

4th AMENDMENT TO AGREEMENT

This AMENDMENT TO AGREEMENT is dated for identification this September 16, 2025 and amends that certain agreement for business license tax consulting services dated 04/05/2022, made by and between the Town of Los Gatos, ("Town,") and Hinderliter de Llamas & Associates dba HdL Companies, a California Corporation].("Consultant.")

RECITALS

- A. Town and Consultant entered into a business license tax consulting services Agreement on April 5th 2022, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 5 to this Amendment.
- B. Town and Consultant entered into a first amendment for business license tax consulting services Agreement on September 30th 2022, ("1st Amendment"), a copy of which is attached hereto and incorporated by reference as Attachment 4 to this Amendment
- C. Town and Consultant entered into a second amendment for business license tax consulting services Agreement on December 19th 2023, ("2nd Amendment"), a copy of which is attached hereto and incorporated by reference as Attachment 3 to this Amendment.
- D. Town and Consultant entered into a third amendment for business license tax consulting services Agreement on April 2nd 2024 ("3rd Amendment"), a copy of which is attached hereto and incorporated by reference as Attachment 2 to this Amendment.

AMENDMENT

- 1. Section 2.1, "Scope of Services" is amended to add the additional services described Exhibit A attached to this Amendment.
- 2. Section 2.2, "Term and Time of Performance" is amended as follows: This contract will remain in effect until June 30, 2027.
- 3. Section 2.6, "Compensation," is amended to read as follows:
 - a. The total compensation is increased by \$193,500 plus an annual CPI (Consumer Proce Index) adjustment effective July 1st annually.
 - b. This increase includes the cost of the new added service and a \$20,000 reduction in the cost of services from the Third Amendment (reduced from \$40,000 to \$20,000).
 - c. The new total not to exceed amount for the Agreement is \$451,500 plus CPI. Payment will be made upon Town approval of each completed task.
 - d. This not to exceed total does not include fees for Business License Discovery, Compliance, and Delinquency Tax Collection services, which are based on a percentage of revenue recovered as set forth in the table below.

Tax and Fee Services (Bundled w/Sales Tax)

Service	Compensation
Business License Tax Discovery/Compliance/Audits*	35% of One-Time Revenues Collected
Business License Tax Collections*	25% of One-Time Revenues Collected
TOT Audits*	\$5,000.00 per property, per year + CPI
Sales & Tax Use Audit Services^	15% of Revenues Collected
Sales & Use Tax Management Services^	\$450 per month + CPI
*Pricing is contingent on a bundled service discount ^For more information see separate Sales Tax proposal	

Payment transactions are subject to typical payment processing and returned payment fees. HdL supports both agency funded (fees paid by City) and convenience fee (fees paid by taxpayer) models.

3. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed this Amendment.

Town of Los Gatos

Approved as to Consent:

By: _____

By: _____

Chris Constantin, Town Manager

President

Robert Gray, Vice

Department Approval:

Gitta Ungvari
Finance Director

Approved as to Form:

Gabrielle Whelan, Town Attorney

Exhibit A

Business License Tax and Fees Compliance

Consultant will provide the following Services relative to Client's business license tax administration:

- 1. Compliance Services:** 1) Identify and register businesses which are subject to licensure or taxation, 2) collect known debt as pertains to business license or tax, and 3) identify under-reported tax liability.
 - 1.1. Discovery Services**
 - 1.1.1. Develop a list of businesses subject to Client licensure or taxation.
 - 1.1.2. Notify non-compliant businesses of their options to comply or dispute their non-compliant status. Notification and support to businesses will be facilitated through the website, mail, email, phone and fax.
 - 1.1.3. Review information and forms submitted by the business for completion and accuracy, inclusive of any additional required documentation (i.e. home occupation permit). All submissions are filed and stored electronically and made available to Client upon request.
 - 1.1.4. Provide businesses with detailed invoicing and options to pay via website, mail, and phone.
 - 1.1.5. Remit revenue to Client no less than monthly, along with all business applications and any additional documentation.
 - 1.2. Collection Services**
 - 1.2.1. Identify businesses subject to Client licensure or taxation which have known debt to Client and have failed to pay within an appropriate time frame.
 - 1.2.2. Notify businesses of their options to comply or dispute their non-compliant status.
 - 1.2.3. Provide businesses with detailed invoicing and options to pay via website, mail and phone.
 - 1.2.4. Remit revenue to Client no less than monthly.
 - 1.3. Audit Services**
 - 1.3.1. Identify potential under-reporting and/or misclassified businesses.
 - 1.3.2. Audit businesses mutually agreed to by Client and Consultant that are identified as potential under-reporting businesses.
 - 1.3.3. Submit audit summaries to Client and discuss further actions.
 - 1.3.4. Educate businesses on proper reporting practices.
 - 1.3.5. Invoice and collect identified deficiencies.
- 2. Online Payment Processing** – Consultant's services include PCI compliant payment processing services which supports both credit card and eCheck transactions.
 - 2.1. Client Responsibilities**
 - 2.1.1. As a condition to its receipt of the Service, Client shall execute and deliver any and all applications, agreements, certifications or other documents required by Consultant's payment processor, Networks or other third parties whose consent or approval is necessary for the processing of Transactions by Consultant's payment processor. "Network" is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.

- 2.1.2. Client hereby grants Consultant the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report. Client represents and warrants that it has the full right and authority to grant these rights.

Transient Occupancy Tax Audits

Consultant will provide the following Services relative to Client's transient occupancy tax administration:

3. Audit Services

- 3.1. Analyze Client transient occupancy tax ordinance and business procedures, and recommend possible improvements or best practices for processes, form design, and ordinance.
- 3.2. Analyze lodging provider data and review analysis findings with Client. Analysis will include the most recent thirty-six (36) months of tax filings along with supplemental data as available (including number of rooms, occupancy rate, physical condition, and business dynamics).
- 3.3. Recommend lodging providers who merit additional investigation or examination to determine their compliance with Client's ordinance.
- 3.4. Lodging providers identified by Consultant and approved by Client for audit are scheduled for a compliance analysis audit.
- 3.5. Review records of the lodging provider for information related to compliance with Client regulations (including endeavoring to validate taxable gross rents, exemptions, bank statements, daily/monthly summaries, and other relevant compliance-related information). Supporting documentation for relevant items such as exemptions will also be reviewed.
- 3.6. Generate lodging provider compliance report (including results of the compliance analysis audit and recommended actions). Review report with Client and determine next steps.
- 3.7. Notify deficient lodging providers of the findings as well as instructions for payment and appeal processes. Schedule appointments with lodging providers to review findings and educate regarding proper filing procedures in order to prevent future errors and deficiencies.
- 3.8. Send compliant lodging providers a letter of commendation, thanking them for their cooperation and compliance.
- 3.9. Invoice lodging providers found to be underreporting through the standard Client approved collections process.

Sales & Use Tax Services

4. Sales and Use Tax and Economic Analysis/Forecasting Services/Reports

- 4.1. Establish a special database identifying the name, address, and quarterly allocations of all sales tax producers within the Town. This database will be utilized to generate special reports to Town on major sales tax producers by rank and category, sales tax activity by categories, or business districts, identification of reporting aberrations, and per capita and outlet comparisons with regional and statewide sales.
- 4.2. Provide periodic updated reports to Town identifying changes in sales by individual businesses, business groups and categories, and by geographic area. These reports may include, without

limitation, quarterly aberrations due to State audits, fund transfers, and receivables, along with late or double payments, and quarterly reconciliation worksheets to assist with budget forecasting. Consultant shall meet quarterly by in person or virtually with Town.

