

Electronic Payment Services Agreement

BY AND BETWEEN

GRANT STREET GROUP, INC.

AND

WILLIAMSON COUNTY

IMPORTANT NOTICE

Portions of this Agreement contain confidential and proprietary information pertaining to a data processing software licensing agreement which are exempt from disclosure through public records requests pursuant to the Texas Public Information Act. The confidential sections of this Agreement are clearly marked "CONFIDENTIAL". Grant Street Group should be promptly notified of any requests for disclosure of the portions of this document that are marked CONFIDENTIAL so that it may seek an appropriate protective order or injunctive relief.

ELECTRONIC PAYMENT SERVICES AGREEMENT

Grant Street Group, Inc., whose corporate address is 339 Sixth Avenue, Suite 1400, Pittsburgh, PA 15222 ("Grant Street") and **Williamson County on behalf of the County Tax Assessor/Collector**, whose address is 101 Wilco Way, Georgetown, TX 78626 ("County"), agree that this Electronic Payment Services Agreement ("Agreement") governs the provision of professional consulting, implementation, maintenance, training, and other services, and grants to County a limited license to use Grant Street's web applications, PaymentExpress®, for electronic payment services.

WHEREAS, County desires that Grant Street provide implementation of Grant Street's PaymentExpress, a comprehensive package of payment services allowing the County to accept all payment methods online and in-person, as well as training and support services pursuant to Grant Street's response to 23RFP82 Tax Assessor-Collector Electronic Payment Processing; and

WHEREAS, Grant Street represents that is it qualified and desire to perform such services.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration and intending to be legally bound, the parties hereby agree as follows:

1. PaymentExpress Service.

The electronic payment services provided by Grant Street hereunder shall be as described in Grant Street's reply to 23RFP82 and the specifications in Attachment 1, attached to this Agreement. PaymentExpress provides a means for County to accept electronic payments for transactions, including, without limitation, payments for property taxes and other taxes and fees, motor vehicle registrations, miscellaneous County permits, and licenses. PaymentExpress services are collectively referred to as "Electronic Payment Services".

1.1. The Electronic Payment Services, in accordance with the terms of the Agreement, may be in the form of: (i) certain approved credit and signature debit cards (each a "Card"); (ii) PIN debit card transactions; (iii) electronic check or other forms of payment through the Automated Clearing House (ACH) system (either such payments being referred to as an "E-check"); (iv) contactless transactions, and (v) any other modes of electronic transactions offered by Grant Street 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".

1.2. Electronic Payment Services support will be provided by Grant Street during the hours from 8 a.m. to 5 p.m. Central Standard Time, Monday through Friday, excluding nationally recognized holidays ("Business Hours"). Grant Street shall respond in a prompt, commercially reasonable manner during Business Hours. Outside

of Business Hours, qualified Grant Street personnel will be reachable by cell phone to assist County in crisis situations.

1.3. In providing Electronic Payment Services, Grant Street will engage the services of financial intermediaries, including an acquiring bank and Card processor, or other financial intermediaries (collectively “the Bank”), in order for Grant Street 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”).

1.4 In the event more than \$1 million in Visa transactions and/or \$1 million in MasterCard transactions (the “Benchmark Amount” as provided by the Association Operating Regulations, and is subject to change) is processed through and on behalf of County in any twelve month period, County will automatically be deemed to have accepted, and will be bound by, the Merchant Services Agreement for Sub Merchants with Bank, which is set forth here: www.grantstreet.com/sub-merchant-agreement/. If County’s current or expected processing volume is less than the Benchmark Amount, then a Merchant Agreement will not be required.

1.5. Grant Street 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.

2. Term.

The initial term of the Agreement shall commence on the Effective Date and shall remain in force for an initial term of three (3) years immediately following the “Delivery” of the Electronic Payment Services, which shall be deemed to occur when County begins taking E-payments, or until terminated according to the provisions of this Agreement, whichever comes first. Prior to the end of the initial term, the parties may, upon mutual consent and mutually acceptable terms, renew the Agreement for subsequent terms. If neither party notifies the other of its intent to terminate at least ninety (90) days prior to the expiration of the Agreement, it shall automatically renew for a period of one (1) additional year, according to its then prevailing terms.

3. Termination.

During the initial term, either party may terminate this Agreement upon written notice to the other if: (i) a material violation of this Agreement by the other party is not remedied within sixty (60) days after notice of violation; or (ii) any representation or warranty made by the other party shall prove to have been inaccurate or fraudulent in any material respect as of the date the same was made; or (iii) the other party admits, in writing, its inability to pay its debts generally as they become due, or executes an assignment for the benefit of creditors or similar document; or (iv) the other party is declared bankrupt or insolvent, is placed under the protection of any law for relief of debtors (whether or not accompanied by the appointment of a trustee, receiver, or other

legal representative), or otherwise enters into any judicial or administrative procedure which is designed or has, or may have, the effect of relieving debts of debtors.

3.1. Grant Street may terminate the Agreement immediately: (i) in the event the agreement between Grant Street and the Bank is terminated for any reason, and Grant Street is unable to agree to terms with a different bank or financial institution for purposes of Grant Street's being able to continue to offer its services to County under the Agreement; or (ii) in the event County notifies Grant Street, pursuant to Sections 6.1 or 6.4 below, of any legal requirement that contradicts Grant Street's contractual obligations to the Bank or the Associations. If Grant Street has reason to believe that its agreement with the Bank is going to be terminated for any reason, then Grant Street shall provide County with as much advance notice as is practicable under the circumstances to allow County an opportunity to limit any potential disruption in services to County's customers. Grant Street 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 fulfill its obligations under this Agreement because of the reasons cited above.

3.2. County may terminate the Agreement in the event it has reasonable business concerns related to the Bank or any other third party that supports or is used in the E-payment process and transactions. County must provide Grant Street with 180 days' prior written notice of its intent to terminate under this paragraph, including a detailed statement of its reasonable business concerns. The parties will promptly meet to discuss such concerns and will make good faith efforts to resolve them, including, if appropriate, a substitution of the Bank or other third party to which County's concerns relate. If County's concerns are not resolved in such 180 day period, then County may terminate the Electronic Payment Services by written notice.

