

**COUNTY OF SAN MATEO**  
**AGREEMENT WITH INDEPENDENT CONTRACTOR**

Agreement No. \_\_\_\_\_

**Contractor Name and Address:**

MuniServices, LLC  
7335 North Palm Bluffs Avenue  
Fresno, CA 93711  
Attn: Legal Department

**Contractor:** Upon completion of work or agreed-upon work periods, mail invoice with above Agreement Number to:

Department: Office of the County Manager  
Attention: Jim Saco  
Address: 400 County Center, 1st Floor  
City, State, Zip: Redwood City, CA 94063

It is agreed between the County of San Mateo, California, and Contractor as follows:

1. **Services to be performed by Contractor** In consideration of the obligations hereinafter set forth, Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit A attached hereto for the COUNTY OF SAN MATEO.
2. **Contract Term** The term of this Agreement shall be from July 1, 2012, to December 31, 2014, unless terminated earlier by the parties in accordance with Section 10 (Termination of Agreement).
3. **County Obligations** In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and any Exhibit(s) or attachment(s) attached hereto, County shall make provide the data and agree to the obligations specified herein and in Exhibit A. The parties agree that the County is not obligated to pay any amounts to Contractor for the Contractor services specified herein.
4. **Relationship of the Parties** Contractor agrees and understands that the work/services performed under this Agreement are performed as an Independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers or advantages of County employees.
5. **Workers' Compensation Insurance** The Contractor shall have in effect, during the entire life of this Agreement, Worker's Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor certifies awareness of the provisions of section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and certifies compliance with such provisions before commencing the performance of this work of the Agreement as set forth in California Labor Code section 1861.
6. **Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all operations under this Agreement, whether such operations be by himself/herself or by any Subcontractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified by Risk Management.
7. **Hold Harmless** Contractor agrees to indemnify and defend the County, its employees and agents from any and all claims, damages and liability in any way occasioned by or arising out of the negligence of the contractor in the performance of this agreement, including, but not limited to, any sanctions, penalties or claims of damages resulting from Contractor's failure to comply with the requirements set forth in California Revenue & Taxation Code section 7056, as amended.
8. **Confidentiality** All data produced or compiled by Contractor shall be considered confidential unless it can be obtained as public record and shall not be shared with a third party without the prior written consent of County. All financial, statistical, personal, technical, and other data and information relating to the County's operations which is made available to the Contractor in order to carry out this Agreement shall be presumed to be confidential. Contractor shall protect said data and information from unauthorized use and disclosure by the observance of the same or more effective procedures as the County requires of its own personnel. The Contractor shall not, however, be required by this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of the Agreement or is rightfully obtained from third parties.
9. **Non-Assignability** Contractor shall not assign this Agreement or any portion thereof to a third party without the prior written consent of County, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement.
10. **Termination of Agreement** This Agreement will be in effect for the term specified in Section 2 above unless terminated by either party as set forth in this Section. Either party may terminate this Agreement after providing ten (10) business days, advance written notice of

the intent to terminate. This notice may be sent via e-mail or fax if it is followed by a copy mailed to the following address of the non-terminating party:

County of San Mateo  
Office of the County Manager  
Attn: Jim Saco  
400 County Center, 1st Floor  
Redwood City, CA 94063  
Fax: (650) 363-4439

MuniServices, LLC  
7335 North Palm Bluffs Avenue  
Fresno, CA 93711  
Attn: Legal Department  
Fax: (559) 312-2876

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County.

11. **Payment of Permits/Licenses** It shall be the Contractor's responsibility to obtain any license, permit or approval required from any agency for work/services to be performed at his/her own expense, prior to commencement of said work/services or forfeit any right to compensation under this Agreement.
12. **Non-Discrimination** No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to: i) termination of this Agreement; ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years; iii) liquidated damages of \$2,500 per violation; iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to: i) examine Contractor's employment records with respect to compliance with this paragraph; ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

Section 504 applies only to contractors who are providing services to member of the public. Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this contract.

