



## LEHIGH COUNTY AUTHORITY

July 27, 2015

### BOARD MEETING AGENDA

1. Call to Order
2. Review of Agenda
  - *Public Participation Sign-In Request*
3. Executive Sessions
4. Approval of Minutes
  - *May 18, 2015 Special Meeting Minutes*
  - *May 26, 2015 Regular Meeting Minutes*
  - *June 15, 2015 Workshop Meeting Minutes*
  - *July 13, 2015 Workshop Meeting Minutes*
5. Public Comments
6. Action / Discussion Items

#### **FINANCE AND ADMINISTRATION**

- *Electronic Bill Presentment & Payment Processing Contract Approval*
- *Delaware Valley Trust*

#### **WATER**

#### **WASTEWATER**

- *Suburban Division – WLI/LLRI Meter Station No. 5 Rehabilitation*

7. System Operations Overview
8. Staff Comments
9. Solicitor's Comments
10. Other Comments
11. Adjournment

#### **AUGUST MEETINGS**

Workshop Meeting  
Board Meeting

August 10 – 12:00 p.m.  
August 31 – 12:00 p.m.

#### **PUBLIC PARTICIPATION POLICY**

In accordance with Authority policy, members of the public shall record their name, address, and discussion item on the sign-in sheet at the start of each meeting; this information shall also be stated when addressing the meeting. Members of the public will be allowed 5 minutes to make comments/ask questions regarding non-agenda items, but time may be extended at the discretion of the Chair; comments/questions regarding agenda items may be addressed after the presentation of the agenda item. Members of the public may not request that specific items or language be included in the meeting minutes.

**SPECIAL MEETING MINUTES**  
**May 18, 2015**

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A Special Meeting of the Lehigh County Authority was called to order at 8:04 a.m., on Monday, May 18, 2015, Chairman Brian Nagle presiding. Since this was a Conference Call meeting, the following members were on the phone for the conference call: Richard Bohner, Emrich Stellar, Linda Rosenfeld, Norma Cusick and Ted Lyons. Also on the phone was Kevin Reid from King, Spry, Herman, Freund & Faul, LLC ("KingSpry"). Authority Staff present were Aurel Arndt, Bradford Landon, Ed Bielarski and Lisa Miller.

**ACTION AND DISCUSSION ITEMS**

**Resolution 5-2015-1, Supplemental Resolution to Resolution No. 4-2015-1 (Approval)**

The Board took action at its April 13th meeting adopting a resolution, Resolution No. 4-2015-1, accepting a proposal from ESSA Bank & Trust, to purchase the Authority's Water Revenue Bond, Series of 2015 that was issued to refund the Authority's 2010AA Water Revenue Bonds. Resolution No. 4-2015-1 made reference to the Bond being issued pursuant to Ninth Supplemental Indenture. That title duplicated a Ninth Supplemental Indenture, dated April 1, 2013, to the City of Allentown bond issues, which original Ninth Supplemental Indenture was to clarify that the definition of "water systems" specifically excludes the Authority's City of Allentown operations. In order to correct the supplemental indenture title for the Water Revenue Bond, Series of 2015 to the Tenth Supplemental Indenture and to comply with its prior action to issue the Bond to ESSA Bank & Trust, Resolution 5-2015-1 was proposed.

On a motion made by Norma Cusick, seconded by Richard Bohner, the Board unanimously approved Resolution 5-2015-1. Roll call vote was taken:

Because this meeting was primarily a telephone conference call meeting, a roll call was conducted with the following vote:

- Mr. Nagle - yes
- Mr. Bohner – yes
- Mr. Stellar – yes
- Ms. Cusick – yes
- Mr. Lyons – yes
- Ms. Rosenfeld – yes

**OTHER COMMENTS**

*None.*

**ADJOURNMENT**

There being no further business, the Chairman adjourned the meeting at 8:06 a.m.

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Richard H. Bohner, Secretary

**REGULAR MEETING MINUTES**  
**May 26, 2015**

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The Regular Meeting of the Lehigh County Authority was called to order at 12:12 p.m., on Monday, May 26, 2015, Chairman Brian Nagle presiding. Other Members present at the commencement of the meeting were: Richard Bohner, Tom Muller, Emrich Stellar, Norma Cusick, and Linda Rosenfeld. Authority Staff present were Aurel Arndt, Liesel Adam, Ed Bielarski, Frank Leist, Robert Kerchusky, Bradford Landon, John Parsons, and Lisa Miller.

**REVIEW OF AGENDA**

Aurel Arndt stated that the Auditors were present to discuss the Auditor's Report. Issues surrounding the Project Labor Stabilization Agreement (PLSA) requirement of the Allentown concession lease agreement also needs to be discussed, and the College Drive issue and Personnel matters may need to be discussed in or out of Executive Session.

**APPROVAL OF MINUTES**

**April 27, 2015 Regular Meeting Minutes**

Richard Bohner asked Brad Landon that if there is an abstention on a vote, can it still be considered unanimous. Brad Landon explained that yes it can be considered unanimous because an abstention is the absence of a vote (not a "no" vote), if all the actual votes were "yes", then it is considered unanimous.

On a motion by Richard Bohner, seconded by Norma Cusick, the Board unanimously approved the Minutes of the April 27, 2015 Regular Meeting (6-0).

**PUBLIC COMMENTS**

None.

**ACTION AND DISCUSSION ITEMS**

**2014 Financial Statement and Auditors Report Approval**

Emrich Stellar reported that the Audit Committee met with the Auditors and there were Internal Control Items that were addressed. A check control procedure is now implemented to ensure that no misappropriations are likely to occur. The timeliness of Accounts Receivable reconciliation was also addressed. Emrich Stellar gave an explanation of the City Division's Net Position and explained how that number is derived.

Scott Bieber arrived at 12:29 p.m.

On a motion by Tom Muller, seconded by Norma Cusick, the Board unanimously accepted the 2014 Financial Statement and Auditors Report as presented (7-0).

**Suburban Division – Pumping Station Projects Approval**

Frank Leist gave an overview of the three (3) projects – Central Lehigh Division (CLD) new pumping station (Lower System to Upper System), Pine Lakes Division (PLD) Pumping Station upgrades, and the North Whitehall Division (NWD) Crestwood Pumping Station Upgrades. He requested Board approval of the Design Phase which includes Capital Project Authorization for the CLD Pumping Station in the amount of \$193,101, Capital Project Authorization for the Pine Lakes Pumping Station in the amount of \$122,574, Capital Project Authorization for Crestwood Pumping Station in the amount of \$105,028, and Professional Services Authorization in the amount of \$148,883. Frank Leist explained that on the RFP, firms were requested to submit costs for each project separately as well as if all projects were awarded to one consultant incorporating any discount applicable.

On a motion by Scott Bieber, seconded by Norma Cusick, the Board unanimously approved the Design Phase of the projects, which includes Capital Project Authorization for the CLD Pumping Station in the

amount of \$193,101, Capital Project Authorization for the Pine Lakes Pumping Station in the amount of \$122,574, Capital Project Authorization for Crestwood Pumping Station in the amount of \$105,028, and Professional Services Authorization in the amount of \$148,883 (7-0).

### **Allentown Division – Water Filtration Plant Inspection/Rebuild of Filter #6 Approval**

John Parsons gave an overview of the project that will determine the overall condition of the tiles, underdrains, piping, etc. in the City Division water filtration plant so that an evaluation can be done on either the rehabilitation or replacement of the existing filters. Some discussion followed. Robert Kerchusky stated that the City and now LCA have been members of the Partnership for Safe Water for the past eight years and has maintained a higher level of performance for filtered water than the state standard. Mr. Parsons is asking for approval of the Professional Services Authorization – Inspection/Rebuild of Filter #6 to All Services Contracting Corporation to assist LCA in performing a full-scale inspection, evaluation and rebuild of the water plant filter #6.

On a motion made by Norma Cusick, seconded by Emrich Stellar, the Board unanimously approved the Professional Services Authorization to All Services Contracting Corporation in the amount of \$65,448.00 (7-0).

Chairman Nagle asked if there were any questions, comments or concerns from the stakeholders from the April 29 Public Outreach event in regard to future wastewater treatment capacity for the Western Lehigh Interceptor municipalities. Liesel Adam reported that a questionnaire was sent out following the meeting. There was a general consensus to discard the Jordan Creek option. She said that LCA is further investigating the spray irrigation and Kline's Island option.

Chairman Nagle asked for the status of the EPA Administrative Order. Aurel Arndt responded that the Authority has not received a response from EPA to date on the request for an extension to the Administrative Order.

### **SYSTEM OPERATIONS OVERVIEW**

Robert Kerchusky reported that on May 5<sup>th</sup> the EPA conducted an Audit of the chlorine Risk Management Plan (RMP) through a full day visit to the Kline's Island Wastewater Treatment Plant (KIWWTP) to collect documents which substantiate that the program is being carried out according to federal clean air act regulations. The EPA auditors commented that the program at KIWWTP was among the top 5% of all municipal RMP's they had ever audited. Also, Capital Projects are ongoing at Kline's Island.

The Water Filtration Plant is working on a Coagulant Study. Gannet Fleming was hired to investigate coagulants for use at the treatment plant for the removal of turbidity in the water from the surface water sources (Little Lehigh Creek and Lehigh River). The study requires the plant staff to conduct 52 weeks of jar testing of various different coagulants and dosages to determine the best product for full scale testing in the treatment plant.

Chairman Nagle asked what the status is of Arcadia West Wastewater Plant. Robert Kerchusky reported that the plant is still performing well. Frank Leist said that there are minor items to be addressed on the punch list.

### **STAFF COMMENTS**

Aurel Arndt said that he will present his comments during Executive Session.

### **SOLICITOR'S COMMENTS**

Brad Landon presented the Major Capital Improvements Labor Feasibility Study, AD-S-18: Facility Roof Replacements report from Kevin Moore, the consultant hired by the Authority to conduct a study to comply

with the Concession Agreement requirement. He gave an overview of the study which recommends that it is not necessary to have a Project Labor Agreement study for the roof replacement project.

On a motion by Scott Bieber, seconded by Norma Cusick, the Board unanimously accepted the report. Tom Muller abstained (6-0).

### **OTHER COMMENTS**

Scott Bieber said he received a call from Ron Beitler regarding monitoring well reports in Lower Macungie Township. Liesel Adam explained that she received a call from Township Manager Bruce Fosselman requesting reports. As part of a conditional use to expand wells WL8 & WL12, LCA is required to report the impact on groundwater well levels. These reports are being submitted to the township. Frank Leist gave a brief overview. Aurel Arndt stated that the Delaware River Basin Commission dictates the reporting requirements for groundwater monitoring programs of this nature.

Scott Bieber commented on the letters he has been receiving from residents who live near an Authority reservoir in Lower Macungie Township about the deer population on the Authority's property. He asked if LCA would consider a controlled hunt on our property to control the deer population if the Game Commission agreed. Aurel Arndt stated that LCA has not been contacted by the Game Commission and if we were contacted, would discuss a solution.

### **EXECUTIVE SESSION**

The Chairman called an Executive Session at 1:21 p.m. to discuss two matters. The first matter was regarding potential litigation. The second matter was regarding a personnel issue at which time the Staff were excused at 1:29.

The session ended at 2:50 p.m.

### **ADJOURNMENT**

There being no further business, the Chairman adjourned the meeting at 2:50 p.m.

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Richard H. Bohner  
Secretary

**WORKSHOP MEETING MINUTES**  
**June 15, 2015**

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The Workshop Meeting of the Lehigh County Authority was called to order at 12:24 p.m., on Monday, June 15, 2015, Chairman Brian Nagle presiding. Other Members present at the commencement of the meeting were: Emrich Stellar, Linda Rosenfeld, Tom Muller, Norma Cusick, Scott Bieber and Ted Lyons. Authority Staff present were Aurel Arndt, Liesel Adam, Frank Leist, Pat Mandes, John Parsons, Bob Kerchusky, Chuck Volk and Lisa Miller.

**REVIEW OF AGENDA**

Mr. Arndt stated that there will be an Executive Session after the regular meeting to discuss a personnel matter.

**ACTION AND DISCUSSION ITEMS**

**Suburban Division – WLI/LLRI Meter Station No. 5 Rehabilitation Project**

Frank Leist gave an overview of the project. Chuck Volk submitted a memorandum to the Board asking for a rejection of the Construction Contract bid received from Eastern Environmental Contractors, Inc. in the amount of \$604,900 and to authorize a re-bid of the work. The bid amount exceeds the preliminary cost opinion and appears to be excessive.

On a motion by Emrich Stellar, seconded by Norma Cusick, the Board unanimously approved rejection of the bid from Eastern Environmental Contractors, Inc. and re-bidding of the project (7-0).

**Allentown Division – Transmission Main Leak Detection Survey**

John Parsons gave an overview of the project. He recommends approval of the Professional Services Authorization and awarding the project to Echologics, LLC in the amount of \$135,148 to perform a non-invasive leak detection survey on 32,865 feet of 16" to 36" diameter steel and cast iron water transmission mains in the Allentown Division.

Ted Lyons asked how much unaccounted water we have in our system. Frank Leist said 22% in the Allentown Division.

On a motion by Tom Muller, seconded by Scott Bieber, the Board unanimously approved the Professional Services Authorization to Echologics, LLC in the amount of \$135,148 (7-0).

