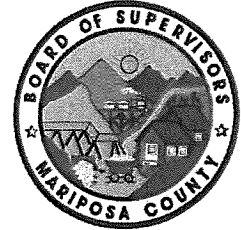


MARIPOSA COUNTY

Assessor-Recorder · 209-966-2332



RESOLUTION - ACTION REQUESTED 2021-481

MEETING: August 17, 2021

TO: The Board of Supervisors

FROM: Vincent Kehoe, Assessor-Recorder

RE: Approve Amendment #2 to the Agreement for Information Technology Products and Services

RECOMMENDATION AND JUSTIFICATION:

Approve Second Amendment to the Agreement with Avenu Enterprise Solutions, LLC for Information Technology Products and Service to Extend the Term to June 30, 2022 With a New Annual Fee of \$11,550; Approve Third Party Maintenance Agreement for Recording Equipment for an Additional Annual Fee of \$7,517; and Authorize the Board of Supervisors Chair to Sign the Agreements.

On December 17, 2019 the Board approved the original Agreement for Information Technology Products and Services between Avenue Enterprise Solutions, LLC and Mariposa County. On July 22, 2020 the Board ratified Amendment #1 that had been signed by the County Recorder. This current item extends the annual agreement to June 30, 2022.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

12/17/2019: Board approved Agreement for Information Technology Products and Services between Avenu Enterprise Solutions, LLC and Mariposa County.

7/22/2020: Board ratified Amendment #1 of that agreement that had been signed by the County Recorder.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Negative action would cause the County Recorder to lose the current county document recording system so that vital records and documents would not be recorded as required by law.

FINANCIAL IMPACT:

This item is included in the annual budget.

ATTACHMENTS:

Amendment #2 to the Agreement with Avenu for IT Products and Services and Third Party Maint Agmt (PDF)

Agreement with Avenu Enterprise Solutions, LLC and Amendment No 1 (PDF)

RESULT: ADOPTED BY CONSENT VOTE [4 TO 0]

MOVER: Wayne Forsythe, District IV Supervisor

SECONDER: Rosemarie Smallcombe, District I Supervisor

AYES: Rosemarie Smallcombe, Tom Sweeney, Wayne Forsythe, Miles Menetrey

RECUSED: Marshall Long



**Agreement for Information Technology
Products and Services
Amendment No. 2**

RECEIVED

JUL 26 2021

**Avenu Enterprise Solutions, LLC
Mariposa County, California**

MARIPOSA COUNTY ASSESSOR

This second amendment ("Amendment No. 2"), to the Agreement for Information Technology Products and Services dated July 1, 2019 as amended ("Agreement"), is made by and between **Avenu Enterprise Solutions, LLC**, 8600 Harry Hines Blvd., Dallas, TX 75235 ("Avenu") and **Mariposa County**, 4982 10th Street, Mariposa, CA 95338 ("Client"). Avenu and Client (each individually a "party" and collectively, the "parties") agree as follows:

1. This Amendment No. 2 is effective on July 1, 2021 (Amendment Effective Date). The Agreement, as hereby amended, is ratified, and continued. All provisions, terms, covenants, conditions, and promises contained in the Agreement not amended herein shall remain in full force and effect. This Amendment is effective retroactive to June 30, 2021. The parties shall treat the Agreement as if it had been in full force and effect continuously since June 30, 2021, without there having been any interruption of the Agreement whatsoever.

2. Section 2 (Term) of the Agreement as revised under Amendment No. 1, is modified further as follows:

This Agreement is hereby extended through June 30, 2022, unless otherwise extended or terminated by the parties in accordance with the provisions of this Agreement ("Term").

3. As of the Amendment Effective Date, the price schedule in Schedule A (Statement of Work), Section C (Payment and Rates), is deleted in its entirety and replaced with the following:

Services	Price
Annual Symphony Maintenance	\$10,500.00 per year
Symphony Redaction Maintenance	\$1,050.00 per year

4. All other terms and conditions of the Agreement, except as modified by this Amendment No. 2, shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned authorized representatives of Avenu and Client have executed this Amendment No. 2.

