

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND GRANT STREET GROUP

This Agreement is entered into this ___1st___ day of ___July_____, 2017_____, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Grant Street Group, Inc., hereinafter called "Contractor."

* * *

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

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing a hosted, software-as-a-service (SaaS) web application to the County Tax Collector for the purpose of, among other things (described in Exhibit C and Exhibit E), facilitating billing, collection and apportionment of secured, unsecured, unitary, and local business taxes, and providing electronic payment processing services for in-person and online e-payment transactions.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A - Statement of Work
- Exhibit B - TaxSys Payments and Rates
- Exhibit C - TaxSys License and Services Agreement
- Exhibit D - Hosting Agreement
- Exhibit E - Electronic Payment Services and License Agreement
- Exhibit F - Electronic Payments and Rates

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B and Exhibit F, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A and in Exhibit E.

3. Payments

a. TaxSys

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 Sixteen Million One Hundred Seventy Thousand Nine Hundred Seventy Five Dollars (\$16,170,975). 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.

b. PaymentExpress

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit E, Contractor will collect payment directly from payer at point of transaction based on the rates and in the manner specified in Exhibit F, which consist of pass-through fees paid by third parties. The County will not pay any direct costs to Contractor associated with the electronic payment processing services provided.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2017, through June 30, 2022. After the initial term above, the parties may, upon mutual consent, renew the Agreement for a subsequent 5-year term at the rates and manner specified in Exhibit B.

5. Termination

This Agreement may be terminated by Contractor or by the Tax Collector or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five (5) business days after receipt of such notice to respond and a total of thirty (30) calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

If County fails to pay Contractor in accordance with the schedule set forth in Exhibit B, Contractor may suspend implementation and/or annual maintenance and support services until all past due payments are made. Alternatively, Contractor may terminate this Agreement.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract

materials”) prepared by Contractor under this Agreement shall remain the property of Contractor and shall be promptly returned to Contractor.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor’s failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor’s duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. Intellectual Property Indemnification

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as “IP Rights”) except as otherwise noted by this Agreement.

Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party’s IP Rights provided any such right is enforceable in the United States. Contractor’s duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor’s

expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor), or have been combined with other materials or products not provided by Contractor, (other than services which have been so combined by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall be permitted to assign any of its rights and obligations under this Agreement, in whole or in part, only to: (i) an entity directly or indirectly controlling, controlled by, or under common control with Contractor; and (ii) the successor (by sale, merger, reorganization or otherwise) to the applicable business operations of Contractor. Contractor shall not subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability... \$1,000,000
- (b) Motor Vehicle Liability Insurance... \$1,000,000
- (c) Professional Liability..... \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement

and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission,

the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", is less than one-hundred

thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

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.

17. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to a "force majeure". For purposes of this Agreement, the term "force majeure" means any cause, action or agency delaying or preventing the performance of a party's obligation(s) under this Agreement which is beyond the reasonable control or foreseeability of such party including but not limited to natural disasters, wars, power failures, internet outages and other acts of God. Upon notice of a force majeure event, the party whose performance under this Agreement is affected thereby shall: (i) promptly notify the other party by the quickest means available, explaining the nature and expected duration thereof; and (ii) use reasonable efforts to diligently

remedy the interruption or delay, provided that the interruption or delay is reasonably capable of being remedied by that party.

18. Most Favored Nation

Should Contractor, at any time during the term of this Contract, provide the same goods or services set forth in Exhibit A, under similar quantity, terms and conditions to one or more counties in the State of California at prices below those set forth in Exhibit B of this Agreement, then the parties agree to amend this Agreement so that such lower prices shall be extended to County from the time of the amendment through agreement end date.

19. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

20. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Robin Elliott, Assistant Tax Collector
San Mateo County Tax Collector
Address: 555 County Center, First Floor, Redwood City, Ca 94063
Telephone: 650-363-4980
Facsimile: 650-599-1511
Email: relliott@smcgov.org

In the case of Contractor, to:

Name/Title: Daniel J. Veres, Executive Vice President
Address: 339 Sixth Ave, Suite 1400, Pittsburgh, PA 15222
Telephone: 412-391-5555, ext.
Facsimile: 412-391-7601
Email: Dan.Veres@GrantStreet.com

21. Electronic Signature

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

* * *

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

For Contractor: Grant Street Group, Inc.


Contractor Signature

May 12, 2017
Date

Charles Fredrick Burnette
Contractor Name (please print)

COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:
Clerk of Said Board

Exhibit B

Payments and Rates

In consideration of the services provided by Contractor described in Exhibits "A", "C", and "D"; and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedules and terms:

| Implementation Milestones | Percentage of Implementation Fee | Expected Date | Amount |
|--|---|----------------------|---------------------|
| Sign & Execute Agreement | 0% | 7/1/17 | \$0 |
| End of Iteration One | 10% | 7/31/17 | \$1,000,000 |
| End of Iteration Three | 10% | 9/30/17 | \$1,000,000 |
| End of Iteration Five | 10% | 11/30/17 | \$1,000,000 |
| End of Iteration Six (Initial Data Load) | 10% | 12/31/17 | \$1,000,000 |
| End of Iteration Seven | 10% | 2/28/18 | \$1,000,000 |
| End of Iteration Nine | 10% | 6/30/18 | \$1,000,000 |
| End of Iteration Eleven | 10% | 10/31/18 | \$1,000,000 |
| End of Iteration Thirteen | 10% | 2/28/19 | \$1,000,000 |
| End of Iteration Fifteen (Go-Live) | 10% | 7/1/19 | \$1,000,000 |
| Post Go-Live Complete | 10% | 9/13/19 | \$1,000,000 |
| Total Implementation Fees | | | \$10,000,000 |

The implementation fees are inclusive of travel expenses. In general, it is anticipated that representatives of Contractor will travel to County offices for approximately one week out of every three during the implementation phase of the project. In addition, Contractor will be on-site at County offices during critical periods such as go-live week and possibly some weeks following. County will pay no other travel-related expenses to Contractor without County approval.

1. Initial term License and Services Fees. The first year License and Services fee is due upon contract signing. Each additional License and Services fee is due on that same month and day in the subsequent years.

| | | |
|--|--------|--------------------|
| First Year License & Services Fee | 7/1/17 | \$1,150,772 |
| Second Year License & Services Fee | 7/1/18 | \$1,191,049 |
| Third Year License & Services Fee | 7/1/19 | \$1,232,736 |
| Fourth Year License & Services Fee | 7/1/20 | \$1,275,881 |
| Fifth Year License & Services Fee | 7/1/21 | \$1,320,537 |
| Total License & Services Fees | | \$6,170,975 |

2. During the initial five-year term, any additional work that falls outside of the scope of Exhibit A or is not included in Exhibit C or Exhibit D shall be billed at Contractor's professional services hourly rate of \$250 per hour.

3. License and Services Fees for the five-year option-to-renew term.

| | | |
|--|--------|--------------------|
| Sixth Year License & Services Fee | 7/1/22 | \$1,366,756 |
| Seventh Year License & Services Fee | 7/1/23 | \$1,414,593 |
| Eighth Year License & Services Fee | 7/1/24 | \$1,464,103 |
| Ninth Year License & Services Fee | 7/1/25 | \$1,515,347 |
| Tenth Year License & Services Fee | 7/1/26 | \$1,568,384 |
| Total License & Services Fees | | \$7,329,183 |

4. Beginning on the first option-to-renew period (above), any additional work not included in Exhibit C shall be billed at Contractor's professional services hourly rate of \$275 per hour.

5. The fees for Contractor's Value Added Products and Services as described in Exhibit A shall be as follows:

| | |
|---|--|
| TitleExpress – online ownership & encumbrance reports | Contractor will assess a fee of \$ 250.00 per parcel search requested (via TaxSys) payable by County. |
| EscrowExpress – online escrow tax processing and payment | Free to County. Contract will assess a fee of \$0.50 per account to be paid by the tax servicing companies. |
| Electronic Billing (BillExpress™) | There shall be no fee associated with County's use of BillExpress |
| Online Transient Occupancy Tax (TOT) Processing (TouristExpress™) | There shall be no fee associated with County's use of TouristExpress |
| Online Tax-Defaulted Property Sale Auction Website (ClerkAuction) | \$25,000 per sale Contractor will assess auction registrants a \$35 non-refundable payment processing fee for each deposit processed. |

Exhibit C

TaxSys License and Services Agreement

This TaxSys License and Services Agreement (“LSA”) governs the provision of professional consulting, implementation, maintenance, training and other services, provided by Grant Street Group, Inc. (“Contractor”), and grants to San Mateo County (“County”) a limited license to use Contractor’s TaxSys application (“TaxSys) and certain other specified proprietary software integrated with TaxSys and owned by Contractor (together, the “System”).

