



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

March 21, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

Dear Supervisors:

**REQUEST FOR APPROVAL OF BOARD POLICY FOR CREDIT/DEBIT CARD
PAYMENT ACCEPTANCE AND APPROVAL OF AGREEMENT WITH LINK2GOV
CORPORATION AND MARSHALL AND ILSLEY CORPORATION FOR ELECTRONIC
PAYMENT AND CREDIT/DEBIT CARD PROCESSING SERVICES
(ALL DISTRICTS - 3 VOTES)**

**JOINT RECOMMENDATION WITH THE AUDITOR-CONTROLLER, INTERNAL
SERVICES DEPARTMENT, CHIEF INFORMATION OFFICE AND THE TREASURER
AND TAX COLLECTOR THAT YOUR BOARD:**

1. Approve the attached Board Policy regarding credit/debit card payment acceptance by County departments and districts.
2. Approve and instruct the Mayor of the Board to sign the attached agreement with Link2Gov Corporation and Marshall and Ilsley Corporation, jointly and severally, for electronic payment and credit/debit card processing services for the County's current and future Internet-based payment applications, with an option to provide interactive voice recognition credit/debit card processing services, effective upon execution for a term of five (5) years with up to two (2) one-year extensions and six (6) month-to-month extensions.
3. Authorize the Internal Services Department (ISD) to administer the agreement and authorize the Director, ISD, or his designee, to exercise up to two (2) one-year extensions and six (6) month-to-month extensions.
4. Authorize the Director, ISD, or his designee, to approve and sign the attached Submitter Merchant Agreement with Paymentech, L.P. and Link2Gov Corporation for payment card processing services under the agreement with Link2Gov Corporation and Marshall and Ilsley Corporation.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to expand the acceptance of credit/debit cards by County departments and districts and to establish an environment that fosters the use of E-Commerce in the County. The proposed Board Policy (Attachment 1) amends and codifies the County's Cost Neutral Credit/Debit Card Acceptance Policy as a Board Policy, which as so amended will collectively be referred to as the Credit/Debit Card Payment Acceptance Policy. The recommended agreement with Link2Gov Corporation (Link2Gov) and Marshall and Ilsley Corporation (Marshall and Ilsley) (Attachment 2) and the Submitter Merchant Agreement with Paymentech, L.P. (Paymentech) and Link2Gov (Attachment 3) will provide County departments and districts with a mechanism to handle the acceptance and processing of credit/debit cards and other forms of electronic payments.

On November 16, 2004, your Board approved a motion instructing the Chief Administrative Office (CAO), with support from the Electronic Commerce Taskforce (Taskforce) staffed by representatives from the Chief Information Office (CIO), County Counsel, Treasurer and Tax Collector (TTC), ISD, and the Auditor-Controller (A-C), to issue a Request for Information (RFI) on behalf of all County departments for an E-Commerce application solution. The motion additionally instructed the Taskforce to prepare an analysis of the fee structure applicable to acceptance and processing of credit/debit cards and a recommendation for any amendments to the County's then-current Cost Neutral Credit/Debit Card Acceptance Policy. The motion also instructed the CAO to provide status reports on the aforementioned efforts. To date, the Taskforce has provided your Board with six status reports on its progress.

Approval of the recommendations will enable County departments and districts to more readily expand acceptance of credit/debit cards, including transactions over the Internet, and will provide an agreement that will handle the acceptance and processing of credit/debit cards and other forms of electronic payments.

The acceptance of credit/debit cards is allowed per Government Code Section 6159. On February 3, 1998, your Board adopted the Cost Neutral Credit/Debit Card Acceptance Policy, which required that acceptance of credit/debit cards by County departments and districts be cost neutral to the County. Under that policy, the A-C was instructed to review and verify the cost neutrality of proposed applications requested by County departments and districts; approve the applications' accounting controls prior to implementation; and review and approve appropriate user service/convenience fees.

