



TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
STATE OF TEXAS
AUSTIN, TX 78774-0100

April 28, 2014

Cathy Cantrell
Texas Racing Commission
8505 Cross Park Drive Ste. 110
Austin, Texas 78754

Dear Ms. Cantrell:

Enclosed please find your signed original of the Interagency Agreement between the Texas Comptroller of Public Accounts and the Texas Racing Commission.

We look forward to our continued relationship. Thank you for all your help on this.

If you have any questions, please call me at 512-463-1699 or contact Pamela Ibarra at 512-463-6002.

Sincerely,

Ketha Cameron
Program Specialist
Cash and Securities Management
Texas Comptroller of Public Accounts

Enclosure

2014 APR 29 PM 2:10
P. Ibarra

**INTERAGENCY AGREEMENT
BETWEEN
THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
AND
THE TEXAS RACING COMMISSION
FOR CREDIT AND DEBIT CARD PROCESSING SERVICES**

This Interagency Agreement ("Agreement") is entered into by and between the Texas Comptroller of Public Accounts ("Comptroller") and Texas Racing Commission ("State Agency"), each acting by and through its duly authorized officers pursuant to the authority granted by the Interagency Cooperation Act, Chapter 771, Texas Government Code.

RECITALS

WHEREAS, the Comptroller has the responsibility under Chapters 403 and 404 of the Texas Government Code to ensure that state funds are managed in the most prudent and expeditious manner possible;

WHEREAS, the Comptroller has authority to adopt rules relating to the acceptance of credit and debit cards for the payment of fees, taxes and other charges assessed by state agencies under Section 403.023 of the Texas Government Code;

WHEREAS, the Comptroller has adopted such rules in 34 Texas Administrative Code, Chapter 17, which authorize the Comptroller to contract with selected vendors to provide credit, charge, and debit card services to state agencies that contract with the Comptroller;

WHEREAS, the acceptance of credit and debit cards by state agencies may increase revenue and/or improve efficiency and service to the public;

WHEREAS, to facilitate the acceptance of credit and debit cards by state agencies, the Comptroller has entered into a Payment Device Processing Agreement ("PDPA") with its selected vendor Elavon, Inc., a wholly owned subsidiary of U.S. Bank National Association ("Elavon"), to process credit and debit card transactions, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference for all purposes; and

WHEREAS, the State Agency wishes to accept credit and debit cards for the payment of sums collected by the State Agency and the Comptroller has determined that the best interests of the State would be promoted as a result.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

I. TERMS AND CONDITIONS

1. The State Agency shall be responsible for all obligations set out in this Agreement and all applicable provisions of the PDPA, as it may be amended, attached hereto as Exhibit A, related to the processing of credit and debit card charges. Any capitalized term not defined herein shall have the meaning assigned to such term in the PDPA.

The State Agency's obligations include, without limitation, the following:

- (i) Payment of all Chargebacks, returns, adjustments, fees, fines, penalties, assessments from the Payment Networks and other payments due under the PDPA;
- (ii) Compliance with applicable all laws, including privacy laws and Payment Network Regulations, including the requirements of the Payment Card Industry Data Security Standard and all associated audits;
- (iii) Responsibility for disputes with any customer, cardholder or third party relating to any transaction or any breach of an obligation under the PDPA;
- (iv) Responsibility for monitoring the its transactions for fraudulent or other suspicious activity;
- (v) Responsibility for any Value Added Servicer;
- (vi) Responsibility for any data incident, where the State Agency knows or suspects that cardholder data, customer information, or any transaction information has been accessed or used without authorization; and
- (vii) Confidentiality of cardholder, transaction, and password information.

2. If any conflict arises between the terms of this Agreement and those of the PDPA, the terms of this Agreement, as it may be amended from time to time, shall control.

II. DEPOSIT VOUCHER PROCEDURES

On the date the credit or debit card transaction settles in the Comptroller's demand deposit account the ("Settlement Day"), Elavon credits the Comptroller's designated account for the total amount of credit and debit card sales, less any credits issued, as provided in the PDPA. On the Settlement Day, the Comptroller will enter the deposit into the Uniform Statewide Accounting System ("USAS"), using the designated USAS coding elements to credit the State Agency for the deposit. The Comptroller will also forward a deposit notice to the State Agency for reconciliation. The State Agency shall be solely responsible for reconciling the amount of State Agency credit and debit card sales charged by customers with the amount paid to the State Agency for credit and debit card sales charged by customers.

III. CHARGEBACKS

If Elavon debits the Comptroller's designated account for a State Agency Chargeback, the Comptroller will make a debit entry to the State Agency return item default fund account in USAS, create a return item receipt, and forward it to the State Agency on the day it was created. The State Agency shall be solely responsible for resolving and paying any Chargebacks and Chargeback fees. The State Agency acknowledges that the Comptroller is not liable for resolving or paying for any Chargebacks or Chargeback fees.

