

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this ^{27th} ~~15th~~ day of October, 2008, by and between **Willdan Financial Services (formerly MuniFinancial)**, a corporation, and **Nassau County**, hereinafter referred to as "Client."

WHEREAS, Client desires to employ Willdan Financial Services to furnish ongoing professional services in connection with **Arbitrage Rebate Calculation Services**, hereinafter referred to as the "Project."

NOW, THEREFORE, in consideration of the mutual premises, covenants and conditions herein contained, the parties agree as follows:

SECTION I - BASIC SERVICES

Willdan Financial Services shall provide to the Client the basic services described in detail in Exhibit "A," Scope of Services, attached hereto and incorporated herein by this reference.

SECTION II - ADDITIONAL SERVICES

If authorized, Willdan Financial Services shall furnish additional services, which are in addition to the basic services. To the extent that the additional services have been identified in this Agreement, they are itemized in Exhibit "A" and will be paid for by Client as indicated in Section III hereof. As further additional services are requested by Client, this Agreement may be modified and subject to mutual consent by execution of an addendum by authorized representatives of both parties, setting forth the additional scope of services to be performed, the performance time schedule and the compensation for such services.

SECTION III - COMPENSATION

Willdan Financial Services shall be compensated for basic services rendered under Section I, as in accordance with the terms and conditions indicated in Exhibit "B," Fees for Services; and Willdan Financial Services will be compensated for any additional services rendered under Section II as more particularly described in a fully approved and executed addendum to this Agreement. If no addendum is executed, then Willdan Financial Services shall be compensated at its then-prevailing hourly rates for such additional services.

Willdan Financial Services may submit monthly statements for basic and additional services rendered. It is intended that Client will ~~make~~ payments to Willdan Financial Services within ⁴⁵ ~~thirty (30)~~ days of invoice. All invoices not paid within ⁴⁵ ~~thirty (30)~~ days shall bear interest at the rate of 1-1/2 percent per month or the then legal rate allowed.

SECTION IV – INDEMNITY; INSURANCE REQUIRED

A. **Indemnity.** Willdan Financial Services shall indemnify and hold harmless Client, its officers, officials, directors, employees, designated agents, and appointed volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the services described herein, caused in whole or in part by the negligent acts, errors or omissions of Willdan Financial Services, any subconsultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence or willful misconduct of Client or Client's officers, agents or employees.

B. **Insurance.** Without in any way limiting Willdan Financial Services' liability pursuant to the indemnification described above, Willdan Financial Services shall maintain, during the term of this contract, the following insurance:

Coverage	Minimum Limits
General Liability Comprehensive General Liability, including: Premises and Operations Contractual Liability Personal-Injury Liability Independent Contractors Liability (if applicable)	\$1,000,000 Combined Single Limit, per occurrence and general aggregate
Automobile Liability Comprehensive Automobile Liability, (including owned, non-owned and hired autos)	\$1,000,000 Combined Single Limit, per occurrence
Workers' Compensation and Employer's Liability Workers' Compensation Insurance Employer's Liability	Statutory, \$1,000,000
Professional Liability Professional Liability Insurance	\$1,000,000 per claim and annual aggregate

SECTION V - INDEPENDENT CONTRACTOR STATUS

Willdan Financial Services shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services under this Agreement.

SECTION VI - OWNERSHIP AND MAINTENANCE OF DOCUMENTS

Willdan Financial Services may rely upon the accuracy of any documents provided to Willdan Financial Services by Client. All documents, including without limitation, reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates, schedules, spreadsheets, or other documents furnished by Willdan Financial Services pursuant to this Agreement, regardless of media (e.g., paper, electronic, magnetic, optical, Mylar, etc.), are instruments of Willdan Financial Services' services in respect to this Project and not products. All such documents shall remain the property of Willdan Financial Services, provided, however, a copy of the final documents shall be made available to Client upon request. These documents are not intended nor represented to be suitable for reuse by Client or any others on extensions of this Project or on any other project. These documents shall not be changed or reused without the prior written consent of Willdan Financial Services. Any modification or reuse without specific written verification and adoption by Willdan Financial Services for the specific purposes intended will be at user's sole risk. Client agrees to save, keep and hold harmless Willdan Financial Services from all damages, costs or expenses in law and equity including costs of suit and attorneys' fees resulting from such unauthorized reuse. Client further agrees to compensate Willdan Financial Services for any time spent or expenses incurred by Willdan Financial Services in defense of any such claim, in accordance with Willdan Financial Services' prevailing fee schedule.

Client acknowledges that its right to utilize the services and instruments of services of Willdan Financial Services will continue only so long as Client is not in default of the terms and conditions of this agreement and Client has performed all obligations under this agreement. Client further acknowledges that Willdan Financial Services has the unrestricted right to use the services provided pursuant to this agreement as well as all instruments of service provided pursuant to this agreement.