- 4.3. Shall additionally provide following each calendar quarter a summary analysis for Town to share with Council Members, Chamber of Commerce, other economic development interest groups and the public that analyze Town's sales tax trends by major groups and geographic areas without disclosing confidential individual tax records.
- 4.4. Establish a special database with California Department of Tax and Fee Administration ("CDTFA") registration data for businesses within applicable district boundaries holding seller's permit accounts.
- 4.5. Periodically license for the limited, non-exclusive, non-transferable use by Town's staff certain of Consultant's web-based sales, use and/or transactions tax program(s) containing sellers permit, registration, allocation and related information for business outlets within Town's jurisdiction registered with the CDTFA.
- 4.6. Provide periodic updated reports endeavoring to identify and assist with budget forecasting (i) changes in allocation totals by individual businesses, business groups and categories, and (ii) aberrations due to State audits, fund transfers, and receivables, along with late or double payments.

5. Allocation and Audit Recovery Services

- 5.1. Conduct (when mutually agreed with Town) initial and on-going sales and use tax audits of businesses to help identify and correct distribution and allocation errors, and to proactively affect favorable registration, reporting or formula changes thereby generating previously unrealized sales and use tax income for the Town and/or recovering misallocated tax from registered taxpayers. Common errors that will be monitored and corrected include but are not limited to: transposition errors resulting in misallocations; erroneous consolidation of multiple outlets; formula errors; misreporting of "point of sale" to the wrong location; delays in reporting new outlets; misallocating use tax payments to the allocation pools or wrong jurisdiction; and erroneous fund transfers and adjustments.
- 5.2. Initiate contacts with the CDTFA and sales management and accounting officials in companies that have businesses where a probability of error exists to endeavor to help verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner.
- 5.3. Prepare and submit to the CDTFA information for the purpose of correcting any identified allocation errors, and follow-up with individual businesses and the CDTFA to promote recovery by the Town of back or prospective quarterly payments that may be owing.
- 5.4. If, during the course of its audit, Consultant finds businesses located in the Town's jurisdiction that are properly reporting sales and use tax but have the potential for modifying their operation to provide an even greater share to Town, Consultant may so advise Town and collaborate with those businesses and Town to encourage such changes.

6. Consulting and Other Optional Services

Consultant may from time to time in its sole discretion, consult with Town's staff, including without limitation, regarding (i) technical questions and other issues related to sales and use tax, (ii) utilization of reports to enhance business license collection efforts; (iii) sales tax projections for proposed annexations, economic development projects and budget planning, (iv) negotiating/review of tax sharing agreements, (v) establishing purchasing corporations, (vi) meeting with taxpayers to encourage self-assessment of tax obligations, and (vii) other sales and use tax revenue-related matters.

FEES

Business License Tax and Fees Compliance

7. Compliance Services

7.1. Fees for performing compliance Services apply to all monies received for the current tax/license period and any other prior period collected (including monies received for taxes, penalties, interest, and fees).

7.1.1. Fees for performing discovery Services shall be a contingency Fee of 35% of the revenues received as a result of the Services.

7.1.2. In the event that Client discovers a non-compliant business and reports the business to Consultant (including a calculation of all taxes/fees due), Consultant will categorize the business as a collection service effort and thus apply the lower collection Services contingency Fee rate.

7.1.3. Fees for performing collection Services shall be a contingency Fee of 25% of the revenues received as a result of the Services.

7.1.4. Fees for performing audit Services shall be a contingency Fee of 35% of the revenues received as a result of the Services.

7.2. Consultant recognizes Client's authority to waive or reduce the tax/fee debt of a business. Should Client decide to do so for a business whose deficiency was identified by Consultant, Consultant shall be entitled to compensation in the amount of one half (1/2) of the Fees Consultant would have otherwise earned. Deficiencies which are uncollectable due to insolvency or dissolution of the business, or for deficiencies which are otherwise incapable of collection (i.e. statute of limitation or other legal defense) shall not be considered a Client voluntary election to waive, and thus, Consultant would not be entitled to compensation related thereto under this provision.

