

PAYMENT SERVICES AGREEMENT

This Payment Services Agreement is made as of the 1st day of April, 2008 (the "Effective Date"), by and between the **City of Garden Grove**, a governmental subdivision of the State of California ("Customer"), and **Metavante Corporation**, a Wisconsin corporation ("Metavante").

Customer desires Metavante to provide to Customer the services set forth in this Agreement and Metavante desires to provide such services to Customer, all as provided in this Agreement.

THEREFORE, in consideration of the payments to be made and services to be performed hereunder, upon the terms and subject to the conditions set forth in this Agreement and intending to be legally bound, the parties hereto agree as follows:

Metavante shall provide to Customer and Customer shall receive from Metavante, all upon the terms and conditions set forth in this Agreement, the Services specified in this Agreement. The term of this Agreement shall commence on the Effective Date and end on the third (3rd) anniversary of the last day of the month in which the Commencement Date occurs (the "Initial Term"). The parties also agree to begin implementation upon the 21st day of April, 2008 and to use their best efforts to perform the Implementation(s) such that the Project Schedule, which shall contain the Commencement Date, is provided on or before the 20th of May, 2008

As of the Effective Date, the parties acknowledge that this Agreement includes the following Schedules:


Payment Processing Schedule

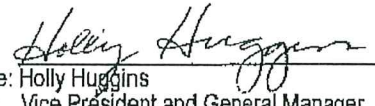
As of the Effective Date, the parties acknowledge that Services will be provided for Customer and the following Affiliates of Customer: All City Departments, Agencies, and related entities

The general terms and conditions and all schedules and exhibits attached hereto are incorporated herein and deemed part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf as of the date first above written.

METAVANTE CORPORATION
4900 West Brown Deer Road
Milwaukee, Wisconsin 53223


By: 
Name: Bruce Hopkins
Title: Senior Vice President
Division President, Acquiring Solutions

By: 
Name: Holly Huggins
Title: Vice President and General Manager,
Link2Gov Corp.

CITY OF GARDEN GROVE
11222 Acacia Parkway
Garden Grove, CA 92840

By: 
Name: Matthew Ferial
Title: City Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM
By: 
3/26/08
Date: _____ City Attorney

ATTEST:


Kathleen Bailor
City Clerk

TERMS AND CONDITIONS

1. CONSTRUCTION

1.1 Definitions. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in Section 17 of this Agreement.

1.2 References. In this Agreement, references and mention of the word "includes" and "including" shall mean "includes, without limitation" and "including, without limitation," as applicable, and the word "any" shall mean "any or all". Headings in this Agreement are for reference purposes only and shall not affect the interpretation or meaning of this Agreement.

1.3 Interpretation. In the event of a conflict between the general terms and conditions and the terms of any exhibits and schedules attached hereto, the terms of the schedules and exhibits shall prevail and control the interpretation of the Agreement with respect to the subject matter of the applicable schedules and/or exhibits. The exhibits and schedules together with the general terms and conditions shall be interpreted as a single document. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together constitute one and the same agreement.

2. TERM

Unless this Agreement has been earlier terminated, this Agreement shall continue for the Initial Term and shall be automatically renewed for additional twelve (12) month periods (each, a "Renewal Term") unless either party shall provide the other party with written notice of termination at least ninety (90) days prior to the expiration date for the Initial Term or Renewal Term, as applicable. The Initial Term and any Renewal Term shall be collectively referred to as the "Term." Unless otherwise provided in the Payment Processing Schedule hereto, or as otherwise agreed in writing by the parties, the charges for Services provided by Metavante to Customer during any such Renewal Term shall be calculated in accordance with Metavante's then-current rates.

3. MUTUAL COVENANTS

3.2 Software. Metavante hereby grants to Customer a personal, nonexclusive, and nontransferable license and right, for the duration of this Agreement, to use any software accessed or obtained by Customer hereunder solely in accordance with the applicable Documentation and for no other purposes. Customer shall not, and shall not permit End Users to (a) distribute, sell, assign, transfer, or sublicense the software, or any part thereof, to any Third Party; (b) except as specifically set forth in this Agreement, adapt, modify, translate, reverse engineer, de-compile, disassemble, or create derivative works based on the software or any part thereof; (c) copy the software, in whole or in part, without including appropriate copyright notices; (d) except for providing electronic banking services to Customer's customers, use the software in any manner to provide service bureau, time sharing, or other computer services to Third Parties; (e) export the software outside the United States, either directly or indirectly; or (f) install the software on a different platform or interface the software to an application written in a different computer language other than as set forth in the Documentation.

3.3 Trademarks. Customer grants Metavante the right and license to use Customer's trademarks and/or service marks ("Customer Marks") solely as necessary, or reasonably appropriate, for Metavante to provide the Services.

4. SERVICES

Metavante will provide the Services listed in the Payment Processing Schedule.

4.1 Implementation. Metavante, in consultation with Customer, will develop a detailed, customized plan for the Implementation (the "Implementation Plan"). The Implementation Plan will include: (i) a description of the tasks to be performed for the Implementation; (ii) allocation of responsibility for each of such tasks; and (iii) the schedule on which each task is to be performed. The Implementation project leaders for each party shall regularly communicate on the progress of the Implementation, the feasibility of the Implementation Dates specified in the Implementation Plan, and such other matters which may affect the smooth transition of the Services. Customer agrees to maintain an adequate staff of persons who are knowledgeable about the banking, data processing and information technology systems currently used by Customer. Customer further agrees to provide such services and to perform such obligations as are specified as Customer's responsibility in the Implementation Plan and as necessary for Customer to timely and adequately meet the scheduled dates set forth therein. Each party shall cooperate fully with all reasonable requests of the other party made necessary to effect the Implementation in a timely and efficient manner. The Implementation Plan may be amended by mutual agreement of the parties. Metavante and Customer will each provide a team of qualified individuals to assist in the Implementation effort. The anticipated team and description of their responsibilities is set forth in the Implementation Plan.

4.2 Professional Services. Metavante shall perform the Professional Services for Customer as set forth in the Payment Processing Schedule and the Implementation Plan and shall perform additional Professional Services as mutually agreed upon by the parties from time to time under this Agreement, provided that either party may require execution of a separate mutually acceptable professional services agreement prior to Metavante's performance of Professional Services other than those set forth in the Payment Processing Schedule or the Implementation Plan.

4.3 New Services. If Customer wishes to receive any New Service which is included in Metavante's then-current standard pricing, Customer may notify Metavante and the parties may implement the same on a mutually acceptable time schedule.

5. FEES

5.1 Payment Processing Schedule. The fees for the Initial Services are set forth in Attachment 1 ("Services and Charges") of the attached Payment Processing Schedule. Customer agrees to pay Metavante the fees specified in the Payment Processing Schedule for such services. Fees for New Services shall be as set forth in Metavante's then current standard pricing or, if applicable, the fees mutually agreed upon by the parties.

5.2 Implementation. Customer agrees to pay Metavante the fees relating to the Implementation on the terms and conditions set forth in the Payment Processing Schedule. In addition, Customer agrees to reimburse Metavante (i) for all Expenses reasonably

incurred in connection with the Implementation; (ii) for conversion of accounts not identified in the Implementation Plan as of the Effective Date; and (iii) for Metavante personnel or any independent contractors who perform services which are identified as the responsibility of the Customer in the Implementation Plan; and (iv) for Implementation related charges which may arise after the Implementation.

5.3 Excluded Costs. The fees set forth in the Payment Processing Schedule do not include Expenses, late fees or charges, or Taxes, all of which shall be the responsibility of Customer. In addition to the charges specified in the Payment Processing Schedule, Customer shall be responsible for (a) all interchange and network provider fees; (b) all dues, fees, fines and assessments established by and owed by Customer to Visa and/or MasterCard; (c) for all costs and fees associated with changes to ATM protocol caused by Customer's conversion to the EFT Services; and (d) any increase in postage charges.

