

Exhibit K – Official Payments Corporation Convenience Fee Services

This Exhibit K is between You (“Authorized User”) and Official Payments Corporation (“OPC”) and is made a part of and is subject to the terms and conditions of the Master Services Agreement (“Agreement”). Capitalized terms used and not otherwise defined in this Exhibit K shall have the meanings ascribed to them in the Agreement or the Association or Payment Networks Rules.

Authorized User elects and agrees to the Official Payments Corporation (“OPC”) Convenience Fee Services selected on the Authorized User Participation – Set Up form in addition to the Contractor’s Services, as such Convenience Fee Services are described in this Exhibit K.

1. DEFINITIONS. As used in this Exhibit K, the following capitalized terms have the following meanings:

Convenience fees are subject to the constraints of the Associations and card companies and, in some instances, by State regulations and/or laws. Because of these constraints and for the purposes of this MSA, these fees will be classified as follows:

Service Fee:

- Constitutes a **State or Local Agency’s** elected fee charged to the Cardholder for an added convenience to the Cardholder for the use of a Card in a transaction.
- May only be charged by Authorized Users in certain fee programs based on Association Rules, Merchant Category Code (MCC) and the business requirements of Authorized Users.
- Must be paid to and managed by OPC. Service fee and underlying transaction must be submitted and processed as two separate transactions.

Convenience Fee

- Constitutes a **Local Agency’s (only)** elected fee charged to the Cardholder for an added convenience to the Cardholder for the use of a Card in a transaction.
- May be paid to or managed by the **Local Authorized User** or OPC.
- May be combined into a single transaction.

“Agency” means an Authorized User who uses OPC. In the context of this Exhibit K, “Agency” represents each particular Authorized User as if the text stated “each Agency, respectively” or as if this Exhibit K were referring to only one specific Agency.

“Agency Designated Account” means the direct deposit account(s) established and maintained by Agency at an Automated Clearing House (“ACH”) receiving depository institution reasonably acceptable to OPC for payment of Citizen obligations. Agency Designated Account is further described in Section 4.2.

“Agency Payment” means any payment that is owed by a Citizen to Agency and paid through a Payment Transaction.

“Card Services” means the services provided by OPC and its Suppliers relating to credit card and/or PIN-less debit card services provided in accordance with this Exhibit K and as detailed in Section 2 of this Exhibit K inclusive of payment and electronic funds transfer, which enable Payment Transactions to be processed.

“Chargeback” means the reversal of a Payment Transaction previously credited to an Agency Designated Account.

“*Citizen*” means the person, business or entity that initiates and makes payment of the Agency Payment and Service/Convenience Fee through a Payment Transaction.

“*Co-Brand*” means an electronic transaction containing payment and identification data which is initiated by the Citizen on the Agency website, then transferred to an OPC web page where the Citizen completes the transaction and is provided with a confirmation of the Payment Transaction.

“*Co-Brand Plus*” means an electronic transaction containing payment and identification data which is initiated by the Citizen on the Agency website, then transferred to an OPC web page where the Citizen completes the transaction. The Citizen is subsequently transferred back to the Agency web site along with confirmation of the Payment Transaction.

“*OPC Designated Account*” means the direct deposit account(s) set up by OPC to receive payment of Service/Convenience Fees and any other fees owed to OPC.

“*OPC Authorized User*” means an Authorized User (under the CA MSA) that has requested OPC’s Card Services, has agreed upon Service/Convenience Fees for such Card Services, and has provided to OPC the information necessary for OPC to implement the Card Services.

“*OPC System*” means OPC’s and its Suppliers’ electronic payment processing system, including but not limited to, its technology, hardware, software and equipment.

“*Payment Transaction*” means an electronic payment transaction initiated by a Citizen by credit/debit card as provided below, at the OPC or Agency website or IVR, as applicable, and processed by OPC and/or its Suppliers under this Exhibit K.

