

RESOLUTION NO. 2020- 2745

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE FIRST AMENDMENT TO AGREEMENT WITH PAYBYPHONE TECHNOLOGIES, INC. FOR MOBILE PAYMENT SERVICES AT THE TOWN'S PARKING FACILITIES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(7)(j) OF THE TOWN CODE; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 9, 2015, the Town of Surfside ("Town") entered into a Cooperative Contract with PayByPhone Technologies, Inc. ("PayByPhone") for the provision of mobile payment services for the Town's parking facilities ("Agreement") based on the contract procured by the City of Miami and entered into with PayByPhone ("Master Agreement"); and

WHEREAS, on December 17, 2020, the City of Miami approved an amendment to the Master Agreement with PayByPhone, extending the term for five (5) years beginning December 1, 2020 and establishing rates on Appendix A thereto; and

WHEREAS, the Town desires to amend the Agreement to extend the term for an additional five (5) years on the same terms of the amended Master Agreement, as amended, as set forth in the First Amendment to the Agreement attached hereto as Exhibit "A" ("First Amendment"); and

WHEREAS, Section 3-13(7)(j) of the Town Code of Ordinances ("Code") provides that contracts for renewal of software and hardware licenses and maintenance agreements are exempt from the competitive bidding procedures of the Town Code; and

WHEREAS, the Town Commission finds that the First Amendment to the Agreement is exempt from competitive bidding pursuant to Section 3-13(7)(j) of the Town Code, and further

finds that the Agreement was originally procured as a “piggyback” on the City of Miami Master Agreement; and

WHEREAS, the Town Commission finds that the First Amendment is in the best interest and welfare of the Town and wishes to approve the First Amendment in substantially the form attached hereto as Exhibit “A.”

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. Each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval of First Amendment. The Town Commission hereby approves the First Amendment between the Town and PayByPhone, in substantially the form attached hereto as Exhibits “A.”

Section 3. Authorization. The Town Manager is hereby authorized to execute the First Amendment attached hereto as Exhibit “A” with PayByPhone, subject to final approval by the Town Manager and Town Attorney as to form, content, and legal sufficiency.

Section 4. Implementation. The Town Commission hereby authorizes the Town Manager and/or his designee to take any action which is reasonably necessary to implement the purposes of this Resolution.


Section 5. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 8th day of December, 2020.

Motion By: Commissioner Kasl
Second By: Commissioner Velasquez

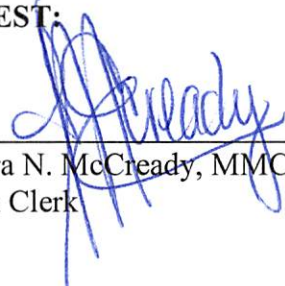
FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl yes
Commissioner Eliana R. Salzhauer yes
Commissioner Nelly Velasquez yes
Vice Mayor Tina Paul yes
Mayor Charles W. Burkett yes



Charles W. Burkett, Mayor

ATTEST:



Sandra N. McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

FIRST AMENDMENT TO THE AGREEMENT BETWEEN

THE TOWN OF SURFSIDE

AND

PAYBYPHONE TECHNOLOGIES, INC.

THIS FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE TOWN OF SURFSIDE, FLORIDA, a Florida municipal corporation (hereinafter the "Town"), and **PAYBYPHONE TECHNOLOGIES INC.**, a Canadian corporation (hereinafter the "Consultant"), is entered into this ___ day of _____, 2020.

WHEREAS, in accordance with Section 3-13 (3) of the Town Code of Ordinances, on November 9, 2015, the Town entered into a cooperative contract with the Consultant ("Agreement") for the provision of mobile payment services for the Town's parking facilities ("Services") incorporating the terms and conditions of the contract procured by the City of Miami and entered into with the Consultant (the "Master Agreement") that was set to expire December 1, 2020; and

WHEREAS, the City of Miami and the Consultant executed an amendment to the Master Agreement extending the term of the agreement by five (5) years and setting forth updated rates in Appendix "A" attached thereto; and

WHEREAS, the Town and the Consultant desire to extend the Term of the Agreement for an additional five (5) year period and modify the rates and pricing schedule of the Agreement on the same terms and conditions of the amended Master Agreement; and

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, the parties do hereby agree as follows:

1. **Recitals Adopted.** The above recitals are true and correct and are incorporated herein by this reference. All initially capitalized terms used but not otherwise defined herein shall have the meaning ascribed thereto in the Agreement.

2. **Extension/Renewal of Term.** The Term of the Agreement is hereby extended for an additional five (5) year term, which shall commence on December __, 2020 and terminate on December __, 2025.

3. **Fees and Payments.** Appendix A of Exhibit "A" of the Agreement is deleted in its entirety and replaced with Appendix "A" attached hereto, which is hereby adopted as the current rates and pricing schedule for the Services.

4. **Conflict; Amendment Prevails.** In the event of any conflict or ambiguity between the terms and provisions of this First Amendment and the terms and provisions of the Agreement or Master Agreement, the terms and provisions of this First Amendment shall control.

5. **Agreement Ratified.** Except as otherwise specifically set forth or modified herein, all terms and pricing in the Agreement are hereby ratified and affirmed and shall remain unmodified and in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first set forth above.