5.4 Disputed Amounts. If Customer disputes any charge or amount on any invoice and such dispute cannot be resolved promptly through good faith discussions between the parties, Customer shall pay the amounts due under this Agreement less the disputed amount, and the parties shall diligently proceed to resolve such disputed amount. An amount will be considered disputed in good faith if (i) Customer delivers a written statement to Metavante on or before the due date of the invoice, describing in detail the basis of the dispute and the amount being withheld by Customer, (ii) such written statement represents that the amount in dispute has been determined after due investigation of the facts and that such disputed amount has been determined in good faith, and (iii) all other amounts due from Customer that are not in dispute have been paid in accordance with the terms of this Agreement.

5.5 Terms of Payment. Any and all amounts payable under this Agreement shall be due thirty (30) days following the date of invoice, unless otherwise provided in the Payment Processing Schedule. Undisputed charges not paid by the applicable due date shall be subject to annual interest at the rate of 12% or the highest rate permitted by law, whichever is lower. Customer shall also pay any collection fees, court costs, reasonable attorneys' fees, and other fees, costs, and charges incurred by Metavante in collecting payment of the charges and any other amounts for which Customer is liable under the terms and conditions of this Agreement. Customer agrees to maintain a depository account with a financial institution reasonably acceptable to Metavante for the payment of amounts payable hereunder, and hereby authorizes Metavante to initiate debit entries to such account for the payment of amounts payable hereunder. Customer agrees to provide Metavante with any and all information necessary for Metavante to initiate such debit entries via the Automated Clearing House (ACH) system.

5.6 Modification of Terms and Pricing. Charges for all Services shall be subject to adjustments which shall not exceed, in aggregate effect, the greater of (i) an annual rate of five percent (5%), or (ii) the change to the Employment Cost Index over the applicable period. Notwithstanding the foregoing, Metavante reserves the right to increase the fees for Services as necessary to cover Metavante's costs in the event that Metavante must implement system enhancements to comply with changes in law or regulations, provided that Metavante agrees to allocate such charges pro rata among all affected customers to the extent reasonably possible.

6. PERFORMANCE WARRANTY/EXCLUSIVE REMEDY/DISCLAIMER OF ALL OTHER WARRANTIES

6.1 Performance Warranty. Metavante warrants that it will provide the Services in a commercially reasonable manner in substantial conformity with the Documentation (the "Performance Warranty"). THIS PERFORMANCE WARRANTY IS SUBJECT TO THE WARRANTY EXCLUSIONS SET FORTH BELOW IN SECTION 6.20.

6.2 Performance Warranty Exclusions. Except as may be expressly agreed in writing by Metavante, Metavante's Performance Warranty does not apply to:

A. defects, problems, or failures caused by the Customer's nonperformance of obligations essential to Metavante's performance of its obligations; and/or

B. defects, problems, or failures caused by an event of *force majeure*.

6.3 DISCLAIMER OF ALL OTHER WARRANTIES. THIS PERFORMANCE WARRANTY, AND THE WARRANTIES IN SECTION 12 HEREOF, ARE IN LIEU OF, AND Metavante DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT Metavante KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, Metavante DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN CUSTOMER WITH RESPECT TO THE SERVICES PROVIDED UNDER THIS AGREEMENT.

7. MODIFICATION OR PARTIAL TERMINATION; EXCLUSIVE PROVIDER

7.1 Modifications to Services. Metavante may relocate, modify, amend, enhance, update, or provide an appropriate replacement for the software used to provide the Services; or any element of its systems or processes at any time or withdraw, modify or amend any function of the Services, provided that the functionality of the Services is not materially adversely affected.

7.2 Partial Termination by Metavante. Except as may be provided in any Schedule, Metavante may, at any time, withdraw any of the Services upon providing ninety (90) days' prior written notice to Customer, provided that Metavante withdraws such Service(s) from its entire customer base. Metavante may also terminate any function or any Services immediately in the event that providing such function or Services for Customer violates applicable law or regulation or the rights of any Third Party. If Metavante terminates any Service, Metavante agrees to assist Customer, without additional charge, in identifying an alternate provider of such terminated Service.

7.3 Exclusive Provider. Customer agrees that, during the Term, Customer shall obtain exclusively from Metavante all of its requirements covered by the Services.

8. TERMINATION/DEFAULT

8.1 For Cause. If either party fails to perform any of its material obligations under this Agreement (a "Default") and does not cure such Default in accordance with this Section, then the non-defaulting party may, by giving notice to the other party, terminate this Agreement as of the date specified in such notice of termination, or such later date agreed to by the parties, and/or recover Damages. A party may terminate the Agreement in accordance with the foregoing if such party provides written notice to the defaulting party and either (a) the defaulting party does not cure the Default within thirty (30) days of the defaulting party's receipt of notice of the Default, if the Default is capable of cure within thirty (30) days, or (b) if the Default is not capable of cure within thirty (30) days, the defaulting party does not both (i) implement a plan to cure the Default within thirty (30) days of receipt of notice of the Default, and (ii) diligently carry-out the plan in accordance with its terms. The parties acknowledge and agree that a failure to pay any amount when due hereunder shall be a Default that is capable of being cured within thirty (30) days. The parties acknowledge and agree that any error in processing data, preparation or filing of a report, form, or file, or the failure to perform Services as required hereunder shall be satisfactorily cured upon the completion of accurate re-processing, the preparation or filing of the accurate report, form, or file, or the re-performance of the Services in accordance with applicable requirements, respectively.

8.2 For Insolvency. Subject to the provisions of Title 11, United States Code, if either party becomes or is declared insolvent or bankrupt, is the subject to any proceedings relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations, or is subject to regulatory sanction by any Federal Regulator, then the other party may, by giving written notice to such party, may terminate this Agreement as of a date specified in such notice of termination; provided that the foregoing shall not apply with respect to any involuntary petition in bankruptcy filed against a party unless such petition is not dismissed within sixty (60) days of such filing.

9. POST TERMINATION RIGHTS AND RESPONSIBILITIES

9.1 Termination Assistance. Following the expiration or early termination of this Agreement, Metavante shall provide Customer, at Customer's expense, all necessary assistance to facilitate the orderly transition of Services to Customer or its designee ("Termination Assistance"). As part of the Termination Assistance, Metavante shall assist Customer to develop a plan for the transition of all Services then being performed by Metavante under this Agreement, from Metavante to Customer or its designee, on a reasonable schedule developed jointly by Metavante and Customer. Prior to providing any Termination Assistance, Metavante shall deliver to Customer a good faith estimate of all such Expenses and charges including charges for custom programming services. Customer understands and agrees that all Expenses and charges for Termination Assistance shall be computed in accordance with Metavante's then current standard prices for such products, materials and services. Nothing contained herein shall obligate Customer to receive Termination Assistance from Metavante.

9.2 Continuation of Services. Unless Metavante terminates this Agreement for Customer's default, upon at least ninety (90) days' prior written request by Customer, Metavante shall continue to provide Customer all Services and the Effective Date of Termination shall be extended for a maximum period of twelve (12) months. If Customer elects to receive the Services for such period, Metavante's then current standard pricing shall continue to apply to the provision and receipt of such Services.

10. LIMITATION OF LIABILITY/MAXIMUM DAMAGES ALLOWED

10.1 Equitable Relief. Either party may seek equitable remedies, including injunctive relief, for a breach of the other party's obligations under Section 13 of this Agreement.

10.2 Exclusion of Incidental and Consequential Damages. INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE OTHER PARTY'S RIGHTS) IN CONTRACT, TORT, (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND—INCLUDING LOST PROFITS, LOSS OF BUSINESS, OR OTHER ECONOMIC DAMAGE, AND FURTHER INCLUDING INJURY TO PROPERTY, AS A RESULT OF BREACH OF ANY WARRANTY OR OTHER TERM OF THIS AGREEMENT, INCLUDING ANY FAILURE OF PERFORMANCE, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

10.3 Maximum Damages Allowed. Notwithstanding any other provision of this Agreement, and for any reason, including breach of any duty imposed by this Agreement or independent of this Agreement, and regardless of any claim in contract, tort (including negligence) or otherwise, Metavante's total, aggregate liability under this Agreement shall in no circumstance exceed payments made to Metavante by Customer for the Service to which the claim relates during the three (3) months prior to the act or event giving rise to such claim.