IV. BILLING

Each month, Elavon debits a previously designated bank account for the amount of service charges incurred by the State Agency in accordance with the PDPA. For purposes of this Agreement, service charges means all fees, fines, penalties, assessments from the Payment Networks, payments to lease or purchase equipment, payment of Chargebacks, returns, and adjustments, as well as all other payments due under the PDPA.

The Comptroller will enter the debit charge in USAS and will forward documentation of the debit charge to the State Agency for reconciliation. The State Agency shall review said charges for validity and reconcile the charges with the amount debited. The Comptroller will not be financially responsible for State Agency service charges nor will the Comptroller attest to the validity of the State Agency service charges.

V. TERM OF AGREEMENT

1. This Agreement is effective as of the date it is signed by the Comptroller after having first been signed by the State Agency and shall remain in effect, unless terminated earlier in accordance with the provisions herein, until the termination of the PDPA.
2. This Agreement is subject to termination for cause by the Comptroller if the State Agency fails to comply with its obligations herein or under the PDPA and is further subject to termination immediately without notice in the event of a security breach.
3. This Agreement is subject to termination for convenience upon thirty (30) days written notice by either Party to the other. The Comptroller shall have no liability whatsoever to any other party, person, agency, or entity upon termination of this Agreement for any reason, whether for cause or for convenience.
4. All obligations of the State Agency regarding transactions processed before termination and credit card processing equipment that existed before termination will survive termination.

VI. NOTICES AND LIAISON PERSONNEL

Any notice relating to this Agreement, which is required or permitted to be given under this Agreement by one party to the other party shall be in writing and shall be addressed to the receiving party at the address specified below.

If to the Comptroller:

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
Treasury Operations
Attention: Ketha Cameron
208 E. 10th Street Room 636
Austin, Texas 78701
Phone: (512) 463-1699
Email: Ketha.Cameron@cpa.state.tx.us

If to the State Agency:

TEXAS RACING COMMISSION
Attention: Cathy Cantrell
8505 Cross Park Drive Ste. 110
Austin, Texas 78754
Phone: 512-833-6699 Ext. 212
Email: cathy.cantrell@txrc.texas.gov

Either party may change the address or person to whom notices are to be delivered by giving the other party prior written notice thereof.

The Comptroller and the State Agency shall maintain specifically identified liaison personnel for their mutual benefit during the term of the Agreement for day-to-day communications. The liaisons shall be identified in writing following the execution of this Agreement, and any subsequent changes to the same shall be communicated by the respective party in writing.

VII. MISCELLANEOUS PROVISIONS

1. This Agreement, including any Exhibits incorporated by reference herein, contains the entire understanding of the parties and supersedes any and all previous discussions, proposals or agreements, if any, between the parties with respect to the subject matter thereof.
2. With the exception of the rights herein expressly conferred, nothing in or to be implied from this Agreement is intended or will be construed to give any person other than the parties hereto any legal or equitable right, remedy or claim arising from this Agreement or in any of the covenants, conditions, and provisions herein contained. This Agreement and all of the covenants, conditions, and provisions hereof are for the sole and exclusive benefit of the parties hereto.
3. This Agreement may not be modified, or changed, except by instrument in writing signed by an authorized representative of each of the parties.
4. This Agreement is governed by and construed under and in accordance with the laws of the State of Texas. Any and all obligations under this Agreement are due in Travis County and venue is proper only in such county.
5. If any one or more provisions contained in this Agreement will be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provisions of this Agreement. This Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
6. The expiration or termination of this Agreement shall not affect the rights and obligations of the parties accrued before the effective date of expiration or termination and such rights and obligations shall survive and remain enforceable.

VIII. CERTIFICATIONS

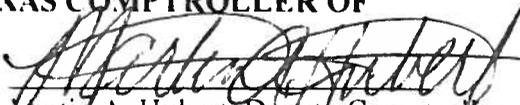
THE UNDERSIGNED CONTRACTING PARTIES do hereby certify that (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of State Government; (2) the proposed arrangements serve the interest of efficient and economical administration of the State Government; (3) the services, supplies, or materials covered by this contract are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

The Comptroller further certifies that it has authority to contract for the above services pursuant to Section 403.023 and Chapters 403 and 404 of the Texas Government Code.

IX. SIGNATORIES

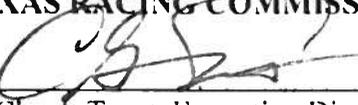
IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed in duplicate counterparts. Such counterparts together constitute only one document.

TEXAS COMPTROLLER OF

By: 
Martin A. Hubert, Deputy Comptroller

Date: 4/23/14

TEXAS RACING COMMISSION

By: 
Chuck Trout, Executive Director

Date: APR 14 2014

Reviewed as to form
Mark [Signature]
4/14/14

EXHIBIT A

Payment Device Processing Agreement (“PDPA”)