

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.59
(ID # 4724)

MEETING DATE:
Tuesday, July 11, 2017

FROM : AUDITOR CONTROLLER:

SUBJECT: AUDITOR-CONTROLLER: Approval of the 5-year Agreement with JP Morgan to provide E-Payment Solution Services for the County of Riverside, All Districts [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:


1. Approve the E-Payment Master Commercial Card Agreement between the County of Riverside and JP Morgan related to E-Payment Services for five (5) years with or without cause to terminate within 60 days in accordance with Ordinance 459.4, and
2. Authorize the Purchasing Agent to sign the E-Payment Services Agreement and any related documents attached to the Agreement

ACTION:

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley
Nays: None
Absent: None
Date: July 11, 2017
xc: Auditor, Purchasing

Kecia Harper-Ihem
Clerk of the Board
By 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost |
|-----------------------------|-----------------------------|--------------------------|---------------------------------------|---------------------|
| COST | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| NET COUNTY COST | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| SOURCE OF FUNDS: N/A | | | Budget Adjustment: No | |
| | | | For Fiscal Year: 17/18 – 21/22 | |

C.E.O. RECOMMENDATION: APPROVE

BACKGROUND:

Summary

On May 1, 2012, the Board of Supervisors approved agenda item 3.5 authorizing the Auditor-Controller's Office and Riverside County Information Technology Department to enter into a service agreement with Commerce Bank to provide the County with an E-Payment program.

E-Payables Services is an electronic disbursement process which allows the County to pay participating vendors electronically through the financial institution, thereby reducing costs to the County by eliminating the costs associated with the manual paper warrant process, such as, warrant stock, envelopes, paper, postage, ink, etc.

The E-Payment program has eliminated nearly 70,000 paper warrants from being issued; saving County departments thousands of dollars. The cost savings is in conjunction with the proposed Safeguard County of Riverside Against Preventable Expenses (SCRAPE) program.

Approving the modified agreement will allow the Auditor-Controller's Office to utilize the resources offered by JP Morgan to enhance potential revenue growth from electronic services not currently being offered by the existing vendor. In addition, JP Morgan offers more favorable cash flow opportunities by allowing for processing days credit card payments.

Participation in this strategic initiative yields many benefits to both the County and vendors, such as:

1. Generated Departmental Revenue
 - o FY 2013 – \$650,000
 - o FY 2014 – \$800,000
 - o FY 2015 – \$815,000
 - o FY 2016 – \$863,000
 - o FY 2017 – \$850,000 (estimated)
 - o FY 2018 – \$1,300,000 (estimated with J.P. Morgan)

2. Cost/Time Savings for the County

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

- E-Payables Services has reduced the labor, expenses and risk associated with paper warrants
- A modified agreement would eliminate the testing and implementation phase
- Eliminates the risk of lost or stolen warrants

3. Enhanced Cash Flows

- E-Payables Services have expedited the receipt of cash by eliminating mail and paper warrant float. Payments realized in approximately 1 - 3 business days, resulting in a predictable cash float for day-to-day operations.

4. Going Green

- Paperless, electronic payments are more secure, save money and helps conserve the environment by eliminating printing and mailing of paper warrants.

5. Enhanced Capabilities

- Improve reporting and reconciliation processes.
- Allows payment terms to enhance County cash flow

Impact on Residents and Businesses

There is no impact to the Citizens. The County vendors will continue to receive payments in a timely manner.

SUPPLEMENTAL:

Additional Fiscal Information

None

Contract History and Price Reasonableness

Board Approved Agenda Item 3.5 5/1/2012 for original contract then renewed the agreement on Board Approved Agenda Item 3.7 5/12/15. There are no fees associated with this contract.

MASTER COMMERCIAL CARD AGREEMENT

Version 2.0

This Master Commercial Card Agreement, which is comprised of the Master Terms together with any exhibits and Local Schedules attached thereto, as amended, supplemented or replaced from time to time (the "**Master Agreement**"), is made and entered into as of September 11, 2017 (the "**Effective Date**") and sets forth the terms and conditions under which **JPMorgan Chase Bank, N.A.** or one or more of its Affiliates ("**Bank**") shall provide commercial card services to **County of Riverside** ("**COUNTY**") who executes this Master Agreement and/or one or more of such COUNTY's Affiliates. COUNTY and Bank may be referred to in this Master Agreement individually as "**Party**" and collectively as the "**Parties**". For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, COUNTY and Bank hereby agree as follows:

MASTER TERMS

1. Definitions

Each capitalized term used in this Master Agreement shall have the following defined meanings set forth below or as otherwise set forth herein.

Access Code means the user identification code and password assigned to Authorized Users.

Account means each account established in the name of COUNTY pursuant to the Master Agreement.

Affiliate means an entity controlling, controlled by, or under common control with, directly or indirectly, a Party to these Master Terms. For this purpose, one entity "controls" another entity if it has the power to direct the management and policies of the other entity (for example, through the ownership of voting securities or other equity interest, representation on its board of directors or other governing body, or by contract).

Applicable Law means for any country, all federal, state, provincial and local laws, statutes, regulations, rules, executive orders, supervisory requirements, licensing requirements, export requirements, directives, circulars, decrees, interpretive letters, guidance or other official releases of or by any government, any authority, department or agency thereof, or any regulatory or self-regulatory organization such as the European Union, that apply to a Party's obligations under the Master Agreement.

