



**City of Santa Ana**  
**20 Civic Center Plaza, Santa Ana, CA 92701**  
**Staff Report**  
**January 19, 2021**

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**TOPIC:** Approve Consultant Agreement with Avenu Insights

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**AGENDA TITLE:**

Approve agreement with Avenu Insights & Analytics, LLC for Utility Users' Tax Auditing and Consulting Services for an amount not to exceed \$750,000 (General Fund)

**RECOMMENDED ACTION**

Authorize the City Manager to execute an agreement with Avenu Insights & Analytics, LLC ("Avenu Insights") for Utility Users' Tax Revenue Auditing, Recovery, Reporting, Analysis, and Legislative/State Agency Liaison and Implementation Monitoring Services for a period beginning February 1, 2021 through January 31, 2024 for an amount not to exceed \$462,500 which includes a contingency of \$207,500, plus two one-year extensions exercisable by the City Manager and City Attorney for a combined amount not to exceed \$287,500 which includes a contingency of \$117,500, subject to non-substantive changes approved by the City Manager and City Attorney.

**DISCUSSION**

The City imposes a Utility Users' Tax (UUT) for a variety of utility services within the City. Utilities subject to the tax include electricity, gas, telecommunications, and water. Individuals and entities using these utility services pay a City tax rate of 5.5% on all charges made for such services. The City anticipates generating approximately \$24.3 million in UUT revenue for FY 2020-21. The estimated UUT accounts for 8% of General Fund revenues. The City has recently concluded its previous consultant agreement for UUT services, which has been used to provide budget planning, revenue forecasting, trend analysis, and other UUT services.

Therefore, on October 26, 2020, a Request for Proposals (RFP No. 20-137) for UUT Tax Revenue Auditing Recovery, Reporting, Analysis, and Legislative/State Agency Liaison and Implementation Monitoring Services was issued. Two responsive RFP proposals were received on November 30, 2020. These two (2) proposals were reviewed and evaluated by a selection committee from the Community Development and Finance and Management Services Agencies. The evaluation was based on the following criteria:

• Professional Consultant/Contractor Qualifications	20%
• Professional Consultant/Contractor Experience	20%
• Client References	15%
• Proposed Scope of Services	30%
• Cost of Providing Service	15%

The final score was derived by averaging the individual staff member's rating for each category and then reaching a cumulative score. Using this methodology, the highest average cumulative score is reflective of the best proposal.

The proposals received in response to RFP No. 20-137 were ranked accordingly, as follows:

Rank	Firm	Average Score (Out of 100 pts.)
1	Avenu Insights & Analytics, LLC	96
2	HdL Companies	86

Staff recommends selecting Avenu Insights due to its extensive experience and specialization in UUT revenue auditing, recovery, reporting, analysis, and legislative/state agency liaison and implementation monitoring services. Additionally, Avenu Insights was evaluated as the most responsive, capable, and cost effective respondent to the City's UUT consulting service needs. Avenu Insights is a leader in assisting local governments in implementing, administering, and managing multiple tax types. They service more than 1,000 government entities nationwide.

Avenu Insights, and their wholly owned subsidiary MuniServices, LLC, have been supporting the City with UUT services since the City's most recent RFP in 2016. Avenu Insights is knowledgeable concerning UUT trends in Orange County as they provide revenue enhancement and auditing services to cities such as Anaheim, Brea, Cypress, Laguna Beach, Newport Beach, and Villa Park. In addition to providing services to the County of Orange and the Orange County Transit Authority.

The UUT services provided by Avenu Insights (Avenu) will include, but are not limited to, the following items:

1. Represent the City for purposes of examining UUT records in order to identify and confirm any errors/omissions leading to deficient payments to the City on a monthly basis which ensures utility providers are paying the appropriate rate, that all providers in the area are reporting, and that newly formed and aggregator suppliers are in compliance with both UUT and Franchise Fee payments. Avenu also maintains secure databases which retain payment histories from all reporting

providers for use in forecasting and providing year-over-year analysis of revenue trends from all industries.

2. For each error/omission identified and confirmed, prepare the appropriate documentation to facilitate recovery of revenue due to the City including any applicable penalties and interest via either written notice or verbal contact with the appropriate officials or representatives of current and developing industries.
3. Prepare and forward to the appropriate parties requests for corrective action and revenue recovery. Such requests will be in the form and fashion of a compliance notice backed with legal analysis which will provide perspective to the utility regarding their risks of noncompliance and/or being subjected to examination and enforcement. Over a period from approximately FY 1992-93 through the conclusion of the term of the most recent UUT services agreement with MuniServices, a wholly owned subsidiary of Avenu Insights, UUT revenue generation/recovery from these services for the City of Santa Ana totaled approximately \$36,255,000, reported as of July 2020.
4. Meet with designated City officials as necessary (but not less than quarterly) to review consultant findings and recommendations.
5. Provide any additional assistance pursuant to specific City requests as necessary to support the City in recovering and preventing past, current, and future tax delinquencies.
6. Utility Users' Tax – Prepare annual UUT report that includes a detailed legal and legislative update spanning activities which have occurred in the prior year and those which are likely or certain to continue within the following years that could potentially affect UUT revenues and a five year forecast for each utility industry type; and assist in the development of multi-year UUT budget revenue forecast model. Avenu will also conduct regular quarterly one-on-one meetings with the City to update the UUT revenue forecast for issues which were either uncertain or unknown at the time of the original forecasting in order to keep the City apprised of the most accurate forecast models for its UUT revenues year-to-date and beyond.
7. Legislative/State Agency Liaison and Implementation Monitoring – Provide federal, state, and local legislative and state agency liaison and program implementation monitoring; including coordination with City's state and federal lobbyists in connection with legislation/regulation relating to the City's UUT. Avenu will also coordinate with statewide and national government associations' legal and legislative teams to assist in advocating for favorable legislative actions at the state and federal level on the City's behalf. Avenu additionally will interact directly with state legislative bodies in the drafting of state statutes and administrative code