10.4 Statute of Limitations. No lawsuit or other action may be brought by either party hereto, or on any claim or controversy based upon or arising in any way out of this Agreement, after one (1) year from the date on which the cause of action arose regardless of the nature of the claim or form of action, whether in contract, tort (including negligence) or otherwise; provided, however, the foregoing limitation shall not apply to the collection of any amounts due Metavante under this Agreement.

10.5 Tort Claim Waiver. In addition to and not in limitation of any other provision of this Section 10, each party hereby knowingly, voluntarily, and intentionally waives any right to recover from the other party, and Customer waives any right to recover from any Eligible Provider, any economic losses or damages in any action brought under tort theories, including, misrepresentation, negligence and/or strict liability and/or relating to the quality or performance of any products or services provided by Metavante. For purposes of this waiver, economic losses and damages include monetary losses or damages caused by a defective product or service except personal injury or damage to other tangible property. Even if remedies provided under this Agreement shall be deemed to have failed of their essential purpose, neither party shall have any liability to the other party under tort theories for economic losses or damages.

10.6 Essential Elements. Customer and Metavante acknowledge and agree that the limitations contained in this Section 10 are essential to this Agreement, and that Metavante has expressly relied upon the inclusion of each and every provision of this Section 10 as a condition to executing this Agreement.

11. INSURANCE AND INDEMNITY

11.1 Insurance.

(a) Metavante shall not commence work under this Agreement until all certificates have been received. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the Customer of any material change, cancellation, or termination at least thirty (30) days in advance.

(b) Worker's Compensation Insurance. During the duration of this Agreement, Metavante shall maintain Worker's Compensation Insurance in the amount and type required by law, if applicable.

(c) Metavante shall maintain the following insurance for the duration of this Agreement:

(i) Commercial general liability in an amount of \$1,000,000.00 per occurrence; claims made and modified occurrence policies are not acceptable; Insurance companies must have a Best's Guide Rating of A- Class VII or better.

(ii) Commercial crime policy in an amount of \$1,000,000.00 per occurrence, including employee dishonesty, forgery, alteration, and theft. Alternatively, Metavante may post a fidelity bond in the amount of \$250,000 to comply with this requirement.

(d) Customer and its officers, officials, employees, agents shall be named as an additional insureds on the certificate of insurance for liability arising out of work or operations performed by or on behalf of Metavante. Metavante shall provide to Customer proof of insurance.

(e) For any claims related to this Agreement, wherein negligence is due to an error by Metavante, Metavante's insurance general liability coverage shall be primary insurance with respect to Customer, its officers, officials, employees, agents. For any claim where Customer is solely negligent or there is contributory negligence insurance coverage should be shared.

11.2 Indemnity. Nothing herein shall require Customer to defend or indemnify Metavante against liability caused by Metavante in the performance of the Services.

12. AUTHORITY

12.1 Metavante. Metavante warrants that:

A. Metavante has the right to provide the Services hereunder, using all computer software required for that purpose.

B. Metavante is a corporation validly existing and in active status under the laws of the State of Wisconsin. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement have been duly authorized by Metavante, and this Agreement is enforceable in accordance with its terms against Metavante. No approval, authorization or consent of any governmental or regulatory authorities is required to be obtained or made by Metavante in order for Metavante to enter into and perform its obligations under this Agreement.

12.2 Customer. Customer warrants that:

A. Customer has all required licenses and approvals necessary to use the Services in the operation of its business.

B. Customer is a corporation validly existing and in good standing under the laws of the state of its incorporation. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement have been duly authorized by Customer, and this Agreement is enforceable in accordance with its terms against Customer. No approval, authorization or consent of any governmental or regulatory authorities is required to be obtained or made by Customer in order for Customer to enter into and perform its obligations under this Agreement.

13. CONFIDENTIALITY AND OWNERSHIP

13.1 Customer Data. Customer shall remain the sole and exclusive owner of all Customer Data and its Confidential Information (as defined in Section 13.3), regardless of whether such data is maintained on magnetic tape, magnetic disk, or any other storage or processing device. All such Customer Data and other Confidential Information shall, however, be subject to regulation and examination by the appropriate auditors and regulatory agencies to the same extent as if such information were on Customer's premises.

13.2 Metavante Systems. Customer acknowledges that it has no rights in any software, systems, documentation, guidelines, procedures and similar related materials or any modifications thereof provided by Metavante, except with respect to Customer's use of the same during the Term to process its data.

13.3 Confidential Information. "Confidential Information" of a party shall mean all confidential or proprietary information and documentation of such party, whether or not marked as such including, with respect to Customer, all Customer Data. Confidential Information shall not include: (i) information which is or becomes publicly available (other than by the party having the obligation of confidentiality) without breach of this Agreement; (ii) information independently developed by the receiving party; (iii) information received from a Third Party not under a confidentiality obligation to the disclosing party; or (iv) information already in the possession of the receiving party without obligation of confidence at the time first disclosed by the disclosing party. The parties acknowledge and agree that the substance of the negotiations of this Agreement, and the terms of this Agreement are considered Confidential Information subject to the restrictions contained herein.

13.4 Obligations of the Parties. Except as permitted under this Section 13.4 and applicable law, neither party shall use, copy, sell, transfer, publish, disclose, display, or otherwise make any of the other party's Confidential Information available to any Third Party without the prior written consent of the other party. Each party shall hold the Confidential Information of the other party in confidence and shall not disclose or use such Confidential Information other than for the purposes contemplated by this Agreement and, to the extent that Confidential Information of Customer may be subject to the Privacy Regulations, as permitted by the Privacy Regulations, and shall instruct their employees, agents, and contractors to use the same care and discretion with respect to the Confidential Information of the other party or of any Third Party utilized hereunder that Metavante and Customer each require with respect to their own most confidential information, but in no event less than a reasonable standard of care, including the utilization of security devices or procedures designed to prevent unauthorized access to such materials. Each party shall instruct its employees, agents, and contractors of its confidentiality obligations hereunder and not to attempt to circumvent any such security procedures and devices. Each party's obligation under the preceding sentence may be satisfied by the use of its standard form of confidentiality agreement, if the same reasonably accomplishes the purposes here intended. All such Confidential Information shall be distributed only to persons having a need to know such information to perform their duties in conjunction with this Agreement. A party may disclose Confidential Information of the other party if required to do so by subpoena, court or regulatory order, or other legal process, provided the party notifies the other party of its receipt of any such process, and reasonably cooperates, at the other party's expense, with efforts of the disclosing party to prevent or limit disclosure in response to such process.

13.5 Information Security. Metavante shall be responsible for establishing and maintaining an information security program that is designed to (i) ensure the security and confidentiality of Customer Data, (ii) protect against any anticipated threats or hazards to the security or integrity of Customer Data, (iii) protect against unauthorized access to or use of Customer Data that could result in substantial harm or inconvenience to Customer or any of its customers, and (iv) ensure the proper disposal of Customer Data. Customer shall be responsible for maintaining security for its own systems, servers, and communications links as necessary to (a) protect the security and integrity of Metavante's systems and servers on which Customer Data is stored, and (b) protect against unauthorized access to or use of Metavante's systems and servers on which Customer Data is stored. Metavante will (1) take appropriate action to address any incident of unauthorized access to Customer Data and (2) notify Customer as soon as possible of any incident of unauthorized access to Sensitive Customer Information and any other breach in Metavante's security that materially affects Customer or Customer's customers. Either party may change its security procedures from time to time as commercially reasonable to address operations risks and concerns in compliance with the requirements of this section.

