

Agreement

This AGREEMENT, entered April 22, 2013 (the "effective date") is between City of Leesburg, Florida (herein called "Company") with its principal offices at 501 West Meadow Street, Leesburg, Florida 34749 (address) and GSC Enterprises, Inc. d/b/a Fidelity Express (herein called "Fidelity Express"), a Texas corporation, having its principal offices at 1301 Main Street, Sulphur Springs, Texas 75482.

WITNESSETH

WHEREAS, Company desires to provide its customers with retail payment processing services that will improve Company's current bill collection and processing and which will result in convenience to Company customers;

WHEREAS, Fidelity Express operates or currently provides money orders and other services at convenient, readily accessible, retail locations, which are capable of processing Company customer payments in an efficient, effective fashion; depositing said payments in designated Company accounts at specified banking institutions; and transmitting payment information;

WHEREAS, Fidelity Express wishes to provide locations to accept Company customer payments, and perform the necessary remittance processing;

In consideration of the mutual covenants and premises hereinafter contained, Company and Fidelity Express agree as follows:

1. Description of Services

Fidelity Express shall provide the following payment processing services to Company during the term of this Agreement unless so amended in writing, by mutual agreement of the parties.

- Fidelity Express shall provide retail locations for collection and processing of Company customer payments.
- On day one, Company customer pays to the Fidelity Express agent a Company bill, as well as pays to the agent a transaction/convenience fee in accordance with the fee structure set forth in Paragraph 9, and agent enters the information into a database. This payment may be in any combination of cash, personal check or money order or through pin-based debit where approved. Where the customer signs proper authorization, the check will be converted, or truncated, into an electronic ACH debit. The agent's terminal transmits the data to Fidelity Express.
- On the same business day (day one), Fidelity Express shall enter payment information into its database system; process said information; reconcile output with details and batch totals; create an electronic file and transmit the information to Company on a

mutually agreed upon time. Fidelity Express shall notify Company electronically to report the number of items and the dollar amount transmitted.

- On second business day (day two), Fidelity Express initiates an ACH into the designated Company accounts at approved banking institutions by 4:00 p.m. Central time.
via e-mail.
- The above is only a general description of basic services provided. Any other modifications, services or processes requested by Company on the part of Fidelity Express that requires additional programming after implementation shall be submitted in writing to Fidelity Express and approved in writing by Fidelity Express.

2. Term

This Agreement shall remain in effect for a period of one (1) year from the effective date and shall automatically continually renew for additional one-year terms unless written notice of termination is received 30 days prior to termination date, or as otherwise terminated as set forth below.

3. Termination

3.01 Termination for Convenience

Company or Fidelity Express may terminate this Agreement for any reason upon 60 days written notice. Upon service of said notification the parties shall have no further obligation to each other under this Agreement other than to maintain the confidentiality of any proprietary information previously provided and conclude all necessary payments for services. Fidelity Express shall cease all operations required under this Agreement on the date of termination and return as soon as possible any of the Company's property of which it may be in possession on the date of termination and thereafter.

3.02 Termination for Default

This Agreement may be terminated by either party in the event of a breach in the Agreement that remains for forty-five (45) days after written notice thereof, or in the event the same type breach occurs on three or more occasions. In the event of breach that remains after the requisite time period to rectify, or upon the third breach of the same type, then the Agreement may be terminated immediately.

3.03 Termination for Bankruptcy

Either party shall have the right to terminate this Agreement upon fifteen (15) days prior written notice in the event of a filing, by or on behalf of the other party, in any court, of a petition of bankruptcy, or insolvency or for a reorganization, or for an appointment of a receiver or trustee of all or part of that party's property.

4. Risk of Loss

Fidelity Express shall bear all risk of loss for all Company customers' payments received by its Agents, retail outlets, or subcontractor; that may be lost, stolen, destroyed or embezzled prior to Company's bank accounts being credited. Fidelity Express shall, in order to protect Company's interests, maintain insurance in sufficient amounts and form to cover said loss.

In the event Fidelity Express shall suffer a loss, it shall reconstruct the missing payments, and shall deposit in Company's bank account an amount of equal value, within 72 (seventy two) hours of the time the loss was first discovered.

