



C O U N T Y A D M I N I S T R A T O R

SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

March 25, 2014

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, California 94612-4305

Dear Board Members:

SUBJECT: AWARD A CONTRACT TO HINDERLITER, DE LLAMAS & ASSOCIATES
 FOR TRANSACTIONS (SALES) AND USE TAX AUDIT SERVICES,
 REQUEST FOR PROPOSAL NO. 901143; AMOUNT: \$350,000

RECOMMENDATION:

- A. Approve and authorize the Purchasing Agent to execute a contract, attached hereto, for Master Contract No. 901143, Procurement Contract No. 9831, with Hinderliter, de Llamas & Associates (Principal: Lloyd de Llamas; Location: Diamond Bar) to provide transactions (sales) and use tax audit services, for the term 4/23/14 – 04/22/17, in the amount of \$350,000; and
- B. Adopt the resolution, attached hereto, authorizing Hinderliter, de Llamas & Associates to examine the transactions (sales) and use tax information of Alameda County pursuant to Revenue and Taxation Code §7056.

DISCUSSION/SUMMARY:

During fiscal year (FY) 2012-13, Alameda County collected over \$17,000,000 in transactions (sales) and use tax. Alameda County has an ongoing need to recover lost tax revenues by auditing transactions (sales) and use tax receipts. The County currently uses a Contractor to perform audits to locate and correct distribution and allocation errors, including contacting businesses where a probability of error exists, and to prepare and submit information to the State Board of Equalization (BOE) to correct any transactions (sales) and use tax allocation errors identified. Since this contract is soon coming to the end of its term, the County Administrator's Office and the General Services Agency (GSA) – Procurement & Support Services have rebid the contract.

The awarded contractor shall work with and advise County staff, and others as appropriate, in order to increase tax collections. The Contractor shall provide historic transactions (sales) and use tax information and projections for County budgeting purposes and specific projects. The Contractor shall prepare and provide quarterly reports on sales tax performance within the unincorporated areas of the County, and also on performance of the Public Safety Sales Tax (Proposition 172) and Alameda County's Essential Health Care Services Tax (Measure A).

Section 7056 of the Revenue and Taxation Code requires that the legislative body of a city or county pass a resolution that authorizes such a representative to have access to confidential sales and use tax records held by the BOE.

SELECTION CRITERIA/PROCESS:

The County Administrator's Office (CAO) has determined that the County does not currently have the resources to provide transactions (sales) and use tax audit services.

The CAO worked with GSA – Procurement & Support Services to develop and issue a Request for Interest (RFI). The RFI was posted on July 11, 2013 to approximately 3,296 subscribers to GSA Professional Services – Current Contract Opportunities mailing services via E-Gov, including certified Small Local Emerging Businesses (SLEB). The RFI was posted on the GSA Current Contracting Opportunities website for approximately 50 days and resulted in eight responses. Subsequently, a Request for Proposal (RFP) was issued on August 30, 2013; posted on the website for 70 days; e-mailed to the eight responders, and sent to 3,419 subscribers to the GSA Professional Services – Current Contract Opportunities mailing service. Two networking/bidders conferences were held and were attended by two vendors.

On November 8, 2013, two responses to the RFP were received. One bidder, MuniServices, LLC, was disqualified for not meeting the SLEB requirement. The remaining response was evaluated and interviewed by the County Selection Committee (CSC) comprised of two representatives from the CAO and one from the Treasurer-Tax Collector's Office. A maximum total of 550 evaluation points were available for this RFP. The total evaluation points include 50 preference points derived from a 5% preference for local vendors and a 5% preference for certified SLEB vendors for a total of 10%.

Hinderliter, de Llamas & Associates (HdL) was the only qualified bidder, had a satisfactory score, and will subcontract twenty percent (20%) to Williams, Adley & Company-CA, LLP (Principal: Robert H. Griffin; Location: Oakland), a local SLEB, for transactions (sales) and use tax audit services.

The following is the evaluation summary:

EVALUATION SUMMARY

<i>Bidder</i>	<i>Location</i>	<i>Local</i>	<i>SLEB</i>	<i>Evaluation Points</i>
<i>HdL</i>	<i>Diamond Bar, CA</i>	<i>N</i>	<i>N</i>	<i>426</i>

FUNDING:

Funding for these services is included in the County's FY 2013-14 Approved Budget and will be requested in subsequent budget years. HdL will be paid based on a percentage of actual additional tax revenues generated by their efforts. No additional appropriations will be required and there will be no increase in net County cost.

Respectfully submitted,



Susan S. Muranishi
County Administrator



Aki K. Nakao
Interim Director, General Services Agency

AKN:LL:IL:C:\Users\laurente\Desktop\Board Letter Template (New Award, SLEB Prime).docx

Attachments

cc: Patrick J. O'Connell, Auditor-Controller
Donna R. Ziegler, County Counsel

TRANSACTIONS (SALES) AND USE TAX AUDIT SERVICES
REQUEST FOR PROPOSAL NO. 901143
April 1, 2014 – March 31, 2017

<i>Vendor</i>	<i>Location</i>	<i>Estimated Dollar Value of Contract Award</i>	<i>Local Participation</i>		<i>SLEB Participation</i>	
			<i>Percentage</i>	<i>Dollar Amount</i>	<i>Percentage</i>	<i>Dollar Amount</i>
<i>Hinderliter, de Llamas & Associates</i>	<i>Diamond Bar, CA</i>	<i>\$350,000</i>	<i>20%</i>	<i>\$70,000</i>	<i>20%</i>	<i>\$70,000</i>

SLEB SUBCONTRACTING INFORMATION

*Williams, Adley & Company-CA, LLP
Certification No. 02-89970; Expiring 3/21/2016
Business License No. 26604346
Robert H. Griffin, Partner
1330 Broadway, Suite 1825
Oakland, CA 94612-2503*

**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of _____, 2013, is by and between the County of Alameda, hereinafter referred to as the "County", and Hinderliter, de Llamas & Associates hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain transactions (sales) and use tax audit services which are more fully described in Exhibit A hereto; and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide transactions (sales) and use tax audit services, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit A-1	Specific Requirements and Description of Services
Exhibit A-2	Reports
Exhibit B	Payment Terms
Exhibit C	Insurance Requirements
Exhibit D	Debarment and Suspension Certification
Exhibit E	Contract Compliance Reporting Requirements

The term of this Agreement shall be from April 23, 2014 through April 22, 2017.

The compensation payable to Contractor hereunder shall not exceed three-hundred fifty thousand dollars (\$350,000) for the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

HINDERLITER, DE LLAMAS &
ASSOCIATES

By: _____
Signature

By:  _____
Signature

Name: _____
(Printed)

Name: ANDREW NICKERSON
(Printed)

Title: Purchasing Agent

Title: PRESIDENT

Date: _____

Date: 4-15-14

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and State income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and State workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to State and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and State income taxes and pay said sums to the federal and State governments

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities

and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, State or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor's available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor's insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor's excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County's own insurance policy or self-insurance shall be called upon to protect it as a named insured.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has

been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
6. **CONFORMITY WITH LAW AND SAFETY:**
 - a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
 - b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
 - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.
7. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
 - a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of

Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

- b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and

whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or State wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a

United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
County Administrator's Office
1221 Oak Street, 5th Floor
Oakland, CA 94612
ATTN: Alice Park-Renzi

To Contractor: Hinderliter, de Llamas & Associates
1340 Valley Vista Drive, Suite 200
Diamond Bar, CA 91765
ATTN: Andrew Nickerson

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any

other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

- a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, State that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
- b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
- c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or federal law.
- d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
- e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
- f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.

- 16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement
- 17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or

documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its transactions (sales) and use tax audit services shall not exceed \$350,000 payment for

services provided hereunder prior to the effective date of said suspension, termination or abandonment.

21. SMALL LOCAL AND EMERGING BUSINESS PARTICIPATION:

Contractor shall subcontract with Williams, Adley & Company-CA, LLC (Location: 1330 Broadway, Suite 1825, Oakland, CA, 94612; Principal: Robert H. Griffin), for services to be provided under this Agreement in an amount equal to twenty percent (20%) of the contract value of this Agreement in accordance with County's Small Emerging Local Business provision, which includes but is not limited to:

- a. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- b. As is applicable, Contractor shall ensure that the certification status of participating SLEB subcontractors is maintained in compliance with the SLEB Program for the term of this contract.
- c. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance (OCC).
- d. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System. Contractor and Contractor's small and/or emerging local businesses participating as subcontractors on the awarded contract are required to use the Elation web-based compliance system as described in Exhibit E (Contract Compliance Reporting Requirements) to report and validate payments made by Prime Contractors to the certified small and/or emerging local businesses. It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Elation compliance system. SLEB prime contractor with SLEB subcontractors must enter payments made to subcontractors in the Elation System and ensure that SLEB subcontractors confirm payments received.

County will be under no obligation to pay contractor for the percent committed to a SLEB subcontractor if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak Street, Room 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org.

22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
28. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

29. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
 - c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.
 - d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
31. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software (“Contractor Products”) provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, “Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
 - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
 - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
35. **EXTENSION:** This agreement may be extended for two additional one year terms by mutual agreement of the County and the Contractor
36. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

EXHIBIT A

DEFINITION OF SERVICES

1. Contractor shall provide transactions (sales) and use tax audit services with the Specific Requirements and Description of Services set on this Exhibit A, consisting of the following:

Exhibit A-1 Specific Requirements and Description of Services

Exhibit A-2 Reports

- a. This Exhibit A has been drafted to include the requirements contained in the Request for Proposal (RFP) No. 901143, including any addenda, the proposal response of Contractor (Response), and additional services that the County obtained through negotiations, if any. In the event of any conflict (direct or indirect) among any of the exhibits, the RFP and the Response, the more stringent requirements providing the County with the broader scope of services shall have precedence, such that this Exhibit A including all attachments, the scope of work described in the RFP and the scope of work described in Contractor's proposal shall be performed to the greatest extent feasible.
- b. The RFP and Response may be relied upon to interpret this Contract and shall be applied in such a manner so that the obligations of the Contractor are to provide the County with the broadest scope of services for the best value.