**Concession Agreement and Trust Indenture Amendments**

Aurel Arndt gave an overview of the Indenture. The amendments to the Agreement and the Indenture are to correct errors and omissions regarding descriptions of real property conveyed by the City to the Authority.

On a motion by Norma Cusick, seconded by Linda Rosenfeld, the Board unanimously approved the amendment to the Concession Agreement and the Trust Indenture in substantially the form presented at the Board meeting, authorizing Authority management staff to complete negotiation of the terms of these documents and the transaction as well as to sign all necessary documentation to complete the transaction.(7-0).

**SYSTEM OPERATIONS OVERVIEW**

None.

**STAFF COMMENTS**

None.

**SOLICITOR'S COMMENTS**

None.

**OTHER COMMENTS**

None.

**EXECUTIVE SESSION**

The Chairman called an Executive Session at 12:43 p.m. to discuss a personnel matter.

The session ended at 1:40 p.m.

**ADJOURNMENT**

There being no further business, the Chairman adjourned the meeting at 1:40 p.m.

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Richard H. Bohner, Secretary

**WORKSHOP MEETING MINUTES**  
**July 13, 2015**

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The Workshop Meeting of the Lehigh County Authority was called to order at 12:11 p.m., on Monday, July 13, 2015, Chairman Brian Nagle presiding. Other Members present at the commencement of the meeting were: Linda Rosenfeld, Emrich Stellar, Tom Muller, Richard Bohner, and Norma Cusick. Authority Staff present were Aurel Arndt, Liesel Adam, Pat Mandes, Frank Leist, John Parsons, Bob Kerchusky, Chuck Volk and Lisa Miller.

**REVIEW OF AGENDA**

Aurel Arndt stated that he has two additional items to address under Information Items.

**Public Comment**

None.

**ACTION AND DISCUSSION ITEMS**

**Allentown Division – Sanitary Sewer Manhole Lining, Cycle 2 Approval**

Frank Leist gave an overview of the project that will install a lining system to eliminate infiltration and will provide additional structural reinforcement to the manholes. This project will be funded by the City with the intent to utilize a total sum of \$295,000. The City will provide authorization to line additional manholes if necessary to reach their targeted goal. He is requesting approval of the Capital Project Authorization Amendment No. 1 – Construction Phase for \$263,654 which includes the Professional Services Authorization Amendment No. 1 – Construction Phase to Barry Isett & Associates in the amount of \$24,080 and the Contract Award – Construction Phase to National Water Main Cleaning Company in the amount of \$163,455.

Scott Bieber arrived at 12:16 pm.

On a motion made by Linda Rosenfeld, seconded by Tom Muller, the Board unanimously approved the Capital Project Authorization Amendment No. 1 – Construction Phase in the amount of \$263,654 which included the Professional Services Authorization Amendment No. 1 – Construction Phase to Barry Isett & Associates in the amount of \$24,080 and the Contract Award – Construction Phase to National Water Main Cleaning Company in the amount of \$163,455 with an additional authorization of \$58,619 if the City provides authorization to line additional manholes if necessary to reach their targeted budget goal (7-0).

**Allentown Division – Manhole Covers with Water Tight Frame and Covers, Cycle 2 Approval**

Frank Leist gave an overview of the project that will install a frame and cover anchoring system that is intended to eliminate sewage overflows during high flow events. He is requesting approval for the Capital Project Authorization Amendment No. 1 – Construction Phase in the amount of \$317,522 which included the Professional Services Authorization Amendment No. 1 – Construction Phase to Barry Isett & Associates in the amount of \$23,100 and the Contract Award – Construction to Joao & Bradley in the amount of \$276,560.

On a motion by Brian Nagle, seconded by Linda Rosenfeld, the Board unanimously approved the Capital Project Authorization Amendment No. 1 – Construction Phase in the amount of \$317,522 which included the Professional Services Authorization Amendment No. 1 – Construction Phase to Barry Isett & Associates in the amount of \$23,100 and the Contract Award – Construction to Joao & Bradley in the amount of \$276,560 (7-0).

**Allentown Division – Roof Rehabilitation and Replacements Approval**

John Parsons gave an overview of the project which consists of replacing 26 facility roofs as identified in the Roof Evaluation report by D'Huy Engineering. He is requesting approval for the Capital Project Authorization in the amount of \$1,485,500 which includes the Professional Services Authorization Amendment No. 3 in the amount of \$34,600 to D'Huy Engineering. As discussed with the Board at its 26 May 2015 Board meeting, a Project Labor Stabilization Study was performed and it was determined that a PLA was not appropriate for



this project. The City of Allentown has not determined that this project is not a Major Capital Project. Aurel Arndt said that there is a process for appealing the City's determination, which the Authority plans to do. This could result in arbitration of the issue. The issue is that the City has said that the roof replacement projects are single projects and that Authority cannot aggregate the projects to meet the \$1 million threshold that entitles the Authority to implement a special capital cost recovery charge for that major capital improvement.

On a motion made by Richard Bohner, seconded by Scott Bieber, the Board unanimously approved the Capital Project Authorization in the amount of \$1,485,500 which includes Professional Services Authorization Amendment No. 3 in the amount of \$34,600 to D'Huy Engineering (7-0).

Aurel Arndt requested that the Board authorize the Staff to proceed with filing the Arbitration. On a motion by Scott Bieber, seconded by Tom Muller, the Board approved authorizing the Staff to proceed with filing the Arbitration (7-0).

### **Wastewater Capital Recovery Fees**

Aurel Arndt provided the Board with a handout of the revised Schedule D which has the 2015 justifications on it. He gave an overview and background of the Capital Recovery fees. These fees affect 3 general areas. The first set relates to customers who connect to any of the wastewater systems that are tributaries of the Western Lehigh Interceptor. The second set relates to the Arcadia or Weisenberg and the third one is Upper Milford Township. He is requesting approval of Resolution 7-2015-1 that establishes the Capital Recovery Fees for these wastewater systems. Some discussion followed. It was noted that in Exhibit B, Maximum charge per gallon should read Maximum charge per EDU.

On a motion made by Norma Cusick, seconded by Linda Rosenfeld, the Board unanimously approved Resolution 7-2015-1 (7-0).

### **INFORMATION ITEMS**

Aurel Arndt discussed the following two items with the Board:

#### **2016 Budget Timeline**

Aurel Arndt presented the Board with a schedule for the Budget. According to the timeline, the Board will be presented with the Budget two months earlier than it has been presented in the past. This change in the Authority's traditional timeline is to meet schedule requirements as a result of the City Concession and financing.

#### **Audit**

Aurel Arndt stated that Zelenkofske Axelrod LLC have completed all of their obligations under the current contract. He suggested extending the contract for one additional year with the understanding that this would be the final year. LCA will bid for new Auditors which will go into the 2016 Budget. The Board was in agreement with this recommendation, with no action necessary.

Norma Cusick asked if the Budget must go before the City of Allentown. Aurel Arndt explained that under the Concession Agreement, there is a submission requirement but they have no rights of approval. He explained that the Capital Plan does go before them because some projects are funded by them. Some discussion followed. Chairman Nagle asked about the recovery costs on Major Capital projects. Liesel Adam explained how the costs are capitalized over the life of the asset. Aurel Arndt said that there will be three added charges to the bills. One is the normal base rate, one is the Capital Cost Recovery Charge, and the other one is the Administrative Order costs. This will be discussed further at the July Board meeting.

### **SYSTEM OPERATIONS OVERVIEW**

None.

### **STAFF COMMENTS**

None.

**SOLICITOR'S COMMENTS**

None.

**OTHER COMMENTS**

None.

**EXECUTIVE SESSION**

The Chairman called an Executive Session at 12:50 p.m. to discuss a personnel matter at which time all Staff were excused.

The session ended at 1:25 p.m.

**ADJOURNMENT**

There being no further business, the Chairman adjourned the meeting at 1:25 p.m.

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Richard H. Bohner, Secretary

**FINANCE & ADMINISTRATION**

**ACTION ITEMS**

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**1. Electronic Bill Presentment & Payment Processing Contract (approval)**

The Authority seeks to significantly enhance its online and electronic billing options for all retail customers, including offering paperless billing, recurring and stored electronic payment methods, online access to history water consumption information and more. Project objectives also include reducing manual payment entry and Payment Card Industry (PCI) Compliance requirements the Authority currently faces. Additional details and proposed contracts are attached for Board review and approval (*blue*).

**2. Delaware Valley Trust**

This year's Risk Management Innovation Award went to DVIT member, Lehigh County Authority (LCA), for its implementation of the NetworkFleet management system. LCA received a recognition plaque, a catered lunch for the project team and a \$1,000 check to help off-set the cost of the initiative. The benefit of such a system include enhanced situational awareness, improved driver performance, vehicle theft deterrence and fuel savings.

**DISCUSSION ITEMS**

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**INFORMATION ITEMS**

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**1. CMMS Upgrade and Expansion Project**

'Go Live' was completed on schedule during the week of March 9, 2015 with follow up training conducted April 14-16. Work will now focus on entering Suburban facility assets into GIS. Activities will be coordinated with other capital projects.

**2. Recently Purchased Investments – Certificates of Deposit (CDs)**

Fund	Bank	Location	Gross Amount	Date of Purchase	Date Due	Net Rate %
LLRI CR	PSDLAF Collateralized CD		400,000.00	6/23/15	9/1/15	0.1
Cons Wtr (2)	PSDLAF Collateralized CD		155,000.00	6/23/15	9/1/15	0.1
Cons LL2 (314)	PSDLAF Collateralized CD		245,000.00	6/23/15	9/1/15	0.1
WW Capac	PSDLAF Collateralized CD		600,000.00	6/23/15	9/1/15	0.1
2010 Wtr Cons A	PSDLAF Flex Pool		2,000,000.00	6/23/15	9/1/15	0.1
Wtr R&R	PSDLAF Collateralized CD		1,000,000.00	6/23/15	9/1/15	0.1

Fund Descriptions for Investments:

Cons Wtr (2)	Consolidated Water (2)
LLRI CR	Little Lehigh Relief Interceptor Capital Reserves
Cons LL2 (314)	Consolidated Little Lehigh Relief Interceptor 2
WW Capac	Wastewater Capacity
2010 Wtr Cons A	2010 Water Construction, Series A Bond
Wtr R&R	Renewal and Replacement

## WATER

### ACTION ITEMS

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### DISCUSSION ITEMS

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### INFORMATION ITEMS

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1. **Suburban Division - Water Main Replacement Program Cycle 1**

The project consists of the replacement of 1-mile of aged and/or failing Cast Iron water main. Design is currently under way.

2. **Suburban Division – Pumping Station Projects**

This project will involve upgrades at two existing small system booster stations and the installation of one new major booster station in the Central Lehigh Division (CLD). The Pine Lakes Project will feature the conversion of the existing hydro-pneumatic station to a variable frequency drive controlled double pumping system (along with other miscellaneous improvements). The Crestwood Project consists of abandonment of existing wells and storage tank currently serving higher elevation customers and a connection of the pumping station to the existing North Whitehall Division System. The CLD Auxiliary Pump Station Project will feature the installation of a new booster station and main extension to pump water from the Lower to the Upper System. The design for all three of these projects commenced in June.

3. **Allentown Division- Schantz Spring Chlorination Issue**

The project is to design and construct a facility or improvements that assure continuous chlorination of the Schantz Spring water supply. PADEP permit applications been prepared and all materials have been ordered so installations may begin. Chlorine injection point has been moved back to the bypass line, and the new chlorine analyzer is on-line. Correlation of chlorine levels between the spring and the water plant have begun in order to determine if a static mixer is required. This Project is identified as Un-Completed Work and will be funded by the City.

4. **Allentown Division – Prelease Valve Replacements**

The project is the replacement of approximately 55 inoperable valves in multiple locations throughout the City that existed prior to the lease settlement. Design is currently under way. This project is identified as Un-Completed Work and will be funded by the City.

5. **Allentown Division – Transmission Main – Leak Detection Survey**

The Project includes the use of a non-invasive leak detection methodology to find any leaks that may exist in approximately 33,000 linear-feet of large transmission mains ranging from 16 thru 36 inches in diameter. Both steel and cast iron pipes will be evaluated, with a majority of these mains over 65 years old. Effective non-invasive leak detection on mains of these sizes is a specialized service which requires sophisticated equipment and a high level of expertise. To facilitate the transmission main leak detection survey for this year and to be utilized for future surveys, this project includes the installation by hydro-excavation (*to minimize road damage and restoration costs*) of 21 permanent roadway monitoring points. The Lease Operating Standards requires 110 miles of water mains be surveyed annually. Excepting for the large

transmission mains, this work is executed by the Allentown Division Distribution & Collection Department. The leak detection survey footage from this project will count towards the 110 mile annual requirement. The project will be funded by the LCA Allentown Division.

**6. Allentown Division- Miscellaneous Water Filtration Plant / Water Distribution**

Two projects have begun and are in various stages of proposals and/or finalization of work scope. The projects include: Painting of water plant piping to comply with PaDEP inspection report and a Stormwater pump/control upgrades at Water Distribution. The painting project will be an operational expense, while the Stormwater pump will be a capital project. The painting specifications are being developed with the actual work planned for later this fall or over the winter. These projects will be funded by the LCA Allentown Division.