provisions directly affecting (and promoting) local UUT revenue; e.g. AB 1717 (Telecommunications: Prepaid Mobile Telephony Services: State Surcharge and Fees: Local Charges Collection) and SB 1441 (Local Prepaid Mobile Telephony Services Collection Act).

8. Monitor statewide and nationwide trends in developing compliance issues and technological developments in various utility industries in order to legally and legislatively apprise the City of potential new markets, trends, and product developments that may be subject to the City's UUT in order to expand the City's tax base and bring new industries into compliance to increase overall UUT revenues.
9. Conduct regular monthly client City conferences hosting 65 California Avenu client cities and multiple personnel from each City to present technical compliance issues including existing, ongoing, and potentially upcoming UUT issues in order to maintain and share knowledge surrounding such issues in an open forum which facilitates coordination and unification amongst all clientele. This involves compliance, legal, and legislative issues relating to UUTs that impact both regional and statewide clientele and allows for both the conveyance of Avenu's observations and position statements on such issues and an open forum for discussion amongst City finance and legal personnel to interject their positions and stimulate discussions regarding best processes to resolve potentially negative issues or advance positive issues. The monthly client conferences provide client guidance to Avenu on pathways to resolve City-specific issues on their behalf, regional issues that can involve coalitions of Cities, and statewide issues to provide uniformity in the collection and enforcement of ever-evolving issues regarding local California UUT compliance. Individual City follow-up on issues discussed is a regular occurrence as well that provides Avenu with guidance on how certain Cities may want to respond individually or jointly to issues discussed.
10. Contingency Option – Provision of an electronic reporting research database application and utility users' tax administration services for City's UUT (client/server or web-based portal application) and lockbox services. The application will provide tax administration services including processing of monthly UUT reporting and remittance data, plus actual receipt and processing of UUT payments. The application will allow authorized City staff to search, query, filter/sort, and export UUT reporting and payment data (in common data formats; e.g. Access, Excel, etc.) for staff presentations and analysis based on service provider and utility type.
11. Specialty UUT Audits – Provision of comprehensive audits of principal electric, gas, and telecommunications utility providers together with large-scale utility service aggregators utilizing existing franchised infrastructures or wireless protocols to provide new and existing telecommunication services, natural gas,

electricity, and clean energy to end users within the City. Notably, all audits may include corresponding franchise fee compliance examinations where advisable and/or applicable.

12. Specialty Consultative Services – Additional revenue consulting services to include, potential hotel visitors’ taxes, hotel visitors’ tax administration services, potential tourist marketing district assessment fees, tourist marketing district assessment fees administration services, potential business license taxes, and/or potential medical marijuana and/or cannabis taxes, or cannabis related operating agreement fees (as applicable), selection processes for adult-use retail cannabis business permitting, cannabis testing facility or testing laboratory permitting, miscellaneous commercial cannabis business (cultivation, manufacture, distribution) permitting and may also include Comprehensive Annual Financial Reporting statistical services as may be set forth in any Change Order(s) mutually agreed to by the City and Avenu Insights.

Moreover, the services that Avenu Insights will render ensures compliance with tax regulations, and provides early indications of trends in the economy, as well as ensures that the revenues generated within City boundaries are properly allocated, assigned, and remitted to the City of Santa Ana.

### **FISCAL IMPACT**

Previously, the City charged the cost of service to the revenue account in the General Fund, and reflected a net revenue number. To provide greater clarity going forward, staff will report the gross revenue and an offsetting expenditure for the cost of service. The summary table below includes the base contract fee, the allowance for contingency, and the optional extension years for a potential grand total of \$750,000 associated with this contract.

Fiscal Year	Accounting Unit - Account No.	Fund Description	Accounting Unit - Account No. Description	Amount	Contingency	Total Amount
2020-21	01110130-62300	General Fund	FMSA Treasury Contract Services - Professional	\$42,500	\$90,000	\$132,500
2021-22	01110130-62300	General Fund	FMSA Treasury Contract Services - Professional	\$85,000	\$47,000	\$132,000
2022-23	01110130-62300	General Fund	FMSA Treasury	\$85,000	\$47,000	\$132,000

			Contract Services - Professional			
2023- 24	01110130- 62300	General Fund	FMSA Treasury Contract Services - Professional	\$85,000	\$47,000	\$132,000
2024- 25	01110130- 62300	General Fund	FMSA Treasury Contract Services - Professional	\$85,000	\$47,000	\$132,000
2025- 26	01110130- 62300	General Fund	FMSA Treasury Contract Services - Professional	\$42,500	\$47,000	\$ 89,500
<b>Grand Total:</b>						<b>\$750,000</b>

**EXHIBIT(S)**

1. Consultant Agreement with Avenu Insights & Analytics, LLC

Submitted By:

Kathryn Downs, Executive Director Finance and Management Services

Approved By: Kristine Ridge, City Manager