



Professional Services Agreement

This is an Agreement between Ramsey County, a political subdivision of the State of Minnesota, on behalf of Finance, 121 7th Place East, Suite 4000, Saint Paul, MN 55101 ("County") and Holiday Stationstores, LLC, 4567 American Blvd. W., Bloomington, MN, 55437, registered as a Limited Liability Company in the State of Minnesota ("Contractor").

1. Term

1.1.

The original term of this Agreement shall be from February 8, 2022 through February 7, 2027 and may not be renewed.

2. Scope of Service

The County agrees to purchase, and the Contractor agrees to furnish, services described as follows:

2.1.

2.1.1 Requirements

Contractor shall provide Gift Cards to the County and shall meet the following requirements:

- i. Denominations: gift cards must be available in multiple denominations.
- ii. Shipping destinations: Contractor must be able to ship physical gift cards to all Ramsey County office and locations, including but not limited to the following:

Workforce Solutions:

2266 2nd Street N.
North St. Paul, MN 55109

Health and Wellness Administration:

160 East Kellogg Blvd.
Saint Paul, MN 55102

Public Health:

90 West Plato Boulevard, Suite 200
Saint Paul, MN 55107

- iii. Shipping: Contractor will issue gift cards and ship order within 24-48 hours of a request from the County. Orders will be shipped via FedEx Express Saver or 2-Day at Contractor's expense, unless County requests expedited shipping.
- iv. Delivery: deliveries from Contractor shall require a signature upon delivery at the designated County location.
- v. Dedicated representative: Contractor must designate a representative to serve as the key point of contact for the County.
- vi. Customer service: Contractor must provide a customer service line accessible to the County during business hours. Problems with orders and shipping must be resolved in a timely manner.
- vii. Compliance with State Statute: Contractors shall comply with Minn. Stat. §325G.53: <https://www.revisor.mn.gov/statutes/cite/325G.53>
- viii. Reporting: Contractor shall submit reports to the County departments that ordered gift cards upon request and at least monthly. Reports shall include information about gift cards ordered by that department.
- ix. Method of payment: Contractor must provide the County with detailed itemized invoices for gift cards purchased by the County.

2.1.2 Ordering process

To order gift cards, County must complete the Holiday Gift Card Order form, which is attached and made a part of this Agreement as Attachment A.

The order form must be emailed to giftcards@holidaycompanies.com. Once the order form has been received by Contractor, Contractor shall send an email confirmation with an invoice attached. Contractor will ship activated gift cards to the County once payment has been received. The County shall not be liable for cards that are lost or stolen during the shipping or delivery process. If an order is not delivered successfully to the County, Contractor shall remove the balance from the cards in that order and send new cards to the County at no additional cost to the County.

2.2.

The Contractor shall make every reasonable effort to provide services in a universally accessible, multi-cultural and/or multi-lingual manner to persons of diverse populations.

2.3.

The Contractor agrees to furnish the County with additional programmatic and financial information it reasonably requires for effective monitoring of services. Such information shall be furnished within a reasonable period, set by the County, upon request.

3. Schedule

The Contractor shall provide services as and if requested by the County, it being understood that the County might not purchase any services under this Agreement.

4. Cost

4.1.

The County shall pay the Contractor the following unit rates:
Gift Cards charged at face value

4.2.

Contractor shall not charge the County any fees for shipping gift cards to County locations.

5. General Contract/Agreement Terms and Conditions

5.1. Payment

5.1.1.

No payment will be made until the invoice has been approved by the County.

5.1.2.

Payments shall be made when the materials/services have been received in accordance with the provisions of the resulting contract.

5.2. Application for Payments

5.2.1.

The Contractor shall submit an invoice as mutually agreed upon by Contractor and the County.

5.2.2.

Invoices for any goods or services not identified in this Agreement will be disallowed.

5.2.3.

Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount.

5.2.4.

Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Contractor exceed the percentage of project completion, as determined by the County.

5.2.5.

Payment of interest and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

5.2.6.

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the County for undisputed services provided by the subcontractor. The Contractor shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

5.3. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners or joint ventures between the parties or as constituting the Contractor as an employee of the County.

5.4. Successors, Subcontracting and Assignment

5.4.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the County in respect to all covenants and obligations contained in this Agreement.

5.4.2.

The Contractor shall not assign or transfer any interest in this Agreement without prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

5.4.3.

The Contractor shall not enter into any subcontract for performance of any services under this Agreement without the prior written approval of the County. The Contractor shall be responsible for the performance of all subcontractors.