3.3 After the first year following Delivery of the Electronic Payment Services, either party may terminate this Agreement for convenience upon ninety (90) days written notice.

3.4. Termination shall not exclude other remedies for failure of a party to perform its obligations under this Agreement.

4. Processing of E-payments/Charges/Fees.

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 Grant Street and County.

a. Non-tax and Tax Payments and Grant Street 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 the County's designated bank account ("County's Receiving Account") equal to the reconciled summary of E-payments since the previous credit.

The Bank will deliver convenience, service and/or processing fees (collectively referred to as "Service Fee(s)") to Grant Street's Operating Account or to a Grant Street "For The Benefit Of" (FBO) account.

b. An exception to Section 4.a exists for two scenarios:

- 1) Due to limitations with the PIN debit networks, Grant Street cannot directly split the deposit of PIN debit transactions by depositing the Primary Amount into the County's Receiving Account and depositing the Service Fees into Grant Street's Operating Account. Instead, Grant Street will:
 - A) Deposit the Primary Amount and Service Fees for PIN debit transactions into a Grant Street FBO account and then promptly transfer the Primary Amount to the County's Receiving Account/s.
- 2) If you select Grant Street's "semi-integrated" in-person payments solution (including PIN debits), the pass-through funding model is required.

c. Provisional Credit:

Any credits to Grant Street's Operating Account or FBO 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.

4.1. Grant Street Charges. In consideration for providing County with Electronic Payment Services, Grant Street will charge to Payors a Service fee, as set forth in Attachment 2 of the Agreement. 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 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 Service fee (referred to hereinafter as "GSG 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, Grant Street may increase the GSG Charges correspondingly upon thirty (30) days advance written notice.

5. Equipment

At no cost, Grant Street will provide County with an initial supply of up to 46 (forty six) Ingenico Lane/5000 (or equivalent) point of sale devices ("POS Devices"), one for each County cashiering station, plus spare devices. The POS Devices are intended to support point-to-point encryption, contactless, and EMV. Grant Street is obtaining the POS Devices from a third party supplier and makes no warranties or representations whatsoever with respect to the POS Devices and their operation. Grant Street may substitute a device but said device must provide full functionality without the need to download software.

5.1. Grant Street will repair or replace defective POS Devices during the term of this Agreement. County shall be solely responsible for maintaining and replacing the POS Devices, including replacement for obsolescence. Obsolescence shall include, but is not limited to, any loss in the utility of a POS Device as a result of any action of or determination by the Payment Card Industry (PCI) Security Standards

Council (SSC), the Associations, or any other Rules setting body as set forth in Section 8, Compliance Matters, of this Agreement. Grant Street shall not be responsible for any liability arising from the POS Devices or use thereof.

5.2. County shall be responsible for the cost of additional POS Devices Grant Street would need to procure for County beyond the initial supply provided by Grant Street. Upon termination or expiration of this Agreement, County shall promptly return to Grant Street the POS Devices supplied by Grant Street to County.

6. County Responsibilities.

County's responsibilities under the Agreement include:

- a. Installing, maintaining, repairing, and replacing all required communication networks and related equipment and services necessary to support Electronic Payment Services, including, without limitation, POS Devices as set forth in Section 5 above;
- b. Assuring the ongoing security/integrity of all equipment used to process transactions, including, without limitation, POS Devices;
- c. Exercising due diligence to protect the equipment from damage or theft, including, without limitation, the POS terminals or similar devices;
- d. Prevent fraudulent use of POS Devices, including, but not limited to, physical or electronic tampering with such POS Devices, while in possession of County;
- e. Informing Payors of the option to make payments through Electronic Payment Services, including by displaying a notice of such option on the bills issued to Payors;
- f. Taking, or authorizing Grant Street to take, actions to publicize the availability of Electronic Payment Services in County's offices and/or on the County's website;
- g. Immediately notifying Grant Street of any suspected, alleged, or confirmed occurrence that could result, directly or indirectly, in the unauthorized access to, or disclosure of, card account data ("Compromised Data Event"), regardless of the source, including any County third party suppliers;
- h. Upon County suspected or actual discovery of a Compromised Data Event, County shall not alter or destroy any related records, and shall maintain complete and accurate documentation regarding any modifications made to such records. In order to safeguard payor information and data, Grant Street reserves the right to discontinue processing Card payments related to the Compromised Data Event;

- i. In the event of a Compromised Data Event, Grant Street, Bank, or Associations, may engage a forensic investigator approved by an Association. County shall cooperate with the forensic investigator so that it may immediately conduct an examination of County equipment, systems, County and County's third party supplier's procedures and records, and issue a written report of its findings; and
- j. County shall share with Grant Street information related to County or any Associations' investigation related to any actual or suspected Compromised Data Event (including, but not limited to, forensic reports and systems audits), and Grant Street may share such information with the Associations. County shall be responsible for the cost of the forensic investigator.

6.1. To the extent County comes into possession of any Card information of any Payor, County agrees it will handle such information in compliance with all 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 Texas law, provided that if there is any requirement of Texas 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 Grant Street immediately upon becoming aware of such in order that Grant Street may seek appropriate relief, which may include, without limitation, termination of the Electronic Payment Services.

6.2. With respect to any Card-based E-payment for which County will be entering data and information into the County's tax collection application (the Application"), County shall enter additional information as may be required by Grant Street, the Bank, and/or the Associations from time to time. For payments with a Card received through certain channels (e.g. telephone), Grant Street 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)]. Grant Street may accept or reject these payments based on CVV/CID verification and/or address verification.

6.3. 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.

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

- a. Transmit any E-payment not originated directly between County and a Payor for payment of obligations of the type permitted through Electronic Payment Services;
- b. Initiate an E-payment credit without a balance in the County's Receiving Account equal to the credit;

- c. 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; and
- d. 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.

Grant Street 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.

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

6.6. County agrees to cooperate with Grant Street as reasonably necessary for Grant Street 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 Grant Street'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.

