

Consultant Services Agreement

This Consultant Services Agreement (the "Agreement") is made as of the 17th day of September, 2019 ("Effective Date") jointly by and between The Marshall County KY Fiscal Court ("CLIENT"), and Avenu Insights & Analytics, LLC, a Delaware limited liability company ("CONSULTANT"), collectively the Parties. In consideration of the mutual promises herein contained and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the Parties agree as follows:

A. Services

1. CONSULTANT will provide CLIENT with the services described in EXHIBIT A which is attached hereto and incorporated by reference. CONSULTANT shall provide said services at the time, place, and in the manner specified in EXHIBIT A.
2. CONSULTANT shall furnish at its own expense all labor, materials, equipment and other items necessary to carry out the terms of this Agreement.

B. Compensation

1. Upon execution of this Agreement, CLIENT will pay CONSULTANT as outlined in EXHIBIT B, incorporated and included herein.

C. General Provisions

1. Term of the Agreement: The initial term of this Agreement shall be for a period of three years following the date of execution, and automatically renew for two (2) subsequent one-year terms, if neither party has cancelled (the "Term"). Either party may terminate the Agreement at any time and for any reason by providing thirty-days (30) written notice to the other party; provided however, that if CONSULTANT has not breached the Agreement and has commenced services identified in EXHIBIT A prior to the date of termination, CONSULTANT shall be entitled to payment as described in EXHIBIT B.
2. Effect of Termination: Notwithstanding non-renewal or termination of this Agreement, CLIENT shall be obligated to pay CONSULTANT for services performed through the effective date of termination for which CONSULTANT has not been previously paid. In addition, because the services performed by CONSULTANT prior to termination or non-renewal of this Agreement may result in the CLIENT's receipt of revenue after termination which are subject to CONSULTANT'S fee, the CLIENT shall remain obligated after termination or non-renewal to provide to CONSULTANT such information as is necessary for CONSULTANT to calculate compensation due as a result of the receipt of revenue by the CLIENT.
3. Independent Contractor: It is understood that CONSULTANT and its subcontractors, if any, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the CLIENT. CLIENT understands that CONSULTANT may perform similar services for others during the term of this Agreement and agrees that CONSULTANT representation of other government sector clients is not a conflict of interest. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CLIENT's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.
4. Subcontractors: CONSULTANT shall have the right to hire subcontractors to provide the services described herein. CONSULTANT, 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. CONSULTANT 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.

5. Notice: Any notice required to be given under this Agreement shall be in writing and either served personally, sent prepaid first-class mail, or by express mail courier (i.e. FedEx, UPS, etc.). Any such notice shall be addressed to the other party at the address set forth below. All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by regular mail, or the next day if sent overnight delivery.

If to CLIENT:

Marshall County KY Fiscal Court
Attn: Kevin Neal, County Judge Executive
1101 Main Street
Benton, KY 42025
Phone: 270.527.4750
Email:
judgeexecutive@marshallcountky.gov

If to CONSULTANT:

Avenu Insights & Analytics, LLC
Attn: Contract Department
7625 N. Palm Ave., Ste. 108
Fresno, CA 93711
Phone: 559.271.6852
Email: contracts@avenuinsights.com

6. Representative or designees: CONSULTANT's Primary Representative/Project Manager shall be:

Richard Boone, Client Services Manager
c/o 7701 Circle Crest Road, Louisville, KY 40241
Phone: 502-648-2789/Email: Richard.Boone@Avenuinsights.com

For the convenience of the CLIENT, a list of helpful contacts is attached and incorporated herein as EXHIBIT C.

