

**AMENDMENT TO AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO AND
EDENRED COMMUTER BENEFIT SOLUTIONS LLC**

THIS AMENDMENT TO THE AGREEMENT, entered into this 9th day of April, 2024, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Edenred Commuter Benefit Solutions LLC, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an Agreement for commute alternative benefit services on the 14th day of May, 2019; and

WHEREAS, the parties previously amended the Agreement to increase the amount by \$2,000,000 and to extend the Agreement for a 2 year period; and

WHEREAS, the parties wish to further amend the Agreement to increase the amount by an additional \$1,500,000 resulting with a new not to exceed amount of \$6,400,000 and extend the term for an additional 1 year to end on the 13th day of May, 2025.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

- 1. Exhibit A is being amended as follows:**
Exhibit A is being replaced with a revised Exhibit A (Rev. 04/09/24)

- 2. Exhibit B is being amended as follows:**
Exhibit B is being replaced with a revised Exhibit B (Rev. 04/09/24)

3. Section 3 of the agreement, "Payments" is amended to read as follows:

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed six million, four hundred thousand dollars (\$6,400,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

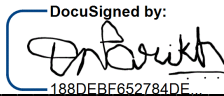
4. Section 4 of the agreement, "Term" is amended to read as follows:

Subject to compliance with all terms and conditions, the term of this Agreement shall be from May 14, 2019, through May 13, 2025.

5. All other terms and conditions of the agreement dated May 14, 2019, between the County and Contractor shall remain in full force and effect.

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: Edenred Commuter Benefit Solutions LLC

DocuSigned by:

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3/22/2024 | 15:04:39 EDT

Dharmesh Parikh

Contractor Signature

Date

Contractor Name (please print)

For County:

COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:
Clerk of Said Board

Revised Exhibit A (Rev. ***)**

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services: The Contractor will operate a commuter benefit program for County employees that will include options for subsidy distribution, an online portal employee account management, outstanding customer service, online reporting tools, and marketing materials to help employees make informed choices about their commutes. These services will be provided for a three-year term, with two, one-year renewal options at the discretion of the County, and services will need to be operational by July 1, 2019. Amendment 2 of this agreement provides an additional one-year term for services to be operational through May 13, 2025. The Contractor will be responsible for:

- (a) Program Implementation
- (b) Eligibility/Enrollment Administration & Support
- (c) Transportation Spending Account/Benefit Distribution
- (d) Program Marketing & Communications
- (e) Comprehensive Reporting

Specifications Section

1. Program Specifications

- A. Service Option:** Individual Enrollment, Individual Delivery
- B. Benefit Period:** Monthly
- C. Fee Program:** Per Participant Per Month Flat Fee

2. Services

Pursuant to this Agreement, the Contractor shall provide the Commuter Check Direct service (the "Benefit Services Program" or the "Program") shall fulfill the Section 132 transit, parking and bicycling benefit needs of The County's participating employees only by (i) with respect to the transit benefit, delivering transit media (including Commuter Check vouchers and, where available, fare media in specified territories) to the homes of the participating employees with the exception of orders that are electronic in nature and will be fulfilled according to the merchant's guidelines but no later than the 1st of the month for the applicable benefit and (ii) with respect to the parking benefit, effecting arrangements with selected parking facilities for direct payment of the participating employees' parking requirements, delivering parking vouchers for participating employees to use as a payment mechanism to parking facilities to pay for their daily, weekly, or monthly parking costs, or managing reimbursement for qualified parking claims and (iii) with respect to the bicycling benefit, delivering bicycling vouchers for participating employees to use as a payment mechanism to bicycling facilities. Program shall be implemented pursuant to the Program Timeline set forth in Section 6 below. In this connection, the date on which a participating employee's order file for the Benefit Services cannot be changed for the next Benefit Period is the 10th day of the month preceding that Benefit Period (the "Cutoff Date").