2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Hinderliter, de Llamas & Associates

- Lloyd de Llamas, Executive Chairman
- Andrew Nickerson, President
- Denise Ovrom, Principal and Project Manager
- Howard Longballa, Principal
- Sheri Peasley, Principal
- Brice Russell, Principal
- Luci Romero Serlet, Principal
- Don Vestal, Principal
- Bobby Young, Principal
- Kimberly Marx, Management Analyst
- Robert Gray, President
- Linda Butterfield, Director of Production Services
- Matt Hinderliter, Director of Audit Services
- Robin Sturdivant, Local Government Advocate

- Jeff Schmeh, Chief Financial and Administrative Officer
- Mike Day, Controller
- Jennifer Pierce, Administrative Assistant

Williams, Adley & Company-CA, LLC

- Robert H. Griffin, Partner

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

EXHIBIT A-1

DESCRIPTION OF SERVICES

- A. Contractor shall maintain registration data on all active businesses in the State of California that are registered with the State Board of Equalization (SBOE), sales tax allocation information for 499 California cities, counties and transactions tax districts, property tax data for 39 counties including all cities within those counties, business license data for 126 jurisdictions, and telephone directory data for the entire State of California.
- B. Contractor shall identify and arrange for the collection of transactions (sales) and use taxes from individuals and businesses that have failed to pay such taxes by not reporting them at all, or have paid less than was (or should have been) billed by under reporting them, or to correct errors if they were billed improperly.
- C. **Process – Sales and Use Tax:** Contractor will review the County's sales and use tax for tax reporting errors in accordance with legislation as described in Title 2: Revenue and Finance, in the Alameda County General Ordinance Code. To locate potential tax reporting errors and correct those errors, Contractor shall provide the following services. For Sales and Use Tax Contractor shall provide the services for activity in the unincorporated area of the County.
1. **Business Inventory and Preliminary Identification of Potential Tax Misallocations:** The unincorporated area shall be inventoried to identify businesses from which the County is not receiving its share of sales tax revenue. In performing that inventory, Contractor shall utilize a variety of methods to ensure maximum recovery of misallocations. These include:
- a. Computer Analyses:
- Contractor shall perform quarterly reviews of every active account on the SBOE's state-wide allocation rolls reporting \$50 or more in local tax to ensure proper tax area code (TAC) assignment. Government and private sector mapping, GIS, and property tax databases shall be used extensively in this process.
- Contractor shall also apply proprietary queries and analysis to its virtually complete statewide allocation database to identify all accounts for which there has been a substantial change in allocation pattern. The deviation reviews shall be performed every three months, and shall be far more advanced and thorough than a review of the SBOE's published Quarterly Distribution Report. In addition to direct allocations, the reviews shall be also applied to the County pools to uncover potential use tax errors and

opportunities. Leads shall be quickly culled from this process and, when applicable, without the need for time-consuming manual reviews of taxpayer files.

b. Field Surveys:

Field inventories of the County's commercial and industrial areas shall be conducted every 10-12 months to identify businesses located within the Alameda County unincorporated area that appear to be under-reporting revenues or are not on the SBOE allocation rolls. Specially trained and locally based field auditors, using the latest in mapping, GPS, and digital recording technology, shall document not only the existence of sales tax producing businesses but also any relevant factors such as size, presence of a large stock of goods, will-call windows and any specific references to sales activity.

c. Permit Reviews

Contractor shall conduct a review of permits. SBOE Regulation 1699 controls when and where a permit should be issued to a given business location. Wholesalers, contractors, processors, manufacturers, and other non-retail businesses that do not normally sell merchandise often conduct occasional sales, self-accrue use tax or are levied deficiency assessments by the State. Contractor shall identify opportunities for direct allocation to the County of the local tax generated by these occasional sales or adjustments.

d. Data Matching

Contractor shall perform comparisons of taxes, including of the Bradley-Burns Local Sales and Use Tax with Essential Healthcare Services transactions tax to potentially reveal discrepancies in allocation amounts between the tax streams. Due to the differing manner in which types of tax are collected and allocated, there will be many accounts where the sales tax and transactions tax will not be in a 2:1 ratio. Contractor will provide information to County on comparisons and use analysis to help reveal missing payments and deficiencies within each tax program.

- D. **Process – Transactions and Use Tax:** Though similar to sales taxes in some respects, transactions taxes require different types of monitoring to ensure that tax is being properly collected and allocated to the District. The key difference is that tax from the sales of autos, boats and aircraft and from purchases involving the shipment of the merchandise to a location within the District by a vendor with nexus in the District, is allocated to the place of use rather than to the place of sale. For ordinary over-the-

counter sales, the collection and allocation of transactions tax is identical to that for sales tax, as it is presumed that the purchased items are for use in the District.

Contractor will review the County's transactions and use tax for tax reporting errors in accordance with legislation as described in Title 2: Revenue and Finance, in the Alameda County General Ordinance Code. For the Transaction and Use Tax services, Contractor shall provide the services for activity in and for all areas of the County, including the unincorporated area and the incorporated cities.

Contractor shall perform the following specific services pertaining to auditing Alameda County's Essential Health Care Services Transactions and Use Tax shall be provided:

1. Comparison of countywide local tax sales allocations to transactions tax for brick and mortar stores and other cash register-based businesses, where all transactions are conducted on-site within the County, and therefore subject to the transactions tax.
2. Review of any significant one-time use tax allocations to ensure that there is corresponding transactions tax if the taxpayer has nexus in the District.
3. Review of state-wide transactions tax allocations and patterns to identify any obvious errors and omissions.
4. Identification of, and follow-up with, any potentially large purchasers of supplies and equipment from sources outside the district to ensure their major vendors are properly reporting.
5. Documentation of all discovered omissions and misallocations of District tax and submittal of the proper information and forms to the SBOE for correction.
6. Contractor shall provide quarterly graphs showing the relationship between District and sales tax receipts.
7. Contractor shall provide quarterly reports that identify the top 100 District tax generators listed in descending order of dollar contribution.
8. As part of the audit service, Contractor shall install the SBOE transactions tax data into a special software program that is updated and mailed to the County quarterly. With minor exceptions such as the absence of situs addresses, the program shall provide the same functionality and report printing capabilities as the Contractor sales tax software.
9. Contractor shall provide budget estimates and quarterly updates as needed during the fiscal year to assist staff in monitoring District transactions tax flows and compare with the budget estimate.

- E. **Revenue Flow:** Contractor will screen revenue sources for tax reporting errors. Contractor shall utilize a number of proprietary systems, both manual reviews and automated database queries, to identify “leads” with respect to either misallocated or under-reported tax revenue. These systems shall be supported by the largest database of SBOE registration and allocation information available outside of the Board of Equalization itself. Current quarter allocations shall be compared to a number of baseline totals, including same quarter prior year, an average of the immediately preceding quarters, and business type or “same store” averages to quickly identify aberrations and exceptions. Account-level comparisons of the Bradley-Burns Local Tax to the Essential Health Care Services Transactions Tax shall also reveal potential misallocations and under-reporting within both revenue streams.
- F. **Accuracy:** Contractor will determine the accuracy of the tax revenue allocation for transactions (sales) and use tax. Contractor will calculate the correct billable tax rate for the entire scope of County taxpayers.

Below is a mathematical model of the sales and use tax rate for Alameda County. Contractor shall update the model to be current with actual rates at all times. Contractor shall monitor the following components of the County’s transactions (sales) and use tax revenues:

1. Fiscal Recovery Act
2. Local General Fund (Bradley-Burns)
3. Public Safety (Proposition 172)
4. Alameda County Essential Health Care Services Transactions Tax

ALAMEDA COUNTY SALES AND USE TAX RATES	
State General Fund	*4.1875%
Fiscal Recovery Act (Triple Flip)	0.25%
Local General Fund (Bradley-Burns)	0.75%
Countywide Transportation Fund	0.25%
County Realignment-Mental Health/Welfare/Public Safety	1.5625%
Public Safety Augmentation Fund	0.50%
Essential Health Care Services Transactions Tax	0.50%
TOTAL	8.00%
*Proposition 30, effective on January 1, 2013 temporarily raises the State sales and use rate 0.25% for four years and funds K-12 schools and community colleges.	

A key part of Contractor’s audit activity shall be to check the ratio between the sales tax and transactions tax. However, due to the different manner in which the two types

of tax are collected and allocated, there may be many accounts where a comparison may not result in a fixed ratio. Contractor shall examine these “out of ratio” accounts and make further inquiries as needed to understand discrepancies not obviously due to the differences in allocation methods.

- G. **History:** Contractor shall provide a database for the transactions (sales) and use tax that identifies the appropriate County taxpayers by name, address, and period allocations (monthly, quarterly, annually, etc.) for, at a minimum, the most current and previous four quarters. Contractor shall provide a single database containing both History and Distribution (see Paragraph I below).

Contractor’s sales and use tax web application for the County shall capture County wide sales occurring as early as October 1, 1993. Essential Health Care Services transactions tax amounts shall go back to the inception of the tax in July 2004. The Contractor Sales Tax Web Application shall provide data for both sales and transactions taxes. The screen for each account shall show all key information pertaining to that account including the full sales tax payment history.

Contractor shall also provide quarterly sales tax revenue reports for the unincorporated area. In addition, Contractor shall segregate project areas specified by the County and provide quarterly sales tax revenue reports for each of these areas. The reports shall identify area sales tax by specific business and business type, and include graphs illustrating trend comparisons with surrounding areas.

A listing of samples of the types of report to be provided by Contractor is contained in Exhibit A-2.

- H. **Distribution:** Contractor shall provide a database for the transactions (sales) and use tax that covers the same periods described in Paragraph H above, showing total tax receipts paid to the County for each category identified by the State/governing body that distributes the tax revenue. Contractor shall provide a single database containing both History and Distribution (see Paragraph H above).

Contractor staff shall import the County’s detailed transactions, sales and use tax data into its quarterly updated Sales Tax Web Application to facilitate County in-house analysis and printing of reports. The system shall allow County staff to search, print and export their transactions, sales and use tax data for a variety of financial, management and planning functions. The application shall provide the ability to search transactions tax producers by business name, address, SBOE account number and current and historical allocations. The archived quarterly transactions tax reports shall also be accessible through the online application. Training to all County staff and others identified by County on the use of the web application shall be provided at no additional charge.

The data on the web application shall include all sellers permit registrations within the unincorporated area boundaries including street address, owner name and address, and reported sales tax. It shall allow the County-designated staff to search businesses by street address, account number, business name, business type, and by key word in the business name. It shall allow the staff to query sales tax data by address, geographic area and more. The system shall also provide the ability for County staff to print a variety of reports in addition to exporting any needed data into Excel. The information shall, at the County's discretion, be exported to other County data sets and be integrated with the County's property and business license data using optional Contractor software. Safeguards for the The system shall include utilization of a password program to protect the confidentiality of the information.

I. **External Corrections:** On behalf of the County, Contractor shall work with the appropriate State/governing agency in order to correct the allocation errors and increase the County's revenue, when it is determined that the County is receiving less money than it would if the allocations were properly made. Contractor shall identify and correct common mistakes, such as but not limited to the following:

- Transposition errors resulting in misallocation of funds;
- Erroneous consolidation of multiple outlets;
- Misreporting of "point-of-sale" from the wrong location;
- Delays in reporting new outlets;
- Incorrectly identifying transactions as a "use tax" rather than a "sales tax"; and
- Erroneous fund transfers and adjustments.

Contractor shall also use the following methods to assist with corrections:

1. **Development of Correction Data:** Preliminary lead lists developed through any of the aforementioned audit programs shall be further culled by the Contractor to reduce the need for taxpayer contact. Remaining companies shall then be contacted by the Contractor's specialized audit unit whose members are trained to interview tax preparers and marketing, warehouse and management staff. Taxpayer interviews shall always be conducted in a business friendly, non-intrusive manner that emphasizes cooperation and protection of confidentiality.
2. **Documentation:** Solid documentation and follow-up lowers County fees by reducing the number of quarters requiring retroactive adjustment and ensures faster recovery of misallocated revenues. Therefore, telephone contacts shall, , be accompanied by a written follow-up questionnaire concerning business

activities or a specific one time transaction. This documentation shall always be filed with the petition to minimize SBOE processing time.

