Merchant Agreement and is available online [here](#); (c) City expressly authorizes VS to submit transactions to, and receive settlement from, American Express on City's behalf; (d) City expressly consents to VS's collection and disclosure of transaction data, Sub-Merchant Data, and other information about you to American Express, and to American Express using such information to perform its responsibilities in connection with the American Express Program, promote the American Express network, perform analytics and create reports, and for any other lawful business purposes, including commercial marketing communication purposes within the parameters of the program agreement, and important transactional or relationship communications from American Express.

In addition, City acknowledges and agrees that: (i) City may opt-out from receiving future commercial marketing communications from American Express; (ii) City may be converted from the American Express Program to a direct card acceptance relationship with American Express if and when you become a high CV merchant in accordance with Section 10.5, "High CV Merchant Conversions," and upon conversion, City will be bound by American Express' then-current Card Acceptance Agreement and American Express will set pricing and other fees payable by you for card acceptance; (iii) American Express may use information obtained in the SMAA at the time of setup to screen, communicate and/or monitor City in connection with card marketing and administrative purposes; (iv) City shall not assign to any third party any payments due to City under City's respective End User Agreement, and further agrees that all indebtedness arising from charges will be for bona fide sales of goods and services (or both) at City's establishments and free of liens, claims, and encumbrances other than ordinary sales taxes, provided, however, that City may sell and assign future transaction receivables to VS, VS affiliated entities and/or any other cash advance funding sources who partner with VS or VS'S affiliated entities without consent of American Express; (v) American Express is a third-party beneficiary to this Sub-Agreement and retains all rights, but not obligations, in the Sub-Merchant Agreement that will fully provide American Express with the ability to enforce the terms of the Payment Facilitator's Sub-Merchant Agreement against City; (vi) City may opt out of accepting cards at any time without directly or indirectly affecting City's rights to accept other payment products; (vii) VS may terminate City's right to accept cards if City breaches any of the provisions in this Section or the American Express Merchant Operating Guide; (viii) VS has the right to immediately terminate the Sub-Merchant Agreement for cause, for fraudulent or other activity, or upon American Express' request; (ix) City's refund policies for purchases on a card must be at least as favorable as City's refund policy for purchases on any other payment products, and City further agrees that the refund policy be disclosed to cardmembers at the time of purchase and in compliance with applicable law; (x) City is prohibited against billing or collecting from any cardmember for any purchase or payment on the card unless chargeback has been exercised, you have fully paid for such charge, and you otherwise have the right to do so; (xi) City must comply with applicable laws, rules and regulations relating to the conduct of City's business, including the DSR and PCI DSS, each as described in Chapter 15, "Data Security;" (xii) you will report all instances of a data Incident immediately to VS after discovery of the incident; (xiii) City will cease all use of, and remove American Express' licensed marks from City's website and wherever else they are displayed upon termination of this Sub-Merchant Agreement or City's participation in the Program; (xiv) City will ensure data quality and agree that transaction data and customer information will be processed promptly, accurately and completely, and will comply with the American Express technical specifications; and (xv) City is solely responsible for being aware of and adhering to privacy and data protection laws and will provide specific and adequate disclosures to cardmembers on the collection, use, and processing of personal data.

14. **PCI DSS.** VS has implemented certain technical and procedural safeguards to keep Cardholder Data safe and will continue to comply with Payment Card Industry Data Security Standards ("PCI DSS") as a Level 1 service provider to the extent we store, process or transmit Cardholder Data on your behalf. As a sub-merchant, City also has certain PCI DSS obligations to help keep Cardholder Data safe. Please visit this [link](#) to learn [more](#) about what City can and should do to protect payment transactions at City's place of business. VS reserves the right to suspend Payment Services for as long as VS deems reasonably necessary to investigate suspicious or unusual activity associated with City's account, and VS shall have no liability to City for any losses that may be attributable to the period of suspension. Similarly, if City knows or has reason to believe there has been a security intrusion that has or may result in unauthorized access to Cardholder Data, City must notify VS immediately.
15. **PROCESSING LIMITS.** VS reserves the right to assign a maximum dollar amount ("**Processing Limit**") per sales ticket and an aggregate maximum dollar amount of card and ACH transactions per calendar month to City's account. If VS assigns a Processing Limit, VS will communicate it to City in writing.
16. **MERCHANT SERVICES AGREEMENT WITH PROCESSOR.** In the event City processes more than \$1,000,000 in Visa transactions and/or \$1,000,000 in MasterCard transactions (or such other amount as provided by the Card Brand's operating regulations) in any twelve month period ("**Benchmark Amount**"), then in addition to this Sub-Merchant Agreement with VS, City may also be required to enter into a "Merchant Services Agreement for Sub-Merchants" with VS's Processor, the terms of which will be independently enforceable by VS's Processor.
17. **NEGATIVE ACCRUALS.** VS reserves the right to collect a "**Negative Accrual Fee**" if City's account goes negative during any given remit cycle. For clarity, VS will only assess the Negative Accrual Fee once during a remit cycle period regardless of the number of times your account actually goes negative during that period. A "**Negative Accrual**" occurs where the total liabilities