General Terms and Conditions

1. Commuter Check Services by the Contractor

The Contractor shall use all reasonable efforts at its own cost to perform the services identified in the Specifications Section in accordance with the terms and conditions of the Program set forth in this Agreement. The Contractor's delivery of service is dependent upon the timely performance by the County of its obligations under this Agreement.

2. Program Features

A. Enrollment

The Contractor will work with the County to initially enroll participating employees. Employees may enroll or change orders via the Contractor online ordering system at any time; however, changes to be effective for a Benefit Period must be made prior to the Cutoff Date (as defined in this Agreement) preceding the beginning of such Benefit Period. The County will provide Contractor with the following eligibility information: employee name, employee ID number, delivery address, delivery city, delivery state, delivery zip code, phone number, email address and the County's office/branch location(s) ("Eligibility Information").

B. Home Delivery of Transit Media, Parking Products and Bicycling Products (collectively referred to as the Order)

Transit media, parking and bicycling product orders will be mailed from the Contractor's offices in white, two -window envelopes via First Class Mail no later than five (5) days before the first day of the applicable Benefit Period with the exception of orders that are electronic in nature and will be fulfilled according to the merchant's guidelines but no later than the 1st of the month for the applicable benefit. Upon receipt of the Order, participating employees assume

all responsibility for the items contained in the Order. The Contractor's delivery protection plan will replace for a participant the content of one Order each calendar year, for media or products that qualify for replacement under the delivery protection plan, provided that the participant gives Contractor notice of the participant's claim within the term specified in the Contractor Policy for Non-Received Orders appearing on the Contractor website.

C. Customer Service

The Contractor Customer Service representatives respond to incoming calls, faxes, and e-mails for timely resolution. Customer Service hours of operation are 8:00 am-8:00 pm Monday thru Friday EST, excluding Federal Holidays. Inquiries received during business hours will be responded to within 24 hours.

D. Payroll Interface

Contractor provides a comprehensive payroll deduction file of pre-tax and post-tax amounts by employee that can be imported into the County's payroll system to facilitate processing of payroll deductions two day after the monthly cutoff date (12th of the month). The Contractor must provide a payroll deduction file that meets the County's payroll system import requirements.

E. Employee Communications

From time to time, the Contractor reserves the right to directly communicate to all eligible employees of the County, with the sole purpose of informing employees of the availability of Commuter Benefits, its advantages, how to sign up and of helping the County increase commuter benefit utilization. The communication can include but is not limited to printed material sent to employees' home address on record, email campaigns sent to employee email addresses on record with the Contractor. The Contractor will provide other customizable communication pieces for use by the County for distribution to its employees and the County program manager including for example the following: posters, welcome letters, user guides. Communication materials will be provided in an electronic format to the County for customization and/or printing. Additional fees for customized communication materials may apply according to scope or request. Contractor will also communicate with employees directly regarding the status of their orders, the availability of products that might serve their commuting needs, and periodic surveys about the service they are receiving and the commuter benefit overall.

3. The County Obligations

The County shall (i) adhere to the term conditions describe herein this Agreement including but not limited the guidelines and requirements for program set-up, employee enrollment, management of the program, (ii) promptly report to Contractor any errors or dissatisfaction of the Commuter Check Direct program which come to its attention regarding Contractor's Program administration, orders, fulfillment, customer service, including a description in reasonable detail of any errors or problems, within 2 business days of identifying the error, (iii) make all payments listed in the Specifications Section on a timely basis and (iv) accurately maintain the employee eligibility roster / details with

employee addresses and required personal information, office locations, as well as reporting new eligible employees and terminations in the required time frames established by Contractor.

4. Term

The term of this Agreement shall begin on its execution, continue for a three-year period, with two additional one-year terms at the discretion of the County unless either party provides notice to the other no less than 60 days prior to the next expiration date of its decision not to renew this Agreement. Either party may suspend its performance under or terminate this Agreement in the event the other party has committed a material breach of its obligations under this Agreement (including with respect to The County the obligation of making payments to Contractor) which breach has not been corrected within 15 days of notice of the breach. In addition, this Agreement may be terminated for convenience by either party, by giving the other party notice of such termination no less than ninety (90) days prior to the effective date of such termination.