3. **County Review:** To avoid potential conflicts with County's in-house audit efforts, Contractor shall prepare a list of misallocated or under-reporting businesses for County officials to review and authorize prior to any invoicing. This line item, account-level approval process shall be an important step in eliminating any misunderstandings or disagreements regarding what may be considered a valid audit "find."
4. **Preparation and Submittal of Corrections:** Petitions shall be prepared (SBOE Form 549-S or 549-L) that notify and describe to the SBOE the existence and nature of the misallocation. All relevant and available supporting documentation shall be included. Copies of all petition forms and correspondence with the SBOE and taxpayers shall be provided to the County.
5. **Continuous Follow-up:** Timely follow-up on pending cases lowers fees and reduces the amount of time it takes for the County to recover its revenue. Therefore, Contractor shall employ a full-time case manager whose responsibility shall be to monitor and pro-actively oversee case inventory. An aging report shall be updated and reviewed on a monthly basis, and the appropriate follow-up shall be initiated on cases that are taking an inordinate amount of time to correct. This follow-up shall emphasize partnership and cooperation with SBOE Allocation Group staff.
6. **Appeals:** Contractor cases shall be thoroughly researched, vetted, and documented prior to submittal to ensure the fastest possible processing times and reduce the number of cases that are initially disclaimed and must be further defended through a very lengthy SBOE appeals process. Contractor cases shall be resolved favorably at either the first or second level of the SBOE petition process as outlined by Regulation 1807. However, when a further appeal is required, Contractor shall have the necessary expertise and access to competently and aggressively represent the County's interests.
7. **Common Types of Reporting Errors Identified by Contractor:** Some of the more common types of errors that Contractor will identify and corrects include:
 - a. Sales misreported as "use tax" transactions and distributed to State and county pools rather than to a county "point of sale."
 - b. "Points of sale" misreported to administrative offices or other locations outside the unincorporated area rather than to the location within a county unincorporated area where principal negotiations or orders are initiated.

- c. E-Commerce orders allocated to billing or switching equipment sites rather than the location of human participation.
- d. Misallocations occurring because sales from multiple retail outlets, order desks or offices are credited to a single location outside the unincorporated area rather than to sub outlets located within county boundaries.
- e. New registrations, accounting adjustments and additional State sales tax assessments miscoded to other jurisdictions or to allocation pools.
- f. Individual "use tax" transactions exceeding \$500,000 reported to the pools rather than "jurisdiction of first use."
- g. Erroneous distribution of the sales of construction material and fixtures to allocation pools because the sales are misidentified as installation rather than "over-the-counter" sales.

J. **Internal Corrections:** Contractor shall identify and correct transactions (sales) and use tax distribution errors by initiating and conducting ongoing tax audits to generate unrealized tax income for the County. Contractor shall identify and distinguish between:

- Unreported taxes;
- Under-reported taxes; and
- Improperly reported taxes.

Contractor shall also use the following methods to assist with corrections:

1. **Erroneous Distribution versus Deficiency:** The aforementioned programs and procedures are primarily focused on the allocation of the Bradley-Burns Local Sales and Use Tax or the Alameda County Essential Healthcare Services Transactions Tax (Measure A). The goal is to ensure that monies already remitted to the SBOE are properly distributed to appropriate local agencies. However, Contractor's audit program will also address deficiencies and omissions, including the following:
 - a. **Unreported taxes (no sales, use, or transactions tax has been paid to the State):** This may be due to a failure to register and obtain a seller's permit from the Board of Equalization, a failure to report taxable sales or purchases subject to use tax, or to erroneously or fraudulently claiming certain transactions as exempt from the tax.

- b. **Under-reported taxes (some sales, use, or transactions tax has been paid to the State, but less than the full amount due):** This may be due to understating taxable sales activity or the use tax due on purchases of equipment and consumables.
 - c. **Improperly reported taxes (transactions taxes may be reported to an incorrect district, which may have a different tax rate):** In these instances, there would be both a misallocation and a deficiency due to the improperly reported tax.
2. **Research for Prior Knowledge (Statutory Periods):** Certain types of misallocations shall be reviewed for potential retroactive payments beyond the three quarter limit established by the SBOE. Contractor shall do this by interviews with the tax preparer and a review of the State's files for evidence of prior knowledge as established in Revenue and Taxation Code Section 7209. Although the SBOE staff is conscientious about processing changes and corrections, the sheer volume of transactions can result in overlooked formal notifications. Documentation shall be automatically searched out as part of the Contractor correction process.
3. **Preparation and Submittal of Corrections:** For complex use tax or other sales issues requiring more follow-up, Contractor shall make all necessary contacts. This includes contacting business officials outside the State of California and/or reviewing all related tax files at the SBOE offices in Sacramento. All audit staff shall be thoroughly trained and possess a thorough understanding of tax laws, tax preparer reporting procedures and requirements, governmental administrative procedures, and private sector market and distribution processes that impact allocation of revenue.
4. **County Review:** Contractor's transactions, sales and use tax services shall be user-friendly and require minimum expenditure of County staff time or effort. To receive maximum benefit from the Contractor sales tax program, the County, at its discretion, may:
 - Meet quarterly with Contractor principals to review transactions sales and use tax trends and issues.
 - Keep Contractor apprised of in-house sales tax audit activity so that duplication can be avoided.

In order to avoid conflicts with in-house audit efforts, Contractor shall provide a list of misallocated or under-reporting businesses for County officials to review prior to submittal. Copies of all transmittal forms and correspondence with the

SBOE shall be provided to the County. This ensures a coordinated effort with County staff to avoid duplicate efforts.

5. **Follow-up:** Thorough documentation and follow-up on errors helps improve the turnaround time on corrections and reduces client payments for fees on retroactive recoveries. Therefore, Contractor's audit supervisors shall meet on a regular basis with the SBOE to monitor the status of submittals and to insure that corrections are being pursued.

- K. **Projections:** Contractor shall assist the County by providing transactions (sales) and use tax, Essential Health Care Services Transactions Tax, and Public Safety Sales Tax revenue projections.

Contractor shall provide a quarterly analysis reconciling transactions tax allocations, point of sale, and pool allocations against the County's budgeted sales tax projections for improved monitoring of its transactions, sales and use tax projections and mid-year adjustments. In addition, reports of registration changes and allocations shall be mailed each month to assist business license collection efforts.

Initial and mid-year projections shall be made by factoring out payment aberrations that skew the base revenue and factoring in known changes such as new or closed businesses. Contractor shall also incorporate information from over 60 economic sources as well as information gathered from quarterly client meetings to develop economic factors to apply to individual business segments; the results shall be combined into a single estimate of anticipated revenue. Contractor shall refine its projections by contacting builders of large-scale development projects to better time and estimate the value of potential payments into its estimates. Five-year forecasts shall also be provided.

The County's share of the countywide use tax allocation pool increased with the passage of AB155 in 2012 that expanded the definition of nexus for out-of-state companies required to collect California sales and use taxes. In addition, this legislation increased Healthcare Transactions Tax revenues. Contractor's projections shall include the addition of this new revenue.

Contractor shall provide estimates of the County's public safety tax (Proposition 172) amounts from the State each year. Due to the long delays in State publications of historic sales tax receipts, Contractor shall recognize the States' delay in releasing the allocation factors for how statewide public safety tax collections are to be distributed among the State's counties. To help mitigate this delay, Contractor shall use its extensive database to estimate the County's annual allocation factor in time to help the County estimate public safety tax revenues in the coming fiscal year.

A listing of samples of the types of reports to be provided by Contractor is contained in Exhibit A-2.

L. **Audit Standards:** Contractor accountants shall use sound professional judgment in determining the standards that apply to each specific audit.

1. Any determination that standard guidelines do not apply to an audit shall be reported in supporting documents. Situations may occur in which government auditors are not able to follow an applicable standard and are not able to withdraw from the audit. In those situations, the Contractor shall disclose in the Scope section of their report:
 - That an applicable standard was not followed;
 - The reasons why the standard was not followed; and
 - How that missing standard is expected to affect the audit.
2. Contractor shall meet the minimum requirements for all claims submitted as codified by the State in Regulation 1807. The State's requirements include providing the taxpayer's name, seller's permit number, complete business address, a description of the specific business activity, the name, title and telephone number of the contact person and the tax reporting periods involved. Contractor shall also include detailed supporting documentation as evidence of boundary or other errors.

M. **Advice:** Contractor shall advise County on what the most important sources of sales tax revenue are, and explain why they are the most important. Contractor shall work with County staff to utilize these reports in order to improve revenue collection. Contractor shall provide sales tax projections on specific projects for County budget purposes.

In addition to the quarterly reports that are generated for the County, Contractor shall analyze the County's data in detail and meet with appropriate County officials to review trends, point out businesses that should be contacted as part of the County's business retention program, and discuss and make recommendations regarding the economic and budget implications of the quarter's data. Contractor shall also be available to offer advice on all transactions tax issues, technical support, and policy and legislative issues.

1. **On-Call Services:** Contractor shall be "on-call" throughout each quarter of the Contract to provide opinions on sales tax estimates and proposed projects, assist with budget projections, and respond to sales and use tax inquiries related to economic development, budgeting and business license collection. When requested by the County, Contractor's principals shall also meet with Supervisor

Committees and other groups to explain sales tax regulations and their importance to the County's tax base.

2. **Technical Support:** Contractor shall, when requested by the County, conduct technical seminars for County personnel on California sales and use tax processes. To support "in-house" audit efforts, the seminars shall cover the fundamentals of sales tax and use tax auditing as well as techniques and procedures in dealing with the SBOE and taxpayers in the identification and correction of errors.

Similar seminars on the understanding and use of the data for maximizing the County's economic objectives shall be conducted for staff and/or other groups or officials.

3. **Policy and Legislative Support:** Contractor shall maintain close and positive relationships with members of the SBOE and staff to cordially and quickly resolve policy issues unique to individual clients. Contractor shall also advocate regulation and legislative changes when they are of benefit to all clients. Contractor shall not use County's name in advocating such changes without clear written authority from County.

Contractor shall provide impartial analyses of sales and use tax issues so that cities and counties can determine on their own what policy options to pursue without pressure to "churn" legislation for new audit opportunities.

4. **Use Tax Maximization:** Since its initiation in 1955, approximately 10% to 14% of the Bradley-Burns Uniform local sales and use tax that cannot be easily tied to a permanent point of sale has been allocated via a county "use tax" pool. Distribution of these pooled revenues is based on a prorated share of countywide taxable sales. The unincorporated area in Alameda County generated about 3.5% of countywide taxable sales in 2012-2013, and therefore received 3.5% of the pool revenues. The major contributors to the pool have been primarily from private party vehicle sales, equipment leases, contractors who consume material used in the improvement of real property when a sales tax has not been paid, itinerant vendors, and out-of-state purchases from vendors who have no California sales tax permit. The use tax pool generates nearly \$1,000,000 per year to the County.

Beginning in 1995, the SBOE and the State Legislature made numerous modifications that allow more of the revenues previously allocated via the pool to be allocated back to either "place of use" or "point of sale." These include:

- Permitting contractors for specific types of construction contracts exceeding \$5 million or more, to allocate the “use tax” to the jurisdiction where the construction site is located.
- Allocating use tax on new car leases back to the jurisdiction where the car was originally purchased.
- Directing use tax from auction events of \$500,000 or more to the locality where the auction is held.
- Allocating use tax from transactions over \$500,000 to the place of use.

In addition to the above, legislation that became effective January 1, 1998, provides private sector tax payers with the option of applying for a “direct payment permit” if they have \$500,000 or more in aggregate use tax transactions during the twelve months prior to applying. The certificate excuses the vendor, or lessor, from collecting use tax and allows the buyer to self-assess and pay the use tax on its own quarterly tax return, thereby allocating the revenue to the jurisdiction of use.

Contractor shall develop materials on maximizing these revenues and provide training for staff on utilizing the material as part of an ongoing business retention program. There shall be no additional charge for this service.

If internal staff resources are not available, Contractor shall for its audit percentage fee on revenues generated:

- Review permits issued by the County to determine potential construction projects that might generate additional sales tax or use tax payments.
- Explore potential candidates for a Direct Payment Permit or Purchasing Corporations.
- Contact taxpayers regarding the use tax reporting options to encourage and assist companies in exercising this allocation option.
- Track any new revenues generated as a result of the program.
- Review new business start-ups as they come into the unincorporated area boundaries, to determine potential eligibility for self-assessed use tax.