associated with City's account exceed the total available funds in the account during a given remit cycle.

18. **ADVANCES.** An advance is any disbursement of funds prior to the regularly scheduled remit date. Any requests for an advance will be considered on a case-by-case basis although, as a general policy, VS will not honor advance requests. Any advance request must be sent to VS in writing. If an advance is granted, City agrees to pay a "**Remit Advance Fee**" for each advance provided.
19. **RECONCILIATIONS; ERROR REPORTING.** City is responsible for reconciling City's transaction history or remit reports with City's actual transactions and City agrees to notify VS of any errors or discrepancies (each an "**Error**"). VS will investigate reported Errors and attempt to promptly rectify them. In the event City is owed money as a result of an Error, VS will transfer funds to City's Designated Account at the next scheduled remit or pay-out cycle. Errors not reported to VS within 60 days from when they first appear on City's transaction history or remit report will be deemed waived.
20. **SALES TRANSMITTALS.** City will retain a copy of the sales transmittal for the completed transaction for 25 months or such longer period as the Card Brand operation regulations may require. Within three business days of our request, you will produce copies of sales transmittals and other transaction evidence.
21. **RECURRING TRANSACTIONS.** City will be required to obtain an End User's prior written consent for recurring transactions. In obtaining such consent, End Users should be made aware of the product or service they are purchasing, the frequency of charges, the length of the contract's term, and clear notice about how to properly cancel the recurring charges.
22. **ACH PROCESSING.** To enable City to make and accept ACH payments, City authorizes VS to originate credit or debit records for the purpose of a funds transfer into the ACH network ("**Entries**"). VS will use reasonable efforts to originate Entries on City's behalf in accordance with the Sub-Merchant Agreement. City must only submit Entries for bona fide transactions with your End Users made in the ordinary course of business. All disputes between City and any of City's End Users relating to any ACH transaction must be resolved between you and them. If VS receives any notice of an ACH dispute or NACHA inquiry, VS will forward such notice directly to City. VS bears no financial responsibility for any disputed transaction. If VS responds to a dispute or transaction inquiry on City's behalf, City consents to pay VS's additional fees associated with these services.
23. **REFUNDS; RETURNS.** City agrees to process returns of and provide refunds and adjustments for products and/or services in accordance with your End User Agreements. In managing refunds and returns, City agrees to: (a) maintain a fair return, cancellation or adjustment policy; (b) disclose City's return or cancellation policy to End Users at the time of purchase; (c) not give cash refunds to an End User in connection with a card sale unless required by law; and (d) not accept cash or any other item of value for preparing a card sale refund. City's refund policies should be the same for all payment methods and should specifically include a requirement for prompt payment of refunds in order to mitigate chargeback risk.
24. **CHARGEBACK LIABILITY.** For any transaction that results in a chargeback, VS may withhold the chargeback amount in a reserve account. City grants VS authorization to recover the amount of any chargeback and any associated fees, fines, or penalties listed in the Agreement, City's End User Agreements, or assessed by a Card Brand or Processor. If you have pending chargebacks, we may delay payouts as necessary. Further, if VS reasonably believes that a chargeback is likely with respect to any transaction, VS may withhold the amount of the potential chargeback from remits otherwise due to City until such time that (a) the chargeback is assessed due to an End User (cardholder) complaint, in which case we will retain the funds; (b) the period of time under applicable law or regulation by which the End User (cardholder) may dispute that the transaction has expired; or (c) VS determines that a chargeback on the transaction will not occur. If VS is unable to recover funds related to a chargeback for which City is liable, City agrees to pay VS the full amount of the chargeback immediately upon demand. To the extent permitted by law and subject to the constraints of Fla. Stat. 768.28, City agrees to pay all costs and expenses, including attorneys' fees and other legal expenses, incurred by us for the collection of all amounts unpaid by City.
25. **RESERVE; SECURITY INTEREST.** Where deemed necessary or appropriate by VS or VS's sponsor bank, VS (or VS's sponsor bank) shall create a reserve account ("**Reserve**") in order to protect VS or the sponsor bank from actual or potential liabilities under this Sub-Merchant Agreement. The Reserve will be in an amount determined by VS in VS's sole and absolute discretion to cover anticipated chargebacks, returns, unshipped product and/or unfulfilled services or credit risk based on your processing history. The Reserve may be raised, reduced or removed at any time by us (or at the direction of our sponsor bank). Where the Reserve is not adequately funded, City shall pay all amounts requested by VS for the Reserve within one business day of a request for such amounts and VS may build the Reserve by offsets from Remits, transaction settlements or by debiting by ACH any of your Designated Accounts with available funds. City hereby grants VS a security interest in and lien on any and all funds held in any Reserve, and also authorizes us to make any withdrawals or debits from the Reserve, without prior notice to City, to collect amounts that City owes VS under this Sub-Merchant Agreement, including without limitation, for any reversals of deposits or transfers. City will execute any additional documentation required for VS to perfect our security interest in any funds in the Reserve. This security interest survives for as long as we hold funds in Reserve; however, it does not apply to any funds for which the grant of a security interest would be prohibited by law. City irrevocably assigns to us all rights and legal interests to any interest or other earnings that accrue or are attributable to the Reserve.
26. **RECOUPMENT OF FEES.** Where Fees are owing by City to VS under the Agreement, VS shall have the right to immediately, without prior consent or notice, offset or debit such amounts from funds: (a) deposited by City into City's Designated Account(s);