13.6 Ownership and Proprietary Rights. Metavante reserves the right to determine the hardware, software and tools to be used by Metavante in performing the Services. Metavante shall retain title and all other ownership and proprietary rights in and to its Confidential Information and the Metavante Proprietary Materials and Information, and any and all derivative works based thereon. Such ownership and proprietary rights shall include any and all rights in and to patents, trademarks, copyrights, and trade secret rights. Customer agrees that the Metavante Proprietary Materials and Information are not "work made for hire" within the meaning of U.S. Copyright Act 17 U.S.C. Section 101.

13.7 The Privacy Regulations. In the event that Customer requests Metavante to disclose to any Third Party or to use any of Customer's Confidential Information, and such Confidential Information is or may be subject to the Privacy Regulations, Metavante reserves the right, prior to such disclosure or use, (i) to review any initial, annual, opt-out, or other privacy notice that Customer issued with respect to such Confidential Information pursuant to the Privacy Regulations, and if requested by Metavante, Customer shall promptly provide Metavante with any such notice, and (ii) to decline to disclose to such Third Party or to use such Confidential Information if Metavante, in Metavante's sole discretion, believes that such disclosure or use is or may be prohibited by the Privacy Regulations or by any such notice.

13.8 Publicity. Neither party shall refer to the other party directly or indirectly in any media release, public announcement or public disclosure relating to this Agreement or its subject matter, in any promotional or marketing materials, lists or business presentations, without consent from the other party for each such use or release in accordance with this Section, provided that Metavante may include Customer's name in Metavante's customer list and may identify Customer as its customer in its sales presentations and marketing materials without obtaining Customer's prior consent. Notwithstanding the foregoing, at Metavante's request Customer agrees to issue a joint press release prepared by Metavante to announce the relationship established by the parties hereunder. Customer agrees that such press release shall be deemed approved by Customer in the event that, within five (5) Business Days of receiving Metavante's proposed press release, Customer does not provide written notice to Metavante describing in reasonable detail Customer's objections to the press release. All other media releases, public announcements, and public disclosures by either party relating to this Agreement or the subject matter of this Agreement (each, a "Disclosure"), including promotional or marketing material, but not including (i) announcements intended solely for internal distribution, or (ii) disclosures to the extent required to meet legal or regulatory requirements beyond the reasonable control of the disclosing party, shall be subject to review and approval, which approval shall not be unreasonably withheld, by the other party prior to release. Such approval shall be deemed to be given if a party does not object to a proposed Disclosure within five (5) Business Days of receiving same.

14. **DISASTER RECOVERY**

14.1 Services Continuity Plan. Metavante shall maintain throughout the Term of the Agreement a Services Continuity Plan (the "Plan"). The Plan provides that, in the event of a Disaster, Metavante will be able to resume the Services in accordance therewith within the time periods specified in the Plan.

14.2 Annual Test. Metavante shall test its Plan by conducting one (1) test annually.

15. **GENERAL TERMS AND CONDITIONS**

15.1 Regulatory Compliance.

A. Customer shall be solely responsible for monitoring and interpreting (and for complying with, to the extent such compliance requires no action by Metavante) the Legal Requirements.

B. Audits. Metavante shall cause a Third Party review of its operations and related internal controls to be conducted annually by its independent auditors.

15.2 Transmission of Data. If the Services require transportation or transmission of data between Metavante and Customer, the responsibility and expense for transportation and transmission of, and the risk of loss for, data and media transmitted between Metavante and Customer shall be borne by Customer. Data lost by Metavante following receipt, shall either be restored by Metavante from its backup media or shall be reprocessed from Customer's backup media at no additional charge to Customer.

15.3 Reliance on Data. Metavante will perform the Services described in this Agreement on the basis of information furnished by Customer. Metavante shall be entitled to rely upon any such data, information, directions, or instructions as provided by Customer (whether given by letter, memorandum, telegram, cable, telex, telecopy facsimile, computer terminal, e-mail, other "on line" system or similar means of communication, or orally over the telephone or in person), and shall not be responsible for any liability arising from Metavante's performance of the Services in accordance with Customer's instructions. Customer assumes exclusive responsibility for the consequences of any instructions Customer may give Metavante, for Customer's failure to properly access the Services in the manner prescribed by Metavante, and for Customer's failure to supply accurate input information. Customer shall be responsible for discovering and reporting errors and, if necessary, supplying the data necessary to correct such error to Metavante for processing at the earliest possible time, but no later than five (5) days following the date of any daily report or thirty (30) days following the date of any monthly report reflecting the error. Customer's failure to notify Metavante of errors or discrepancies within such period shall constitute Customer's agreement that it has reviewed and approved the content of each such report using proper internal control review procedures.

15.4 Use of Services. Customer agrees that, except as otherwise permitted in this Agreement or in writing by Metavante, Customer will use the Services only for its own internal business purposes to service its bona fide customers and clients and will not sell or otherwise provide, directly or indirectly, any of the Services or any portion thereof to any Third Party. Customer agrees that Metavante may use all suggestions, improvements, and comments regarding the Services that are furnished by Customer to Metavante in connection with this Agreement, without accounting or reservation. Unless and except to the extent that Metavante has agreed to provide customer support services for Customer, Customer shall be responsible for handling all inquiries of its customers relating to Services performed by Metavante, including inquiries regarding credits or debits to a depositor's account. Metavante agrees to reasonably assist Customer in responding to such inquiries by providing such information to Customer as Metavante can reasonably provide. Customer is responsible for its decisions regarding its business risks (including risk of credit losses, fraud losses, counterfeit losses, and fees and fines for noncompliance with laws, regulations, or Visa/MasterCard rules, if applicable). Metavante will provide Customer with certain reports (some in paper form, some in microfiche form, and/or some available on-line or through some other electronic media), including management reports, but Customer is responsible to review, monitor, and act upon information in such reports to minimize and control risks, losses, fees, and fines. Customer shall be responsible to furnish and pay for all forms and documents used by Customer and shall be solely responsible for the compliance of such forms, documents, and procedures with the operating requirements of Metavante, Network rules and operating regulations, if applicable, and applicable federal, state, and local laws and regulations. Metavante may provide sample forms, documents, and procedures to Customer for information purposes, but Metavante makes no warranty or representation as to the legality or accuracy of such forms, documents, or procedures.

15.5 Solicitation. Customer shall not solicit the employees of Metavante for employment during the Term of this Agreement, for any reason. The foregoing shall not preclude Customer from employing any such employee (i) who seeks employment with Customer in response to any general advertisement or solicitation that is not specifically directed towards employees of Metavante or (ii) who contacts Customer on his or her own initiative without any direct or indirect solicitation by Customer.

15.6 Performance by Subcontractors. Customer understands and agrees that the actual performance of the Services may be made by Metavante, one or more Affiliates of Metavante, or subcontractors of any of the foregoing Entities (collectively, the "Eligible Providers"). For purposes of this Agreement, performance of the Services by any Eligible Provider shall be deemed performance by Metavante itself. Metavante shall remain fully responsible for the performance or non-performance of the Services by any Eligible Provider, to the same extent as if Metavante itself performed or failed to perform such services. Customer agrees to look solely to Metavante, and not to any Eligible Provider, for satisfaction of any claims Customer may have arising out of this Agreement or the performance or nonperformance of Services. However, in the event that Customer contracts directly with a Third Party for any products or services (a "Third Party Contract"), Metavante shall have no liability to Customer for any products or services provided under any Third Party Contract, even if such products or services are necessary for Customer to access or receive the Services hereunder.

15.7 Networks. Customer acknowledges and agrees that Metavante may suspend the Services or terminate this Agreement in the event that any Network takes action that limits or impairs Metavante's ability to perform the Services.