7. Indemnity: CONSULTANT shall indemnify, defend, and hold harmless the CLIENT, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to extent occurring or resulting from CONSULTANT's negligent or unlawful performance of its obligations under or breach of the terms of this Agreement, unless such claims, liabilities, or losses arise out of, or are caused at least in part by the sole negligence or willful misconduct of the CLIENT. "CONSULTANT's performance" includes CONSULTANT's action or inaction and the action or inaction of CONSULTANT's officers, employees, agents and subcontractors.
8. Limitation of Liability: In no event shall CONSULTANT, 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 CONSULTANT has been advised of the possibility of any such loss or damage. In addition, CONSULTANT's total liability hereunder, including reasonable attorneys' fees and costs, shall in no event exceed an amount equal to the fees described in EXHIBIT B. 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 CONSULTANT and the CLIENT and CONSULTANT's pricing reflects the allocation of risk and limitation of liability specified herein.
9. Insurance: CONSULTANT shall keep in full force and effect insurance coverage during the term of this Agreement, including without limitation statutory workers' compensation insurance; employer's liability and commercial general liability insurance; comprehensive automobile liability insurance; professional liability and fidelity insurance. The insurance certificate shall name the CLIENT, its agents, officers, servants and employees as additional insureds under the CGL and Automobile policies with respect to the operations and work performed by the named insured as required by written contract. The General Liability policy is Primary & Non-Contributory. Waiver of Subrogation applies under the General Liability and Workers' Compensation policies. The CGL insurance minimum coverage shall be at least \$1,000,000 per incident, claim or occurrence and \$2,000,000 aggregate. The Automobile Liability insurance minimum coverage shall be at least \$1,000,000 covering all owned, non-owned, and hired vehicles. The certificate shall provide that there will be no cancellation, termination, or non-renewal of the insurance coverage without a minimum 30-day

written notice to the CLIENT, except in the case of cancellation for non-payment of premium which shall be at least 10-days written notice.

10. 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.
11. Assignment: This Agreement shall be binding upon and inure to the benefit of the parties, their successors, representatives and assigns. CONSULTANT 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, CONSULTANT may assign this Agreement, in whole or in part, without the consent of CLIENT to any corporation or entity into which or with which CONSULTANT has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of CONSULTANT; or any corporation or entity which acquires all or substantially all of the assets of CONSULTANT. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
12. Ownership of Documents: Except for CONSULTANT preexisting proprietary information and processes, any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by CONSULTANT pursuant to this agreement shall be the property of the CLIENT at the moment of their completed preparation.
13. Intellectual Property Rights: The entire right, title and interest in and to CONSULTANT'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 CONSULTANT or its subcontractors. The foregoing notwithstanding, in no event shall any CLIENT-owned data provided to CONSULTANT be deemed included within the Work Product.
14. Public Release and Statements: Neither party or its representatives or agents shall disseminate any oral or written advertisement, endorsement or other marketing material relating to each other's activities under this Agreement without the prior written approval of the other party. Neither party shall make any public release or statement concerning the subject matter of this Agreement without the express written consent and approval of the other party. No party or its agent will use the name, mark or logo of the other party in any advertisement or printed solicitation without first having prior written approval of the other party. The parties shall take reasonable efforts to ensure that its subcontractors shall not disseminate any oral or written advertisement, endorsement or other marketing materials referencing or relating to the other party without that party's prior written approval. In addition, the parties agree that their contracts with all subcontractors will include appropriate provisions to ensure compliance with the restrictions of this Section.
15. Force Majeure: CONSULTANT 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, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.
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 amendment signed by both parties.
17. Counterparts: This Agreement may be signed in separate counterparts including facsimile copies. Each counterpart (including facsimile copies) is deemed an original and all counterparts are deemed one and the same instrument and legally binding on the parties.

18. 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 herein.
19. Implementation: Implementation should begin as soon as possible from the signing of this Agreement (the "Effective Date") for the performance of services under the terms of this Agreement.
20. Any dispute arising from this agreement that is unable to be settled by the parties shall be subject to a court of competent jurisdiction in Marshall County, Kentucky.

[Signatures on following page]

IN WITNESS HEREOF, the parties have caused this Agreement to be executed on the date first written above.

"CLIENT"
Marshall County KY Fiscal Court

By: 

Name: Korian Neal

Title: Judge Executive

ATTEST:

Name: _____

Title: _____

APPROVED AS TO FORM:

Name: _____

Title: _____

"CONSULTANT"
Avenu Insights & Analytics, LLC
a Delaware limited liability company

By: _____

EXHIBIT A - SCOPE OF WORK
Local Tax Compliance Services
(Discovery and Audit)

Objectives and Methods

CONSULTANT's Local Tax Compliance service ("LTC") is designed to assist the CLIENT in locating tax revenue that the CLIENT may not be receiving from its local tax registry. CONSULTANT provides detection, documentation and correction of errors and omissions causing deficiencies thereby producing new revenue that would not otherwise have been realized by the CLIENT. Moreover, our team works in full and collaborative partnership with CLIENT revenue staff to supplement the operations and procedures currently in place.

The LTC service also aims to reduce future errors by informing the businesses that are identified as having errors or omissions about the proper methods of compliance. Informing business owners of the requirements of the ordinance helps to prevent future mistakes by businesses making future enforcement efforts by the CLIENT less burdensome for the CLIENT.

