

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-99-27
WASHINGTON WSCA-NASPO COMMERCIAL CARD SOLUTIONS
CONTRACT 00612-CATEGORY 2
U.S. Bank National Association (Contractor)

This Participating Addendum Number 7-16-99-27 is entered into between the State of California, Department of General Services (hereafter referred to as "State" or "DGS") and U.S. Bank National Association (hereafter referred to as "Contractor" or "U.S. Bank") under the State of Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 2.

1. SCOPE

- A. This Participating Addendum provides the following commercial card products and associated services offered under the WSCA-NASPO Commercial Card Contract 00612-Category 2 to be provided by the Contractor to the State of California and eligible entities participating in the State of California Fleet Card Program:
- Fleet Card (Corporate Liability)
- B. This Participating Addendum is available for all State of California state agencies and local governmental agencies as defined in Exhibit A, Section 2.B (Eligible Participating Agencies).
- C. Each local governmental agency shall make its own determination whether this Participating Addendum and the WSCA-NASPO Commercial Card Contract are consistent with its procurement policies and regulations.

2. TERM

The Participating Addendum term will be upon signature approval by the State through December 31, 2018, or upon termination, whichever occurs first. Fleet card services under this Participating Addendum will be effective November 1, 2016 ("Effective Date").

The State will have the option to extend the term of this Participating Addendum in the event the Washington WSCA-NASPO Commercial Card Contract term is extended. Lead State amendments to extend the Washington WSCA-NASPO Commercial Card Contract term date are not automatically incorporated into this Participating Addendum. Any extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.

3. INCORPORATION OF DOCUMENTS

A. Lead State Agreement

State of Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 2 is hereby incorporated by reference and made a part of this Participating Addendum.

B. Terms and Conditions

Terms and conditions of the following exhibits are hereby incorporated and made a part of this Participating Addendum:

- Exhibit A – Scope of Work and Fleet Card Program Requirements (6 pages)
- Exhibit B – General Terms and Conditions (GTC 610 as modified) (3 pages)
- Exhibit C – Contractor Certification Clauses (CCC 307) (4 pages)
- Exhibit D – Agreement for Fleet Card Services (5 pages)
- Exhibit E – Incentives and Fees (3 pages)
- Exhibit F – Glossary of Terms (2 pages)

4. ORDER OF PRECEDENCE

In the event of any inconsistency between the articles, attachments, or provisions which constitute this agreement, the following descending order of precedence shall apply:

- 1) California Participating Addendum Number 7-16-99-27, including Exhibits A-F
- 2) Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 2
- 3) Washington WSCA-NASPO Commercial Card Solutions Request for Proposal (RFP) 00612
- 4) Approved portions of the Contractor's Response to Washington WSCA-NASPO Commercial Card Solutions RFP 00612

5. CONTRACT MANAGEMENT

A. Contractor Contract Manager

The Contract Manager and primary point of contact for the Contractor shall be as follows:

Contractor: U.S. Bank National Association
Name: Mark Hess
Phone: (612) 436-6544
E-Mail: mark.hess1@usbank.com
Address: 901 Marquette Avenue, EP-MN-16S,
Minneapolis, MN 55402

Should the Contract Manager information change, the Contractor will provide written notice with the updated information to the State Contract Administrator no later than 10 calendar days after the change, or as soon as is reasonably practical.

B. State Fleet Card Program Manager

The State Fleet Card Program Manager responsible for managing day-to-day operation of the State's Fleet Card Program is as follows:

Name: Athanasia R. Brennan
Phone: (916) 928-2575
Fax: (916) 928-4635
E-Mail: Tasha.Brennan@dgs.ca.gov
Address: Department of General Services
Office of Fleet and Asset Management
1700 National Drive
Sacramento, CA 95834

Should the State Fleet Card Program Manager information change, the State will provide written notice with the updated information to the Contractor Contract Manager no later than 10 calendar days after the change, or as soon as is reasonably practical.

C. State Contract Administrator

The State Contract Administrator responsible for the Participating Addendum is as follows:

Name: Julie Matthews
Phone: (916) 375-4612
Fax: (916) 375-4663
E-Mail: Julie.Matthews@dgs.ca.gov
Address: Department of General Services, Procurement Division
707 Third Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

Should the State Contract Administrator information change, the State will provide written notice with the updated information to the Contractor Contract Manager no later than 10 calendar days after the change, or as soon as is reasonably practical.

6. AGREEMENT

This Participating Addendum with its exhibits and/or amendments, sets forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.

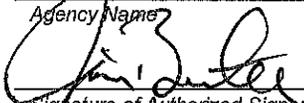
7. AGREEMENT SIGNATURES

IN WITNESS WHEREOF, this Participating Addendum has been executed by the parties hereto.

STATE OF CALIFORNIA

Department of General Services

Agency Name

 7/21/16
Signature of Authorized Signer

Jim Butler, Deputy Director

Printed Name and Title of Authorized Signer

Date Signed

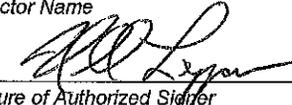
707 Third Street
West Sacramento, CA 95605

Address

CONTRACTOR

U.S. Bank National Association

Contractor Name


Signature of Authorized Signer

Michael C. Leppones, Vice President

Printed Name and Title of Authorized Signer

Date Signed

7/11/16
901 Marquette Avenue
18th Floor, AT&T Building
Minneapolis, MN 55443

Address

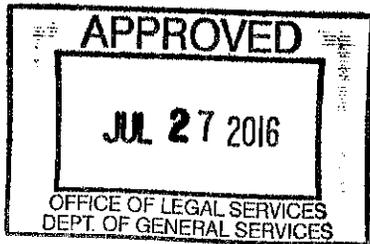


EXHIBIT A – Scope of Work and Fleet Card Program Requirements

1. OVERVIEW OF SERVICES

Contractor will provide fleet card services, offered under the WSCA-NASPO Commercial Card Contract 00612-Category 2, to the State of California and eligible entities participating in the State of California Fleet Card Program.

