

RESOLUTION NO. 89-108

1 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH,
2 CALIFORNIA, AUTHORIZING CERTAIN CITY OFFICIALS AND A CITY
3 CONTRACTOR ACCESS TO SALES AND USE TAX RECORDS PURSUANT TO
4 REVENUE AND TAXATION CODE SECTION 7056.

5 THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH

6 DOES HEREBY RESOLVE AS FOLLOWS:

7 SECTION 1. The following City Officials are hereby
8 authorized to receive and review sales and use tax transactions,
9 for the City of Hermosa Beach from the Board of Equalization:

10 City Manager

11 City Treasurer

12 Finance Administrator

13 Director of Building & Safety/Business Licenses

14 Business License Inspector

15 Business License Administrative Aide

16 SECTION 2. The following independent contractor for the
17 City of Hermosa Beach is hereby also authorized to receive and
18 review sales and use tax transactions for the City of Hermosa
19 Beach.

20 Hinderliter, de Llamas & Associates: Robert Hinderliter,
21 Principal, Lloyd de Llamas, Principal

22 SECTION 3. The City of Hermosa Beach hereby certifies
23 that Hinderliter, de Llamas & Associates:

24 A. Has an existing contract with the City of Hermosa
25 Beach to receive sales and use tax records; and

26 B. Is required by that contract to disclose
27 information contained in, or derived from those sales and use tax
28 records only to an officer or employee of the City who is
authorized by this resolution to examine the information; and

C. Is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and


D. Is prohibited by that contract from retaining the information contained in, or derived from, those sales tax records, after that contract has expired.

SECTION 4. Information obtained by examination of board records shall be used only for purposes related to the collection of local sales and use taxes by the board for municipal revenue forecasting and for municipal business tax auditing purposes.

SECTION 5. This resolution supercedes all previous authorizations.


SECTION 6. The City Clerk shall certify to the adoption of this Resolution and send forward a certified copy to the Board of Equalization.

PASSED, APPROVED, AND ADOPTED this 28th day of March, 1989.



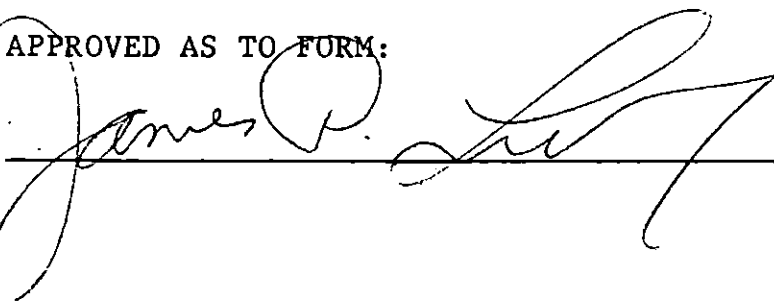
PRESIDENT of the City Council and
Mayor of the City of Hermosa Beach, California

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF HERMOSA BEACH)

I, KATHLEEN MIDSTOKKE, City Clerk of the City Council of the City of Hermosa Beach, California, do hereby certify that the foregoing Resolution No. 89-5248 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a Regular meeting of said Council at the regular meeting place thereof on March 28, 1989.

The vote was as follows:

AYES: Creighton, Sheldon, Simpson, Rosenberger, Mayor Williams

NOES: None

ABSENT: None

ABSTAIN:

DATED: March 29, 1989

Kathleen Midstokke by
KATHLEEN MIDSTOKKE, City Clerk

Linda Riddle
LINDA RIDDLE, Deputy City Clerk

RECEIVED
JUN 08 1989

Local Tax Unit

AGREEMENT FOR SALES TAX AUDIT AND INFORMATION SERVICES

This agreement is made and entered into as of the 28th day of March, ¹⁹⁸⁹ 1988 by and between the CITY OF HERMOSA BEACH, a municipal corporation hereinafter called CITY, and HINDERLITER, DE LLAMAS AND ASSOCIATES a California Corporation, hereinafter called CONTRACTOR.

RECITALS

WHEREAS, sales tax revenues can be increased through: a system of continuous monitoring, identification and correction of "point of sale" allocation errors and;

WHEREAS, an effective program of sales tax management will improve identification of sales tax opportunities as they relate to economic development and provide for more accurate sales tax forecasting; and

WHEREAS, City desires the combination of data entry, report preparation, and data analysis necessary to effectively manage the municipal sales tax base and recover revenues erroneously allocated to other jurisdictions and allocation pools; and

WHEREAS, Contractor has the programs, equipment and personnel required to deliver the sales tax services referenced herein;

THEREFORE, City and Consultant, for the consideration hereinafter described, mutually agree as follows:

SERVICES

The Contractor shall perform the following services:

A. Sales tax and economic analysis

1. Contractor shall establish a special data base that identifies the name, address and quarterly allocations of the major sales tax producers within the City for the most current and previous four quarters from the date of this agreement. Major sales tax producers are defined as those businesses meeting a quarterly revenue threshold determined by City. Since 100% of the business outlets registered with the Board of Equalization are tracked monthly, this major producers data base is designed to highlight the activities of major businesses. A second data base covering the same period will be established showing total sales tax receipts for each business category identified by the Board of Equalization. These data bases will be utilized to generate special reports to the City on: major sales tax producers by rank and category, analysis of sales tax activity by category and business districts or redevelopment areas specified by City, analysis of reporting aberrations, and per capita and outlet comparisons with state wide sales.