Scope of Work

CONSULTANT provides the LTC service as follows:

1. **Initial Meeting.** CONSULTANT meets with the CLIENT staff to review the procedures and objectives of the LTC service, business entity relations and logistical matters, including establishing an appropriate liaison with CLIENT management and staff and logical checkpoints for measuring progress (the "Initial Meeting"). CONSULTANT and CLIENT shall schedule the meeting within 10 days after CONSULTANT receives the fully-signed copy of the Agreement from the CLIENT with this Exhibit attached.
2. **Workplan.** Based on the Initial Meeting, CONSULTANT develops a workplan that incorporates the logistical matters agreed to in the Initial Meeting and describes in detail how the objectives of the LTC service shall be met (the "Workplan").
3. **Commencement of services.** After the Workplan is developed, CONSULTANT shall begin providing the services described in paragraphs 1.4 thru 1.6 below. CONSULTANT's obligation to provide services is contingent on the CLIENT providing the necessary information and cooperation.
4. **Discovery Services.** Discovery Services are designed to provide a full-service solution to the CLIENT's Occupational and Net Profit License Fees enforcement procedures. It does not replace current functions but provides a focused and fulltime solution to the identification of entities subject to taxation by the CLIENT, which are not properly registered, or otherwise not reporting taxes to the CLIENT. In performing the Discovery Services, CONSULTANT shall:
 - a. Establish a comprehensive inventory of the entities subject to taxation by the CLIENT and the database elements needed to facilitate a comprehensive comparative analysis with the CLIENT's records of those entities that are properly registered;
 - b. Compare CONSULTANT's database of business records with the CLIENT's records to identify potential non-reporting and non-registered entities subject to taxation;
 - c. For each unregistered or non-reporting entity identified and confirmed, assist the entities, as necessary, to complete the CLIENT's applicable registration form(s) and determine the amount of tax due for current and prior periods (plus applicable interest and penalties, where appropriate);
 - d. Invoice entities (including supporting documentation) on behalf of the CLIENT for the amount of identified deficiencies, with payment to be remitted to CONSULTANT;
 - e. Ensure that all submitted registration forms are completed correctly and in their entirety;
 - f. Collect the amount of identified deficiencies, together with supporting documentation, and remit to the CLIENT weekly and invoice the CLIENT monthly for our fees;

- g. Establish a call center open during normal business hours to assist entities with questions concerning application of the CLIENT's taxes, and reporting and remittance requirements;
- h. Educate entities regarding the CLIENT's reporting requirements to prevent recurring deficiencies in future years;
- i. Monitor and analyze the business license registration files of the CLIENT each quarter in order to determine non-reporting businesses.

Reports/Deliverables

CONSULTANT shall provide the CLIENT with audit progress reports to include the following:

1. Status of work in progress, including copies of reports provided to taxpayers/intermediaries addressing each reporting error/omission individually, including where applicable the business name, address, telephone number, account identification number, individuals contacted, date(s) of contact, nature of business, reason(s) for error/omission and recommended corrective procedure;
2. Actual revenue produced for the CLIENT by CONSULTANT's efforts on a quarterly and cumulative basis;
3. Projected revenue forthcoming to the CLIENT as a result of CONSULTANT's audit service, specified according to source, timing, and one-time versus ongoing; and
4. Alphabetical listing of all errors/omissions detected for the CLIENT by CONSULTANT, including the account number, correction status, payment amount received by the CLIENT, period to which payment is related and payment type (e.g., reallocation, deficiency assessment) for each one

Timing and Reporting

CONSULTANT shall commence project planning within 10 working days following authorization.

CLIENT Obligations

The CLIENT agrees to:

- a. Provide an electronic copy of the CLIENT's License Registration File and License Payment History file to CONSULTANT, together with any other information necessary for CONSULTANT to compute CONSULTANT's billing for services, in electronic format, to CONSULTANT on no less than a quarterly basis during the term of the Agreement and thereafter for so long as CONSULTANT's right to invoice for services rendered continues;
- b. Use reasonable and diligent efforts to collect, or to assist CONSULTANT in the collection of, deficiencies identified by CONSULTANT pursuant to this Agreement. For accounts that remain uncollected after CONSULTANT has exhausted its efforts to collect through the standard process, CONSULTANT and the CLIENT may mutually agree to special procedures that will make further attempts to collect amounts still outstanding. Typically, these processes will be implemented by CONSULTANT; and
- c. Notify CONSULTANT within 15 days following receipt by the CLIENT of payments, if any, resulting from deficiencies identified by CONSULTANT.

