

YADKIN COUNTY

NORTH CAROLINA

AGREEMENT FOR SERVICES

(*Munis Contract Number*) _____

This Agreement is made and entered into this 15 day of February, 20 18
("Effective Date") between Yadkin County, North Carolina ("County") and
Crestline Software d.b.a MuniBilling Utility Billing Solutions ("Provider").

WHEREAS, the County and the Provider wish to enter into a contract under which the Provider will provide certain specified services and/or materials to the County in exchange for payment. NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, conditions, and agreements herein, the County and the Provider agree as follows:

1. **Services To Be Performed.** The Provider agrees to perform the services and to provide the materials (all collectively called the "Services") for the County as authorized by the County Manager. Provider acknowledges that this Agreement does not guarantee that the County will assign the Provider any work; however, that the County from time to time may request the Provider to perform services for Yadkin County.

The Provider warrants that all materials it provides shall be of good quality and shall meet industry standards and the County's expectations and approval, and the Provider warrants that it shall perform all Services in a good and workmanlike manner, in accordance with industry standards and the County's expectations, and to the County's full satisfaction.

See "Exhibit A" attached hereto and incorporated as if fully setout herein. "Exhibit A" lists in detail the scope of services to be provided under this contract. Any changes to "Exhibit A" must be approved by the County Manager, in writing, prior to the service being provided.

2. **Term of the Agreement.** (Check the one provision that applies.)

☐ This Agreement shall end on _____, 20____.

☐ This Agreement shall continue until the Provider has completed the Services to the County's satisfaction.

☒ This Agreement shall continue until terminated in accordance with Section 8 of the Agreement.

3. **Payment to the Provider.**

- ☒ The County shall pay the Provider \$ \$ 2,625.00 every 1800/annual, 825/one time fee.
- ☐ The County shall pay the Provider a total not to exceed the amount of \$ _____ for all Services performed under this Agreement. The Provider will invoice the County for Services as they are performed, but no more frequently than monthly.

In accordance with Item 3, Payment to the Provider, the County agrees to pay the Provider for Services satisfactorily performed in accordance with this Agreement. The County shall pay each properly submitted invoice within thirty (30) days of its submission. Each invoice shall document, to the County's satisfaction, the work performed and the basis for the amount of payment sought. If the Provider fails to perform in accordance with this Agreement, the County may, without penalty, withhold any payment(s) associated with Services not properly performed until and unless the Provider completes or corrects its performance, as applicable. The County's remedies under this Agreement are not exclusive and are in addition to all other rights and remedies provided by law.

4. **E-Verify.** North Carolina General Statutes prohibit counties from entering into contracts with contractors and subcontractors under the formal bid process and/or proposals who have not complied with the requirement of Article 2 of Chapter 64 of the NC General Statutes. Said Article 2 of Chapter 64 states *The prohibition applies to all contracts subject to G.S. 143-129, which are purchase contracts with an estimated cost of \$90,000 or more, and construction or repair contracts with an estimated cost of \$500,000 or more. GS 143-129 applies to virtually all public entities, including cities, counties, local school boards, water and sewer authorities, and other special purpose local government districts and authorities.* The Contractor must submit the E-Verify Affidavit with bid proposals and/or contracts as required by NC General Statutes.

5. **Non-waiver.** If the County at any time does not require the Provider to satisfy any of the Provider's obligations under this Agreement, or if the County fails at any time to exercise any right or privilege granted to it by this Agreement, that shall not waive or limit the County's ability to require the Provider to satisfy those obligations in the future or the County's ability to enforce its rights or privileges in the future. If the County waives any breach of this Agreement by the Provider that shall not be deemed a waiver of any later breach by the Provider, nor shall it be deemed a waiver of this section of the Agreement.

6. **Independent Contractor.** For purposes of this Agreement, the Provider at all times shall be considered an independent contractor, and the County shall not be deemed the employer of the Provider or of any of the Provider's agents or employees, nor shall the County be responsible for the actions or omissions of the Provider or its agents and employees. For purposes of this Agreement, the Provider and its agents and employees shall not be deemed an employee of the County for any purpose, including (by example only and not for purposes of limitation) federal or state income taxation, unemployment benefits, or worker's compensation benefits.