1. **Term.** The term of the LSA shall be as specified in Section 4 of the Agreement.
2. **Termination.** (a) Termination of the LSA shall be in accordance with Section 5 of the Agreement.

(b) Upon termination of this LSA, each party shall promptly return to the other any and all personal property of the other held by such party and shall provide a certificate to the other party (in the form attached hereto as Attachment 2) to the effect that it has delivered to the other party all property belonging to the other party, including Confidential Information, and that County has retained no duplicates or copies of, nor conveyed to any third party, any such property.

(c) Contractor shall provide County with a full copy of County’s data in the event of termination pursuant to the Agreement or in the event this Agreement is not renewed pursuant to Section 4 of the Agreement.
3. **System Fees and Payment Terms.** County will pay Contractor the amounts indicated in Exhibit B – Payments and Rates, of the Agreement.
4. **Implementation and Delivery.** Contractor will implement the System in accordance with Exhibit A – Statement of Work, of the Agreement.
5. **System Support.** (a) During the Maintenance Term of this LSA, Contractor shall supply County with Support for the System which shall include support for all modules and any enhancements, and extensions performed by Contractor, including Updates, Upgrades, and Releases. Furthermore, it is agreed that any custom changes or work product performed on behalf of County shall become part of Contractor’s System for purposes of being included under this LSA. Contractor shall provide the following services to the County with respect to the System under this LSA (“System Support” or “Support Services”): (i) access to software support representatives qualified to answer questions transmitted via telephone, email or other electronic means; (ii) correction of System bugs or errors that materially and adversely impact system performance pursuant to Exhibit D – Hosting Agreement; (iii) development or modifications to meet new or updated/modified federal, state, or local mandates (iv) hosting, maintenance and backup of the System application code and database files; (v) initial classroom training (“Initial Training”) during implementation of the System; (vi) user manuals in electronic form; (vii) support for online tax-defaulted property sales; (viii) support for online escrow processing by escrow/tax paying agents; and (ix) support for electronic billing of property taxes.

(b) The following services are excluded from System Support (“Excluded Services”): (i) software programming services related to custom or other enhancements or modifications to TaxSys requested by County after delivery of the System. System Support for such custom functionality, once incorporated into the System, is not part of Excluded Services (ii) development of new software, new applications or new interfaces to new software or new applications installed or implemented by County after delivery of the System; (iii) support for or integration with any software or application not covered under the Agreement; (iv) training requested by County other than Initial Training; and (v) any other services requested by County that are not described in Section 5(a).

(c) System Support will be provided during the hours from 8 A.M. to 6 P.M. Pacific Time (PT), Monday through Friday, excluding nationally recognized holidays (“Business Hours”). Contractor shall respond in a prompt, commercially reasonable manner during Business Hours. Outside of Business Hours, qualified Contractor personnel will be reachable by cell phone to assist County in crisis situations.

6. County Responsibilities. County's responsibilities under this LSA include: (a) installing all required communication networks and related equipment and services necessary to support the System; (b) installing and maintaining all personal computers used to access the System; (c) explaining special requirements of the System to Contractor personnel well in advance of delivery; (d) delivering via electronic media accurate copies of County data in the format required by Contractor (i.e., TaxSys Standard Format, as set forth in Exhibit A – Statement of Work); (e) fully utilizing each of the features of the System for the business purposes for which the feature was designed; (f) informing Contractor of changes in County hardware and software and their configuration that may impact in any way the performance of the System or interfaces between the System and other applications or software in use by County; and (g) responding promptly to Contractor's reasonable requests for information related to the services Contractor is providing pursuant to the Agreement.

7. Hardware and Network Requirements. County shall have or install a dedicated, primary Internet connection and communication network that includes a minimum available bandwidth of 10 megabits per second for System users from the main and branch offices to the Internet as well as a backup Internet connection of sufficient capacity (at least 3 megabits per second) to support anticipated use of the System when the primary connection is out of service. Both connections shall be operational no later than thirty (30) days prior to scheduled Delivery. County users of TaxSys need a computer of relatively recent vintage (< 4 years old) with a modern version of the Firefox (any version <1 year old) or Internet Explorer (IE9 or higher) web browser installed. For the best experience, Firefox is preferred. Any network proxies, virus scanners, or similar tools should be set to bypass or “trust” TaxSys for maximum performance.

8. Title. Contractor shall own all rights, title and interest in and to the System and the related System source code including copyright, trade secret, patent, trademark and other proprietary rights as well as all customizations, enhancements, modifications, improvements, derivations or other variations thereof. This LSA does not transfer to County under any circumstances any of Contractor's ownership rights in the System or the System source code.

9. License. Contractor grants County and its full-time, part-time or contract, subject to the terms and conditions of this LSA, a limited, non-perpetual, non-transferable and non-exclusive license to access and use the System solely in conjunction with County billing,

collection and administration of certain taxes, licenses and registrations. This license immediately terminates upon termination of the Agreement. Contractor is supplying the System to County as a collection of hosted Software as a Service (SaaS) applications via the Internet.

10. Confidentiality and Use/Copying Restrictions. (a) County acknowledges and understands that the System licensed under this LSA is owned by Contractor and constitutes a valuable trade secret belonging to Contractor. County also acknowledges and understands that Contractor is willing to provide County and its full-time, part-time or contract employees with certain proprietary business and technical information regarding its System pursuant to this LSA ("System Confidential/Proprietary Information" or "Confidential Information"). "System Confidential/Proprietary Information" includes without limitation: (i) all Contractor software; copies of System web pages, pop-ups, online help features, etc.; specifications related to site modifications or enhancements; site performance data, cost and pricing information, training and/or user manuals; and any other documentation relating to the System, and (ii) any other information, documents or materials designated or marked in writing by Contractor as "Confidential" or "Proprietary". Such System Confidential/Proprietary Information may be in hard copy, printed or electronic format. System Confidential/Proprietary Information does not include information which: (i) is or becomes generally available to the public other than as a result of a disclosure by County; or (ii) becomes available to County on a non-confidential basis from a source other than Contractor, provided that such source is not known by County, after making appropriate inquiry, to be bound by a confidentiality agreement with, or other obligation of secrecy to, Contractor or another party; or (iii) is required to be disclosed pursuant to any legal process or request from any governmental authority or body having jurisdiction over County, provided that, prior to any such disclosure, County shall provide adequate notice to Contractor in order to enable Contractor to seek an appropriate protective order or injunctive relief.

(b) In the event of a request for the disclosure of System Confidential/Proprietary Information pursuant to California Government Code Sections 6250 *et seq.* County shall immediately notify Contractor of such request in order to give Contractor the opportunity to object to the disclosure of such information and/or to seek an appropriate protective order or injunctive relief from disclosure of its valuable trade secrets and Confidential/Proprietary information.

(c) County hereby agrees to: (i) hold the System and/or all System Confidential/Proprietary Information as Confidential Information and take such steps as are reasonably necessary to safeguard the System and/or System Confidential/Proprietary Information to the same extent that County safeguards other trade secrets and proprietary information related to its business; (ii) exercise reasonable care to prevent the disclosure of the System and/or System Confidential/Proprietary Information to any third party; (iii) restrict the use of the System and/or System Confidential/Proprietary Information by County solely for the billing, collection and administration of certain taxes; and (iv) limit the disclosure of the System and/or System Confidential/Proprietary Information within County's organization to employees whose duties justify the need to know it solely for the billing, collection and administration of certain taxes, and who are legally obligated to comply with the terms of this Agreement. County's obligations as set out in this Section 10 survive any termination of this LSA.

(d) County further agrees that, absent Contractor's prior written consent, it will not directly or indirectly copy, save, modify, print, publish, or post on the Internet, or reveal,

permit access to, disseminate, distribute, or disclose; to any third party, all or any part of the System and/or System Confidential/Proprietary Information.

(e) County further agrees not to sell, assign, lease, license, or in any manner encumber, pledge, convey, or transfer the System or any interest therein.

(f) County acknowledges that should it breach its obligations under this Section 10, Contractor may suffer harm, which may not be adequately compensated by monetary damages. In such event, Contractor may, in addition to monetary damages, seek equitable relief to enjoin such breach.

(g) County acknowledges that all users of the System will be prompted when they first log into the System to agree to the terms of an online confidentiality agreement, which is attached hereto as Attachment 1, Online Confidentiality Agreement.

11. County Data Confidentiality and Use Restrictions. (a) All data and written and oral information not in the public domain and not previously known, which is obtained, developed, or supplied by the County or at its expense shall be kept confidential by Contractor and shall not be used or disclosed to any other party, directly or indirectly, without the County's prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction. Contractor will maintain such County information for not less than seven (7) years.