(b) due to City as remits; (c) held in the Reserve; or (d) available in City's other payment instrument registered with VS's sponsor bank (if any). City's failure to pay all Fees owed to VS on demand will be a breach of this Sub-Merchant Agreement. City will be liable for our costs associated with collection in addition to the amount owed, including without limitation attorneys' fees and expenses, collection agency fees, and interest at the lesser of one-and-one-half percent (1.5%) per month or the highest rate permitted by applicable law. In our discretion, we may make appropriate reports to credit reporting agencies and law enforcement authorities and cooperate with them in any resulting investigation or prosecution. City hereby expressly agrees that all communication in relation to delinquent sub-merchant accounts may be made by VS or by a third party acting on VS's behalf, including but not limited to a collections company.

- 27. INTELLECTUAL PROPERTY.** VS reserves all rights not expressly granted to City in the Agreement, including without limitation, this Sub-Merchant Agreement. VS owns the title, copyright and other worldwide intellectual property rights in the Payment Services and all technology, components, systems, and hardware associated therewith. This Sub-Merchant Agreement does not grant City any rights to our trademarks or service marks, nor may City remove, obscure, or alter any of our trademarks or service marks included in the Payment Services. All comments and suggestions of or concerning the Payment Services provided to you shall be our property and you shall not have any rights therein.
- 28. HOLD HARMLESS SPECIFIC TO PAYMENT SERVICES.** To the extent permitted by law, the City shall indemnify, defend and hold VS and all third parties that assist in providing the Payment Services (including the bank(s), the Card Brands and our Processor), as well as our/their employees, directors, and agents harmless from and against any and all claims, costs, losses, damages, judgments, tax assessments, penalties, interest, and expenses arising out of any claim, action, audit, investigation, inquiry, or other proceeding instituted by a third party person or entity that arises out of or relates to: (a) any actual or alleged breach of City's representations, warranties, or obligations set forth in the Sub-Merchant Agreement; (b) City's wrongful or improper use of the Payment Services; (c) any transaction submitted by City through the Payment Services (including without limitation the accuracy of any product information or service that City provides or any claim or dispute arising out of products or services offered or sold by City); (d) City's violation of any third-party right, including without limitation any right of privacy, publicity rights or intellectual property rights; (e) City's violation of any applicable law; or (f) any other party's access and/or use of the Payment Services with City's access credentials.
- 29. NO WARRANTIES.** THE PAYMENT SERVICES ARE PROVIDED ON AN AS IS AND AS AVAILABLE BASIS. USE OF THE PAYMENT SERVICES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PAYMENT SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.
- 30. LIMITATION ON LIABILITY.** VS SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF SALES, GOODWILL, PROFITS OR REVENUES. VS's LIABILITY UNDER THIS SUB-MERCHANT AGREEMENT FOR ANY CLAIM SHALL NOT EXCEED total annual cost of the services provided. VS SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED DIRECTLY OR INDIRECTLY BY: (A) City's ACT OR OMISSION, OR THE ACT OR OMISSION OF ONE OF City's AFFILIATES OR END USERS; (B) City's USE OF OR INABILITY TO USE THE PAYMENT SERVICES; (C) DELAYS OR DISRUPTIONS IN THE PAYMENT SERVICES; (D) VIRUSES OR OTHER MALICIOUS SOFTWARE OBTAINED BY ACCESSING