**7. Developments**

Water system construction is occurring in the following developments:

- Hamilton Crossings, 2 commercial lots with 20 buildings having retail, financial, convenience and restaurant uses, LMT
- Highgate, Phase 3 (Dunbar Tract), 63 residential lots (sfa), UMT
- Spring Creek Settlement Properties, 14 commercial/industrial lots, LMT
- Valley West Estates, Phases 4, 5 & 6, 46 residential lots (sfd), UMT (currently on hold)

Water system plans are being reviewed for the following developments:

- Above & Beyond (personal care facility), 2 commercial lots, UMT
- Bortz Tract, 14 commercial units, UMT/SWT
- Diocesan Pastoral Center, 2 commercial lots, 3 additional lots and residual lot for existing cemetery, LMT
- Fields at Indian Creek, 218 residential lots (sfd) & community center, LMT/UMiIT/Emmaus, water and sewer
- Grandview, 6 commercial units and 204 apartment units, LMT
- Grant Street Townes, 18 residential lots (sfa), WashT
- Hickory Park Estates, 3 residential lots (sfd), UMT
- Hillview Farms, 31 residential lots (sfd), LMT/SWT
- Indian Creek Industrial Park, 6 commercial lots, UMiIT, water and sewer
- Lehigh Hills, 247 residential lots (sfa/sfd), UMT
- Liberty at Mill Creek, 2 industrial lots, UMT
- Morgan Hills, 40 residential lots (sfd), WeisT, water and sewer
- North Whitehall Commercial Center (Walmart), 5 commercial lots, NWT, water and sewer
- Shepherd's Corner, 1 commercial lot, LMT
- Trexler Business Center, Lot 1, 1 commercial building, LMT
- Weilers Road Twins, 82 residential lots (sfa), UMT
- Woodmere Estates, 60 residential units (sfd), UMT

## WASTEWATER

### ACTION ITEMS

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1. **Suburban Division –WLI / LLRI Meter Station No. 5 Rehabilitation:**

Meter Station No. 5, located near Keck's Bridge in Lower Macungie Township, meters flow from the Western Lehigh Interceptor (WLI). The Allentown-Emmaus Interceptor joins the WLI just downstream of the metering location, and the combined flow is conveyed to the Allentown Division for treatment. The existing flow meters are outdated, inaccurate, and in need of replacement. The proposed Meter Station No. 5 Rehabilitation Project includes the following improvements: interior repair of one meter pit structure to eliminate seepage/infiltration, replacement of flow meters, installation valves to isolate the flowmeters for future maintenance, and installation of a valved cleanout at each inverted siphon to facilitate future maintenance/line cleaning. This project was initially bid in May 2015; one bid was received with an amount that was determined to be excessive. The project scope was modified to remove internal pipe inspection and cured-in-place pipe installation, and the project was re-bid with bids opened on 7/23/15. Approval of the Construction Phase of the Project is to be requested at the July Board meeting. Documentation will be mailed under separate cover.

### DISCUSSION ITEMS

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### INFORMATION ITEMS

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1. **Wastewater Treatment Capacity**

A Pubic Outreach event was held on April 29<sup>th</sup> to bring the stakeholders up to date on the evaluation of alternatives. The 537 consultant is performing a study to determine if the levels of TDS can be reduced at the PTP by source control. If the TDS cannot be reduce it is less likely that a PTP option will be possible for a direct discharge.

2. **Suburban Division -Wynnewood Terrace Pump Station and Force Main Replacement**

Work started on April 13, 2015, and is expected to be complete by the end of August. The force main contractor has completed all of his work, excepting the tie-ins. The Pump Station contractor has mobilized and installation is underway.

3. **Suburban Division -Lynn Township – WWTP Improvements, Phases 1 & 2**

The project will upgrade the WWTP head works. Gannett Fleming is finalizing the bid package. **No current activity.**

4. **Suburban Division -Condition Assessments for Package Wastewater Treatment Plants**

LCA staff met with Cardno BCM staff in early June. Initial site visits were made and data developed. Work should be completed by the mid-August 2015.

5. **Allentown Division – Sanitary Sewer Manhole Lining, Cycle 2**

This annual project will install a lining system (to eliminate infiltration) in approximately 85 aged brick manholes identified by LCA staff. The design phase has been administratively approved. Board approval of the construction phase was granted at the July Workshop Meeting. The project is identified as Administrative Order Work and will be funded by the City.

6. **Allentown Division – Manhole Collars with Water Tight Frame and Covers, Cycle 2**

This three year project will permanently secure the frame and cover of approximately 87 aged brick manholes identified by current LCA staff. This work will eliminate inflow from entering these manholes and eliminate the potential for sanitary sewer overflows (SSO's) from these manholes. The design phase has been administratively approved. Board approval of the construction phase was granted at the July Workshop Meeting. The project is identified as Administrative Order will be funded by the City.

7. **Allentown Division - WWTP-Replacement of Motor Control Centers**

This Project will replace five aged motor control centers that provide power on a 24/7 basis to various parts of the WWTP. The project has been approved by the City as a Major Capital Improvement (MCI). The Construction Phase of the project has been approved by the Board. Notice to Proceed has been sent to both contractors and a pre-construction meeting was held on 2/13/15. Various submittals are currently in the approval process. Power Zone House is scheduled for 8/24/15 delivery. This Project is identified in the Lease as Schedule 7 (required) project and will be funded the LCA Allentown Division.

8. **Allentown Division – Roof Rehabilitation and Replacements**

The Project consists of replacing 26 facility roofs that were identified as in need of immediate replacement in the Roof Evaluation report performed by D'Huy Engineering. The design of these replacements are proceeding. The project was presented to the City for review/approval as a Major Capital Improvement (MCI), but the city rejected it as such. Bid specifications are being finalized for all 26 roofs. A PLA study was completed and it was determined that a PLA was inappropriate for this project. The project will be funded by the LCA Allentown Division. Board approved the project at their July 13, 2015 Workshop Meeting.

9. **Allentown Division- SCADA System Installation –Wastewater Treatment Plant:**

All documents have been signed and the Kickoff Meeting was on Tuesday, March 17. This project is identified Un-Completed Work and will be funded by the City. Hardware submittals have been received and approved. Radio study was completed on April 30, 2015.

10. **Allentown Division–Wastewater Treatment Plant- Digester Cover Replacements:**

This project involves the cover replacement of both the Primary Digester No. 1 and the Secondary Digester (the cover for Primary Digester No. 2 was previously replaced in 2010). The Design Phase has been approved and a kick-off meeting was held in February 2015. A Major Capital Improvement (MCI) Conceptual Design has been submitted to the City for review and approval. A request for Board approval of the construction phase is anticipated in November 2015. This Project is identified in the Lease as Schedule 7 (required) project and will be funded the LCA Allentown Division.

11. **Allentown Division- Miscellaneous Projects at the Wastewater Treatment Plant:**

Several projects have begun and are in various stages of proposals and/or finalization of work scope. The projects include: Emergency power at the chlorination building, Odor Control Tower Replacements, and Locker Room upgrades. All of the projects will be capital projects and bid specifications are currently being developed for all three projects. These projects will be funded by the LCA Allentown Division.

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# MEMORANDUM

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**Date:** July 17, 2015

**To:** Authority Board  
**From:** Liesel Adam  
**Subject:** Electronic Bill Presentment & Payment Processing

**MOTIONS /APPROVALS REQUESTED:**

No.	Motion /Approval Item
1	Master Services Agreement: - Paymentus Corporation - InfoSend Corporation - Bank Up Corporation

**OVERVIEW & OBJECTIVES:**

Lehigh County Authority (LCA) issues approximately 220,000 water and sewer bills each year to residential and commercial customers, and processes payments through the use of in-house staff and some electronic methods. In January 2015, LCA began investigating methods to significantly enhance customer payment options and address increased workload associated with manual payment entry for current methods. An internal team was formed to complete the investigation and develop a solution to address the following key objectives:

1. Enhance Customer Payment Options: Anecdotal evidence (e.g. customer comments) suggested that customers are looking for a more robust online payment option from LCA, as well as more flexible ways to pay. A customer survey conducted both online and by mail verified that customers appear to be seeking the following specific enhancements:
  - Paperless billing options
  - Online access to bills, consumption history, etc.
  - E-Check payment option
  - Recurring / stored electronic payment options
  
2. Reduce Manual Data Entry for Electronic Payments: Current payment methods have been effective in getting monies “in the door” but generally require each payment to be reviewed and processed manually prior to being applied to a customer account.
  
3. Reduce / Eliminate Incorrect Bank Deposits: The Trust Indenture for the Allentown Concession bond issue requires customer payments be separated and deposited automatically into a separate bank account to satisfy the concerns of bondholders about revenue reliability. This has been especially problematic to address for electronic payment methods, requiring manual “work around” methods to achieve proper separation of deposits, and to correct inaccurate deposits.
  
4. Standardize LCA’s Customer Experience: Some of the “work around” tactics LCA has employed to achieve proper payment separation for Allentown Division customers has resulted in developing separate payment channels for LCA’s Allentown vs. Suburban



division customers. This project sought to provide a single payment channel for all customers who wish to pay electronically, and to promote organizational synergy.

As the investigation continued, a specific group of vendors emerged to present solutions under the heading of Electronic Bill Presentment and Payment Processing (EBPP). The results of this investigation and LCA's recommended EBPP partner are described below.

**VENDOR SELECTION PROCESS:**

Four vendor demonstrations were conducted through March 2015 with the purpose of growing LCA's knowledge about EBPP systems and what they can achieve to meet LCA's goals. A detailed Request for Proposals (RFP) was developed and issued in April 2015 to 15 firms. These firms were selected based on a combination of professional referrals and industry research.

The RFP included the following key components and required enhancements:

- Online bill presentment with an excellent user interface
- Consolidation of all electronic payment methods including credit card and e-check payments
- Collaboration with a print vendor to establish a paperless billing option and identical paper vs. electronic bill formats
- Integration with LCA's existing billing system, real-time or customizable batch-processing, resulting in elimination of manual entry of electronic payments
- Reduction or elimination of LCA's exposure to Payment Card Industry (PCI) compliance requirements
- Ability to accept payments over the phone in a manner that reduces phone volume through utilization of an interactive voice response (IVR) system
- Ability to accept walk-in payments by credit card using a card swipe system that will be compatible with future changes in credit card encryption methods (e.g. microchip)
- Methodology to split payments automatically between two bank deposits to meet LCA requirements

Seven proposals were submitted to LCA as a result of the RFP process. Two vendors were selected for more intensive investigation including on-site demonstrations of their service offering:

**Invoice Cloud, with no specific print partner**

InvoiceCloud's proposal offered all features LCA sought in its RFP, and included a partnership with LCA's existing print vendor. Following deeper investigation of the proposal, several factors influenced LCA's decision to ultimately reject this proposal:

- Print vendor's lack of experience in partnering with an EBPP vendor
- Upfront costs and time associated with developing the print vendor's capabilities
- "Price-plus" cost structure would result in overall increases in payment processing costs (credit card fees), even at today's volumes

**Paymentus Corporation, with InfoSend Corporation as a print partner**

Paymentus' proposal offered all features LCA sought in its RFP and was ultimately selected as the recommended solution for this project for the following key reasons:

- Extensive experience with integration projects involving LCA’s existing billing system (MUNIS, by Tyler Technologies)
- Bill print partner with extensive experience partnering with EBPP solutions
- Excellent references from similar utility clients, including two in Pennsylvania
- Flat “all in” pricing would result in no significant change in payment processing costs at today’s volumes

**COST ANALYSIS:**

LCA’s current annual costs are shown below in comparison to costs expected after implementation of the Paymentus system:

	<b>Current Process</b>	<b>Paymentus Proposal</b>
Bills Issued	220,000	220,000
<b>Total Printing Cost</b>	<b>\$47,520</b>	<b>\$41,720</b>
Credit Card Payments Processed	39,105	39,105
<b>Payment Processing Fees*</b>	<b>\$62,970</b>	<b>\$61,395</b>
E-Check Payments (AutoPay)	18,000	18,000
<b>E-Check Processing Fee</b>	<b>\$2,700</b>	<b>\$8,100</b>
<b>TOTAL ANNUAL COST</b>	<b>\$113,190</b>	<b>\$111,215</b>

*\* Payment Processing Fees noted here include credit card / merchant account fees only and does not include payroll costs associated with manual data entry.*

While printing and payment processing costs are estimated to decrease slightly as a result of implementing the Paymentus system, future costs will change as customer adoption of electronic billing and payment processing increases. An outline of these projected volume and cost changes are shown below:

	<b>Cost Component</b>	<b>Cost Change</b>
20% Customer Adoption of Paperless Billing	Bill Printing	\$ (14,200)
	Postage	\$ (16,500)
30% of Customers Paying by Credit Card**	Processing Fees	\$ 40,500
50% Increase in E-Check Payments	Processing Fees	\$ 8,500
<b>TOTAL FUTURE ANNUAL COST CHANGE</b>		<b>\$ 18,300</b>

*\*\* Currently, approximately 18% of customers pay by credit card.*

Increases in future costs are expected to be largely offset by significant benefits in the areas of customer satisfaction and operational efficiencies, including:

- Reduction in phone volume through the use of IVR for payments only. LCA staff currently processes about 6,000 customer payments a year over the phone.
- Significant reduction in manual data entry of credit card payments and payments generated through online banking.
- Reduction of manual bank transfers between Allentown and Suburban division deposit accounts.