Authorized Approver or **Authorized Signer** means an individual(s) designated by COUNTY to have authority over the Program.

Authorized User means an individual designated by COUNTY to access Account and Transaction data and reports.

Business Day means a day on which Bank is open for business as identified in the applicable Local Schedule.

Card means a Network-branded card that is issued to Cardholders by Bank upon the request of COUNTY and approval by Bank, and includes any plastic card bearing a card number and accounts and card numbers with no associated plastic card, which includes Single-Use Accounts.

Card Request means a written or electronic transmittal from COUNTY, requesting Bank to issue a Card(s).

Cardholder means: (A) an individual in whose name a Card is issued, and (B) any person or entity authorized by COUNTY or named Cardholder to use a Card.

Cardholder Agreement means documentation provided by Bank to COUNTY or Cardholder governing use of a Card by such Cardholder.

Cardholder Credit Limit means the maximum spending limit established in relation to a Cardholder.

Corporate Liability means COUNTY is solely liable for the Transactions, subject to the Master Agreement and any Cardholder Agreement.

Credit Card Network or **Network** means either MasterCard International, Inc. or Visa U.S.A., Inc.

Credit Limit means the maximum spending limit established for COUNTY in connection with the Program.

Cycle means the monthly period ending on the same day each month or, if that day is not a Business Day, then the following Business Day or preceding Business Day, as systems may require, or such other period as Bank may specify.

Effective Date means the date indicated as such on the introductory paragraph.

Fraudulent Transactions means transactions made on a Card by a person, other than COUNTY or Cardholder, who does not have actual, implied or apparent authority for such use, and which Cardholder or COUNTY receives no direct or indirect benefit.

Joint and Several Liability means COUNTY and Cardholder are jointly and severally liable for the Transactions, subject to the Master Agreement, and the Cardholder Agreement.

Local Schedule means a schedule to these Master Terms which sets forth the terms and conditions applicable to the commercial card Programs provided to COUNTY in a particular geographic region or country.

Marks means the name, trade name, and all registered or unregistered service marks of COUNTY, the Network and Bank.

Program means the commercial card system composed of Accounts, Card-use controls, reports to facilitate purchases of and payments for business goods and services, and related services, all as established in connection with the Master Agreement.

Program Administrator means an individual or individuals authorized by COUNTY to perform administrative and security functions in connection with the Program and System.

Single-Use Account means a one-time virtual card number generated for a single transaction.

Systems means the systems through which COUNTY can access Account and Transaction data and reports.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest).

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under the Master Agreement.

Transaction means a purchase, a cash advance, fees, charges or any other activity charged to an Account in respect of a Card.

2. Certain Bank Services

- A. Subject to prior financial, risk management and compliance approvals by Bank, Bank shall establish Accounts in the name of COUNTY and, where applicable, issue Cards to employees and authorized representatives of COUNTY who are approved by Bank and are designated and authorized by COUNTY to incur legitimate business expenses on COUNTY's behalf. Any balance outstanding associated with an Account for which a corporate liability waiver is requested shall become immediately due and payable.
- B. Extension of Program. Upon COUNTY's submission of a request from time to time in the form required by Bank and following Bank's agreement to do so, Bank will extend Program to COUNTY's Affiliates. COUNTY is responsible as principal obligor for all obligations under the Master Agreement (including, without limitation, as principal obligor with respect to all payment and other obligations as the same relate to its Affiliates and their respective Cardholders and waives any defenses or offsets available to such Affiliates). COUNTY shall cause each of its Affiliates and their respective Cardholders to comply with the Master Agreement.
- C. Notwithstanding the foregoing, Bank shall not be obligated to provide any Account to COUNTY or any COUNTY Affiliate or any Card to an employee or authorized representative of COUNTY or any COUNTY Affiliate or to process any transactions in violation of any limitation or prohibition imposed by Applicable Law, including, but not limited to, the regulations issued by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC").
- D. Supplier Recruitment. Supplier recruitment is an optional recruitment campaign comprising of certain services provided by Bank (such services collectively, "Supplier Recruitment") in connection with certain products. Should COUNTY request Supplier Recruitment services, COUNTY shall be deemed to have accepted and agreed to the following terms of use:
 - i. COUNTY will complete Supplier Campaign Questionnaire/Form provided by Bank;
 - ii. COUNTY will commit to having internal resources available to address weekly recruitment needs;
 - iii. COUNTY will provide, to the extent commercially reasonable, complete and accurate supplier information including, but not limited to, supplier name, remittance address, contact name, phone number, and email addresses.
 - iv. Should COUNTY not have complete and accurate Supplier contact information, the Bank will offer "Supplier Data Enrichment", a recruitment service utilizing internal and external data sources to obtain supplier contact information for the purpose of Supplier Recruitment. Bank will use commercially reasonable efforts to enrich supplier data provided by COUNTY via the Supplier Data Enrichment process. COUNTY is solely responsible for validating Bank obtained supplier contact information during the recruitment process and prior to issuing payment to that supplier. COUNTY acknowledges that supplier contact information is deemed to be accurate once payment has been requested.
 - v. Bank reserves the right to refuse or discontinue Supplier Recruitment and/or Data Enrichment services at any time.
 - vi. Furthermore, except to the extent that such Claims (as hereinafter defined) arise from the negligent or wrongful actions of the Bank or its Affiliates, COUNTY, on its behalf and on behalf of each of its Affiliates:
 - (a) releases and forever discharges Bank and each of its Affiliates from any and all past, present and future claims, losses, liabilities, obligations, expenses, attorney or other fees, suits, debts, liens, contracts, agreements, promises, demands and damages, of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent (collectively, "Claims") that COUNTY or any of its and each of its Affiliates ever had, now has, or hereafter may have against Bank and each of its Affiliates, arising out of or related to, Supplier Recruitment and Supplier Data Enrichment, and
 - (b) agrees to reimburse Bank and each of its Affiliates for any direct damages Bank incurs related to all Claims arising under clause (a) from COUNTY suppliers.