N. **Quality Control:** In addition to the County, Contractor shall make supporting documents available to auditors using their work, to appropriate oversight bodies, and to the public within the parameters of confidentiality requirements of the California Revenue and Taxation Code at no extra charge.

One method the County will use to measure the Contractor's performance shall be by the number of times claims submitted on behalf of the County are rejected or "disclaimed." This information shall be provided to the County at its request, at no charge.

Additionally, at the request of the County, a recent independent external audit report shall be provided to the County at no charge.

O. Implementation

Services shall be performed on a quarterly schedule with all deliverables provided within ninety (90) days of receipt of new data from the SBOE.

As the County's vendor for sales, use and transactions service, Contractor shall actively audit and monitor the County's transactions, sales and use tax revenues. Work under shall commence immediately upon receipt of the executed agreement with no interruption in service. The County's sales and use tax database shall be kept up-to-date by Contractor to ensure that the link to the County's business license system remains complete and current.

A newly compiled transactions tax database for the Alameda County Essential Health Care District shall be prepared and delivered to the County with the first package of deliverables under the approved agreement. Training on use of the Contractor software used to access the sales, use and transactions tax databases shall be scheduled at a time convenient to the County staff that are authorized access to the confidential information and within 15 days of delivery..

Contractor's services, unless specified otherwise, shall be on a quarterly schedule and completed within ninety (90) days of receipt of quarterly data from the State Board of Equalization. Audit activities shall be promptly conducted on each new quarter's data to identify those accounts requiring further research. Potential allocation errors and supporting documentation shall be filed with the State Board of Equalization in time to meet the State's statutory time limits to ensure that the County does not lose any revenue to which it is entitled.

Contractor shall have sufficient computer processing, storage, and back-up capacity (off-site) so that the firm never misses timely delivery to the County due to computer or other failures. Contractor shall maintain and update its equipment, plus maintain skilled IT staff, in order to mitigate the potential for interruptions.

Given that Alameda County is an existing client, there shall be no interruption in Contractor's ongoing audit process or quarterly report delivery cycle. The Contractor, at the County's discretion and subject to County approval, shall schedule a first month

review five weeks after the contract start date, and a first quarterly report due 15 weeks after the contract start date.

P. **Reports**

1. Contractor shall provide quarterly reports that show any new transactions (sales) and use tax based on businesses that have been operational for at least four months without paying the required transactions (sales) and use tax.

Contractor's quarterly reports shall also include the information included in the petition forms with the Board of Equalization under Regulation 1807 (BOE 549-S or BOE 549-L) that detail all relevant factors concerning the misallocation or deficiency in question. This includes the name of the business, the Seller's Permit number, the name of the business owner, a complete address and phone number, and the reason for the suspected misallocation or deficiency. An estimate of the audit recovery based on the established date of knowledge shall be provided on a separate report.

Each quarter, the County shall also be provided with a variety of specialized graphs and reports from Contractor's data sets that are tailored to the County's specific needs. These reports shall include, but are not limited to, the following:

- a. **Sorting of Major Tax Producers by Rank and Category:** Contractor shall provide quarterly reports of the County's top 100 sales tax generators listed in descending order of dollar contribution and shall note percentage of total County point of sale revenue that the business represents.
- b. **Analysis of Tax Activity by Category and Business Locations:** Contractor shall provide quarterly reports that illustrate tax activity by major business group and business type. These reports shall, at the County's request, include fiscal year, calendar year, and last four quarters data.
- c. **Analysis of Reporting Aberrations:** Contractor shall provide quarterly analysis of all major County businesses in a format that identifies SBOE accounting adjustments, fund transfers, and other reporting aberrations that impact the County projections and that should be factored into any revenue forecasts. This report includes State and county pool allocations and is used for a variety of financial and economic planning activities.
- d. **All In-County business outlets registered with the State Board of Equalization:** Contractor shall provide a quarterly report that includes each outlet in the County and allocation data for the current quarter and

the previous four quarters. This report shall include business name, business location, and seller's permit number.

- e. **Historical reports including growth comparisons with the State, County and Consumer Price Indices (CPI), updated monthly by the State of California and provided by the California Board of Equalization:** Contractor shall provide quarterly reports and analyses that includes per-capita comparisons with State and county averages. Comparisons with specific cities and competing market areas shall also be provided.
- f. **Processing of all monthly registration and allocation files provided by the State Board of Equalization, and making these records available to the County on electronic media:** Upon receipt of monthly registration change data from the State, Contractor shall process the data and send a report to the County for use in cross checking its business license database and searching for escaped businesses.
- g. **Custom preparation of reports organized by County-defined parameters on major sales tax producers by rank and category including growth/decline trends:**
 - (1) **Quarterly Newsletter:** A quarterly customized newsletter summarizing the County's sales tax highlights shall be prepared for general distribution. The newsletter shall be designed and presented in a manner that is non-confidential in nature and shall help provide insight into the importance of the County's economic strategies.
 - (2) **Geographic Area Reports:** Contractor shall collate the County's sales tax data into geographic areas that are defined by the County and can be generated each quarter or year. A listing of individual businesses in each area shall be included.
 - (3) **Triple Flip:** Contractor shall provide the annual Sales and Use Tax Compensation Fund Allocation, including prior year reconciliation provided by the SBOE. This information shall be included in the revenue projections prepared by Contractor.
 - (4) **Proposition 172 (Public Safety Half Cent Sales Tax):** Contractor shall provide the actual and forecast allocation factors for each fiscal year provided by the State. Contractor shall also prepare a multi-year trend analysis of the gross County reallocation that is updated each quarter.

- h. **Reports on Historic Sales Tax Information and Projections for County budgeting purposes and for specific projects:** Contractor shall use its County and statewide databases to provide reports that project future revenues, and track economic changes and trends useful in estimating future sales and use tax receipts.
 - i. **Reports and or programs to enhance the collections of Transactions (Sales) and Use Tax, as deemed necessary by the County:** Contractor shall provide quarterly reports and graphs that display sales, use and transactions tax receipts by major industry group, and includes pool allocation data and SBOE administrative fees.
 - j. **Quarterly reports that identify changes in taxes by major payers and categories, show area growth and decline comparisons, and include current graphics and table of the data for the most important sources of revenue:** These reports shall be included in the *Top 20 Deviating Businesses and Top 50 Deviating Accounts*; *Agency Comparisons Line Graph*; *County Sales Tax Trends*; and the *Top 20 Business Report*. A listing of samples of the types of report to be provided by Contractor is contained in Exhibit A-2.
 - k. **Special reports as needed for economic development and other purposes:** Contractor shall provide additional reports of sales tax data analysis. These reports shall include a quarterly *Economic Consensus Forecast*, Contractor's annual *Retail Analytics Brochure*, *Issue and Legislative Updates*; and the Contractor's bi-monthly e-newsletter *HeadLines – Trends Affecting California's Economy*.
2. All written reports submitted to the County shall begin with a Scope section which includes a title, brief description, and notes any unusual properties or exceptions that pertain to that specific report.
3. Quarterly reports shall demonstrate that any new transactions (sales) and use tax is based upon a business that has been in operation for at least four months without paying the required transactions (sales) and use tax. This report shall include:
- a. The name of the business;
 - b. The Federal Tax Identification Number of the business;
 - c. The name of the business owner;
 - d. The complete address and phone number of the business;

- e. An estimate of all taxes and penalties due; and
- f. Summary of all taxes and penalties paid by the business to a date specified on the report.

In addition, the report shall explain the reason for the change in status, such as misappropriation by the State Board of Equalization to the wrong governing agency, under-reporting of sales by the business to the State Board of Equalization, failure to report sales to the State Board of Equalization, or other reasons as appropriate.

EXHIBIT A-2

CONTRACTOR REPORTS

Contractor shall provide regular reports (in written, summary and graph formats) to the County, and special reports as requested by County. These reports shall include, but are not limited to, the following:

1. Sorting of Major Tax Producers by Rank and Category;
2. Analysis of Tax Activity by Category and Business Locations;
3. Analysis of Reporting Aberrations;
4. All In-County business outlets registered with the State Board of Equalization;
5. Historical reports including growth comparisons with the State, County and Consumer Price Indices (CPI), updated monthly by the State of California and provided by the California Board of Equalization;
6. Processing of all monthly registration and allocation files provided by the State Board of Equalization, and making these records available to the County on electronic media;
7. Custom preparation of reports organized by County-defined parameters on major sales tax producers by rank and category including growth/decline trends;
 - a. Quarterly Newsletter
 - b. Geographic Area Reports
 - c. Triple Flip
 - d. Proposition 172 (Public Safety Half Cent Tax)
8. Reports on Historic Sales Tax Information and Projections for County budgeting purposes and for specific projects;
9. Reports and or programs to enhance the collections of Transactions (Sales) and Use Tax, as deemed necessary by the County;
10. Quarterly reports that identify changes in taxes by major payers and categories, show area growth and decline comparisons, and include current graphics and table of the data for the most important sources of revenue
11. Special reports as needed for economic development and other purposes.

EXHIBIT B

PAYMENT TERMS

1. County will use its best efforts to make payment to Contractor upon successful completion and acceptance of the following services within thirty (30) days after receipt and approval of invoices.

Tax Type	Fee Rate (as a percentage of the tax revenue recovered and received by County)		
	Year 1	Year 2	Year 3
New Transactions and Use Tax ¹	15%	15%	15%
New Sales and Use Tax ²	15%	15%	15%

¹**New Transactions and Use Tax:** Contractor will charge its fee rate to the County on all new Transactions and User Tax recovered for specific periods identified as missing, or deficient, and identified through a business listings and efforts provided by the Contractor.

²**New Sales and Use Tax:** Contractor will charge its fee rate to the County on all new Sales and User Tax recovered by the Contractor in the first eight consecutive reporting quarters beginning with the receipt of the audit revenue and applies also to any retroactive back-quarter adjustment obtained. 100% of the new revenue generated by the Contractor on any give account flows to the County after the eight quarters have passed. Audit fees are billed only after the County receives additional revenue resulting from the Contractor's efforts.

2. Invoices shall be submitted to the County Administrator's Office for review and approval.
3. Total payment under the terms of this Agreement will not exceed the total amount of \$350,000. This cost includes all taxes and all other charges.

EXHIBIT C
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability; Abuse, Molestation, Sexual Actions, and Assault and Battery	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
D	Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the County	\$1,000,000 per occurrence \$2,000,000 project aggregate
E	<p><u>Endorsements and Conditions:</u></p> <ol style="list-style-type: none"> ADDITIONAL INSURED: All insurance required above with the exception of Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the County. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: <ul style="list-style-type: none"> Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above. Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured". CANCELLATION OF INSURANCE: All insurance shall be required to provide thirty (30) days advance written notice to the County of cancellation. <p>CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices provision.</p>	

EXHIBIT D

**COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION**

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- **Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;**
- **Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;**
- **Does not have a proposed debarment pending; and**
- **Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.**

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: HdL

PRINCIPAL: ANDREW NICKELSON TITLE: PRESIDENT

SIGNATURE: [Signature] DATE: 4-15-14

EXHIBIT E

COUNTY OF ALAMEDA CONTRACT COMPLIANCE REPORTING REQUIREMENTS

Upon receipt of signed contract documents, prime contractor shall immediately enter/assign subcontractors in the System, confirm payments received from the County within 5 business days in the System, immediately enter payments made to subcontractors and ensure that subcontractors confirm they received payments within 5 business days in the System. Subcontractors shall confirm their payments received from the prime contractor within 5 business days in the System.

Alameda County Contract Compliance System training and ongoing support are provided at no charge to contractors and participating sub-contractors awarded a contract as a result of this bid process for this project. Contractors having contracts with the County should schedule a representative from their office/company, along with each of their subcontractors, to attend training. The training schedule may be viewed online at http://www.elationsys.com/elationsys/support_1.htm or call Elation Systems at (925) 924-0340. A special access code will be provided to contractors and subcontractors participating in this contract awarded to allow use of the System free of charge.

