

**CITY OF LEADVILLE, COLORADO
RESOLUTION NO. 42
SERIES 2020**

**A RESOLUTION APPROVING A MASTER SUBSCRIPTION SERVICE AGREEMENT
WITH MUNIREVS, INC.**

WHEREAS, the City of Leadville (“City”) has the authority to enter into contracts for any lawful municipal purpose pursuant to C.R.S. § 31-15-101; and

WHEREAS, the City has need of a short-term rental compliance and tracking system and related support services (“Services”) to assist City staff in administering and enforcing the City’s short-term rental licensing program; and

WHEREAS, MUNIREvs, Inc., a Colorado corporation with a trade name of LODGINGRevs (“Contractor”), submitted a proposal to the City to provide the Services; and

WHEREAS, the Contractor has represented that it is qualified to perform the Services; and

WHEREAS, the City desires to enter into the proposed Master Subscription Service Agreement (“Agreement”) with Contractor so that Contractor may provide the Services, as more particularly described in the Agreement, attached hereto as **Exhibit 1**; and

WHEREAS, the City Council desires to approve the Agreement with Contractor subject to the terms and conditions set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Leadville, Colorado as follows:

Section 1. The Leadville City Council hereby: (1) approves the Master Subscription Service Agreement between the City and Contractor in substantially the same form as attached hereto as **Exhibit 1** for an amount not to exceed **Thirteen Thousand Five Hundred Dollars and No Cents (\$13,500.00)** (“Not-to-Exceed Amount”); (2) authorizes the City Attorney to make such changes as may be necessary that do not materially increase the obligations of the City; (3) and authorizes the Mayor to execute and the Deputy City Clerk to attest to the Agreement on behalf of the City when in final form.

Section 2. **Effective Date.** This Resolution shall take effect upon its adoption by the City Council.

CITY OF LEADVILLE, COLORADO:

By: Greg Labbe
Greg Labbe, Mayor

ATTEST:

[Signature]
Deputy City Clerk

ADOPTED by a vote of 7 in favor and 0 against, and 0 abstaining, this 15th day of December, 2020.



Master Subscription Service Agreement

This Master Subscription Service Agreement (“**Agreement**”) is entered between MUNIREvs, Inc., a Colorado limited liability company (**MR**), and Leadville, a political subdivision of the State of Colorado (“**Customer**”) for the MUNIREvs Vacation Rental Compliance Module, LODGINGREvs.

1. **VACATION RENTAL AUDITING MODULE.** This Agreement provides Customer access to a proprietary vacation rental audit module (“LODGINGREvs”) which integrates to the MUNIREvs online revenue collection system. All Services of MR, including but not limited to consulting, shall be governed by and subject to the terms and conditions of this Agreement, whether or not provided pursuant to one or more orders of Customer.
2. **VACATION RENTAL LICENSING MODULE.** Listings are integrated with our integrated online Licensing system to confirm compliance and instruct non-compliant properties as to how to register with their activation code to complete compliant requirements in the Licensing. LODGINGREvs staff will review each listing and perform the following: 1) review and update the compliance status; 2) for non-compliant listings, send an email / or create the PDF of notices to be mailed by Leadville to the property owner informing them of their failure to comply; and 3) generate necessary CONTRACTORs workflows for the non-compliant property owner to complete (i.e. new business application and license forms). This Agreement provides Customer access to a proprietary online vacation rental fee collection automation and integration service to be provided by MR through a unique URL within a hosted server environment under the terms and conditions of this Agreement (the “Service”).
3. **USE OF SERVICE.**
 - a. **Vacation Rental Listing Integration.** LODGINGREvs locates vacation rental listings on 30+ sites, via the combined data processing that we provide from Airbnb.com, Craigslist, Flipkey, Invited Home, Luxury Retreats, Mountain Ski Trips, One Fine Stay, Tripz and VRBO / Homeaway. Note that some of these sites are aggregator sites that pull listings from other platforms, and by that mechanism we are pulling data from the 30+ sites. Our team continues to monitor new listing platforms and adds data processing capability as new platforms emerge that may have new, unique listings that are not also listed on the other platforms we already process.
Through our automated jobs and our property review team, we review each listing and perform the following:
 1. review and update the compliance status;
 2. for non-compliant listings, create the Notifications via our Notification Module.
The Customer can have an unlimited number of notifications for the various states of compliance.
 3. The Notifications module automatically emails any notifications that have an email address available (via the MUNIREvs system or other data on the account). Customer staff will print and mail, via a single PDF document, any notifications that either do not have an email address or the Customer would like to deliver via official mail. Customer staff can review all notifications, email delivery and email opens on every property.
 4. LODGINGREvs integrates to the MUNIREvs system as follows:
 - I. When a new non-compliant property is discovered, an account (if necessary) and the