County departments and districts currently pay a merchant discount fee of approximately two to three percent of the transaction amount to accept credit/debit cards (Visa, MasterCard, Discover, etc.). Since 1998, the Cost Neutral Credit/Debit Card Acceptance Policy has been interpreted to imply that the acceptance of

credit/debit cards can only be cost neutral if County departments and districts can identify reductions in costs or increases in revenue. The A-C has approved a limited number of credit/debit card applications, primarily for over-the-counter transactions, as cost neutral. The policy has limited the ability of County departments and districts to implement credit/debit card applications for in-person, mail, telephone and Internet use. Departments and districts have generally not pursued new credit/debit card applications because of the difficulty in achieving and documenting cost neutrality. Achieving cost neutrality is even more difficult for E-Commerce applications due to application development, security requirements and maintenance costs.

The Taskforce's review and analysis of the County's Cost Neutral Credit/Debit Card Acceptance Policy included a review of the approaches used by Federal, State and other local government jurisdictions, including the State of Virginia, California Department of Motor Vehicles, and various California Counties including Kern, Orange, Riverside, and San Mateo. Except for tax payments, our investigation disclosed that most jurisdictions either include the credit/debit card merchant discount fee and other application costs in customer fees or allow departments to absorb the costs. These approaches allow these government agencies to treat credit/debit card fees and other E-Commerce costs as the "costs of doing business."

Jurisdictions that accept credit/debit cards for tax payments cannot add the credit/debit card merchant discount fee and other application costs to the tax amount, since taxes are fixed by statute. Additionally, since taxes are among the largest revenue sources for Federal, State and local governments, the related credit/debit card merchant discount fees are substantial. Typically, these fees cannot be offset by the cost reductions that may result when accepting credit/debit cards for tax payments. Therefore, jurisdictions must charge a "service/convenience fee" to cardholders to offset the costs to accept credit/debit card tax payments. Although the card associations and companies generally prohibit the use of add-on fees, they do permit a "service/convenience fee" to offset the costs of providing the cardholder with convenient payment options, such as the Internet, automated telephone system or similar interactive system.

Based on the Taskforce's review and analysis, we are recommending the Board amend the Cost Neutral Credit/Debit Card Acceptance Policy to allow departments to either include credit/debit card transaction costs and other related application costs when developing the fees charged to all customers, or to absorb the costs in their budgets where there is a reasonable business reason to do so.

The recommended agreement with Link2Gov and Marshall and Ilsley provides a single vendor to capture credit/debit cardholder account information from County Internet sites and, through their relationship with Paymentech L.P., interface with the credit/debit card companies, card associations and financial institutions for approval and settlement of the financial transactions. Link2Gov offers a 24/7 environment that meets or exceeds

all credit/debit card industry standards for data security, provides for broadest use of all card brands, provides standard reporting capabilities and offers per transaction pricing on a Countywide basis. County departments and districts interested in E-Commerce applications would be able to utilize the services provided by this agreement.

The recommended agreement with Link2Gov also allows government entities that are members of the TTC's treasury pool to utilize the services provided by this agreement.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended actions support the County's Strategic Plan Goal Number 1 for Service Excellence. Approving the Credit/Debit Card Payment Acceptance Policy and the recommended electronic payment and credit/debit card processing services agreement will allow more departments to increase acceptance of credit/debit cards and improve customer service. Customers can take advantage of E-Commerce payment options that can be used from the convenience of their office or home, reducing waiting times for customers who choose to visit County offices.

FISCAL IMPACT/FINANCING

Approval of the proposed Credit/Debit Card Payment Acceptance Policy and the agreement will have no impact on net County cost for those applications that include credit/debit card transaction costs and other application costs in the fees charged to all customers or absorbed in the departments' existing budgets. However, the costs that are absorbed in the departments' or districts' existing budgets will have to be allocated from other areas within their budgets, and/or offset by any cost savings due to accepting credit/debit cards.