(b) Nothing in this Section 11 shall be construed as granting to County any interest in any information, concepts, ideas or other materials Contractor creates or develops in the course of performing services hereunder that relate to the licensed System, or modifications or customizations thereto, all of which shall remain the property of Contractor.

12. Limited Warranties. (a) Contractor warrants that the System will conform to Contractor supplied specifications and documentation. Contractor also warrants that the System will meet County requirements documented and agreed to by Contractor prior to delivery. Contractor does not warrant that the operation of the System will be uninterrupted or error free. County agrees that the System is of such technical complexity that defects (inherent, latent and/or manifest) may exist and that, as County's sole and exclusive remedy for breach of the warranties contained herein, Contractor shall correct documented errors which are caused by a defect in the System. For purposes of this Section, the term "defect" shall mean only material deviations from the specifications and documentation supplied by Contractor.

(b) The limited warranties contained in this Section shall not apply if a claimed problem is caused by: (i) the malfunction of computer hardware or other software or applications not produced, developed, or provided by Contractor; (ii) County's negligence or fault; (iii) County providing improper data to be processed by the System; or (iv) a "force majeure" event, as described in Section 17 of the Agreement.

(c) County warrants that the System and Support Services provided by Contractor pursuant to this LSA will be used exclusively for the purpose of assisting County in the administration, monitoring, assessment or collection of taxes.

13. **No Implied Warranties and Limitation of Liability.**

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN SECTION 12 OF THIS LSA, CONTRACTOR MAKES NO WARRANTY, REPRESENTATION, PROMISE OR GUARANTEE, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SYSTEM OR THE SUPPORT SERVICES PROVIDED HEREUNDER, INCLUDING THEIR QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN NO EVENT WILL CONTRACTOR BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, COVER, CONSEQUENTIAL, OR OTHER DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES OR COSTS RELATING TO THE LOSS OF PROFITS, BUSINESS, GOODWILL, DATA OR COMPUTER PROGRAMS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WITHOUT REGARD TO THE LEGAL THEORY OF SUCH DAMAGES, ARISING OUT OF THE USE OF OR INABILITY TO USE THE SYSTEM OR THE SUPPORT SERVICES PROVIDED HEREUNDER. IN NO EVENT WILL CONTRACTOR'S LIABILITY TO COUNTY FOR DAMAGES UNDER ANY THEORY OF LIABILITY OR FORM OF ACTION EXCEED THE TOTAL AMOUNT OF THE ANNUAL FEE PAID BY COUNTY TO CONTRACTOR DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT THAT CAUSED SUCH DAMAGES.

14. Taxes. In the event any Internet commerce taxes are imposed on Contractor by Federal, State or local governmental authorities or entities that are either directly or indirectly associated with the online services supplied to County by Contractor, the parties will negotiate in good faith an adjustment of Contractor fees in Exhibit B – Payments and Rates, as is appropriate under the circumstances.

15. Security. Contractor shall implement commercially reasonable measures to protect the security of County's data and to prohibit unauthorized access to such data, which will include allowing access to the System only through 128-bit or 256-bit Secure Socket Layer connections.

16. Database Files. Contractor acknowledges that the County's data stored on Contractor servers is the property of County and that County may export its data at any time using any format supported by the System such as Comma-Separated Values ("CSV"), Portable Document Format ("PDF") or certain spreadsheet applications.

17. Attachments. Both parties acknowledge receipt of the documents listed below and consent to their incorporation into and attachment to this LSA as the indicated Attachment number.

| <u>Attachment Number</u> | <u>Document Title</u> |
|--------------------------|----------------------------------|
| 1 | Online Confidentiality Agreement |
| 2 | Certificate of Delivery |

18. Exclusivity. During the term of this Agreement, Contractor shall be County's exclusive provider of the services described herein. County agrees that it will not itself undertake nor contract with a third party to provide any of the services that are described herein while Contractor is providing such services to County.

19. Survival. Sections 8, 10, 11, 13, and this Section 19 shall survive any termination of this LSA.

Attachment 1

ONLINE CONFIDENTIALITY AGREEMENT

Contractor grants You, subject to the terms and conditions of the Tax Collection and Billing System License and Services Agreement between Contractor and San Mateo County, a license to use the System for the sole purpose of assisting the San Mateo County Tax Collector with billing, collection and administration of certain taxes. You acknowledge and understand that the System licensed under this Agreement constitutes a valuable trade secret that is owned by Contractor. You also acknowledge and understand that You will have access to proprietary information owned by Grant Street Group. Accordingly, you agree that you will not knowingly allow anyone to log into the System with your personal login credentials nor will you disclose or reproduce, in person, in print or electronically, screen images from the System to/for anyone other than a County employee with a need to know.

Attachment 2

CERTIFICATE OF DELIVERY

I, _____, being the holder of the office of _____, hereby state that I am authorized to certify the statements made herein on behalf of San Mateo County Tax Collector (the "County"), and that the statements made herein are true and correct.

Pursuant to Section 2 (b) of the TaxSys License and Services Agreement by and between Grant Street Group, Inc. ("Contractor") and the County, I hereby certify that all personal property of Contractor within the possession of the County related to Contractor's TaxSys Application, including all Confidential Information of Contractor, has been delivered to Contractor.

I further certify that the County has not retained any duplicates or copies of any such property nor has it conveyed, or in any manner transmitted, such property or the information contained therein to any third party.

Signature

Date

Exhibit D

Hosting, Maintenance, Support Services, and Service Level Agreement

A. OVERVIEW

This Exhibit describes the Hosting, Maintenance, and Support Services Contractor will provide to the County for the System. Terms not defined in this Exhibit will have the meaning set forth in the main body of the Agreement between Contractor and County. Contractor shall provide a list of assigned contact names, phone numbers, and email addresses (a "Contact List"), along with a toll-free number for technical support. The Contact List may be updated by Contractor from time to time upon written notice to County, provided that if County has any reasonable objections to any such revisions, Contractor will work with County to resolve such objections.

B. HOSTING, MAINTENANCE, SUPPORT SERVICES

Hosting, Maintenance, and Support Services shall include but not be limited to hosting of the System, general maintenance and support activities; remedial resolution activities to resolve Events as defined herein; correcting programming and coding errors, and supplying solutions to known system errors which affect the operation of the System. Contractor shall provide telephone advice and e-mail assistance by individuals with experience in functional and operational areas of the System regarding issues involving the usage of the System (rather than error correction), including, but not limited to, advice and assistance covering the System, and general usage issues such as capacity and/or response times.

1. AVAILABILITY STANDARDS

Contractor agrees to make the System available in compliance with or exceeding the following service performance standards. Any availability of the System beyond what is prescribed below will be at no additional charge to the County. System, server, and network availability percentage guarantees are exclusive of scheduled maintenance times identified below. If for any reason the scheduled maintenance time needs to be changed, both Contractor and County must mutually agree to the change before it will be made.

2. SYSTEM AVAILABILITY

Normal Service Availability Schedule is twenty-four (24) hours per day and seven (7) days per week.

The System shall be available and functioning for use as described in this Agreement 99.5% of the time as measured on an annual basis, measured as the twelve (12) months beginning each year on the anniversary date of the first Go Live as described in Exhibit A, Attachment, Preliminary Implementation Timeline. No twenty-four (24) hour period may exceed five (5) hours of scheduled outage unless County approves in advance. So long as the System is available over the Internet to at least some third parties (i.e., the System is functioning properly and there are no technical issues with Contractor's or its Internet service provider's hardware or software), any inability on the part of County or third party users to access the System as a result of a general Internet outage, the County's Internet outage or the third party user's Internet outage, will not be counted toward any unavailability time period. System Maintenance, as provided below, will not be counted toward any unavailability time period.

3. OTHER PERFORMANCE STANDARDS:

a. Infrastructure Management.

Infrastructure Management to be performed by contractor shall consist of providing sufficient computer and communication hardware, software, databases, people and policies to support the activities, functions and operations for county as set forth herein. Contractor agrees to maintain the site, server, network, the System, and database according to standards set forth herein.

b Network Bandwidth/Response Times.

Contractor agrees to provide packet loss of less than 1%; and less than 60 ms domestic latency within Contractor's network. Contractor agrees to maintain sufficient bandwidth to the hosting sites and ensure that web requests reach web servers within a few milliseconds of entering Contractor's network. County and Contractor recognize that end user response times are dependent on intermittent internet service provider network connectivity, and in the case of County's users, on County's internal network health.

c Site Hits.

Contractor agrees to support up to 500,000 site hits per day (24 hour period), to the County's web pages, and to capture the number of site hits by page for performance to standards reporting.

d. Transactions Processed.

An unlimited number of transactions may be processed to the County production database hosted by Contractor, but reports and queries will be limited if Contractor determines that such reports and queries cause degradation to response times effecting performance levels set in the Service Level Agreement.

e. Database Retention.