5.5. Compliance With Legal Requirements

5.5.1.

The Contractor shall comply with all applicable federal, state and local laws and the rules and regulations of any regulatory body acting thereunder and all licenses, certifications and other requirements necessary for the execution and completion of the contract.

5.5.2.

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

5.6. Data Practices

5.6.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

5.6.2.

The Contractor designates Celeste Guderian as its Responsible Designee, pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.02 Subdivision 6, as the individual responsible for any set of data collected to be maintained by Contractor in the execution of this Agreement.

5.6.3.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which County data is contained or which are used to access County data in the course of providing services under this Agreement. Access to County data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services or construction are provided, at the end of the Project all County data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the County written verification that the data has been purged.

5.7. Security

5.7.1.

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

5.7.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not

limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the County not more than 7 days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the County may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

5.7.3.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

5.7.4.

The County retains the right to inspect and review the Contractor's operations for potential risks to County operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

5.7.5.

All County data and intellectual property stored in the Contractor's system is the exclusive property of the County.

5.8. Indemnification

The Contractor shall indemnify, hold harmless and defend the County, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors, and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

5.9. Contractor's Insurance

5.9.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

5.9.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the County contracting department evidencing such coverage to the County throughout the term of this Agreement.

5.9.3.

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability.

5.9.3.1.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability and XCU. Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion.

5.9.3.2.

The Contractor is required to add Ramsey County, its officials, employees, volunteers and agents as Additional Insured to the Contractor's Commercial General Liability, Auto Liability, Pollution and Umbrella policies with respect to liabilities caused in whole or part by Contractor's acts or omissions, or the acts or omissions of those acting on Contractor's behalf in the performance of the ongoing operations, services and completed operations of the Contractor under this Agreement. The coverage shall be primary and non-contributory.

5.9.4.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

5.9.5.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts. If provided to meet coverage requirements, the umbrella or excess liability policy must follow form of underlying coverages and be so noted on the required Certificate(s) of Insurance.

5.9.6.

If the Contractor is driving on behalf of the County as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

5.9.7.

The Contractor waives all rights against Ramsey County, its officials, employees, volunteers or agents for recovery of damages to the extent these damages are covered by the general liability, worker's compensation, and employers liability, automobile liability and umbrella liability insurance required of the Contractor under this Agreement.

5.9.8.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Copies of policies shall be submitted to the County upon written request.

5.9.9.

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

5.9.10.

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the County.

5.9.11.

All Certificates of Insurance shall provide that the insurer give the County prior written notice of cancellation or non-renewal of the policy as required by the policy provisions of Minn. Stat. Ch. 60A, as applicable. Further, all Certificates of Insurance to evidence that insurer will provide at least ten (10) days written notice to County for cancellation due to non-payment of premium.

5.9.12.

Nothing in this Agreement shall constitute a waiver by the County of any statutory or common law immunities, defenses, limits, or exceptions on liability.

5.9.13.

A Crime and Fidelity Bond is required if the Contractor is handling money for the County or has fiduciary responsibilities. The required amount will be as set forth in the solicitation document.

5.10. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon request, shall make available to the County, the State Auditor, or the County's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

5.11. Notices

All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

County:

Renee Vought, 121 7th Place East, Suite 4000, Saint Paul, MN 55101

Contractor:

Celeste Guderian, 4567 American Blvd. W., Bloomington, MN, 55437

5.12. Non-Conforming Services

The acceptance by the County of any non-conforming goods/services under the terms of this Agreement or the foregoing by the County of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the County's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

5.13. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of

the contract by the Contractor. The County may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

5.14. Conflict of Interest

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

5.15. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

5.16. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

5.17. Unavailability of Funding - Termination

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The County may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the County's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the County.

5.18. Termination

5.18.1.

The County may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the County upon the commencement of such proceedings or other action.

5.18.2.

If the Contractor violates any material terms or conditions of this Agreement the County may, without prejudice to any right or remedy, give the Contractor, and its surety, if any, seven (7) calendar days written notice of its intent to terminate this Agreement, specifying the asserted breach. If the Contractor fails to cure the deficiency within the

seven (7) day cure period, this Agreement shall terminate upon expiration of the cure period.

If the County violates any material terms or conditions of this Agreement the Contractor may, without prejudice to any right or remedy, give the County, and its surety, if any, seven (7) calendar days written notice of its intent to terminate this Agreement, specifying the asserted breach. If the County fails to cure the deficiency within the seven (7) day cure period, this Agreement shall terminate upon expiration of the cure period.