3. Obligations of the COUNTY

In connection with the Program, COUNTY shall:

- A. Submit Card Requests in the form and via the method required by Bank. COUNTY shall not give, nor cause or permit to be given, any Card to a Cardholder before the Cardholder application process defined by Bank is completed.
- B. Notify each Cardholder at the earliest opportunity: (i) that Cards are to be used only for COUNTY's business purposes; (ii) of the Cardholder Credit Limit and any other applicable limit; (iii) of Bank suspending a Card or refusing to issue any further Cards, closing an Account, or ending the Cardholder Agreement; (iv) of revisions to any guide to the use of Cards (if applicable); and (v) of the extent, if any, to which Bank will provide Transaction and Account information to third parties at COUNTY's request.
- C. Use commercially reasonable efforts: (i) to safeguard Accounts using reasonable security procedures; (ii) where applicable, to maintain a process ensuring timely and accurate reimbursement of all Transactions to its Cardholders; (iii) not to exceed the Credit Limit; (iv) to collect and destroy any Cards which are no longer required; and (v) to the extent that Cardholder Agreements and Cardholder documentation are provided, cause Cardholders to comply with the Cardholder Agreements and Cardholder documentation.
- D. If not previously provided by Bank, provide to each actual and prospective Cardholder, in accordance with Bank's instructions, Cardholder documentation supplied by Bank.
- E. Immediately notify Bank: (i) of any Card or any Account which is no longer required; and (ii) by phone of any Card that COUNTY knows or suspects has been lost, stolen, misappropriated, improperly used or compromised. In connection with COUNTY's notifications obligations described herein and notwithstanding anything to the contrary contained in these Master Terms:
 - i. Liability for Fraudulent Transactions Following Notification. COUNTY shall not be liable for any Fraudulent Transactions made on a Card under any Account after the effective time of such notification to Bank of such Fraudulent Transaction.
 - ii. Liability for Fraudulent Transactions Prior to Notification. Subject to the terms and conditions contained in subsection (iii) below, COUNTY shall not be liable for Fraudulent Transactions made on a Card under any Account prior to the effective time of such notification to Bank of such Fraudulent Transactions.
 - iii. Bank reserves the right, in its sole and absolute discretion, to hold COUNTY liable for Fraudulent Transactions should Bank determine that, subsequent to implementation of COUNTY's Program and at the time that the Fraudulent Transaction occurred, COUNTY failed to operate its Program in accordance with the following fraud reduction requirements:
 - a. COUNTY must block required high risk merchant category codes ("MCC's") identified by Bank and presented to COUNTY;
 - b. COUNTY must maintain reasonable security precautions and controls regarding the dissemination, use and storage of Account and Transaction data; and
 - c. COUNTY must comply with all other requirements as Bank may reasonably require from time to time.

If COUNTY fails to comply with its obligations described in this subsection (iii), and Bank determines COUNTY to be liable for Fraudulent Transactions, Bank will either: (1) invoice COUNTY for the amount of such Fraudulent Transaction minus any amounts collected, or (2) deduct the amount of such Fraudulent Transaction amount from COUNTY's rebate.
- F. Notify Bank of any Transaction that COUNTY disputes as soon as practicable after the last day of the Cycle during which such Transaction is charged to COUNTY, and in any event within sixty (60) days of such day. COUNTY shall use commercially reasonable efforts to assist in obtaining reimbursement from a merchant. COUNTY or, subject to any Cardholder Agreement and in the case of Cards under any Joint and Several Liability Accounts, the Cardholder, shall not be relieved of liability for any disputed Transaction if the charge-back is rejected in accordance with the applicable Network's charge-back policy. Bank shall not be liable to COUNTY where notice is received after such sixty (60) day period unless specified in a Local Schedule. COUNTY shall not make a claim against Bank or refuse to pay any amount because COUNTY or the person using the Card may have a dispute with any merchant.
- G. Provide any required notification or obtain authorization under applicable privacy or data protection legislation.
- H. Unless previously provided to Bank, obtain and provide to Bank such information as Bank may reasonably request, for the purposes of investigating the identity of an actual or prospective Cardholder or COUNTY or the identity or financial condition of COUNTY, evidencing authority for Card issuance requests, and assisting in any review of Bank by a regulator with relevant jurisdiction. Any information provided by COUNTY to Bank shall be, to the best of COUNTY's knowledge, information and belief, accurate and complete in all material respects.
- I. Make payments for all Transactions posted to Accounts no later than the payment date (the Payment Date), as specified in the periodic statement. In the event that COUNTY makes payments other than as contemplated by the periodic statement, Bank may require, and COUNTY shall provide, such documentation as reasonably required by Bank to reconcile such payments to the amounts stated as due in the periodic statement by the Payment Date. Any amount due which is not received by the Payment Date shall be subject to the late fees and delinquency fees as set out in Exhibit 1 to the Master Terms. If collection is initiated by Bank, COUNTY shall be liable for payment of Bank's reasonable attorneys' fees and other costs and expenses of collection.
- J. In the case of Corporate Liability Programs, be solely liable for all Transactions and COUNTY's obligations shall be enforceable regardless of the validity or enforceability of a Cardholder's obligations. In the case of any Joint and Several Liability Account, COUNTY shall pay Bank, within ten (10) days of written notice, for any Transactions not paid by a Cardholder within one hundred and twenty (120) days of the first billing in respect of the relevant Transaction.