- Improved timeliness of payment entry, reducing manual research required during service termination procedures.
- Meeting customer expectations for payment options that are currently available through other utilities such as gas and electric.
- Reduced paper consumption.
- Reduction in time spent investigating and addressing PCI compliance issues.

Each of the areas noted above are significant strains on existing customer service and accounting staff, drawing attention away from core goals related to customer satisfaction and effective collections programs.

**RECOMMENDATION:**

The following three contracts are attached and are recommended for approval in order to implement the enhancements described above. The contracts include the following three vendors that have developed a partnership to provide specific services to their other EBPP clients:

**Paymentus Corporation**

Paymentus will serve as the project lead for the other vendors and will be providing a web portal that includes the following services:

- Integration with LCA’s billing system
- Management of all customer log-in accounts, including password security and payment method encryption
- Paperless customer management and notification
- Display of up to two years of billing and water consumption history
- Processing of all electronic payments driven through the web portal
- IVR system for phone payments
- Card reader / card swipe systems for payment windows located at LCA’s customer service locations
- “Agent Dashboard” for LCA employees to gain access to payment information, reports, and other related information in real-time

**Implementation Cost: \$0**

**InfoSend Corporation**

InfoSend will provide bill printing and mailing services, as well as electronic billing support for Paymentus as follows:

- One-day turnaround of bill printing / mailing service
- Suppression of paperless billing accounts from the bill run
- Creation of electronic “copies” of all bills, archived for a period of two years, and linked directly to the Paymentus web portal for customer access

**Implementation Cost: \$20,723 escrow deposit required for monthly postage draw**

**Bank Up Corporation**

Bank Up will intercept payments issued through online banking institutions and submit payment details electronically to LCA for automated upload to the billing system (replaces a current manual process).

**Implementation Cost: \$500**

## MASTER SERVICES AGREEMENT

Client:	Lehigh County Authority
Client Address:	P.O. Box 3348, Allentown, PA, 18106
Contact for Notices to Client:	Liesel Adam, Chief Administrative Officer
Estimated Yearly Bills / Invoices:	220,000

This Master Services Agreement (“Master Agreement”) is entered into as of the Effective Date below, by and between the Client (“Client”) identified above and **Paymentus Corporation**, a Delaware Corporation (“Paymentus”).

**WHEREAS** Paymentus desires to provide and the Client desires to receive certain services under the terms and conditions set forth in this Agreement. Paymentus provides electronic bill payment services to utilities, municipalities, insurance and other businesses.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows. This Agreement consists of this signature page, General Terms and Conditions, and the attachments (“**Attachments**”) with schedules (“**Schedules**”) listed below:

**Schedule A:** Paymentus Service Fee Schedule

**Schedule B:** InfoSend Corporation Agreement and pricing

**Schedule C:** Bank Up Corporation Agreement and pricing

This Agreement represents the entire understanding between the parties hereto with respect to its subject matter and supersedes all other written or oral agreements heretofore made by or on behalf of Paymentus or Client with respect to the subject matter hereof and may be changed only by agreements in writing signed by the authorized representatives of the parties.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives.

**Client:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Paymentus:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## GENERAL TERMS AND CONDITIONS

### 1 Definitions:

For the purposes of this Agreement, the following terms and words shall have the meaning ascribed to them, unless the context clearly indicates otherwise.

1.1 **“Agreement”** or **“Contract”** shall refer to this Agreement, as amended from time to time, which shall constitute an authorization for the term of this contract for Paymentus to be the exclusive provider of services, stated herein, to the Client

1.2 **“User”** shall mean the users of the Client’s services

1.3 **“Effective Date”** shall be the last date upon which the parties signed this Agreement. The Agreement will not be effective against any party until the said date

1.4 **“Launch Date”** shall be the date on which Client launches this service to the Users

1.5 **“Payment”** shall mean Users to make payments for Client’s services or Client’s bills

1.6 **“Payment Amount”** shall mean the bill amount User wants to pay to the Client.

1.7 **“Services”** shall include the performance of the Services outlined in section 2 of this Agreement

1.8 **“Paymentus Authorized Processor”** shall mean a Paymentus authorized merchant account provider and payment processing gateway

1.9 **“Average Bill Amount”** shall mean the total amount of Payments collected through Paymentus system in a given month divided by the number of the Payments for the same month.

### 2 Description of Services to be performed

#### 2.1 **Scope of Services**

Paymentus shall provide Users the opportunity to make Payments by Visa, MasterCard, Discover, E-check and other payment methods as deemed necessary by Paymentus. Payments may be made by Interactive Telephone Voice Response

System (“IVR”) or secure Internet interface provided at the Paymentus Corporation’s web site or other websites part of Paymentus’ Instant Payment Network (“WebSites”), collectively referred to as the (“System”).

#### 2.2 **Professionalism**

Paymentus shall perform in a professional manner all Services required to be performed under this Agreement.

### 3 Compensation

#### 3.1 **No Cost Installation**

Paymentus will charge no fees related to the initial setup and personalization of its standard service for both Web and IVR interfaces.

#### 3.2 **Paymentus Service Fee**

For each payment, Paymentus will charge a Paymentus Service Fee as per Schedule A (hereinafter called “Paymentus Service Fee”).

For each payment, the Paymentus Service Fee collected will be used to pay the corresponding Credit Card transaction fees or transaction fees associated with Debit Cards or eChecks (hereinafter called “Transaction Fees”) except for the return items (eCheck returns or Credit/Debit Card chargebacks).

A schedule of Paymentus Service Fee is attached hereto as Schedule A. The Paymentus Service Fee is based on the Average Bill Amount, current payment method mix (credit vs debit vs e-check) and on the assumption that the total number of payments and the total Payment Amount collected each month from the use of non-consumer cards shall be under 5% of the total per month (“Fee Assumptions”). Client shall be billed an additional Paymentus Service Fees based on the rate of 3.5% of the Payment Amount for any excess amount if the Fee Assumptions vary by more than 5%. Paymentus can amend this schedule upon prior written notice to the Client if such change is required due to changes in the Visa and MasterCard regulations or changes in Credit Card fees or changes in the Average Bill Amount or changes in Fee Assumptions.

## **4 Payment Processing**

### **4.1 Integration with Client's Billing System**

At no cost to Client, Paymentus will develop one (1) file format interface with Client's billing system using Client's existing text file format currently used to post payments to Client's billing system. Client will be responsible to provide Paymentus with the one file format specification and will fully cooperate with Paymentus during the development of the said interface. If Client chooses to create an automated file integration process to download the posting file, due to Paymentus security requirements, Client will use Paymentus specified integration process.

### **4.2 Explicit User Confirmation**

Paymentus shall confirm the dollar amount of all Payments and the corresponding Paymentus Service Fee to be charged to a Card and electronically obtain the User approval of such charges prior to initiating Card authorizations transaction. Paymentus will provide User with electronic confirmation of all transactions.

### **4.3 Merchant Account**

Paymentus will arrange for the Client to have a merchant account with the Paymentus Authorized Processor for processing and settlement of the credit card transactions.

### **4.4 Card Authorization**

For authorization purposes, Paymentus will electronically transmit all Card transactions to the appropriate Card-processing center, in real time as the transactions occur.

### **4.5 Settlement**

Paymentus together with its authorized Card processor shall forward the payment transactions and corresponding Paymentus Service Fee to the appropriate card organizations for settlement directly to the Client's depository bank accounts previously designated by the Client (hereinafter the "Client Bank Accounts"). Determination of deposits to each Client Bank Account will be made automatically by Paymentus based on details included in the Client's billing data designating service areas that require separate bank deposits.

Paymentus will debit the Paymentus Service Fees from Client's account on a monthly basis.

Paymentus together with the Paymentus Authorized Processor will continuously review its settlement and direct debit processes for its simplicity and efficiencies. Client and Paymentus agree to fully co-operate with each other if Paymentus were to change its settlement and invoicing processes.

## **5 General Conditions of Services**

### **5.1 Service Reports**

Paymentus shall provide Client with reports summarizing use of the Services by Users for a given reporting period.

### **5.2 User Adoption Communication by Client**

Client will make Paymentus' Services available to its residential and commercial Clients by different means of Client communication including a) through bills, invoices and other notices; b) by providing IVR and Web payment details on the Client's website including a "Pay Now" or similar link on a mutually agreed prominent place on the web site; c) through Client's general IVR/Phone system; and d) other channels deemed appropriate by the Client.

Paymentus shall provide Client with logos, graphics and other marketing materials for Client's use in its communications with its users regarding the Services and/or Paymentus.

Both parties agree that Paymentus will be presented as a payment method option. Client will communicate Paymentus option to its end residential and commercial Clients wherever Client usually communicates its other payment methods.

### **5.3 Independent Contractor**

Client and Paymentus agree and understand that the relationship between both parties is that of an independent contractor.

### **5.4 Client's Responsibilities**

In order for Paymentus to provide Services outlined in this Agreement, the Client shall co-operate with Paymentus by:

(i) Client will enter into all applicable merchant Card or cash management agreements.

(ii) For the duration of this Agreement, Client will keep a bill payment link connecting to

# Paymentus

Paymentus System at a prominent location on the Client website. The phone number for the IVR payment will also be added to the web site. Client will also add the IVR payment option as part of the Client's general phone system.

(iii) User Adoption marketing as described in 5.2.

(iv) Within 30 days of the merchant account setup, Client will launch the service to the Users.

(v) For the purpose of providing Client a posting file for posting to Client's billing system, Client will provide the file format specification currently used to post its payments to the billing system. Client will fully cooperate with Paymentus and provide the information required to integrate with Client's billing system.

## **6 Governing Laws**

The laws of the Commonwealth of Pennsylvania shall govern the validity of this Agreement, its interpretation and performance..

## **7 Communications**

### **7.1 Authorized Representative**

Each party shall designate an individual to act as a representative for the respective party, with the authority to transmit instructions and receive information. The parties may from time to time designate other individuals or change the individuals.

### **7.2 Notices**

All notices of any type hereunder shall be in writing and shall be given by Certified Mail or by a national courier or by hand delivery to an individual authorized to receive mail for the below listed individuals, all to the following individuals at the following locations:

#### **To Client**

C/O: Chief Administrative Officer  
Address: PO Box 3348, Allentown, PA 18106  
Phone: 610-398-2503  
Fax: 610-398-8413

#### **To Paymentus**

C/O: President and CEO

Address: 13024 Ballantyne Corporate Place  
Suite 450  
Charlotte, NC 28277  
Phone: 980-255-3000  
Fax: 704-322-3776

Notices shall be declared to have been given or received on the date the notice is physically received if given by hand delivery or national courier, or if notices given by US Mail, then notice shall be deemed to have been given upon on date said notice was deposited in the mail addressed in the manner set forth above. Any party hereto by giving notice in the manner set forth herein may unilaterally change the name of the person to whom notice is to be given or the address at which the notice is to be received.

### **7.3 Interpretation**

It is the intent of the parties that no portion of this Agreement shall be interpreted more harshly against either of the parties as the drafter.

### **7.4 Amendment of Agreement**

Modifications or changes in this Agreement must be in writing and executed by the parties bound to this Agreement.

### **7.5 Severability**

If a word, sentence or paragraph herein shall be declared illegal, unenforceable, or unconstitutional, the said word, sentence or paragraph shall be severed from this Agreement, and this Agreement shall be read as if said word, sentence or paragraph did not exist.

### **7.6 Attorney's Fees**

Should any litigation arise concerning this Agreement between the parties hereto, the parties agree to bear their own costs and attorney's fees.

### **7.7 Confidentiality**

Client will not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential or proprietary non-public information it obtains during the term of this Agreement about Paymentus' business, operations, financial condition, technology, systems, no-how, products, services, suppliers, Clients, marketing data, plans, and models, and personnel. Notwithstanding these assertions, the parties recognize that the Client as a public entity is subject to requirements of Pennsylvania's Right-to-Know Law and federal Freedom of Information Act



and therefore the Client may have to disclose information accordingly as public records. The determination of whether an item is a public record shall be made solely by the Client.

Paymentus will not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential Client or User information it receives in connection with its performance of the services.

## **7.8 Intellectual Property**

In order that the Client may promote the Services and Paymentus' role in providing the Services, Paymentus grants to Client a revocable, non-exclusive, royalty-free, license to use Paymentus' logo and other service marks (the "Paymentus Marks") for such purpose only. Client does not have any right, title, license or interest, express or implied in and to any object code, software, hardware, trademarks, service mark, trade name, formula, system, know-how, telephone number, telephone line, domain name, URL, copyright image, text, script (including, without limitation, any script used by Paymentus on the IVR or the WebSite) or other intellectual property right of Paymentus ("Paymentus Intellectual Property"). All Paymentus Marks, Paymentus Intellectual Property, and the System and all rights therein (other than rights expressly granted herein) and goodwill pertain thereto belong exclusively to Paymentus.

## **7.9 Force Majeure**

Paymentus will be excused from performing the Services as contemplated by this Agreement to the extent its performance is delayed, impaired or rendered impossible by acts of God or other events that are beyond Paymentus' reasonable control and without its fault or judgment, including without limitation, natural disasters, war, terrorist acts, riots, acts of a governmental entity (in a sovereign or contractual capacity), fire, storms, quarantine restrictions, floods, explosions, labor strikes, labor walk-outs, extra-ordinary losses utilities (including telecommunications services), external computer "hacker" attacks, and/or delays of common carrier.