6.7. 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 the Application 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.

7. Disputed E-payments and Chargebacks.

Grant Street 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, Grant Street may be required to engage County, the Bank, the Associations or other third parties. The Bank has reserved the right to charge Grant Street any applicable Association fees or charges, on account of excessive refunds (which must be more than 1% of all Visa transactions refunded over a month period AND the total number of refunds is over 75), chargebacks or inquiries (defined as 1% of all Visa transactions chargedback over a month period AND the total number of chargebacks is over 75), as assessed by the Associations. In the event the Bank levies any such fees or charges against Grant Street due to County errors, Grant Street reserves the right to assess such fees, charges, or reimbursements against County and will be permitted to bill County for same, provided that Grant Street provides County with documentation supporting such fees, charges, or reimbursements. Grant Street 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, Grant Street will invoice County for, and County will pay, such fees, costs, or charges.

In the event County receives or obtains information regarding any claim or defense by a Payor with respect to a disputed E-payment or chargeback, County agrees to provide Grant Street the following information in writing:

- a. The Payor's name;
- b. A unique confirmation number (transaction sequence number, or other identifier) that Grant Street can use to reference the transaction in subsequent communications with the Bank;
- c. The date and time the Payor asserted the claim or defense;
- d. The nature of the claim or defense;
- e. The action that County took in an attempt to resolve the dispute; and
- f. Upon request, County shall furnish Grant Street with this information within three (3) days.

7.1. Grant Street is not liable for chargebacks or other subsequent refusals for settlement of Primary Amount initiated by any Payor. All such chargebacks and/or refusal for settlement by a Payor will be credited to the Payor and County must mark in the Application as "unpaid" all bills to which the contested payments were applied. In the event of any such chargeback and/or refusal for settlement, County shall allow the Bank or Grant Street 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.

8. Compliance Matters.

Grant Street and County shall 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, www.discovernetwork.com, and www.americanexpress.com/merchantopguide (see Attachment 4 of this Agreement for further information), and is hereby incorporated into this Agreement. NACHA rules are available through www.nacha.org. Grant Street 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. Grant Street may, from time to time, advise County of additional rules that may become applicable.

9. Limited Warranties.

Grant Street warrants that PaymentExpress, and any other electronic payment software provided by Grant Street, (collectively, "Electronic Payment

Applications”), will conform to Grant Street supplied specifications and documentation. Grant Street does not warrant that the operation of the Electronic Payment Applications will be uninterrupted or error free. As County’s sole and exclusive remedy for breach of the warranties contained herein, Grant Street shall correct documented errors that are caused by a defect in the Electronic Payment Applications. For purposes of this Section, the term “defect” shall mean only material deviations from the specifications and documentation supplied by Grant Street.

9.1. 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 Grant Street; (ii) County’s negligence or fault; (iii) County providing improper data to be processed via Electronic Payment Applications; or (iv) a “force majeure” event, as described in Section 21. If Grant Street discovers that a claimed problem is caused by one of the above, Grant Street reserves the right to charge County for its reasonable investigative and remedial efforts.

9.2. County warrants that the Electronic Payment Services provided by Grant Street pursuant to this Agreement will be used exclusively for the purpose of assisting County with E-payment transactions for the collection of taxes, licenses, permits, registrations, and other related fees collected by County.

10. Public Records.

Grant Street shall keep and maintain all public records in Grant Street’s possession relating to this Agreement in accordance with Texas law. Any document submitted to County may be a public record and is open for inspection or copying by any person or entity, unless exempted under Texas law.

11. No Implied Warranties and Limitation of Liability.

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN SECTION 9 OF THIS AGREEMENT, GRANT STREET MAKES NO WARRANTY, PROMISE, OR GUARANTEE, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE ELECTRONIC PAYMENT SERVICES AND RELATED APPLICATIONS OR THE SUPPORT SERVICES PROVIDED HEREUNDER, INCLUDING THEIR QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

IN NO EVENT WILL GRANT STREET 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 AND RELATED APPLICATIONS OR THE SUPPORT SERVICES PROVIDED HEREUNDER. IN NO EVENT WILL GRANT STREET’S LIABILITY TO County FOR DAMAGES UNDER ANY THEORY OF LIABILITY OR FORM OF ACTION EXCEED THE TOTAL AMOUNT OF FEES EARNED BY GRANT STREET LESS INTERCHANGE AND PROCESSING

COSTS WITH RESPECT TO THE ELECTRONIC PAYMENT SERVICES DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT THAT CAUSED SUCH DAMAGES.

11.1. The County is solely responsible for the issuance of any and all permits, licenses, and registrations 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. Grant Street is not liable for:

- a. any errors or omissions in data or other information provided by County and/or on-line users (including, without limitation, any Payor);
- b. any errors or omissions on the part of Payor, the Bank, Issuer, or Associations;
- c. the fraud, negligence, and/or intentional acts of County agents or employees;
- d. 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;
- e. 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;
- f. any card-not-present transactions, unauthorized transactions, or prohibited transactions;
- g. any completed, failed, or misdirected Automated Clearing House ("ACH") entry;
- h. 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
- i. any failure or security breach, or related fees, fines, assessments, or other penalties resulting from third party equipment (e.g. POS Devices, communication networks) or any failures of third party equipment providers to comply with the Rules as set forth in Section 8, or for any losses arising out of the use of a third party's equipment, or for actions or inaction of County's personnel, or breaches of County's network.

11.2. The Issuer, not Grant Street or the Bank, maintains information about a Payor and is responsible for authorizing or declining each E-payment made with a Card. Grant Street is not liable for any loss or liability resulting from a denial of credit. After a Card E-payment is authorized by an Issuer, Grant Street 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 Grant Street forwards the Issuer's authorization to

County and/or settles the E-payment, Grant Street is in no way assuring or guaranteeing payment to County nor is Grant Street waiving any right hereunder.