2. FLEET CARD PROGRAM REQUIREMENTS

A. Fleet Card Program Overview

The Department of General Services, Office of Fleet and Asset Management (DGS-OFAM) administers the State of California Fleet Card Program. The State Fleet Card Program enables eligible entities to pay for fleet purchases while conducting official government business.

B. Eligible Participating Agencies

- 1) State of California state agencies and local government agencies are allowed to participate in the State's Fleet Card Program under this Participating Addendum through a subscription agreement process.
 - a. A "state agency" is any State of California government agency, department, bureau, board, or commission.
 - b. Pursuant to Public Contract Code §10298 and for purposes of this Participating Addendum, a "local government agency" is any city, county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services. Further, for purposes of this Participating Addendum, reference to local government agencies will also include the California State Universities (CSU) and University of California (UC) systems.
- 2) State agencies may participate in the State's Fleet Card Program under this Participating Addendum upon the signing and submission of a properly completed Subscription Agreement, in the format specified by the State, incorporating all terms and conditions of the Participating Addendum.
- 3) Local governmental agencies may participate in the State's Fleet Card Program under this Participating Addendum upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Local Agency Subscription Agreement, in the format specified by the State. Each local governmental agency will be subject to credit approval by the Contractor as described in Exhibit D, Section 10 (Credit Provisions). Local governmental agencies shall assume responsibility and liability for local governmental agency's performance of the terms and conditions of the Participating Addendum. The State shall not bear liability or responsibility for local governmental agencies participating under this Participating Addendum.
- 4) Upon execution of a properly completed Subscription Agreement and/or Local Agency Subscription Agreement with credit approval from the Contractor, the state agency and/or local governmental agency will become a "Participating Agency" and the provision of services by the Contractor to such Participating Agency will be governed by the terms of this Participating Addendum.

C. Card Products and Liability

The U.S. Bank Fleet Card on the Voyager Network is a Corporate Liability charge card designed for purchases of motor fuels and other products and services by fleet vehicle operations. Participating Agencies shall have no liability for lost or stolen cards or fraudulent use of any corporate liability cards following receipt by U.S. Bank of notice of such loss, theft, or fraudulent use. Card liability and dispute procedures are further defined in Exhibit D, Section 3 (Liability) and Section 6 (Disputed Billings).

D. Statewide Transition and Implementation

Upon Participating Addendum execution and written notice to proceed from the State, the Contractor will work with the State to transition current Fleet Card Participating Agencies to the new Participating Addendum. Contractor and State Fleet Card Program Manager will develop a transition plan specific to the State's Fleet Card Program, including implementation timeframe and "go live" date, to ensure that an efficient and effective transition takes place. Contractor will work with the State Fleet Card Program Manager to meet all required elements of the agreed to plan.

E. Agency Enrollment

Contractor will provide an agency enrollment process for new Fleet Card Program participants. Within 30 calendar days of Participating Addendum execution, the Contractor shall provide the State Fleet Program Manager with a detailed agency enrollment process, procedures, and applicable forms for review. After mutual review by both parties, the State Fleet Program Manager will approve final enrollment process, procedures and forms for use by Participating Agencies.

F. Card Design

- 1) Contractor will be responsible for the embossing and printing of cards. The State will use a basic design as the standard card stock to be used by all Fleet Card participants that will identify the card as a State of California Fleet Card. The State will be responsible for furnishing any necessary artwork (digital file) to the Contractor for changes to the standard design during the term of the Participating Addendum.
- 2) Participating Agency will have the ability to customize standard card stock with verbiage and/or logo embossing.

G. Card Issuance

Participating Agency shall designate cardholders that are authorized to receive Cards and to be issued Account numbers by submitting authorized applications, in a format as specified by the Contractor and State. Contractor will mail cards issued to the Participating Agency's designated point of contact within five business days or sooner after the Contractor receives cardholder account set-up information.

H. Customer Support

- 1) Contractor will provide a dedicated customer service team to support the State's Fleet Card Program throughout the term of the Participating Addendum. Contractor will:
 - Provide qualified, highly skilled personnel and ensure personnel are familiar with all aspects of the State's Fleet Card Program.
 - Provide at least one designated Relationship Manager, available to the Fleet Program Manager and Participating Agency Fleet Card Coordinators Monday through Friday during regular business hours, for Fleet Card Program contract support and escalation issues.
 - Provide at least one designated Account Coordinator, available to Participating Agency Fleet Card Coordinators Monday through Friday during regular business hours, to assist with day-to-day Participating Agency account management support.
 - Provide a designated customer service team for cardholder support.
 - Provide a domestic toll-free phone number available to cardholders 24 hours a day, every day of the year for cardholder services.
 - Have an established escalation process.
- 2) Within 15 calendar days of Participating Addendum execution, the Contractor shall provide the Fleet Program Manager with customer service information including but not limited to:
 - Relationship Manager information
 - Account Coordinator information
 - Customer service unit information
 - Any additional Contractor support contacts (i.e. technical support, cardholder support, etc.) provided for the Fleet Card Program

- 3) Should the customer service information or personnel change during the term of the Participating Addendum, Contractor will provide written notice to the State Fleet Card Program Manager within 10 calendar days before changes or substitutions take place, or as soon as is reasonably practical. Substitutions of personnel will include replacements with similar qualifications.
- 4) The State reserves the right to request additional personnel and/or replacement of current personnel at any time. Contractor will be notified in writing at least 10 calendar days before additional personnel and/or replacement personnel are needed, or as soon as is reasonably practical.