THE PAYMENT SERVICES; (E) BUGS, ERRORS, OR INACCURACIES OF ANY KIND IN THE PAYMENT SERVICES; (F) ACT OR OMISSIONS OF THIRD PARTIES; (G) A SUSPENSION OR OTHER ACTION TAKEN IN ACCORDANCE WITH THE TERMS OF THIS SUB-MERCHANT AGREEMENT; (H) VS's NEED TO MODIFY PRACTICES, CONTENT, OR BEHAVIOR, OR City's DIMINISHED ABILITY TO DO BUSINESS AS A RESULT OF CHANGES TO THIS SUB-MERCHANT AGREEMENT OR OUR POLICIES OR PAYMENT SERVICES MADE IN ACCORDANCE WITH THIS SUB-MERCHANT AGREEMENT OR APPLICABLE LAW; (I) ANY BREACH BY City OF THIS SUB-MERCHANT AGREEMENT; (J) INCORRECT OR INCOMPLETE TRANSACTION INFORMATION; OR (K) VS's ELECTION TO SUSPEND PROVIDING PAYMENT SERVICES ON THE BASIS OF VS's LEGAL, COMPLIANCE, OR RISK POLICIES.
- 31. TIME LIMIT TO INITIATE A DISPUTE.** Unless otherwise required by law, an action or proceeding by CITY relating to any dispute or claim by City under this Sub-Merchant Agreement must commence within five (5) years per Florida State statutes after the cause of action accrues, failing which City foregoes any rights in respect thereof.
- 32. CONFIDENTIALITY.** Unless otherwise required by law, City shall, and shall cause your affiliates to, hold in strict confidence at all times following the date hereof all of our, our bank's or our Processor's Confidential Information, and neither City nor any of City's affiliates shall use such Confidential Information for any purpose other than for the performance of City's duties and obligations hereunder. If City breaches, or threaten to breach, any of the provisions of this section, in addition to any other rights we may have, including a claim for damages, VS shall have the right to have the provisions of this section specifically enforced, and your breach or threatened breach enjoined, by any court of competent jurisdiction, without presentment of a bond (such requirement being expressly waived by you), it being agreed that any breach or threatened breach of this section would cause

irreparable harm to us in that money damages would not provide an adequate remedy.

33. **PERSONAL GUARANTY.** If an individual executes this Sub-Merchant Agreement on City's behalf as a guarantor, then such individual personally guarantees performance by City hereunder, shall be deemed to be a guarantor for all purposes, and shall be joint and severally liable with City for all of City's liabilities under the Sub-Merchant Agreement.
34. **INDEPENDENT CONTRACTOR.** The relationships of the parties to this Sub-Merchant Agreement shall be solely that of independent contractors, and nothing contained herein shall be construed otherwise. Nothing in this Sub-Merchant Agreement or in the business or dealings between the parties shall be construed to make them joint ventures or partners with each other. Neither party shall do anything to suggest to third parties that the relationship between the parties is anything other than that of independent contractors.
35. **ASSIGNMENT.** Neither Party may assign or otherwise transfer any or all of your rights or obligations under the Sub-Merchant Agreement without the other party's prior written notification.
36. **OTHER AGREEMENT TERMS; CONFLICT.** Upon SMAA acceptance, this Sub-Merchant Agreement shall be considered incorporated by reference into your overall Agreement with us. To the extent any provision of this Sub-Merchant Agreement directly conflicts with any other provision of the Agreement, then the Sub-Merchant Agreement's terms shall be deemed to control.
37. **COST REVIEW & POTENTIAL ADJUSTMENT.** VS will conduct a quarterly review of the overall card processing costs. The first review will begin six (6) months after the initial implementation. If there is a material increase in card processing costs, VS reserve the right to increase fees associated with Payment Services.