Contractor will retain all database records regardless of number or size.

f. Software Maintenance.

Contractor agrees to apply upgrades, new releases, and enhancements to the System periodically and that those upgrades will not adversely affect those parts of the System used by County. In addition Contractor agrees to provide a Test System, for County's testing of application upgrades and fixes.

g. Report Execution.

Contractor's System includes an ad-hoc reporting tool, and includes various standard reports. Contractor agrees to provide unlimited access to standard reports, and to the ad hoc report development tool, for County employees. Contractor agrees to support an unlimited number of queries and canned, pre-formatted, or ad hoc reports against the County's data for no additional fee. County agrees that Contractor may put size limits on queries and reports to maintain System performance.

h. System Backups.

The primary purpose for System backups is to help Contractor provide County with timely disaster recovery should the System be rendered inoperative due to hardware or environmental impacts. System restoration performed as a recovery procedure after a disaster is included as a Contractor service. County may request (through their primary point of contact) restoration of individual file(s). Contractor agrees to take full System backups weekly and incremental backups daily. Full System backups include System and user data. Backups will be written to a backup device with sufficient capacity to handle the data. Contractor will determine the full and incremental backup schedules and the software used to perform the backups. Contractor agrees to maintain a complete set of backups for County's System, including data, at Contractor's alternate hosting site. Contractor agrees that County may extract all data from Contractor's database at will in a CSV format or format mutually agreed upon between Contractor and County

i. Production Version. N/A

j. Test.

The test system, which shall mirror the production system, shall be made available for use by County for testing purposes upon reasonable request.

k.. Demo/Training.

A Demo/Training System will be available for use by County upon reasonable short term request. County may control data that is populated on the Demo/Training System by requesting that Contractor (i) periodically refresh data from production; (ii) do an adhoc refresh of data from production; (iii) not refresh data from production until further notice from the County; or (iv) or ad hoc basis with training data supplied by County.

4. SERVICE LEVEL AGREEMENT PERFORMANCE MONITORING

a. Application.

Contractor agrees to provide the standard reporting metrics that can be obtained from the performance monitor. The time intervals for collecting this data and sending the data will be determined by Contractor's network, database and web engineers, based on the effects of data collection on the application performance.

b. Network.

Contractor agrees to track traffic patterns by user, and by time.

c. Server Load.

Contractor agrees to monitor and track CPU load, virtual memory, disk and I/O channel utilization, TCP load for each server allocated in part or in full to County System.

d. System Errors.

Contractor agrees to track System, database, operating system, and server errors for each server allocated in part or in full to County System

5. PERFORMANCE TO SERVICE LEVEL STANDARDS REPORTING

a. Monthly Report.

Contractor will provide to County upon request a report which includes performance to service level standards for the most recent month. Performance to service level standards will be tracked on calendar month basis, and provided to County upon request.

6. HOSTING CAPACITY INCREASES

a. Server Load.

Contractor agrees to upgrade existing servers or deploy additional servers dedicated to County's System within five (5) days, if transaction volumes dictate the need.

7. DISASTER RECOVERY

Contractor will maintain a disaster recovery plan for the TaxSys production service. Contractor commits to a recovery time objective of twelve (12) hours - measured from the time that the TaxSys production service becomes unavailable until it is available again. Contractor commits to a recovery point objective of one (1) hour - measured from the time that the first transaction is lost until the TaxSys production service became unavailable. Contractor will test the disaster recovery plan once per year, and will make available a written summary of the results of the most recent test available to County upon request.

8. SYSTEM MAINTENANCE

Notwithstanding the foregoing, maintenance downtime (i.e., taking the System offline such that it is not accessible to the County or third party users) may be scheduled to occur between Midnight (12:00 a.m.) through 5:00 a.m., Pacific Time daily on weekdays, excluding nationally recognized holidays, and Midnight through 8:00 a.m., Pacific Time on Saturday, Sunday or nationally recognized holidays ("Daily Maintenance Window"). Contractor may from time to time also schedule other maintenance to occur outside of the Daily Maintenance Window, but such scheduled maintenance would still occur outside of normal Business Hours as defined in Exhibit C.

Contractor will provide the County with at least 24 hours prior notice of any maintenance requiring the System to be taken offline. During the Daily Maintenance Window, Contractor may perform without any notice to the County, routine maintenance operations that do not require the System to be taken offline, but which may have the effect of degrading System performance and response time. Such degradation in performance and response time shall not be deemed a breach of any obligation hereunder.

9. SOFTWARE MAINTENANCE

Contractor agrees to provide: (i) periodic releases of the licensed software that may contain fixes or incremental enhancements to the licensed software ("Updates"); (ii) periodic releases of the licensed software that contain significant enhancements that may include changes necessary to accommodate changes in the hardware platform, database, platform, operating system or major changes in capability and functionality ("Upgrades"); and (iii) versions of the licensed software which add functionality to the licensed software, including any Updates or Upgrade ("Releases") to the System periodically per Contractor's standard operating and change control procedures. Notwithstanding the foregoing, Update, Upgrades and Releases to be provided hereunder will not include any enhancement or functionality that is made generally available to Contractor's other System customers where such enhancement or functionality requires a separate charge.

Updates, Upgrades and Releases to be provided at no additional charge (e.g., any charge in excess of the recurring License and Services Fee pursuant to Exhibit B of the Agreement) include corrections needed to resolve reported bugs and defects in the licensed software. Software bugs and defects shall be reported by the County to Contractor in writing, using Contractor's tracking system or established e-mail protocol.

10. REPORTING OF EVENTS

The County shall report all Events (as defined below) and other System issues or requests through Contractor's issue tracking and reporting system. During implementation, Contractor will train County users how to use the issue tracking and reporting system.

11. PRIORITY OF EVENTS

"Event" means an incident whereby the System is either not working or its operation is inconsistent with the specifications set forth in Exhibit A of the Agreement and Contractor is solely responsible. Events are divided into categories.

The categories are Priority 1, 2, and 3 as further defined below:

"Priority 1- Critical Business Impact Event" means the impact of the reported defect is such that the County or third party users are unable to either use the System or reasonably continue work using the System. An event at this level is deemed critical if any core business module that comprises the System cannot be used to access/view records or to complete transactions.

Also included is lack of access or interoperability with linked systems or modules, and/or complete lack of access to major components or modules of, or the System as a whole.

Contractor shall respond to the County within one (1) hour of notification. Contractor shall use commercially reasonable efforts to resolve or reduce to Priority 2 all Priority 1 Events within four (4) hours after the Event is logged by the County.

"Priority 2- Significant Business Impact Event" means important features of the System are not working properly. While other areas of the System may not be impacted, the reported defect has created a significant, negative impact on the County's productivity and/or service level. Events deemed significant at this level are those that entail intermittent or a significant reduction of System performance. There is

some use of the System available or work-arounds for specific issues, however there is an adverse impact on business productivity.

Contractor shall maintain a response time goal of four (4) hours and shall use commercially reasonable efforts to resolve or reduce to Priority 3 all Priority 2 Events within eight (8) Business Hours after the Event is logged by the County.

"Priority 3- Some Business Impact Event" means features of the System are not working properly, but County impact is minimal loss of operational functionality but the System can still operate. Issues in this category are considered to be more in the nature of nuisance, and do not have major impact on business productivity.

Contractor shall maintain a response time goal of one (1) day and shall use commercially reasonable efforts to provide a work-around solution in a time period not to exceed 30 days, and to resolve the Event in a future Update release.

12. COUNTY COOPERATION

Contractor's obligations in the service level commitment are subject to the terms and conditions set forth in the Agreement, including without limitation, County's obligation to provide Contractor with information regarding any of the above-described Events, and the time frames set forth above may be suspended during any period in which Contractor is waiting for additional information from County.

13. CREDITS

County's exclusive remedy and Contractor's sole obligation under the Agreement, for Contractor not meeting the service level commitments outlined above shall be:

Priority 1: If a Priority 1 Event is not resolved or reduced to Priority 2 Event within one business day after the Event is logged by the County, the County will receive a \$500 credit for each day that the Event remains in Priority 1 status in Peak Season (defined as each year: March 1 through April 20, the last week of June through the end of July and November 1 through December 20) and a \$250 credit for each day that the Event remains in Priority 1 status in Non-Peak Season. This provision shall not apply to problem(s) that are solely caused by County.

Priority 2: If a Priority 2 Event is not resolved or reduced to a Priority 3 Event or if there is no work-around within two business days after the Event is logged by the County, the County will receive a \$250 credit for each day the Event remains in Priority 2 status in Peak Season; and \$100 credit for each day the Event remains in Priority 2 status in Non-Peak Season.