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

12. Indemnification.

Grant Street shall indemnify, defend and hold harmless County from and against any claims for damages, including reasonable attorneys' fees and expenses, made or brought by any third party based on or related to: (i) the willful misconduct, recklessness, gross negligence or fault of Grant Street; or (ii) Grant Street's breach of this Agreement. County will promptly notify Grant Street of any such claim. Grant Street may, at its expense, assume and control the defense and/or settlement of any such claim, including selection of outside counsel, and County will cooperate with such defense and/or settlement and have no further liability in connection with such claim. In such event, County may participate in the defense of such claim with attorneys of its choosing, at County's cost and expense

12.1. Grant Street shall not be liable for any claim, loss, damage or expense, either direct or indirect, incurred, made or suffered by County in connection with or in any way arising out of County's use of the Internet (unless caused by Grant Street), including, but not limited to, any occurrences of: (i) unauthorized access by any party into any equipment or software used by County, including POS Devices, as set forth in Section 5, or any of County's databases; and (ii) computer viruses downloaded to or found to exist on County's equipment, including POS Devices, as set forth in Section 5, software or databases unless such claim, loss, damage, or expense was caused or enabled by the Electronic Payment Applications. In the event County experiences problems associated with or caused by instances of hacking and/or computer viruses and requests Grant Street's technical assistance, Grant Street shall provide such assistance at its then standard rates (currently \$250 per hour) plus any necessary travel expenses. If such hacking or computer viruses were caused or enabled by the Electronic Payment Applications, then Grant Street shall provide such assistance at no cost to County.

13. Confidentiality and Use/Copying Restrictions.

County acknowledges and understands that the Electronic Payment Applications licensed under this Agreement are owned by Grant Street and constitutes a valuable trade secret belonging to Grant Street. County also acknowledges and understands that Grant Street is willing to provide County and its full-time, part-time, or contract employees (excluding professional consultants) with certain proprietary business and technical information regarding its Electronic Payment Applications pursuant to this Agreement ("Confidential Information"). "Confidential Information" includes, without limitation: (i) all Grant Street applications; copies of application 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 Applications; (ii) information that was provided to Grant Street by third parties and used in connection with executing transactions through Electronic Payment Applications, including, without limitation, terms and conditions of any agreement between Grant Street 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 Grant Street 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 Grant Street 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 Grant Street, 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, Grant Street or another party; (iii) is required to be disclosed pursuant to any legal process or request from any governmental authority or body having jurisdiction over County, or (iv) is required to be disclosed in accordance with law provided that, prior to any such disclosure, County shall provide adequate notice to Grant Street in order to enable Grant Street to seek an appropriate protective order or injunctive relief.

13.1. In the event of a request for the disclosure of Confidential Information pursuant to Texas law, County shall immediately notify Grant Street of such request in order to give Grant Street the opportunity to object to the disclosure of such information based on the statutory exemption provided in Texas law and/or to seek an appropriate protective order or injunctive relief from disclosure of its valuable trade secrets and Confidential Information.

13.2. County hereby agrees to hold the Electronic Payment Applications and/or all Confidential Information as Confidential Information and take such steps as are reasonably necessary to safeguard the Electronic Payment Applications and/or Confidential Information to the same extent that County safeguards other trade secrets and proprietary information related to its business. County's obligations, as set out in this Section 13, survive any termination of this Agreement.

13.3. County further agrees that, absent Grant Street'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 Applications and/or Confidential Information.

13.4. County acknowledges that should it breach its obligations under this Section 13, Grant Street may suffer harm, which may not be adequately compensated by monetary damages. In such event, Grant Street may seek, in addition to monetary damages, equitable relief to enjoin such breach.

14. County Data Confidentiality and Use Restrictions.

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 Grant Street 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 or unless required to be disclosed in accordance with law. Grant Street will maintain such County information for no less than seven (7) years. Payor personal information will not be used outside its intended business purpose in accordance with this Agreement.

14.1. Nothing in this Section 14 shall be construed as granting to County any interest in any information, concepts, ideas, or other materials Grant Street 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 Grant Street.

15. Security.

Grant Street shall implement commercially reasonable measures to secure all E-Payments transacted using the Electronic Payment Services applications provided by Grant Street, which will include the use of 128-bit RSA (or better) Transport Layer Security connections.

16. Title.

Grant Street shall own all rights, title, and interest in and to the Electronic Payment 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 Agreement does not transfer to County under any circumstances any of Grant Street's ownership rights in the Electronic Payment Applications.

17. License.

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

18. Notice.

All notices under this Agreement are to be delivered by: (i) registered mail (return receipt requested) to the parties at the respective addresses set forth above or to such other addresses as the party to receive the notice has designated; (ii) email to the parties using the email addresses designated below; (iii) delivery service to the parties at the respective addresses set forth below or to such other address as the party to receive the notice has designated; or (iv) hand delivery to an individual designated by the

receiving party. The notice shall be deemed delivered: (i) if by registered mail, four (4) days after the notice's deposit in the mail; (ii) if by email, on the date the email is sent; (iii) if by delivery service, on the day of delivery; and (iv) if by hand delivery, on the date of hand delivery.

18.1. The address and contact information for notices sent from County to Grant Street pursuant to this Agreement are as follows:

Grant Street Group, Inc.
339 Sixth Avenue, Suite 1400
Pittsburgh, PA 15222
Attn: Daniel J. Veres, Executive Vice President
Tel: (412) 391-5555
Email: dan.veres@grantstreet.com

18.2. The address and contact information for notices sent from Grant Street to County pursuant to this Agreement is as follows:

Mailing Address:
Williamson County Tax Assessor/Collector
904 S Main Street
Georgetown, TX 78626
Attn: Accounting Dept.
Tel: 512-943-1601
Email: lgaddes@wilco.org

19. Governing Law.

This Agreement shall be governed by and construed under the laws of the state of Texas.

20. Relationship of Parties.

Grant Street is an independent contractor and will not be deemed a servant, employee, partner, or joint venturer of County. Nothing in this Agreement shall be deemed as creating a joint venture or partnership between Grant Street and County. Neither party has the power or authority to bind or commit the other. The parties agree that the qualifications of an "Independent Contractor" under Texas Workers Compensation Act, Texas Labor Code, Section 406.141 apply to this Agreement. There are no intended third party beneficiaries to this Agreement.

