

AN ORDINANCE TO AUTHORIZE AND APPROVE AN AMENDMENT TO THE MASTER SERVICES AGREEMENT BETWEEN THE CITY OF WILMINGTON AND PAYMENTUS CORPORATION

#0356

Sponsor:

**Council
Member
Johnson**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of personal property or the rendering of services for a period of more than one year if approved by City Council by ordinance; and

WHEREAS, the City publicly advertised a request for proposals for a professional services agreement (Contract 21017DFPS) for an online payment processing and bill presentment system, and subsequently awarded the resulting Master Services Agreement (the “Agreement”) to Paymentus Corporation, the highest ranked proposal; and

WHEREAS, on November 19, 2020, City Council passed Ordinance No. 20-048, which authorized the City to execute the Agreement; and

WHEREAS, the initial term of the Agreement is for the period from approximately December 2, 2020 through December 1, 2023, at an estimated price of Three Hundred Thousand Dollars (\$300,000.00) per year, with the possibility of three (3) extensions of one (1) year thereafter on the same terms and conditions; and

WHEREAS, the City and Paymentus Corporation would like to amend the Agreement (the “Amendment”), a copy of which Amendment, in substantial form, is attached hereto and incorporated herein by reference as Exhibit “A” to: (i) extend the duration of the Agreement’s initial term for three (3) additional years, with the possibility of two (2) extensions of one (1) year thereafter; (ii) provide that Paymentus Corporation will deliver a standard integration with the City’s CIS vendor, systems, and software at no cost to the City; (iii) revise Schedule A to the Agreement to increase the fee for direct payments for utility billing and to add an additional

service for instant payments (text to pay); and (iv) make some other minor revisions to the language of the Agreement; and

WHEREAS, it is the recommendation of the Department of Finance that City Council authorize the City to enter into the Amendment; and

WHEREAS, City Council deems it necessary and appropriate to authorize the City to enter into the Amendment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. The Amendment to the Agreement (being the Master Services Agreement between the City of Wilmington and Paymentus Corporation), a copy of which, in substantial form, is attached hereto as Exhibit “A”, for the period of three (3) years, with the possibility of two (2) extensions of one (1) year thereafter, at an estimated price of Three Hundred Thousand Dollars (\$300,000.00) per year, is hereby approved, and the Mayor, or his designee, is hereby authorized to execute the Amendment, as well as to take all additional undertakings related thereto as may be necessary.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading.....October 5, 2023
Second Reading.....October 5, 2023
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2023.

Mayor

SYNOPSIS: This Ordinance authorizes the City to execute an amendment to the Master Services Agreement with Paymentus Corporation for an online payment processing and bill presentment system to: (i) extend the duration of the Master Service Agreement’s initial term for three (3) additional years, with the possibility of two (2) extensions of one (1) year thereafter; (ii) provide that Paymentus Corporation will deliver a standard integration with the City’s CIS vendor, systems, and software at no cost to the City; (iii) revise Schedule A to the Master Services Agreement to increase the fee for direct payments for utility billing and to add an additional service for instant payments (text to pay); and (iv) make some other minor revisions to the language of the Agreement.

FISCAL IMPACT STATEMENT: The fiscal impact of this Ordinance is an amendment that extends the Master Services Agreement for three (3) years with the possibility of two (2) extensions of one (1) year thereafter, at an estimated price of Three Hundred Thousand Dollars (\$300,000.00) per year.

W0122643

EXHIBIT A

AMENDMENT NO. 4 TO MASTER SERVICES AGREEMENT EFFECTIVE DECEMBER 2, 2020

This Amendment No. 4 (this “Amendment”) amends the Master Services Agreement effective as of December 2, 2020 that was previously modified by Amendment No. 1 dated April 1, 2021, Amendment No. 3 dated November 17, 2021, and the Statement of Work dated June 20, 2023 (collectively, the “Agreement”)¹ and is entered into by and between the City of Wilmington, Delaware (“Client”), a municipal corporation of the State of Delaware with a principal place of business located at 800 N. French St., 5th Floor, Wilmington, DE 19801, and Paymentus Corporation, a State of Delaware corporation with a principal place of business at 11605 N. Community House Rd, Suite 300, Charlotte, North Carolina 28277 (“Paymentus”). Client and Paymentus are also referred to individually as “Party” and collectively as the “Parties.” This Amendment is effective as of November 1, 2023 (the “Amendment Effective Date”).

STATEMENT OF PURPOSE/RECITALS

Whereas, Client and Paymentus entered into the Agreement for electronic bill payment services; and

Whereas, the Parties would like to: (i) extend the Initial Term (as such term is defined in the Agreement) of the Agreement and modify the terms regarding renewal of the Agreement, (ii) have Paymentus provide Client with a standard integration with Client CIS vendor, systems, and software at no cost to Client, (iii) modify the Paymentus Fee (as such term is defined in the Agreement, such term also sometimes being referred to as the “Paymentus Service Fee”), (iv) add a confidentiality requirement regarding Client information, and (v) add a term regarding Paymentus’ System and Organization Control Reports (also known as Service Organization Control Reports).