7.3. The fee shall be paid notwithstanding any related Client assistance, work in parallel, and/or incurrence of attorneys' fees or other costs or expenses in connection, with the relevant Services.

7.4. Fees related to travel and lodging expenses are billed at cost and applied to all meetings (including implementation, training, operations, and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by Client.

7.5. Fees will be invoiced monthly to Client for Services performed during the prior month. Fees will be netted out of Client's monthly revenue disbursement. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.

8. Payment Processing – Consultant will configure payment processing services to utilize either a taxpayer funded model (convenience fee) or Client funded model, as directed by Client. Client may

switch between these models upon written request to Consultant. Fees for each of these payment processing models are detailed here.

- 8.1. Taxpayer funded model – Client authorizes Consultant to collect each convenience fee from the taxpayer at time of payment.
 - 8.1.1. Credit and debit card processing – 2.9% of transaction amount, minimum of \$2.00
 - 8.1.2. ACH/eCheck processing - \$2.50 per transaction
- 8.2. Client funded
 - 8.2.1. Credit and debit card processing – 2.9% of transaction amount
 - 8.2.2. ACH/eCheck processing - \$0.75 per transaction
- 8.3. Returned payments/NSF fee – Each occurrence of a card chargeback, returned payment or insufficient funds will incur a fee of \$25.00, to be applied to the taxpayers account.
- 8.4. Consultant reserves the right to review and adjust pricing related to payment processing services on an annual basis. Consultant will communicate any such adjustment to Client in writing, with 60 days advance notice. Items that will be considered in the review of fees may include, but are not limited to: regulatory changes, card association rate adjustments, card association category changes, bank/processor dues and assessments, average consumer payment amounts, card type utilization, and costs of service.

Transient Occupancy Tax Audits

9. Audit Services

- 9.1. Fees for performing audit Services are \$5,000.00 per property.
 - 9.1.1. Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the “CPI Change”). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.
- 9.2. Fees for any travel and lodging expenses will be billed at cost and applied to all meetings (including implementation, training, operations and support), subject to prior written authorization from the Town..
- 9.3. Fees will be invoiced monthly to Client for Services performed during the prior month. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.

Sales & Use Tax Services

10. Sales and Use Tax and Economic Analysis/Forecasting Services/Reports

- 10.1. Fees for performing the sales tax and economic analysis/forecasting Services as described above shall initially be **\$450** per month, commencing with the month of the Effective Date (hereafter referred to as “monthly fee”). The monthly fee shall be invoiced quarterly in arrears and shall be paid by Town no later than 30 days after the invoice date.

- 10.2. Consultant will increase the non-hourly Fees established above once a year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), as reported by the U.S. Bureau of Labor Statistics (the "CPI Change").

11. Allocation and Audit Recovery Services

- 11.1. Fees for performing the allocation and audit recovery Services described above shall be **15%** of all new, increased and recovered sales and use tax revenue received by the Town as a result, in whole or in part, of the allocation audit and recovery services (hereafter referred to as "audit fee"). The fee shall be paid notwithstanding any related Town assistance, work in parallel, and/or incurrence of attorneys' fees or other costs or expenses in connection, with the relevant Services.
- 11.2. The Fee described above include, without limitation, State fund transfers received for back quarter reallocations and monies received in the first eight (8) consecutive reporting quarters following completion of Consultant's allocation audit and confirmation of the corrections by the CDTFA.
- 11.3. These Fees shall be paid by Town upon Consultant's submittal of evidence of Consultant's relevant Services in support thereof, including, without limitation, copies of relevant communications between Consultant and the CDTFA and/or taxpayers.
- 11.4. Consultant recognizes Town's authority to waive or reduce the tax/fee-related debt of a business. Should Town decide to do so for a business whose deficiency was identified by Consultant, Consultant shall be entitled to compensation in the amount of one half (1/2) of the Fees Consultant would have otherwise earned. Deficiencies which are uncollectable due to insolvency or dissolution of the business, or for deficiencies which are otherwise incapable of collection (i.e., statute of limitation or other legal defense) shall not be considered a Town voluntary election to waive, and thus, Consultant would not be entitled to compensation related thereto under this provision.