required workflows for compliance are generated. For example, if a new listing is discovered, an account in MUNIRevs is created by our team and we assign the workflows for licensing and any tax forms due (hotel & sales tax) for all periods of rental.

II. In the MUNIRevs system, Customer users can link to the actual advertisements for advertising rentals.

5. **LODGINGRevs** includes a dashboard that assists the Customer in monitoring our compliance efforts, the Customer's compliance rates, and the ability to see the details and our teams notes and audit efforts for every advertisement and property.

b. **Customer Revenue Disbursements.** Business revenues associated with the registration and licensing of vacation rentals that are paid through Service will be deposited directly to Customer's bank account. Customer agrees to set up a separate bank account expressly for collection of MR system deposits and to pay all merchant account fees for Customer's accounts by merchant service, ACH providers and payment gateway (USAePay/ VeriCheck).

c. **MR Support and Responsibilities.** As with the MUNIRevs system, notifications from the LODGINGRevs portal can include MUNIRevs support contact and our support and property review team will provide customer support for the Services as further detailed in Exhibit A which terms are incorporated into this Agreement for all purposes.

d. Reserved

e. Reserved

f. **Third Party Contractor Use.** Customer may allow its third party contractors to use the Service solely on behalf of and for the benefit of Customer and only in compliance with the terms and conditions of this Agreement. Customer is responsible for compliance with the terms of this Agreement by its third party contractors.

4. **PAYMENT TERMS.** Payment for all MR fees shall be as specified in Exhibit A which is incorporated herein and made a part of this Agreement. Unless otherwise provided in Exhibit A, all MR invoices shall be due and payable within 30 days of the date of the invoice. Customer must provide proof of its exemption from sales tax (if applicable), otherwise the Customer is responsible for all sales, use and similar taxes. Interest shall accrue at the rate of one percent (1%) per month, from the date of the invoice, on any payments not received when due.

5. **MUTUAL CONFIDENTIALITY.**

a. **Definition of Confidential Information.** Confidential Information means all confidential information disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential ("Confidential Information"). MR's Confidential Information includes without limitation the Service, Licensed Documentation (defined in section 8.d. below), and Customer's Confidential Information, which includes without limitation, the Customer Data.

b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own Confidential Information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the Service under this Agreement. The Recipient must make all commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and third party contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.

- c. **Exclusions.** Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information of the Discloser. The Recipient may disclose Confidential Information to the extent required by law, including a Colorado Open Records request. The parties acknowledge that a Colorado Open Records Request may seek information about MR's proprietary computer software programs and that computer software is not included in the definition of "Public Records" pursuant to C.R.S. 24-72-202(7) as computer software is specifically excluded from the definition of "Writings"; thus, making requests related to the computer software exempt from an Colorado Open Records Request.
- d. If MR's data system crashes or otherwise becomes disabled, MR shall use good faith and reasonable efforts to immediately recover the system and all Customer Data and shall be fully responsible for all costs incurred in the recovery of such data, with no additional costs to be borne by the Customer.

6. PROPRIETARY RIGHTS.

- a. **Reservation of Rights by MR.** The software, workflow processes, user interface, designs, know-how and other technologies provided by MR as part of the Service are the sole property of MR, and all right, title and interest in and to such items, including all associated intellectual property rights, are and shall remain only with MR. MR reserves all rights not expressly granted in this Agreement.
- b. **Customer Restrictions.** Customer may not:
 - 1. Use the Service or the Licensed Documentation beyond its internal operations;
 - 2. Reverse engineer the Service, the Licensed Documentation, the software or any other technology or Confidential Information associated therewith;
 - 3. Remove or modify any proprietary marking or restrictive legends in the Service and Licensed Documentation; or
 - 4. Access the Service or the Licensed Documentation to build a competitive product or service; or copy or derive any feature, function or graphic of the Service for competitive purposes.
- c. Reserved
- d. **Licensed Documentation.** Any Service user guides, sample data, marketing, training and other items provided through the Service or by MR, are licensed to Customer as follows: MR grants Customer a non-exclusive, license for the duration of the Service to such items for Customer's internal use solely with the Service, with the right to make additional copies of the material for the duration and purpose of the Service ("Licensed Documentation").

7. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY.

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND OTHER THAN FOR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, NEITHER PARTY IS LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY, LOSS OF DATA OR INFORMATION, AND ANY FAILURE OF DELIVERY OF THE SERVICE).

8. EFFECTIVE DATE, TERM, TERMINATION, RETURN OF DATA AND SUSPENSION OF SERVICE.

This Agreement shall be effective upon execution by both parties. The term of this Agreement shall be for the

period of time set forth in Exhibit A ("Term").

- a. Upon termination by right by Customer for any reason or no reason, Customer shall pay any unpaid fees through the date of termination, and shall return or destroy all MR property. Customer upon request will confirm that it has complied with these requirements.
- b. Within 30-days after termination of this Agreement, MR shall export to Customer all Customer Data from within the Service only in CSV format. MR does not ensure the availability of all of Customer Data for export after such 30-day period and MR shall have no obligation to store the Customer Data and may destroy such data without further notice to Customer.
- c. **Annual Appropriation.** This Agreement is subject to annual appropriations by the Customer Council (the "Council").
- d. **Termination for Material Breach.** Notwithstanding the provisions of subparagraph a) of this section, if either party is in material breach of any term of this Agreement, the other party may terminate this Agreement effective at the end of a written 30-day notice/cure period, if the breach has not been cured.

9. **COOPERATION.** The parties shall reasonably cooperate to ensure timely and accurate delivery of Service. Specifically, Customer agrees to provide complete and accurate information to MR when and as requested. MR shall not be responsible or liable for delays resulting from Customer's failure to provide timely or accurate information. Payment of MR's fees set forth in Exhibit A shall not be reduced, delayed or modified as a result of Customer's failure to provide timely or accurate information.

10. **MISCELLANEOUS.**

- a. **Governing Law.** This Agreement is governed by the law of the State of Colorado without regard to conflicts of law principles. Venue and jurisdiction is proper in the state courts sitting in Lake County, Colorado.
- b. **Attorney Fees and Costs.** The prevailing party in any litigation or other legal proceeding shall recover its reasonable attorneys' fees and costs from the other party.
- c. **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.
- d. **Entire Agreement and Changes.** This Agreement and **Exhibit A** constitute the entire agreement between the parties, and supersede all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. No modification or waiver of any term of this Agreement is effective unless in a written instrument signed by both parties.
- e. **No Assignment.** Neither party may assign or transfer this Agreement to a third party.
- f. **Enforceability.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect.
- g. **No Additional Terms.** MR rejects additional or conflicting terms of any Customer form-purchasing document.
- h. **Order of Precedence.** If there is an inconsistency between this Agreement and Exhibit A, Exhibit A prevails.
- i. **Survival of Terms.** Any terms that by their nature survive termination or expiration of this Agreement, will survive.

- j. **Headings.** Headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- k. **Notices.** Any notices permitted or required under this Agreement shall be deemed given upon the date of personal delivery or 72 hours after deposit in the United States mail, postage fully prepaid, addressed to the recipient address as set forth below their signature or at any other address as any party may, from time to time, designate by notice given in compliance with this section.
- l. **Counterparts Facsimiles; E-Mail.** This Agreement may be signed in any number of counterparts, which together shall constitute one and the same instrument. Original signatures of the parties hereto on copies of this Agreement transmitted by facsimile or electronically/scanned and e-mailed copies shall be deemed originals for all purposes hereunder, and such copies shall be binding on all parties hereto.
- m. **Independent Contractor.** It is understood that MR is an independent professional contractor and that MR will not in any event be construed as or hold themselves to be employees of Customer. It is also agreed that MR, as an independent contractor, is not restricted to working exclusively for Customer during the Term of the Agreement. MR and any persons employed by MR for the performance of the Service hereunder shall be independent contractors and not agents of the Customer. As an independent contractor, MR is not entitled to workers' compensation benefits except as may be provided by the independent contractor nor to unemployment insurance benefits.. MR is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this Agreement.
- n. **Sharing Data.** MR understands that the information from the Customer is strictly protected under Colorado Law as confidential data. If MR shares any data from its services employed under this Agreement such data shall only be in the aggregate form and shall not identify, in any way, a specific business along with confidential data of such specific business.
- o. **Insurance.** MR shall procure and maintain, and shall cause any subcontractor of the MR to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to Customer. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the MR. In the case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
 - 1. Worker's compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of Services under this Agreement, and Employers' Liability insurance with minimum limits of five hundred thousand dollars (\$500,000) each accident, five hundred thousand dollars (\$500,000) disease - policy limit, and five hundred thousand dollars (\$500,000) disease - each employee.
 - 2. Commercial General Liability insurance with minimum single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.
 - 3. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily



injury and property damage of not less than one million dollars (\$1,000,000) each occurrence and one million dollars (\$1,000,000) aggregate with respect to each of MR's owned, hired, and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interest provision. If the MR has no owned automobiles, the requirements of this paragraph 3) shall be met by each employee of MR providing Services to the Customer under this Agreement.

The policies referenced above, with the exception of Worker's Compensation, shall be endorsed to include Customer and Customer's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by Customer, its officers, or its employees, or carried by or provided through any insurance pool of Customer, shall be excess and not contributory insurance to that provided by MR. MR shall be solely responsible for any deductible losses under any policy required above.

MR shall procure insurance via the MRs online payment system Master Subscription Service Agreement and no additional coverage is required for this additional product contract.



Exhibit A
MUNIREvs Hosting Support Order Form and Terms
Vacation Rental Audit Module

Renewals of this Support Order: This annual Application Hosting Order (“**Support Order**”) renews annually, automatically on the contract anniversary of each year unless either Customer or MR provides the other with written notice of non-renewal at least 120 days prior to termination of the Agreement.

Terms: This Support Order is governed by the terms of the Master Subscription Services Agreement (“**Agreement**”) between the parties, which terms are fully incorporated into this Support Order for all purposes. If there is a conflict between the terms of this **Exhibit A** and the Agreement, this **Exhibit A** governs. This **Exhibit A** and the Agreement are the entire agreement between the parties, and they supersede and replace all prior and contemporaneous negotiations, agreements, representations and discussions regarding this subject matter. MR expressly rejects any additional or differing terms of Customer not agreed to in a written instrument signed by MR and Customer.

Due Dates: MR’s monthly fees for LODGINGRevs are billed at the beginning of each month and can be added to the Customer’s current monthly ACH payment to MUNIREvs, Inc or paid by check to MUNIREvs, Inc 27696 Highway 145 Dolores, CO 81323. Payments are due by the first of the month for that month’s services / system access. For example, payment for May, 2020 LODGINGRevs should be received by 5/1/2020.

Support Terms:

Support Hours: 7 am to 6 pm, MST (Monday – Friday), excluding Federal Holidays

Support Phone: 888-751-1911

Support E-mail: support@munirevs.com

Included Components

- Phone & E-mail support to property owners from compliance notifications.
- Hosted server, including daily & weekly back up
 - Maximum data loss of 24 hours
- Unlimited logins by Customer and Customer’s Business Owners

Excluded Services. The following shall not be provided unless otherwise agreed:

- The LODGINGRevs system includes robust reporting for auditing under-reported rental revenues and other metrics. Outside the access to these reports for Client use and analysis, no audit services are provided.

From the initial implementation through any future month, our automated compliance includes the following:

1. Ongoing monitoring of property listings, following this process:
 - **Identify:** Initial load of property advertisements from major rental sites into MRs system (i.e. vrbo.com, flipkey.com, airbnb.com).
 - **Reconcile:** Reconciliation of property advertisements with existing business records to isolate noncompliant listings.
 - **Notify:** Generation of noncompliant property registration letters. Letters include MRs registration instructions and MRs support contact information **so our team can start helping them right away!**
 - **Automate:** Creation of required tasks for noncompliant properties to complete once registered. For example, license application & fees, prior period tax forms.
2. Customized, branded and integrated **Licensing System**. This allows us to connect readily with owners and managers to help them update and maintain compliance.
3. **Unlimited** email & phone **support** for all businesses.
4. **Unlimited** user logins for both businesses and jurisdiction users
5. **Unlimited** phone & email support to business and administrative users
6. Software hosting & license fees for compliance module
7. Server & IT Infrastructure, including 365x7x24 maintenance and support
8. **Daily data backup**, managed by our expert IT team
9. Enhancements released to all similar MRs versions