I. Training

- 1) Contractor will provide ongoing training for all Fleet Card Program participants throughout the term of the Participating Addendum including, at a minimum:
 - Online Web-based training for Participating Agency Fleet Card Coordinators and Cardholders
 - Onsite/Classroom training for Participating Agency Fleet Card Coordinators
 - Onsite User Group Forums
 - Written User Reference Guides
- 2) Contractor will work with the State Fleet Card Program Manager on a training plan to be offered for the Fleet Card Program including training types, schedule, user reference guides and additional training materials.

J. Fleet Card Data Management and Reporting System

Contractor shall provide its online (web-based) system, U.S. Bank Fleet Commander® Online, to the State's Fleet Card Program participants for:

- Transaction data collection and management
- Administration of system accounts
- Reporting output and data transfer

Designated authorized personnel from the State and Participating Agency will be provided permissions within Fleet Commander® Online.

K. Fleet Card Program Website and User Instructions

The State will administer a website dedicated to the State's Fleet Card Program for program information, participation forms and additional resources available to Participating Agencies. In addition, the State Fleet Card Program Manager will administer a Procedure Guide for Participating Agencies. Contractor may be required to provide information to the State Fleet Card Program Manager for public posting on the dedicated Fleet Card Program website and/or Procedure Guide.

L. Participating Agency Responsibilities

- 1) All Participating Agencies shall prepare the necessary forms to participate in the Fleet Card Program as described in the Participating Addendum and posted Procedure guide.
- 2) All Participating Agencies shall designate an Agency Fleet Card Coordinator who will serve as the primary point of contact between the Participating Agency and U.S. Bank.
- 3) State agencies participating in the Fleet Card Program shall comply with all applicable procurement laws, regulations, policies, procedures, and best practices, including those discussed in the State Contracting Manuals and User Instructions guide. Participating state agencies must also follow all fleet card program policies established by the Department of General Services, Office of Fleet and Asset Management as described in the State Fleet Card Program Manual.

M. Fleet Program Reporting

Contractor will be required to provide the following reports to the State. State may request additional reporting information for Fleet Card Program activity during the term of the Participating Addendum and Contractor will work with Fleet Card Program Manager to provide requested reports.

1) Usage Report

Contractor shall provide an electronic Usage Report to the State on a quarterly (3 calendar months) basis. The report shall provide the calculated incentive share (rebates) by Participating Agency and total incentive share (rebates) to be provided to the State for the calendar quarter.

Report must contain at a minimum, but not limited to, the data elements identified below:

- Participating Agency Name
- Quarterly Volume Sales
- Total number of Transactions
- Calculated incentive share (rebates) for Incentive Share Component #1 (by Participating Agency)
- Calculated incentive share (rebates) for Incentive Share Component #2 (by Participating Agency)
- Charge-offs (by Participating Agency)
- Total actual incentive share (rebate) for Incentive Share Component #1 and Incentive Share Component #2 (for all Participating Agencies) to be paid to the State in accordance with Exhibit E, Section 4 (Incentive Share Payment Schedule and Terms)

Report shall be provided to the State Fleet Card Program Manager, in Excel format via email, within 60 days following the last day of the quarter. Within 30 calendar days from Participating Addendum execution, the Contractor must submit a preliminary report to the State Fleet Card Program Manager for review. After mutual review by both parties, the State Fleet Program Manager will approve final usage report format.

2) Delinquency Report

Contractor shall provide an electronic Delinquency Report to the State on a monthly basis. The report shall list Participating Agencies with balances past due greater than 45 calendar days. Report shall be provided to the State Fleet Card Program Manager, in Excel format via email, within 15 calendar days following the last day of the calendar month.

N. End-of-Life Transition

Contractor agrees that at the end of the Participating Addendum, should the State conduct another procurement and award a new contract, the Contractor will work with the State to ensure that an efficient and effective transition takes place within nine months or as mutually agreed to by the State and Contractor.

3. PAYMENT PROVISIONS

A. Payment Terms

- 1) Contractor will be responsible for sending an itemized official invoice (statement) to each Participating Agency after the end of each billing cycle as designed for each of the accounts established for the Participating Agency as outlined in Exhibit D, Section 4 (Billing Procedure).
- 2) The full amount of each Participating Agency's monthly balance or billing cycle balance, except for disputed or reported fraud items, will be due within forty-five (45) calendar days from the billing cycle date of the Contractor invoice. Billing disputes are further outlined in Exhibit D, Section 6 (Disputed Billings).
- 3) Payment may be made to the Contractor via check, cash warrant, bank wire, automated clearing house, or electronic funds transfer at the Participating Agency's option.

B. Late Payment Penalties

Late payment penalties for undisputed payments not received by the Contractor within the specified periods will be determined as follows:

- 1) State Agencies – State agencies will be required to pay late payment penalties based on the California Prompt Payment Act (Government Code Section 927 et seq.). The penalty on any undisputed late payment shall be calculated in accordance with the penalty interest rate factor per day formula provided in the State of California Budget Letter 15-08, Late Payment Penalty Rates (or its successor letter).

C. Availability of Funds

This Agreement is valid and enforceable only if sufficient funds are made available by the Budget Act of the appropriate fiscal year for the purposes of this program. In addition, this Agreement is subject to any additional restriction, limitations or conditions enacted by the Legislature, which may affect the provisions, terms, or funding of this Agreement in any manner. In the event sufficient funds are not made available to the State, the State has the option to terminate the Agreement and Participating Agencies shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

D. Contracts Funded by the Federal Government

It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the current and/or subsequent years covered by this Agreement for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.