## **7.10 Time of the Essence**

Paymentus and Client acknowledge and agree that time is of the essence for the completion of the Services to be performed and each parties respective obligations under this Agreement.

## **8 Indemnification**

### **8.1 Paymentus Indemnification and Hold Harmless**

Paymentus agrees to the fullest extent permitted by law, to indemnify and hold harmless the Client and the City of Allentown as well as their governing officials, agents, employees, and attorneys (collectively, the "Client Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including reasonable attorney's fees and costs), incurred by any Client Indemnitee as a result or arising out of (i) the willful misconduct or negligence of Paymentus in performing the Services or (ii) a material breach by Paymentus of its covenants.

### **8.2 Client Indemnification and Hold Harmless**

Client agrees to the fullest extent permitted by law, to indemnify and hold harmless Paymentus, its affiliates, officers, directors, stockholders, agents, employees, and representatives, (collectively, the "Paymentus Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including without limitation reasonable attorney's fees and expenses) incurred by any Paymentus Indemnitee as a result or arising out of (i) the willful misconduct or negligence of Client related to the Services or (ii) a material breach of Client's covenants.

### **8.3 Warranty Disclaimer**

Except as expressly set forth in this Agreement, Paymentus disclaims all other representations or warranties, express or implied, made to the Client or any other person, including without limitation, any warranties regarding quality, suitability, merchantability, fitness, for a particular purpose or otherwise of any services or any good provided incidental to the Services provided under this Agreement.

### **8.4 Limitation of Liability**

Notwithstanding the foregoing, the parties agree that neither party shall be liable to the other for any lost profits, lost savings or other special, indirect or consequential damages, even if the party has been advised of or could have foreseen the possibility of such damages. Additionally, Paymentus' liability to the Client for any third party claims arising from this Agreement will not exceed the maximum amount of insurance maintained by Paymentus pursuant to §8.5 of this Agreement.



## 8.5 Insurance

Paymentus shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, at least in the following amounts and with insurers that have at least an "A" operating and "Class VII" financial rating as listed in "Best's Key Rating Guide," latest edition. Workers' Compensation coverage shall be through the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in Pennsylvania. Insurance coverage shall be primary coverage; be of an "occurrence" basis and not a "claims-made" basis, except that a professional liability policy may be "claims made"<sup>1</sup>; and remain in full force and effect until the end of Agreement responsibilities. Should any of the insurance policies be cancelled before the expiration thereof, written notice shall be provided to the Client and the City of Allentown, Department of Finance, Risk Manager at any time the Paymentus becomes aware of any cancellation or material changes in the insurance policies. Certificates of Insurance should be provided annually and stay current and in effect through all stages of the work, except that the professional liability insurance shall be maintained in effect for a minimum of one year beyond the completion of construction. All policies shall name the Client and, if the Project involves the Client's City Division, the City of Allentown as additionally insureds on the policy except for professional liability insurance and workers' compensation insurance.

<b>Type of Coverage</b>	<b>Minimum Limits</b>
Workers' Compensation (Including coverage under United States Longshoremen's and Harbor Workers Act, where applicable)	Statutory
Employer's Liability Insurance	
Each Accident	\$500,000
Disease; Each Employee	\$500,000
Disease; Aggregate	\$1,000,000
Comprehensive General (Public) Liability, including the following:	\$1,000,000 per occurrence

<sup>1</sup> If a professional liability insurance policy is not an "occurrence" basis, but rather a "claims made" basis, when policies are renewed or replaced, the policy retroactive date shall coincide with, or precede, start of work in

(1) XCU coverage covering explosion, collapse, underground damage.	\$2,000,000 aggregate
(2) Blasting hazards where applicable.	
(3) Personal Injury	
(4) Bodily Injury and Property Damage	
<b>Motor Vehicle Liability</b>	
(1) Bodily Injury and Property Damage, which shall include the following coverages:	\$1,000,000 per occurrence
(aa) Owned	\$2,000,000 aggregate
(bb) Non-Owned	
(cc) Hired Vehicles	
<b>Excess/Umbrella Liability</b>	\$5,000,000 per occurrence and in aggregate
<b>Professional Liability</b>	\$1,000,000

## 9 Term and Termination

### 9.1 Term

The term of this Agreement shall commence on the effective date of this Agreement and continue for a period of 5 (five) years ("Initial Term") from the Launch Date. Services under this Agreement shall begin within 30 days of the merchant account setup.

At the end of the Initial Term, this Agreement will automatically renew for successive three (3) year periods unless either Client or Paymentus provide the other party with not less than sixty (60) days prior written notice before such automatic renewal date that such party elects not to automatically renew the term of this Agreement.

### 9.2 Material Breach

A material breach of this Agreement shall be cured within 90 (ninety) days ("Cure Period") after a party notifies the other of such breach. In the event, such material breach has not been cured within the Cure Period, the non-breaching party can terminate this Agreement by providing the other party with a 30 (thirty) days notice.

connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two years.

# Paymentus

## 9.3 Upon Termination

Upon termination of this Agreement, the parties agree to cooperate with one another to ensure that all

Payments are accounted for and all refundable transactions have been completed. Upon termination, Paymentus shall cease all Services being provided hereunder unless otherwise directed by the Client in writing.

## Schedule A – Paymentus Service Fee Schedule

Paymentus Service Fee charged to the Client will be based on the following model:

<b>Absorbed Fee Model</b>	
<input type="checkbox"/>	Absorbed Model
<input type="checkbox"/>	Average Bill Amount: \$140.00
<input type="checkbox"/>	Paymentus Service Fee per qualified utility rate transaction
•	Credit/Debit Card           \$ 1.57 (Visa, MasterCard , Discover utility Program Rate)
•	ACH/ eCheck                 \$ 0.45 for the first 1500 eChecks per month; \$0.95 thereafter
•	Non Qualified Cards         2.85%

Note: Maximum Amount per Payment by credit or debit card is \$1000.00. Multiple payments can be made. Maximum Amount per Payment by ACH / E-Check is \$25,000.

Paymentus may apply different limits per transactions for user adoption or to mitigate risks.

## Schedule B – InfoSend Corporation Agreement and Pricing

### InfoSend Service Agreement

This Agreement entered into as of \_\_\_\_\_ in Anaheim, California, by and between **InfoSend, Inc.** having its main office at 4240 E. La Palma Ave, Anaheim, California 92807 and **Lehigh County Authority**, “Client” having its main office at: P.O. Box 3348, Allentown, PA, 18106. InfoSend’s primary phone number is (714) 993-2690.

#### Section 1. Term of Agreement

The “Initial Term” of this Agreement shall be a period of sixty (60) months. Subsequent thirty- six (36) month “Renewal Periods” shall automatically commence upon the expiration of any term (Initial Term or Renewal Period) unless either party shall, at least 60 days prior to the end of the Initial Term or subsequent Renewal Period, give 60 days written notice of termination, via certified mail.

This Agreement automatically terminates any prior contracts, terms or agreements previously executed between InfoSend and Client to cover the services contained in this Agreement, unless specifically referenced herein.

#### Section 2. InfoSend Services

Subject to the terms and conditions of this Agreement, InfoSend will provide to Client, and Client will purchase from InfoSend, the services listed in Exhibit A (“Scope of Primary Services”) to this Agreement for the pricing set forth in Exhibit B (“InfoSend Fees”). In the event Client requires other consulting, installation, development and/or customization services, InfoSend shall perform and Client shall purchase such services in accordance with the provisions of Exhibit C (“Professional Services”) of this Agreement.

#### Section 3. Termination

This Agreement and any future amendments to the Agreement may be terminated for cause as follows:

- (a) If either party breaches any material term or condition of this Agreement, other than for Client’s failure to pay and other than a failure to perform due to the causes described in Section 8, “Force Majeure,” and fails either to substantially cure breach within thirty (30) days after receiving written notice specifying the breach, or, for those breaches which cannot reasonably be cured within thirty (30) days, to promptly commence curing such breach and thereafter proceed with all due diligence to substantially cure such breach, then the party not in breach may, by giving written notice to the breaching party, terminate this Agreement in its entirety, or as it pertains to a particular Product, Deliverable, Service or Professional Service, as of a date specified in such notice of termination. All of the obligations of the parties contained in this Agreement, except for Client’s obligation to pay fees, shall be deemed to have been performed in an acceptable manner unless the party not in breach provides the breaching party with written notice as stated above within sixty (60) days of the event giving rise to the breach.
- (b) If Client fails to pay when due any payables owed hereunder within thirty (30) days of receiving written notice of such failure to pay thereof, InfoSend may, at InfoSend’s option, terminate this Agreement in its entirety or only as it pertains to a particular Product, Deliverable, Service or Professional Service, by giving thirty (30) days written notice to Client, as of a date specified in such termination notice.
- (c) In the event that either party hereto becomes or is declared insolvent or bankrupt, is the subject of any proceedings related to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or readjustment of all or substantially all of its obligations, then the other party hereto may, by

giving written notice thereof to such party, terminate this Agreement as of the date specified in such notice of termination.

- (d) If Client's relationship with its electronic bill presentment and payment processing (EBPP) vendor terminates or is otherwise modified such that continuation of this Agreement is no longer feasible, Client may terminate this Agreement by giving a minimum of thirty (30) days' written notice to InfoSend.
- (e) In the event the Client exercises its termination rights as described in Exhibit B, Section 1 (Price Escalations to InfoSend Fees), a minimum of thirty (30) days' written notice to InfoSend shall be provided.

Upon termination of this Agreement or any portion hereof for any reason, all rights granted to Client under this Agreement with respect to terminated Products, Deliverables, Services and Professional Services, will cease and Client will promptly pay to InfoSend any and all charges due (other than any sums that are under written protest), including but not limited to payables that are due pursuant to this Agreement, the Discontinuance Fee set forth in Section 4 below and accrued finance charges; however, Client shall not be responsible for paying the Discontinuance Fee if this Agreement is terminated by InfoSend other than as a result of Client's breach of its obligations hereunder or is terminated by Client pursuant to Paragraph 3(a).

Section 4. Discontinuance Fee  
Waived.

Section 5. Confidentiality of Information

All information and data relating to Client's business submitted by Client to InfoSend under this Agreement shall be treated as confidential by InfoSend and shall not, unless otherwise required by law, be disclosed to any third party by InfoSend without Client's written consent. InfoSend shall promptly notify Client should InfoSend be served with a summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admission, or other discovery request or court order from any third party regarding this Agreement and/or the Services performed under this Agreement.

InfoSend takes great care in both data security and human resource security. InfoSend has a Human Resources policy that requires all new employees to pass a background check performed by an outside company. All new employees must pass a drug-screening test as well. These practices will remain in place for the duration of the Agreement.

Section 6. Limitation of Liability and Indemnification

InfoSend will not be responsible for actions or omissions resulting from receiving data and/or following instructions received from Client. No damages shall be assessed against InfoSend when any delay or breach on InfoSend's part is caused by failure of Client to perform Clients' responsibilities or any other reason beyond the control of InfoSend.

InfoSend is a service provider, as such; Client acknowledges that data processing involves the risk of human and machine errors that InfoSend shall not be liable for any errors, omissions, delays or losses. In no event shall InfoSend be liable for indirect, special or inconsequential damages even if InfoSend has been advised of the possibility of such potential claim, loss or damage. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of other remedies. Notwithstanding anything to the contrary contained herein, InfoSend shall not be responsible for delays in receipt of Client information or processing Client information because of causes beyond its reasonable control, including, without limitation, failures or limitations on the availability of third party telecommunications or other transmission facilities and Clients' failure to properly enter and/or transmit information.

Section 7. Invoicing and Payment

InfoSend will issue monthly invoices. Invoice terms are NET 30. Should Client dispute any invoiced charges it must do so in a reasonable time frame. Disputes must be made within 3 months of the invoice date. Past due invoices are subject to a 1.5% per month finance charge.

Client acknowledges that past due invoices must be paid in a timely fashion to avoid service interruptions. The recurring nature of InfoSend's services result in a rapid rise in the Client's account balance if Client's accounts payable process is delayed. This is especially true if InfoSend is invoicing client for postage charges. It is therefore necessary for InfoSend to put service on hold if past due account balances are not paid in a timely manner. The Past Due Accounts Receivable notes and procedures are outlined below:

- InfoSend is at significant risk of financial loss if clients default on their past due debt. InfoSend's Accounts Receivable staff must therefore constantly monitor past due account balances and evaluate the risk of a client defaulting on debt if courtesy emails and finance charges do not reduce this risk. InfoSend reserves the right to reduce this risk by notifying Client's staff in writing that it must pay at least the portion of the account balance that is past due within five (5) days to avoid InfoSend's services being put on hold.
- Should a hold be instated it will immediately be removed once payment is received.
- Additionally, unpaid balances can result in cancellation of the agreement as per Section 3(b).

#### Section 8. Force Majeure

Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control, including, but not limited to, fire, explosion, epidemics, earthquake, lightning, failures or fluctuations in electrical power or telecommunications equipment, accidents, floods, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, fuel or energy shortages, acts or omissions of any common carrier, strikes, labor disputes, regulatory restrictions, restraining orders or decrees of any court, changes in law or regulation or other acts of government authority, transportation stoppages or slowdowns or the inability to produce parts or materials. These causes will not excuse Client from paying accrued payables due to InfoSend through any available lawful means acceptable to InfoSend.