Applications that cannot include the credit/debit transaction costs in the fees charged to all customers or cannot be absorbed by the County departments' and districts' existing budgets, but merit consideration based on special conditions, will have to be evaluated by the A-C, CAO and TTC to determine the increase in net County cost. Upon conclusion of the A-C, CAO and TTC review, the CAO will provide County departments and districts with their findings, and County departments and districts will need to obtain Board approval of their projects in order to proceed.

TTC has identified the need for additional staff positions in support of the Countywide E-Commerce initiative. Specifically, staff will be recommended by TTC, as workload warrants, to provide oversight and support in the functions associated with internal controls and processing of deposit permits and other transactions, assisting departments in the development and implementation of E-Commerce applications, and the monitoring and troubleshooting of E-Commerce applications in the post-implementation environment. TTC included recommended staffing positions for

E-Commerce as part of the department's fiscal year 2006-07 Budget Request, which if approved would result in an increase in net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Credit/Debit Card Payment Acceptance Policy will not apply to the fees that are passed along to other agencies, or where the amount of credit/debit card fees and/or application costs would result in a significant cost to the County. Specifically, this policy would not apply to County property taxes, including direct assessments, bonded indebtedness, etc.

The terms and conditions of the recommended agreements in Attachments 2 and 3 have been approved as to form by County Counsel. Under the terms of the agreement with Link2Gov and Marshall and Ilsley, the contractors are required to give first consideration to qualified County employees targeted for layoff, consider qualified GAIN/GROW participants for employment openings, and comply with the Jury Duty Ordinance, the Safely Surrender Baby Law and the Child Support Compliance Program. The Submitter Merchant Agreement with Paymentech does not include the standard terms and conditions; however, the subcontract between Paymentech and Link2Gov requires the use of commercially reasonable efforts to comply with such terms and conditions to the extent such terms and conditions are applicable to Paymentech.

Under the terms of the agreement with Link2Gov and Marshall and Ilsley, (a) County's Project Director is authorized to execute minor changes to such agreement, (b) each participating County department's and district's respective Project Manager, with the approval of County's Project Director, is authorized to execute work order releases initiating work under such agreement on behalf of such department or district, and (c) Director, ISD, or his designee, is authorized to execute all other changes to such agreement other than changes which would (i) amend change order authority under such agreement, (ii) increase the term of such agreement beyond the optional extensions described above, (iii) increase pricing under such agreement, and/or (iv) approve of an assignment or delegation by Link2Gov and/or Marshall and Ilsley. Marshall and Ilsley is Link2Gov's indirect parent company and as a party to the agreement shall, with Link2Gov, be jointly and severally liable and responsible for any and all contractor obligations, responsibilities, and liabilities under the agreement. Although the obligations of Link2Gov and Marshall and Ilsley under the agreement are substantively different than the corresponding obligations of Paymentech, the differences are addressed by holding Link2Gov and Marshall and Ilsley responsible for the County's higher level of obligations under the County's agreement with Link2Gov and Marshall and Ilsley, irrespective of the County's agreement with Paymentech.

These are not Proposition A agreements and, therefore, the Living Wage Program (County Code Chapter 2.201) does not apply to the recommended Agreements. It has

been determined that the services under these Agreements do not impact Board Policy No. 5.030, "Low Cost Labor Resource Program", because of the specialized financial services required.

CONTRACTING PROCESS

ISD issued a Request for Proposals (RFP) on May 16, 2005, and posted notice of the RFP on the Los Angeles County Website. Notice of the solicitation was also sent by electronic mail to 52 financial services companies (Attachment 4). Twelve (12) proposals were received. Two proposals were disqualified for non-responsiveness. A team of representatives from TTC, CIO, and ISD evaluated and ranked the remaining ten (10) proposals. Negotiations were initiated between County staff and the vendor who submitted the highest ranked proposal. We were unable to reach agreement on a contract that is in the best interest of the County because the vendor would not waive their requirement of a monthly minimum service fee and the County is unable to commit to a guaranteed volume of payment transactions that would result in meeting or exceeding the minimum monthly fee commitment. As a result and as allowed by the RFP, we initiated negotiations with the second ranked, lowest cost vendor, Link2Gov.