“*Service/Convenience Fee*” means the fee charged to a Citizen by OPC for the convenience of Citizen making Agency Payments by use of the Card Services.

“*Services*” means the Card Services provided by OPC and its Suppliers pursuant to this Exhibit K.

“*Suppliers*” means OPC authorized vendors including, but not limited to, ACH processor(s).

2. **OPC OBLIGATIONS AND PROVISION OF CARD SERVICES.** As part of the Card Services, OPC shall provide Payment Processing Services as shown on Exhibit K, Supplement 2, Figure 1 and as further described below:
 - 2.1 **Credit/Debit Card Services.** OPC shall provide Citizens the opportunity to make Agency Payments by credit card and PIN-less debit card through both an interactive telephone voice response system (“IVR”) and Internet interface.
 - 2.2 OPC shall, on behalf of Agency, collect and process Agency Payments from Citizens using the American Express® Card, MasterCard®, VISA®, and Discover® Card or such of them as are agreed upon by Agency and OPC (each, a “Card”).
 - 2.3 OPC shall begin providing the Card Services to Citizens on a date to be mutually agreed upon by OPC and Agency.
 - 2.4 OPC shall forward Agency Payment Transactions to the appropriate Card organizations through Elavon and Elavon shall settle the Agency Payment to the Agency Designated Account. Elavon shall provide Payment Settlement Services as shown on Exhibit K, Supplement 2, Figure 2 and to the extent such settlement services are further described in Exhibit A - Scope of Services and Exhibit G – Merchant Services. OPC, and not Elavon, will be responsible for all services beyond settlement, including but not limited to chargebacks, reversals, authorization, and compliance.
 - 2.5 OPC shall retain all Service/Convenience Fees collected by it hereunder after paying all fees owed in connection with payment transactions to the appropriate parties.

- 2.6 OPC will confirm the dollar amount of all a Citizens' Agency Payments and the corresponding Service/Convenience fees to be charged to Citizens' Cards and obtain the Citizens' approvals (electronic or otherwise) of such charges prior to initiating credit authorizations.
- 2.7 OPC will provide Citizens with electronic confirmation of Card transactions.
- 2.8 For authorization purposes, OPC will electronically transmit all Card transactions to the appropriate Card-processing center, in real time as the transactions occur.
- 2.9 OPC will retain Card authorization logs and transaction records for such period of time as required by applicable law and the regulations of the respective Card organizations.
- 2.10 OPC will arrange for a unique line merchant description for the Agency Payment that references the name of Agency and arrange for a separate unique line merchant description for the Service/Convenience Fee that references OPC and the nature of the fee.
- 2.11 OPC will provide Agency with logos, graphics, and other appropriate marketing materials for Agency's optional use in its communications with Citizens.
- 2.12 OPC will provide Department of General Services (DGS)/Agency with reports summarizing use of the Card Services and fees by Citizens for a given reporting period (at minimum on a quarterly basis) as described in Exhibit B, Section 3 and in the format set forth in Exhibit B, Attachment I. In addition, OPC will provide DGS' Contract Administrator by March 30th the prior calendar year's annual interchange transaction data in the format set forth in Exhibit K, Attachment II.