The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds. The State has the option to terminate the Agreement or to amend the Agreement to reflect any reduction in funds. In the event of termination, Participating Agencies shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

4. ADDITIONAL REQUIREMENTS

A. Insurance Certificates

Contractor shall furnish copies of certificates for all required insurance, as specified in the WSCA-NASPO Contract Number 00612-Category 2, to the State Contract Administrator within 30 calendar days of the Participating Addendum execution.

Copies of renewal certificates for all required insurance shall be furnished within 30 calendar days after renewal date.

B. Darfur Contracting Act Certification

Pursuant to Public Contract Code §10475 et seq., if the Contractor has or within the previous three years has had business activities or other operations outside the United States, the Contractor must complete a Darfur Contracting Act Certification stating they are not a scrutinized company as defined, or demonstrate Contractor has obtained permission under the statute. Contractor must provide required documentation to the State Contract Administrator within 15 calendar days of the State's written request.

C. Iran Contracting Act Certification

Pursuant to Public Contract Code §2202 et seq., the Iran Contracting Action of 2010, Contractor must complete an Iran Contracting Act Certification to a) certify it is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of

persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d). Contractor must provide required documentation to the State Contract Administrator within 15 calendar days of the State's written request.

D. Termination (By State or Participating Agency)

- 1) Upon thirty (30) days' notice, the State may terminate the Participating Addendum and any Participating Agency may terminate its respective Subscription Agreement for cause upon a reasonable and good faith determination that the Contractor failed to perform the material requirements of the agreement at the time and in the manner herein provided. In the event of a breach, the State or Participating Agency will send the Contractor a notice specifying the breach and providing the Contractor an opportunity to cure the breach within a period of time no less than 60 calendar days ("Cure Period"). If the breach is not cured within the Cure Period, the State will have the right to terminate the Participating Addendum and the Participating Agency will have the right to terminate its respective Subscription Agreement by notice to the Contractor.
- 2) The State may terminate the Participating Addendum without cause upon 60 calendar days advance written notice to the Contractor. Participating Agencies may terminate their respective Subscription Agreements without cause upon 60 calendar days advance written notice to the Contractor.
- 3) Upon termination of the Participating Addendum and/or Participating Agency's Subscription Agreement, each party will assist the other party in orderly termination of the agreement and transfer of all assets, tangible and intangible, as may facilitate the orderly, undisrupted business continuation of each party. Participating Agencies shall be responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

E. Federal Debarment

The Federal Department of Labor requires that State agencies, which are expending Federal funds of \$25,000 or more, have in the contract file a certification by the supplier that they have not been debarred or suspended from doing business with the Federal Government. Contractor must provide this documentation upon request.

F. News Releases

Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Participating Addendum or the State's Fleet Card Program shall not be made without prior written approval of the DGS.

EXHIBIT B – General Terms and Conditions (GTC 610 as modified)

1. APPROVAL

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT

This Agreement is not assignable by the parties, either in whole or in part, without the consent of the other party, which shall not unreasonably be withheld or delayed in the form of a formal written amendment.

4. AUDIT

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION AND LIMITATION OF LIABILITY

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

U.S. BANK SHALL IN NO EVENT BE LIABLE TO THE STATE OR PARTICIPATING AGENCY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE.

6. AGREEMENT DISPUTES

Both Parties shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE (Stricken in its entirety—See Exhibit A, Section 4.D)

8. INDEPENDENT CONTRACTOR

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the

requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS

Time is of the essence in this Agreement.

13. COMPENSATION

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT

For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS

- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT C – Contractor Certification Clauses (CCC 307)

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
U.S. Bank National Association		31-0841368
By (Authorized Signature)		
		
Printed Name and Title of Person Signing		
Michael C. Leppones - Vice President		
Date Executed	Executed in the County of	
7/11/16	HENNEAN	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS

For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST

Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT

Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204

This form must be completed by all contractors that are not another state agency or other governmental entity.

EXHIBIT D – Agreement for Fleet Card Services

This exhibit identifies additional terms governing the Fleet Card services ("**Fleet Card Program**") provided by U.S. Bank National Association ("**U.S. Bank**") to Participating Agencies for the State of California, Department of General Services Fleet Card Program.