5. The County Liaison

The County Liaison and Alternate Liaison identified in the Specifications Section are authorized to act on behalf of the County in connection with all matters pertaining to this Agreement and the Program and Contractor can rely on their decisions as representing the decisions of the County in connection with this Agreement and the Program.

6. General Provisions

A. The County shall maintain in strict confidence and not disclose to any other person or entity or otherwise use (other than for its Program for which the transit media, parking and bicycling products are provided under this Agreement) any information relating to CONTRACTOR (including without limitation, any Personal Information or other confidential or proprietary information) which may be disclosed to The County. The County acknowledges and agrees that its purchase of the Benefit Services Program (Commuter Check Direct) does not grant it any property right, interest, license or right to use any confidential or proprietary information, technology system or concept of Contractor. Without limiting the foregoing, The County shall maintain in strict confidence and not disclose to any other person or entity or otherwise use any Contractor confidential or proprietary information which may be disclosed to the County in connection with this agreement or the performance of services hereunder. Both the County and Contractor shall maintain a secure system environment with appropriate security control measures, including but not limited to encryption of electronic data to the extent technically feasible, and will not disclose knowingly to any third party, information of a confidential nature, including specific information of any employee of either Party. Further, the County understands and agrees that the Contractor obligation to maintain a secure system environment as described above in this Section 6.A, relates only to Eligibility Information provided by the County to Contractor, as described in Section 2.A above.

B. The Contractor is hereby authorized to include the County on a list of entities using Contractor's services and to use such list in promotion, marketing or advertising which Contractor may in its

discretion publish or distribute, provided Contractor shall not in so using such list inaccurately depict the County's relationship with the Contractor or indicate The County's endorsement of Contractor or its products or services. The Contractor, if required by any Banking regulations, is hereby authorized to provide the County Name, Address, Tax-ID # and such other necessary details, to its Sponsor Bank.

- C. The Contractor is required by Federal regulations that the County, for certain Prepaid products be identified by corporate name, address, government issued tax identification number and other relevant information. Therefore, the County may be asked to provide information and identification to comply with the law. As required by anti-money laundering laws, employees of those County's receiving the said Prepaid card products may be asked to provide further information for identification purposes. The County and employee shall be responsible for accurately providing such further information for identification purposes as requested and shall inform its employee's receiving said Prepaid card products, that such employee's may also be asked to provide further information for identification purposes for the purposes of complying with federal regulations with the issuance of such Prepaid card products.
- D. The Contractor shall not be liable for any delays in delivery or any failure of the Contractor to perform its obligations due to causes beyond Contractor's reasonable control, including without limitation, the elements, acts of God, delays in transportation, labor difficulties, interruption of communications or power, delays of delivery of supplies, delays in delivery of transit media supplied by other entities, civil disturbances, natural disasters or any other cause beyond the reasonable control of the Contractor.
- E. The County shall be responsible for any state, local or federal taxes in the nature of sales taxes which may be applicable to this Agreement or any services or deliveries under it whether such tax is imposed now or later by the applicable taxing authority. The County shall promptly pay Contractor for any such taxes even though such taxes are not identified on this Agreement regardless of when it is determined that such taxes are applicable even if such determination is made after the delivery of the applicable services or products or after the termination of this Agreement.
- F. With the exception of the reloadable Prepaid Card which is accompanied by its own Terms and Conditions and subject to agreement by the cardholder, the following shall be in effect. The County shall inform all participating employees that the transit media, parking and bicycling products delivered pursuant to the Benefit Services are like cash and should be protected by those participating employees as those employees would protect cash. Each such employee shall be informed that, subject to Contractor's delivery protection program identified in Section 2B above, Contractor shall not refund or credit any participating employee, and Contractor shall not refund or credit the County, for any transit media or bicycling and parking product delivered hereunder which is subsequently lost or otherwise unavailable for use. The County shall further inform each participating employee that vouchers that are expired may not be

used and shall have no value and that the validity of other transit media, parking or bicycling products delivered hereunder is subject to expiration dates and/or time frames and terms of use provided by the applicable entity issuing such transit media or parking product.