- K. Unless otherwise provided to Bank, provide Bank with such financial statements and other related information annually, or as otherwise requested by Bank in form and in such detail as Bank may reasonably request.
- L. Use commercially reasonable efforts to ensure that such applicants to whom it requests Bank to issue Cards and whom COUNTY authorizes to use the Cards are not identified on a prohibited government sanctions list, or otherwise subject to a sanctions program applicable to COUNTY.

4. Credit Limits and Certain Bank Rights

- A. Bank may establish a Credit Limit and Cardholder Credit Limit and may establish other limits from time-to-time. The establishment of a limit does not prevent such limit from being exceeded and, subject to the Master Agreement, COUNTY is responsible for all amounts including such amounts that exceed a limit.
- B. Bank may at any time: (i) increase or decrease any Credit Limit or the Cardholder Credit Limit or any other limit in connection with any Card or any Account or the Program; (ii) refuse to authorize Transactions; (iii) vary the payment terms, or require the provision of security or additional security; (iv) suspend or terminate any Card or any Account; (v) decline to open any Account; or issue any Card or (vi) require MCC authorization restrictions in connection with a Program; (vii) apply or offset any credit balance hereunder to the payment when due of any amount owing under this Master Agreement; (viii) offset any obligation of COUNTY to Bank under this Master Agreement or otherwise against any obligation Bank owes to COUNTY.

5. System Access

- A. Bank shall provide COUNTY with password-protected access to Systems through use of an Access Code. Bank shall assign an initial Access Code to the Program Administrator who shall create and disseminate Access Codes to Authorized Users.
- B. COUNTY shall adhere to security procedures, terms and conditions provided by Bank regarding the System as set forth herein. COUNTY agrees that any access, Transaction or business conducted using an Access Code is presumed by Bank to have been in COUNTY's name for COUNTY's benefit.
- C. Except for unauthorized use by a Bank employee, COUNTY is solely responsible for the genuineness and accuracy of all instructions, messages and other communications received by Bank via the System. Bank may rely and act upon all instructions and messages which are issued with Access Codes, without making any further verification or inquiry.
- D. Bank is authorized to rely upon any written instruction that designates an Authorized Signer until the authority of any such Authorized Signer is revoked by COUNTY by written instruction to Bank, and Bank has reasonable opportunity to act on such instruction.
- E. From time to time, Bank may suspend the System when Bank considers it necessary to do so (including, without limitation, for maintenance or security purposes). Bank will use reasonable efforts to provide COUNTY with notice prior to the suspension.

6. Representations and Warranties

Each Party represents, warrants and covenants that it will comply with Applicable Laws in connection with the performance of its obligations under the Master Agreement. Each Party represents and warrants that this Master Agreement constitutes a legal, valid and binding obligation enforceable in accordance with its terms, and that execution and performance of the Master Agreement: (A) does not breach any agreement of such Party with any third party, (B) does not violate any law, rule, or regulation, or any duty arising in law or equity applicable to it, (C) are within its organizational powers, and (D) has been authorized by all necessary organizational action of such Party and validly executed by a person(s) authorized to act of behalf of such Party. COUNTY also represents, warrants and covenants that it will use its commercially reasonable efforts to ensure that the Accounts and the Cards shall only be used for COUNTY's business purposes. COUNTY also represents and warrants that it will use commercially reasonable efforts to ensure that such applicants to whom it requests Bank to issue Cards to and whom COUNTY authorizes to use the Cards/Accounts are not identified on a prohibited government sanctions list, are not located or resident in a sanctioned country, or otherwise subject to a sanctions program applicable to COUNTY. Bank reserves the right to terminate the Master Agreement and/or cancel any of the Accounts at any time if Bank determines that a Card has been issued to a person residing in a sanctioned jurisdiction or where the Cardholder's name, or the name of an individual authorized to use a Card/Account, appears on a government sanctions list applicable to COUNTY or Bank. EXCEPT AS SET FORTH IN THESE MASTER TERMS OR IN ANY LOCAL SCHEDULE, NEITHER PARTY MAKES ANY OTHER REPRESENTATIONS AND WARRANTIES WHETHER EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. Fees and Charges

Bank may change the fees and charges payable by COUNTY at any time, provided that Bank notifies COUNTY at least thirty (30) days prior to the effective date of the change or such other period as is specified in the applicable Local Schedule. Bank's periodic statements represent the official record of amounts due and owing by COUNTY to Bank regardless of the method(s) by which COUNTY elects to receive invoice information from Bank (e.g., in electronic form, mappers or other methods). COUNTY acknowledges that it has an obligation to verify and reconcile its payment obligations to Bank's periodic statements.