1. **PARTICIPATION.** Certain entities may participate in the State Fleet Card Program as defined in Exhibit A, Section 2.B (Eligible Participating Agencies).
2. **SCOPE OF FLEET CARD PROGRAM.** U.S. Bank issues charge cards and has established a transaction processing, reporting and payment system for purchases of motor fuels and other products and services by fleet vehicle operations. Participating Agency shall be responsible for selecting a personal identification number ("**PIN**"), a driver identification number ("**Driver ID**"), and/or a vehicle identification number ("**Vehicle ID**") pursuant to the Fleet Card Program. Unless U.S. Bank notifies Participating Agency to the contrary, or a Fleet Card has been terminated as provided herein, all Fleet Cards will expire upon the expiration or termination of the Participating Addendum.
3. **LIABILITY.**
 - A. Except as expressly provided to the contrary herein and Exhibit A, Section 2.C (Card Products and Liability), Participating Agency shall be liable for all purchases, fees, Finance Charges and other charges incurred or arising by virtue of the use of a Fleet Card.
 - B. Participating Agency shall immediately, upon receipt of such information, notify U.S. Bank by telephone at 1-800-987-6591 as to any lost or stolen Fleet Card, PINS, Driver IDs, or Vehicle IDs. Participating Agency shall also immediately notify U.S. Bank by telephone at 1-800-987-6591 to cancel a PINs, Driver IDs, or Vehicle IDs. After notification has been made to U.S. Bank to cancel such Fleet Card(s), use of such Fleet Card(s) is expressly prohibited. Participating Agency is liable for the unauthorized use of the Fleet Card until U.S. Bank receives notification of the lost or stolen Fleet Card or to cancel the PIN, Driver ID, or Vehicle ID. Participating Agency shall not be liable for any purchase, fees, finance charges or other charge incurred or arising by virtue of the use of a Fleet Card following receipt by U.S. Bank of notice of such loss, theft or request to cancel a PIN, Vehicle ID, or Driver ID. Participating Agency agrees to assist U.S. Bank in determining the facts, circumstances and other pertinent information related to any loss, theft or possible unauthorized use of the Fleet Card and to comply with such procedures as may be required by U.S. Bank in connection with U.S. Bank's investigation. U.S. Bank is not responsible for controlling the use of a Fleet Card, other than as specifically provided herein.
4. **BILLING PROCEDURE.** U.S. Bank will send to Participating Agency a monthly billing statement (the "**Statement**"), which will itemize all charges for the billing period. The amount shown on the Statement as "**Total Payment Due**" shall be due and payable in accordance with Exhibit A, Section 3.A (Payment Terms).
5. **DELINQUENCY.** The Fleet Card account will become delinquent unless U.S. Bank receives the amount shown on the Statement as Total Payment Due, less any disputed amounts, in accordance with Exhibit A, Section 3.A (Payment Terms). The Fleet Card account may be suspended if any part of the Total Payment Due is unpaid for sixty (60) days from the payment due date. If an account remains unpaid for more than one hundred fifty (150) days after the Statement due date, U.S. Bank will also "charge-off" the entire outstanding balance and deduct it from the quarterly rebate.
6. **DISPUTED BILLINGS.** Disputes regarding charges or billings hereunder shall be communicated by phone to U.S. Bank at 1-800-987-6591. Written notice is not required but may be submitted to U.S. Bank by email to fueldisputes@usbank.com. Whether by phone or in writing, communications should include Participating Agency's name and, if applicable, the Cardholder's name(s) and account number, the dollar amount of any dispute or suspected error and a description of the dispute or error. Any communication regarding a dispute or suspected error must be received by U.S. Bank within sixty (60) days after the date on the billing statement on which the disputed or incorrect charge first appeared. Disputed billings are categorized as, but not

necessarily limited to, failure to receive goods or services charged, fraud, forgery, altered charges and charges incurred by telephone order where the authenticity of the charge is in question.

7. TERMINATION

A. Termination for Cause by U.S. Bank. U.S. Bank has the right to send the Participating Agency a written notice specifying a default in the following sections and providing the Participating Agency an opportunity to cure the breach within a period of time no less than sixty (60) days ("Cure Period"). If the breach is not cured within the Cure Period, then U.S. Bank has the right to terminate any Fleet Card provided to a Participating Agency, or terminate the Participating Agency's Subscription Agreement in its entirety, by written notice to the Participating Agency.

- 1) Dissolution or liquidation of the Participating Agency;
- 2) Insolvency of, the filing of a bankruptcy or insolvency proceeding with respect to, or the appointment of a receiver or trustee for the benefit of creditors of the Participating Agency, or the Participating Agency enters into any other similar proceeding or arrangement for the general benefit of its creditors;
- 3) Material breach of any term or condition by Participating Agency.
- 4) Any material adverse change in the financial condition of the Local Participating Agency.

B. Effect of Termination. Upon termination of the Participating Agency's Subscription Agreement for any reason, Participating Agency shall destroy all Fleet Cards. Participating Agency shall remain liable for all purchases, fees, Finance Charges and other charges incurred or arising by virtue of the use of a Fleet Card prior to the termination date.

C. Surviving Rights. Rights, obligations and/or liabilities that arise prior to the termination of the Participating Addendum or the Participating Agency's Subscription Agreement shall survive any such termination.

8. SECURITY AND CONFIDENTIALITY

A. Security. U.S. Bank and the Participating Agency shall safeguard information regarding Cards, Account numbers, passwords, personal identification numbers, and other sensitive information provided by U.S. Bank in a manner that is no less stringent than those applicable to each Party's own proprietary information. Each Party will utilize each Party's respective industry standards to maintain an appropriate information security program to prevent the unauthorized disclosure, misuse, alteration, or destruction of Confidential Information.

B. Confidentiality. The U.S. Bank and the Participating Agency agree to the following provisions regarding the use and disclosure of Confidential Information:

- 1) **Confidential Information.** For purposes of this Agreement, "Confidential Information" means information supplied by one Party ("**Disclosing Party**") to the other Party ("**Recipient**") that is expressly protected from unrestricted use by persons not associated with Disclosing Party.
 - a. **U.S. Bank Confidential Information.** U.S. Bank and Participating Agency agree that the Fleet Card Program is a unique service involving the exchange of proprietary and/or Confidential Information between the Parties. Participating Agency agrees that Fleet Card Program reports, manuals, documentation, and related materials shall be circulated by it only to the extent necessary for Participating Agency to manage the Fleet Card Program and/or use such information in connection with Participating Agency's business. Notwithstanding the foregoing, such records may be subject to disclosure in accordance with the State of California or Participating Agency public records laws. Additionally, DGS may post certain materials on the DGS public website to the extent necessary to manage the Fleet Card program.
 - b. **Participating Agency Confidential Information.** U.S. Bank and Participating Agency agree that any non-public financial information of Participating Agency and any non-public data regarding Participating Agency Accounts, Transactions, charges, spending volume or repayment terms is

Confidential Information of Participating Agency and such information shall be circulated by U.S. Bank only to the extent necessary for U.S. Bank to offer the Fleet Card Program.