- G.** The Contractor is not providing the County any legal advice and, accordingly, Contractor undertakes no responsibility or liability regarding whether the Benefit Services as implemented by the County is in compliance with the requirements of Section 132(f) of Internal Revenue Service. The Contractor expressly recommends that the County obtain the advice of legal counsel with respect to such compliance.
- H.** THE CONTRACTOR WARRANTS TITLE TO TRANSIT MEDIA, PARKING AND BICYCLING PRODUCT DELIVERED BY CONTRACTOR PURSUANT TO THIS AGREEMENT. OTHERWISE, CONTRACTOR MAKES NO GUARANTEES, REPRESENTATIONS OR WARRANTIES. WITHOUT LIMITING THE FOREGOING, CONTRACTOR MAKES NO WARRANTIES, REPRESENTATIONS OR GUARANTEES AS TO MERCHANTABILITY OR THE FITNESS OF ANY TRANSIT MEDIA, PARKING AND BICYCLING PRODUCT DELIVERED PURSUANT TO THIS AGREEMENT FOR ANY PARTICULAR PURPOSE. ANY SUCH WARRANTY, REPRESENTATION OR GUARANTEE SHALL BE THE RESPONSIBILITY OF THE ISSUER OF THE APPLICABLE TRANSIT MEDIA.
- I.** The County acknowledges and agrees, and shall inform all participating employees, that this Agreement is exclusively between Contractor and the County and that the Contractor has no direct obligations to Employees and no third party beneficiary liability to anyone, including without limitation, participating employees. The County agrees to indemnify, defend and hold harmless the Contractor, its affiliates, and their respective officers, directors, shareholders, employees and agents against all such third party claims, and causes of action.
- J.** Notwithstanding anything to the contrary contained herein, the parties agree that:
 - a.** "Personal Information" is defined as an individual's first name or first initial and his or her last name in combination with any one or more of the following data elements: (i) Social Security number; (ii) government-issued identification number, including driver's license number; or (iii) account number, credit card or debit card number. The Contractor does not solicit or knowingly collect Personal Information of the County's employees. The Contractor shall have no liability, obligation or responsibility to any the County, any employees of any the County, or any other party with respect to any identification, records, documents, Personal Information or other confidential information that is given or made available to the Contractor, other than Eligibility Information required to be provided to Contractor herein, as specifically set forth in Section 2.A above. All identification, records, documents, Personal Information or confidential information that is not required to be given to Contractor pursuant to Section 2.A, are collectively referred to herein as "Other Information", and
 - b.** Either Party shall indemnify and hold the Other Party and Other Party's members, managers, directors, officers, affiliates, agents, employees, representatives, successors

and assigns harmless from and against any and all losses, damages, expenses (including legal costs and expenses), penalties, injuries, claims, actions or suits of any kind or nature, in contract or tort, however arising from any cause whatsoever arising from or related to any Eligibility and/or Other Information, including, without limitation, any access to, taking, or use of any Other Information, or any "identity theft" arising from or related to any such access to, taking, or use, UNLESS ANY OF THE FOREGOING IS CAUSED BY OR BASED IN ANY WAY ON, IN WHOLE OR IN PART, ANY NEGLIGENT OR GROSSLY NEGLIGENT ACT OR OMISSION OF EITHER PARTY OR ANY OF ITS MEMBERS, MANAGERS, DIRECTORS, OFFICERS, AFFILIATES, AGENTS, EMPLOYEES, REPRESENTATIVES, SUCCESSORS OR ASSIGNS OR ANY SUCH PARTY'S STRICT LIABILITY IN TORT. The provisions of Section 6.J of this agreement shall survive any expiration or termination of this agreement.