Avenu Enterprise Solutions, LLC

Mariposa County, California

By: 

By: 

Name: Mike Melka

Name: Marshall Long

APPROVED AS TO FORM:



**STEVEN W. DAHLEM
COUNTY COUNSEL**

Title: Chief Financial Officer

Title: _____

Date: 7/22/2021

Date: _____



Avenu Enterprise Solutions, LLC.

CUSTOMER NO C100985	DATE 6/25/2021	Platform GRM/Symphony/Third Party	Cost center (Sales support)
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Please use *new* customer number from the customer list.

B Mariposa County Assessor-Recorder	S same
I PO Box 35	H
L 4982 10th Street	P
T Mariposa, CA 95338	T
O	O

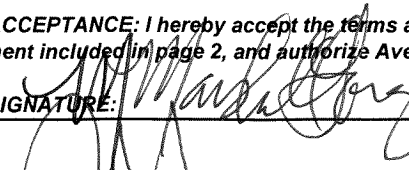
E-mail address: p.dahlem@mariposacounty.org

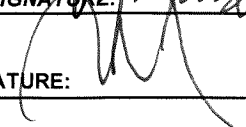
CUSTOMER CONTACT:	<u>Perca Dahlem</u>	PHONE: <u>209-966-2332</u>	P.O. NO.:
SALES REP:	<u>Mary Dilenschneider</u>	REP'S NO.:	<u>720-308-8697</u>
TERM START DATE	<u>7/1/2021</u>	END DATE	<u>6/30/2022</u>

PRODUCT CODE	PRODUCT DESCRIPTION	QTY	UNIT PRICE	SALES AMOUNT
	Third Party Maintenance 7/1/2021 - 6/30/2022			\$ -
				\$ -
	Fujitsu Scanner Maintenance	1	2,439.000	\$ 2,439.00
	Kofax Maintenance	1	1,178.000	\$ 1,178.00
	Mentis aiRedact Maintenance	1	3,900.000	\$ 3,900.00
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
8840104	Freight - At Cost As Needed			\$ -

SPECIAL INSTRUCTIONS	SUBTOTAL \$ 7,517.00
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<p>The Agreement, as hereby amended, is ratified and continued. All provisions, terms, covenants, conditions, and promises contained in the Agreement not amended herein shall remain in full force and effect. This Amendment is effective retroactive to June 30, 2021. The parties shall treat the Agreement as if it had been in full force and effect continuously since June 30, 2021, without there having been any interruption of the Agreement whatsoever.</p>	TAX % i.e. .08 or .0725
	SALES TAX

<p>CUSTOMER ACCEPTANCE: I hereby accept the terms and conditions of this Sales Order Agreement included in page 2, and authorize Avenu to proceed on this matter as set forth herein.</p> <p>CUSTOMER SIGNATURE:  DATE:</p>	FREIGHT F.O.B.
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<p>AVENU SIGNATURE:  DATE: 7/22/2021</p>	TOTAL \$ 7,517.00
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Terms and Conditions:

Payment Terms: Customer agrees to remit payment to Avenu within 30 days from issuance of invoice.

Limited Warranty: Hardware and Commercial Software Warranties: If third-party hardware and/or commercial software is furnished under this Agreement, then Avenu shall, to the maximum extent allowable by said third-party vendors, pass-through to the Customer all manufacturers' warranties for materials furnished under this agreement. Avenu shall provide only the standard manufacturers' warranties, guarantees, and/or exchange policies for defective items, which are offered through the manufacturers themselves. AVENU MAKES NO OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE HARDWARE AND COMMERCIAL OFF-THE-SHELF SOFTWARE, IN WHOLE OR IN PART. AVENU EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Rights to Third Party Software: Rights to third party commercial off-the-shelf software provided by third-party software vendors, including "shrink wrap" and "click wrap" software, are subject to the provisions of the software licenses provided by those third-party software vendors, and Customer understands and agrees that acceptance and use of such third-party software shall be deemed an acceptance of the terms and conditions of the licenses. Client further agrees to use the third party software in accordance with the terms of those licenses. In the event Client requested Avenu to install third party software that contains "shrink wrap" or "click-wrap" software Client hereby authorizes Avenu to accept such "shrink wrap" or "click-wrap" software on behalf of the Client when the software is installed.