The recommended firm, Link2Gov, has extensive experience in providing electronic payment acceptance and processing services for a variety of large government agencies, including the Internal Revenue Service. Link2Gov's interface with the credit/debit card companies, card associations, and financial institutions for approval and settlement of the financial transactions is handled by Paymentech, L.P. There are no minimum transaction volumes and as an incentive to increase County E-Commerce applications, Link2Gov will provide Link2Gov's standard Web storefront applications at no cost through their Web application generator product and hosting service. Link2Gov also proposed the lowest overall cost solution of all the respondents.

During the negotiation process, Link2Gov was acquired by Metavante Corporation, which is a subsidiary of Marshall and Ilsley. In accordance with your Board's policy on Contractor Mergers/Acquisitions, we conducted a thorough review of Link2Gov's acquisition, as well as the financial standing of the other two firms. Based on the A-C's review and the determination that the indirect parent company, Marshall and Ilsley, appeared to be in good financial condition as of the date of the review, we obtained the firm's concurrence to be a party to the contract with Link2Gov.

Debriefings were offered to all of the non-selected proposers, but only five proposers requested and were granted debriefings. There were no protests resulting from this solicitation. Community Business Enterprise Program information for the recommended firm is shown in Attachment 5. However, final selection of the contractor was made without regard to gender, race, creed, color, or national origin.

Honorable Board of Supervisors
March 21, 2006
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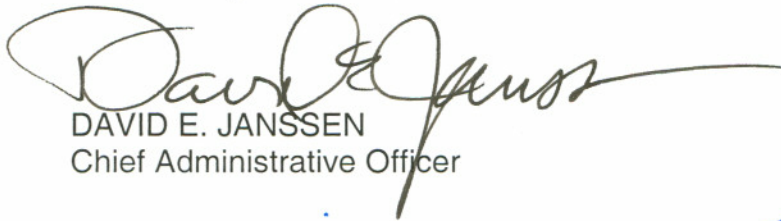
IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Credit/Debit Card Payment Acceptance Policy and agreement for electronic payment and credit/debit card processing will facilitate the implementation of E-Commerce applications by County departments and districts. It is also expected to increase the acceptance of credit/debit cards for payments made in person, through the mail, or over the telephone.

CONCLUSION

Upon approval and execution of the agreement by your Board, please forward three (3) signed originals to the Internal Services Department.

Respectfully submitted,



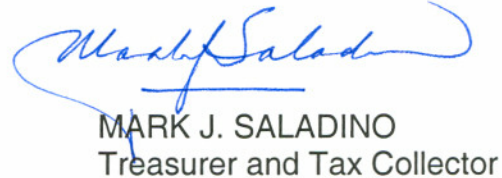
DAVID E. JANSSEN
Chief Administrative Officer



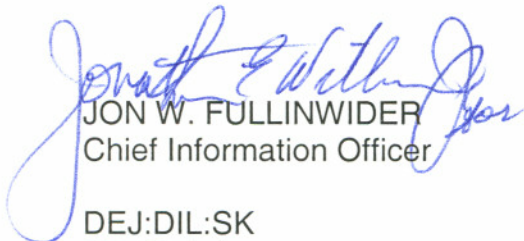
J. TYLER MCCAULEY
Auditor-Controller



DAVE LAMBERTSON *for*
Director, Internal Services Department



MARK J. SALADINO
Treasurer and Tax Collector



JON W. FULLINWIDER *for*
Chief Information Officer

DEJ:DIL:SK
DD:CL:kd
Attachments (5)

- c: Auditor-Controller
- Chief Information Officer
- County Counsel
- Executive Officer, Board of Supervisors
- Internal Services Department
- Treasurer and Tax Collector