8. Term and Termination

- A. This Master Agreement shall commence as of the Effective Date and continue in full force and effect for a period of **three (3) years** unless otherwise terminated in accordance with the terms of this Section 8. Thereafter this Master Agreement shall automatically renew for successive one-year terms unless earlier terminated as set forth herein.
- B. Either Party may terminate this Master Agreement for any or no reason upon sixty (60) days prior written notice to the other Party.

- C. Either Party may terminate this Master Agreement immediately upon the occurrence of one or more of the following events: (i) the other Party's violation of Applicable Law, (ii) the liquidation, insolvency or dissolution of the other Party, (iii) the voluntary or involuntary filing of bankruptcy proceedings or similar proceedings with respect to the business of the other Party, or (iv) with the exception of a payment obligation, a Party's breach of a material obligation under this Master Agreement that is not cured within thirty (30) days following receipt of notice of the breach from the non-breaching Party.
- D. In addition, Bank may, upon notice to COUNTY, immediately (a) terminate this Master Agreement, (b) terminate one or more services provided for in this Master Agreement, and/or (c) terminate one or more Cards upon the occurrence of one or more of the following events: (i) COUNTY fails to remit any payment in accordance with the terms of this Master Agreement, (ii) there is a default by COUNTY or its parent, subsidiary or affiliate in the payment of any debt owed to Bank or a Bank-related entity under any other agreement, (iii) there is a material adverse change in the business, operations or financial condition of COUNTY, or (iv) any representation or warranty made by the COUNTY or any financial statement or certificate furnished to Bank, shall prove to be inaccurate, false or misleading in any material respect when made.
- E. This Master Agreement shall terminate immediately upon the termination of all Accounts issued pursuant to this Master Agreement.
- F. In the event of termination of this Master Agreement by Bank in accordance with Section 8.C or Section 8.D above, COUNTY shall immediately pay all amounts owing under the Agreement, without set-off or deduction.
- G. In the event of termination of the Master Agreement for any reason other than by Bank in accordance with Section 8.C or 8.D above, COUNTY shall pay all amounts due and owing under this Master Agreement in accordance with the settlement terms of the Program, without set-off or deduction.
- H. Upon termination of this Master Agreement for any reason, COUNTY shall promptly destroy all physical Cards furnished to Cardholders.
- I. COUNTY (upon notice to Bank) may suspend or terminate any Account or any Card under any Account at any time and for any reason.
- J. Sections 3, 4, 5, 6, 8.D, 9, 10, and 11 of these Master Terms shall survive the termination of the Master Agreement or any Local Schedule Notwithstanding anything to the contrary contained in this Section 8, the provisions of these Master Terms shall remain in effect until all Cards and Accounts have been cancelled.

9. Limitation of Liability

- A. Subject to Section 9.B below, Bank shall be liable only for COUNTY's actual damages which COUNTY suffers or incurs as a direct result of Bank's negligence or wilful misconduct and shall not be liable for any other loss or damage of any nature.
- B. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR THE LIKE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EACH OF WHICH ARE EXPRESSLY EXCLUDED BY AGREEMENT OF THE PARTIES HEREIN REGARDLESS OF WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE AND WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Confidentiality

Except as expressly provided in the Master Agreement, all information furnished by either Party in connection with the Master Agreement, the Program or Transactions shall be kept confidential. The foregoing obligation shall not apply to information that: (A) is already lawfully known when received without an obligation of confidentiality other than under this Master Agreement, (B) is or becomes lawfully obtainable from other sources who are not under a duty of confidentiality, (C) is in the public domain when received or thereafter enters the public domain through no breach of this Section; (D) is developed independently by the receiving Party without use of the disclosing Party's confidential information; (E) is in an aggregate form non-attributable to the disclosing Party; (F) is required to be disclosed to, or in any document filed with, the U.S. Securities and Exchange Commission (or any analogous body or any registrar of companies or other organizations in any relevant jurisdiction), banking regulator, or any other governmental agencies, (G) is required by Applicable Law to be disclosed and notice of such disclosure is given (when legally permissible) to the disclosing Party, or (H) may be disclosed as provided in the Cardholder Agreement or other Cardholder-related documentation. Notice under (G), when practicable, shall be given sufficiently in advance of the disclosure to permit the other Party to take legal action to prevent disclosure. Bank may exchange (and COUNTY insofar as necessary hereby consents to such exchange) COUNTY and (to the extent authorized) Cardholder confidential information with Affiliates. Bank may also disclose confidential information to service providers in connection with Bank's provision of Program services; provided, that the service providers comply with the terms of this Section 10.

11. Miscellaneous

- A. Except as otherwise mutually agreed, neither Party shall use the Marks of the other Party without its prior written consent. If COUNTY elects to have its Marks embossed on the Cards or provide them to Bank for other uses, COUNTY hereby grants Bank a non-exclusive limited licence to use the Marks for the foregoing purposes.
- B. If any provision of this Master Agreement is found by an arbitrator or court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the Parties set forth in this Master Agreement. The failure of either Party hereto to enforce any right or pursue any remedy hereunder shall not be construed to be a waiver thereof.
- C. Bank and COUNTY will at all times be independent contractors. In furtherance of the parties' mutual interests in this Master Agreement, no third party will be deemed an intended or unintended beneficiary of this Master Agreement. This Master Agreement is enforceable

only between the parties hereto and shall not be subject to any actual or implied right or obligations of, or commitment to, any third party without the prior written consent of Bank.