- K.** CONTRACTOR'S EXCLUSIVE LIABILITY IF ANY TO THE COUNTY REGARDLESS OF THE FORM OF ACTION, INCLUDING BUT NOT LIMITED TO, LIABILITY ARISING OUT OF CONTRACT, TORT OR ANY OTHER THEORY OF LAW SHALL BE LIMITED TO DIRECT DAMAGE (EXPRESSLY EXCLUDING ANY AND ALL SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE) AND SHALL IN NO EVENT EXCEED IN AMOUNT OF 3 MONTHS OF THE FEES PAID BY THE COUNTY TO CONTRACTOR UNDER THIS AGREEMENT. The County hereby acknowledges that the limitations of liability set forth in these Terms and Conditions represent the allocation of risk of failure between the County and Contractor as reflected in the pricing of this Agreement and is an essential element of the basis for the bargain between the County and Contractor.
- L.** Any the County who elects ECP Payment Option, (which enables the Employees of the County to pay via their personal Credit Card); the County would be liable to Contractor for any Credit Card Charge-back.
- M.** Any claim not presented by the County within one year from the date on which the County discovered or reasonably should have discovered such claim shall be deemed waived. Furthermore, no action, regardless of form relating in any way to performance or nonperformance of the Contractor under this Agreement, may be brought by the County more than one year after the termination or expiration of this Agreement.
- N.** This Agreement may not be assigned, sublicensed or otherwise conveyed or transferred by either The County or Contractor to any other person or entity, without the prior written consent of the other party, which consent shall not be unreasonably withheld, except that the Contractor shall have the right to assign its rights and obligations under this Agreement to an affiliate of the Contractor without the consent of the County.
- O.** The parties shall have the relationship for purposes of the Program of independent contractors and, accordingly, neither party shall have the authority to bind the other party.

- P. All legal communications, including notices, shall be effective upon delivery personally or by overnight courier to the address of the recipient stated in the Specifications Section or to such other address as the recipient may subsequently designate by notice.
- Q. This Agreement sets forth the entire agreement between the County and Contractor with respect to its subject matter and the parties are not bound by any understandings, agreements or other writings with respect to this subject matter otherwise than as expressly set forth in this Agreement. This Agreement may not be terminated (other than as stated expressly in this Agreement) or changed except by a writing signed by both parties. No waiver of any of the provisions of this Agreement shall be effective unless evidenced by a writing signed by the party charged with such waiver and any such waiver shall be strictly limited to the terms of such writing. This Agreement shall be binding upon and benefit the successors and permitted assigns of each party. No representations or warranties other than as may be expressly stated in this Agreement have been made in induce either party to enter into it. The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.
- R. In coordination with County ISD, Vendor agrees to integrate this application with County single sign-on (SSO) platform (Okta) via Security Assertion Markup Language (SAML) no later than May 14, 2024.

Revised Exhibit B (Rev. ***)**

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

1. Charges

- A. County's total payments for services shall not exceed \$6,400,000.
- B. The County shall pay Contractor, a monthly administration fee of \$4.00 per employee participant per month; subject to a minimum 50 participants with minimum monthly billing of \$200 per month.
- C. The face value of the transit benefit, parking benefit and bicycling benefit provided by the Program with respect to the applicable Benefit Period (together the "Benefit Value").
- D. Contractor shall invoice the County on a monthly basis which County shall pay within 30 days of approval of said invoices. Invoice documentation must be accompanied by a line-item

accounting and description for monthly expenses and evidence of work performed, or costs incurred, including, but not limited to, timesheets, activity logs, copies of bills, and/or packing slips. Contractor shall include a written certification that the costs were actually incurred for the Project and that the supporting documentation is true, correct and complete. Contractor shall deliver invoices and supporting documentation to the County by email to Jessica Stanfill Mullin at jmullin@smcgov.org.