Contractor shall not be liable for any credits if the service level failures are attributable in whole or in part to (i) County's acts, omissions or improper use of the System; (ii) issues with County's systems or products or services supplied to the County by third-parties, or (iii) force majeure events as described in the Agreement.

Any credit earned under this Service Level Agreement will be applied against the next payment due from County. If the credits are earned at the end of the Agreement and there are no pending payments due Contractor from County, Contractor shall issue a check to County in the amount of the outstanding credits.

Exhibit E

Electronic Payment Services and License Agreement

This Electronic Payment Services and License Agreement ("EPSA") governs the provision of professional consulting, implementation, maintenance, training and other services, provided by Grant Street Group, Inc. ("Contractor"), and grants to San Mateo County ("County") a limited license to use Contractor's PaymentExpress application.

1. Term. The term of the EPSA shall be as specified in Section 4 of the Agreement.
2. Termination. (a) Termination of the EPSA shall be in accordance with Section 5 of the Agreement and the following additional terminations provisions:

(b) Contractor may terminate the Agreement immediately: (i) in the event the agreement between Contractor and the Bank (as defined below) is terminated for any reason, and Contractor is unable to agree to terms with a different bank or financial institution for purposes of Contractor being able to continue to offer its services to County under this EPSA; or (ii) in the event County notifies Contractor, pursuant to Sections 7(b) or 7(e) below, of any legal requirement that contradicts Contractor's contractual obligations to the Bank or the Associations. If Contractor has reason to believe that its agreement with the Bank is going to be terminated for any reason, then Contractor shall provide County with sixty (60) days written notice, if practicable under the circumstances, to allow County an opportunity to limit any potential disruption in services to County's customers. Contractor agrees to work with County in the transition of any services under this Agreement to a new gateway service provider or Bank in the event it cannot fulfil its obligations under this Agreement because of the reasons cited above.

3. PaymentExpress Services. (a) The electronic payment services provided by Contractor hereunder shall have the specifications described in Attachment 1, attached to this EPSA. PaymentExpress provides a means for County to accept electronic payments for County transactions, including, but not limited to, payments for property taxes and other taxes and fees, miscellaneous County permits, Revenue Services, and licenses. PaymentExpress is referred to as "Electronic Payment Services".

(b) The Electronic Payment Services, in accordance with the terms of the EPSA, may be in the form of: (i) certain approved credit and signature debit cards (each a "Card"); (ii) PIN debit card transactions; (iii) contactless transactions; (iv) electronic check or other forms of payment through the Automated Clearing House (ACH) system (either such payments being referred to as an "E-check"); and (iv) any other modes of electronic transactions offered by Contractor that County may desire to accept in the future. Payments by Cards, E-checks, or other modes described above shall hereinafter be referred to collectively as "E-payments." An Individual or entity making E-payments hereunder shall be referred to as a "Payor".

(c) Electronic Payment Services support will be provided during the hours from 8 A.M. to 6 P.M. Pacific Time (PT), Monday through Friday, excluding nationally recognized holidays ("Business Hours"). Contractor shall respond in a prompt, commercially reasonable manner during Business Hours. Outside of Business Hours, qualified Contractor personnel will be reachable by cell phone to assist County in crisis situations.

(d) In providing Electronic Payment Services, Contractor will engage the services of financial intermediaries, including an acquiring bank and Card processor (collectively “the Bank”), in order for Contractor to process E-payments, including Card payments from VISA, Inc., MasterCard International, Inc., American Express, and Discover® Network (each an “Association” and collectively the “Associations”).

(e) In order for Contractor to process Card payments for County, County shall execute a Merchant Agreement with the Bank.

(f) Contractor shall make available to County reports and statements with respect to E-payments, as set forth in Attachment 1. All information appearing on such reports and statements shall be deemed accurate and affirmed by County, unless County objects by written notice specifying the particular item in dispute within thirty (30) days of the date of the report or statement. Delivery of the reports or statements may be in written or electronic form.

(g) Contractor will provide County with 15 (fifteen) Ingenico iPP320 PIN debit devices (“Devices”) at no charge. The Devices are intended to support Near Field Communications (contactless), point-to-point encryption, and EMV. Contractor is obtaining the Devices from a third-party supplier and makes no warranties or representations whatsoever with respect to the Devices and their operation. Contractor will also provide County with up to 5 (five) iPad kiosks (“Kiosks”), at no additional charge, to be used for self-serve E-payment transactions at County facilities. Kiosks will not support contactless, point-to-point encryption, or EMV. County shall assume full ownership of the Devices and Kiosks supplied by Contractor to County, and shall be responsible for maintenance, replacement, obsolescence, and for any and all liability resulting from use of such Devices and Kiosks, however, Contractor will provide reasonable assistance to County, upon request, for maintaining, repairing, and replacing the Devices and Kiosks. Upon termination of the Agreement, County shall return all Devices and Kiosks to Contractor for a price of one dollar (\$ 1.00).

4. Implementation and Delivery. County and Contractor will mutually agree to an implement schedule and delivery date for the services.

5. System Fees and Payment Terms. (a) In consideration for providing County with Electronic Payment Services, Contractor will charge Payors a convenience fee, processing fee, or service fee, as indicated in Exhibit F – Electronic Payments and Rates, of the Agreement.

(b) All persons making E-payments will be advised that payment with a Card, E-check, or authorized E-payment method may be subject to a convenience fee, processing fee, or service fee for use of the Electronic Payment Services, as well as the amount of such fee or charge. Depending on the type of transaction (e.g., tax or non-tax), the convenience fee, processing fee, or service fee (all being referred to hereinafter as “Contractor Charges”) may be charged to the Payor separately or be included as part of the total amount of the transaction. In the event the Bank, Associations, or Issuers increase their fees, Contractor may increase the Contractor Charges correspondingly upon thirty (30) days advance written notice.

(c) County will be liable for any additional incremental fees, costs, or charges outside of standard charges associated with chargebacks caused by County errors or omissions that result in Contractor incurring costs greater than \$2,000 (two thousand dollars), as expressly set forth herein and as such charges may change from time-to-time as established by the Bank.

Contractor or Bank may debit County's Receiving Account with respect to any such fees, costs, or charges, and in the event County's Receiving Account does not have funds sufficient to cover such fees, costs, or charges, Contractor will invoice County for, and County will pay, such fees, costs, or charges.

6. Processing of E-payments/Charges/Fees. (a) The Bank will process funds from E-payment transactions as set forth in this Section. In processing such funds, the Bank may credit and/or debit the bank accounts of Contractor and County.

(b) Non-tax and Tax Payments and Contractor Charges:

The Bank will deliver the Primary Amount (the portion of the total payment that excludes convenience, service, and/or processing fees) of the transaction by ACH to either the County's Receiving Account or a Contractor "For The Benefit Of" (FBO) account equal to the reconciled summary of E-payments since the previous credit. If paid into a Contractor FBO account, the funds will be promptly transferred to the County's Receiving Account.

Separately, the Bank will deliver convenience, service and/or processing fees to Contractor's Operating Account.

(c) Provisional Credit:

Any credits to Contractor's Operating Account and County's Receiving Account as set forth above are provisional only and subject to revocation by the Bank until such time that the E-payment is final and no longer subject to chargeback by the Card issuing entities ("Issuer"), cardholder or Associations.

(d) Contractor will notify County in the event it uses financial intermediaries other than the Bank in processing E-payments.

7. County Responsibilities. (a) County's responsibilities under this EPSA include:

- i. Installing, maintaining, repairing, and replacing all required communication networks and related equipment and services necessary to support Electronic Payment Services, including, without limitation, magnetic Card swipers, PIN Debit devices, kiosks or similar equipment in accordance with reasonable specifications prescribed by Contractor, which may change from time to time;
- ii. Assuring the ongoing security/integrity of all equipment used to process transactions, including, without limitation, swipers, PIN Debit devices and kiosks;
- iii. Fraudulent use (including, but not limited to, physical or electronic tampering of PIN debit devices or kiosks while in possession of County) from use of such PIN debit devices;
- iv. Informing Payors of the option to make payments through Electronic Payment Services, including by displaying a notice of such option on the bills and/or inserts issued to Payors; and

- v. Taking, or authorizing Contractor to take, actions to publicize the availability of Electronic Payment Services in County's offices and/or on the County's website.

(b) To the extent County comes into possession of any Card information of any Payor, County agrees it will handle such information in compliance with any applicable standards set forth by the Payment Card Industry ("PCI") Security Standards Council, as amended by the PCI from time to time (the "PCI Standards"), as well as the requirements of California law, provided that if there is any requirement of California law that would require County to handle any Card information in a manner that conflicts with that required by the PCI Standards, County shall notify Contractor immediately upon becoming aware of such in order that Contractor may seek appropriate relief, which may include, without limitation, termination of the Electronic Payment Services.