5. Timely Performance

The parties acknowledge that all parts of this Agreement will be executed in a timely manner. Fidelity Express agrees and will communicate to its agents that its performance will be executed diligently and without interruption to insure that Company's banking accounts be credited within the parameters set forth in Article 1 "Description of Services". Notwithstanding that Company's designated bank accounts have been credited within the parameters set forth in this Agreement, Fidelity Express bears the responsibility for daily reconciliation and balancing of Company customer accounts. Fidelity Express shall perform any transaction research necessary to reconcile Company customer accounts, which are out of balance due to the action or inaction of Fidelity Express within five (5) days of notification thereof by Company and at no cost to Company.

6. Force Majeure

Neither party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control as a result of the following: acts of God, acts of civil or military authorities, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, earthquakes, nuclear accidents, floods, or volcanic action.

7. Payment Locations

Fidelity Express operates an agency consisting of many retail locations or sells money orders and other services in retail locations, which among other things collect utility bill payments on behalf of Company. A list of these payment outlet locations will be provided. Company shall retain the right to approve the list of payments outlets and can request Fidelity Express to add other locations, which may be mutually agreed upon between the parties. However, Fidelity Express reserves the right to immediately terminate any location or agency.

If, in Company's opinion, a certain payment outlet or group of outlets, are not providing efficient, convenient, courteous processing of payments, Company shall so notify Fidelity Express in writing. If the problem is not resolved to Company's satisfaction within seven (7) calendar days, Fidelity Express shall desist in the collection of Company payments at that outlet or group of outlets, deposit into Company's account all customer payments received to date and modify signs and promotional materials to indicate such change.

8. Independent Contractor

Company agrees that in the performance of the work contemplated hereunder, Fidelity Express shall be an independent contractor and not an employee of Company, that workers engaged by Fidelity Express on this work shall at all times be considered Fidelity Express's employees and not those of Company and that Fidelity Express will accept and assume exclusive liability and shall hold Company harmless in the payment of any and all contributions, assessments and deductions made on behalf of Fidelity Express's employees engaged in the performance of the work hereunder.

Notwithstanding any existing principal agency relationship between Fidelity Express and any other party, such as; in store outlets or subcontractors Fidelity Express agrees that it shall bear sole responsibility for the performance of the work as specified hereunder and shall solely bear all risk of loss as specified in Article 4.

Fidelity Express reserves the right to select and engage Fidelity Express locations. Company also agrees not to meet or discuss any contractual relations Fidelity Express has with any Fidelity Express agent or any other third party. An exception to the foregoing is communication to regulatory authorities.

9. Compensation

All compensation will be invoiced on a monthly basis, per the Service Fee Structure, shall be paid the Company via ACH, initiated 15 days after date of invoice. Compensation includes return payment face value, fee for return payment charge, real time remittance fees and any applicable programming hours.

Service Fee Structure (Per Payment/Item) – fees payable by Company’s customer at agent location at time payment is rendered

| Payment Method | Customer Convenience Fee | Company Convenience Fee | ⁽³⁾ Check and Money Order Re-Deposit Fee | ⁽³⁾ Check and Money Order Return Fee | ⁽⁴⁾ Real-Time Remittance Fees |
|---|---------------------------------|-------------------------------------|---|---|--|
| Check ⁽¹⁾ | \$1.50 | \$0.00 | \$2.00 | \$2.00 | \$0.03/payment |
| Cash | \$1.50 | \$0.00 | \$0.00 | \$0.00 | \$0.03/payment |
| Money Orders ⁽¹⁾ | \$1.50 | \$0.00 | \$2.00 | \$2.00 | \$0.03/payment |
| Credit/Signature Debit Card ⁽²⁾ | N/A | N/A | N/A | N/A | \$0.03/payment |
| Pin Based Debit Card | Customer Convenience Fee | Debit Fee \$0.01 to \$300.00 | Debit Fee \$300.01 to \$600.00 | | |
| Pin-Based Debit Card ⁽²⁾ | \$1.50 | \$1.25 | Additional \$1.25 | N/A | N/A |
| ⁽¹⁾ All checks and money orders are presented electronically | | | | | |
| ⁽²⁾ Both parties understand that variables outside the control of Fidelity Express affect the cost of performance on credit cards, signature debit cards and pin-based debit cards and may fluctuate during the term of the contract. In the event of such increases, Fidelity Express reserves the right to raise those fees upon giving Company thirty (30) days advance written notice. | | | | | |
| ⁽³⁾ A <u>Re-Deposit</u> is the 2 nd attempt to collect good funds on an item previously returned as non-sufficient. A <u>Return</u> is any check or money order returned from the bank in accordance with NACHA rules as non-collectible and returned to the biller. | | | | | |
| ⁽⁴⁾ All real-time processing shall be billed to the biller at the rate of three additional cents per transaction. | | | | | |