2. Payment Terms

The Contractor shall make available to the County two (2) calendar days after the Cutoff Date for that applicable Benefit Period (period in which the ordered media will be used), an invoice / funding report for the administration fee and the Benefit Value for such Benefit Period based on the order file for the County's participating employees for such Benefit Period. The County shall cause the invoice to be paid via an ACH wire by the Contractor on the fifteenth calendar day of the month preceding such Benefit Period. The County shall take all action needed to enable the Contractor to effect such ACH payments. The Benefit Services will not be provided in any Benefit Period unless full payment of the invoice issued for such Benefit Services for such Benefit Period has been received by the Contractor. The County understands that this authorization will remain in effect until the debt for orders placed is fully discharged or it is canceled in writing whichever comes first. The County agrees to notify the Contractor in writing of any changes in its account information or termination of this authorization at least 15 days prior to the next billing date. The County confirms that the above business bank account is enabled for ACH transactions and agrees to reimburse the Contractor for all penalties and fees incurred as a result of the County's bank rejecting ACH debits or credits as a result of the account not being properly configured for ACH transactions. The County further agrees not to dispute these transactions with its bank provided the transactions correspond to the terms indicated in this authorization form. The County acknowledges that the origination of ACH transactions to its account will comply with the provisions of U.S. law. Both parties agree to be bound by NACHA Operating Rules and agree to provide any additional information to other party to ensure that parties are in compliance with NACHA Rules. Both Parties agree that this agreement can be terminated by other Party for breach of any NACHA Rules.

3. Monthly Processing Schedule

CATEGORY	ACTION	TIMEFRAME	RESPONSIBLE
Eligibility	The County uploads eligibility file online	1 week prior to initial enrollment period and on a regular Monthly basis to account for new hires and terminations	The County

Enrollment	Employees enroll via internet	Ongoing, but subject to the monthly Cutoff Date preceding the applicable Benefit Period	Employees
Invoicing	Invoice / funding report available to The County via admin site	2 days after the monthly Cutoff Date preceding the applicable Benefit Period	Contractor
Payroll Interface File	The Contractor provides the Payroll deduction file by employee with pre-tax and post-tax deduction amounts	2 days after the monthly Cutoff Date	Contractor
Payment	ACH credit or wire from The County	15th day of the month preceding the applicable Benefit Period	The County
Distribution	Products produced / mailed to Individuals	Mailing 19th – 23rd day of the month preceding the applicable Benefit Period	Contractor

The County shall cause the invoice to be paid via ACH credit or wire to the Contractor pursuant to the information provided by Contractor from time to time. Such ACH credit or wire must provide good funds to the Contractor for the applicable payment no later than the fifteenth calendar day of the month preceding such Benefit Period. In the event any such payment is not made within three calendar days of its due date, Contractor shall have the right (in addition to the remedy set forth in the last sentence of this paragraph) to charge the County a late payment fee equal to 1% of the amount due for each month or portion thereof during which such payment is outstanding, commencing from the due date of such payment.

The definitions of terms appearing in the Agreement shall apply to such terms as used in this Exhibit.

4. Invoice Format and Documentation

All invoices must include:

- A.** Company letterhead
- B.** Current remittance address
- C.** Agreement/Contract #
- D.** Invoice #
- E.** Invoice date
- F.** Total cost
- G.** Amount owing
- H.** Amount previously billed
- I.** Amount remaining on agreement

Contractor shall provide supporting documents concurrently upon invoice submittal, adequate to substantiate the charges. Adequate supporting documents include, but are not limited to: deliverable documents, payroll registers, timesheets, detailed invoices, inspection certificates, activity/participant logs, applicant forms, acceptance letters, survey forms, authorized travel/expense forms, service acknowledgment forms, etc. The types of supporting documents required to verify information on invoices depends on the specified contracted services and, if applicable, costs to be reimbursed. The County reserves the right to withhold payment on invoices until Contractor provides adequate supporting documents. The adequacy of supporting documentation is in the sole discretion of the County.