- D. In the regular course of business, Bank may monitor, record and retain telephone conversations made or initiated to or by Bank from or to COUNTY or Cardholders.
- E. This Master Agreement shall be binding upon and inure to the benefit of COUNTY and Bank and their respective successors and permitted assigns. This Master Agreement, or any of the rights or obligations hereunder, may not be assigned by COUNTY without the prior written consent of Bank.
- F. This Master Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior or contemporaneous proposals, understandings, representations, negotiations, and agreements of any kind, whether written, oral, expressed or implied, relating to the subject matter thereof. This Master Agreement may be amended or waived, subject to Applicable Law, only by notice to COUNTY in writing from Bank.
- G. This Master Agreement may be signed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same document. Facsimile signatures shall have the same force and effect as the original.
- H. If applicable, to the extent that COUNTY would have been able to claim sovereign immunity in any action, claim, suit or proceeding brought by Bank, COUNTY irrevocably waives and agrees not to claim such immunity.
- I. Unless COUNTY provides Bank with a valid applicable exemption certificate or other proof of exemption, COUNTY will pay or reimburse Bank upon demand for any taxes, levies, imposts, deductions, charges, stamp, transaction and other duties and withholdings (together with any related interest, penalties, fines, and expenses) in connection with the Master Agreement, any Account or any Transactions, except if imposed on the overall net income of Bank. If a Tax Deduction is required by law, the amount of the payment due to Bank from COUNTY will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due to Bank if no Tax Deduction had been required.
- J. Neither Bank nor COUNTY shall be liable for any loss or damage to the other for its failure to perform or delay in the performance of its obligations under this Master Agreement, if such non-performance or delay is caused directly or indirectly by an act of God, act of governmental authority, de jure or de facto, legal constraint, war, terrorism, catastrophe, fire, flood or electrical, computer, mechanical or telecommunications failure, or failure of any agent or correspondent, or unavailability of a payment system, or other natural disaster or any cause beyond its reasonable control.
- K. Any disputes between the Parties hereto concerning this Master Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to choice of law provisions thereof. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HEREBY WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND ARISING OUT OF, BY REASON OF, OR RELATING TO THIS AGREEMENT, THE INTERPRETATION THEREOF OR TO ANY TRANSACTIONS HEREUNDER. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY THE PARTIES.
- L. COUNTY acknowledges that Bank prohibits the use of Cards under any Accounts to conduct transactions (including, without limitation, the acceptance or receipt of credit or other receipt of funds through an electronic funds transfer, or by check, draft or similar instrument, or the proceeds of any of the foregoing) that are related, directly or indirectly, to unlawful internet gambling. The term "unlawful internet gambling," as used here, shall have the meaning as set forth in 12 C.F.R. Section 233.2(bb).
- M. All notices and other communications required or permitted to be given under these Master Terms shall be in writing except as otherwise provided herein, and shall be effective on the date on which such notice is actually received by the Party to which it is addressed. All notices shall be sent to the address set forth below or such other address as specified in a written form from one Party to the other.

To Bank: JPMorgan Chase Bank, N.A.
10 S. Dearborn St. Fl. 06
Mail Code IL1-0286
Chicago, IL 60603
UNITED STATES
Attn: Commercial Card Legal

To COUNTY: County of Riverside
4080 Lemon Street
Riverside, CA 92501
Attn: Assistant Auditor - Controller

- N. If any credit arises on an Account in respect of a Card (for example as a result of a duplicate payment, merchant refund or refund for a disputed transaction), Bank will apply the credit to offset any amount owed to Bank, either then or at any later time, under this Master Agreement. Bank may at its option pay it to the relevant Cardholder or COUNTY using any method chosen by Bank.

REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have caused these Master Terms to be executed by their duly authorized representatives as of the Effective Date.

JPMORGAN CHASE BANK, N.A.

By [Signature]
Name Judy Mischel
Title Executive Director
Commercial Card

COUNTY Authorization: The undersigned is an officer, member, manager, director, managing partner, or general partner (or person authorized to represent the foregoing), as applicable, of COUNTY, authorized to bind COUNTY to enter into and to perform its obligations under this Master Agreement. The undersigned certifies to Bank that the governing body of COUNTY has adopted resolutions or other appropriate and binding measures authorizing COUNTY to enter into and perform its obligations under this Master Agreement and that those resolutions or other appropriate and binding measures were: (a) adopted in accordance with, as applicable, all requirements of law and COUNTY's organizational or constituent documents, (b) have been entered into the minute books or company records of COUNTY, and (c) are now in full force and effect. COUNTY shall provide to Bank immediately upon demand conclusive evidence of the authorizations described above.

COUNTY

FORM APPROVED COUNTY COUNSEL

By [Signature]
Name Teresa Summers
Title Assistant Director Purchasing Fleet Services

BY: [Signature] 8/15/17
DALE A. GARDNER DATE

Note: The legal name of any member, managing member or general partner who is signing but is not an individual person must appear in the signature block.

