

5th 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 6 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 5 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 4 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 3 to this Amendment.
- E. Town and Consultant entered into a fourth amendment for business license tax, Sales, and Use Taxes consulting services Agreement on September 16th 2025 ("4th Amendment"), a copy of which is attached hereto and incorporated by reference as Attachment 2 and Exhibit A to this Amendment.
- F. California Department of Tax and Fee Administration (CDTFA) has requested that the parties reiterate the insurance requirements that are contained in the original Agreement in this amendment and also add a requirement for workers compensation and employer's liability insurance."

AMENDMENT

- 1. Section 2.1, "Scope of Services" is amended to replace the Sales and Use Tax Services and Fees with Services – Sales, Transactions and Use Tax as described in Exhibit A attached to this Amendment.
- 2. As requested by CDTFA, the parties agree that the insurance requirements set forth in the original Agreement remain in place, that a requirement for workers compensation and employer's liability insurance are added, and that these insurance requirements apply to the scope of work as amended by this Amendment. With the addition of the workers compensation and employer's liability insurance requirements, the following types of insurance are required: Throughout the term of this Agreement, Consultant will remain the following insurance in not less than the referenced amounts: (a) workers compensation and employers liability insurance as may be required by the State; (b)

property damage liability insurance of \$1,000,000 per incident; (c) bodily injury liability of \$1,000,000 per incident; and (d) professional liability for any errors or omissions of \$1,000,000.

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: _____
Chris Constantin, Town Manager

By: _____
Robert Gray, Vice President

Department Approval:

Gitta Ungvari
Finance Director

Approved as to Form:

Gabrielle Whelan, Town Attorney

EXHIBIT A
SERVICES – Sales and Use Tax

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

- 1.1. 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.
- 1.2. 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.
- 1.3. 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.
- 1.4. 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.
- 1.5. 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.
- 1.6. 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.

2. Allocation and Audit Recovery Services

- 2.1. 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.

- 2.2. 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.
- 2.3. 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 City of back or prospective quarterly payments that may be owing.
- 2.4. If, during the course of its audit, Consultant finds businesses located in the City’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 the Town, Consultant may so advise the Town and collaborate with those businesses and the Town to encourage such changes.

SERVICES – Transactions Tax Services

3. Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 3.1 Consultant shall establish a database containing all applicable Department of Tax and Fee Administration (CDTFA) registration data for each business within the Measure “G” District boundaries holding a seller’s permit account. Said database shall also identify the quarterly transactions and use tax allocations under each account for the most current and previous quarters where available.
- 3.2 Consultant shall provide updated reports each quarter identifying changes in allocation totals by individual businesses, business groups and by categories. Quarterly aberrations due to State audits, fund transfers, and receivables, along with late or double payments, will also be identified. Quarterly reconciliation worksheets to assist finance officer with budget forecasting will be included.
- 3.3. Consultant shall advise and work with TOWN Staff on planning and economic questions related to maximizing revenues, preparation of revenue projections and general information on transactions and use tax questions.
- 3.4. Consultant shall make available to TOWN the HdL proprietary software program and Measure “G” database containing all applicable registration and quarterly allocation information for TOWN business outlets registered with the Department of Tax and Fee Administration. The database will be updated quarterly.

4. Deficiency/Allocation Reviews and Recovery

- 4.1. Consultant shall conduct on-going reviews to identify and correct unreported transactions and tax payments and distribution errors thereby generating previously unrealized revenue for the Town. Reviews shall include:
- 4.1.(a) Comparison of county-wide local tax allocations to transactions tax for brick and mortar stores and other cash register-based businesses, where clearly all transactions are conducted on-site within the Measure “G” Town boundaries, and therefore subject to transactions tax.
 - 4.1.(b) Review of any significant one-time use tax allocations to ensure that there is corresponding transaction tax payments for taxpayers with nexus within the Town boundaries.
 - 4.1.(c) Review of state-wide transactions tax allocations and patterns to identify any obvious errors and omissions.
 - 4.1.(d) Identification and follow-up with any potentially large purchasers of supplies and equipment (e.g. hospitals, universities, manufacturing plants, agricultural operations, refineries) to ensure that their major vendors are properly reporting corresponding transactions tax payments to the Measure “G” Transactions Tax District.
- 4.2. Consultant will initiate, where the probability of an error exists, contacts with the appropriate taxpayer management and accounting officials to verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner so as to enhance TOWN ’s relations with the business community.
- 4.3. Consultant shall prepare and submit to the Department of Tax and Fee Administration all information necessary to correct any allocation errors and deficiencies that are identified and shall follow-up with the individual businesses and the California Department of Tax and Fee Administration to ensure that all back quarter payments due the TOWN are recovered.

5. Consulting and Other Optional Services

Consultant may from time to time in its sole discretion, consult with City’s staff, including without limitation, regarding (i) technical questions and other issues related to sales, use and transactions 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, use or transactions tax revenue-related matters.

FEES – Sales and Use Tax Services

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

- 6.1. 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.

- 6.2. 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”).

7. Allocation and Audit Recovery Services

- 7.1. 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.
- 7.2. The Fee described above include, without limitation, State fund transfers received for back quarter reallocations and monies received in the second eight (8) consecutive reporting quarters following completion of Consultant’s allocation audit and confirmation of the corrections by the CDTFA.
- 7.3. 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.

FEES – Transactions Tax Services

8. Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 8.1. Fees shall be paid **\$300** monthly billed quarterly for the transaction district tax reports that we include with the quarterly sales tax analyses. The monthly fee shall be invoiced quarterly in arrears and shall be paid by Town no later than 30 days after the invoice date.
- 8.2. 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”).

9. Allocation and Audit Recovery Services

- 9.1. Fees shall be paid **25%** of the initial amount of new transactions or use tax revenue received by the Town because of audit and recovery work performed by Consultant, (hereafter referred to as "audit fees"). New revenue shall not include any amounts determined and verified by Town or Consultant to be increment attributable to causes other than Consultant’s work pursuant to this agreement. In the event, Consultant is responsible for an increase in the tax reported by businesses already properly making tax

payments to the Town, it shall be Consultant's responsibility to separate and support the incremental amount attributable to its efforts prior to the application of the audit fee. Said audit fees will apply to state fund transfers received for those specific quarters identified as being missing and/or deficient following completion of the audit by Consultant and confirmation of corrections by the California Department of Tax and Fee Administration but shall not apply prospectively to any future quarter. Consultant shall provide Town with an itemized quarterly invoice showing all formula calculations and amounts due for audit fees.

ADDITIONAL TERMS – Sales, Use and Transactions Tax Services

10. Consulting and Other Optional Services

- 10.1. 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.
- 10.2. Consultant may change the rates for its hourly Fees from time to time. A 30 days' prior written notice to will be given.

11. General Provisions Relating to Fees

- 11.1. 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 City.
- 11.2. 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 City's monthly revenue disbursement.

12. 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 city, county or district may authorize persons other than such city, 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:

- 12.1. 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.
- 12.2. 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.
- 12.3. Consultant is prohibited from performing consulting services for a retailer (as defined in R&T Code Section 6015), during the term of this agreement.

12.4. 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.

13. 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.

14. Insurance

Throughout the term of this Agreement, Consultant will remain the following insurance in not less than the referenced amounts: (a) workers compensation and employers liability insurance as may be required by the State; (b) property damage liability insurance of \$1,000,000 per incident; (c) bodily injury liability of \$1,000,000 per incident; and (d) professional liability for any errors or omissions of \$1,000,000.