Limitation of Liability: IN NO EVENT SHALL AVENU BE LIABLE TO THE CUSTOMER HEREUNDER FOR ANY CLAIMS, PENALTIES OR DAMAGES, WHETHER IN CONTRACT, TORT, OR BY WAY OF INDEMNIFICATION, IN AN AMOUNT EXCEEDING TEN PERCENT (10%) OF THE FULL PRICE OF THE ORDERED GOODS AND SERVICES UNDER THIS AGREEMENT. UNDER NO CIRCUMSTANCES WILL AVENU BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY. THIS LIMITATION SHALL APPLY EVEN IF CUSTOMER HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT MAY ANY ACTION BE BROUGHT AGAINST AVENU ARISING OUT OF THIS AGREEMENT MORE THAN ONE YEAR AFTER THE CLAIM OR CAUSE OF ACTION ARISES, DETERMINED WITHOUT REGARD TO WHEN THE AGGRIEVED PARTY SHALL HAVE LEARNED OF THE INJURY OR LOSS. UNDER NO CIRCUMSTANCES WILL AVENU BE RESPONSIBLE FOR THE LOSS OF DATA OR SOFTWARE.

Force Majeure: Neither party to this agreement shall be responsible for delays or failures in performance resulting from an act of God, war, civil disturbance, labor dispute, or other cause beyond the reasonable control of such party.

Ownership of Data: Customer will retain all title, rights, and ownership of all data, including associated indexes, film, and other data provided to Avenu, whether stored on magnetic tape, magnetic disk, CD-ROM disk (or other "like" electronic media that may be used).

Risk of Loss & Title: Avenu shall bear the risk of loss or damage to any hardware and commercial software provided under this agreement, while in transit to the Customer's designated delivery or installation site. The Customer shall bear all risk of loss or damage to the hardware and commercial software after delivery to the Customer site, unless such loss or damage is due to the negligence or willful acts of Avenu, its employees, agents, representatives or subcontractors. Title and risk of loss to the hardware and commercial software shall pass to the Customer upon the date products were delivered to the customer's site.

Returns: Customer may return hardware and commercial software products purchased from Avenu within 15 days from the date products were delivered to the Customer's site.

Termination for Breach: If Customer materially breaches any of the terms and conditions set forth in this agreement or fails to perform the obligations set forth in this Agreement and fails to cure the breach or failure within ten (10) calendar days (or other reasonable period stated in the notice) after receipt of written notice specifying the basis for the breach or failure to perform, Avenu may terminate this agreement for breach. Termination by Avenu shall be effective upon written notice to Customer. Customer agrees to discontinue use of all Avenu-owned materials no later than the effective date of termination and return such Avenu-owned materials to Avenu within thirty (30) calendar days after termination.

Entire Agreement: The contents of this agreement constitute the entire understanding and agreement between the parties and supersede any prior agreements, written or oral, that are not specifically referenced and incorporated in this agreement. The terms and conditions of this agreement shall not be changed or modified except by written agreement signed by both parties. The parties agree that in event Client provides Avenu with a purchase order, or any other document, containing terms or conditions that are in addition to, or in conflict with, the terms and conditions contained in this agreement, such additional and/or conflicting terms shall be deemed null and void.

Work being performed by Avenu throughout the project is earned as completed; therefore, in the event the Customer cancels this sales order without cause, the Customer shall equitably compensate Avenu for all services performed through the effective date of the cancellation.

Stop Work: Avenu is entitled to stop work on this Agreement when the funding or cost limit specified on page 1 is reached. Under no circumstances will Avenu be required to perform services or provide deliverables in the absence of available funding.