(c) With respect to any Card-based E-payment for which County will be entering data and information into County's systems or applications, County shall enter additional information as may be required by Contractor, the Bank, and/or the Associations from time to time. For payments with a Card received through certain channels (e.g. telephone), Contractor may require County to enter CVV/CID values and/or Cardholder's billing address. [For purposes hereof, "CVV/CID" shall mean a service, which allows County to verify Cardholder's possession of a Card through the identification of unique digits on the Card, i.e., CVV (card verification value) and CID (card identification data)]. Contractor may accept or reject these payments based on CVV/CID verification and/or address verification.

(d) County must not transmit any information with respect to an E-payment that County knows, or should have known, to be fraudulent or not authorized by the Payor. County is responsible for its employees' actions in this regard.

(e) Prohibited Transactions – Subject to any requirements under Federal or California law (of which County will notify Contractor immediately upon becoming aware of any such requirement), County shall not do any of the following with respect to any E-payment:

- i. Transmit any E-payment not originated directly between County and a Payor for payment of obligations of the type permitted through Electronic Payment Services;
- ii. Initiate an E-payment credit without a balance in the County's Receiving Account equal to the credit;
- iii. Disburse to any Payor or third party funds received as a result of a Card E-payment in the form of cash. All transaction credits will be issued to the same Card account number as the sale;
- iv. Issue a credit for return goods or services or refund of obligation acquired in a cash transaction; and
- v. Require a Payor to complete a postcard or similar device that includes the Card's account number, Card expiration date, signature, or any other Card account data in plain view when mailed.

Contractor shall not have any responsibility for any losses attributable to County undertaking any of the foregoing prohibited transactions or any other transactions prohibited by Association regulations.

(d) County will display prominently at its place of business emblems and other promotional material and literature provided by Contractor with respect to Card companies whose Cards may be used in connection with E-payments.

(e) County agrees to cooperate with Contractor as reasonably necessary for Contractor to meet its contractual obligations with the Bank and third parties used in connection with Electronic Payment Services. Such cooperation shall include, without limitation, County promptly replying to Contractor's or the Bank's request for information relating to any E-payment or Payor in connection with transactions processed in accordance with the Agreement.

(f) With respect to any E-check for which County will be entering data, County will take measures to ensure that: (i) the information it enters into County systems or applications with respect to each such E-check is accurate, is timely, has been authorized by the party whose account will be credited or debited, and (ii) the E-check is for the amount owed to County by the party whose account will be credited or debited at the payment date specified.

8. Disputed E-payments and Chargebacks. (a) Contractor shall staff a first level helpline during Business Hours to respond promptly to inquiries from Payors regarding any disputed E-payment and shall seek to resolve any disputes amicably. In seeking to resolve disputes, Contractor may be required to engage County, the Bank, the Associations or other third parties. The Bank has reserved the right to charge Contractor any applicable Association fees or charges, on account of refunds, chargebacks or excessive inquiries, as assessed by the Associations. In the event the Bank levies any such fees or charges against Contractor caused by County errors or omissions that result in Contractor incurring costs greater than \$2,000 (two thousand dollars), Contractor reserves the right to assess such fees, charges, or reimbursements against County and will be permitted to bill County for same, provided that Contractor provides County with documentation supporting such fees, charges, or reimbursements. In the event of such fees, Contractor will provide County with the same notice as provided to Contractor by Bank, or 3 (three) business days, whichever is greater. In the event County receives or obtains information regarding any claim or defense by a Payor with respect to a disputed E-payment, County agrees to provide Contractor the following information in writing:

- i. The Payor's name;
- ii. A unique confirmation number (transaction sequence number, or other identifier) that Contractor can use to reference the transaction in subsequent communications with the Bank;
- iii. The date and time the Payor asserted the claim or defense;
- iv. The nature of the claim or defense;
- v. The action that County took in an attempt to resolve the dispute; and

- vi. Upon request, County shall furnish Contractor with this information within three (3) business days.

(b) Contractor is not liable for chargebacks or other subsequent refusals for settlement initiated by any Payor, or any transactional fees, charges, or costs imposed by the Bank, Issuer, or other third party that may be associated therewith. All such chargebacks and/or refusal for settlement by a Payor will be credited to the Payor and County must mark in County's systems or applications as "unpaid" all bills to which the contested payments were applied. In the event of any such chargeback and/or refusal for settlement, and the imposition of any transactional fees, charges, or costs associated therewith, County shall allow the Bank or Contractor to debit the amount of any such chargeback, from County's Receiving Account. E-payments that have been charged back and not re-presented may not be reauthorized.

9. Compliance Matters. Contractor and County shall comply with all applicable present and future federal, state, and local laws and regulations. Contractor and County shall also comply with all applicable bylaws, rules, regulations, policies, and guidelines of National Automated Clearing House Association ("NACHA"), the Associations and any Issuer whose Cards are used to make E-payments in accordance with this Agreement (collectively the "Rules"). Summaries of the Associations' rules are available for merchants at www.visa.com, www.mastercard.com, or www.discovernetwork.com, and a summary for American Express can be found in Attachment 2 of this Agreement, and is hereby incorporated into this Agreement. NACHA rules are available through www.nacha.org. Contractor and County agree that these Electronic Payment Services shall be governed by the Associations' rules and NACHA rules, as applicable, and that any E-payment provision of the Agreement which conflicts with either set of rules, as they may be amended from time to time, shall be superseded thereby. Contractor may, from time to time, advise County of additional rules that may become applicable (e.g. rules prescribed by American Express).

10. Limited Warranties. (a) Contractor warrants that the Electronic Payment Services applications will conform to Contractor supplied specifications and documentation. Contractor does not warrant that the operation of the Electronic Payment Services applications will be uninterrupted or error free. As County's sole and exclusive remedy for breach of the warranties contained herein, Contractor shall correct documented errors that are caused by a defect in the Electronic Payment Services applications. For purposes of this Section, the term "defect" shall mean only material deviations from the specifications and documentation supplied by Contractor.

(b) The limited warranties contained in this Section shall not apply if a claimed problem is caused by: (i) the malfunction of software or applications not produced, developed, or provided by Contractor; (ii) County's negligence or fault; (iii) County providing improper data to be processed via Electronic Payment Services; or (iv) a "force majeure" event, as described in the Agreement. If Contractor discovers that a claimed problem is caused by one of the above, Contractor reserves the right to charge County for its investigative and remedial efforts.

(c) County warrants that the Electronic Payment Services provided by Contractor pursuant to this Agreement will be used exclusively for the purpose of assisting County with E-payment transactions.

11. No Implied Warranties and Limitation of Liability.

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN SECTION 10 OF THIS AGREEMENT, CONTRACTOR MAKES NO WARRANTY, REPRESENTATION, PROMISE, OR GUARANTEE, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE ELECTRONIC PAYMENT SERVICES APPLICATIONS OR THE SUPPORT SERVICES PROVIDED HEREUNDER, INCLUDING THEIR QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

IN NO EVENT WILL CONTRACTOR BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, COVER, CONSEQUENTIAL, OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES OR COSTS RELATING TO THE LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, OR COMPUTER PROGRAMS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WITHOUT REGARD TO THE LEGAL THEORY OF SUCH DAMAGES, ARISING OUT OF THE USE OF OR INABILITY TO USE THE ELECTRONIC PAYMENT SERVICES SOFTWARE OR THE SUPPORT SERVICES PROVIDED HEREUNDER. IN NO EVENT WILL CONTRACTOR'S LIABILITY TO COUNTY FOR DAMAGES UNDER ANY THEORY OF LIABILITY OR FORM OF ACTION EXCEED THE TOTAL AMOUNT OF FEES EARNED BY CONTRACTOR WITH RESPECT TO THE ELECTRONIC PAYMENT SERVICES DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT THAT CAUSED SUCH DAMAGES.

(b) The County is solely responsible for the issuance of any and all permits, licenses, and registrations or other items paid via Electronic Payment Services and for the consummation of any other transaction (including, without limitation, the payment of taxes) conducted via Electronic Payment Services. Contractor is not liable for:

- i. any errors or omissions in data or other information provided by County and/or on-line users (including, without limitation, any Payor);
- ii. any errors or omissions on the part of Payor, the Bank, Issuer, or Associations;
- iii. the fraud, negligence, and/or intentional acts of County agents or employees;
- iv. any loss or liability resulting from the denial of credit to any person or County's retention of any Card or any attempt to do so;
- v. County's failure to comply with any applicable laws, regulations, or rules, including, without limitation, any applicable rules or regulations of the Associations, PCI, NACHA, or Federal Reserve;
- vi. any card-not-present transactions, unauthorized transactions, or prohibited transactions;
- vii. any completed, failed, or misdirected Automated Clearing House ("ACH") entry;
- viii. any loss or liability related to permits, licenses, or registrations issued or caused to be issued and paid, or other transactions (such as, without

limitation, the payment of taxes) consummated or not consummated, via Electronic Payment Services; or

- ix. any failure or security breach resulting from third party equipment (e.g. PIN pad swipers, kiosks, communication networks) or any failures of third party equipment providers to comply with the Associations' rules, or for any losses arising out of the use of a third party's equipment.