Client agrees not to use or permit any other person to use any instruments of service prepared by Willdan Financial Services, which are not final and which Willdan Financial Services does not sign. Client agrees to be liable for any such use of non-final instruments of service not signed, stamped or sealed by Willdan Financial Services and waives liability against Willdan Financial Services for their use.

Willdan Financial Services' records, documents, calculations, test information and all other instruments of service shall be kept on file in legible form for a period of not less than two years after completion of the services covered in this Agreement.

SECTION VII - SUSPENSION OF SERVICES

Client may, at any time, by thirty (30) days written notice, suspend further performance by Willdan Financial Services. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Willdan Financial Services shall be paid for all services performed and reimbursable expenses incurred prior to the suspensions date.

SECTION VIII - TERMINATION

Either party may terminate this Agreement at any time by giving thirty (30) days' written notice to the other party of such termination. If this Agreement is terminated as provided herein, Willdan Financial Services will be paid an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of Willdan Financial Services covered by this Agreement, less payments of compensation previously made.

SECTION IX - COMPLIANCE WITH LAW

Each party hereto will use reasonable care to comply with applicable laws in effect at the time the services are performed hereunder, which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement.

SECTION X - SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the parties, but either party, without written consent of the other party, shall not assign it.

SECTION XI - ATTORNEYS FEES

In the event that any judgment is entered in any action upon this Agreement, the party hereto against whom such judgment is rendered agrees to pay the amount equal to the reasonable attorneys fees of the prevailing party in such action and that such amount may be added to and made a part of such judgment.

SECTION XII - ALTERNATIVE DISPUTE RESOLUTION

If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

A. A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

B. If, within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "neutral"), seeking assistance in such regard if they have been unable to agree upon such appointment within forty (40) days from the initial meeting. The parties shall share the fees of the neutral equally.

C. In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than sixty (60) days after selection of the neutral) if the parties have been unable to agree on any of such matters within twenty (20) days after initial consultation with the neutral.

D. The parties agree to participate in good faith in the ADR to its conclusion as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration or a private adjudicator, or either party may seek an adjudicated resolution through the appropriate court.

SECTION XIII - RECORDS

Records of Willdan Financial Services' direct labor costs, payroll costs and reimbursable expenses pertaining to the Project covered by this Agreement will be kept on a generally recognized accounting basis and made available during normal business hours upon reasonable notice.

Willdan Financial Services' records will be available for examination and audit if and as required.

SECTION XIV - MISCELLANEOUS PROVISIONS

This Agreement is subject to the following special provisions:

A. The titles used in this Agreement are for general reference only and are not a part of the Agreement.

B. This Agreement shall be interpreted as though prepared by both parties.

C. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.

D. This Agreement shall be interpreted under the laws of the State of Florida.

E. This Agreement comprises a final and complete repository of the understandings between the parties and supersedes all prior or contemporary communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement.

F. Any notices given pursuant to this agreement shall be effective on the third business day after posting by first class mail, postage prepaid, to the address appearing immediately after the signatures below.

G. Willdan Financial Services shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits.

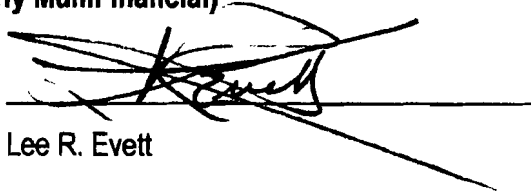
H. Willdan Financial Services' waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any subsequent breach of any other term, condition or covenant.

I. Client acknowledges that Willdan Financial Services is not responsible for the performance of services by third parties, provided that said Willdan Financial Services has not retained third parties.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated the day and year first above written.

**Willdan Financial Services
(formerly MuniFinancial)**

By:



Lee R. Evett

Title: Vice President & Group Manager

Address: 7380 Sand Lake Road, Suite 500
Orlando, Florida 32819

Nassau County, Florida.

By:



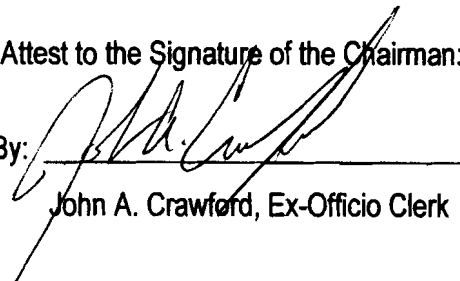
Marianne Marshall

Title: Chairman, Nassau County
Board of County Commissioners

Address: 76347 Veteran's Way
Yulee, Florida 32097

Attest to the Signature of the Chairman:

By:



John A. Crawford, Ex-Officio Clerk

Approved as to Form by the Nassau County
Attorney

By: 

David A. Hallman, County Attorney

Date: 10/16/2008

Date:

EXHIBIT A: SCOPE OF SERVICES

Phase One — Setup

- ◆ An analyst will be assigned by Willdan Financial Services to manage the arbitrage rebate consulting activities.
- ◆ The analyst will review those tax-exempt financings subject to the federal compliance regulations and discuss the work plan.
- ◆ The analyst will review pertinent documents relating to the debt to confirm that the financing is subject to the arbitrage rebate requirements and identify relevant exceptions, elections, and yield restrictions.
- ◆ The subject bond issues will be loaded into Willdan Financial Services' proprietary tracking system with their respective target calculation dates.
- ◆ Bond documents and cash flow information required for the reports will be collected.