COUNTY Attestation: The undersigned officer, member, manager, director, managing partner, or general partner (or person authorized to represent the foregoing) of COUNTY, hereby certifies that the individual signing above on behalf of COUNTY has been duly authorized to bind COUNTY and to enter into and perform its obligations under this Master Agreement and that the person signing above on behalf of COUNTY, whose execution of this Master Agreement was witnessed by the undersigned, is an officer, member, manager, director, managing partner, or general partner (or person authorized to represent the foregoing) of COUNTY possessing authority to execute this Master Agreement. COUNTY shall provide to Bank immediately upon demand conclusive evidence of the authorizations described above.

By [Signature]
Name Dale A. Gardner
Title Deputy County Counsel

Note: The person signing the attestation shall be someone different from the person signing above on behalf of COUNTY.

ATTEST:
KECIA HARPER-IHEM, Clerk
By [Signature]
DEPUTY

[Signature]
John Favaglione, Chairman, Board of Supervisors

2. REBATES

A. Volume Rebate

Bank will pay COUNTY a rebate based on the annual **Combined Total Charge Volume** achieved according to the following schedule. The rebate will be calculated as the Volume Rebate Rate (as determined according to the following schedule) multiplied by the annual **Combined Net Charge Volume**, subject to the rebate adjustments below.

| Combined U.S. Purchasing Card and U.S. Single-Use Account Programs | |
|---|--|
| Annual Combined Total Charge Volume | Volume Rebate Rate @ 7 & 1 Settlement Terms |
| \$10,000,000 | 1.54% |
| \$20,000,000 | 1.69% |
| \$30,000,000 | 1.79% |
| \$40,000,000 | 1.89% |
| \$50,000,000 | 1.95% |
| \$60,000,000 | 1.97% |
| \$70,000,000 | 1.99% |
| \$80,000,000 | 2.01% |
| \$90,000,000 | 2.03% |
| \$100,000,000 | 2.05% |
| \$125,000,000 | 2.06% |
| \$150,000,000 | 2.07% |
| \$175,000,000 | 2.08% |
| \$200,000,000 | 2.09% |
| \$225,000,000 | 2.10% |
| \$250,000,000+ | 2.11% |

B. Large Ticket Rebate

Should COUNTY achieve the minimum annual **Combined Total Charge Volume** required to earn a Volume Rebate as stated above, Bank will pay COUNTY a rebate based on annual **Combined Large Ticket Transaction Volume**. The rebate will be calculated as 0.60% ("Large Ticket Rebate Rate") multiplied by the annual **Combined Large Ticket Transaction Volume**, subject to the rebate adjustments below.

3. REBATE ADJUSTMENTS

A. Average File Turn Adjustment

i. Programs Contracted on Settlement Terms of 7 & 1

a. For purposes of Section 3.A.i, "Average File Turn" means the annual average outstanding balance for Programs contracted on Settlement Terms of 7 & 1 (i.e. sum of the average outstanding balances for each calendar month divided by 12) divided by the annual **Combined Total Charge Volume** associated with Programs contracted on Settlement Terms of 7 & 1, multiplied by 365.

The Volume Rebate Rate and Large Ticket Rebate Rate will be adjusted (either increased or decreased as applicable) based on the Average File Turn of COUNTY's Program(s) over a Contract Year ("Average File Turn Adjustment").

b. Programs with Settlement Terms of 7 & 1 will have an Average File Turn of 4 if COUNTY spends ratably throughout each cycle. The Average File Turn Adjustment for COUNTY's Program(s) with Settlement Terms of 7 & 1 is calculated by determining the difference between COUNTY's Average File Turn for such Program(s) and 4. If COUNTY's actual Average File Turn for such Program(s) is less than 4, the Volume Rebate Rate and Large Ticket Rebate Rate will each be increased by 0.0050% for each whole number less than 4. If the Average File Turn for such Program(s) is greater than 4, the Volume Rebate Rate and Large Ticket Rebate Rate will each be decreased by 0.0050% for each whole number greater than 4 but less than 46.

ii. If COUNTY's actual Average File Turn under Section 3.A.i is greater than 45 days, COUNTY will not qualify for any rebate payment (as described below in the General Rebate Terms Section).

B. Average Annual Spend per Card Adjustment

Bank may adjust the Rebates if the Average Annual Spend per Card decreases more than 20%. The U.S. Purchasing Card Program assumes an Average Annual Spend per Card of \$1,000,000.00.

C. Average Annual Transaction Size Adjustment

Bank may adjust the Rebates if the Average Annual Transaction Size decreases more than 20%. The U.S. Single-Use Account Program assumes an Average Annual Transaction Size of \$1,500.00.

D. Interchange Rate Adjustment

In the event of a reduction in interchange rates by the Credit Card Networks, Bank reserves the right to adjust the rebate rates and fees accordingly.

4. GENERAL REBATE TERMS

A. Quarterly Rebates

i. Rebates will be calculated quarterly in arrears. Payments will be made in USD within the 90 day period following quarter end for the previous quarter (the "Rebate Calculation Period") via wire transfer to a business account designated by COUNTY and authenticated by Bank. Payment is contingent upon Bank receiving COUNTY's wire instructions and Bank's authentication of such instructions prior to the end of the Rebate Calculation Period.

ii. The Volume Rebate Rate for the quarter will be determined by annualized **Combined Total Charge Volume** and the associated rebate rate. The payment for the last quarter of the Contract Year will be adjusted for full year **Combined Total Charge Volume**. If the actual rebate payment calculation is less than the amount paid by Bank to COUNTY, then COUNTY agrees to repay to Bank the excess rebate paid but not earned. If the Agreement is terminated after the initial rebate payment but prior to the end of the Contract Year, COUNTY agrees to repay to Bank any portion of the rebate which was paid but not earned pursuant to actual **Combined Total Charge Volume** transacted by COUNTY for the partial year.

iii. Rebate amounts are subject to reduction by all Credit Losses. If Credit Losses exceed the rebate earned for any Contract Year, COUNTY shall pay to Bank the amount in excess of the rebate, which invoice shall be due and payable in accordance with the terms of such invoice. Upon termination of the Program, the Credit Losses for the six-month period immediately preceding the termination will be deemed to be equal to the Credit Losses for the prior six-month period.

