



Travis County Commissioners Court Agenda Request

Meeting Date: December 20, 2011

Prepared By: John Carr **Phone #:** 854-4772

Director/Manager: Roger A. El Khoury, M.S., P.E., Director, FMD

Department Head: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Members: County Judge Samuel T. Biscoe

AGENDA LANGUAGE: Consider and take appropriate action on request for approval of new license agreements with the Travis County Credit Union for replacement and operation of Automated Teller Machines at the Criminal Justice Center and the Office of the Travis County Tax Assessor-Collector.

BACKGROUND/SUMMARY OF REQUEST:

Previously, the Travis County Credit Union has had license agreements with Travis County to install and operate Automated Teller Machines (ATMs) at three County owned locations. Specifically, the lobby of the Blackwell-Thurman Criminal Justice Center, the lobby of the Tax Assessor-Collector office and at the Precinct Three Office Building. On October 27, 2011, Mr. Wayne Watters, President of the Travis County Credit Union contacted Facilities Management Department (FMD) and advised that they wished to remove the ATM machine at the Precinct Three Office Building. Mr. Watters also advised that they would like to continue providing ATM service at the other two locations, but that they would need to replace the existing machines with new machines to comply with new Americans with Disability Act (ADA) requirements. Mr. Watters in a telephone conversation indicated that the Credit Union could not economically justify the expense of providing a new ADA compliant ATM at the Precinct Three Building and that they would remove their existing machine on January 3, 2012. Mr. Watters did confirm that the Credit Union would be responsible for restoration of any damages to the facility that resulted from this removal.

The new license agreements for the two remaining machines will be for the period of January 2012 through December 2015. The Credit Union has provided proof of the appropriate insurance coverage and will pay the County \$250 per year for each location to cover the cost of the utilities for the ATMs. The ATMs are a convenience for Travis County employees and taxpayers and Travis County Credit Union members are not charged a fee for use of the machines.

STAFF RECOMMENDATIONS:

Facilities Management Department (FMD) recommends approval of the license agreements between Travis County and the Travis County Credit Union for operation of the ATMs located at the Criminal Justice Center and the Travis County Tax Assessor-Collector.

ISSUES AND OPPORTUNITIES:

Facilities Management Department collaborated with Ms. Tenley Aldredge with the County Attorney’s Office on the attached new license agreements. Mr. Wayne Samson, Chairman of the Board of Directors of the Travis County Credit Union has signed both agreements. There are no financial or legal issues that would impact approval of these replacement agreements.

FISCAL IMPACT AND SOURCE OF FUNDING:

FY 12 impact is \$500 in revenue to offset utility costs for the two ATMs.

ATTACHMENTS/EXHIBITS:

1. License Agreement for CJC location
2. License Agreement for Tax Assessor-Collector location

REQUIRED AUTHORIZATIONS:

Steve Manilla	County Executive	TNR	854-9429
Tenley Aldredge	Assistant County Attorney	County Attorney	854-9415

CC:

(the "Director"). In the event the Director determines that the ATM must be relocated, CREDIT UNION shall cooperate with and assist COUNTY with such relocation.

1.2 Payment of Electrical Current Costs. CREDIT UNION shall pay to COUNTY, within ten (10) days of approval of this Agreement by the Travis County Commissioners Court, the sum of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) covering electrical current costs from January through December of each calendar year in which this Agreement remains in effect. CREDIT UNION shall provide to County, on or before January 1 of each year, a payment for electrical current in the amount of \$250.00 per year. This cost is subject to change due to increased projected electrical costs. CREDIT UNION will be given sixty (60) days notice if such an increase will occur.

1.3 Use of Machines. CREDIT UNION shall provide an ATM equivalent in equivalent functionality and design as that described in the document attached hereto as Exhibit A and incorporated herein. Travis County Credit Union members shall not be charged for use of the ATM.

1.4 Signage.

(a) CREDIT UNION shall continue to maintain signage, as approved by the Director, which shall state the rates for available services, instructions regarding ATM use and a number to call if difficulty in use of the ATM occurs.