Implementation Costs – fees payable by Company

| Activity | Description of the Activity | # of Programming Hrs | Estimated Total Cost |
|---|---|----------------------|---|
| Basic Implementation | Implementation if Biller chooses up to two batches per hour during our normal production hours. | Approximately 20 Hrs | NO CHARGE |
| Multiple Batch Implementation | Implementation if Biller chooses more than two batches per hour during normal production hours. | Approximately 30 Hrs | \$150.00 x 10 (additional hrs) = \$1,500.00 |
| Real-Time Implementation | Implementation if Biller chooses real-time payment transactions (webservices design). | Approximately 60 Hrs | \$150.00 x 40 (additional hrs) = \$6,000.00 |
| Subsequent Change Requests | Requests for changes occurring after implementation, design, and/or completion. | Upon approval | \$150.00 per hr |
| Except for Basic Implementations, all other implementations will be billed monthly for programming time at a rate of \$150.00 per hour. | | | |

10. Check Processing

Fidelity Express shall notify Company by a mutually agreed upon format of any customer payments by check or money order received by agents which are returned by the bank in accordance with NACHA rules. Following receipt and notification of these returned

checks, Fidelity Express will recover the total amount of any returned check principal by deducting the total amount of such returned check principal from the Company's next day's settlement deposit or by some other method acceptable to both parties. However, appropriate back up information must accompany any such deduction; i.e., Fidelity Express will provide returned check amounts with corresponding customer account numbers equaling the amount deducted from the settlement. All bank service fees returns and reversals will be assessed and billed in accordance with the pricing grid above.

11. Pin Based Debit

Company desires to provide its customers with Pin Based Debit payment retail payment processing services that will improve Company's current bill collection and processing and which will result in convenience to Company customers. Company agrees to allow Fidelity Express to offer Company's customers another payment option via Pin Based Debit. Fidelity Express may charge customer(s) a Pin Based Debit Fee for such payment.

A customer fee is based on the following fee structure: (i) a "Transaction Fee" not to exceed \$1.50, and (ii) if applicable, a Pin-based Debit Card Transaction Fee not to exceed either (a) \$1.25 for payments of \$0.01 to \$300.00 or (b) \$2.50 for payments of \$300.01 to \$600.00.

12. Company's File Transmission Requirement

If Company currently, or subsequently during the period of this agreement, requires Fidelity Express to transmit payment files over a Virtual Private Network, data cloud, secure network, etc., Company agrees that all costs to enable Fidelity Express to acquire the necessary software, licensing, fees, etc. as well as to transmit the daily files shall be borne by Company.

13. Records

During the term of this Agreement and for a period of four (4) years thereafter, Fidelity Express shall keep, maintain and preserve, at Fidelity Express's principal office or in an alternate secure location, in the form of hard copy, microfiche, microfilm, or electronic media full records of all transactions relating to the work Fidelity Express performed under this Agreement. Upon reasonable notice, which notice shall specify the accounts, records and books requested for viewing, Company shall be afforded adequate work space and shall have full access during normal business hours to inspect, audit and reproduce any and all such accounts, records and books of Fidelity Express. Agreements between Fidelity Express and any of its subcontractors or Agents shall contain a provision identical to that stated above. To assure the quality of services provided to Company, Fidelity Express shall maintain a routine audit of its subcontractors'/Agents' facilities throughout the performance of this Agreement.