16. MISCELLANEOUS PROVISIONS

16.1 Governing Law. The validity, construction and interpretation of this Agreement and the rights and duties of the parties hereunder shall be governed by the internal laws of the State of California, excluding its principles of conflict of laws.

16.2 Venue and Jurisdiction. In the event of litigation to enforce the terms of this Agreement, the parties consent to venue in an exclusive jurisdiction of the courts of Orange County, California and the Federal District Court for the Central District of California. The parties further consent to the jurisdiction of any federal or state court located within a district which encompasses assets of a party against which a judgment has been rendered, either through arbitration or litigation, for the enforcement of such judgment or award against such party or the assets of such party.

16.3 Entire Agreement; Amendments. This Agreement, together with the exhibits and schedules hereto, constitutes the entire agreement between Metavante and the Customer with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth herein and therein. This Agreement supersedes all prior negotiations, agreements, and undertakings between the parties with respect to such matter. This Agreement, including the exhibits and schedules hereto, may be amended only by an instrument in writing executed by the parties or their permitted assignees.

16.4 Relationship of Parties. The performance by Metavante of its duties and obligations under this Agreement shall be that of an independent contractor and nothing contained in this Agreement shall create or imply an agency relationship between Customer and Metavante, nor shall this Agreement be deemed to constitute a joint venture or partnership between Customer and Metavante.

16.5 Affiliates. Customer agrees that it is responsible for assuring compliance with this Agreement by those Affiliates receiving Services under this Agreement. Customer agrees to be responsible for the submission of its Affiliates' data to Metavante for processing and for the transmission to Customer's Affiliates of such data processed by and received from Metavante. Customer agrees to pay any and all fees owed under this Agreement for Services rendered to its Affiliates.

16.6 Assignment. This Agreement may not be assigned by either party, by operation of law or otherwise, without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided that (a) Metavante's consent need not be obtained in connection with the assignment of this Agreement pursuant to a merger in which Customer is a party; and (b) Metavante may freely assign this Agreement (i) in connection with a merger, corporate reorganization or sale of all or substantially all of its assets, stock or securities, or (ii) to any Entity which is a successor to the assets or the business of Metavante.

16.7 Notices. Except as otherwise specified in the Agreement, all notices, requests, approvals, consents and other communications required or permitted under this Agreement shall be in writing and shall be personally delivered or sent by (i) first class U.S. mail, registered or certified, return receipt requested, postage pre-paid; or (ii) U.S. express mail, or other, similar overnight courier service to the address specified below. Notices shall be deemed given on the day actually received by the party to whom the notice is addressed.

In the case of Customer:

Copy to:

For Billing Purposes:

CITY OF GARDEN GROVE
11222 Acacia Parkway
Garden Grove, CA 92840
Attn: City Manager

Hershal Skidmore, Financial Services Manager

Same as above

In the case of Metavante:

Copy to:

RISK MANAGEMENT AND LEGAL DIVISION

METAVANTE CORPORATION
4900 West Brown Deer Road
Milwaukee, WI 53223
Attn: Bruce Hopkins

16.8 Waiver. No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the party waiving its rights.

16.9 Severability. If any provision of this Agreement is held by court or arbitrator of competent jurisdiction to be contrary to law, then the remaining provisions of this Agreement will remain in full force and effect. Sections 1, 5, 6, 9, 10, 11, 12, 13, 16, and 17 shall survive the expiration or earlier termination of this Agreement for any reason.

16.10 Attorneys' Fees and Costs. If any legal action is commenced in connection with the enforcement of this Agreement or any instrument or agreement required under this Agreement, the prevailing party shall be entitled to costs, attorneys' fees actually incurred, and necessary disbursements incurred in connection with such action, as determined by the court.

16.11 No Third Party Beneficiaries. Each party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Customer and Metavante.

16.12 Force Majeure. Notwithstanding any provision contained in this Agreement, neither party shall be liable to the other to the extent fulfillment or performance if any terms or provisions of this Agreement is delayed or prevented by revolution or other civil disorders; wars; acts of enemies; strikes; lack of available resources from persons other than parties to this Agreement; labor disputes; electrical equipment or availability failure; fires; floods; acts of God; federal, state or municipal action; statute; ordinance or regulation; or, without limiting the foregoing, any other causes not within its control, and which by the exercise of reasonable diligence it is unable to prevent, whether of the class of causes hereinbefore enumerated or not. This clause shall not apply to the payment of any sums due under this Agreement by either party to the other.

16.13 Negotiated Agreement. Metavante and Customer each acknowledge that the limitations and exclusions contained in this Agreement have been the subject of active and complete negotiation between the parties and represent the parties' voluntary agreement based upon the level of risk to Customer and Metavante associated with their respective obligations under this Agreement and the payments to be made to Metavante and the charges to be incurred by Metavante pursuant to this Agreement. The parties agree that the terms and conditions of this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this document.

16.14 Construction. Metavante and Customer each acknowledge that the limitations and exclusions contained in this Agreement have been the subject of active and complete negotiation between the parties and represent the parties' voluntary agreement based upon the level of risk to Customer and Metavante associated with their respective obligations under this Agreement and the payments to be made to Metavante and the charges to be incurred by Metavante pursuant to this Agreement. The parties agree that the terms and conditions of this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this document.

16.15 Waiver of Jury Trial. Each of Customer and Metavante hereby knowingly, voluntarily and intentionally waives any and all rights it may have to a trial by jury in respect of any litigation based on, or arising out of, under, or in connection with, this Agreement or any course of conduct, course of dealing, statements (whether verbal or written), or actions of Metavante or Customer, regardless of the nature of the claim or form of action, contract or tort, including negligence.

16.16 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

17. DEFINITIONS

A. "Affiliate" shall mean, with respect to a party, any Entity at any time Controlling, Controlled by or under common Control with, such party.

B. "Agreement" shall mean this agreement and all schedules and exhibits attached hereto, which are expressly incorporated, any future amendments thereto, and any future schedules and exhibits added hereto by mutual agreement.

C. "Business Days" shall be Mondays through Fridays except holidays recognized by the Federal Reserve Bank of Chicago.

D. "Change in Control" shall mean any event or series of events by which (i) any person or entity or group of persons or entities shall acquire Control of another person or entity or (ii) in the case of a corporation, during any period of 12 consecutive months commencing before or after the date hereof, individuals who at the beginning of such 12-month period were directors of such corporation shall cease for any reason to constitute a majority of the board of directors of such corporation.

E. "Commencement Date" shall mean the date on which Metavante first provides the Initial Services to Customer.

F. "Confidential Information" shall have the meaning set forth in Section 13.3 above.

G. "Consumer" shall mean an individual who obtains a financial product or service from Customer to be used primarily for personal, family, or household purposes and who has a continuing relationship with Customer.

H. "Contract Year" shall mean successive periods of twelve months, the first of which (being slightly longer than twelve (12) months) shall commence on the Commencement Date and terminate on the last day of the month in which the first anniversary of the Commencement Date occurs.

I. "Control" shall mean the direct or indirect ownership of over 50% of the capital stock (or other ownership interest, if not a corporation) of any Entity or the possession, directly or indirectly, of the power to direct the management and policies of such Entity by ownership of voting securities, by contract or otherwise. "Controlling" shall mean having Control of any Entity and "Controlled" shall mean being the subject of Control by another Entity.

J. "Credit Card Services" shall mean Services in support of Customer's credit card processing or merchant transaction processing business.

K. "Customer Data" means any and all data and information of any kind or nature submitted to Metavante by Customer, or received by Metavante on behalf of Customer, necessary for Metavante to provide the Services.

L. "Damages" shall mean actual and verifiable monetary obligations incurred, or costs paid (except overhead costs, attorneys' fees, and court costs) which (a) would not have been incurred or paid but for a party's action or failure to act in breach of this Agreement, and (b) are directly and solely attributable to such breach, but excluding any and all consequential, incidental, punitive and exemplary damages.

M. "Documentation" shall mean Metavante's standard user instructions relating to the Services, including tutorials, on-screen help, and operating procedures, as provided to Customer in written or electronic form.