- 2) **Restriction.** Participating Agency and U.S. Bank agree to take all reasonable steps to safeguard the other Party's proprietary and Confidential Information and not to release such information to any person or Party not essential to participation in the Fleet Card Program.
- 3) **Care.** The Recipient shall provide the same care to avoid an unauthorized disclosure, misuse, alteration or destruction of Confidential Information of the Disclosing Party as it provides to protect its own similar proprietary information, but in no event, less than a reasonable standard of care.

9. WARRANTIES.

A. The Parties agree that the following warranties will be inserted into the State Agency Subscription Agreement and that failure of any of the below representations and warranties to be true during the term of the State Agency Subscription Agreement will constitute a material breach.

- 1) The Subscription Agreement constitutes a valid, binding, and enforceable agreement;
- 2) The transaction contemplated by the Subscription Agreement is within the scope of the normal course of business and has received any required further authorization for the State Agency to be duly bound by this Subscription Agreement;
- 3) The execution of the Subscription Agreement and the performance of its obligations under the Subscription Agreement are within the State Agency's powers; have been authorized by all necessary action; and do not constitute a breach of any agreement of the State Agency with any party;
- 4) The State Agency has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations, and requirements of governmental authorities as they related to the use of the Fleet Card and/or participation in the Fleet Card Program;
- 5) The execution of this Subscription Agreement and the performance of its obligations under this Subscription Agreement will not cause a breach of it arising in law or equity; and
- 6) At the time of execution of this Subscription Agreement the State Agency possesses the financial capacity to perform all of its obligations under the Subscription Agreement.

B. The Parties agree that the following warranties will be inserted into the Local Agency Subscription Agreement and that failure of any of the below representations and warranties to be true during the term of its Local Agency Subscription Agreement will constitute a material breach.

- 1) The Local Agency warrants that the financial information and all other information provided to U.S. Bank or its officers, employees, agents, successors, and assigns is true, complete, and accurate;
- 2) This Local Agency Subscription Agreement constitutes a valid, binding, and enforceable agreement;
- 3) The transaction contemplated by the Local Agency Subscription Agreement is within the scope of the normal course of business and has received any required further authorization for Local Agency to be duly bound by the Local Agency Subscription Agreement;
- 4) The execution of the Local Agency Subscription Agreement and the performance of its obligations under the Local Agency Subscription Agreement are within Local Agency's powers, have been authorized by all necessary action, and do not constitute a breach of any agreement by Local Agency with any party;
- 5) The Local Agency has and continues to comply with all applicable state and federal statutes,

ordinances, rules, regulations, and requirements of governmental authorities as they relate to the use of the Fleet Card and/or participation in the Fleet Card Program;

- 6) The execution of this Local Agency Subscription Agreement and the performance of its obligations under this Local Agency Subscription Agreement will not cause a breach by Local Agency of any duty arising in law or equity; and
 - 7) At the time of execution of the Local Agency Subscription Agreement, Local Agency possesses the financial capacity to perform all of its obligations under the Local Agency Subscription Agreement.
- C. U.S. Bank agrees that the failure of any of the below representations and warranties to be true during the term of this Participating Addendum shall constitute a material breach of this Participating Addendum and/or any corresponding Participating Agency Subscription Agreement. U.S. Bank warrants that:
- 2) This Participating Addendum constitutes a valid, binding and enforceable agreement of U.S. Bank;
 - 3) The execution of this Participating Addendum and the performance of its obligations under this Participating Addendum are within U.S. Bank's powers, have been authorized by all necessary action, do not require action by or approval of any governmental or regulatory body agency, or official; and do not constitute a breach of any agreement by U.S. Bank with any party;
 - 4) U.S. Bank has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations, and requirements of governmental authorities as they relate to the Participating Addendum;
 - 5) The execution of this Participating Addendum and the performance of U.S. Bank's obligations under this Participating Addendum will not cause a breach by it of any duty arising in law or equity; and
 - 6) U.S. Bank possesses the financial capacity to perform all of its obligations under this Participating Addendum.

10. CREDIT PROVISIONS

- A. **Financial Information.** The establishment of a Fleet Card Program provides an extension of credit, and the State and each participating local governmental agency shall provide sufficient information to enable U.S. Bank to perform periodic credit reviews.
- 1) **State Agencies.** The State of California will be credit qualified as a single entity upon execution of the Participating Addendum. Individual state agencies will not be required to credit qualify on their own.
 - 2) **Local Governmental Agencies.** Each local governmental agency must individually credit qualify and submit a signed, properly completed Local Agency Subscription Agreement to U.S. Bank.
 - 3) **Financial Information for State and Local Governmental Agencies.** To become credit qualified, the State and each local governmental agency will provide the last three (3) years of audited financial statements to U.S. Bank prior to the issuance of any cards. U.S. Bank shall have the right to require the State or any local governmental agency to provide annual financial statements on or before one hundred eighty (180) days after the end of the fiscal year. The local governmental agency should provide this first set of financial statements with their signed, completed Local Agency Subscription Agreement. U.S. Bank will review the financial statements and provide notice to each local governmental agency of the approval or decline of their credit qualification. If satisfactory financial information can be found on a website, U.S. Bank will not require the State or local governmental agency to provide financial information that U.S. Bank can obtain on its own.

11. AGGREGATE PRODUCT CREDIT LIMIT AND ACCOUNT CREDIT LIMITS. Subject to credit approval by U.S. Bank, an account credit limit (an "ACL") for each Account and an aggregate product credit limit (the "PCL") for all Accounts shall be established by U.S. Bank pursuant to this Participating Addendum.