TOWN:

TOWN OF SURFSIDE, a Florida municipal corporation

By: _____
Andrew Hyatt, Town Manager

Date Executed: _____

Attest:

Town Clerk

Approved as to Legal Form and
Legal Sufficiency:

Town Attorney

Witnesses:

Print Name: _____

Print Name: _____

CONSULTANT:

PayByPhone Technologies Inc., a Canadian corporation

By: _____
Name: Jules Marshall
Title: VP, Finance

DocuSigned by:
Jules Marshall
AC54C4C1984C4AE...

Date Executed: December 7, 2020

APPENDIX A

SERVICES TO BE PROVIDED:

PayByPhone Mobile Payment Service

SYSTEM WILL:

1. Register consumers by phone or online who wish to pay for parking by mobile phone or web-enabled device.
2. Activate and collect payment via credit or debit card for parking using PayByPhone in accordance with parking rates specified by the Client and the PayByPhone Terms and Conditions.
3. Display payment status of license plate, space or meter number on internet-capable handheld device such as mobile phone, handheld computer or other wireless device for enforcement.
4. Provide a secure web-based administration interface for rates control, management and accounting reports.

PRICING:

<i>One Time Setup Fees:</i>		
Mobile payment services setup		\$1500 waived
Each locations setup after initial deployment phase		\$250 waived
Integration with third party		none
<i>Monthly Fees:</i>		
Monthly minimum		\$250 waived
<i>Per Transaction Charges:</i>		
Option 1:		
Consumer pays (convenience fee added to price of parking)		\$0.27 ⁽²⁾
Option2:		
Parking operator pays (no additional fee added to price of parking – significantly higher uptake)		\$0.19 ⁽²⁾
<i>Merchant account fees:</i>		
Credit Card Authorization charge		N/A ⁽¹⁾

NOTES:

1. Client's own credit card processing and merchant banking fees will apply.
2. For pricing option where the consumer does not pay any additional fee on top of the price of parking, uptake / usage of the PayByPhone service is significantly higher. The PayByPhone fees are more than off-set by increased volume, repeat usage by consumers who prefer this payment option, extensions to parking sessions paid remotely via PayByPhone and a reduction in cash handling and processing
3. In the event that PayByPhone is the only form of payment, the client will be responsible for 100% of the call centre cost as a pass through.
4. All fees and charges are payable within 30 days of invoicing.

Appendix B

PayByPhone Professional Services Sample Rates Table & Definitions

Resource	Office Hours Rate per hour	After Hours Rate per hour
Senior Architect	\$250	\$315
Senior Product Manager	\$250	\$315
Creative Services	\$200	\$250
Project Manager	\$200	\$250
Programmer / Developer	\$200	\$250
Implementation Manager	\$175	\$225
Consumer Adoption Strategist	\$150	\$200
Application Trainer	\$125	\$150
Support Agent	\$125	\$150
Tester	\$125	\$150

Resource	Descriptions
Senior Architect	A PayByPhone Architect will lead the definition and implementation of the product software architectures. They will transform the requirements created by the Product Manager into a set of architecture and design documents that can be used by the rest of the team to create the solution. The PayByPhone Architect is responsible for matching technologies to the proposed requirements.
Senior Product Manger	A PayByPhone Product Manager specifies market requirements for current and future products. Working with the Project Manager, software development team, client and client management team, the Product Manager is responsible for driving a solution across development teams through market requirements, product contracts and positioning.
Creative Services	The PayByPhone Creative Team will execute highly effective and proven design concepts, layouts, graphic elements and systems. Our Creative Manager will plan and arrange signage, stickers, decals and marketing collateral including web content according to the client's parking environment, marketing strategies and objectives, taking into consideration the usability and visibility of each sign.
Project Manager	A PayByPhone Project Manager will create and maintain project plans that communicate tasks, milestones, status and resource allocation. Making use of Project Management Lifecycle Methodology, they are ultimately responsible for project execution. In addition to exercising their knowledge of project management best practices, the PayByPhone project manager serves as business liaison, budget manager, customer relations manager, facilitator, negotiator, risk manager, change agent, task tracker, problem solver and implementer.
Implementation Manager	Manage / coordinate and implement ALL technical aspects required to set up the project. Liaise with Parking Operator staff to ensure data is complete and correct. Coordinate internal development resources and provide updates to project management and commercial team on timing, dependencies etc. Manages the pickle process. Provide technical training to client personnel.
Consumer Adoption Strategist	A PayByPhone Consumer Adoption Strategist will work with the key client contacts to develop and implement a plan to maximize the client's goals for the PayByPhone service. Learning from hundreds of client implementations, access to the latest data analytics and considerable expertise in mobile and consumer technology usage are incorporated into an ongoing plan to drive maximum usage and customer convenience.

Application Trainer	A PayByPhone Applications Trainer will design and deliver training programs for the PayByPhone system. They will also design training course materials and other documents such as handouts, manuals and exercises. Training is typically conducted via a web session, either one on one in a train-the-trainer scenario or in a group setting.
Support Agent	A PayByPhone support agent interacts with client contacts to address inquiries regarding the PayByPhone system, reporting interface, log-ins and general administration.
Tester	The PayByPhone Quality Assurance (QA) testers will thoroughly evaluate, stress-test and troubleshoot all new code, programs and software. The PayByPhone QA testers will log and prioritized any issues/bugs found and work closely with the Software Development team for a resolution.