It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System. Training sessions are approximately one hour and will be held periodically in a number of locations throughout Alameda County.

**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of _____, 2013, is by and between the County of Alameda, hereinafter referred to as the "County", and Hinderliter, de Llamas & Associates hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain transactions (sales) and use tax audit services which are more fully described in Exhibit A hereto; and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide transactions (sales) and use tax audit services, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit A-1	Specific Requirements and Description of Services
Exhibit A-2	Reports
Exhibit B	Payment Terms
Exhibit C	Insurance Requirements
Exhibit D	Debarment and Suspension Certification
Exhibit E	Contract Compliance Reporting Requirements

The term of this Agreement shall be from April 23, 2014 through April 22, 2017.

The compensation payable to Contractor hereunder shall not exceed three-hundred fifty thousand dollars (\$350,000) for the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

HINDERLITER, DE LLAMAS &
ASSOCIATES

By: _____
Signature

By:  _____
Signature

Name: _____
(Printed)

Name: ANDREW NICKERSON
(Printed)

Title: Purchasing Agent

Title: PRESIDENT

Date: _____

Date: 4-15-14

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and State income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and State workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to State and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and State income taxes and pay said sums to the federal and State governments

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities

and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, State or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor's available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor's insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor's excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County's own insurance policy or self-insurance shall be called upon to protect it as a named insured.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has

been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
6. **CONFORMITY WITH LAW AND SAFETY:**
 - a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
 - b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
 - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.
7. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
 - a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of

Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

- b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and

whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or State wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a

United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
County Administrator's Office
1221 Oak Street, 5th Floor
Oakland, CA 94612
ATTN: Alice Park-Renzi

To Contractor: Hinderliter, de Llamas & Associates
1340 Valley Vista Drive, Suite 200
Diamond Bar, CA 91765
ATTN: Andrew Nickerson

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. USE OF COUNTY PROPERTY: Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
15. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS: Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any

other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

- a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, State that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
- b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
- c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or federal law.
- d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
- e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
- f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.

- 16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement
- 17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or

documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its transactions (sales) and use tax audit services shall not exceed \$350,000 payment for

services provided hereunder prior to the effective date of said suspension, termination or abandonment.

21. SMALL LOCAL AND EMERGING BUSINESS PARTICIPATION:

Contractor shall subcontract with Williams, Adley & Company-CA, LLC (Location: 1330 Broadway, Suite 1825, Oakland, CA, 94612; Principal: Robert H. Griffin), for services to be provided under this Agreement in an amount equal to twenty percent (20%) of the contract value of this Agreement in accordance with County's Small Emerging Local Business provision, which includes but is not limited to:

- a. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- b. As is applicable, Contractor shall ensure that the certification status of participating SLEB subcontractors is maintained in compliance with the SLEB Program for the term of this contract.
- c. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance (OCC).
- d. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System. Contractor and Contractor's small and/or emerging local businesses participating as subcontractors on the awarded contract are required to use the Elation web-based compliance system as described in Exhibit E (Contract Compliance Reporting Requirements) to report and validate payments made by Prime Contractors to the certified small and/or emerging local businesses. It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Elation compliance system. SLEB prime contractor with SLEB subcontractors must enter payments made to subcontractors in the Elation System and ensure that SLEB subcontractors confirm payments received.

County will be under no obligation to pay contractor for the percent committed to a SLEB subcontractor if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak Street, Room 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org.

22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
28. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

29. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
 - c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.
 - d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
31. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software (“Contractor Products”) provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, “Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
 - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
 - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
35. **EXTENSION:** This agreement may be extended for two additional one year terms by mutual agreement of the County and the Contractor
36. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

EXHIBIT A

DEFINITION OF SERVICES

1. Contractor shall provide transactions (sales) and use tax audit services with the Specific Requirements and Description of Services set on this Exhibit A, consisting of the following:

Exhibit A-1 Specific Requirements and Description of Services

Exhibit A-2 Reports

- a. This Exhibit A has been drafted to include the requirements contained in the Request for Proposal (RFP) No. 901143, including any addenda, the proposal response of Contractor (Response), and additional services that the County obtained through negotiations, if any. In the event of any conflict (direct or indirect) among any of the exhibits, the RFP and the Response, the more stringent requirements providing the County with the broader scope of services shall have precedence, such that this Exhibit A including all attachments, the scope of work described in the RFP and the scope of work described in Contractor's proposal shall be performed to the greatest extent feasible.
- b. The RFP and Response may be relied upon to interpret this Contract and shall be applied in such a manner so that the obligations of the Contractor are to provide the County with the broadest scope of services for the best value.

2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Hinderliter, de Llamas & Associates

- Lloyd de Llamas, Executive Chairman
- Andrew Nickerson, President
- Denise Ovrom, Principal and Project Manager
- Howard Longballa, Principal
- Sheri Peasley, Principal
- Brice Russell, Principal
- Luci Romero Serlet, Principal
- Don Vestal, Principal
- Bobby Young, Principal
- Kimberly Marx, Management Analyst
- Robert Gray, President
- Linda Butterfield, Director of Production Services
- Matt Hinderliter, Director of Audit Services
- Robin Sturdivant, Local Government Advocate

- Jeff Schmeh, Chief Financial and Administrative Officer
- Mike Day, Controller
- Jennifer Pierce, Administrative Assistant

Williams, Adley & Company-CA, LLC

- Robert H. Griffin, Partner

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

EXHIBIT A-1

DESCRIPTION OF SERVICES

- A. Contractor shall maintain registration data on all active businesses in the State of California that are registered with the State Board of Equalization (SBOE), sales tax allocation information for 499 California cities, counties and transactions tax districts, property tax data for 39 counties including all cities within those counties, business license data for 126 jurisdictions, and telephone directory data for the entire State of California.
- B. Contractor shall identify and arrange for the collection of transactions (sales) and use taxes from individuals and businesses that have failed to pay such taxes by not reporting them at all, or have paid less than was (or should have been) billed by under reporting them, or to correct errors if they were billed improperly.
- C. **Process – Sales and Use Tax:** Contractor will review the County’s sales and use tax for tax reporting errors in accordance with legislation as described in Title 2: Revenue and Finance, in the Alameda County General Ordinance Code. To locate potential tax reporting errors and correct those errors, Contractor shall provide the following services. For Sales and Use Tax Contractor shall provide the services for activity in the unincorporated area of the County.
1. **Business Inventory and Preliminary Identification of Potential Tax Misallocations:** The unincorporated area shall be inventoried to identify businesses from which the County is not receiving its share of sales tax revenue. In performing that inventory, Contractor shall utilize a variety of methods to ensure maximum recovery of misallocations. These include:
- a. Computer Analyses:
- Contractor shall perform quarterly reviews of every active account on the SBOE’s state-wide allocation rolls reporting \$50 or more in local tax to ensure proper tax area code (TAC) assignment. Government and private sector mapping, GIS, and property tax databases shall be used extensively in this process.
- Contractor shall also apply proprietary queries and analysis to its virtually complete statewide allocation database to identify all accounts for which there has been a substantial change in allocation pattern. The deviation reviews shall be performed every three months, and shall be far more advanced and thorough than a review of the SBOE’s published Quarterly Distribution Report. In addition to direct allocations, the reviews shall be also applied to the County pools to uncover potential use tax errors and

opportunities. Leads shall be quickly culled from this process and, when applicable, without the need for time-consuming manual reviews of taxpayer files.

b. Field Surveys:

Field inventories of the County's commercial and industrial areas shall be conducted every 10-12 months to identify businesses located within the Alameda County unincorporated area that appear to be under-reporting revenues or are not on the SBOE allocation rolls. Specially trained and locally based field auditors, using the latest in mapping, GPS, and digital recording technology, shall document not only the existence of sales tax producing businesses but also any relevant factors such as size, presence of a large stock of goods, will-call windows and any specific references to sales activity.

c. Permit Reviews

Contractor shall conduct a review of permits. SBOE Regulation 1699 controls when and where a permit should be issued to a given business location. Wholesalers, contractors, processors, manufacturers, and other non-retail businesses that do not normally sell merchandise often conduct occasional sales, self-accrue use tax or are levied deficiency assessments by the State. Contractor shall identify opportunities for direct allocation to the County of the local tax generated by these occasional sales or adjustments.

d. Data Matching

Contractor shall perform comparisons of taxes, including of the Bradley-Burns Local Sales and Use Tax with Essential Healthcare Services transactions tax to potentially reveal discrepancies in allocation amounts between the tax streams. Due to the differing manner in which types of tax are collected and allocated, there will be many accounts where the sales tax and transactions tax will not be in a 2:1 ratio. Contractor will provide information to County on comparisons and use analysis to help reveal missing payments and deficiencies within each tax program.

- D. **Process – Transactions and Use Tax:** Though similar to sales taxes in some respects, transactions taxes require different types of monitoring to ensure that tax is being properly collected and allocated to the District. The key difference is that tax from the sales of autos, boats and aircraft and from purchases involving the shipment of the merchandise to a location within the District by a vendor with nexus in the District, is allocated to the place of use rather than to the place of sale. For ordinary over-the-

counter sales, the collection and allocation of transactions tax is identical to that for sales tax, as it is presumed that the purchased items are for use in the District.

Contractor will review the County's transactions and use tax for tax reporting errors in accordance with legislation as described in Title 2: Revenue and Finance, in the Alameda County General Ordinance Code. For the Transaction and Use Tax services, Contractor shall provide the services for activity in and for all areas of the County, including the unincorporated area and the incorporated cities.

Contractor shall perform the following specific services pertaining to auditing Alameda County's Essential Health Care Services Transactions and Use Tax shall be provided:

1. Comparison of countywide local tax sales allocations to transactions tax for brick and mortar stores and other cash register-based businesses, where all transactions are conducted on-site within the County, and therefore subject to the transactions tax.
2. Review of any significant one-time use tax allocations to ensure that there is corresponding transactions tax if the taxpayer has nexus in the District.
3. Review of state-wide transactions tax allocations and patterns to identify any obvious errors and omissions.
4. Identification of, and follow-up with, any potentially large purchasers of supplies and equipment from sources outside the district to ensure their major vendors are properly reporting.
5. Documentation of all discovered omissions and misallocations of District tax and submittal of the proper information and forms to the SBOE for correction.
6. Contractor shall provide quarterly graphs showing the relationship between District and sales tax receipts.
7. Contractor shall provide quarterly reports that identify the top 100 District tax generators listed in descending order of dollar contribution.
8. As part of the audit service, Contractor shall install the SBOE transactions tax data into a special software program that is updated and mailed to the County quarterly. With minor exceptions such as the absence of situs addresses, the program shall provide the same functionality and report printing capabilities as the Contractor sales tax software.
9. Contractor shall provide budget estimates and quarterly updates as needed during the fiscal year to assist staff in monitoring District transactions tax flows and compare with the budget estimate.

- E. **Revenue Flow:** Contractor will screen revenue sources for tax reporting errors. Contractor shall utilize a number of proprietary systems, both manual reviews and automated database queries, to identify “leads” with respect to either misallocated or under-reported tax revenue. These systems shall be supported by the largest database of SBOE registration and allocation information available outside of the Board of Equalization itself. Current quarter allocations shall be compared to a number of baseline totals, including same quarter prior year, an average of the immediately preceding quarters, and business type or “same store” averages to quickly identify aberrations and exceptions. Account-level comparisons of the Bradley-Burns Local Tax to the Essential Health Care Services Transactions Tax shall also reveal potential misallocations and under-reporting within both revenue streams.
- F. **Accuracy:** Contractor will determine the accuracy of the tax revenue allocation for transactions (sales) and use tax. Contractor will calculate the correct billable tax rate for the entire scope of County taxpayers.