21. 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.

22. Severability.

If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired thereby but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the parties shall be construed and enforced accordingly.

23. Waiver.

The delay or failure by any party to exercise any right, remedy, or power provided for herein shall not be deemed a waiver of any such right, remedy, or power hereunder. No waiver hereunder shall be valid unless set forth in writing, executed by the waiving party, and then only to the extent expressly set forth in such writing.

24. Assignment.

Grant Street shall be permitted to assign any of its rights and obligations under this Agreement, in whole or in part, to: (i) an entity directly or indirectly controlling, controlled by, or under common control with Grant Street; and (ii) the successor (by sale, merger, reorganization or otherwise) to the applicable business operations of Grant Street. In the event of an assignment, Grant Street shall provide the County with sixty (60) days advance written notice.

25. Complete Agreement.

This Agreement, together with all appendices, attachments, and exhibits, contains the entire agreement of the parties and there are no promises, understandings, or agreements of any kind pertaining to this Agreement other than stated herein, and this Agreement supersedes all proposals, oral and written, between the parties on the subject.

26. Modifications.

This Agreement may not be modified, altered, or amended, except by written instrument duly executed by both parties.

27. Attachments.

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

<u>Attachment Number</u>	<u>Document Title</u>
1	Electronic Payment Services Specifications
2	GSG Charges
3	County Terms and Conditions
4	American Express® Card Acceptance

28. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

29. Section Headings.

The section and subsection headings used herein are for reference and convenience only and shall not enter into the interpretation hereof.

30. Exclusivity.

Upon Delivery of the Electronic Payment Services, Grant Street shall be County Tax Assessor/Collector's exclusive provider for the services described herein. County agrees that it will not contract with, use, or promote, any third party whereby such third party would provide to County any of the services that are described herein while Grant Street is providing such services to County.

31. Participation.

In the event another public agency in the United States elects to access the Electronic Payment Services provided this Agreement through a cooperative purchasing arrangement or piggyback provision with the County, Grant Street reserves the right to modify terms and conditions, including pricing.

32. Dispute Resolution.

To provide a means of resolving disputes, reducing delays in performance and lessening the likelihood of litigation, it is agreed by the parties hereto that all questions, claims, difficulties, and disputes of whatever nature which may arise relative to the provisions of this Agreement will first be submitted in writing to each party's respective contract/relationship manager who will meet and confer in good faith in an effort to resolve the matter. Such claims, questions, difficulties, and disputes shall be submitted to the referenced individuals in writing as soon as practicable after the issue arises. In the event the individuals are unable to satisfactorily resolve the issue, the matter shall be presented to the chief operating or executive officer of each party, or the duly designated representative of such person, who will meet and confer in an attempt to resolve the issue. If the issue remains unresolved after such resolution attempts, either party may proceed with the legal rights and remedies available to it. Nothing in the foregoing shall preclude a party from seeking equitable relief at any

time in order to preserve the status quo or from filing any legal action if necessary to comply with a statute of limitations.

33. Survival.

Sections 5, 11, 12, 13, 14, 16, 18, 22, 23, 24, 25, 26, and this Section 33 shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of this Agreement duly authorized to execute this Agreement.

AGREED:

“County”

Williamson County

By: _____

Name:

Title: County Judge

Date: _____

“GRANT STREET”

Grant Street Group, Inc.

By: 

Name: Daniel J. Veres

Title: Executive Vice President

Date: 3/29/2024

CONFIDENTIAL

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, as mutually agreed by the parties.

Electronic Payment Services will allow County to process E-payment transactions over-the-counter 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
- 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

** Grant Street 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/PIN debit/Contactless Smart Card

- **Tax:** Real and Personal Property Tax Bills.
- **TxDMV:** Registration, Renewal, Plate, Title, Driver's Licenses, and other TxDMV related transactions for vehicles and vessels
- **Miscellaneous:** County Permits, Licenses, and miscellaneous items such as marriage/birth certificates, concealed weapons permit applications, fines, passports, etc. (not an exclusive list).

Online

Credit Card/Signature Debit Card/E-Check

- **Tax:** Real and Personal Property Tax Bills.
- **TxDMV:** Registration Renewals for vehicles, vessels, and mobile homes
- **Miscellaneous:** County Permits, Licenses, and miscellaneous items such as marriage/birth certificates, concealed weapons permit applications, fines, passports, etc. (not an exclusive list).

ELECTRONIC PAYMENT CASHIERING

County will cashier OTC E-payments using County application.

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

Insert, Tap, Swipe, or PIN Procedure:

1. County searches for and retrieves Payor's bill information from County applications or an external application if applicable.
2. Payor inserts, taps, or swipes 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.
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 an Insert, Tap, Swipe, or PIN Procedure cannot be completed):

1. County searches for and retrieves Payor's bill information from County 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 County applications 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. In the case of an online transaction, Payor will obtain this information from County's 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 cashiers 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.

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 the County's application payment records to reflect an unpaid amount in the event of a chargeback.

E-Check Transactions:

The Electronic 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 the County application payment records to reflect unpaid amounts.

CONFIDENTIAL

Attachment 2

GSG Charges

FEES

1. CARD FEES

A. Tax:

- Per transaction - MasterCard, VISA, American Express, and Discover
- Over-the-Counter – 2.15% Service Fee
- Online – 2.15% Service Fee
- \$2.50 minimum Service Fee

B. TxDMV, Miscellaneous:

- Per transaction MasterCard, VISA, American Express, and Discover
- Over-the-Counter – 2.15% Service Fee
- \$2.50 minimum Service Fee

C. PIN Debit (Over-the-Counter only)

- \$2.50 per transaction

2. E-CHECK FEES

A. Tax

- Online – \$0.00 (no cost)

Attachment 3

County Term and Conditions

INCORPORATION BY REFERENCE AND PRECEDENCE

In the event a dispute arises between the Agreement, the RFP and its Addenda (if applicable), and the Respondent's Proposal, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence:

- The Agreement;
- The RFP and its Addenda; and
- The Respondent's Proposal.