A. Revising the PCL. U.S. Bank, at its sole discretion, shall have the right to revise the PCL. U.S. Bank shall provide notice to Participating Agency of any decrease in the PCL. In the event a decrease in the PCL results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts, Participating Agency shall have 30 days to make a payment to U.S. Bank that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL.

B. Revising ACLs. U.S. Bank, at its sole discretion, shall have the right to revise any ACL.

1) Participating Agency Accounts. U.S. Bank shall provide notice to Participating Agency of any decrease in an ACL. In the event a decrease in the ACL results in a revised ACL that is lower than the aggregate current amount outstanding on the Account, Participating Agency shall have 30 days to make a payment to U.S. Bank on the Account that is sufficient to reduce the aggregate current amount outstanding for such Account to an amount that is equal to or less than the revised ACL.

2) Fraudulent Activity. U.S. Bank may revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected.

12. REGISTERED MARKS AND TRADEMARKS. DGS, Participating Agency and U.S. Bank each recognize that they have no right, title or interest, proprietary or otherwise, in or to the name or any logo, copyright, service mark or trademark owned or licensed by the other Party. DGS, Participating Agency and U.S. Bank each agree that, without prior written consent of the other Party, they will not use the name or any name, logo, copyright, service mark or trademark owned or licensed by the other Party.

13. MISCELLANEOUS.

A. Non-Waiver. No failure on the part of U.S. Bank or Participating Agency to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right under this Fleet Card Agreement preclude any other or further exercise thereof or the exercise of any other right.

B. Severability. Should any provision of this Agreement be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Agreement had been executed with the invalid provision(s) eliminated. The State and U.S. Bank shall use their best efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the intent of the Parties.

C. USA PATRIOT Act. In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank requires Participating Agency to provide its legal entity name, street address, taxpayer identification number and other information that will allow U.S. Bank to identify Participating Agency prior to establishing an account for such entity. U.S. Bank reserves the right to require that Participating Agency promptly provide to U.S. Bank sufficient identification documents upon request in connection with USA PATRIOT Act compliance.

D. Headings. The headings of the sections of this exhibit are intended for the convenience of reference only and shall in no way be held to explain, modify, amplify or aid in the interpretation of the provisions hereof.

E. Fees. U.S. Bank may only assess fees to Participating Agency as provided in Exhibit E, Section 5 (Card Fees).

EXHIBIT E – Incentives and Fees

1. INTRODUCTION

This exhibit identifies the incentive share (rebates) and fees applicable under this Participating Addendum. All incentive share components and fees shall be firm fixed for the Participating Addendum term including any optional extension periods.

2. COMMENCEMENT OF THE NEW REVENUE SHARE OPPORTUNITY

The first revenue share payment pursuant to this Participating Addendum, if any is earned, shall be made within 60 days after the end of the first Agreement Quarter. The first Agreement Quarter is defined as the first full Calendar Quarter which consists of the three month calendar period beginning in January, April, July or October following the Effective Date of the Participating Addendum.

3. INCENTIVE SHARE (REBATES)

The Contractor will provide a Volume Sales Incentive and Prompt Payment Incentive (Incentive Share Components #1-2) to the State on a quarterly (3 calendar month) basis. The Contractor will provide an Annual Volume Sales Incentive (Incentive Share Component #3) to the State on an annual (calendar year) basis. Incentives will be paid to the State per Exhibit E, Section 4 (Incentive Share Payment Schedule and Terms).

A. Incentive Share Component #1 – Volume Sales Incentive

The Volume Sales Incentive is based on the total volume sales for each individual Participating Agency for each quarter (3 calendar months).

The following formula will be used to determine the Volume Sales Incentive for each Participating Agency:

Volume Sales Incentive Calculation			
Quarterly Volume Sales <i>(for individual participating agency)</i>	x	.0130 <i>(130 bps)</i>	= Participating Agency Quarterly Volume Sales Incentive

The total quarterly Volume Sales Incentive #1 for all Participating Agencies will be paid to the State per Exhibit E, Section 4 (Incentive Share Payment Schedule and Terms).

B. Incentive Share Component #2 – Prompt Payment Incentive

The Prompt Payment Incentive calculation is designed to provide an incentive to the State, when Client Held Days is less than forty-five (45) days for each Participating Agency. Client Held Days cannot be less than zero (0). Client Held Days means the sum of the daily balances for the quarter divided by the total Net Charge Volume for the quarter less 15 days. The Prompt Payment Incentive is based solely on the Client Held Days Payment Performance for each Participating Agency for each quarter (3 calendar months).

The following formula will be used to determine the Prompt Payment Incentive for each Participating Agency:

Prompt Payment Incentive Calculation			
$\frac{(45 - \text{Client Held Days})}{45}$	x	.0045 <i>(45 bps)</i>	x Quarterly Volume Sales <i>(for individual participating agency)</i>
			= Participating Agency Quarterly Prompt Payment Incentive

The total quarterly Prompt Payment Incentive #2 for all Participating Agencies will be paid to the State per Exhibit E, Section 4 (Incentive Share Payment Schedule and Terms).

C. Incentive Share Component #3 – Annual Volume Sales Incentive

An Annual Volume Sales Incentive will be given to the State. The Annual Volume Sales Incentive is based on a tier rate (determined from the combined annual sales volume for all WSCA-NASPO Participating States) applied to the State's annual sales volume.