(b) In addition, CREDIT UNION shall comply with all notification and disclosure requirements regarding user fees, basic safety precautions, establishment of new service facilities, and any other subject matter requiring such notice or disclosure stated in applicable state and federal laws and regulations.

1.5 Insurance.

(a) CREDIT UNION shall maintain Comprehensive General Liability Insurance written on a standard ISO form in the amount of \$100,000.00 per occurrence/\$300,000.00 annual aggregate during the term of this Agreement. Travis County shall be named as an additional insured to such policy. CREDIT UNION, during installation and services of the ATM, shall have statutorily required workmen compensation and employer's liability coverage. CREDIT UNION will provide a certificate of insurance evidencing the required coverage, to the Director of Facilities Management, at least ten days prior to installation of ATM.

(b) CREDIT UNION shall not cause any insurance to be canceled nor permit any insurance to lapse.

1.6 Repairs. Should the ATM require service or repairs, CREDIT UNION shall make its best efforts to do such service or repair, during normal business hours, as quickly and efficiently as practicable.

1.7 Security.

(a) CREDIT UNION shall retain responsibility for security of the ATM and its servicing and repair and any individuals to perform such service. COUNTY SHALL IN NO WAY BE CONSIDERED THE AGENT OF CREDIT UNION FOR SECURITY OR SERVICE NEEDS.

(b) CREDIT UNION shall be responsible for compliance with all applicable federal and state laws governing operation of electronic terminals by credit unions, including without limitation any safety and soundness requirements, standards or regulations provided in the Texas Credit Union Act, the Federal Credit Union Act, the Texas Finance Code and the Texas Administrative Code.

1.8 Responsibility. Should any false or fraudulent transactions occur, CREDIT UNION shall retain full responsibility for response and correction for such transaction.

2.0 Term.

This Agreement shall be effective as of the date approved by the Travis County Commissioners Court and shall remain in effect through December, 2015.

3.0 PERMITS

3.1 CREDIT UNION shall be solely responsible for the costs and the securing of any permits required by any other local governmental entities for use of the County Property licensed under this Agreement.

3.2 CREDIT UNION ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE COUNTY PROPERTY LICENSED HEREUNDER PRIOR TO EXECUTION OF THIS AGREEMENT, CREDIT UNION IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY COUNTY. CREDIT UNION AGREES TO ACCEPT THE PROPERTY "AS-IS" AND WITH ALL FAULTS AND WAIVES ALL OBJECTIONS OR CLAIMS IN THIS REGARD AGAINST COUNTY (INCLUDING BUT NOT LIMITED TO ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY. COUNTY WILL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE

PROPERTY, OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. CREDIT UNION FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE USE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE CONSIDERATION FOR THE USE OF THE PROPERTY HAS BEEN NEGOTIATED TO REFLECT THAT ALL OF THE PROPERTY IS LICENSED BY COUNTY AND ACCEPTED BY CREDIT UNION IN THE "AS-IS" CONDITION. THIS ACCEPTANCE BY CREDIT UNION SHALL BE AN ACKNOWLEDGMENT THAT THERE IS NO LANDLORD/TENANT RELATIONSHIP ESTABLISHED BETWEEN COUNTY AND CREDIT UNION. CREDIT UNION HAS NO EXPECTATION OF WARRANTIES AS TO USE OR HABITABILITY OF THE PROPERTY.

4.0 Termination

4.1 COUNTY reserves the right to terminate this Agreement for the following reasons:

(a) Termination for cause, with sixty (60) days written notice to CREDIT UNION: Cause shall include, but not be limited to, non-service of the ATM, unreasonably high number of complaints from customers, or non-payment of the electrical charge;

(b) Termination due to space requirements: COUNTY reserves the right to terminate this Agreement upon six (6) months notice upon the occurrence of any space utilization requirement for the building in which the ATM is placed;

(c) Termination for convenience, upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order.

4.2 CREDIT UNION may terminate this Agreement, for any reason, upon sixty (60) days written notice to COUNTY.

5.0 Miscellaneous.

5.1. If for any reason any portion of this Agreement is held to be invalid or illegal, such invalidity or illegality shall not affect or prejudice any other portion of this Agreement and this Agreement shall be construed as if such invalid or illegal portion had never been a part of this Agreement.