3. AGENCY CREDIT/DEBIT CARD OBLIGATIONS. Agency obligations include the following:

- 3.1 If Agency is using Co-Brand, Co-Brand Plus, or application; Agency shall take all reasonable security precautions within its system, hardware and software to prevent unauthorized or fraudulent use of the OPC System by Agency, Agency employees and agents, and Citizens. OPC may, but shall not be required to, assign to Agency one or more identification numbers or passwords for Agency's use in obtaining the Card Services. Once such identification number(s) or password(s) have been delivered to Agency by OPC, the use and confidentiality of such numbers and/or passwords shall be the sole responsibility of Agency.
- 3.4 Other than permitting OPC to charge the Service/Convenience Fees in accordance with the Card Services, Agency will not impose any surcharge or penalty on transactions made by Citizens using the Card Services.
- 3.5 If Agency requests a customized reporting format, Agency shall provide OPC with its desired reporting format sufficiently in advance of the requested report delivery date.
- 3.6 Agency will not require, as a condition to making an Agency Payment, that a Citizen agree in any way to waive such person's rights to dispute the transaction with their banking institution for legitimate reasons.
- 3.7 Subject to the restrictions of the section entitled "Intellectual Property", Agency may actively promote the Card Services to its Citizens at its own expense. These promotions may include publishing the relevant URL for the OPC Website and relevant telephone number (as applicable) on all tax instruction booklets, tax preparer communications, taxpayer information publications, citations and notices, and all related marketing materials. Agency will obtain OPC's consent prior to publishing any materials that reference the Card Services or OPC.

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- 3.8 Agency shall be solely responsible, at their own expense, for acquiring, installing and maintaining all of its own equipment, software and data communication service, which is not a part of the OPC System.
- 3.9 Agency shall execute and deliver to OPC an Authorized Users Participation Form (see Exhibit D Attachment I) to authorize electronic payments to the Agency Designated Account, and any other certificates, instruments or documents as required by applicable laws and regulations in order to consummate the transactions intended under this Exhibit K. Agency will maintain and comply with applicable NACHA rules and regulations on behalf of itself, its employees, agents and Citizens.
- 3.10 Agency shall (i) collect and verify all identification information as required by law or government regulation, and (ii) make such identifying information available to OPC if requested by a regulator, law enforcement officials, or judicial process.
- 3.11 If required by the credit card organizations, Agency will enter into all applicable merchant Card agreements and fully adhere to the rules, regulations and operating procedures of the various Card organizations, including without limitation, with respect to the use of specific Card logos and marks.
- 3.12 Agency will provide to OPC all necessary documents and correspondence in connection with Chargeback transactions or other similar refund transactions.
- 3.13 Agency will establish a reasonable adjustment policy to accommodate adjustments that are required in the normal course of Agency's daily operations.

4. FEES, TAXES, AND PAYMENTS.

- 4.1 Credit/Debit Card Fees. The maximum Service/Convenience fee rate to be charged Citizens for transactions processed is specified on Exhibit K, Supplement I. Lower rates/lower fees may be mutually agreed upon by OPC and Agency. Likewise any amendment to the rate/fee must be mutually agreed upon by OPC, Agency, and DGS Administrator. OPC shall not charge Agency a fee in consideration for OPC providing the Card Services to Citizens except where the Agency has agreed to absorb partial portion of the Service/Convenience fee. Any Agency wanting to partially absorb Service/Convenience fees must notify and obtain approval from DGS Contract Administrator.
- 4.2 Agency Designated Account. Prior to any Payment Transaction, Agency will establish an Agency Designated Account and will provide OPC with the electronic record specifications necessary for funds settlement and the posting of Agency Payment data related to payments. Agency shall maintain such account during the period OPC provides Agency with the Card Services. OPC will invoice Agency for all chargebacks and applicable fees.

5. **ACCOUNT MONITORING; SECURITY.** OPC and its Suppliers may monitor the use of Card Services or Payment Transaction activity and investigate unusual or suspicious activity to the extent it is with reasonable discretion and in compliance with applicable laws and government regulations, provided that in no event does OPC assume any responsibility to discover any possible breach of Agency's security or misuse of the Card Services. Agency and OPC shall immediately notify the other if either discovers any breach of security. Agency and OPC shall each be responsible for its own failure to use reasonable security precautions in connection with the use of the Card Services.

6. **INTELLECTUAL PROPERTY.** Notwithstanding Exhibit D, Section 17 -Proprietary Rights And Permitted Uses, in order that Agency may promote the Card Services and OPC's role in

providing the Card Services, OPC grants to Agency a revocable, non-exclusive, non transferable, royalty-free license to use OPC's logo, trademarks and other service marks (the "OPC Marks") for such purpose only, in a form as approved by OPC.