The following formula will be used to determine the Annual Volume Sales Incentive for the State:

Annual Volume Sales Incentive Calculation				
State Annual Sales Volume <i>(all Participating Agencies)</i>	x	Applicable tier rate	=	State Annual Sales Volume Incentive
Tier	Annual Overall WSCA-NASPO Participating States' Volume	Tier Rate		
1	\$50,000,000 - \$100,000,000	.0040 (40 bps)		
2	\$100,000,001 - \$300,000,000	.0041 (41 bps)		
3	\$300,000,001 - \$500,000,000	.0043 (43 bps)		
4	\$500,000,001 +	.0045 (45 bps)		

4. INCENTIVE SHARE PAYMENT SCHEDULE AND TERMS

A. Incentive Share Components #1-2

- 1) Incentive Share Components #1-2 (Volume Sales Incentive and Prompt Payment Incentive for all Participating Agencies) will be paid quarterly to the Department of General Services, Office of Fleet and Asset Management (DGS-OFAM) within 60 days following the last day of each calendar quarter.
- 2) Incentive Share Components #1-2 will be paid via Automatic Clearing House (hereinafter "ACH") to the DGS-OFAM, unless the DGS-OFAM requires another form of payment.
- 3) If the combined Incentive Share Components #1-2 is less than \$75.00 per calendar quarter, the State will forfeit its incentive share for that quarter.
- 4) In the event that a Participating Agency's subscription agreement is terminated prior to the completion of any quarter (3 calendar months), Incentive Share Components #1-2 shall include any incentive share earned prior to the termination date.
- 5) Payment made for Incentive Share Components #1-2 will be net of accumulated Charge-offs. "Charge-off" means the entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred fifty (150) days after the Statement due date.
- 6) Any Charge-offs in excess of the net Incentive Share Components #1-2 from one (1) calendar quarter will be subtracted from one (1) or more of the following calendar quarters.

B. Incentive Share Component #3

Incentive Share Component #3 will be paid annually to the DGS-OFAM within 60 days following the last day of the calendar year. Incentive Share Component #3 will be paid via ACH to the DGS-OFAM, unless the DGS-OFAM requires another form of payment.

In the event that the Participating Addendum is terminated prior to the completion of any calendar year, payment for Incentive Share Component #3 shall be made to the DGS-OFAM within 60 days following the last day of the calendar year for annual volume sales which occurred prior to the Participating Addendum termination date.

5. CARD FEES

Applicable fleet card fees include:

	Fees Applicable to Fleet Card	Charge
1.	Account Set Up – one-time fee	\$0.00
2.	Fleet Card Fees – monthly fee dependent on number of cards <ul style="list-style-type: none">• 7-25 cards• 26-100 cars• 101-200 cards	\$0.00 \$0.00 \$0.00
3.	Invoice, including statement, payments, adjustments and taxes	\$0.00
4.	Driver Report	\$0.00
5.	Exception Report	\$0.00
6.	Service Station Activity Report	\$0.00
7.	Product Purchase Summary	\$0.00
8.	Fleet Commander Online web access by user	\$0.00
9.	Card delivery charge when overnight delivery service used	\$20.00
10.	Expense Summary by Business Unit	\$0.00
11.	Logo Embossing Fee; a two-week delay may occur with Card issuance and implementation.	\$0.00

EXHIBIT F – Glossary of Terms

1. INTRODUCTION

Terms used throughout this Participating Addendum are defined below. Additional terms may be defined within individual exhibits.

2. DEFINITIONS

Term	Definition
Account	Any account number assigned to a Participating Agency to which charges and payments may be posted.
Agency Fleet Card Coordinator	An individual designated by the Participating Agency to serve as the primary point of contact between Participating Agency and U.S. Bank responsible for the Participating Agency's Fleet Card program management and oversight.
Billing Cycle	The period of time from which a Statement is generated until the next Statement is generated.
Charge	Any transaction posted to an Account that has a debit value.
Charge-off	The entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred fifty (150) days after the Statement due date.
Client Held Days	"Client Held Days" means the sum of the daily balances for the calendar quarter divided by the total Net Charge Volume for the calendar quarter less fifteen (15) days and cannot be less than zero (0) days.
Client Held Days Payment Performance	The average speed of repayment of Charges made for each calendar quarter.
Fleet Commander®	Contractor's system for fleet card program management and reporting.
Fraudulent Charges	Charges which are not initiated, authorized, or otherwise requested by Participating Agency and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Participating Agency and/or a Cardholder.
Incentive Share	Actual monies paid to the State based on volume and speed of pay.
Local Governmental Agency	Pursuant to Public Contract Code §10298 and for purposes of this Participating Addendum, a "local government agency" is any city, county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services. Further, for purposes of this Participating Addendum, reference to local government agencies will also include the California State Universities (CSU) and University of California (UC) systems.
Net Charge Volume	All charges set forth on the Statements furnished for all Accounts, less fees, Fraudulent Charges, chargebacks, and amounts Charged-off by U.S. Bank with respect to such Accounts as uncollectible for each calendar quarter.
Participating Agency	A state agency or local governmental agency that has executed a properly completed Subscription Agreement and/or Local Agency Subscription Agreement and received required credit approval from the Contractor for participation in the State's Fleet Card Program under the Participating

Term	Definition
	Addendum.
Quarterly Volume Sales	All Charges set forth on the Billing Statements furnished for all Accounts, less Fees, Fraudulent Charges, chargebacks, and amounts Charged-off by Contractor with respect to such accounts as uncollectible for each calendar quarter.
State Agency	A State of California government agency, department, bureau, board, or commission.
State Contract Administrator	Individual designated by the Department of General Services as the single point of contact for the Participating Addendum contractual issues.
State Fleet Program Manager	An individual designated by the Department of General Services, Office of Fleet and Asset Management (DGS-OFAM) to serve as the primary point of contact between DGS-OFAM and U.S. Bank responsible for managing day-to-day operation of the State's Fleet Card Program.
Subscription Agreement	Supplement to the Participating Addendum, executed by qualified agencies, agreeing to all terms and conditions of the Participating Addendum.