#### Section 9. Miscellaneous

The laws of the Commonwealth of Pennsylvania shall govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in the Court of Common Pleas of Lehigh County, Pennsylvania. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof. No representations and agreements modifying or supplementing the terms of this Agreement will be valid unless in writing, signed by persons authorized to sign agreements on behalf of both parties. This Agreement is not intended to, and shall not be construed to, create or confer any right in or upon any person or entity not a party to it.

#### Section 10. Insurance

InfoSend shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, at least in the following amounts and with insurers that have at least an "A" operating and "Class VII" financial rating as listed in "Best's Key Rating Guide," latest edition. Workers' Compensation coverage shall be through the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in Pennsylvania. Insurance coverage shall be primary coverage; be of an "occurrence" basis and not a "claims-made" basis,

except that a professional liability policy may be "claims made"<sup>2</sup>; and remain in full force and effect until the end of Agreement responsibilities. Should any of the insurance policies be cancelled before the expiration thereof, written notice shall be provided to the Client and the City of Allentown, Department of Finance, Risk Manager at any time the InfoSend becomes aware of any cancellation or material changes in the insurance policies. Certificates of Insurance should be provided annually and stay current and in effect through all stages of the work, except that the professional liability insurance shall be maintained in effect for a minimum of one year beyond the completion of construction. All policies shall name the Client and, if the Project involves the Client's City Division, the City of Allentown as additionally insureds on the policy except for professional liability insurance and workers' compensation insurance.

<b>Type of Coverage</b>	<b>Minimum Limits</b>
Workers' Compensation (Including coverage under United States Longshoremen's and Harbor Workers Act, where applicable)	Statutory
Employer's Liability Insurance Each Accident Disease; Each Employee Disease; Aggregate	\$500,000 \$500,000 \$1,000,000
Comprehensive General (Public) Liability, including the following:  (1) XCU coverage covering explosion, collapse, underground damage. (2) Blasting hazards where applicable. (3) Personal Injury Aggregate: (4) Bodily Injury and Property Damage	\$1,000,000 per occurrence  \$2,000,000 aggregate
Motor Vehicle Liability (1) Bodily Injury and Property Damage, which shall include the following coverages: (aa) Owned (bb) Non-Owned (cc) Hired Vehicles	\$1,000,000 per occurrence \$2,000,000 aggregate
Excess/Umbrella Liability	\$5,000,000 per occurrence and in aggregate
Professional Liability	\$1,000,000

**Lehigh County Authority**

**InfoSend, Inc.**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

<sup>2</sup> If a professional liability insurance policy is not an "occurrence" basis, but rather a "claims made" basis, when policies are renewed or replaced, the policy retroactive date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two years.

## Exhibit A - Scope of InfoSend Primary Services

Client will select one or more of InfoSend's Primary Services from the list below by checking the box next to the Primary Service name. Any Primary Services not selected prior to the execution of this Agreement can be added at a later date via an Agreement Amendment. Optional Service Features can be turned on or off at any time without incurring a termination fee when turned off.

### Scope of DPPM Service:

#### **Data Transfer and Processing**

- Client to transmit data to InfoSend in an agreed upon format. Should Client make changes to data file format after initial setup is complete, it agrees to pay for the professional services required to accommodate the new file format. See Exhibit C – Professional Services for information on initial setup and ongoing programming changes.
- A File Transfer Report will be emailed to the Client representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.
- Client will have access to an online Job Tracking application that shows the progress of each file as it is processed and becomes a batch of documents to be printed and mailed. Client can see both the original input file name and the InfoSend-assigned “Job Code”.
- InfoSend will process the mailing addresses and perform the following functions:
  - Apply CASS-certified address validation
  - Comply with USPS requirements to obtain pre-sort automation rates
  - InfoSend will stay current with all USPS regulations required to mail presorted first class mail
- InfoSend will provide proofs of the final print-ready PDF files to Client to be reviewed and approved before printing begins (if requested).

#### **Document Printing and Mailing**

- Batches are printed by InfoSend using a high-speed production process onto the agreed upon forms.
- Printed documents are put through a quality control process and then released to the mailing department to be inserted into outgoing envelope. The return envelope and any applicable inserts are included as well.
- After a batch of mail is completed in InfoSend's system it will be marked as such in the online Job Tracker and a Process Confirmation Report will be emailed to the Client representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.



## Exhibit B - InfoSend Fees

### **Section 1. Price Escalations to InfoSend Fees**

InfoSend Fees can be adjusted once every twelve (12) months to account for increases in the cost of materials, labor, and other overhead costs. InfoSend reserves the right to increase InfoSend Fees on a yearly basis (starting with the first anniversary of the Agreement date), not to exceed the Consumer Price Index (CPI) for the State of California, plus 1%. This information can currently be found at [www.dof.ca.gov/HTML/FS\\_DATA/LatestEconData/FS\\_Price.htm](http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Price.htm). The Client will be notified, in writing, at least 30 days prior to such price increase. An amendment to this Agreement will not be required if the Fees are changed, unless the terms or conditions of the Agreement have changed. Postage fees can change at any time per USPS regulations and do not require an Agreement amendment.

In addition to this, if Client uses the Printing and Mailing Service, it accepts that InfoSend reserves the right to pass on any extraordinarily high increases to the cost of forms or envelopes at any time. The Client will be notified, in writing, at least 30 days prior to such price increase.

With the exception of increases to postage fees, the Client may respond to such written notices of price escalations within thirty (30) days of receipt to negotiate a change in the escalated fees. In addition, the Client may exercise its right to terminate this Agreement, with a minimum of thirty (30) days written notice, in the event that InfoSend Fees cannot be agreed upon during such negotiations, or at any time when InfoSend Fees escalate at a rate higher than 3% in a single year, or 10% over the initial five-year period.

### Section 2. DPPM Fees:

Client understands that print and mail production costs vary based on volume. The following InfoSend Fees are based on the estimated quarterly volumes listed below. Should Client's actual continuous volume be less than 60% of the volume estimates Client has provided to InfoSend (listed below) then InfoSend reserves the right to invalidate the Fees listed in this Agreement. Should this rare situation arise then InfoSend will notify Client immediately and negotiate with Client in good faith to pass on any increased production costs to Client.

Sales tax is not included. Any applicable sales tax will be collected per government regulations.

### **Pricing: Data Processing, Print & Mail Service Set-up Fee**

#### **InfoSend's Fees – Initial Set-up Costs**

Implementation, professional services, and optional services fees.

<b>Professional Services Fees</b>	<p><b>Data-Only (e.g. flat files, XML) Implementation: Waived</b>  When this option is selected InfoSend creates, hosts and maintains an application to generate your bills. Your current document design will be matched. Please note that data manipulations are not part of the standard offering.</p> <p><b>Document Redesign Service: Waived</b>  We will assist you in redesigning the format of your printed documents if needed. We will become responsible for later changing the format of the documents, if needed (Professional Services Fees will apply for future changes).</p> <p>Please note that Clients must sign off on requirements documents (Statement of Work, project plan, etc.) before programming and system configuration can begin. Client can be charged additional fees and/or have the project go-live date delayed if requirements are changed after they have been finalized and signed off.</p>		
	<p><b>Professional Services Fee</b>  Per hour and performed only upon request. For customizations made to your data processing application after go-live. Work is only started after receiving your approval of a formal quote.</p>	<b>Per Hour</b>	\$160.00

**Pricing:** Data Processing, Print & Mail Primary Service & Material Costs

InfoSend's Fees – Turnkey Data Processing, Print & Mail Service:			
The individual prices shown in the table below apply only to the turnkey Data Processing Print & Mail service for the following document types. Other types of document printing and or mailing can be quoted later, if needed.			
<b>Primary Services</b>	<p><b>Turnkey Data Processing Print &amp; Mail service</b></p> <p>Price is per physical page. Includes processing of your unique data, CASS address validation, presorting, printing, and mail insertion. Finished mail pieces are delivered to the USPS <b>within one (1) business day</b>. If samples (proofs) are requested then the mailing will be completed within one day of sample approval.</p>	<b>Per Item</b>	<b>Options Below:</b>
		<p style="text-align: center;"><b>Regular Bills</b> (Per Sheet)  Est. Volume 54,000 documents/quarter</p> <p style="text-align: center;">Service fee includes data processing, printing, mail preparation and delivery to the USPS</p>	\$0.059
		<p style="text-align: center;"><b>Postage</b> (for all job types)</p> <p style="text-align: center;">You will be invoiced for the exact postage used. You must use one of the two USPS approved Move Update methods to get the presort discounts:</p>	Pass Through

<p>Excludes materials, sales tax (where applicable), and postage.</p> <p>A postage deposit will be required prior to go live.</p> <p>For the quoted prices to apply InfoSend must have the right to combine data files sent by your organization with other files you have sent, when possible. Higher pricing applies if files must be printed separately.</p> <p><i>Pricing assumes the use of materials options listed in the below section.</i></p>	<p><b>Electronic Address Updates – NCOALink or ACS</b></p> <p>Per reported update. InfoSend electronically reports the addresses it received in your data that need to be updated because the customer filed a Change of Address Report with the USPS. Cost is per update.</p>	\$0.35
	<p><b>Multiple Page Mail Piece Surcharge – For Hand Inserting of Pages into Flat Envelope</b></p> <p>Per flat envelope. Only applies when there are too many pages to fit into the #10 envelope.</p>	\$0.35

Material Component Fees – Data Processing Print & Mail Service			
<b>Materials</b>	<b>Forms</b>		
	<p><b>Regular Bills: custom paper stock with perforation.</b> Paper is 8.5x11” and 24lb and has a static pre-printed backer. Variable data is printed on the front of the bill. Price includes all inventory costs.</p> <p>OR</p> <p><b>8.5x11” white paper stock with perforation.</b> Paper is 8.5x11” and 24lb. Price includes all inventory costs.</p>	Per Sheet	\$0.017

InfoSend Standard Window Envelopes			
<b>Materials</b>	<b>Standard Window Envelopes</b>	<b>Per Standard Envelope</b>	<b>Options Below:</b>
	<p>These envelopes include security tint printed on the inside of the paper stock. These envelopes also use <a href="#">sustainably logged paper (SFI)</a>.</p>	#10 InfoSend Standard Double Window Outgoing	\$0.0195
		#9 InfoSend Standard Return Envelope	\$0.0156

## Pricing: Turnkey Data Processing Print & Mail Service

### Optional Services

<p><b>Drop-Shipped Inserts &amp; Inserting of InfoSend-Printed Inserts</b>                  Clients can print and fold inserts and ship them to InfoSend to be mailed with the statements. If folding is required add \$0.01 to the fee. InfoSend-printed inserts are quoted upon request. No additional service cost to use selective inserting to selectively include inserts with certain bill types as long as at least 3,000 customers are targeted (set-up costs can apply in some situations for advanced selective inserting criteria). Cost includes all inventory costs.</p>	<p>Per Insert</p>	<p>\$0.010</p>
<p><b>Print Image Archive</b>                  Each bill is stored as a PDF and indexed in a database. Search by account number or other key fields. You are charged one up-front fee per document to process it, index it, and store it for a set number of months.                   Price includes a secure API for Paymentus to access the archive. The Paymentus platform is already integrated with this API to pull InfoSend's bill images in real-time.</p>	<p>Per PDF (No Set-up Fee)</p>	<p>\$0.01 - For 12 Months of Retention                   \$0.015 - For 24 Months of Retention                   \$0.02 - For 36 Months of Retention</p>
<p><b>FinalDoc CD</b>                  This CD archiving service is a simple and cost effective way for you to retain document images long-term. You can search by account number or name. The documents are stored on the CD in PDF format.                   FinalDoc CD is used by your staff to look up individual documents. If you would like to index and store the PDF files to allow customers to access them via a separate application see FinalDoc Transfer (below).</p>	<p>Per CD</p>	<p>\$95.00 + Shipping &amp; Handling</p>
<p><b>Professional Services</b>                  Per hour and performed only upon request. For customizations made to document processing program or document format after go-live. Work is only started after receiving your approval of a formal quote.</p>	<p>Per Hour</p>	<p>\$160.00</p>

#### Section 2.1. Custom Forms/Envelopes

If Client has selected the Printing and Mailing Service and at any time requests that InfoSend Fees include the cost of custom Client-specific materials (either in this Agreement or since its execution), then Client understands and accepts that these materials will be purchased in bulk to achieve the lowest possible per-unit cost. Client agrees to purchase any remaining supplies of requested custom materials (normally forms or envelopes), not to exceed six (6) months of such supplies, if Client stops using InfoSend's Service for any reason. Client agrees to purchase the remaining supply of custom forms/envelopes upon Client's request to change the custom forms/envelopes before the supply has been depleted.

## **Section 2.2. USPS Postage Rates**

Postage rates are determined by the United States Postal Service. All postage rate changes are determined directly by USPS and are independent of any InfoSend service or materials fees. In no event shall any change in the postage rates affect the InfoSend service or materials fees. The Client will be invoiced the amount of excess for overweight and foreign mail.