7. GENERAL PROVISIONS.

- 7.1 Agency shall provide to OPC the User Participation Set Up Form (See Exhibit D Attachment I) for electronic check transactions and deposit instruction form for Card transactions. In doing so, Agency represents to OPC that all information provided in such form is current, correct and complete. Agency agrees to notify OPC with written notice with the updated information as soon as reasonably possible after the change.
- 7.2 Force Majeure. None of the parties shall be held responsible for any delays in or failure or suspension of service caused, directly or indirectly, or any the nonperformance, delay or error of any third party or other causes reasonably beyond the control of any Party.
- 7.3 Survival. Any Section of this Exhibit K that logically survives the expiration or termination of the Agreement or the rendering of Card Services to a particular OPC Authorized User shall survive, including Sections 1, and 4,

**SUPPLEMENT I
CONVENIENCE FEES.**

Convenience Fee Rate:

Convenience Fees charged to each Citizen making a State Government Agency Payment shall be no higher than 2.30% of the Transaction Amount, but with a minimum of \$1.00 and for Local Government Agency Payment shall be no higher than 2.38% of the Transaction Amount, but with a minimum of \$2.50.

Convenience Fee Price Rate Adjustments:

All convenience fee price rates shall be firm fixed for the contract term, including any optional year extensions, unless a price rate adjustment is granted.

A. Frequency/Guidelines:

Convenience fee price rate adjustments will only be considered in accordance with the following guidelines:

1. Convenience fee price rate adjustments will not be granted during the first year of the contract.
2. Convenience fee price rate adjustments after the first year may be requested no more than once within a 12 month period.
3. After approval of a convenience fee price rate adjustment, price rate adjustments will not be accepted for a period of 12 months from the last approved price rate adjustment effective date.
4. Convenience fee price rate adjustments may only be requested when the Assessment % Rate of one or more of *the Published Visa, MasterCard, Discover Interchange Assessment % (PVMD-IA) index* has increased more than 1 basis point.
5. Convenience fee price rate adjustment increase/decrease (basis points) will be determined separately for State and Local Government. Determination will be based on a pro-rated portion of the specific Association Card(s) Assessment % rate change when applied to the associated prior 12 month Elavon/Official Payments Corporation (OPC) MSA applicable State and Local Government transaction data (individually). See Exhibit K, Attachment I - Convenience Fee Price Rate Change Determination worksheet.
6. The convenience fee price rate adjustment will only be approved when the total pro-rated Assessment % Rate change equals one or more full basis point(s).
7. The MSA convenience fee price rate adjustment may not increase more than 3 basis points in any given 12 month adjustment period regardless of the *PVMD-IA* or pro-rated Assessment % Rate change.
8. No convenience fee price rate increase shall apply to transactions under the contract prior to the effective date of the convenience fee price rate adjustment. No retroactive contract convenience fee price rate adjustment increase will be allowed.
9. Approved convenience fee price rate adjustments shall be for a minimum period of 12 months from the approved convenience fee price rate adjustment effective date.

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10. Convenience Fee Price Rate Declines: The contractor (OPC) shall immediately notify the State Contract Administrator if any Card Association Assessment % rate decreases, and the State shall receive full benefit of such decreases (to the extent the total pro-rated Assessment % Rate decrease equals one or more full basis point(s), effective on the date of the Card Association public announcement. The State reserves the right to decrease Convenience Fee Price Rates using the same methodology used to determine Convenience Fee Price Rate increase adjustments.