FUNDING

The County's payment of amounts under the Agreement shall be contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to make payments under this Contract.

RIGHT TO AUDIT

County or its duly authorized representatives shall, until the expiration of three (3) years after termination or expiration of the services to be performed, have access to and the right to examine and photocopy any and all books, documents, papers and records of the Contractor, which are directly pertinent to the services to be performed or goods to be delivered for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor agrees that the County shall have access during normal working hours to all necessary facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The County shall give the Contractor reasonable advance notice of intended audits.

EQUAL OPPORTUNITY

Neither party shall discriminate against any employee or applicant for employment because of race, color, sex, religion or national origin.

SALES AND USE TAX EXEMPTION

The County is a body, corporate and politic, under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code, Section 151.309, as amended, and the services and/or goods subject hereof are being secured for use by the County.

COMPLIANCE WITH LAWS

The County and Contractor shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of the Agreement, including, without limitation, Workers' Compensation laws, salary and wage statutes and regulations, licensing laws and regulations.

INCORPORATION OF EXHIBITS, APPENDICES AND ATTACHMENTS

All of the Exhibits, Appendices and Attachments referred to herein are incorporated by reference as if set forth verbatim herein. Any conflicting terms in the Agreement documents will be resolved at the discretion of the Commissioners Court.

NO WAIVER OF IMMUNITIES

Nothing herein shall be deemed to waive, modify, or amend any legal defense available at law or in equity to the County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. The County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

CURRENT REVENUES

The obligations of the parties under the Agreement do not constitute a general obligation or indebtedness of the County for which the County is obligated to levy, pledge, or collect any of taxation. It is understood and agreed that the County shall have the right to terminate the Contract and the Agreement at the end of any the County fiscal year if the governing body of the County does not appropriate sufficient funds as determined by the County's budget for the fiscal year in question. The County may effect such termination by giving advance written notice of termination sixty (60) days before the end of its then-current fiscal year.

BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors.

SAFETY

Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with any services to be provided

hereunder. The safety program shall comply with all applicable requirements of the current federal Occupational Safety and Health Act and all other applicable federal, state, and local laws and regulations.

GENERAL OBLIGATIONS AND RELIANCE

Contractor agrees to perform all services and/or provide all goods necessary for completion and provision of services and/or goods required hereunder. Contractor shall keep the County informed of the progress and quality of the services. Contractor agrees and acknowledges that the County is relying on Contractor's represented expertise and ability to provide the goods and/or services described herein. Contractor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations in accordance with the industry standards used in the profession and to further the interests of the County in accordance with the County's requirements and procedures.

PAYMENT

The County's payment for goods and services shall be governed by the Texas Government Code, Chapter 2251. An invoice shall be deemed overdue the thirty-first (31st) day after the later of the following:

1. The date the County receives the goods under the Agreement.
2. The date the performance of the service under the Agreement is completed; or
3. The date the Williamson County Auditor receives an invoice for the goods or services.

Interest charges for any overdue payments shall be paid by the County in accordance with Texas Government Code, Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of the County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one (1) percent and the prime rate published in the Wall Street Journal on the first (1st) day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

In the event that an error appears in an invoice submitted by Contractor, the County shall notify the Contractor of the error not later than the twenty-first (21st) day after the date the County receives the invoice. If the error is resolved in favor of the Contractor, the Contractor shall be entitled to receive interest on the unpaid balance of the invoice submitted by the Contractor beginning on the date that the payment for the invoice became overdue. If the error is resolved in favor of the County, the Contractor shall submit a corrected invoice that must be paid in accordance with the time set forth above. The unpaid balance accrues interest as provided by the Texas Government Code, Chapter 2251, if the corrected invoice is not paid by the appropriate date.

As a minimum, invoices shall include:

- Name, address, and telephone number of the Contractor and similar information in the event the payment is to be made to a different address.
- The County Contract, Purchase Order.
- Identification of items or service as outlined in the Contract.
- Quantity or quantities, applicable unit prices, total prices, and total amount.
- Any additional payment information which may be called for by the Contract.

Payment inquiries should be directed to the following address:

Williamson County Auditor's Office, Accounts Payable

Department Email: accountspayable@wilco.org Phone:
512-943-1500

CONFIDENTIALITY

Contractor expressly agrees that it will not use any direct or incidental confidential information that may be obtained while working in a governmental setting for its own benefit, and agrees that it will not access unauthorized areas or confidential information and it will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times.

PREVAILING WAGE RATES – TEXAS GOVERNMENT CODE, CHAPTER 2258

1. Duty to Pay Prevailing Wage Rates. The Contractor shall pay not less than the wage scale of the various classes of labor as shown on the “Prevailing Wage Schedule”, as defined in **Paragraph 2** below. The specified wage rates are minimum rates only and are not representations that qualified labor adequate to perform the Work is available locally at the prevailing wage rates. The Owner is not bound to pay—and will not consider—any claims for additional compensation made by the Contractor because the Contractor pays wages in excess of the applicable minimum rate contained in the Contract Documents. The “Prevailing Wage Schedule” is not a representation that quantities of qualified labor adequate to perform the Work may be found locally at the specified wage rates.

- a. For classifications not shown, workers shall not be paid less than the wage indicated for Laborers. The Contractor shall notify each worker commencing work on the Project of the worker’s job classification and the established minimum wage rate required to be paid, as well as the actual amount being paid. The notice must be delivered to and signed in acknowledgement of receipt by the employee and must list both the monetary wages and fringe benefits to be paid or furnished for each classification in which the worker is assigned duties. When requested by Owner, competent evidence of compliance with the Texas Prevailing Wage Law shall be furnished by Contractor.
- b. A copy of each worker wage rate notification shall be submitted to the Owner with the Application for Payment for the period during which the worker began on-site activities.