## **Section 2.3. Postage Deposit**

InfoSend purchases the postage needed to mail Client documents on the day of mailing. The postage charges are later invoiced to Client based on the Client's payment terms. InfoSend requires Client to submit a postage deposit prior to the first mailing to facilitate the payment terms. This amount will remain in deposit for the duration of the Agreement. Upon Agreement expiration or termination Client must pay in full any outstanding invoices from InfoSend for payables created under this Agreement; the postage deposit will be refunded within fifteen (15) days of the date that the last open invoice is paid.

The postage deposit is subject to an annual review and may be adjusted to account for changes to Client average mailing volume or changes to USPS postage rates. There will be no more than one adjustment requested per year, if at all. The postage deposit amount is calculated by multiplying the estimated number mail pieces per month by the current 5-Digit pre-sorted first class postage rate. The postage deposit amount due for your account is:

53,000 mail pieces per quarter x \$0.391 = \$20,723.

## Exhibit C – Professional Services

### **Section 1. Price Escalations to InfoSend Professional Services Fees**

InfoSend Professional Services Fees can be adjusted once every twelve (12) months to account for increases to the cost of providing these services. InfoSend reserves the right to increase Professional Services Fees on a yearly basis, starting with the first anniversary of the Agreement date, if needed. The Client will be notified, in writing, at least 30 days prior to such price increase. An amendment to this Agreement will not be required if the Professional Services Fees are changed, unless the terms or conditions of the Agreement have changed.

### **Section 2. Definition of Professional Services**

InfoSend Professional Services are the technical services that are required to perform the initial setup of the InfoSend Primary Services defined in Exhibit A and the technical services required to make changes to these Primary Services after the initial setup is complete. Once any Primary Service is live and operational Professional Services will not be required unless Client requests a change or makes changes to its data file format or business rules which necessitates a change to InfoSend's system configuration or programming. Examples of InfoSend Professional Services:

- Project requirements gathering and analysis hours
- Project management and/or consulting hours
- Software development and system configuration hours related to the processing of Client's data
- Software development and system configuration hours related to document design, web portal setup, business rule configuration, or any other applicable technical services
- Application testing and deployment hours

### **Section 3. Professional Services Fee and Process for Approval and Payment of Fee**

The current Professional Services Fee is \$160.00 per hour.

Anytime a project will incur billable Professional Services hours Client will be informed before work begins. InfoSend and Client will execute a Statement of Work for project that Client wants InfoSend to undertake. The payment terms for the project depend on the size and scope of the project. The Statement of Work can include payment terms that are different than the terms listed in this Agreement for InfoSend Fees, otherwise these terms will apply and the project fees will be invoiced upon project completion. Small projects that incur less than five (5) hours of Professional Services can be initiated without a Statement of Work if Client accepts and executes a Programming Quote for this work.

All projects that will take more than five (5) hours of Professional Services work will require both parties execute a formal Statement of Work. Depending on the nature of the work required InfoSend will provide one of the following quotation methods:

- Fixed Quote – a fixed project cost will be set. InfoSend may elect to waive this cost in some circumstances. Client understands and accepts that it must accept the terms and conditions of the Statement of Work for the project and that changes made to the project requirements, data file structure, etc. after the Statement of Work and any amendments to it have been finalized will require Client to pay for these changes on a Time and Materials basis. Client will be notified immediately if this scenario happens and given an option to keep the original project specifications to keep the fixed quote in place.
- Time and Materials quote – should it not be possible to provide a fixed quote due to the nature of a Client's requested project then InfoSend will provide an estimated number of hours to complete the project and bill the hours on a Time and Materials basis. The Statement of Work will include the terms and conditions for these project types and Client will be invoiced weekly for the hours spent on the project.

#### **Section 4. Initial Setup Cost: InfoSend Primary Services**

Waived.

## Schedule C – Bank Up Corporation Agreement and Pricing

### MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (this “Agreement”) is between Business Recovery Services, Inc., a California corporation doing business as BANK UP CORPORATION (“Bank Up Corporation”), whose principal office is at 1301 Marina Village Parkway, Suite 250, Alameda, California 94501, and Customer.

Customer: Lehigh County Authority

Customer Address: 1053 Spruce Road  
Wescosville, PA 18106

Effective Date: August 1, 2015

Initial Expiration Date: July 31, 2020

**1. SERVICES.** Bank Up Corporation agrees to furnish selected services as more fully described in Scope of Services attached as “Exhibit A” and made a part of this Agreement (the “Service(s)”). The terms of the Services may be supplemented, deleted, or otherwise revised by Bank Up Corporation from time to time (“Service Revision”). Bank Up Corporation will notify Customer of Service Revisions at least twenty (20) days before Service Revisions take effect, unless (1) Service Revisions are required by banking regulators or (2) Bank Up Corporation is unable to give advance notice of Service Revisions for reasons beyond Bank Up Corporation’s control. Customer may reject a Service Revision by giving written notice of the rejection to Bank Up Corporation within ten (10) days of receiving notice of a Service Revision. Upon receiving Customer’s rejection of a Service Revision, Bank Up Corporation may elect to cancel the Service Revision or terminate the affected Service to Customer by giving written notice to Customer within ten (10) days of receipt of Customer’s rejection of a Service Revision. Upon request and in a mutually acceptable form, Bank Up Corporation will provide Customer access to business records relating to Bank Up Corporation’s performance of the Services.

**2. THIRD PARTY SERVICE PROVIDERS.** Bank Up Corporation may provide the Services in cooperation with a third party service or product provider (a “Service Provider”) such as a software vendor or storage facility. If so, Bank Up Corporation will have entered into a separate arrangement with the Service Provider for this purpose (a “Bank Up Corporation-Service Provider Agreement”). Bank Up does not currently utilize any offshore third party service providers; however, Bank Up agrees to notify Customer if the third party service provider is located off shore and/or services will be performed off shore at least twenty (20) days prior to entering into an arrangement with the Service Provider. Customer agrees that it is not a third party beneficiary under any Bank Up Corporation-Service Provider Agreement and, unless otherwise provided in the Services Addenda, no provision in a Bank Up Corporation-Service Provider Agreement will be considered part of this Agreement. Customer agrees that Bank Up Corporation has the exclusive right to manage the Service and that Customer will not give any direct instructions to or otherwise inquire about the Service Provider. Customer agrees however, to provide such additional documentation and written authorizations that Service Provider may request from time to time and Customer authorizes Bank Up Corporation to share information about Customer and its customers, consistent with privacy protection laws, with the Service Provider as Bank Up Corporation may deem appropriate. References in this Agreement to “Bank Up Corporation” will be deemed to include or refer to any Service Provider which provides services hereunder from time to time. Bank Up Corporation agrees to monitor the service providers in order to confirm that they have satisfied all obligations required of Bank Up Corporation in providing these services. As part of this monitoring, Customer may review documents including, but not limited to, contracts, audits, summaries of test results or other equivalent evaluations of its service providers.

**3. TERM OF AGREEMENT.** Unless specifically modified by a Service Addendum and/or Schedule of Fees with respect to a particular Service, this Agreement will be effective as of the Effective Date set forth above and continue in effect for sixty (60) months. At any point within sixty (60) days of the end of any term of this Agreement, either party may provide notice of its intent to renew or not renew the Agreement for a period of thirty-six (36) months commencing upon such end of term. In the event that no such notice is received by 60 days before such end of term, then the Agreement will automatically remain in place on a month-to-month basis subject to the right of either party to terminate upon at least 60 days written notice, or renew for thirty-six (36) months.

**4. EARLY TERMINATION.** Either party to this Agreement may terminate this Agreement for a material and ongoing breach (1) after giving written, specific notice of the material and ongoing breach, (2) after allowing thirty (30) days for the breach to be cured, and (3) upon the failure of the breaching party to cure the breach identified in the notice or financial insolvency. In addition, Bank Up Corporation may elect to terminate the Services immediately upon any failure by Customer to make timely payment of amounts due under Paragraph 5 (except to the amount of such fees under written protest), or if Customer ceases to process transactions pursuant to this Agreement for a period of at least three (3) months.

**5. PAYMENT OF FEES AND COSTS.** Customer agrees to pay the fees and costs set forth in the Schedule of Fees Addendum attached as “Exhibit B” and made a part of this Agreement (the “Schedule of Fees”). The Schedule of Fees may also be modified by Bank Up Corporation from time to time (“Fees Revisions”). Bank Up Corporation will notify Customer of Fees Revisions at least sixty (60) days before Fees Revisions take effect, unless (1) Fees Revisions are required by banking regulators (2) Bank Up Corporation is unable to give advance notice of Fees Revision for reasons beyond Bank Up Corporation’s control. Customer may reject Fees Revisions by giving written notice of the rejection to Bank Up Corporation within ten (10) days of receiving notice of a Fees Revision. Upon receiving Customer’s rejection of a Fees Revision, Bank Up Corporation may elect to (1) cancel the Fees Revision with notice or (2) cease providing the Service associated with the Fees Revision to Customer by giving written notice of termination of Service within ten (10) days of receipt of Customer’s rejection of a Fees Revision.

**6. ORGANIZATION OF CUSTOMER.** Customer represents and warrants that it is the type of entity identified above and that Customer has been duly organized and is in good standing in the state of California.



**7. POWER AND AUTHORITY.** Customer represents and warrants that it has full power and authority to execute and enter into this Agreement and that this Agreement, when executed, will become a binding obligation of Customer, enforceable in accordance with its terms.

**8. EQUIPMENT REQUIREMENTS.** Customer acknowledges that in order for Bank Up Corporation to provide the Services, it may be necessary for Customer to acquire, maintain, upgrade, and/or replace from time to time, certain equipment as more fully set forth in the Service Addenda (the "Equipment Requirements"). Bank Up Corporation agrees that it will give Customer at least ninety (90) days prior written notice of any change in the Equipment Requirements which result or will result from changes made by Bank Up Corporation.

**9. PROTECTION OF PROPRIETARY INFORMATION.** Customer acknowledges that the Services, including but not limited to the terms of this Agreement, the Equipment Requirements, the methodology and technology by and through which Bank Up Corporation performs the Services, all programming material, including but not limited to source codes, documentation, and magnetic media, specifications, or other material furnished by Bank Up Corporation to Customer, and any manuals, instructional materials, periodic bulletins or communications from Bank Up Corporation to the Customer in connection with the Services (the "Bank Up Corporation Proprietary Information") are trade secrets of Bank Up Corporation and will remain the confidential and proprietary property of Bank Up Corporation. Customer agrees to continue to treat the Bank Up Corporation Proprietary Information as the confidential and proprietary property of Bank Up Corporation and will acquire no rights to the Bank Up Corporation Proprietary Information except to use such information solely for the purpose of Services and only for the period that Customer is receiving Services under this Agreement. All such programs and other materials supplied directly or indirectly by Bank Up Corporation will be received by Customer in confidence. Customer will not use or cause to be used any such information for the benefit of any other party, will not copy, duplicate for any purpose whatsoever nor sell, rent, loan, disclose or otherwise communicate or make available any such information or any part or modification thereof to any other person and will take all steps necessary to maintain the confidentiality of it. Customer covenants that it will not disclose to any third party any of the Bank Up Corporation Proprietary Information.

**10. DAMAGES FOR BREACH OF NON-DISCLOSURE COVENANT.** The parties agree that it is impracticable and extremely difficult to fix the actual damages that Bank Up Corporation would sustain if Customer breaches Customer's covenant not to disclose to any third party any of the Bank Up Corporation Proprietary Information. In light of this, Customer and Bank Up Corporation agree that liquidated damages of Five Thousand Dollars (\$5,000) will be paid in consequence of each violation of Customer's covenant that it will not disclose to any third party any of the Bank Up Corporation Proprietary Information. The parties agree that such damages are particularly appropriate for this transaction and agree that such liquidated damages are not intended as a forfeiture or penalty within the meaning of California Civil Code §3275 or §3369 but are intended to constitute liquidated damages under California Civil Code §1671.

Notwithstanding these assertions in Paragraphs 9 and 10 of this Agreement, the parties recognize that the Client as a public entity is subject to requirements of Pennsylvania's Right-to-Know Law and federal Freedom of Information Act and therefore the Client may have to disclose information accordingly as public records and therefore not be subject to any penalties or damages when required to do so. The determination of whether an item is a public record shall be made solely by the Client.

**11. COMPLIANCE WITH LAWS.** Each of Bank Up Corporation and Customer will at all times remain in compliance with all state, federal and local laws and with the orders, regulations or directives of any governmental agency having jurisdiction with respect to any matter relating in any way to the Services.

**12. CUSTOMER INDEMNIFICATION OF BANK UP CORPORATION.** In addition to any specific obligations set forth in the Service Addenda with respect to a particular Service, Customer agrees to defend, indemnify and hold Bank Up Corporation, its employees, shareholders, directors, affiliates, agents and contractors (collectively, the "Bank Up Corporation Parties") harmless from any claim, debt, demand, liability or cause of action asserted against any of the Bank Up Corporation Parties that arises out of or is in any way related to the negligent or intentional act or omission of Customer or of its employees, directors, agents or contractors (collectively, the "Customer Parties") with respect to the Services or Customer's performance of its obligations under this Agreement or the Service Addenda, including any breach by Customer of the non-disclosure covenant, or Customer's failure to comply with any law or regulation applicable to Customer, including but not limited to the USA Patriot Act and the Bank Secrecy Act.