Below is a mathematical model of the sales and use tax rate for Alameda County. Contractor shall update the model to be current with actual rates at all times. Contractor shall monitor the following components of the County’s transactions (sales) and use tax revenues:

1. Fiscal Recovery Act
2. Local General Fund (Bradley-Burns)
3. Public Safety (Proposition 172)
4. Alameda County Essential Health Care Services Transactions Tax

ALAMEDA COUNTY SALES AND USE TAX RATES	
State General Fund	*4.1875%
Fiscal Recovery Act (Triple Flip)	0.25%
Local General Fund (Bradley-Burns)	0.75%
Countywide Transportation Fund	0.25%
County Realignment-Mental Health/Welfare/Public Safety	1.5625%
Public Safety Augmentation Fund	0.50%
Essential Health Care Services Transactions Tax	0.50%
TOTAL	8.00%
*Proposition 30, effective on January 1, 2013 temporarily raises the State sales and use rate 0.25% for four years and funds K-12 schools and community colleges.	

A key part of Contractor’s audit activity shall be to check the ratio between the sales tax and transactions tax. However, due to the different manner in which the two types

of tax are collected and allocated, there may be many accounts where a comparison may not result in a fixed ratio. Contractor shall examine these “out of ratio” accounts and make further inquiries as needed to understand discrepancies not obviously due to the differences in allocation methods.

- G. **History:** Contractor shall provide a database for the transactions (sales) and use tax that identifies the appropriate County taxpayers by name, address, and period allocations (monthly, quarterly, annually, etc.) for, at a minimum, the most current and previous four quarters. Contractor shall provide a single database containing both History and Distribution (see Paragraph I below).

Contractor’s sales and use tax web application for the County shall capture County wide sales occurring as early as October 1, 1993. Essential Health Care Services transactions tax amounts shall go back to the inception of the tax in July 2004. The Contractor Sales Tax Web Application shall provide data for both sales and transactions taxes. The screen for each account shall show all key information pertaining to that account including the full sales tax payment history.

Contractor shall also provide quarterly sales tax revenue reports for the unincorporated area. In addition, Contractor shall segregate project areas specified by the County and provide quarterly sales tax revenue reports for each of these areas. The reports shall identify area sales tax by specific business and business type, and include graphs illustrating trend comparisons with surrounding areas.

A listing of samples of the types of report to be provided by Contractor is contained in Exhibit A-2.

- H. **Distribution:** Contractor shall provide a database for the transactions (sales) and use tax that covers the same periods described in Paragraph H above, showing total tax receipts paid to the County for each category identified by the State/governing body that distributes the tax revenue. Contractor shall provide a single database containing both History and Distribution (see Paragraph H above).

Contractor staff shall import the County’s detailed transactions, sales and use tax data into its quarterly updated Sales Tax Web Application to facilitate County in-house analysis and printing of reports. The system shall allow County staff to search, print and export their transactions, sales and use tax data for a variety of financial, management and planning functions. The application shall provide the ability to search transactions tax producers by business name, address, SBOE account number and current and historical allocations. The archived quarterly transactions tax reports shall also be accessible through the online application. Training to all County staff and others identified by County on the use of the web application shall be provided at no additional charge.

The data on the web application shall include all sellers permit registrations within the unincorporated area boundaries including street address, owner name and address, and reported sales tax. It shall allow the County-designated staff to search businesses by street address, account number, business name, business type, and by key word in the business name. It shall allow the staff to query sales tax data by address, geographic area and more. The system shall also provide the ability for County staff to print a variety of reports in addition to exporting any needed data into Excel. The information shall, at the County's discretion, be exported to other County data sets and be integrated with the County's property and business license data using optional Contractor software. Safeguards for the The system shall include utilization of a password program to protect the confidentiality of the information.

I. **External Corrections:** On behalf of the County, Contractor shall work with the appropriate State/governing agency in order to correct the allocation errors and increase the County's revenue, when it is determined that the County is receiving less money than it would if the allocations were properly made. Contractor shall identify and correct common mistakes, such as but not limited to the following:

- Transposition errors resulting in misallocation of funds;
- Erroneous consolidation of multiple outlets;
- Misreporting of "point-of-sale" from the wrong location;
- Delays in reporting new outlets;
- Incorrectly identifying transactions as a "use tax" rather than a "sales tax"; and
- Erroneous fund transfers and adjustments.

Contractor shall also use the following methods to assist with corrections:

1. **Development of Correction Data:** Preliminary lead lists developed through any of the aforementioned audit programs shall be further culled by the Contractor to reduce the need for taxpayer contact. Remaining companies shall then be contacted by the Contractor's specialized audit unit whose members are trained to interview tax preparers and marketing, warehouse and management staff. Taxpayer interviews shall always be conducted in a business friendly, non-intrusive manner that emphasizes cooperation and protection of confidentiality.
2. **Documentation:** Solid documentation and follow-up lowers County fees by reducing the number of quarters requiring retroactive adjustment and ensures faster recovery of misallocated revenues. Therefore, telephone contacts shall, , be accompanied by a written follow-up questionnaire concerning business

activities or a specific one time transaction. This documentation shall always be filed with the petition to minimize SBOE processing time.

3. **County Review:** To avoid potential conflicts with County's in-house audit efforts, Contractor shall prepare a list of misallocated or under-reporting businesses for County officials to review and authorize prior to any invoicing. This line item, account-level approval process shall be an important step in eliminating any misunderstandings or disagreements regarding what may be considered a valid audit "find."
4. **Preparation and Submittal of Corrections:** Petitions shall be prepared (SBOE Form 549-S or 549-L) that notify and describe to the SBOE the existence and nature of the misallocation. All relevant and available supporting documentation shall be included. Copies of all petition forms and correspondence with the SBOE and taxpayers shall be provided to the County.
5. **Continuous Follow-up:** Timely follow-up on pending cases lowers fees and reduces the amount of time it takes for the County to recover its revenue. Therefore, Contractor shall employ a full-time case manager whose responsibility shall be to monitor and pro-actively oversee case inventory. An aging report shall be updated and reviewed on a monthly basis, and the appropriate follow-up shall be initiated on cases that are taking an inordinate amount of time to correct. This follow-up shall emphasize partnership and cooperation with SBOE Allocation Group staff.
6. **Appeals:** Contractor cases shall be thoroughly researched, vetted, and documented prior to submittal to ensure the fastest possible processing times and reduce the number of cases that are initially disclaimed and must be further defended through a very lengthy SBOE appeals process. Contractor cases shall be resolved favorably at either the first or second level of the SBOE petition process as outlined by Regulation 1807. However, when a further appeal is required, Contractor shall have the necessary expertise and access to competently and aggressively represent the County's interests.
7. **Common Types of Reporting Errors Identified by Contractor:** Some of the more common types of errors that Contractor will identify and corrects include:
 - a. Sales misreported as "use tax" transactions and distributed to State and county pools rather than to a county "point of sale."
 - b. "Points of sale" misreported to administrative offices or other locations outside the unincorporated area rather than to the location within a county unincorporated area where principal negotiations or orders are initiated.

- c. E-Commerce orders allocated to billing or switching equipment sites rather than the location of human participation.
- d. Misallocations occurring because sales from multiple retail outlets, order desks or offices are credited to a single location outside the unincorporated area rather than to sub outlets located within county boundaries.
- e. New registrations, accounting adjustments and additional State sales tax assessments miscoded to other jurisdictions or to allocation pools.
- f. Individual "use tax" transactions exceeding \$500,000 reported to the pools rather than "jurisdiction of first use."
- g. Erroneous distribution of the sales of construction material and fixtures to allocation pools because the sales are misidentified as installation rather than "over-the-counter" sales.

J. **Internal Corrections:** Contractor shall identify and correct transactions (sales) and use tax distribution errors by initiating and conducting ongoing tax audits to generate unrealized tax income for the County. Contractor shall identify and distinguish between:

- Unreported taxes;
- Under-reported taxes; and
- Improperly reported taxes.

Contractor shall also use the following methods to assist with corrections:

1. **Erroneous Distribution versus Deficiency:** The aforementioned programs and procedures are primarily focused on the allocation of the Bradley-Burns Local Sales and Use Tax or the Alameda County Essential Healthcare Services Transactions Tax (Measure A). The goal is to ensure that monies already remitted to the SBOE are properly distributed to appropriate local agencies. However, Contractor's audit program will also address deficiencies and omissions, including the following:
 - a. **Unreported taxes (no sales, use, or transactions tax has been paid to the State):** This may be due to a failure to register and obtain a seller's permit from the Board of Equalization, a failure to report taxable sales or purchases subject to use tax, or to erroneously or fraudulently claiming certain transactions as exempt from the tax.

- b. **Under-reported taxes (some sales, use, or transactions tax has been paid to the State, but less than the full amount due):** This may be due to understating taxable sales activity or the use tax due on purchases of equipment and consumables.
 - c. **Improperly reported taxes (transactions taxes may be reported to an incorrect district, which may have a different tax rate):** In these instances, there would be both a misallocation and a deficiency due to the improperly reported tax.
2. **Research for Prior Knowledge (Statutory Periods):** Certain types of misallocations shall be reviewed for potential retroactive payments beyond the three quarter limit established by the SBOE. Contractor shall do this by interviews with the tax preparer and a review of the State's files for evidence of prior knowledge as established in Revenue and Taxation Code Section 7209. Although the SBOE staff is conscientious about processing changes and corrections, the sheer volume of transactions can result in overlooked formal notifications. Documentation shall be automatically searched out as part of the Contractor correction process.
3. **Preparation and Submittal of Corrections:** For complex use tax or other sales issues requiring more follow-up, Contractor shall make all necessary contacts. This includes contacting business officials outside the State of California and/or reviewing all related tax files at the SBOE offices in Sacramento. All audit staff shall be thoroughly trained and possess a thorough understanding of tax laws, tax preparer reporting procedures and requirements, governmental administrative procedures, and private sector market and distribution processes that impact allocation of revenue.
4. **County Review:** Contractor's transactions, sales and use tax services shall be user-friendly and require minimum expenditure of County staff time or effort. To receive maximum benefit from the Contractor sales tax program, the County, at its discretion, may:
- Meet quarterly with Contractor principals to review transactions sales and use tax trends and issues.
 - Keep Contractor apprised of in-house sales tax audit activity so that duplication can be avoided.

In order to avoid conflicts with in-house audit efforts, Contractor shall provide a list of misallocated or under-reporting businesses for County officials to review prior to submittal. Copies of all transmittal forms and correspondence with the

SBOE shall be provided to the County. This ensures a coordinated effort with County staff to avoid duplicate efforts.

5. **Follow-up:** Thorough documentation and follow-up on errors helps improve the turnaround time on corrections and reduces client payments for fees on retroactive recoveries. Therefore, Contractor's audit supervisors shall meet on a regular basis with the SBOE to monitor the status of submittals and to insure that corrections are being pursued.

- K. **Projections:** Contractor shall assist the County by providing transactions (sales) and use tax, Essential Health Care Services Transactions Tax, and Public Safety Sales Tax revenue projections.

Contractor shall provide a quarterly analysis reconciling transactions tax allocations, point of sale, and pool allocations against the County's budgeted sales tax projections for improved monitoring of its transactions, sales and use tax projections and mid-year adjustments. In addition, reports of registration changes and allocations shall be mailed each month to assist business license collection efforts.