13.01 Company shall have the right, with prior reasonable notice to Fidelity Express or its payment locations, to enter upon the premises of payment locations in order to

observe the operation of the payment locations and to conduct such tests as it deems necessary to verify the integrity of the payment processing procedures. Furthermore, upon reasonable notice to Fidelity Express, which shall not be less than twenty-four (24) hours, Company shall have the right to observe Fidelity Express's operation in order to verify compliance with the terms and conditions of this Agreement.

14. Indemnification

Fidelity Express shall indemnify and hold Company harmless from and against any and all loss, damage and liability and from any and all claims and demands, suits, actions and judgments for damages on account of any actions or failures to act by Fidelity Express or its agents.

15. Publicity

Company, at its option, may provide Fidelity Express with signs or other promotional material intended to inform Company customers of Fidelity Express locations which are approved to handle its bill payments.

Company shall communicate with their customers and advise them that they (customer) have the ability to pay their Company bill at a Fidelity Express agent location. Communication shall be made once a year. The form of communication is at the option of Company. Communications shall list Fidelity Express' name and/or logo and can be made using a flyer, mailer, bill envelope, news paper ad, link to Fidelity Express web site or a link to a word document listing agent locations.

All advertising or promotional material utilized to promote use of Fidelity Express services to Company's customers shall be pre-approved by Company and Fidelity Express prior to use. Company will advise Fidelity Express when communication will be or has been made.

16. Compliance with Law

In performance of this Agreement, Fidelity Express agrees to comply with all local, City, State and Federal regulations as they may apply to the services provided, (including OSHA).

17. Notices

Any written notice required by the terms of this Agreement shall be deemed to be sufficiently given when sent by certified or registered mail, postage prepaid, to the respective parties as follows: (The foregoing addresses may be changed at any time by written notices to the other party.)

Company: City of Leesburg
Address: 501 W. Meadow Street, Leesburg, FL 34749
Attn: _____ (To be determined)

Fidelity Express
A Division of GSC Enterprises, Inc.
PO Box 768
1301 Main Street
Sulphur Springs, TX 75482
Attn: Mr. R. McKenzie – Vice President and COO

18. Heading

The headings in this Agreement are for convenience only and shall not be construed to define or limit any terms.

19. Waiver of Right

No course of dealing or failure of either party to strictly enforce any terms, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

20. Binding Nature and Assignment

This Agreement shall be binding upon the parties and their successors and permitted assigns. Company reserves the right to assign this Agreement to any wholly owned subsidiary or any affiliate company.

21. Governing Law/Jurisdiction

This Agreement shall be construed under and governed by the laws of the State of Florida.

22. Severability

In the event that one or more provisions contained in this Agreement are for any reason held to be unenforceable in any respect, such unenforceability shall not affect any other term or condition of this agreement and this agreement shall be construed as if the unenforceable provision was not contained in this agreement.

23. Entire Agreement

The parties acknowledge that they have read this Agreement and understand it and agree to be bound by its terms and conditions. Further, the parties agree that it is a complete and exclusive statement of the Agreement between them which, except for the schedule

other proposals and prior agreements, oral or written, and any other communications between the parties relating to the subject matter of this Agreement.

SIGNATURE PAGE FOLLOWS.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, to be effective upon execution by the second Party to sign.

ATTEST:

CITY OF Leesburg

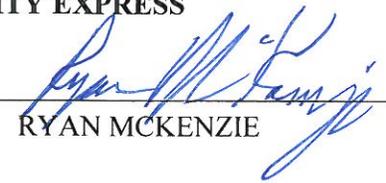
By: _____
SANNA HENDERSON, MAYOR

Address for Notice:
Department of Finance
PO Box 490630
Leesburg, FL 34749

**APPROVED AS TO
LEGAL SUFFICIENCY:**

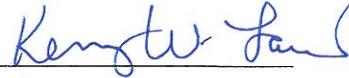
BY: _____
FRED MORRISON
City Attorney

**GSC ENTERPRISES, INC d/b/a
FIDLITY EXPRESS**

BY: 
RYAN MCKENZIE

TITLE: C.O.O.

(Pres., V-Pres., Partner, Owner)

ATTEST: 

(SEAL) CORPORATE SECRETARY

Corporation
Partnership
Individual
Incorporated in the State of _____

Address for Notice:
1301 Main Street
Sulphur Springs, TX 75482