7. **Insurance.** During this Agreement's term, the Provider shall maintain at its sole expense all insurances as set out in this section. All insurance policies shall be issued by a company authorized to issue insurance in the State of North Carolina. Before beginning to perform under this Agreement, the Provider shall provide the County with a certificate of insurance showing that all insurance required by this Agreement is in effect, and the Provider shall keep that certificate current by submitting to the County updated certificates as the Provider's insurance policies are renewed or otherwise modified. The Provider shall notify the County immediately if any insurance required by this Agreement will be or has been cancelled or not renewed or if the amount of coverage of any such insurance will be or has been reduced.

The Provider shall maintain worker's compensation insurance as required by North Carolina law to cover all of the Provider's employees engaged in any work under the Agreement.

The Provider shall also maintain the following insurance to cover its performance under this Agreement during the Agreement's term:

- General commercial liability in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate.
- Workers' Compensation in the amount of \$500,000 employer's liability.
- Automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit shall be \$1,000,000 for bodily injury and property damage; and \$1,000,000 uninsured/underinsured motorist coverage.

8. **Indemnity.** The Provider agrees that it shall defend, indemnify, and hold harmless the County and its officials, employees, and agents from and against any and all losses, liabilities, claims, demands, suits, costs, damages, or expenses (including reasonable attorneys' fees) arising from or related to this Agreement and/or the Services, including (by example only and not for purposes of limitation) those for bodily injury, death, or property damage. The Provider's obligations under this section shall survive termination of this Agreement.

9. **Termination.** Notwithstanding any other provision of this Agreement, this Agreement may be terminated at any time by mutual written agreement of the County and the Provider, or it may be terminated by the County upon ten (10) days' written notice to the Provider. Ten days' written notice for termination by the County is not required if the County is terminating because the Provider has breached the Agreement.

10. **Entire Agreement.** This Agreement (including any attached Exhibits) constitute the complete and entire Agreement between the County and the Provider concerning the subject matter of the Agreement and supersedes any and all prior agreements, discussions, understandings, promises, or representations concerning that subject matter. This Agreement may be modified only by a writing signed by both the County and the Provider.

11. **Governing Law and Forum for Disputes.** This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. Any lawsuit or other legal proceeding concerning this Agreement and/or the Services must be filed in Yadkin County, North Carolina, unless it is properly filed in Federal Court, in which case it must be filed in the Federal District Court for the Middle District of North Carolina.

12. **Severance Clause.** If any part of this Agreement is deemed unenforceable by a court of competent jurisdiction, then that part shall be enforced to the greatest extent legally possible, and the rest of this Agreement will remain in full force and effect.

13. **Compliance With Laws.** The Provider acknowledges and agrees that it will perform all Services and will satisfy all of its obligations under this Agreement in full compliance with all applicable federal, state, and local laws and regulations.

14. **Repair of Damages.** The Provider shall promptly and fully repair any damages that it or its employees or agents cause to the County's property. Alternatively, the County may choose in its discretion to require the Provider to fully compensate the County for any such damages rather than have the Provider repair them.

15. **Titles and Headings.** Titles and headings used in this Agreement are for convenience only and do not limit or modify the language within each section of this Agreement.

16. **Non-Assignment.** The Provider may not assign its rights or obligations under this Agreement, nor may it sub-contract any part of this Agreement, without written approval from the County.

17. **Notices.** Any notice or communication to the County or the Provider for purposes of this Agreement shall be delivered or shall be deposited in the United States Mail, first class, addressed to the addressee below:

THE COUNTY

Lisa Hughes
Yadkin County Manager
PO Box 220
Yadkinville, NC 27055

THE PROVIDER

John Yergey - President
Crestline Software d.b.a MuniBilling Utility Billing Solutions
303-C Pisgah Church Rd
Greensboro, NC 27455

18. **Number and gender.** This Agreement's use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

19. **Exhibits.** To the extent of a conflict between the above language of this Agreement and any attachments, the above language of this Agreement will control.