**13. BANK UP CORPORATION INDEMNIFICATION OF CUSTOMER.** Bank Up Corporation agrees to defend, indemnify and hold the Customer Parties, including the City of Allentown and its employees, directors, officials, agents or contractors, harmless from any claim, debt, demand, liability or cause of action asserted against any of the Customer Parties, including the City of Allentown and its employees, directors, officials, agents or contractors, arising solely out of Bank Up Corporation's negligence or misconduct in the performance of its obligations under this Agreement.

**14. LIMITATION ON LIABILITY.** Customer acknowledges that the fees charged for the Services are small when compared to the dollar volume of business conducted by Customer. Therefore, notwithstanding anything to the contrary in Paragraph 13, except in the event of Bank Up Corporation's negligence or willful misconduct, damages payable by Bank Up Corporation to Customer in connection with any loss or damage sustained by Customer will be strictly limited to the maximum amount of insurance maintained by Bank-Up Corporation pursuant to Paragraph 28 of this Agreement. Bank Up Corporation will in no event be liable to any of the Customer Parties, or any customer of any of the Customer Parties, for any loss or damage arising directly or indirectly from an interruption in the Services from any cause other than Bank Up Corporation's negligence or misconduct.

Neither party will in any event be liable for special, exemplary or punitive damages, or loss of profits of the other party. Customer acknowledges that the fees charged for the Services have been established in reliance on these limitations of liability.

**15. LOST, DESTROYED AND MISPLACED ITEMS.** Customer agrees to assist Bank Up Corporation in obtaining replacement of any lost, destroyed or misplaced items (checks, remittance documents or other documents).

- 16. NO WARRANTY.** Except as specifically set forth in the Services Agreement, Bank Up Corporation makes no representation or warranty whatsoever, express or implied, including but not limited to any warranty of merchantability or fitness for a particular purpose, with respect to the Services or any equipment provided or leased to Customer by Bank Up Corporation.
- 17. CONFIDENTIAL NON-PUBLIC PERSONAL INFORMATION ACKNOWLEDGEMENT.** Bank Up Corporation acknowledges that in the course of the performance of its obligations under the Service Addenda, Bank Up Corporation may be required to maintain, process or otherwise come into the possession of non-public personal information of Customer's customers, whether in paper, electronic or other form, maintained by or on behalf of the Customer (the "Confidential Information"). Bank Up will use commercially reasonable efforts to safeguard the confidentiality of Confidential Information furnished in connection with this Agreement such that the Confidential Information is not disclosed to any person or entity and will not, directly or indirectly, copy, duplicate, disclose or otherwise use any such Confidential Information other than as required to perform services under this Agreement. Bank Up Corporation further acknowledges that state and federal law limits Bank Up Corporation's use or disclosure of such information except to the extent necessary to perform its obligations under the Service Addenda or as otherwise required by law.
- 18. AGREEMENTS TO MAINTAIN CONFIDENTIAL INFORMATION.** Bank Up Corporation agrees to maintain the confidentiality of the Confidential Information as required by any applicable law, including, but not limited to, the Gramm-Leach-Bliley Act, and the rules and regulations promulgated there under and to take all necessary steps to ensure that, to the extent any such Confidential Information is communicated to Bank Up Corporation, such communication occurs in a manner that will maintain the confidentiality of the Confidential Information. In the event that Bank Up Corporation employs subcontractors or agents to perform any aspect of the Services, Bank Up Corporation will ensure that such subcontractors and agents also comply with all such requirements. Bank Up Corporation will require a Service Provider in the Bank Up Corporation-Service Provider Agreement to conform to Bank Up Corporation's standards regarding the safeguarding of Confidential Information and to allow Bank Up to audit them for compliance with these standards. The obligations of Bank Up Corporation and Customer under this paragraph 18 are collectively referred to as the "Confidentiality Obligations." Bank Up Corporation will promptly investigate any security breach to determine whether such incident has resulted or is likely to result in misuse of Confidential Information, notify Customer and each of its affected customers if an incident has resulted or is likely to result in the misuse of Confidential Information, and comply with all current and future regulations with regard to the Confidential Information that are applicable to it as a third party processor. The provisions of this paragraph 18 will survive termination of this Agreement.
- 19. ASSIGNMENT.** Neither Bank Up Corporation nor Customer may assign its rights or obligations under this Agreement without obtaining prior written consent of the other party, which consent will not unreasonably be withheld, except that Bank Up Corporation may assign its contract rights under this Agreement without consent as collateral in connection with financing obtained by Bank Up Corporation.
- 20. GOVERNING LAW.** This Agreement, and the rights and obligations between the parties hereto, will be governed by the laws of the Commonwealth of Pennsylvania. Any litigation arising in any way from this Agreement shall be brought in the Court of Common Pleas of Lehigh County, Pennsylvania. w.
- 21.** Purposefully blank
- 22. WAIVER.** Waiver by either party of any breach or default of any provision in this Agreement will not be construed as a waiver of any other term or condition or of any subsequent breach or default.
- 23. FINAL AGREEMENT.** This Agreement supersedes all prior proposals, representations and agreements, oral and written, all previous negotiations and all other communications or understandings between Bank Up Corporation and Customer with respect to the subject matter of this Agreement. This Agreement may not be modified except by a writing signed by an authorized representative of the party to be bound thereby. This Agreement may be executed in counterparts, each of which will be deemed an original and legally enforceable document but all of which together will constitute the same agreement.
- 24. INDEPENDENT CONTRACTOR.** The relationship of Bank Up Corporation to the Customer created by this Agreement is that of an independent contractor, and nothing in this Agreement will be construed as constituting a partnership, joint venture, employer/employee relationship, or general agency between Bank Up Corporation and the Customer. Neither this Agreement nor any of the activities contemplated hereby will be deemed to create any fiduciary relationship between Bank Up Corporation and Customer. Bank Up Corporation will have the sole right to supervise, manage, control, and direct, assign or delegate performance of the Services. From time to time, Bank Up Corporation, as an independent contractor to Customer, may utilize additional service providers as part of the solution being provided to Customer.
- 25. EXCLUSIVITY.** Customer agrees that Bank Up Corporation will be the sole and exclusive provider to Customer of the Services. During the term of this Agreement, Customer will not enter into any agreement with any other entity to provide the Services (or any similar services) without the prior written consent of Bank Up Corporation. If Customer acquires another entity, the exclusivity provided to Bank Up Corporation under this Agreement will take effect with respect to the acquired entity as soon as practicable. If Customer is acquired by another entity, Bank Up Corporation will continue to be the provider of Services to Customer at no less than the same level or volume of Services provided hereunder immediately prior to the signing of the definitive acquisition agreement until the termination of this Agreement under Paragraph 3 or 4 above.
- 26. NOTICES.** All notices or other communications or notices required under this Agreement will be given to the parties in writing, addressed to the Chief Executive Officer, with a copy to the Chief Administrative Officer, at the address of the parties noted on page 1 as follows: (a) by registered or certified United States mail, return receipt requested and postage prepaid, or to such other addresses as the parties may substitute by written notice; or (b) by hand delivery, including courier service delivery to such addresses; or (c) by facsimile machine transmission. Such notices will be deemed duly given either three (3) calendar days after the date of mailing as described above, or one (1) calendar day after being given to an express courier or when sent by a facsimile and receipt confirmed.

**27. EQUIPMENT TAXES AND INSURANCE.** It is the sole responsibility of Customer to pay any city or county taxes applicable to leased equipment in the jurisdiction where Customer does business and to maintain adequate insurance coverage on any leased equipment belonging to Bank Up Corporation but made available to Customer or the Customers of Customer under this Agreement.

**28. INSURANCE.** Bank Up Corporation shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, at least in the following amounts and with insurers that have at least an "A" operating and "Class VII" financial rating as listed in "Best's Key Rating Guide," latest edition. Workers' Compensation coverage shall be through the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in Pennsylvania. Insurance coverage shall be primary coverage; be of an "occurrence" basis and not a "claims-made" basis, except that a professional liability policy may be "claims made"<sup>3</sup>; and remain in full force and effect until the end of Agreement responsibilities. Should any of the insurance policies be cancelled before the expiration thereof, written notice shall be provided to the Client and the City of Allentown, Department of Finance, Risk Manager at any time the Bank Up Corporation becomes aware of any cancellation or material changes in the insurance policies. Certificates of Insurance should be provided annually and stay current and in effect through all stages of the work, except that the professional liability insurance shall be maintained in effect for a minimum of one year beyond the completion of construction. All policies shall name the Client and, if the Project involves the Client's City Division, the City of Allentown as additionally insureds on the policy except for professional liability insurance and workers' compensation insurance.

<b>Type of Coverage</b>	<b>Minimum Limits</b>
Workers' Compensation (Including coverage under United States Longshoremen's and Harbor Workers Act, where applicable)	Statutory
Employer's Liability Insurance Each Accident Disease; Each Employee Disease; Aggregate	\$500,000 \$500,000 \$1,000,000
Comprehensive General (Public) Liability, including the following:  (1) XCU coverage covering explosion, collapse, underground damage. (2) Blasting hazards where applicable. (3) Personal Injury Aggregate: (4) Bodily Injury and Property Damage	\$1,000,000 per occurrence  \$2,000,000 aggregate
Motor Vehicle Liability (1) Bodily Injury and Property Damage, which shall include the following coverages: (aa) Owned (bb) Non-Owned (cc) Hired Vehicles	\$1,000,000 per occurrence \$2,000,000 aggregate
Excess/Umbrella Liability	\$5,000,000 per occurrence and in aggregate
Professional Liability	\$1,000,000

**29. PUBLICITY; SERVICE MARKS, TRADEMARKS, NAMES AND LOGOS.** The parties will consult with each other in preparing any press release that mentions or implies a relationship or names the other party in any way ("Press Release"). Neither party will issue or cause the publication of any such Press Release without the prior written consent of the other party, except that nothing herein will prohibit either party from issuing or causing publication of any such Press Release to the extent that such action is required by applicable law or the rules of any national stock exchange applicable to such party or its Affiliates, in which case the party wishing to make such disclosure, will if practicable under the circumstances, notify the other party of the proposed time of issuance of such Press Release and consult with and allow the other party reasonable time to comment on such Press Release in advance of its issuance. Neither party may use a service mark, the name or logo of the other party or its Affiliates for promotion or any other purpose without the party's prior written consent. Any request for such consent will be in writing and will include samples of or designs for the proposed use.

**30. ATTORNEYS' FEES.** In case of suit, arbitration or any other alternative dispute resolution proceeding or employment of any attorney to enforce or interpret the terms of this Agreement, the prevailing party as determined by the judge or trier of fact will be entitled to all costs and reasonable attorneys' fees.

<sup>3</sup> If a professional liability insurance policy is not an "occurrence" basis, but rather a "claims made" basis, when policies are renewed or replaced, the policy retroactive date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two years.

**31. SECURITY.** Bank Up will establish and maintain appropriate industry standards for physical, electronic and procedural controls and safeguards designed to protect the security of its systems used to provide in respect to the Services and Confidential Information. Such controls and safeguards will be established and maintained in accordance with security policies, as they may be amended from time to time. Precautions will include secure storage of documents, controlled access to processing areas, automatic fire protection/suppression systems, alarms, and security personnel.

**32. INTERPRETATION.** Any rule of law that could require interpretation of any ambiguities against the drafter is inapplicable and is hereby waived. This Agreement will be deemed to be drafted by each party. No provision will be interpreted for or against any party because that party or its attorney drafted that provision.

WHEREUPON, this Agreement is entered into as of the date first above written by:

**Bank Up Corporation**

Signature: \_\_\_\_\_

**Lehigh County Authority**

Signature: \_\_\_\_\_

By: \_\_\_\_\_

Please print

Title: \_\_\_\_\_

**Schedule C**

**eLOCKBOX SCOPE OF SERVICES**

Bank Up Corporation will act as a non-depository agent for the Authority for the purpose of acceptance and processing of remittance items.

Bank Up will aggregate automated bill pay remittances from thousands of financial institutions. The solution will consolidate electronic bill payment checks by combining hundreds of electronic sources into a single posting file and a single electronic deposit. The Authority will receive deposits of home banking payments directly from Bank Up’s network of financial institutions and receive a daily report of all payments received through this channel.

Bank Up Corporation will provide Tier 1 toll-free support for the Authority. Level 1 support includes assisting the Authority with all reasonable problem determination and troubleshooting over the phone, as well as engineering support for changes to the processing services or resolution of technical problems. Bank Up will provide a dedicated support individual and customer support to the Authority weekdays from 9AM until 9PM Eastern Time, excluding holidays. Bank Up maintains support after regular business hours as needed via its 24x7 toll free support number in the event the Authority needs to invoke incident management resources.

Bank Up Corporation will assign a Senior Technical Support Manager to the Authority. This individual will provide the Authority with an Initial Implementation Plan as well as providing ongoing technical support as required. The Initial Implementation Plan will include all aspects of the installation of the Bank Up Remittance Processing solution. Included in this plan will be the operations and technical

coordination between Bank Up Corporation and the Authority. Bank Up Corporation will also provide on-site training and installation support for the Authority staff.

## **eLOCKBOX**

### **SCHEDULE OF FEES**

<b>OPTIONAL E-LOCKBOX SERVICE</b>	<b>BASIS</b>	<b>FEE</b>
Implementation	One-time	\$500.00
Check intercept	Per check*	\$0.15

\*Subject to \$500 per month minimum.