

RESOLUTION NO. 2022-38

**AGREEMENT WITH AVENU INSIGHTS & ANALYTICS, LLC FOR
BUSINESS LICENSE ADMINISTRATION**

WHEREAS, the Town of Magnolia Springs, Alabama desires to contract with Avenu Insights & Analytics, LLC to administer and collect business license fees, and whereby Avenu Insights & Analytics, LLC will perform the services necessary to administer and collect the business license fees for the Town and;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Magnolia Springs, Alabama as follows:

Section 1: The “Tax Revenue Enhancement Agreement for Business License Administration” as submitted by Avenu Insights and Analytics, LLC, attached hereto as Exhibit “A” is approved by the Town Council of the Town of Magnolia Springs.

Section 2: The Town Council hereby authorizes the mayor to enter into an agreement with Avenu Insights and Analytics, LLC for business license administration attached hereto as Exhibit “A.”

Adopted this 22nd day of November 2022.

ATTEST:



Kim Koniar, Mayor



Hannah Driskell, Town Clerk





Tax Revenue Enhancement Agreement Business License Administration

This Agreement made is as of December 1, 2022 by and between Avenu Insights & Analytics, LLC ("AVENU") and Town of Magnolia Springs, P.O. Box 890, Magnolia Springs, AL 36555, a government entity in the state of AL ("CLIENT").

A. Remittance Processing Services

1. Services Performed: AVENU will perform remittance processing for the collection of Business Licenses.
2. Taxpayer Notification and Remittance: AVENU will send individualized tax forms to all known taxpayers. Taxpayers will remit payments to Town of Magnolia Springs, P.O. Box 830725, Birmingham, AL 35283-0725. Upon reasonable notice to CLIENT, AVENU may change the P.O. Box for Town of Magnolia Springs payments.
3. Deposit Process: Deposits are made to the extent that funds have been received, via Automated Clearing House of the amounts and to the designated recipients as instructed by the CLIENT, as shown in more detail on **Exhibit A**.
4. Posting Process: Taxpayer accounts are posted with payment information captured in the AVENU revenue system. Additional information such as net sales, deductions, credit sales, measure of tax, name change, and address change are captured and added to payment data and taxpayer master file (as determined necessary by AVENU). Late payments (postmarked by U.S. Postal Service after due date) are invoiced at penalty amounts required by State code. Underpayments are invoiced for remaining tax due plus any required penalties.
5. Changes to **Exhibit A**: CLIENT shall notify AVENU in writing immediately of all changes in amounts to be deposited into the accounts of designated recipients. An amended **Exhibit A** shall be prepared and executed by the Parties as soon as reasonably possible. In addition, AVENU shall provide documentation confirming each change under the preceding sentence with the first monthly report reflecting the applicable change. If the changes reflected in the monthly report do not properly reflect the intended changes of the CLIENT, then the CLIENT shall immediately notify AVENU and, thereafter, AVENU shall take the steps necessary to insure designated recipients receive the amounts intended by CLIENT.
6. Notification, Reporting to CLIENT: AVENU will provide CLIENT with monthly reports including, but not limited to, payment listings showing all monies received, a detail and summary reconciliation report that corresponds to CLIENT's account numbers and all fees paid to AVENU.

B. General Provisions

1. Taxpayer service: AVENU will provide a taxpayer assistance number for taxpayer questions.
2. Review and Appeal Process: AVENU has adopted and will use a review and appeals process which is based on the Alabama *Taxpayers' Bill of Rights Act and Uniform Revenue Procedures Act* codified as Title 40, Chapter 2A, Code of Alabama, 1975, as amended.
3. Consideration for Remittance Processing Services, Revenue Analysis Services, and Compliance Services:
 - i. AVENU will receive an amount equal to Thirteen Dollars (\$13.00) per business license notice mailed.