N. "Effective Date" shall mean the date so defined on the signature page of this Agreement, or, if blank, the date executed by Metavante, as reflected in Metavante's records.

O. "Effective Date of Termination" shall mean the last day on which Metavante provides the Services to Customer (excluding any services relating to termination assistance).

P. "Eligible Provider" shall have the meaning as set forth in Section 15.6 above.

Q. "Employment Cost Index" shall mean the Employment Cost Index (not seasonally adjusted) as promulgated by the United States Department of Labor's Bureau of Labor Statistics (or any successor index).

R. "Entity" means an individual or a corporation, partnership, sole proprietorship, limited liability company, joint venture or other form of organization, and includes the parties hereto.

S. "Expenses" shall mean any and all reasonable and direct expenses paid by Metavante to Third Parties in connection with the Services provided to or on behalf of Customer under this Agreement, including any postage, supplies, materials, travel and lodging and telecommunication fees, but not payments to Eligible Providers.

T. "Federal Regulator" shall mean the Chief Examiner of the Federal Home Loan Bank Board, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Board, or their successors, as applicable.

U. "Implementation" shall mean the integration of Customer's systems with Metavante's systems and, as applicable, transfer of Customer's data to the Metavante system and integration thereof, such that Customer is able to receive the Services in a live operating environment.

- V. "Implementation Date" shall mean the date on which Implementation for Customer or a particular Affiliate has been completed.
- W. "Implementation Period" shall mean that portion of the Term beginning on the Effective Date and ending on the Implementation Date.
- X. "Initial Services" shall mean all Services requested by Customer from Metavante under this Agreement prior to the Commencement Date. The Initial Services requested as of the Effective Date are set forth in the schedules attached hereto, which shall be modified to include any additional services requested by Customer prior to the Commencement Date.
- Y. "Initial Term" shall mean the period set forth on the first page of this Agreement.
- Z. "Legal Requirements" shall mean the federal and state laws, rules and regulations pertaining to Customer's business.
- AA. "MasterCard" shall mean MasterCard International, Inc.
- BB. "Metavante Proprietary Materials and Information" shall mean the Metavante Software and all source code, object code, documentation (whether electronic, printed, written or otherwise), working papers, non-customer data, programs, diagrams, models, drawings, flow charts and research (whether in tangible or intangible form or in written or machine readable form), and all techniques, processes, inventions, knowledge, know-how, trade secrets (whether in tangible or intangible form or in written or machine readable form), developed by Metavante prior to or during the Term of this Agreement, and such other information relating to Metavante or the Metavante Software that Metavante identifies to Customer as proprietary or confidential at the time of disclosure.
- CC. "Metavante Software" shall mean the software owned by Metavante and used to provide the Services.
- DD. "Network" shall mean a shared system operating under a common name through which member financial institutions are able to authorize, route, process and settle Transactions (e.g., MasterCard and Visa).
- EE. "New Services" shall mean any services not included in the Initial Services. Upon mutual agreement of the parties, New Services shall be included in the term "Services."
- FF. "Plan" shall have the meaning set forth in Section 14.1 above.
- GG. "Privacy Regulations" shall mean the regulations promulgated under Section 504 of the Gramm-Leach-Bliley Act, Pub. L. 106-102, as such regulations may be amended from time to time.
- HH. "Professional Services" shall mean services provided by Metavante for Implementation, training, consulting or to review or implement New Services or enhancements to existing Services.
- II. "Sensitive Customer Information" shall mean Customer Data with respect to a Consumer that is (a) such Consumer's name, address or telephone number, in conjunction with such Consumer's Social Security number, account number, credit or debit card number, or a personal identification number or password that would permit access to such Consumer's account or (b) any combination of components of information relating to such Consumer that would allow a person to log onto or access such Consumer's account, such as user name and password or password and account number.
- JJ. "Services" shall mean the services, functions and responsibilities described in this Agreement to be performed by Metavante during the Term and shall include New Services which are agreed to by the parties in writing.
- KK. "Taxes" shall mean any manufacturers, sales, use, gross receipts, excise, personal property or similar tax or duty assessed by any governmental or quasi-governmental authority upon or as a result of the execution or performance of any service pursuant to this Agreement or materials furnished with respect to this Agreement, except any income, franchise, privilege or like tax on or measured by Metavante's net income, capital stock or net worth.
- LL. "Term" shall mean the Initial Term and any extension thereof, unless this Agreement is earlier terminated in accordance with its provisions.
- MM. "Third Party" shall mean any Entity other than the parties or any Affiliates of the parties.
- NN. "Tier 1 Support" shall mean the provision of customer service and technical support to end users. The Metavante customer care agents provide assistance with the following, but not limited to payment verification, payee set up, opening service requests for payment research, user education on how to use the Metavante products, technical support with using and accessing the products, and technical support for some browser issues.
- OO. "Tier 2 Support" shall mean the provision of support to end users for consumer initiated payment issues such as payment not posted, stop payment, late fees, and payment posted for incorrect amount. The Metavante payment research team acts as an advocate to the payee on behalf of the end-user to research and resolve the payment issue in a timely manner.
- PP. "Visa" shall mean VISA U.S.A., Inc.

PAYMENT PROCESSING SCHEDULE

Please Note: Link2Gov Corp. is Metavante's Eligible Provider for the Processing Services described in this Payment Processing Schedule, and therefore, this Payment Processing Schedule will refer to Link2Gov Corp. or Link2Gov or L2G.

This Payment Processing Schedule ("Processing Schedule") sets forth certain terms and conditions that govern Link2Gov's provision of the payment processing services described herein ("Processing Services") for Customer's credit card, debit card and electronic check transactions ("Transactions"). Capitalized terms not defined herein shall have the meaning ascribed thereto in the Agreement.

1. Link2Gov Obligations.

1.1 Link2Gov shall provide its Processing Services to support payments remitted to Customer. Link2Gov shall transmit Transaction files for authorization and settlement through Link2Gov's certified payment processor(s) (an "Approved Processor"). Funds for Transactions processed by Link2Gov hereunder shall be submitted to Customer's designated bank account as follows: (a) no more than two (2) business banking days after all Transactions (other than electronic check transactions) that are successfully processed prior to 5 p.m. EST on each business banking day (e.g. a transaction authorized at 2 p.m. EST on Monday will be submitted on Wednesday; a Transaction successfully processed at 8 p.m. EST on Monday will be submitted on Thursday); and (b) no more than five (5) business banking days for all electronic check transactions that are successfully processed prior to 5 p.m. EST on each business banking day. Link2Gov makes no representation or warranty as to when funds will be made available by Customer's bank.

1.2 Link2Gov shall provide Customer with level three customer service support, twenty-four (24) hours per day, seven (7) days per week, subject to commercially reasonable downtime, with toll-free voice communications lines and representatives to address Customer service requests. Additional support services provided by Link2Gov are set forth in Attachment 1 attached hereto.

1.3 Link2Gov's sole responsibility for any Transaction error or reversed Transaction is to determine whether any mechanical, procedural, or processing problems occurred at Link2Gov during the preparation of the Transaction file (including but not limited to rejection of files) and, if necessary, reprocess and resubmit the Transaction file without additional charge.

2. Customer Warranties.

2.1 As a condition to its receipt of the Processing Services, Customer represents and warrants that Customer shall execute and deliver any and all applications, agreements, certifications or other documents required by Networks or other third parties whose consent or approval is necessary for the processing of Transactions. "Network" is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle transactions among themselves, including, for example, networks operated by VISA USA and MasterCard, Inc., NYCE Corporation, American Express, and Discover.

2.2 Customer represents, warrants and agrees that it does and will comply with applicable laws and regulations and Network rules, regulations or operating guidelines. Customer shall notify Link2Gov in writing as soon as possible in the event a claim is either threatened or filed against Customer by any governmental organization having jurisdiction over the Customer related to the Processing Services. Customer shall also notify Link2Gov in writing as soon as possible in the event a claim is either threatened or filed against Customer relating to Transactions or the Processing Services or a fine or other penalty is assessed or threatened against Customer relating to Transactions or the Processing Services.