B. Request Process:

Convenience Fee Price Rate adjustment requests will be processed as follows:

1. Any convenience fee price rate adjustment request must be in writing and must be received 30 calendar days prior to the requested adjustment date. If OPC fails to request a convenience fee price rate adjustment 30 calendar days prior to the requested adjustment date, the convenience fee price rate adjustment, if accepted, will be effective within 30 calendar days after the State approves the written request.
2. Convenience fee price rate adjustments requests must include:
 - a. A copy of the appropriate Card Association Interchange Assessment % (IA) Index (identified above in Section A.4) illustrating the relevant rate increase/decrease.
 - b. Completed Convenience Fee Price Rate Change Determination Form (Exhibit K, Attachment I - multi-tabbed). OPC must submit separate worksheets for both State and Local Government Agencies containing their individual data. The State reserves the right to request and receive additional relevant supporting data (ex. - Transaction Data Reports at the Authorized User/Department Level and/or Interchange Category Level) as the State deems necessary to validate OPC's price adjustment request.
3. A convenience fee price rate adjustment, if granted, will be made in accordance with the determination methodology (detailed specifically in Section C). Additional price rate adjustments within the contract term including extensions, if granted, will be made in accordance with the same methodology.
4. Upon receipt of such request, the State will verify the request and all supporting data.
 - a. Once the State validates the pro-rated Assessment % adjustment and its applicability with the *Published Visa, MasterCard, Discover Interchange Assessment % (PVMD-IA) index*, the State will accept the new convenience fee price rate at that time; or
 - b. Deny adjustment request and continue with current State contract price rates until all discrepancies are resolved and new convenience fee price rate (using contract methodology) is mutually agreed upon by all parties.

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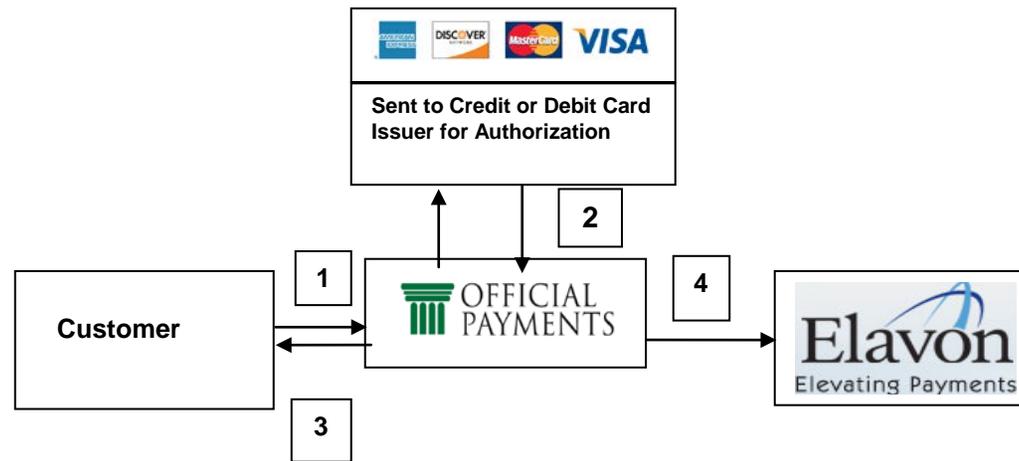
C. Price Rate Adjustment Methodology: [\(Example - See Figure I below\):](#)

Step	Methodology Description	Calculation
1.	Obtain previous 12 months transaction data (Sales Volume, Number of Transactions, and Fees by Card type) and input all requested data into Convenience Fee Price Rate Change Determination Worksheet (Exhibit K, Attachment I).	Current Conv. Fee Rate: 2.30% Total Sales Volume: \$260,833,440 Total # of Transactions: 347,473 Total Fees: \$5,279,618
2.	Determine Adjusted Fees for each card type (Visa, MC, DISC, Amex): Subtract the current assessment fees (Transaction Volume x Current Assessment %Rate) from the total Fees and add new assessment fees (Transaction Volume x New Assessment % Rate). Sum each card fees (plus processor fees) to determine Adjusted Fee Total	<u>Visa Card Example:</u> \$2,037,189 – \$116,552 (\$105,956,105 x .11%)= \$1,920,637 (Fees - assess fees) \$1,920,637 + \$137,742 (\$105,956,105 x .13%)= \$ 2,058,380 (Visa Adjusted Fees) Total Adjusted Fees: \$5,306,077
3.	Determine Adjusted Total Fee Change: Subtract Adjusted Total Fee from Total Fees	\$5,306,077 - \$5,279,618= \$26,459
4.	Determine Pro-rated Assessment %Rate Change: Divide the Total Adjusted Total Fee Change by the Total Sales Volume	\$26,459 ÷ \$260,833,440= 0.01%
5.	Determine new Convenience Fee Rate: If Pro-rated Assessment %Rate Change equals one or more full basis points, add to latest MSA Convenience Fee Rate	0.01% + 2.30% = 2.31%