## SCHEDULE A: PAYTRAC PAYMENT SERVICE RATES & FEES\*

| TRANSACTION PARTIES   |                                    | FUNDING**   |
|---|------------------------------------|---|
| Customer / Sub-Merchant:  | City of Delray Beach (FL)          | Funds received by 11:59 pm ET will be deposited in Customer's designated account within three (3) business days |
| Payment Facilitator:  | RecTrac, LLC d/b/a Vermont Systems |   |
| Payment Processor:  | WorldPay, LLC                      |   |
| Sponsor Bank:   | Fifth Third Bank                   |   |
| <p>* Customer acknowledges and accepts that VS will collect its fees and charges for Payment Service directly from the EFT/ACH draft associated with the business location.</p> <p>** VS is not responsible for funding delays due to weekends, federal holidays or Force Majeure events or incidents.</p> <p>*** Daily settlement cut-off times are Midnight local time.</p> |                                    |   |

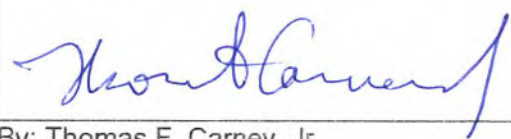

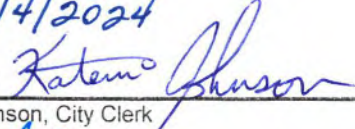
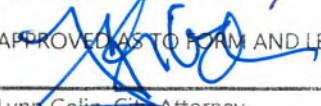
### FLAT RATE MODEL

| CREDIT CARD PROCESSING FEES            |  |    |       |
|--|--|----|-------|
| Mastercard<br>Visa<br>Discover<br>AMEX | Per electronic authorization   | \$ | 0.15  |
|  | Per sale transaction   | \$ | 0.15  |
|  | Credit card account updater fee<br>If & when available and option selected/elected | \$ | 1.00  |
|  | Per chargeback request or return processed   | \$ | 25.00 |
|  | Mastercard-Visa-Discover-AMEX acquired gross purchase sale %                       |    | 2.15  |

| ACH PROCESSING FEES (if option selected/elected) |  |    |        |
|--|--|----|--------|
| ACH / e-Check Processing                         | ACH fee per sale transaction   | \$ | 1.00   |
|  | ACH account updater fee  | \$ | 0.50   |
| INSTANCE-BASED FEES                              |  |    |        |
| Funding Fees                                     | Per fiscal day overdraft fee   | \$ | 110.00 |
|  | Per wired funds transfer   | \$ | 15.00  |
|  | Per ACH credit / debit per funds transfer  | \$ | 0.10   |
| OTHER FEES                                       |  |    |        |
|  | PCI Non-compliance Fee (Monthly rate) per MID, to be assessed if the Customer is found to be PCI non-compliant, not to exceed \$75.00 total. | \$ | 25.00  |
| NOTES  |  |    |        |
|  |  |    |        |

**SERVICE FEE MODEL**

| CREDIT CARD PROCESSING FEES |  |    |        |
|-----------------------------|--|----|--------|
| Mastercard                  | Credit card account updater fee                              | \$ | 1.00   |
|                             | If & when available and option selected/elected              |    |        |
| Visa                        | Per chargeback request or return processed                   | \$ | 25.00  |
| Discover                    |  |    |        |
| AMEX                        | Mastercard-Visa-Discover-AMEX acquired gross purchase sale % |    | 3.00 % |

|  |  |
|--|--|
| <b>Customer:</b>   | <b>Vermont Systems:</b>  |
| City of Delray Beach (FL)  | RecTrac, LLC d/b/a Vermont Systems   |
|   |  |
| By: Thomas F. Carney, Jr.<br>Its: Mayor  | By: Patrick Hayden<br>Its: President   |
| Date: 6/4/2024   | Date: 5/7/2024   |
| ATTEST: <br>Katerri Johnson, City Clerk |  |
| <br>Lynn Gelin, City Attorney           |  |