(c) The Issuer, not Contractor or the Bank, maintains information about a Payor and is responsible for authorizing or declining each E-payment made with a Card. Contractor is not liable for any loss or liability resulting from a denial of credit. After a Card E-payment is authorized by an Issuer, Contractor has the right to decline such E-payment for its own protection, but has no obligation to do so and owes no duty to County to take such action. When Contractor forwards the Issuer's authorization to County and/or settles the E-payment, Contractor is in no way assuring or guaranteeing payment to County nor is Contractor waiving any right hereunder.

(d) The Electronic Payment Services are subject to limitations imposed by, and contingent and dependent upon cooperation from, third parties such as the Bank, Issuers, and Associations. Contractor will not be liable for any acts or omissions of such third parties.

12. Confidentiality and Use/Copying Restrictions. (a) County acknowledges and understands that the Electronic Payment Services applications licensed under this EPISA is owned by Contractor and constitutes a valuable trade secret belonging to Contractor. County also acknowledges and understands that Contractor is willing to provide County and its full-time, part-time or contract employees with certain proprietary business and technical information regarding its Electronic Payment Services applications pursuant to this EPISA ("Confidential Information"). "Confidential Information" includes without limitation: (i) all Contractor software; copies of System web pages, pop-ups, online help features, etc.; specifications related to site modifications or enhancements; site performance data, cost and pricing information, training and/or user manuals; and any other documentation relating to the Electronic Payment Services, (ii) information that was provided to Contractor by third parties and used in connection with executing transactions through Electronic Payment Services, including, without limitation, terms and conditions of any agreement between Contractor and such third parties, non-public financial information that is personally identifiable to an individual (including, without limitation, Card numbers, checking account information), know-how, trade secrets, technical processes and formulas, software, unpublished financial information, business plans, projections, and marketing data and other information that should reasonably be understood to be confidential (as between Contractor and County, this third party information shall be deemed a part of "Confidential Information"); and (iii) any other information, documents or materials designated or marked in writing by Contractor as "Confidential". Such Confidential Information may be in hard copy, printed or electronic format. Confidential Information does not include information which: (i) is or becomes generally available to the public other than as a result of a disclosure by County; or (ii) becomes available to County on a non-confidential basis from a source other than Contractor, provided that such source is not known by County, after making appropriate inquiry, to be bound by a confidentiality agreement with, or other obligation of secrecy to, Contractor or another party; or (iii) is required to be disclosed pursuant to any legal process or request from any governmental authority or body having jurisdiction over County, provided that, prior to any such disclosure,

County shall provide adequate notice to Contractor in order to enable Contractor to seek an appropriate protective order or injunctive relief.

(b) In the event of a request for the disclosure of Confidential Information pursuant to California Government Code Sections 6250 *et. seq.*, County shall immediately notify Contractor of such request in order to give Contractor the opportunity to object to the disclosure of such information and/or to seek an appropriate protective order or injunctive relief from disclosure of its valuable trade secrets and Confidential Information.

(c) County hereby agrees to: (i) hold the Electronic Payment Services applications and/or all Confidential Information as Confidential Information and take such steps as are reasonably necessary to safeguard the Electronic Payment Services applications and/or Confidential Information to the same extent that County safeguards other trade secrets and proprietary information related to its business; (ii) exercise reasonable care to prevent the disclosure of the Electronic Payment Services applications and/or Confidential Information to any third party; (iii) restrict the use of the Electronic Payment Services applications and/or Confidential Information by County solely for the E-payments in relation to the processing of County transactions; and (iv) limit the disclosure of the Electronic Payment Services applications and/or Confidential Information within County's organization to employees whose duties justify the need to know it solely for the E-payments in relation to the processing of County transactions, and who are legally obligated to comply with the terms of this EPSA. County's obligations as set out in this Section 12 survive any termination of this EPSA.

(d) County further agrees that, absent Contractor's prior written consent, it will not directly or indirectly copy, save, modify, print, publish, or post on the Internet, or reveal, permit access to, disseminate, distribute, or disclose; to any third party, all or any part of the Electronic Payment Services Applications and/or Confidential Information.

(e) County further agrees not to sell, assign, lease, license, or in any manner encumber, pledge, convey, or transfer the Electronic Payment Services applications or any interest therein.

(f) County acknowledges that should it breach its obligations under this Section 12, Contractor may suffer harm, which may not be adequately compensated by monetary damages. In such event, Contractor may, in addition to monetary damages, seek equitable relief to enjoin such breach.

(g) County acknowledges that all users of the System will be prompted when they first log into the System to agree to the terms of an online confidentiality agreement, which is attached hereto as Attachment 1, Online Confidentiality Agreement.

13. County Data Confidentiality and Use Restrictions. (a) All data and written and oral information not in the public domain and not previously known, which is obtained, developed, or supplied by the County or at its expense shall be kept confidential by Contractor and shall not be used or disclosed to any other party, directly or indirectly, without the County's prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction. Contractor will maintain such County information for not less than twelve (12) years. Contractor will provide data in CSV files, to a location designated by the County. Contractor will provide the data within 60 (sixty) days of termination of the Agreement.

(b) Nothing in this Section 13 shall be construed as granting to County any interest in any information, concepts, ideas or other materials Contractor creates or develops in the course of performing services hereunder that relate to the licensed applications, or modifications or customizations thereto, all of which shall remain the property of Contractor.

14. Title. Contractor shall own all rights, title and interest in and to the Electronic Payment Services applications including copyright, trade secret, patent, trademark and other proprietary rights as well as all customizations, enhancements, modifications, improvements, derivations or other variations thereof. This EPSA does not transfer to County under any circumstances any of Contractor's ownership rights in the Electronic Payment Services applications.

15. License. Contractor grants County and its full-time, part-time or contract, subject to the terms and conditions of this EPSA, a limited, non-perpetual, non-transferable and non-exclusive license to access and use the Electronic Payment Services applications solely in conjunction with County's use of E-payments. This license immediately terminates upon termination of the Agreement. Contractor is supplying the Electronic Payment Services applications to County as a collection of hosted Software as a Service (SaaS) applications via the Internet.

16. Taxes. In the event any Internet commerce taxes are imposed on Contractor by Federal, State or local governmental authorities or entities that are either directly or indirectly associated with the online services supplied to County by Contractor, the parties will negotiate in good faith an adjustment of Contractor fees in Exhibit F – Electronic Payments and Rates, as is appropriate under the circumstances.

17. Security. Contractor shall implement commercially reasonable measures to protect the security of County's data and to prohibit unauthorized access to such data, which will include allowing access to the System only through 128-bit or 256-bit Secure Socket Layer connections.

18. Attachments. Both parties acknowledge receipt of the documents listed below and consent to their incorporation into and attachment to this EPSA as the indicated Attachment number.

| <u>Attachment Number</u> | <u>Document Title</u> |
|--------------------------|--|
| 1 | Electronic Payment Services Specifications |
| 2 | American Express® Card Acceptance |

19. Exclusivity. Upon the Treasurer - Tax Collector's (hereafter referred to as "the Department") transition from their existing electronic payment services to services provisioned through this EPSA, Contractor shall be the Department's exclusive provider for the services described herein. Department agrees that it will not contract with, use, or advertise, any third party whereby such third party would provide to Department any of the services that are described herein while Contractor is providing such services to Department. To the extent that the Department may accept and/or process payments on behalf of other County entities, departments, or divisions, including divisions which may be subsidiaries of the Department, this

agreement will not exclude such County entities, departments, or divisions from utilizing a third party to provide described services for payments made outside of the Department's office or over the telephone. Should the transitioned Department's processing environment change (e.g. gateway change) whereby Contractor is no longer able to continue serving their electronic payment needs, that department may proceed to contract with another provider.

20. Survival. Sections 11, 12, 13, 14, and this Section 20 shall survive any termination of this EPSA.

Attachment 1

Electronic Payment Services Specifications

The services, procedures, and technical requirements of the Electronic Payment Services shall be substantially as described herein and may be further refined and modified during the initial phase of work.

Electronic Payment Services will allow County to process E-payment transactions over-the-counter, telephone, and online and to access reports on E-payments.