12. Consulting and Other Optional Services

- 12.1. Fees for performing the consulting and other optional Services described above shall be based on the following initial hourly rates: (i) Principal - \$325; (ii) Programmer - \$295; (iii) Senior Analyst - \$245; and (iv) Analyst - \$195.
- 12.2. Consultant may change the rates for its hourly Fees from time to time. A 30 days' prior written notice to Town will be given.

13. General Provisions Relating to Fees

- 13.1. Fees for travel and lodging expenses will be invoiced at cost and applied to all meetings (including implementation, training, operations, and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by Town.
- 13.2. Fees will be invoiced monthly to Town for Services performed during the prior month. To the extent that Consultant has commercially reasonable means to do so, Fees will be netted out of Town's monthly revenue disbursement.

8. Confidentiality Information

Section 7056 of the State of California Revenue and Taxation Code (“R&T Code”) specifically limits the disclosure of confidential taxpayer information contained in the records of the CDTFA. Section 7056 specifies the conditions under which a Town, county or district may authorize persons other than such Town, county or district’s officers and employees to examine state sales and use tax records.

The following conditions specified in Section 7056-(b)(1) of the State of California R&T Code are hereby made part of this Agreement:

- 8.1. Consultant is authorized by this Agreement to examine sales, use or transactions and use tax records of the CDTFA provided to Town pursuant to contract under the Bradley-Burns Uniform Local Sales and Use Tax Law R&T Code Section 7200 et.seq.
- 8.2. Consultant is required to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of Town who is authorized by Town resolution provided to the CDTFA to examine the information.
- 8.3. Consultant is prohibited from performing consulting services for a retailer (as defined in R&T Code Section 6015), during the term of this agreement.
- 8.4. Consultant is prohibited from retaining the information contained in or derived from those sales, use or transactions and use tax records after this agreement has expired. Information obtained by examination of the CDTFA records shall be used only for purposes related to collection of local sales and use tax or for other governmental functions of the Town as set forth by resolution adopted pursuant to Section 7056 (b) of the Revenue and Taxation Code. The resolution shall designate the Consultant as a person authorized to examine sales and use tax records and certify that this agreement meets the requirements set forth above and in Section 7056 (b), (1) of the Revenue and Taxation Code.

9. Software Use and Proprietary Information

Software Use. Consultant hereby provides authorization to Town to access Consultant’s Sales Tax website if Town chooses to subscribe to the software and reports option. The website shall only be used by authorized Town staff. No access will be granted to any third party without explicit written authorization by Consultant. Town shall not sublet, duplicate, modify, decompile, reverse engineer, disassemble, or attempt to derive the source code of said software. The software use granted hereunder shall not imply ownership by Town of said software, or any right of Town to sell said software or the use of same, or any right to use said software for the benefit of others. This software use authorization is not transferable. Upon termination or expiration of this Agreement, the software use authorization shall expire, and all Town staff website logins shall be de-activated.

Proprietary Information. As used herein, the term “proprietary information” means all information or material that has or could have commercial value or other utility in Consultant’s business, including without limitation: Consultant’s (i) computer or data processing programs; (ii) data processing applications, routines, subroutines, techniques or systems; desktop or web-based software; (iii) business processes; (iv) marketing plans, analysis and strategies; and (v) materials and techniques used; as well as the terms and conditions of this Agreement. Except as otherwise required by law, Town shall hold in confidence and shall not use (except as expressly authorized by this Agreement) or disclose to

any other party any proprietary information provided, learned of or obtained by Town in connection with this Agreement. The obligations imposed by this Section shall survive any expiration or termination of this Agreement or otherwise. The terms of this Section shall not apply to any information that is public information or is a public record pursuant to the state Public Records Act..