# SUB-MERCHANT APPLICATION AND AGREEMENT (SMAA)

| SELECTION 1: SUB-MERCHANT INFORMATION   |  |                              |   |   |   |  |
|---|--|------------------------------|---|---|---|--|
| Business/ Sub-Merchant (provide legal entity name)  |  |                              | Doing Business As (If applicable):  |   |   |  |
| City Delray Beach   |  |                              |   |   |   |  |
| Date of Formation   |  | Approx. Years in Business    |   | Business Address                          |   |  |
| 1927  |  | 97                           |   | 100 NW 1st Avenue, Delray Beach, FL 33444 |   |  |
| Tax ID (FEIN)   |  | Website (URL)                |   | Business Phone                            |   |  |
| 59-6000308  |  | delraybeachfl.gov/government |   | (561) 243-7250                            |   |  |
| Primary Contact Name (For General Communications)   |  |                              | Primary Contacts Phone  |   | Primary Contact Email   |  |
| Amy Hanson  |  |                              | (561) 243-7136  |   | hansonam@mydelraybeach.com  |  |
| Business Type<br>(Select one)   | Public<br><input checked="" type="checkbox"/>  |                              | Individual<br><input type="checkbox"/> Sole<br><input type="checkbox"/> Proprietorship<br><input type="checkbox"/> Individual   |   | Corporation<br><input type="checkbox"/> S-Corp<br><input type="checkbox"/> C-Corp<br><input type="checkbox"/> LLC |  |
|   | Private<br><input type="checkbox"/>  |                              |   |   |   |  |
| Has this business processed credit cards before?  | Has this business ever been terminated from accepting credit cards from any network? |                              | Will this business be running a presale prior to opening?   |   | What payment methods will the business accept?  |  |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  |                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA   |   | <input checked="" type="checkbox"/> Debit <input checked="" type="checkbox"/> Credit <input type="checkbox"/> ACH |  |
| Briefly describe the nature of the services provided by this business.  |  |                              | What types of payment would this business like to accept?   |   |   |  |
| Municipality that serves residents and non-residents needs for open space, leisure and recreation activities.               |  |                              | <input checked="" type="checkbox"/> In Person <input checked="" type="checkbox"/> Online <input type="checkbox"/> Telephone <input type="checkbox"/> Mail-in <input type="checkbox"/> Recurring Billing |   |   |  |
| SECTION 2: TRANSACTION INFORMATION (all financial assumptions approximated in USD)  |  |                              |   |   |   |  |
| Annual Card Volume (\$)   | Avg Ticket (Card) (\$)   | Annual ACH Volume (\$)       | Avg Ticket (ACH) (\$)   | Max. Ticket (ACH) (\$)                    | Max. Ticket Credit Card (\$)  |  |
| 561,000   | 81   |                              |   |   | 5,000   |  |
| Total Annual Sales – All Transactions (\$)  |  |                              |   |   |   |  |
|   |  |                              |   |   |   |  |
| SECTION 3: LOCATION INFORMATION (use additional pages if necessary)   |  |                              |   |   |   |  |
| Location/Business Name  |  | Business Address             |   | Same as Sec. 1 address                    | Business Phone  |  |
| 1   | see attached list  |                              |   | <input type="checkbox"/>                  |   |  |
| 2   |  |                              |   | <input type="checkbox"/>                  |   |  |
| 3   |  |                              |   | <input type="checkbox"/>                  |   |  |
| 4   |  |                              |   | <input type="checkbox"/>                  |   |  |
| SECTION 4: MERCHANT ID INFORMATION (List one MID per row from the following options: Card Present, Web, Billing, or eCheck) |  |                              |   |   |   |  |
| Merchant ID Account Name (will appear on statement)   | Associated Section 3 Location or Address   |                              | Type of MID   | Annual Card Revenue                       | Service Fee   |  |
| 1 Delray Beach Rec  | Location#:   |                              | Card Present  |   | <input type="checkbox"/>  |  |
| 2 Delray Beach Rec Web  | Location#:   |                              | Web   |   | <input type="checkbox"/>  |  |
| 3   | Location#:   |                              |   |   | <input type="checkbox"/>  |  |
| 4   | Location#:   |                              |   |   | <input type="checkbox"/>  |  |