Phase Two — Report Preparation

The analyst shall perform the following activities to determine the cumulative arbitrage liability pursuant to Section 148(f) of the Internal Revenue Code:

- ◆ Calculate the bond yield and identify all gross proceeds and transferred proceeds (advance refunding issues) allocated to the issue.
- ◆ Compare allowable arbitrage earnings to actual earnings to determine cumulative arbitrage liability.
- ◆ Review and consider application of alternative regulatory provisions that may improve the arbitrage liability.
- ◆ Verify that two senior analysts review the calculation and summary findings.
- ◆ Upon request, Willdan Financial Services will engage the services of tax counsel and an independent legal opinion shall be rendered.
- ◆ A comprehensive rebate report will be produced and include the following:
 - ✓ Computation Summary,
 - ✓ Summary Analysis of all relevant dates and assumptions,
 - ✓ Sources and uses of funds,
 - ✓ Arbitrage yield and yield restriction requirements,
 - ✓ Rebate liability by fund and aggregate liability for the issue,
 - ✓ Arbitrage/Investment Yield Comparison Graph,
 - ✓ Rebate Calculations by fund,
 - ✓ Outstanding Investments Summary, and
 - ✓ Preparation of IRS Form 8038-T and filing instructions.

Phase Three — Ongoing Additional Support

Willdan Financial Services' support does not end with report production. Willdan Financial Services analysts shall be available throughout the agreement period for the following activities:

- ◆ Review current policies and procedures for tracking expenditure and investment earnings allocations. If these systems do not provide sufficient detail to adequately calculate and monitor rebate liability, Willdan Financial Services will make recommendations to assist in complying with all applicable Federal Regulations.
- ◆ Willdan Financial Services will keep abreast of enforcement actions and Code/Regulation changes that may affect arbitrage compliance requirements. Retroactive changes requiring recalculation of a previously submitted arbitrage report shall be performed at our hourly rates.
- ◆ Assist staff in the event of a rebate calculation audit.
- ◆ Upon request, Willdan Financial Services will consult with respect to structuring of new bond issues and other matters that will affect any eventual arbitrage liability.

Client Responsibilities

The analyst will need the following documents and financial information:

- ◆ Official Statement,
- ◆ Tax Certificate (Arbitrage Certificate, Non-Arbitrage Certificate),
- ◆ IRS Form 8038-G (governmental) or Form 8038 (private activity),
- ◆ Escrow Verification (refunding issues only),
- ◆ Cash/Asset and Investment Activity Statements (or internal records of expenditure and earnings activity), and
- ◆ Current balances on funds held by the Client.

EXHIBIT B: FEES FOR SERVICES

To the extent that the necessary information is available, Willdan Financial Services (formerly MuniFinancial) endeavors to quote fees that accurately reflect the complexity of the services needed. If circumstances are encountered that affect our ability to proceed, such as additional information coming to our attention not determined or available during our scoping efforts, we will inform you promptly and seek your approval for any changes in scope, timing or fees that may result from such circumstances. For this agreement, our customary Engagement Fee will be waived.

Arbitrage Services	Fee
Base Fee. Annual report.	\$900
Optional Supplemental Analysis & Reports	
Engagement Fee. One time fee charged for newly contracted issues.	\$100
Yield Restriction Computation. If we determine that a yield reduction payment is due on yield restricted nonpurpose investments, an additional fee will be charged to analyze and determine the yield reduction payment due.	\$500
Commingled Funds Analysis. Clients providing data with commingled funds will incur an additional charge to uncommingle transactional data.	\$250
Transferred Proceeds Analysis. The regulations require an additional level of analysis for proceeds of Refunding and Refunded bonds.	\$250
Non-Bona Fide Debt Service Fund. Our base fee assumes that the Bond Fund, as defined in the bond documents, meets the bona fide debt service fund exemption to rebate. If this fund fails to qualify for this exemption an additional fee will be charged to analyze the investment activity.	\$250
Spending Exception Analysis. Semi-Annual Report	\$500
Request for Refund of Overpayment	\$150 per hour
IRS Audit Assistance	\$150 per hour
Online Compliance Management System	No Charge
Preparation of IRS Form 8038T (Payment)	No Charge

Following are the Nassau County, Florida bond issues requiring rebate liability calculations:

- Water and Sewer System Revenue Bonds, Series 2003
- Optional Gas Tax Revenue Bonds, Series 2000
- Public Improvement Bonds, Series 2001
- Special Assessment Bond, Series 2001A
- Special Assessment Bond, Series 2004
- Capital Improvement Revenue Bonds, Series 2005
- Public Improvement Refunding Bonds, Series 2007