2.3 Customer represents, warrants and agrees that it is and will continue to be in full compliance with all applicable requirements of the Customer Information Security Program of VISA, the Site Data Protection Program of MasterCard, and similar programs of other Networks, and any modifications to such programs that may occur from time to time. Upon the request of Link2Gov, Customer shall provide Link2Gov with documentation reasonably satisfactory to Link2Gov verifying compliance with this Section 2.3.

2.4 Customer hereby grants Link2Gov the full right, power and authority to request, receive and review and data or records reflected in a Transaction Report. Customer represents and warrants that it has the full right and authority to grant the rights set forth in the preceding sentence.

3. License.

3.1 Link2Gov hereby grants Customer a non-exclusive, limited purpose object code license to use software required for use by Customer to allow Link2Gov to perform the Processing Services, if any (the "Software"). The scope of the foregoing license shall be strictly limited as specified herein, and shall not include any right to use, copy, modify, publish, license, sublicense, sell, market or distribute such Software, unless expressly authorized herein.

3.2 Nothing herein shall give Customer any right, title, or interest in the Software, or any modifications and enhancements thereto. As between Link2Gov and Customer, the Software is the sole and exclusive property of Link2Gov, and Link2Gov expressly reserves all rights to the Software not expressly granted to Customer herein. Customer shall not directly or indirectly decompile, reverse compile, reverse engineer, reverse assemble or otherwise derive a source code equivalent for the Software.

4. User Interface Services. If so provided in Attachment 1 hereto, Link2Gov shall provide a user interface to the Processing Services in the form of a Virtual Terminal, IVR System, or Internet Private Label Site (the "UI Services"). The following terms will apply to any such Services.

4.1 Definitions. As used in this Section, the following terms have the following meanings:

"Customer Brand Features" are all trademarks, service marks, Look and Feel, logos and other distinctive brand features of Customer supplied to Link2Gov by Customer.

"Content" means the information made available to Customer End-Users via the UI Services, which may include, without limitation, text, graphics, data and other similar materials.

"Domain Name" is the unique address that identifies the location of a website on the Internet.

"Intellectual Property Rights" are any and all now known or hereafter known tangible and intangible; (i) rights associated with works of authorship throughout the world, including, without limitation, copyrights, moral rights, and mask-works; (ii) trademark and trade name rights and similar rights; (iv) trade secret rights; (v) patents, designs, algorithms and other industrial property rights; (vi) other intellectual and industrial property rights, whether arising by operation of law, contract, license, or otherwise; and (vii) registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

"Internet" is any system for distributing digital electronic content and information to end users via transmission, broadcast, publication, public display, or other forms of delivery, whether direct or indirect, whether over telephone lines, cable television systems, optical fiber connections, cellular telephones, satellites, wireless broadcast, or other mode of transmission now known or subsequently developed.

"Internet Private Label Site" is a secure payment website on the Internet that presents the Look and Feel of a Customer's existing website, and is developed, hosted and maintained by Link2Gov pursuant to this Schedule, and at which a User may perform a Transaction.

"IVR System" is the telephony based payment system developed by Link2Gov or its designee at which a User may perform a Transaction.

"Look and Feel" means the elements of graphics, design, organization, presentation, layout, user interface, navigation and stylistic convention (including the digital implementations thereof) which are provided by, and unique to, Customer.

"Private Label Virtual Terminal" is a Virtual Terminal that presents the Look and Feel of the Customer and may include certain of the Customer Brand Features.

"User" is any person or entity who processes, or for whom Customer processes, a Transaction using the UI Services.

"User Information" means names, contact information, addresses and any other data concerning any User whose data is captured as part of a Transaction.

"Virtual Terminal" is a secure payment site on the Internet that is developed, hosted and maintained by Link2Gov pursuant to this Schedule, at which Customer may process Transactions made by Users. Virtual Terminal includes the Private Label Virtual Terminal.

4.2 Domain Names; Customer Brand Features.

(a) Unless otherwise agreed by Link2Gov and Customer, Link2Gov shall own all Domain Names used to provide the UI Services, provided that Customer shall own any and all Domain Names used for the Internet Private Label Site or Private Label Virtual Terminal.

(b) Link2Gov has the right to reject and remove any Content and/or Customer Brand Features at any time if Link2Gov reasonably believes that any such materials infringe any third-party Intellectual Property Right, are libelous or invade the privacy or violate other rights of any person, violate applicable laws or regulations, jeopardize the health or safety of any person, or are otherwise detrimental to the goodwill of Link2Gov.

4.3 Errors.

Link2Gov shall correct or cause to be corrected, with reasonable promptness and at its own cost, any errors in the UI Services that are caused by Link2Gov's failure to perform according to the terms of this Schedule or the Agreement. In no event shall Link2Gov be liable for any costs of corrections in excess of its own costs incurred to correct an error that Link2Gov is solely responsible for correcting.

4.4 Ownership.

(a) All Customer Brand Features shall be owned exclusively by Customer. To the extent Link2Gov possesses any ownership rights in the Customer Brand Features, Link2Gov hereby irrevocably assigns to Customer all right, title and interest in and to all such Customer Brand Features, which includes, without limitation, all of Customer's Intellectual Property Rights therein. If Link2Gov has any such rights that cannot be assigned to Customer, Link2Gov waives the enforcement of such rights, and if Link2Gov has any rights that cannot be assigned or waived, Link2Gov hereby grants to Customer an exclusive, irrevocable, perpetual, worldwide, fully paid license to such rights (which includes the right to sublicense). Customer represents and warrants that it owns the Customer Brand Features and all Intellectual Property Rights therein and that such Customer Brand Features do not infringe upon any other material or violate or infringe upon the Intellectual Property Rights of any other party.

(b) Subject only to Section 5.4(a) herein, all Intellectual Property Rights directly or indirectly related to the UI Services (which may include Software) shall be owned exclusively by Link2Gov (collectively, the "Link2Gov Property"). To the extent Customer possesses any ownership rights in the Link2Gov Property, Customer hereby irrevocably assigns to Link2Gov all right, title and interest in and to all such Link2Gov Property, which includes, without limitation, all applicable Intellectual Property Rights thereto. If Customer has any such rights that cannot be assigned to Link2Gov, Customer waives the enforcement of such rights, and if Customer has any rights that cannot be assigned or waived, Customer hereby grants to Link2Gov an exclusive, irrevocable, perpetual, worldwide, fully paid license to such rights (which includes the right to sublicense). Link2Gov represents and warrants that it owns or has rights to the Link2Gov Property and all Intellectual Property rights therein and that such Link2Gov Property does not infringe upon any other material or violate or infringe upon the Intellectual Property Rights of any other party.

4.5 License.

Customer hereby grants Link2Gov a non-exclusive, worldwide license to use the Customer Brand Features for Link2Gov to perform its obligations hereunder. The scope of the foregoing license shall be limited as specified herein, and shall not include any right to use, copy, modify, publish, license, sublicense, sell, market or distribute such Customer Brand Features, unless expressly authorized herein. Customer is not hereby granted any right or license to use any trademarks, tradenames, or service marks of Link2Gov or its affiliates and subsidiaries.

5. Fees and Payment Terms.

5.1 In consideration of the Processing Services, Customer shall pay Link2Gov fees in accordance with Attachment 1 to this Payment Processing Schedule ("Fees").

5.2 The Fees may be changed by Link2Gov during the Term in the event that any Network, telecommunications provider, government entity or third party service provider changes its fees to Link2Gov or Link2Gov incurs increased or additional costs arising out of changes in Network rules or applicable laws or regulations or the interpretation thereof.