	One Time Implementation	Annual Cost
Short Term Rental Detection, Monitoring, and Compliance <ul style="list-style-type: none"> Initial Census, including reconciliation, by our team of experts, to each registration and initial registration compliance notices. Also includes training of staff on utilizing the platform and accessing reports. Vacation Rental Census Monitoring & Discovery, and Ongoing Compliance Database. Includes reconciliation by our team of experts. Non-Compliant Evidence Capture Listing Tracker – Evidence Capture Every 5 Minutes on Non-Compliant Properties Notifications Module – Unlimited Notification Templates, Targeted & Customized Notices by Compliance Status Online Complaint Form 	\$3,500.00	\$10,000.00
Licensing System <ul style="list-style-type: none"> Online Registration/Licensing System (Short Term Rentals Only) Property Owner/Manager Business Center, Custom Workflows, Notifications, and Online Payments 		

First Year Cost **\$13,500.00**
 Discount **\$0.00**

Total \$13,500.00

Year One Fees: Including the one-time implementation fee of \$3,500 and ongoing fees of \$833.33/month the year one total is \$13,500.
 Year Two Fees: Ongoing fees of \$833.33/month with an annual year two total of \$10,000.

The above ongoing fees for per property pricing will be locked in for the first year of the contract. 90 days before renewal, the number of properties will be reviewed with Leadville to determine if there is any price change needed for a contract extension.

Above pricing assumes 250 properties and 500 advertisements.

*Payment Processing: Jurisdiction contracts directly with gateway and payment processor and fees are approximately ~\$.40 per e-check plus statement & gateway fees of \$20 / month. Credit Card fees are also competitive rates, and we can implement a credit card convenience fee if desired that is automatically collected to offset these fees.

Leadville	MUNIRevs, Inc
By: <i>Greg Labbe</i>	By: <i>Anna Vaughn</i>
Name: GREG LABBE	Name: Anna Vaughn
Title: MAYOR	Title: Director of Sales & Marketing
Date: 12/17/20	Date: 12/16/2020

State of: Colorado

County of: Lake

On: 12/17/2020 before me, Kimberly R. Jackson

personally appeared Greg Labbe

personally known to me

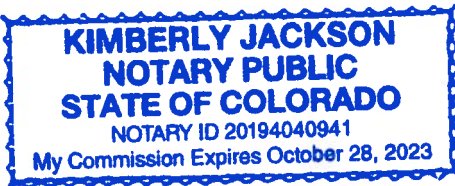
Witness my hand & official seal

Notary Public Signature: *Kimberly Jackson*

Notary Name: Kimberly Jackson

Notary ID: 20194040941

Notary Commission Expires: 10/28/2023



ALL-PURPOSE ACKNOWLEDGMENT

State/Commonwealth of FLORIDA)

City County of Orange)

On 12/16/2020 before me, Nancy M Metallo,
Date Notary Name

personally appeared Anna M Vaughn
Name(s) of Signer(s)

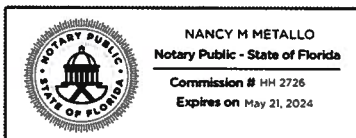
personally known to me -- OR --

proved to me on the basis of the oath of _____ -- OR --
Name of Credible Witness

proved to me on the basis of satisfactory evidence: driver license
Type of ID Presented

to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and by proper authority, and that by his/her/their signature(s) on the instrument, the individual(s), or the person(s) or entity upon behalf of which the individual(s) acted, executed the instrument for the purposes and consideration therein stated.

WITNESS my hand and official seal.



Online Notary

Notary Public Signature: Nancy M Metallo

Notary Name: Nancy M Metallo

Notary Commission Number: HH 2726

Notary Commission Expires: 05/21/2024

Notarized online using audio-video communication

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Master Subscription Service Agreement

Document Date: 12/16/2020 Number of Pages (w/ certificate): 11

Signer(s) Other Than Named Above: n/a

Capacity(ies) Claimed by Signer(s)

Signer's Name: Anna M Vaughn

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer Title: Director of Sales

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer Is Representing: MUNIREvs Inc

Corporate Officer Title: _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer Is Representing: _____