## SECTION 5: CONTROL OWNER INFORMATION

Why Do We Need This Information? We require certain information about your ownership for compliance with federal Know-Your-Customer (or "KYC") regulations promulgated by the Financial Crimes Enforcement Network Bureau of the U.S. Department of Treasury. KYC regulations seek to prevent financial crimes and the funding of terrorism, among other things. The information sought below is required by KYC regulations. (1) "Control Owner" must be provided. A Control Owner is not required to have an ownership interest in the Sub-Merchant and the Control Owner must be a natural person with significant responsibility to control, manage or direct the activities of the Sub-Merchant's business. Control Owners often have the title of CEO, CFO, COO, Managing Member, General Partner, President, or Treasurer.

CONTROL OWNER/AUTHORIZED CONTACT ( MUST BE A NATURAL PERSON) \* Denotes required fields for all applicants

|   |                       |
|---|-----------------------|
| Full Legal Name *                         | Date of Birth *       |
| Hugh Dunkley                              |                       |
| Address (Home or Business) *              | Title                 |
| 100 NW 1st Avenue, Delray Beach, FL 33444 | CFO                   |
| Phone (Home or Business) *                | Email *               |
| (561) 243-6204                            | DunkleyH@mydelraybeac |

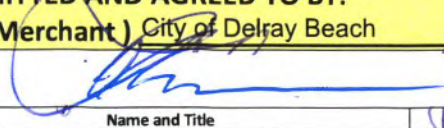
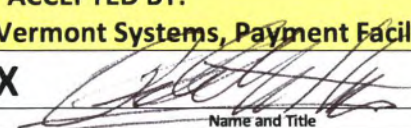
## SECTION 6: BANKING INFORMATION (A copy of a voided check or a bank letter with full account details listed will be required).

For multiple bank accounts only: Include the associated MID number from Section 4!

| Bank Name | Account Name | Routing Number | MID # | Account Number |
|-----------|--------------|----------------|-------|----------------|
|           |              |                |       |                |
|           |              |                |       |                |
|           |              |                |       |                |
|           |              |                |       |                |

**ACKNOWLEDGEMENT:** By signing below, Sub-Merchant expressly acknowledges that: (1) the individual signing this Sub-Merchant Agreement has the proper legal authority to bind the Sub-Merchant;(2) the Sub-Merchant's Application for payment services may be rejected in underwriting but, once accepted, will constitute a legally binding Sub-Merchant Agreement with the Payment Facilitator identified below; (3) all information provided herein is true and accurate to the best of Sub-Merchant's knowledge; (4) the Payment Service Terms and Conditions, and any other documents referenced as being part of the agreement, shall become part of this Sub-Merchant Agreement; (5) the Payment Facilitator's provision of payment services under the Sub-Merchant Agreement shall be expressly conditioned on Sub-Merchant's payment of all fees and other charges, and its compliance with VS's Terms of Service and Privacy Policy, as may be revised from time to time.

**AUTHORIZATION:** Sub-Merchant expressly authorizes the Payment Facilitator identified below to take the following actions: (1) to establish a primary merchant account with a payment processor of the Payment Facilitator's choosing; (2) to access Customer Data, including but not limited to Cardholder Data, for the purposes of providing the payment services contemplated by the Agreement; (3) to execute documents on Sub-Merchant's behalf, or to take any other action which the Payment Facilitator deems reasonably necessary to provide its payment services to Sub-Merchant as described herein; (4) to access Sub-Merchant's designated account(s) for purposes of received and accepting payments on settled transactions, together with any adjustments made on Sub-Merchant's behalf; (5) to collect any Fees or other charges owed to Payment Facilitator, or any of Payment Facilitator's affiliates or subsidiaries, directly from the Sub-Merchant's EFT/ACH draft; (6) to set up a reserve account where Payment Facilitator considers it reasonably necessary to protect its legitimate business interests; (7) to withhold the remittance of any funds in accordance with lawful orders, garnishments and/or tax levies; (8) to recoup, retrieve or collect from any source of available funds, including but not limited to the Sub-Merchant's EFT/ACH draft, any Payment Facilitator expenditures related to Sub-Merchant's eCheck returns, chargebacks, negative accruals or overdrawn accounts; and (9) to transfer billed amounts to an account held by Payment Facilitator to facilitate the settling of transactions run at the Sub-Merchant's place or places of business.