5.3 Upon receipt of final notice of the result of a disputed Transaction (whether received by Link2Gov via a retrieval request or chargeback), Link2Gov will initiate an ACH debit to Customer's designated account for such amounts. This will appear as a single debit apart from daily processing. Any such amounts will then need to be collected by Customer from the cardholder using an alternative form of payment if Customer wishes to pursue the payment obligation.

ATTACHMENT 1

SERVICES AND CHARGES

PLEASE NOTE: THE APPLICATIONS/SERVICES LISTED IN THIS ATTACHMENT MAY POSSESS ADDITIONAL FEATURES AND FUNCTIONS WHICH HAVE NOT BEEN REQUESTED BY CUSTOMER AS PART OF THE INITIAL SERVICES. DURING THE TERM OF THIS AGREEMENT, FUTURE PRODUCT DEVELOPMENT WILL LIKELY CREATE ADDITIONAL FEATURES AND FUNCTIONS NOT CONTEMPLATED BY THIS AGREEMENT. UNLESS SPECIFICALLY NEGOTIATED BY THE PARTIES, THE DISCOUNTS (IF ANY) SPECIFIED IN THIS ATTACHMENT SHALL NOT APPLY TO SUCH ADDITIONAL OR FUTURE FEATURES/FUNCTIONS.

Agency/Merchant/Biller Funded Merchant Processing Buy Rates¹

Description: L2G will provide to Customer merchant transaction-processing services to existing and new Agencies/Departments/Merchants.

CONNECTIVITY SERVICES	RATE	FREQUENCY
L2GNet payment gateway	\$0.05	Per transaction
PROCESSING SERVICES	BUY RATE	FREQUENCY
Credit/Debit Discount rate ²	2.35% + \$0.15	Per transaction
ACH/eCheck transaction rate	\$0.15	Per item
ACH/eCheck validation rate	\$0.15	Per item
Settlement ACH	\$0.20	Per batch
APPLICATION DEVELOPMENT SERVICES	BUY RATE	FREQUENCY
Initial Setup Costs for initial Three (3) Page application framework	\$1,250.00	One Time for application framework
Boarding Fee	\$500.00	Per application
Application Maintenance (all applications)	\$25.00	Per month per application
Application development (changes to core/standardized applications, IVR, 3-Page, 5-Page, API, or Virtual Terminal)<optional future service>	\$2,500.00 + Hourly Rate	Per application
Application Setup (new application, IVR, 3-Page, API, or 5-Page)<optional future service>	\$2,500.00	Per application not utilizing initial 3 Page application framework
Application Setup (new Virtual Terminal, IP POS, or Dial POS application)<optional future service>	\$100.00	Per POS application
Voice talent recording (IVR only) <optional future service>	\$1,500.00	Per IVR application
Non-standard product development rate ("Hourly Rate") <optional future service>	\$250.00	Per hour
Application Service Provider ("ASP")	\$0.10	Per transaction
ANCILLARY SERVICES	BUY RATE	FREQUENCY
Telecommunication cost (IVR only)	\$0.09	Per minute
Chargebacks (Credit)	\$10.00	Per occurrence
Returned ChecksACH (WEB)	\$1.00	Per occurrence
Returned ChecksACH (IVR)	\$2.50	Per occurrence
Debit Adjustments	\$5.00	Per occurrence

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¹ The Agency/Merchant Funded Merchant Processing Buy Rate plan applies to government, utility, and higher education applications and merchants.

² This fee shall be analyzed every 6 months by L2G, should the card issuers raise the prevailing rates, L2G may open negotiations to adjust this fee appropriately.

Consolidated Internet-based transaction reports	\$5.00	Per month per application
Collateral marketing material development	Quoted separately	Per campaign
Collateral marketing material printing	Quoted separately	Per campaign
HARDWARE	BUY RATE	
Devices TBD	Varies	Varies

Convenience Fee Funded Merchant Processing Buy Rates³

Description: L2G will provide to Customer merchant transaction-processing services to existing and new Agencies/Departments/Merchants under a Convenience Fee Funded model.

Pricing Methodology

A fixed or variable convenience fee will be set upfront for all payment applications based on the average payment size for the Internet payment channel and the pricing matrix attached below⁴. Once established, the fee would remain fixed for an initial six-month pilot for all payment amounts for the payment application. After the initial pilot, the average payment amount would be reviewed and adjusted if the average payment falls into a different pricing category. After the initial pilot adjustment, the fee amount is reviewed on an annual basis. This methodology is utilized to meet the requirements of several Card Association regulations regarding the disallowance of different fees for different payment types for an individual payment application and the disallowance of a percentage-based fee for Visa convenience fees in a non-Pilot payment application⁵. L2G reserves the right to not accept Visa in situations where the distribution of payments amounts is material and the payment application does not qualify for the Visa Pilot program. Visa Pilot payment applications are listed in the following section.

Web Convenience Fee Buy Rate Matrix:

AVERAGE PAYMENT AMOUNT	CONVENIENCE FEE
\$0.00 - \$59.99	\$1.49
\$60.00 - \$79.99	\$1.99
\$80.00 - \$99.99	\$2.49
\$100.00 - \$119.99	\$2.99
\$120.00 - \$139.99	\$3.49
\$140.00 - \$159.99	\$3.99
\$160.00 - \$179.99	\$4.49
\$180.00 - \$199.99	\$4.99
\$200.00 - \$219.99	\$5.49
\$220.00 - \$239.99	\$5.99
\$240.00 +	2.49%

IVR Convenience Fee Buy Rate Matrix:

AVERAGE PAYMENT AMOUNT	CONVENIENCE FEE
\$0.00 - \$59.99	\$1.99
\$60.00 - \$79.99	\$2.49
\$80.00 - \$99.99	\$2.99
\$100.00 - \$119.99	\$3.49
\$120.00 - \$139.99	\$3.99
\$140.00 - \$159.99	\$4.49
\$160.00 - \$179.99	\$4.99
\$180.00 - \$199.99	\$5.49
\$200.00 - \$219.99	\$5.99
\$220.00 - \$239.99	\$6.49
\$240.00 +	2.49%

Visa Pilot Payment Applications

Qualified Payment Applications

- Personal income tax (including employer-paid payroll taxes)

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³ The Convenience Fee Funded Merchant Processing Buy Rate plan applies to government, utility, and higher education applications and merchants. SIC/MCC codes that qualify will be added to Agreement.

⁴ If payments were currently not being accepted on the Internet channel, the initial average internet payment amount would be calculated by multiplying the overall average payment by 1.30.

⁵ Link2Gov has been certified by Visa to accept convenience fees in a percentage format for applications that meet Visa's pilot requirements (i.e., property tax and income tax).

- Real-estate property
- Other personal property
- Unemployment tax
- Business income tax
- Sales and use tax

Initial Scope of Services Plan (for period from Effective Date to delivery of Project Schedule)

Description: L2G will provide to Customer design sessions for the purpose of scoping out the initial implementations, the development of specifications, and the delivery of a Project Plan and Project Schedule.

Methodology

On or about April 20th, 2008, L2G shall initiate discussions and design sessions with the Customer examining the needs of the City. During this time period, it will be determined the desired implementation schedule and order of deployment for, but not limited to, the following:

Option A: POS

Determining what form this will take (Virtual, IP, or Dial) as well as the necessary physical equipment, numbers, and capabilities, and the desired implementation dates.

Option B: WEB

Determining the initial 3-Page framework, to be capable of receiving transactions from multiple applications such that additional 3-Page applications may not be necessary.

Determining whether the Customer may require the usage of other L2G Web applications.

Determining the desired implementation dates for these applications.

Option C: IVR

Determining the needs of the City and whether the Customer may require the usage of L2G IVR Applications and the desired implementation dates for these applications.

The outcome of these meetings (which may take the form of Conference Calls, WEB conferences, and in person meetings) shall be the delivery of a Project Plan and a Project Schedule, any required Specifications, scripts, or other documents necessary to proceed with implementation.