PAYMENT AND TRANSACTION TYPES*

Electronic Payment Services allows payment via:

- Visa, MasterCard, American Express, and Discover credit cards
- PIN debit
- Europay Mastercard and Visa (EMV) Technology
- Tap (Contactless Smart Card)
- Signature debit cards with a Visa or MasterCard logo
- Electronic check (“E-Check”) with valid ABA routing number
- IVR
- Telephone

**Contractor reserves the right to discontinue specific card types upon at least 10 Business Days advance notice to County.*

For over-the-counter (“OTC”) and online transactions acceptable payment and transaction types include:

OTC

Credit Card/EMV/Signature Debit Card/E-Check/PIN debit/Contactless Smart Card

- **Tax:** Secured and Unsecured Property Tax Bills, Business Taxes, and Transient Occupancy Taxes
- **Miscellaneous:** Permits, Licenses, Revenue Services, and miscellaneous items

Online

Credit Card/Signature Debit Card/E-Check

- **Tax:** Secured and Unsecured Property Tax Bills, Business Taxes, and Transient Occupancy Taxes
- **Miscellaneous:** Permits, Licenses, Revenue Services, and miscellaneous items

ELECTRONIC PAYMENT CASHIERING

County will cashier OTC E-payments using TaxSys.

County may enter payment information via either Swipe, PIN, Insert (EMV), Tap (Contactless Smart Card) or Key Entry.

Swipe, PIN, Insert, or Tap Procedure:

1. County searches for and retrieves Payor's bill information from TaxSys or an external application.
2. Payor swipes, taps, or inserts Card via the Card Reader. If a PIN debit transaction, a PIN will also need to be entered by the Payor.
3. County informs the Payor of the total amount due and any applicable service fee or convenience fee.
4. Payor authorizes completion of sale. Authorization can be verbal, written, or electronic.
5. County clicks "Charge Card" and submits transaction for electronic authorization.
6. County proceeds with transaction.
 - a. If the transaction is authorized and approved, payment is automatically processed.
7. If the transaction is not authorized or is declined, County may ask for other means of acceptable payment to complete the transaction. County receives confirmation of the completed transaction and provides Payor with receipt.

Key Entry Procedure (only used if a Swipe, PIN, Insert, or Tap Procedure cannot be completed):

1. County searches for and retrieves Payor's bill information from TaxSys or an external application. In the case of an online transaction, Payor searches for and retrieves Payor's bill information from County's public website.
2. County (or Payor, in the case of an online transaction) enters required Card or E-check information into TaxSys which includes the following:
 - a. Card
 - i. Card Number
 - ii. Card Expiration Date
 - iii. CVV or CID (depending on card type)
 - iv. Cardholder's name, address (including zip code), and phone number (online only)
 - b. E-Check
 - i. Account Number
 - ii. ABA Routing Number
 - iii. Account Holder's Name
3. County informs the Payor of the total amount due and any applicable service fee or convenience fee. In the case of an online transaction, Payor will obtain this information from County's TaxSys public website.
4. Payor authorizes completion of the sale. Authorization can be verbal, written, or electronic.
5. County (or Payor, in the case of an online transaction) clicks "checkout" and submits transaction for electronic processing.
 - a. If the transaction is authorized and approved, payment is automatically processed.
 - b. If the transaction is not authorized or is declined, the County (or Payor, in the case of an online transaction) receives an error message and may use another acceptable form of payment to complete the transaction.
6. Once the transaction is completed, the County (or Payor, in the case of an online transaction) receives confirmation of the completed transaction and is provided with a receipt. Receipt may be electronic or printed.

Use of Swipe or Key Entry Procedures:

OTC Transactions

1. Payor performs Swipe procedure.
2. If the Swipe procedure fails, County performs Key Entry procedure.

Phone

1. County performs Key Entry procedure.

Online

1. Payor performs Key Entry procedure.

ELECTRONIC PAYMENT REPORTING

Card Transactions:

1. Authorization and Capture Reports – Per Card transaction detail for research and investigation
 - a. Transaction data for each Card swipe displayed by location and date.
 - b. Searchable by account number, authorization number, Card type, date, location, amount, etc.
2. Clearing and Settlement Reports – Batch (settlement) level detail for all transactions
 - a. Displayed by single deposit to the settlement account, used to balance cashiered vs. settled funds.
 - b. Batch, transaction, and exception information detailed per payment type, Card type, and date.
 - c. Searchable by batch number, batch date, Card type, deposit date, etc.
3. Statements – Detail for reconciliation of settled and deposited funds. Transactions can be separated by department and tender types.

Exceptions:

Fraud, disputed Card claims, or user errors may cause chargebacks. These transactions will not settle to the County's Receiving Account until the chargeback has been resolved. Chargebacks are tracked through Clearing and Settlement Reports. It is the County's responsibility to update its tax collection application payment records to reflect an unpaid amount in the event of a chargeback.

E-Check Transactions:

The Election Payment Services application reports detail the status of all E-check transactions.

Exceptions:

Fraud, insufficient funds, invalid/closed/frozen accounts, or disputed claims may result in unpaid E-check transactions. Unpaid E-check transactions are tracked through Electronic Payment Services application reports. It is the County's responsibility to update its tax collection application payment records to reflect unpaid amounts.

Attachment 2

American Express® Card Acceptance

1. **American Express Compliance.** Sponsored Merchant agrees to comply with all Applicable laws, rules and regulations, including the American Express Merchant Operating Guide requirements, which are incorporated into this Agreement by reference as if they were fully set forth in the Agreement. The American Express Merchant Operating Guide may be viewed at: www.americanexpress.com/merchantopguide.
2. **Processing Restrictions.** Sponsored Merchant is prohibited from processing Transactions or receiving payments on behalf of, or (unless required by law) re-directing payments to any other party.
3. **Third Party Beneficiary Rights.**
 - a. Sponsored Merchant confers on American Express the beneficiary rights, but not obligations, to the Sponsored Merchant's Agreement and subsequent addendums (collectively the "Agreement") between Sponsored Merchant and Payment Service Provider and, as such, American Express has the express right to enforce the terms of the Agreement against the Sponsored Merchant.
 - a. Sponsored Merchant warrants that it does not hold third party beneficiary rights to any agreements between Payment Service Provider and American Express and at no time will attempt to enforce any such agreements against American Express.
4. **American Express Liability.** SPONSORED MERCHANT ACKNOWLEDGES AND AGREES THAT IN NO EVENT SHALL AMERICAN EXPRESS, ITS AFFILIATES, AGENTS, SUCCESSORS, OR ASSIGNS BE LIABLE TO SPONSORED MERCHANT FOR ANY DAMAGES, LOSSES, OR COSTS INCURRED, INCLUDING INCIDENTAL, INDIRECT, SPECULATIVE, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (WHETHER BASED ON CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, FRAUD, OR OTHERWISE, OR STATUTES, REGULATIONS, OR ANY OTHER THEORY), ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT.

Exhibit F

Electronic Payments and Rates

In consideration for the services provided by Contractor described in Exhibit E, and subject to the terms of the Agreement, the following Contractor Charges and terms will apply for E-payment services (assuming County uses PaymentExpress to process all online and in-person card payments of taxes and revenue services).

The County will not pay any direct costs to Contractor associated with the electronic payment processing services provided.

Contractor Charges

1. Credit Card Fees (Per transaction - MasterCard, VISA, American Express, and Discover)
 - Over-the-Counter – 2.35 % service fee
 - Online – 2.35 % service fee
 - IVR – 2.35% service fee
 - \$1.95 minimum transaction fee

2. PIN Debit Fee (in-person only)
 - \$2.95 per transaction
 - Contractor reserves the right to review the fee on an annual basis

3. E-Check Fees
 - Online – Free

4. Equipment

Contractor will provide County with 15 (fifteen) Ingenico iPP320 PIN debit devices (“Devices”) at no additional charge. The Devices are intended to support Near Field Communications (contactless), point-to-point encryption, and EMV. Contractor is obtaining the Devices from a third-party supplier and makes no warranties or representations whatsoever with respect to the Devices and their operation. Contractor will also provide County with up to 5 (five) iPad kiosks (“Kiosks”), at no additional charge, to be used for self-serve E-payment transactions at County facilities. Kiosks will not support contactless, point-to-point-encryption, or EMV. County shall assume full ownership of the Devices and Kiosks supplied by Contractor to County, and shall be responsible for maintenance, replacement, obsolescence, and any liability resulting from use of such Devices and Kiosks, however, Contractor will provide reasonable assistance to County, upon request, for maintaining, repairing, and replacing the Devices and Kiosks. Upon termination of the Agreement, County shall return all Devices and Kiosks to Contractor for a price of one dollar (\$ 1.00).

5. Implementation

At no cost to County, Contractor will implement PaymentExpress, install Devices and Kiosks, and provide training to County staff.