Completion of Services

Because CONSULTANT's LTC Service may result in collection of deficiencies after termination of the Agreement, the CLIENT's obligation to collect fees and notify CONSULTANT, and CONSULTANT's right to continue to receive contingency fees, shall survive termination of this Agreement or this Exhibit for any reason.

The CLIENT shall have the right, at the CLIENT's option, to elect not to proceed with recovery of any identified deficiencies. Deficiencies which are uncollectible due to insolvency or dissolution of the entity liable, or for deficiencies which are otherwise incapable of collection (e.g. statute of limitations expiration or other legal defense) shall not be considered an "election" by the CLIENT for the purposes of this Agreement. For deficiencies otherwise collectable but for which the CLIENT elects not to collect, the CLIENT shall notify CONSULTANT of its election not to pursue ("waive") collection of said deficiencies. CONSULTANT shall be entitled to one-half (½) of the fee CONSULTANT would have been entitled to for the waived portion of the deficiency. Notwithstanding any other provision of this Agreement, it is understood by and between the parties that CLIENT does not wish to pursue any deficiencies 12

months or older as of the date of the execution of this Agreement and any such deficiencies shall not be considered collectable under this Agreement.

EXHIBIT B - FEE SCHEDULE

Local Tax Compliance Services

Discovery Services

CONSULTANT's compensation for providing Discovery Services shall be a contingency fee of 40% of the additional revenue received by the CLIENT from the services. The 40% shall apply to the current tax year, all eligible prior period revenues, and any applicable penalties, interest, and late charges. The contingency fee only applies to revenue actually received by the CLIENT. The term "current tax year" shall mean the most recent tax year for which local taxes are due and payable to the CLIENT, and in which CONSULTANT has identified deficiencies.

In the event that the CLIENT identifies, documents, and notifies CONSULTANT of a particular business entity that has not been reporting, or misreported its business license taxes properly, the CLIENT will notify CONSULTANT within fifteen (15) days after the discovery.

Taxpayers' payments and CONSULTANT's Invoice Process

The following section describes how CONSULTANT handles the taxpayers' payments and invoices the CLIENT for its fees.

- a. Taxpayers' payments and forms received by CONSULTANT shall be remitted to the CLIENT on a weekly basis.
- b. CONSULTANT shall invoice CLIENT on a monthly basis for fees due.
- c. Should there be any disputed payments, CONSULTANT shall work with CLIENT to mutually resolve these issues. If the resolution results in CLIENT's favor, CONSULTANT shall refund the applicable portion of the fee to CLIENT within 10 days of resolution.

Additional Consulting

CLIENT may request that CONSULTANT provide additional consulting services at any time during the term of the Agreement. All such additional consulting services shall be outlined in writing signed by CLIENT and CONSULTANT containing the scope of the additional services to be performed in advance of commencing those services. Such additional consulting services will be performed by the personnel reasonably capable to perform such services (i.e., CONSULTANT will not assign entry-level tasks to the higher paid echelon of employees unreasonably.)

If CONSULTANT and CLIENT agree on the scope of the additional consulting services requested, then CONSULTANT shall provide the additional consulting on a time and materials basis. Depending on the personnel assigned to perform the work, CONSULTANT's standard hourly rates range from \$75 per hour to \$200 per hour. These additional consulting services shall be invoiced at least monthly based on actual time and expenses incurred. All reimbursable expenses shall receive prior approval from the CLIENT and shall be reimbursed at cost to CONSULTANT.

EXHIBIT C
Avenu Helpful Contacts

Contact	Project Role	Phone	Email
Richard Boone	Client Services Manager	800.800.8181 ext. 76446	richard.boone@avenuinsights.com
Patrick Scott	SVP Client Services - East	800.800.8181 ext. 76445	patrick.scott@avenuinsights.com
Ray Beye	LTC Manager	559.271.6829	raymond.beye@avenuinsights.com
Jaime Lewis	Billing Department	571.485.7875	billing.department@avenuinsights.com
Francesco Mancia, MBA	VP Government Relations	559.288.7296	fran.mancia@avenuinsights.com
Brenda Narayan	Dir. Government Relations	916.261.5147	brenda.narayan@avenuinsights.com