2. Prevailing Wage Schedule. Pursuant to Texas Government Code Section 2258.022(2), the general prevailing rate of per diem wages for each craft or type of worker needed to execute the Contract and the prevailing rate for legal holiday and overtime work shall be the most recent prevailing wage rate for Williamson County, Texas for building construction as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, which are

published and can be obtained online at <https://sam.gov/search/?index=dbra> (the "Prevailing Wage Schedule"). Should the Contractor at any time become aware that a particular skill or trade not reflected on the Prevailing Wage Schedule will be or is being employed in the Work, whether by the Contractor or by a subcontractor, the Contractor shall promptly inform the Owner and shall specify a wage rate for that skill or trade, which shall bind the Contractor.

3. Penalty for Violation. The Contractor and any subcontractor shall pay to the Owner a penalty of **sixty dollars (\$60.00)** for each worker employed for each calendar day, or portion thereof, that the worker is paid less than the wage rates stipulated in the Prevailing Wage Schedule or any supplement or update thereto pursuant to **Paragraph 2** above. The Contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all workers employed in connection with the Work and showing the actual per diem wages paid to each worker, which records shall be open at all reasonable hours for the inspection by the Owner.

4. Complaints of Violations of Prevailing Wage Rates. Within **thirty-one (31) days** of receipt of information concerning a violation of **Texas Government Code, Chapter 2258**, the Owner shall make an initial determination as to whether good cause exists to believe a violation occurred. The Owner's decision on the initial determination shall be reduced to writing and sent to the Contractor or subcontractor against whom the violation was alleged, and to the affected worker. When a good cause finding is made, the Owner shall retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the Prevailing Wage Schedule and any supplements thereto, together with the applicable penalties, such amounts being subtracted from successive progress payments pending a final decision on the violation.

5. Arbitration Required if Violation not Resolved. After the Owner makes its initial determination, the affected Contractor or subcontractor and worker have **fourteen (14) days** in which to resolve the issue of whether a violation occurred, including the amount that should be retained by Owner or paid to the affected worker. If the Contractor or subcontractor and affected worker reach an agreement concerning the worker's claim, the Contractor shall promptly notify the Owner in a written document signed by the worker. If the Contractor or subcontractor and affected worker do not agree before the **fifteenth (15th) day** after the Owner's determination, the Contractor or subcontractor and affected worker must participate in binding arbitration in accordance with the **Texas General Arbitration Act, Chapter 171, Tex. Civ. Prac. & Rem. Code**. The parties to the arbitration have **ten (10) days** after the expiration of the **fifteen (15) days** referred to above, to agree on an arbitrator; if by the **eleventh (11th) day** there is no agreement to an arbitrator, a district court shall appoint an arbitrator on the petition of any of the parties to the arbitration.

6. Arbitration Award. If an arbitrator determines that a violation has occurred, the arbitrator shall assess and award against the Contractor or subcontractor the amount of penalty as provided herein and the amount owed the worker. The Owner may use any amounts retained hereunder to pay the worker the amount as designated in the arbitration award. If the Owner has not retained enough from the Contractor or subcontractor to pay the worker in accordance with the arbitration award, the worker has a right of action against the Contractor and subcontractor as appropriate, and the surety of either to receive the amount owed, attorneys' fees and court costs. The Contractor shall promptly furnish a copy of the arbitration award to the Owner.

7. Prevailing Wage Retainage. Money retained pursuant to these Prevailing Wage Rate Provisions shall be used to pay the claimant or claimants the difference between the amount the worker received in wages for labor on the Project at the rate paid by the Contractor or subcontractor and the amount the worker would have received at the general prevailing wage rate as provided by the agreement of the claimant and the Contractor or subcontractor affected, or in the arbitrator's award. The full statutory penalty of **sixty dollars (\$60.00) per day** of violation per worker shall be retained by the Owner to offset its administrative costs, pursuant to **Texas Government Code, §2258.023**. Any retained funds in excess of these amounts shall be paid to the Contractor on the earlier of the next progress payment or final payment. Provided, however, that the Owner shall have no duty to release any funds to either the claimant or the Contractor until it has received the notices of agreement, or the arbitration award as provided under the Contract Documents for the Project.

8. No Extension of Time. If the Owner determines that good cause exists to believe a violation has occurred, the Contractor shall not be entitled to an extension of time for any delay arising directly or indirectly from of the procedures set forth in under the Contract Documents for the Project

9. Contractor Defined. For purposes of the above stated Prevailing Wage Rate Provisions, the term "Contractor" shall mean and include the Successful Bidder or Contractor, whichever the case may be for the particular solicitation.

10. Owner Defined. For purposes of the above stated Prevailing Wage Rate Provisions, the term "Owner" shall mean and include Williamson County or County.

11. Contract Defined. For purposes of the above stated Prevailing Wage Rate Provisions, the term "Contract" shall mean and include the ensuing agreement or contract awarded as a part of this solicitation.

ADDITIONAL REQUIREMENTS MAY BE APPLICABLE RELATED TO THE CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT (CAES)

AND THE AMERICAN RESCUE PLAN ACT (ARPA) (C.F.D.A. 21.027)
WHERE FUNDING MANDATES LEGAL COMPLIANCE:

1. **Use of Funds.**
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. **Period of Performance.** The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. **Reporting.** Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award
4. **Maintenance of and Access to Records**
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. **Pre-award Costs.** Pre-award costs, as defined in 2 Code of Federal Regulations (C.F.R.) § 200.458, may not be paid with funding from this award.
6. **Administrative Costs.** Recipient may use funds provided under this award to cover both direct and indirect costs.
7. **Cost Sharing.** Cost sharing or matching funds are not required to be provided by Recipient.

Conflicts of Interest. Recipient understands and agrees it must maintain a

8. conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. **Compliance with Applicable Law and Regulations.**

a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31

C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 United States Code (U.S.C.) §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in

- section 603(e) of the Act.
- 10.
11. **Hatch Act.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. **False Statements.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. **Publications.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. **Debts Owed the Federal Government.**
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. **Disclaimer.**
- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish

an agency relationship between the United States and Recipient.