13. **Equal Benefits** With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
14. **Retention of Records** Contractor shall maintain all records related to this Agreement for no less than three years after the County makes final payment or after termination of this contract and all other pending matters are closed. All records shall be subject to the examination and/or audit by agents of the County, the State of California and/or Federal grantor agencies.
15. **Compliance with State, Federal, and Local Laws, regulations, and Ordinances.** Contractor and all subcontractors shall ensure compliance with all state, federal and local laws or rules applicable to performance of the work required under this contract, and shall execute all necessary certifications of compliance therewith. Contractor certifies that the Contractor and all of its subcontractors will adhere to and certify compliance with all applicable provisions of San Mateo County Ordinance Code, including without limitation, Chapter 4.106, which regulates the use of disposable food service ware, and Chapter 2.84, which addresses equal benefits.

16. **Merger Clause** This Agreement, including Exhibit A attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the County Purchasing Agent. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. This Agreement, or facsimile proposal of the Agreement, constitutes the entire Agreement between County and Contractor. Further, liability referenced to in section 6 is limited to Contractor's negligence during the Contractor's performance under this contract.
17. **Governing Law** This Agreement, including any exhibits, shall for all purposes be deemed subject to the laws of the State of California, and in the event of a lawsuit concerning this Agreement shall be venued in the County of San Mateo.

THIS CONTRACT IS NOT VALID UNTIL SIGNED BY ALL PARTIES

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor's Name (Please Print)

I hereby certify that the services requested are necessary, that the selection process documentation is accurate, that all insurance certificates including Worker's Compensation are on file in this office, that Risk Management has approved any reductions in Contractor's insurance limits below \$1,000,000, and that no work will commence until this document is signed by the County Purchasing Agent.

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
John L. Matlbie, County Manager, San Mateo County

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

## Exhibit A

### **1. Contractor agrees:**

- A. *Reports.* Each calendar quarter starting on the first full quarter commencing July 1, 2012, Contractor will provide to County:
- Cash Receipts Analysis report – analysis of sales tax cash performance updated quarterly and delivered electronically
  - Multi-year sales tax forecast – updated quarterly and delivered electronically
  - Sales Tax Capture and Gap Analysis Report – updated quarterly and delivered electronically
  - Economic Overview – news summary of current sales tax related events updated quarterly and delivered electronically
  - Executive Two-page Summary – highlights economic changes, historical performance and news updated quarterly and delivered electronically
- B. *Sales Tax Review Meeting.* Contractor will annually conduct an in-person discussion of the County’s sales tax and economic performance. County will select the quarter that County wants to make the meeting quarter. Contractor will meet in person on each anniversary of the quarter. Contractor may also provide additional relevant reports during the meeting.
- C. Contractor will comply with Section 7056 of the Revenue and Taxation Code. Contractor understands and acknowledges that:
- i. Contractor is authorized by this Agreement to examine sales or transactions and use tax records of the State Board of Equalization (SBE) provided to County pursuant to contract under the Bradley-Burns Uniform Sales and Use Tax Law and California Revenue & Taxation Code applicable to sales or transactions and use taxes.
  - ii. Contractor is authorized to disclose information contained in, or derived from, those sales or transactions and use tax records only to those County officers or employees who have been authorized by resolution to examine such information. This Agreement does not authorize Contractor to disclose such information to any other persons
  - iii. Contractor is prohibited from performing consulting services for a retailer during the term of this Agreement.
  - iv. Contractor is prohibited from retaining the information contained in, or derived from, those sales or transactions and use tax records, after this Agreement has expired.
- D. No payment is due from the County to Contractor for any of the reports or services, including but not limited to the annual meeting service.

### **2. The County agrees:**

- A. County will provide to the State Board of Equalization (SBE) a resolution authorizing Contractor to receive the sales, transaction, and use tax data, along with a copy of this agreement.

- B. County will treat Contractor's reports as Contractor's proprietary information and will not share them with any potential competitors, including the Hinderliter de Llamas companies or any of their subsidiaries or affiliates.
- C. No payment is due from the County to Contractor for any of the reports or services, including but not limited to the annual meeting service.