IN WITNESS WHEREOF, the County and the Provider have caused this Agreement to be executed as of the Effective Date.

THE COUNTY

BY: 

Name: Lisa Hughes

Title: County Manager

THE PROVIDER

BY: 

Name: John Yergy

Title: President

This instrument has been pre-audited in
the manner required by the Local
Government Budget and Fiscal Control Act.

Lindsey Cearlock

Digitally signed by Lindsey Cearlock
DN: cn=Lindsey Cearlock, ou=Yadkin County, ou=Finance,
email=lcearlock@yadkincountync.gov, c=US
Date: 2018.03.08 08:15:18 -0500

Yadkin County Finance Officer

EXHIBIT A

TO AGREEMENT TO SERVICES

Below is a detailed listing of the scope of services to be provided under this contract. Any changes to "Exhibit A" must be approved by the County Manager, in writing, prior to the service being provided. (The detailed listing of the scope of services may also be described on one or more sheets attached hereto and incorporated herein, but each must be signed by the Provider and the County.)

Conversion and System Functionality

This document serves to identify all tasks that will be performed for a successful conversion to MuniBilling, as well as any custom functionality to be completed as part of the initial conversion. Any conversion tasks or functionality not listed here including, but not limited to: ACH import/export files, meter integration, 3rd party file transfers, lockbox integration, payment processor integration, accounting software integration, GIS software integration, custom reports, custom data exports, may incur additional charges that will be quoted as needed.

Support Agreement

All MuniBilling customers receive unlimited phone and email support from 8:00AM ET to 8:00PM ET Monday through Friday as part of the monthly subscription cost.

Support includes:

- Questions about software functionality: how to use any feature of the system, advice on best practices, reporting questions, any problems that may arise from using the system
- Issues or questions relating to any integration that is quoted in this document or quoted at a later time including but not limited to: ACH import/export files, meter integration, 3rd party file transfers, lockbox integration, payment processor integration, accounting software integration, GIS software integration.
- Issues or questions relating to custom features quoted in this document or at a later time including but not limited to: custom reports, custom data exports, custom system functionality.

Out of Scope Work

Additional integration work:

- We understand that after converting to MuniBilling additional new or change to existing integration work may be required including integrating with payment processors, lockbox processing, meter integration or any other new or changing software integration. In the event additional integration work is required that is not in the scope of this document, a new quote will be prepared outlining the scope of work to be approved by the client.

New system functionality:

- We are constantly improving MuniBilling and will always accept suggestions for improvement to the system. Often suggestions are implemented and made available to all clients for free, and this is one of the many benefits of using cloud-based software. However, occasionally a specific custom feature may be required after converting to MuniBilling that is time sensitive and needed only for one client. In this event a new quote will be prepared outlining the scope of work to be approved by the client.

Additional data migration:

- Any data migration tasks not included in the Conversion Tasks section of this document including but not limited to: bill/payment history, meter reading history, customer deposits, and any additional data fields.
- A change to the data migration tasks listed under the Conversion Tasks section of this document including but not limited to: changing the categorization of customer accounts, reassigning rates, moving or changing any data already migrated.
- In the event additional data migration is required, or a change to the original data migration is needed a new quote will be prepared outlining the scope of work to be approved by the client.

Re-training staff:

- User training is included in this quote, as well as all ongoing support. If, however, all users at the site are terminated or replaced MuniBilling will provide certified training for new staff members at the price of \$179.00. You can have multiple individuals involved in new training certification at the same time without incurring additional cost.

Conversion Tasks

All tasks listed below are included in the quoted price for conversion and ongoing subscription to MuniBilling.

- Train customer data Input
 - Train on meter information input
 - Configure and test meter reading file transfer (to and from MuniBilling) with Master Meter software
- Configure rates, billing types, accounting setup, segregation of customer accounts by geographic or other requirements