16. **Protections for Whistleblowers.**

a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

b. The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress.
- ii. An Inspector General.
- iii. The Government Accountability Office.
- iv. A Treasury employee responsible for contract or grant oversight or management.
- v. An authorized official of the Department of Justice or other law enforcement agency.
- vi. A court or grand jury; or
- vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 Federal Register (FR) 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that

ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

19. Clean Air Act and The Federal Water Pollution Control Act

Compliance. Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and Vendor agrees to report each violation to the Customer and understands and agrees that the Customer will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. If applicable, Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Federal Emergency Management Agency (FEMA).

20. Suspension and Debarment.

(1) This Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Vendor is required to verify that none of the Vendor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935)

(2) The Vendor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by Customer. If it is later determined that the Vendor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to Customer, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The Vendor, bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any agreement that may arise from this offer. The Vendor, bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

21. Recovered Materials.

(1) In the performance of this Agreement, the Vendor shall make maximum use of products containing recovered materials that are Environment Protection Agency (EPA)-designated items unless the product cannot be acquired:

(a) Competitively within a timeframe providing for compliance with the contract performance schedule; (b) Meeting contract performance requirements; or

(c) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

22. **Access to Records**. The following access to records requirements applies to this Agreement:

(1) The Vendor agrees to provide Customer, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the Customer and the Vendor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

23. **Use of Department of Homeland Security (DHS) Seals and Related Items**. The Vendor shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

24. **Compliance with Federal Law and FEMA Rules**. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the agreement. The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

25. **Compliance with Byrd Anti-Lobbying Act, 31 U.S.C. § 1352 (as amended)**. Vendors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or

an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

26. **No Federal Government Obligations.** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Vendor, or any other party pertaining to any matter resulting from this Agreement.

27. **False Claims Act Compliance and Program Fraud Prevention.** The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this Agreement.

Insurance Requirements

Contractor agrees to always maintain during any term of the Agreement at Contractor's cost, insurance in accordance with this provision.

Contractor must submit Certificates of Insurance evidencing the required coverage **immediately following contract award and prior to issuance of a Purchase Order.** All Certificates of Insurance coverage must be provided to the following Location and should include the solicitation's number and description:

Williamson County Purchasing
Department 100 Wilco Way, Ste P101
Georgetown, Texas 78626

Failure to comply with these Insurance Requirements may result in the termination of the Agreement between the Contractor and County.

A. Coverage Limits. Except as specified otherwise in the Agreement, Contractor, at Contractor's sole cost, shall purchase and maintain during the entire term while the Agreement is in effect the following insurance:

1. Worker's Compensation in accordance with statutory requirements.
2. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.
3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate.
4. Damages to Rented Premises coverage in the minimum amount of \$100,000.00.

5. Medical Expenses coverage in the minimum amount of \$10,000.00

B. Additional Insureds; Waiver of Subrogation. "Williamson County, Texas" and its directors, officers and employees shall be added as additional insureds under the required policies, and on those policies where County, its directors, officers and employees are additional insureds, such insurance shall be primary, and any insurance maintained by County shall be excess and not contribute with it. Such policies shall also include waivers of subrogation in favor of County.

C. Premiums and Deductible. Contractor shall be responsible for payment of premiums for all the insurance coverages required under this section. Contractor further agrees that for each claim, suit or action made against insurance provided hereunder, with respect to all matters for which the Contractor is responsible, Contractor shall be solely responsible for all deductibles and self-insured retentions. Except as specified otherwise in the Agreement, any deductibles or self-insured retentions **over \$50,000.00** in the Contractor's insurance must be declared and approved in writing by County in advance.

D. Commencement of Work. Contractor shall not commence any field work under this Agreement until he/she/it has obtained all required insurance and such insurance has been approved by County. As further set out below, Contractor shall not allow any subcontractor/subconsultant(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved and such approval shall not be unreasonably withheld. Approval of the insurance by County shall not relieve or decrease the liability of Contractor hereunder.

E. Insurance Company Rating. The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued.

F. Certification of Coverage. Contractor shall furnish County with a certification of coverage issued by the insurer. Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse. **In addition to any other notification requires set forth hereunder, Contractor shall also notify County, within twenty-four (24) hours of receipt of any notices of expiration, cancellation, non- renewal, or material change in coverage it receives from its insurer.**

G. No Arbitration. It is the intention of the County and agreed to and hereby acknowledged by the Contractor, that no provision of this Agreement shall be construed to require the County to submit to mandatory arbitration in the settlement of any claim, cause of action or dispute, except as specifically

required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder or as may be required by law or a court of law with jurisdiction over the provisions of this Agreement.

H. Subcontractor/Subconsultant's Insurance. Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each subcontractor/subconsultant performing work under the Contractor and Agreement (to the extent a subcontractor/subconsultant is allowed by insurance County) to maintain during the term of the Agreement, at the subcontractor/subconsultant's own expense, the same stipulated minimum required in this section above, including the required provisions and additional policy conditions as shown below in this section.

Contractor shall obtain and monitor the certificates of insurance from each subcontractor/subconsultant in order to assure compliance with the insurance requirements. Contractor must retain the certificates of insurance for the duration of the Agreement and shall have the responsibility of enforcing these insurance requirements among its subcontractor/subconsultants. County shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

I. Insurance Policy Endorsements. Each insurance policy shall include the following conditions by endorsement to the policy:

1. County shall be notified thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, and such notice thereof shall be given to County by certified mail to:

Williamson County Purchasing Department
100 Wilco Way Ste P101
Georgetown, Texas 78626

2. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County, to any such future coverage, or to County's Self-Insured Retentions of whatever nature.

J. Cost of Insurance. The cost of all insurance required herein to be secured and maintained by Contractor shall be borne solely by Contractor, with certificates of insurance evidencing such minimum coverage in force to be filed with County.

K. Conflicting Insurance Requirements. In the event the Insurance Requirements set forth herein conflict with the Insurance Requirements set forth in any Ensuing Agreement, the Insurance Requirements set forth in the Agreement shall control.

Attachment 4

American Express® Travel Related Services Company, Inc. (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.