5.2 COUNTY and CREDIT UNION respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives to such other party with

respect to all covenants of this Agreement. CREDIT UNION shall not assign this Agreement without prior written consent of the COUNTY.

5.3 THE OBLIGATIONS AND UNDERTAKINGS OF EACH OF THE PARTIES TO THIS AGREEMENT SHALL BE PERFORMABLE IN TRAVIS COUNTY, TEXAS, and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

5.4 This Agreement may be amended only by written instrument signed by both COUNTY and CREDIT UNION. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT, EXCEPT UPON SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE TRAVIS COUNTY COMMISSIONERS COURT.

5.5. If CREDIT UNION is required or desires to use any design, device, materials, or process covered by letters and patent or copyright, it shall provide for such uses by suitable agreement with the patentee or owner. CREDIT UNION SHALL INDEMNIFY AND SAVE HARMLESS COUNTY FROM ANY AND ALL CLAIMS FOR INFRINGEMENT BY REASON OF THE USE OF ANY PATENTED DESIGNS, DEVICE, MATERIALS, OR PROCESS, OR ANY TRADEMARK OR COPYRIGHT USED IN CONNECTION WITH THIS AGREEMENT.

5.6. CREDIT UNION SHALL INDEMNIFY AND HOLD HARMLESS COUNTY AND COUNTY'S OFFICIALS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CREDIT UNION'S NEGLIGENT ACTS, ERRORS, OR OMISSIONS OCCURRING DURING THE TERM OF THIS AGREEMENT WHETHER WHOLLY OR PARTIALLY THE FAULT OF CREDIT UNION.

5.7. Any notice to be given hereunder by either party to the other party shall be in writing and may be effected by personal delivery or registered or certified mail, return receipt requested. Notice shall be sufficient if made or addressed as follows:

CREDIT UNION:

Travis County Credit Union
1101 N. IH - 35
Austin, Texas 78705 - 1901

COUNTY:

Roger A. El Khoury, M.S., P.E. (or his successor)
Director, Travis County Facilities Management Dept.
P.O. Box 1748
Austin, Texas 78767

5.8. When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

5.9. Time is of the essence with respect to this Agreement.

5.10 The parties hereby approve, confirm, and ratify the continued placement and operation of an ATM in its current location, and receipt of maintenance services that have occurred since expiration of the preexisting license agreement, and agree that this Agreement represents the entire and integrated agreement between COUNTY and CREDIT UNION and supersedes all prior negotiations, representations, or agreements, either oral or written.

APPROVED and ENTERED into this _____ day of _____, 2011.

TRAVIS COUNTY, TEXAS

By: _____
Samuel T. Biscoe
Travis County Judge

Travis County Credit Union

By: 
Wayne Samson
Chairman of the Board of Directors

Exhibit A
Description of ATM

System Control

- ARM v7 Cortex A8
- Microsoft® Windows CE 6.0

Customer Display

- 10.2" TFT LCD

Communication

- TCP/IP (SSL configurable)

Optional

- Dial-up

Input Type

- 4x2 touch function keys

Optional

- 10.2" TFT touch screen with vibrating feedback

Languages

- English
- Spanish
- French

Card Handling

- Dip-type card reader

Optional

- IC card reader EMV Level 1, 2 compliant

Cash Dispensing

- 1,000 or 2,000-note removable cassette
Up to Three cassettes

Printers

- 80 mm graphical thermal receipt printer

Security

- UL Business Hour safe
- Mechanical combination lock
- Security Options
 - UL Level 1 safe
 - Electronic safe lock
 - KABA Mas Cencon safe lock