Initial and mid-year projections shall be made by factoring out payment aberrations that skew the base revenue and factoring in known changes such as new or closed businesses. Contractor shall also incorporate information from over 60 economic sources as well as information gathered from quarterly client meetings to develop economic factors to apply to individual business segments; the results shall be combined into a single estimate of anticipated revenue. Contractor shall refine its projections by contacting builders of large-scale development projects to better time and estimate the value of potential payments into its estimates. Five-year forecasts shall also be provided.

The County's share of the countywide use tax allocation pool increased with the passage of AB155 in 2012 that expanded the definition of nexus for out-of-state companies required to collect California sales and use taxes. In addition, this legislation increased Healthcare Transactions Tax revenues. Contractor's projections shall include the addition of this new revenue.

Contractor shall provide estimates of the County's public safety tax (Proposition 172) amounts from the State each year. Due to the long delays in State publications of historic sales tax receipts, Contractor shall recognize the States' delay in releasing the allocation factors for how statewide public safety tax collections are to be distributed among the State's counties. To help mitigate this delay, Contractor shall use its extensive database to estimate the County's annual allocation factor in time to help the County estimate public safety tax revenues in the coming fiscal year.

A listing of samples of the types of reports to be provided by Contractor is contained in Exhibit A-2.

- L. **Audit Standards:** Contractor accountants shall use sound professional judgment in determining the standards that apply to each specific audit.
1. Any determination that standard guidelines do not apply to an audit shall be reported in supporting documents. Situations may occur in which government auditors are not able to follow an applicable standard and are not able to withdraw from the audit. In those situations, the Contractor shall disclose in the Scope section of their report:
 - That an applicable standard was not followed;
 - The reasons why the standard was not followed; and
 - How that missing standard is expected to affect the audit.
 2. Contractor shall meet the minimum requirements for all claims submitted as codified by the State in Regulation 1807. The State's requirements include providing the taxpayer's name, seller's permit number, complete business address, a description of the specific business activity, the name, title and telephone number of the contact person and the tax reporting periods involved. Contractor shall also include detailed supporting documentation as evidence of boundary or other errors.
- M. **Advice:** Contractor shall advise County on what the most important sources of sales tax revenue are, and explain why they are the most important. Contractor shall work with County staff to utilize these reports in order to improve revenue collection. Contractor shall provide sales tax projections on specific projects for County budget purposes.
- In addition to the quarterly reports that are generated for the County, Contractor shall analyze the County's data in detail and meet with appropriate County officials to review trends, point out businesses that should be contacted as part of the County's business retention program, and discuss and make recommendations regarding the economic and budget implications of the quarter's data. Contractor shall also be available to offer advice on all transactions tax issues, technical support, and policy and legislative issues.
1. **On-Call Services:** Contractor shall be "on-call" throughout each quarter of the Contract to provide opinions on sales tax estimates and proposed projects, assist with budget projections, and respond to sales and use tax inquiries related to economic development, budgeting and business license collection. When requested by the County, Contractor's principals shall also meet with Supervisor

Committees and other groups to explain sales tax regulations and their importance to the County's tax base.

2. **Technical Support:** Contractor shall, when requested by the County, conduct technical seminars for County personnel on California sales and use tax processes. To support "in-house" audit efforts, the seminars shall cover the fundamentals of sales tax and use tax auditing as well as techniques and procedures in dealing with the SBOE and taxpayers in the identification and correction of errors.

Similar seminars on the understanding and use of the data for maximizing the County's economic objectives shall be conducted for staff and/or other groups or officials.

3. **Policy and Legislative Support:** Contractor shall maintain close and positive relationships with members of the SBOE and staff to cordially and quickly resolve policy issues unique to individual clients. Contractor shall also advocate regulation and legislative changes when they are of benefit to all clients. Contractor shall not use County's name in advocating such changes without clear written authority from County.

Contractor shall provide impartial analyses of sales and use tax issues so that cities and counties can determine on their own what policy options to pursue without pressure to "churn" legislation for new audit opportunities.

4. **Use Tax Maximization:** Since its initiation in 1955, approximately 10% to 14% of the Bradley-Burns Uniform local sales and use tax that cannot be easily tied to a permanent point of sale has been allocated via a county "use tax" pool. Distribution of these pooled revenues is based on a prorated share of countywide taxable sales. The unincorporated area in Alameda County generated about 3.5% of countywide taxable sales in 2012-2013, and therefore received 3.5% of the pool revenues. The major contributors to the pool have been primarily from private party vehicle sales, equipment leases, contractors who consume material used in the improvement of real property when a sales tax has not been paid, itinerant vendors, and out-of-state purchases from vendors who have no California sales tax permit. The use tax pool generates nearly \$1,000,000 per year to the County.

Beginning in 1995, the SBOE and the State Legislature made numerous modifications that allow more of the revenues previously allocated via the pool to be allocated back to either "place of use" or "point of sale." These include:

- Permitting contractors for specific types of construction contracts exceeding \$5 million or more, to allocate the “use tax” to the jurisdiction where the construction site is located.
- Allocating use tax on new car leases back to the jurisdiction where the car was originally purchased.
- Directing use tax from auction events of \$500,000 or more to the locality where the auction is held.
- Allocating use tax from transactions over \$500,000 to the place of use.

In addition to the above, legislation that became effective January 1, 1998, provides private sector tax payers with the option of applying for a “direct payment permit” if they have \$500,000 or more in aggregate use tax transactions during the twelve months prior to applying. The certificate excuses the vendor, or lessor, from collecting use tax and allows the buyer to self-assess and pay the use tax on its own quarterly tax return, thereby allocating the revenue to the jurisdiction of use.

Contractor shall develop materials on maximizing these revenues and provide training for staff on utilizing the material as part of an ongoing business retention program. There shall be no additional charge for this service.

If internal staff resources are not available, Contractor shall for its audit percentage fee on revenues generated:

- Review permits issued by the County to determine potential construction projects that might generate additional sales tax or use tax payments.
- Explore potential candidates for a Direct Payment Permit or Purchasing Corporations.
- Contact taxpayers regarding the use tax reporting options to encourage and assist companies in exercising this allocation option.
- Track any new revenues generated as a result of the program.
- Review new business start-ups as they come into the unincorporated area boundaries, to determine potential eligibility for self-assessed use tax.

N. **Quality Control:** In addition to the County, Contractor shall make supporting documents available to auditors using their work, to appropriate oversight bodies, and to the public within the parameters of confidentiality requirements of the California Revenue and Taxation Code at no extra charge.

One method the County will use to measure the Contractor's performance shall be by the number of times claims submitted on behalf of the County are rejected or "disclaimed." This information shall be provided to the County at its request, at no charge.

Additionally, at the request of the County, a recent independent external audit report shall be provided to the County at no charge.

O. Implementation

Services shall be performed on a quarterly schedule with all deliverables provided within ninety (90) days of receipt of new data from the SBOE.

As the County's vendor for sales, use and transactions service, Contractor shall actively audit and monitor the County's transactions, sales and use tax revenues. Work under shall commence immediately upon receipt of the executed agreement with no interruption in service. The County's sales and use tax database shall be kept up-to-date by Contractor to ensure that the link to the County's business license system remains complete and current.

A newly compiled transactions tax database for the Alameda County Essential Health Care District shall be prepared and delivered to the County with the first package of deliverables under the approved agreement. Training on use of the Contractor software used to access the sales, use and transactions tax databases shall be scheduled at a time convenient to the County staff that are authorized access to the confidential information and within 15 days of delivery..

Contractor's services, unless specified otherwise, shall be on a quarterly schedule and completed within ninety (90) days of receipt of quarterly data from the State Board of Equalization. Audit activities shall be promptly conducted on each new quarter's data to identify those accounts requiring further research. Potential allocation errors and supporting documentation shall be filed with the State Board of Equalization in time to meet the State's statutory time limits to ensure that the County does not lose any revenue to which it is entitled.

Contractor shall have sufficient computer processing, storage, and back-up capacity (off-site) so that the firm never misses timely delivery to the County due to computer or other failures. Contractor shall maintain and update its equipment, plus maintain skilled IT staff, in order to mitigate the potential for interruptions.

Given that Alameda County is an existing client, there shall be no interruption in Contractor's ongoing audit process or quarterly report delivery cycle. The Contractor, at the County's discretion and subject to County approval, shall schedule a first month

review five weeks after the contract start date, and a first quarterly report due 15 weeks after the contract start date.

P. **Reports**

1. Contractor shall provide quarterly reports that show any new transactions (sales) and use tax based on businesses that have been operational for at least four months without paying the required transactions (sales) and use tax.

Contractor's quarterly reports shall also include the information included in the petition forms with the Board of Equalization under Regulation 1807 (BOE 549-S or BOE 549-L) that detail all relevant factors concerning the misallocation or deficiency in question. This includes the name of the business, the Seller's Permit number, the name of the business owner, a complete address and phone number, and the reason for the suspected misallocation or deficiency. An estimate of the audit recovery based on the established date of knowledge shall be provided on a separate report.

Each quarter, the County shall also be provided with a variety of specialized graphs and reports from Contractor's data sets that are tailored to the County's specific needs. These reports shall include, but are not limited to, the following:

- a. **Sorting of Major Tax Producers by Rank and Category:** Contractor shall provide quarterly reports of the County's top 100 sales tax generators listed in descending order of dollar contribution and shall note percentage of total County point of sale revenue that the business represents.
- b. **Analysis of Tax Activity by Category and Business Locations:** Contractor shall provide quarterly reports that illustrate tax activity by major business group and business type. These reports shall, at the County's request, include fiscal year, calendar year, and last four quarters data.
- c. **Analysis of Reporting Aberrations:** Contractor shall provide quarterly analysis of all major County businesses in a format that identifies SBOE accounting adjustments, fund transfers, and other reporting aberrations that impact the County projections and that should be factored into any revenue forecasts. This report includes State and county pool allocations and is used for a variety of financial and economic planning activities.
- d. **All In-County business outlets registered with the State Board of Equalization:** Contractor shall provide a quarterly report that includes each outlet in the County and allocation data for the current quarter and

the previous four quarters. This report shall include business name, business location, and seller's permit number.

- e. **Historical reports including growth comparisons with the State, County and Consumer Price Indices (CPI), updated monthly by the State of California and provided by the California Board of Equalization:** Contractor shall provide quarterly reports and analyses that includes per-capita comparisons with State and county averages. Comparisons with specific cities and competing market areas shall also be provided.
- f. **Processing of all monthly registration and allocation files provided by the State Board of Equalization, and making these records available to the County on electronic media:** Upon receipt of monthly registration change data from the State, Contractor shall process the data and send a report to the County for use in cross checking its business license database and searching for escaped businesses.
- g. **Custom preparation of reports organized by County-defined parameters on major sales tax producers by rank and category including growth/decline trends:**
 - (1) **Quarterly Newsletter:** A quarterly customized newsletter summarizing the County's sales tax highlights shall be prepared for general distribution. The newsletter shall be designed and presented in a manner that is non-confidential in nature and shall help provide insight into the importance of the County's economic strategies.
 - (2) **Geographic Area Reports:** Contractor shall collate the County's sales tax data into geographic areas that are defined by the County and can be generated each quarter or year. A listing of individual businesses in each area shall be included.
 - (3) **Triple Flip:** Contractor shall provide the annual Sales and Use Tax Compensation Fund Allocation, including prior year reconciliation provided by the SBOE. This information shall be included in the revenue projections prepared by Contractor.
 - (4) **Proposition 172 (Public Safety Half Cent Sales Tax):** Contractor shall provide the actual and forecast allocation factors for each fiscal year provided by the State. Contractor shall also prepare a multi-year trend analysis of the gross County reallocation that is updated each quarter.