|  |      |   |          |
|--|------|---|----------|
| <b>SUBMITTED AND AGREED TO BY:</b><br>(Sub-Merchant ) City of Delray Beach                   |      | <b>ACCEPTED BY:</b><br>Vermont Systems, Payment Facilitator                                   |          |
| <b>X</b>  |      | <b>X</b>  |          |
| Name and Title   | Date | Name and Title  | Date     |
| Terrence R. Moore, City Manager  |      | Patrick Hayden, President   | 5/7/2024 |

## CITY ATTORNEY OFFICE - LEGAL REVIEW CHECKLIST

Name of Agreement: Agreement and Addendum with RecTrac, LLC

Department: Parks and Recreation

Contact person: Joel Burzynski

City Manager approval

City Commission approval

Reviewed by Purchasing

Agenda item #:

Agenda meeting date:

Resolution #: 106-24

Agreement Action:

|                                      |                                |                                  |   |
|--------------------------------------|--------------------------------|----------------------------------|---|
| New <input checked="" type="radio"/> | Renewal* <input type="radio"/> | Amendment* <input type="radio"/> | *Renewal: Only change is the agreement term<br>*Amendment: For changes other than/in addition to term |
|--------------------------------------|--------------------------------|----------------------------------|---|

Does the Contractor require the City to sign first?: No

For City Attorney Use only:

| Agreement Terms:                    | Comments/Specific Provision in Agreement                   |
|-------------------------------------|--|
| Term (Duration of Agreement)        | Amendment 1: three years with two one-year renewal options |
| Termination Clause                  | Amendment 12- For convenience with 90 days notice          |
| Renewal Clause                      | Amendment 1: two one-year renewal options                  |
| Insurance                           | City standard  |
| Indemnification                     | City standard  |
| Assignment                          | Amendment 6- not without written consent                   |
| Fiscal Funding Requirement          | amendment 11   |
| FL. Public Records Provision (2016) | amendment 7  |
| Inspector General Provision         | amendment 8  |
| Governing Law                       | Florida  |
| Venue                               | Palm Beach County  |
| Attorney's fees                     | amendment 10- each party to pay their own fees             |
| E-verify                            | amendment 9  |

| Business Principles:  | Comments     |
|-----------------------|--------------|
| Fees: Total Value     | \$217,257.50 |
| Fees: Per Fiscal Year |              |

| Other Issues:   | Comments |
|---|----------|
| Non-Negotiable Issues/<br>Miscellaneous Issues/<br>Special Considerations |          |

Consistent with applicable policies including, but not limited to, Procurement policies. Yes

Attorney: Kelly Brandon, Esq.

Reviewed and approved as to form and legal sufficiency only

RESOLUTION NO. 106-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH RECTRAC, LLC DBA VERMONT SYSTEMS, INC, TO PURCHASE PARKS AND RECREATION MANAGEMENT SOFTWARE UTILIZING AN APPROVED CITY STANDARD; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AMENDMENTS AND/OR RENEWALS THERETO AND TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach (the "City") is authorized to enter into agreements to provide services, programming, and products in accordance with its Charter; and

WHEREAS, the City requires parks and recreation management software to facilitate daily operations within the City; and

WHEREAS, RecTrac, LLC dba Vermont Systems, Inc., (the "Contractor"), offers software that manages parks and recreation programs; and

WHEREAS, since 2018, the Contractor has provided park and recreation management software to the City; and

WHEREAS, on October 26, 2023, in accordance with Section 38 of the City's Purchasing Policies and Procedures Manual, the Contractor was approved as a City Standard for a period of five years pursuant to the Memorandum attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the City desires to enter into an agreement with Contractor to obtain parks and recreation management software (the "Agreement"); and

WHEREAS, the City Commission deems approval of this Resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

Section 2. The City Commission of the City of Delray Beach has reviewed and hereby approves the Agreement between the City and the Contractor, attached hereto and incorporated herein as Exhibit "B".



Section 3. The City Commission authorizes the City Manager to execute any amendments and/or renewals thereto and take any and all actions necessary to effectuate the intent of this Resolution.

Section 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the 4<sup>th</sup> day of June, 2024.

ATTEST:

Katerri Johnson  
Katerri Johnson, City Clerk

Thomas F. Carney, Jr.  
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin  
Lynn Gelin, City Attorney