Power Supply

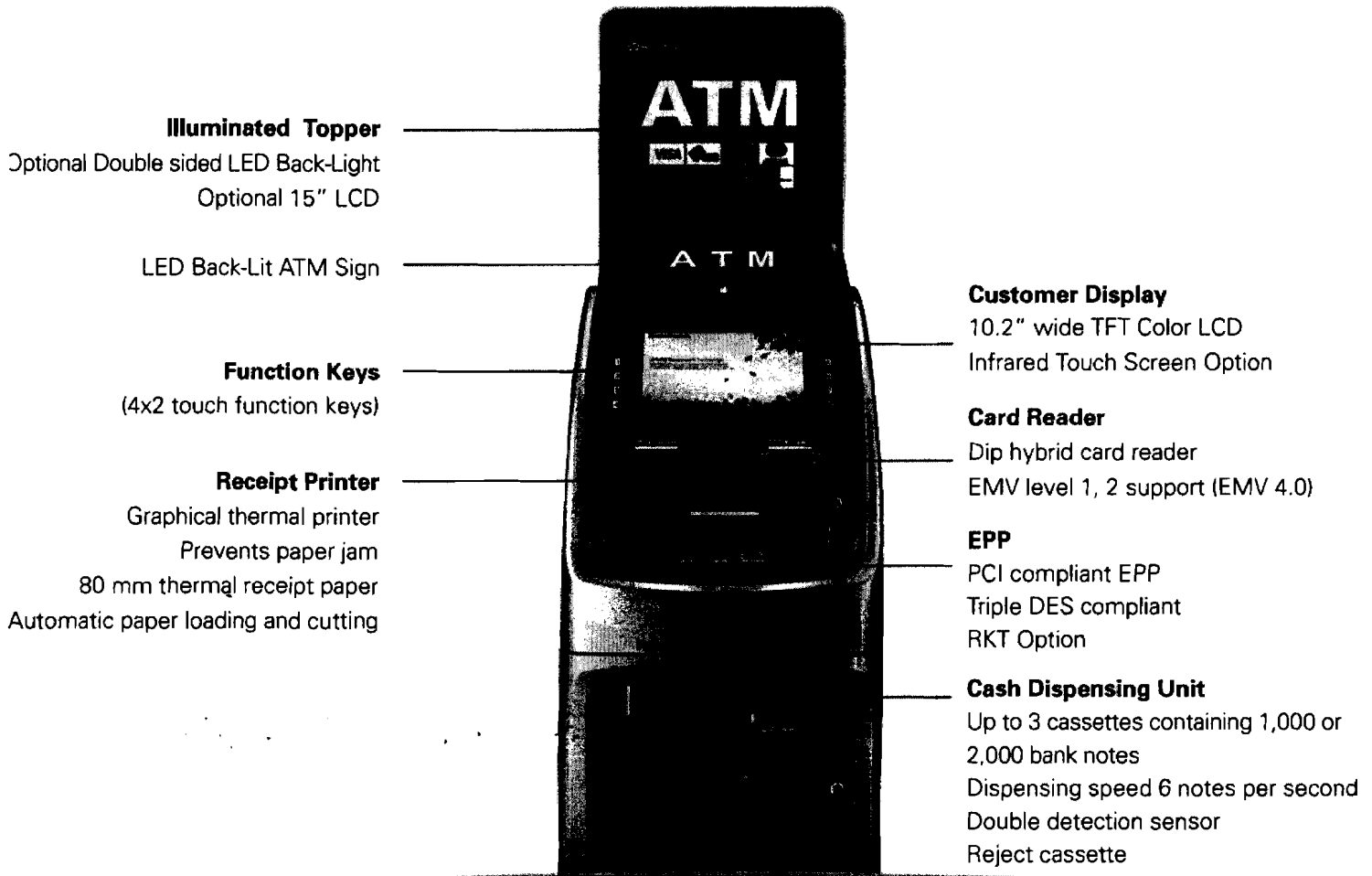
- AC 110-230V, 50-60 Hz

Operating Environment

- Temperature: -32°F-104°F
- Humidity: 25%-85%

Dimension and Weight

- Height: 52.3" (1,328 mm)
- With Topper: 66.3" (1,685 mm)
- Width: 15.7" (400 mm)
- Depth: 18.4" (468 mm)
- Weight: 265 lbs (120 kg)



Contact your authorized Nautilus Hyosung distributor or representative for more information.