AGREEMENT

In consideration of mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Client and Paymentus agree, with the intent to be legally bound, as follows:

1. Recitals. The above recitals are incorporated herein and made a part hereof.
2. Amendment. The Agreement is hereby amended as of the Amendment Effective Date as follows:
 - 2.1 The Parties agree to extend the Initial Term of the Agreement through December 1, 2026. At the end of the Initial Term, the Agreement will automatically renew for up to two (2) successive one (1) year periods unless either Client or Paymentus provide the other Party with not less than ninety (90) days’ prior written notice before such automatic renewal date that it elects not to automatically renew the term of the Agreement.
 - 2.2 Paymentus agrees to provide a standard integration with Client CIS vendor, systems, and software at no cost to Client. Requests for custom development or other non-standard integration requests may be subject to additional review via a statement of work.
 - 2.3 Schedule A - Paymentus Service Fee Schedule (“Schedule A”) of the Agreement is hereby deleted in its entirety and is replaced with the new Schedule A, which is attached to this Amendment and is incorporated herein.

¹ The Parties hereby expressly acknowledge that they never executed an Amendment No. 2 to the Agreement.

2.4 The last sentence of Section 9.7 of the Agreement is hereby deleted in its entirety and replaced with the following:

“Paymentus will not for any purpose inconsistent with the Agreement or its privacy policy in effect from time to time disclose to any third party or use any confidential Client or User information it receives in connection with its performance of the Services.”

2.5 The following Section 9.13 is hereby added to the Agreement:

“9.13 System and Organization Control Reports

Paymentus shall maintain and upon request provide to Client any and all System and Organization Control Reports (also known as Service Organization Control Reports) (“SOC Reports”) Paymentus has acquired that are related to Paymentus’ business. Client shall treat all SOC Reports as confidential information and shall not disclose any SOC Report to a third party, except that disclosure shall be permitted to Client’s internal and external auditors, attorneys, and other advisers. Notwithstanding the foregoing, if Client receives a request under the Delaware Freedom of Information Act (“FOIA”) for documents that include a SOC Report, Client shall promptly notify Paymentus of the request and provide Client’s Law Department’s opinion on whether disclosure of the SOC Report is required. If Client’s Law Department determines that disclosure of the SOC Report is required pursuant to FOIA, Client shall be free to disclose the SOC Report in accordance with the deadline set forth by FOIA.”

3. Miscellaneous.

3.1 This Amendment is binding and inures to the benefit of the Parties and their respective successors and assigns.

3.2 All other terms and conditions of the Agreement, as previously amended, that are not modified by this Amendment shall remain in full force and effect.

3.3 This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their duly authorized representatives.

CITY OF WILMINGTON, DE

PAYMENTUS CORPORATION

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE A – PAYMENTUS SERVICE FEE SCHEDULE

The Services will initially consist of those indicated by a check box on the following table. The Paymentus Fee will be as specified below, Absorbed Fee Model will be paid by the Client, and Convenience Fee Model will be paid by User.

Channels	Payment Methods	Paymentus Service Fee	Fee Model
Utilities			
Instant Payment Network™	All payment channels and methods offered under IPN such as PayPal, Venmo, PayPal Credit ,Secure PDF Push, Chatbot, Advanced Notification Service (ECM), Text 2 Pay, Voice Assistants, Mobile Apps and others as offered by Payments from time to time	\$2.10 per transaction	Absorbed Fee
Direct Payments (Web, IVR, Recurring, Agent Assisted)	Credit, Debit	\$2.10 per transaction	Absorbed Fee
	ACH	\$0.50 per transaction	
Taxes and Miscellaneous Government Services			
Instant Payment Network™	All payment channels and methods offered under IPN such as PayPal, Venmo, PayPal Credit ,Secure PDF Push, Chatbot, Advanced Notification Service (ECM), Text 2 Pay, Voice Assistants, Mobile Apps and others as offered by Payments from time to time	2.65% of the Payment Amount	Absorbed Fee
Direct Payments (Web, IVR, Recurring, Agent Assisted)	Credit, Debit	2.65% of the Payment Amount	Absorbed Fee
	ACH	\$0.50 Per Transaction	

Note:

- Average Bill Amount: \$190.00
- Maximum Payment Amount: \$25,000. Multiple payments can be made.
 - For Utility payments, Paymentus shall apply the Paymentus Service Fee in increments of \$2,000.
 - For Taxes and Miscellaneous Government Services, Paymentus shall apply the Paymentus Service Fee in increments of \$1,000.
- Paymentus may apply different limits per transaction for user adoption or to mitigate risks.
- Chargebacks and returned checks will be billed at \$9.95 per item.
- Outbound messaging is included at no cost to Client.