Supplement 2

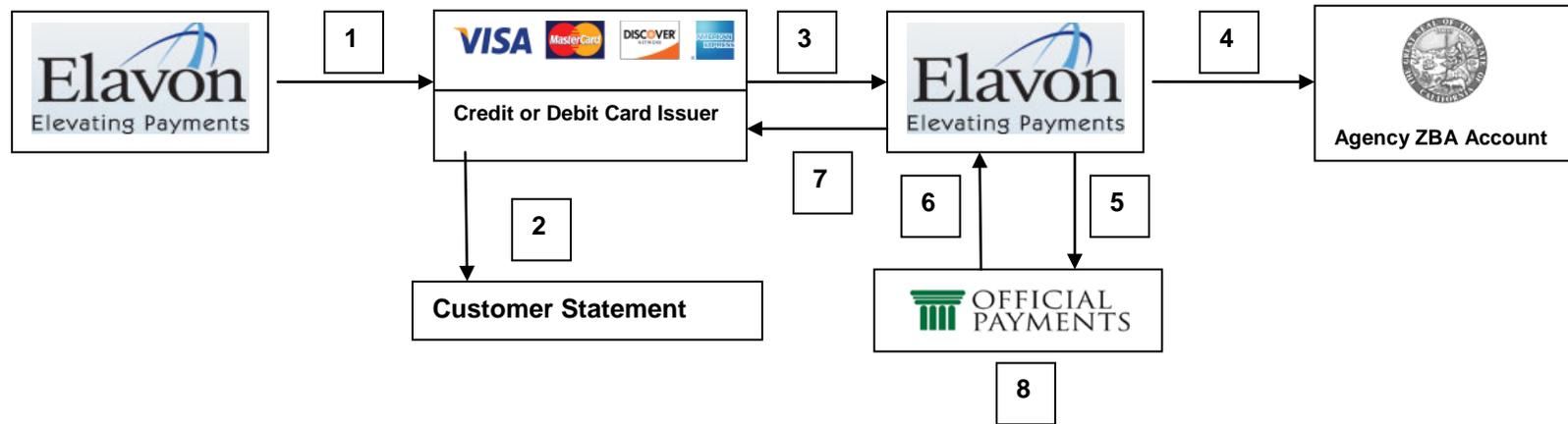
Official Payments and Elavon Electronic Credit Card Payment Flowchart

Figure 1 - Payment Process



Official Payments Process: 1) Customer makes a payment through OPC's front end system. 2) Card Issuer authorizes payment. 3) OPC provides customer with approval/decline. 4) OPC sends Payment File to Elavon for settlement processing at Agency/OPC agreed upon daily cutoff time (as long as file is sent within 24 hours of transaction).

Figure 2 - Funding Process



Elavon’s Settlement Process: 1) Elavon sends settlement file and authorization as received from OPC to Card Issuer for settlement. 2) Card Issuer sends customer monthly statement. 3) Card Issuer sends Elavon transaction payment and Convenience Fee to Elavon. 4) Elavon sends (by ACH) transaction payment to Agency’s Account. 5) Elavon sends (by ACH) Convenience Fee to OPC. 6) Monthly, Elavon debits Elavon’s Fees (as set forth in Exhibit E Attachment I) plus interchange/assessment fees from OPC. 7) OPC retains the remainder of the collected Convenience Fee once all transaction fees are paid.