LICENSE AGREEMENT BETWEEN TRAVIS COUNTY AND TRAVIS COUNTY CREDIT UNION
FOR OPERATION OF AUTOMATED TELLER MACHINE IN THE OFFICE OF THE
TRAVIS COUNTY TAX ASSESSOR-COLLECTOR

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This License Agreement for Operation of Automated Teller Machine in the Office of the Travis County Tax Assessor-Collector (this "Agreement") is made and entered into this day by and between Travis County, Texas, a political subdivision of the State of Texas ("COUNTY") and the Travis County Credit Union, a nonprofit financial institution authorized to do and doing business in the State of Texas ("CREDIT UNION").

WHEREAS, CREDIT UNION has authority to install an Automated Teller Machine ("ATM") pursuant to Chapter 91 of the Texas Administrative Code and, pursuant to a preexisting license agreement that expired on its terms, CREDIT UNION did so install an ATM in the Office of the Travis County Tax Assessor-Collector ("Tax Office"), which has continued to operate in the current Tax Office location; and

WHEREAS, the ATM is, and would continue to be, a convenience for Travis County employees and for Travis County taxpayers; and

WHEREAS, COUNTY desires by this Agreement: (i) to allow the CREDIT UNION to replace the existing ATM with an updated, ADA-compatible machine in the Tax Office; (ii) to ratify continuation of such ATM operation and of the parties' continuing fulfillment of their license agreement obligations since expiration of the preexisting license agreement; and (iii) to grant CREDIT UNION permission to operate and maintain the ATM pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and payments set forth herein, the amount and sufficiency of which are acknowledged, COUNTY and CREDIT UNION agree as follows:

1. Credit Union Obligations.

1.1 Location. COUNTY grants to CREDIT UNION a license whereby the existing electronic, unmanned ATM may be replaced with an updated, ADA-compatible machine in the current location, namely: the office of the Travis County Tax Assessor-Collector located at 5501 Airport Blvd., Austin, provided this location continues to be acceptable to the Director of the Travis County Facilities Management Department (the

"Director"). In the event the Director determines that the ATM must be relocated, CREDIT UNION shall cooperate with and assist COUNTY with such relocation.

1.2 Payment of Electrical Current Costs. CREDIT UNION shall pay to COUNTY, within ten (10) days of approval of this Agreement by the Travis County Commissioners Court, the sum of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) covering electrical current costs from January through December of each calendar year in which this Agreement remains in effect. CREDIT UNION shall provide to County, on or before January 1 of each year, a payment for electrical current in the amount of \$250.00 per year. This cost is subject to change due to increased projected electrical costs. CREDIT UNION will be given sixty (60) days notice if such an increase will occur.

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1101 N. IH - 35
Austin, Texas 78705 - 1901

COUNTY:

Roger A. El Khoury, M.S., P.E. (or his successor)
Director, Travis County Facilities Management Dept.
P.O. Box 1748
Austin, Texas 78767

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By: _____
Samuel T. Biscoe
Travis County Judge

Travis County Credit Union

By: 
Wayne Samson
Chairman of the Board of Directors

Exhibit A
Description of ATM

System Control

- ARM v7 Cortex A8
- Microsoft® Windows CE 6.0

Customer Display

- 10.2" TFT LCD

Communication

- TCP/IP (SSL configurable)

Optional

- Dial-up

Input Type

- 4x2 touch function keys

Optional

- 10.2" TFT touch screen with vibrating feedback

Languages

- English
- Spanish
- French

Card Handling

- Dip-type card reader

Optional

- IC card reader EMV Level 1, 2 compliant

Cash Dispensing

- 1,000 or 2,000-note removable cassette
Up to Three cassettes

Printers

- 80 mm graphical thermal receipt printer

Security

- UL Business Hour safe
- Mechanical combination lock
- Security Options
 - UL Level 1 safe
 - Electronic safe lock
 - KABA Mas Cenccon safe lock

Power Supply

- AC 110–230V, 50–60 Hz

Operating Environment

- Temperature: -32°F–104°F
- Humidity: 25%–85%

Dimension and Weight

- Height: 52.3" (1,328 mm)
- With Topper: 66.3" (1,685 mm)
- Width: 15.7" (400 mm)
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