B. To qualify for any rebate payment, all of the following conditions must be met.

i. COUNTY is not in default under the Agreement at the time of rebate calculation and payment.

ii. Account(s) must be current at the time of rebate calculation and payment.

iii. Average File Turn must be less than 46 days (as stated in the Average File Turn Adjustment section).

5. SETTLEMENT TERMS

Payment must be received by Bank in accordance with the Settlement Terms. Delinquent payments shall be subject to Past Due Fees as specified in the Fees Section. Settlement Terms are 7 & 1 for the U.S. Purchasing Card and U.S. Single-Use Account Programs.

6. FEES

The following are the fees associated with U.S. Purchasing Card and U.S. Single-Use Account Programs:

STANDARD SERVICES AND FEES

| | |
|---------------------------|--|
| Late payment charge | Central bill: 1% of full amount past due assessed at end of the Cycle in which payment first became due and each Cycle thereafter |
| International transaction | 1.5% of the US Dollar amount charged |
| Rush card | \$25 per card if processed through Bank. If processed through the Credit Card Network, COUNTY shall pay any fees charged by the Credit Card Network. |
| Standard card | \$0.00 |

ADDITIONAL SERVICES AND FEES

| | |
|-------------------|--|
| Cash advances | 2.5% of amount advanced (\$2.50 minimum with no maximum) |
| Convenience check | 2% of check amount (\$1.50 minimum with no maximum) |

If COUNTY requests services not listed in this schedule, COUNTY agrees to pay the fees associated with such services.

LOCAL SCHEDULE FOR THE UNITED STATES

This Local Schedule for the United States (“**U.S. Schedule**”) sets forth the terms and conditions that will apply to Bank’s establishment of Accounts in the name of COUNTY and/or one or more COUNTY Affiliates and issuance of Cards to its and their respective employees and authorized representatives in the United States. This U.S. Schedule is made a part of and incorporated into the Master Terms as though fully set forth therein. If a provision of this U.S. Schedule conflicts with the Master Terms, the provision of this U.S. Schedule will prevail.

I. Overview

Bank shall issue Cards under the Program in the United States (“**U.S. Program**”) in United States Dollars, and COUNTY may participate in the U.S. Program subject to the terms of this U.S. Schedule.

II. Definitions

Capitalized terms used but not defined in this U.S. Schedule will have the meanings given to them in the Master Terms. For purposes of this U.S. Schedule, the following terms shall be defined as set forth below:

Business Day means a day on which Bank and Federal Reserve Banks are open for business.

International Transaction means any Transaction that is made in a currency other than U.S. dollars or is made in U.S. dollars outside of the United States of America.

III. Certain Additional Terms

COUNTY represents and warrants that the Cards and Accounts to be issued and established under this U.S. Schedule are substitutes for accepted cards and accounts, or will be sought and issued only in response to written requests or applications for such Cards or Accounts. COUNTY shall retain such applications (paper or electronic) for any Card when such application is not provided to Bank, for a period of twenty-five (25) months after the application has been received and acted upon.

IV. Fees and Incentives

The fees and charges and incentives (if any) related to this U.S. Schedule are set forth on **Exhibit 1 to the Master Terms**.

V. Notices

All notices and other communications required or permitted to be given under this U.S. Schedule shall be in writing, except as otherwise provided herein, and shall be effective on the date on which such notice is received by the party to which it is addressed. All notices shall be sent to the address set forth below or such other address as specified in a written form from one party to the other.

To Bank: JPMorgan Chase Bank, N.A.
10 S. Dearborn St. Fl. 06
Mail Code IL1-0286
Chicago, IL 60603
UNITED STATES
Attn: Commercial Card Legal

To COUNTY: County of Riverside
4080 Lemon Street
Riverside, CA 92501
Attn: Assistant Auditor – Controller

VI. International Transactions and Fees

If an International Transaction is made in a currency other than U.S. dollars, the applicable Network will convert the Transaction into U.S. dollars using its respective currency conversion procedures. The exchange rate each Network uses to convert currency is a rate that it selects either from the range of rates available in the wholesale currency markets for the applicable processing date (which rate may vary from the rate the respective entity itself receives), or the government-mandated rate in effect on the applicable processing date. The rate in effect on the applicable processing date may differ from the rate on the date when the International Transaction occurred or when the Card was used. Bank reserves the right to charge an International Transaction Fee, as specified herein. The International Transaction fee will be calculated on the U.S. dollar amount provided to Bank by the Network.

VII. Governing Law

This U.S. Schedule and any matters arising out of or in relation to this U.S. Schedule shall be governed by and construed in accordance with the laws of the State of California without reference to the principles of conflicts of that State.