5.18.3.

The County or Contractor may terminate this Agreement without cause upon giving at least thirty (30) calendar days written notice thereof to the other party. In such event, the Contractor shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.

5.19. Interpretation of Agreement; Venue

5.19.1.

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

5.19.2.

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

5.20. Warranty

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

5.21. Infringement

5.21.1.

Complementary to other "hold harmless" provisions included in this Agreement, the Contractor shall, without cost to the County, defend, indemnify, and hold the County, its officials, officers, and employees harmless against any and all claims, suits, liability, losses, judgments, and other expenses arising out of or related to any claim that the County's use or possession of the software, licenses, materials, reports, documents, data, or documentation obtained under the terms of this Agreement, violates or infringes upon any patents, copyrights, trademarks, trade secrets, or other proprietary rights or information, provided that the Contractor is promptly notified in writing of such claim. The Contractor will have the right to control the defense of any such claim, lawsuit, or other proceeding. The County will in no instance settle any such claim, lawsuit, or proceeding without the Contractor's prior written approval.

5.21.2.

If, as a result of any claim of infringement of rights, the Contractor or County is enjoined from using, marketing, or supporting any product or service provided under the agreement with the County (or if the Contractor comes to believe such injunction imminent), the Contractor shall either arrange for the County to continue using the

software, licenses, materials, reports, documents, data, or documentation at no additional cost to the County, or propose an equivalent, subject to County approval. The acceptance of a proposed equivalent will be at the County's sole discretion. If no alternative is found acceptable to the County acting in good faith, the Contractor shall remove the software, licenses, materials, reports, documents, data, or documentation and refund any fees and any other costs paid by the County in conjunction with the use thereof.

5.22. Ramsey County Master Contract

This is a Ramsey County Master Contract available to all Ramsey County departments.

5.23. Cooperative Purchasing

Public entities that have a purchasing Joint Powers Agreement with Ramsey County may purchase under this Agreement after having received written permission from the Contractor. Such public entities shall execute their own contract directly with the Contractor. Ordering and payment shall be the sole responsibility of such public entity and in no manner shall be the obligation, liability or responsibility of the County.

5.24. Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

5.24.1.

Contracts and subcontracts for more than the simplified acquisition threshold currently set at \$175,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, shall address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

5.24.2.

Resulting contracts and subcontracts in excess of \$10,000 shall address termination for cause and for convenience by the non--Federal entity including the manner by which it will be effected and the basis for settlement.

5.24.3.

Debarment and Suspension (Executive Orders 12549 and 12689)--A contract award at any tier (see 2 CFR 180.220) shall not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

5.24.4.

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the County or the Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the County or the Contractor shall comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5.24.5.

Byrd Anti--Lobbying Amendment (31 U.S.C. 1352)--Contractors that apply or bid for an award exceeding \$100,000 shall provide the required Contractor Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreement form. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non--Federal funds that takes place in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to the non--Federal awardee, Ramsey County.

5.25. Debarment and Suspension

Ramsey County has enacted Ordinance 2013-330 [Ramsey County Debarment Ordinance](#) that prohibits the County from contracting with contractors who have been debarred or suspended by the State of Minnesota and/or Ramsey County.

5.26. Diverse Workforce Inclusion

For information and assistance in increasing the participation of women and minorities, contractors are encouraged to access the web sites below:

1. <http://www.JobConnectmn.com/>
2. <http://www.ConstructionHiringConnection.com/>

Job Connect and the Construction Hiring Connection provide a recruiting source for employers and contractors to post job openings and source diverse candidates.

Ramsey County's Job Connect links job seekers, employers, and workforce professionals together through our website, networking events and community outreach. The network includes over 10,000 subscribed job seekers ranging from entry-level to highly skilled and experienced professionals across a broad spectrum of industries.

Employers participate in the network by posting open jobs, meeting with workforce professionals and attending hiring events. Over 200 Twin Cities community agencies, all working with job seekers, participate in the network.

Ramsey County's Construction Hiring Connection (CHC) is an online and in-person network dedicated to the construction industry. The Construction Hiring Connection connects contractors and job seekers with employment opportunities, community resources and skills training related to the construction industry. Construction Hiring Connection is a tool for contractors to help meet diversity hiring goals. Over 1000 construction workers, representing all trades, ranging from newly graduated to journey level, are subscribed to the Construction Hiring Connection.

Additional assistance is available through jobconnectmn@ramseycounty.us or call 651-266-6042.

5.27. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

5.28. Entire Agreement

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the County and the Contractor to waive or alter

any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.