- h. **Reports on Historic Sales Tax Information and Projections for County budgeting purposes and for specific projects:** Contractor shall use its County and statewide databases to provide reports that project future revenues, and track economic changes and trends useful in estimating future sales and use tax receipts.
 - i. **Reports and or programs to enhance the collections of Transactions (Sales) and Use Tax, as deemed necessary by the County:** Contractor shall provide quarterly reports and graphs that display sales, use and transactions tax receipts by major industry group, and includes pool allocation data and SBOE administrative fees.
 - j. **Quarterly reports that identify changes in taxes by major payers and categories, show area growth and decline comparisons, and include current graphics and table of the data for the most important sources of revenue:** These reports shall be included in the *Top 20 Deviating Businesses and Top 50 Deviating Accounts*; *Agency Comparisons Line Graph*; *County Sales Tax Trends*; and the *Top 20 Business Report*. A listing of samples of the types of report to be provided by Contractor is contained in Exhibit A-2.
 - k. **Special reports as needed for economic development and other purposes:** Contractor shall provide additional reports of sales tax data analysis. These reports shall include a quarterly *Economic Consensus Forecast*, Contractor's annual *Retail Analytics Brochure*, *Issue and Legislative Updates*; and the Contractor's bi-monthly e-newsletter *HeadLines – Trends Affecting California's Economy*.
2. All written reports submitted to the County shall begin with a Scope section which includes a title, brief description, and notes any unusual properties or exceptions that pertain to that specific report.
3. Quarterly reports shall demonstrate that any new transactions (sales) and use tax is based upon a business that has been in operation for at least four months without paying the required transactions (sales) and use tax. This report shall include:
- a. The name of the business;
 - b. The Federal Tax Identification Number of the business;
 - c. The name of the business owner;
 - d. The complete address and phone number of the business;

- e. An estimate of all taxes and penalties due; and
- f. Summary of all taxes and penalties paid by the business to a date specified on the report.

In addition, the report shall explain the reason for the change in status, such as misappropriation by the State Board of Equalization to the wrong governing agency, under-reporting of sales by the business to the State Board of Equalization, failure to report sales to the State Board of Equalization, or other reasons as appropriate.

EXHIBIT A-2

CONTRACTOR REPORTS

Contractor shall provide regular reports (in written, summary and graph formats) to the County, and special reports as requested by County. These reports shall include, but are not limited to, the following:

1. Sorting of Major Tax Producers by Rank and Category;
2. Analysis of Tax Activity by Category and Business Locations;
3. Analysis of Reporting Aberrations;
4. All In-County business outlets registered with the State Board of Equalization;
5. Historical reports including growth comparisons with the State, County and Consumer Price Indices (CPI), updated monthly by the State of California and provided by the California Board of Equalization;
6. Processing of all monthly registration and allocation files provided by the State Board of Equalization, and making these records available to the County on electronic media;
7. Custom preparation of reports organized by County-defined parameters on major sales tax producers by rank and category including growth/decline trends;
 - a. Quarterly Newsletter
 - b. Geographic Area Reports
 - c. Triple Flip
 - d. Proposition 172 (Public Safety Half Cent Tax)
8. Reports on Historic Sales Tax Information and Projections for County budgeting purposes and for specific projects;
9. Reports and or programs to enhance the collections of Transactions (Sales) and Use Tax, as deemed necessary by the County;
10. Quarterly reports that identify changes in taxes by major payers and categories, show area growth and decline comparisons, and include current graphics and table of the data for the most important sources of revenue
11. Special reports as needed for economic development and other purposes.

EXHIBIT B

PAYMENT TERMS

1. County will use its best efforts to make payment to Contractor upon successful completion and acceptance of the following services within thirty (30) days after receipt and approval of invoices.

Tax Type	Fee Rate (as a percentage of the tax revenue recovered and received by County)		
	Year 1	Year 2	Year 3
New Transactions and Use Tax ¹	15%	15%	15%
New Sales and Use Tax ²	15%	15%	15%

¹**New Transactions and Use Tax:** Contractor will charge its fee rate to the County on all new Transactions and User Tax recovered for specific periods identified as missing, or deficient, and identified through a business listings and efforts provided by the Contractor.

²**New Sales and Use Tax:** Contractor will charge its fee rate to the County on all new Sales and User Tax recovered by the Contractor in the first eight consecutive reporting quarters beginning with the receipt of the audit revenue and applies also to any retroactive back-quarter adjustment obtained. 100% of the new revenue generated by the Contractor on any give account flows to the County after the eight quarters have passed. Audit fees are billed only after the County receives additional revenue resulting from the Contractor's efforts.

2. Invoices shall be submitted to the County Administrator's Office for review and approval.
3. Total payment under the terms of this Agreement will not exceed the total amount of \$350,000. This cost includes all taxes and all other charges.

EXHIBIT C
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability; Abuse, Molestation, Sexual Actions, and Assault and Battery	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
D	Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the County	\$1,000,000 per occurrence \$2,000,000 project aggregate
E	<p><u>Endorsements and Conditions:</u></p> <ol style="list-style-type: none"> ADDITIONAL INSURED: All insurance required above with the exception of Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the County. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: <ul style="list-style-type: none"> Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above. Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured". CANCELLATION OF INSURANCE: All insurance shall be required to provide thirty (30) days advance written notice to the County of cancellation. <p>CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices provision.</p>	

EXHIBIT D

**COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION**

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- **Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;**
- **Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;**
- **Does not have a proposed debarment pending; and**
- **Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.**

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: HdL

PRINCIPAL: ANDREW NICKELSON TITLE: PRESIDENT

SIGNATURE: [Signature] DATE: 4-15-14

EXHIBIT E

COUNTY OF ALAMEDA CONTRACT COMPLIANCE REPORTING REQUIREMENTS

Upon receipt of signed contract documents, prime contractor shall immediately enter/assign subcontractors in the System, confirm payments received from the County within 5 business days in the System, immediately enter payments made to subcontractors and ensure that subcontractors confirm they received payments within 5 business days in the System. Subcontractors shall confirm their payments received from the prime contractor within 5 business days in the System.

Alameda County Contract Compliance System training and ongoing support are provided at no charge to contractors and participating sub-contractors awarded a contract as a result of this bid process for this project. Contractors having contracts with the County should schedule a representative from their office/company, along with each of their subcontractors, to attend training. The training schedule may be viewed online at http://www.elationsys.com/elationsys/support_1.htm or call Elation Systems at (925) 924-0340. A special access code will be provided to contractors and subcontractors participating in this contract awarded to allow use of the System free of charge.

It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System. Training sessions are approximately one hour and will be held periodically in a number of locations throughout Alameda County.

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA
AUTHORIZING EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS

WHEREAS, pursuant to Revenue & Taxation Code Section 7056, the County of Alameda entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local sales or transactions and use taxes; and

WHEREAS, the County Administrator of the County of Alameda deems it desirable and necessary for authorized representatives of the County to examine confidential sales or transactions and use tax records of the State Board of Equalization pertaining to sales or transactions and use taxes collected by the Board for the County pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Board.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA HEREBY RESOLVES AS FOLLOWS:

Section 1. That the County Administrator, or other officer or employee of the County designated in writing by the County Administrator to the State Board of Equalization (hereafter referred to as Board), is hereby appointed to represent the County of Alameda with authority to examine sales or transactions and use tax records of the Board pertaining to sales or transactions and use taxes collected for the County by the Board pursuant to the contract between the County and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of County sales or transactions and use taxes by the Board pursuant to that contract.

Section 2. That the County Administrator, or other officer or employee of the County designated in writing by the County Administrator, is hereby appointed to represent the County, with authority to examine those sales or transactions and use tax records of the Board, for purposes related to the governmental functions of the County for revenue management.

The information obtained by examination of Board records shall be used only for those governmental functions of the County listed above.

Section 3. Hinderliter, de Llamas & Associates is hereby designated to examine the sales or transactions and use tax records of the Board pertaining to sales or transactions and use taxes collected for the County by the Board. The person or entity designated by this section meets all of the following conditions:

- (a) has an existing contract with the County to examine those sales or transactions and use tax records;
- (b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Sections 1 or 2 of this resolution to examine the information;

- (c) is prohibited by that contract from performing consulting services for a retailer during the term of the contract; and
- (d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

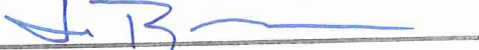
The information obtained by examination of Board records shall be used only for purposes related to the collection of County sales or transactions and use taxes by the Board pursuant to the contract between the County and the Board and for purposes relating to the governmental functions of the County listed in Section 2 of the resolution.

Section 4. That this resolution supersedes all prior resolutions of the Board of Supervisors of the County of Alameda adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

Approved as to Form

DONNA R. ZIEGLER, County Counsel

By



Print Name

John T. Seyman

THE FOREGOING was PASSED and ADOPTED by the following vote of the Alameda County Board of Supervisors this twenty-second day of April, 2014.

AYES:

NOES:

EXCUSED:

PRESIDENT, BOARD OF SUPERVISORS

File: _____

Agenda No.: _____

Document No.: _____

ATTEST:

Anika Campbell-Belton, Clerk
Board of Supervisors

By: _____
Deputy

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA
AUTHORIZING EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS

WHEREAS, pursuant to Revenue & Taxation Code Section 7056, the County of Alameda entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local sales or transactions and use taxes; and

WHEREAS, the County Administrator of the County of Alameda deems it desirable and necessary for authorized representatives of the County to examine confidential sales or transactions and use tax records of the State Board of Equalization pertaining to sales or transactions and use taxes collected by the Board for the County pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Board.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA HEREBY RESOLVES AS FOLLOWS:

Section 1. That the County Administrator, or other officer or employee of the County designated in writing by the County Administrator to the State Board of Equalization (hereafter referred to as Board), is hereby appointed to represent the County of Alameda with authority to examine sales or transactions and use tax records of the Board pertaining to sales or transactions and use taxes collected for the County by the Board pursuant to the contract between the County and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of County sales or transactions and use taxes by the Board pursuant to that contract.

Section 2. That the County Administrator, or other officer or employee of the County designated in writing by the County Administrator, is hereby appointed to represent the County, with authority to examine those sales or transactions and use tax records of the Board, for purposes related to the governmental functions of the County for revenue management.

The information obtained by examination of Board records shall be used only for those governmental functions of the County listed above.

Section 3. Hinderliter, de Llamas & Associates is hereby designated to examine the sales or transactions and use tax records of the Board pertaining to sales or transactions and use taxes collected for the County by the Board. The person or entity designated by this section meets all of the following conditions:

- (a) has an existing contract with the County to examine those sales or transactions and use tax records;
- (b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Sections 1 or 2 of this resolution to examine the information;

- (c) is prohibited by that contract from performing consulting services for a retailer during the term of the contract; and
- (d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

The information obtained by examination of Board records shall be used only for purposes related to the collection of County sales or transactions and use taxes by the Board pursuant to the contract between the County and the Board and for purposes relating to the governmental functions of the County listed in Section 2 of the resolution.

Section 4. That this resolution supersedes all prior resolutions of the Board of Supervisors of the County of Alameda adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

Approved as to Form

DONNA R. ZIEGLER, County Counsel

By

Print Name

John T. Seyman

THE FOREGOING was PASSED and ADOPTED by the following vote of the Alameda County Board of Supervisors this twenty-second day of April, 2014.

AYES:

NOES:

EXCUSED:

PRESIDENT, BOARD OF SUPERVISORS

File: _____

Agenda No.: _____

Document No.: _____

ATTEST:

Anika Campbell-Belton, Clerk
Board of Supervisors

By: _____
Deputy