- ii. AVENU archives all original licenses/applications. If a CLIENT wants a copy of the original license application, there is a fee equal to \$5.00 per business license/application that will be charged to CLIENT for the mailing or faxing.
4. Audit Services:
- i. AVENU Audit Services: Audit Services include all preparation for the performance of an audit of any applicable tax license, or fee levied by your taxing jurisdiction, any research or statistical analysis performed in relation to an audit, examination of the books and records of the taxpayer, an assessment of the amount due (if any), and all services related to closing an audit.
 - ii. AVENU Fee: AVENU will receive an amount based on an hourly rate of ninety dollars (\$90.00) for audit services, without any contingent fees whatsoever. The fees associated with the auditing portion of this contract will increase by 5% each anniversary year of the effective date.
 1. Billing Increment: Time will be recorded in 15-minute intervals (.25 hours);
 2. Shared Audit Fees: When audits for CLIENT overlap with audits for other AVENU clients or clients of AVENU Affiliates, the fees will be shared as follows:
 - a. Travel Time: travel time, expenses, and a daily per diem amount for each audit is distributed evenly among the clients reviewed for each audit.
 - b. Interview Time: time billed during the initial interview of each audit is distributed evenly amongst the clients reviewed for each audit – during this process the auditor determines which clients will actually be audited for and billed Audit Time as follows;
 - i. Audit Time: time billed during the actual audit stage of each audit is billed according to actual time spent working for each client;
 - ii. No Double Billing: In no event will the overlapping audits combined require payment for more than 100% for any one AVENU representative.
5. Company Audit: Once a year AVENU will have an independent auditor prepare an SSAE 16, SOC 1, Type II Independent Service Auditor's Report on Controls Placed in Operation and Tests of Operating Effectiveness. This report will be made available upon request.
6. Effective Date: The effective date for the performance of services under the terms of this agreement shall commence December 1, 2022.
7. Term of the Agreement: This Agreement shall be for a term of three (3) years following the date of execution. Either party shall have the right to terminate this Agreement in the event of a material breach by the other party. Any such termination may be made only by providing ninety (90) days written notice to the other party, specifically identifying the breach or breaches on which termination is based. Following receipt of such notice, the party in breach shall have thirty (30) days to cure such breach or breaches. In the event that such cure is not made, this Agreement shall terminate in accordance with the initial ninety (90) day notice.
8. Effect of Termination: Notwithstanding non-renewal or termination of this Agreement, CLIENT shall be obligated to pay AVENU for services performed through the effective date of termination for which AVENU has not been previously paid. In addition, because the services performed by AVENU prior to termination or non-renewal of this Agreement may result in the CLIENT's receipt of revenue after termination which are subject to AVENU's fee, the CLIENT shall remain obligated after termination or non-renewal to provide to AVENU such information as is



necessary for AVENU to calculate compensation due as a result of the receipt of revenue by the CLIENT. The CLIENT shall remain obligated to pay AVENU's invoices therefore in accordance with the terms of this Agreement.

9. **Indemnity:** To the full extent allowed by law, CLIENT hereby agrees to indemnify and hold AVENU harmless from any claims and against all costs, expenses, damages, claims and liabilities, relating to the determination of fees, penalties, taxes and other amounts due from taxpayers, the collection thereof, the Deposit Process pursuant to Section A (3), above and any refunding related thereto.
10. **Limitation of Liability:** To the maximum extent permitted by law, in no event shall AVENU, its employees, contractors, directors, affiliates and/ or agents be liable for any special, incidental or consequential damages, such as, but not limited to, delay, lost data, disruption, and loss of anticipated profits or revenue arising from or related to the services, whether liability is asserted in contract or tort, and whether or not AVENU has been advised of the possibility of any such loss or damage. In addition, AVENU's total liability hereunder, including reasonable attorney's fees and costs, shall in no event exceed an amount equal to the fee paid by the CLIENT for the affected service to which the claim pertains. The foregoing sets forth the CLIENT'S exclusive remedy for claims arising from or out of this Agreement. The provisions of this section allocate the risks between AVENU and the CLIENT and AVENU's pricing reflects the allocation of risk and limitation of liability specified herein.
11. **Equal Opportunity to Draft:** The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party upon a claim that that party drafted the ambiguous language.
12. **Assignment:** This Agreement shall be binding upon and inure to the benefit of the Parties, their successors; representatives and assigns. AVENU shall not assign this Agreement, or delegate its duties or obligations under this Agreement, without the prior written consent of CLIENT, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, AVENU may assign this Agreement, in whole or in part, without the consent of CLIENT to any corporation or entity into which or with which AVENU has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of AVENU; or any corporation or entity which acquires all or substantially all of the assets of AVENU. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
13. **Force Majeure:** AVENU shall not be in default of its obligations hereunder to the extent that its performance is delayed or prevented by causes beyond its control, including but not limited to acts of God, government, weather, fire, pandemic, endemic, quarantine, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.
14. **Subcontractors:** AVENU shall have the right to hire assistants as subcontractors or to use employees to provide the Services required by this Agreement. AVENU, in rendering performance under this Agreement shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. AVENU shall be solely responsible for and shall hold CLIENT harmless from any and all claims for any employee related fees and costs including without limitation employee insurance, employment taxes, workman's compensation, withholding taxes or income taxes.
15. **Intellectual Property Rights:** The entire right, title and interest in and to AVENU's database and all copyrights, patents, trade secrets, trademarks, trade names, and all other intellectual property rights associated with any and all ideas, concepts, techniques, inventions, processes, or



works of authorship including, but not limited to, all materials in written or other tangible form developed or created in the course of this Agreement (collectively, the "Work Product") shall vest exclusively in AVENU. The foregoing notwithstanding, in no event shall any CLIENT-owned data provided to AVENU be deemed included within the Work Product.

16. Entire Agreement: This Agreement constitutes the entire agreement between the Parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter contained herein. Said Agreement shall not be amended, altered, or changed, except by a written Agreement signed by both parties hereto.
17. Invalidity: If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, the parties hereto as of the date first above written have duly executed this Agreement.

Avenu Insights & Analytics, LLC

By: _____
Name: Carl Kumpf
Title: CFO
Date: _____

Town of Magnolia Springs

By: Kim Koniar
Name: Kim Koniar
Title: Mayor
Date: 11-22-2022