2. Contractor shall provide up-dated reports each quarter identifying changes in sales by geographic area, major outlets, and category; area growth and decline comparisons; and current graphics, tables, and top 100 listings. Quarterly aberrations due to State audits, fund transfers, and receivables along with late or double payments will be identified.

3. Contractor will provide a non-confidential newsletter for the City to share with Chambers of Commerce and other economic development interest groups that analyze City's sales tax trends by major groups, and geographic areas without disclosing confidential information.

4. Contractor will provide annual reports for the Manager and City Council identifying historical growth comparisons with state, county, selected city averages and C.P.I. indices; top producer listings and make up and volatility of the economic base. Annual reconciliation worksheets to assist Finance Officers with budget forecasting will also be provided.

5. Contractor shall make available to City Staff the HdL DATA computer program and data base containing sellers permit information for all in-city business outlets registered with the Board of Equalization. In addition, contractor shall process for City the monthly registration and allocation files provided by the Board in magnetic media. Printouts of registration changes and dollars allocated by business name and number will be provided from these files on a monthly basis.

B. Allocation Audit and Recovery

1. Contractor shall conduct an initial and on-going sales tax audit in order to identify and correct "point-of-sale" distribution errors and thereby generate previously unrealized sales tax income for the City. Common errors that will be monitored and corrected include; transposition errors resulting in misallocations; erroneous consolidation of multiple outlets; misreporting of "point of sale" from the wrong location; delays in reporting new outlets; misidentifying transactions as a "use tax" rather than a "sales tax," and erroneous fund transfers and adjustments.

2. Contractor will initiate contacts with the appropriate sales management and accounting officials in companies that have businesses where a probability of error exists to verify whether current tax receipts accurately reflect the local sales activity. Such contracts will be conducted in a manner to encourage local business retention and expansion.

3. Contractor shall prepare and submit to the Board of Equalization all information necessary to correct any allocation errors that are identified and shall follow-up with the individual businesses and the State Board of Equalization to ensure that all back quarter payments due the City are recovered.

4. If during the course of its audit, Contractor finds businesses located in the City that are properly reporting sales tax but have the potential for modifying their operation to provide an even greater share to the City, Contractor will work with those businesses and the City to encourage such changes.

C. On Going Consultation

Contractor shall work with City Staffs on questions related to tenant mix alternatives for maximum sales tax returns; advise City business license staff on utilization of reports to enhance business license collection efforts; provide sales tax projections on specific projects for redevelopment negotiation and city budget purposes; and provide sample reports, letters and programs to enhance the sales tax base through improved economic development efforts.

CONFIDENTIALITY

Section 7056 of the State of California Revenue and Taxation code specifically limits the disclosure of confidential taxpayer information contained in the records of the State Board of Equalization. This section specified the conditions under which a City may authorize persons other than City 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 Revenue and Taxation Code are hereby made part of this contractual agreement.

- A. Contractor is authorized by this agreement to examine sales and use tax records of the Board of Equalization provided to City pursuant to contract under the Bradley-Burns Uniform Sales and Use Tax Law.
- B. Contractor is required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.
- C. Contractor is prohibited from performing consulting services for a retailer during the term of this agreement.
- D. Contractor is prohibited from retaining the information contained in, or derived from those sales and use tax records, after this agreement has expired. Information obtained by examination of board records shall be used only for purposes related to collection of local sales and use tax or for other governmental functions of the City as set forth by resolution adopted pursuant to Section 7056 (b) of the Revenue and taxation Code. The resolution shall designate the Contractor 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.

CONSIDERATION

- A. Contractor shall establish the sales tax and audit data bases and shall provide the monthly and quarterly updates referenced above for a fee of \$300.00 per month, invoiced quarterly.
- B. Contractor shall be further paid 15% of all new Sales and/or Use tax revenue received by the City as a result of audit and recovery work performed by Contractor. Said percentage fee will apply to fund transfers received for back quarter reallocations and monies received in the first eight consecutive reporting quarters following completion of the audit by Contractor and confirmation of corrections by the State Board of Equalization.

Contractor shall obtain City approval prior to beginning the work of correcting tax reporting methodology or "point of sale" for specific businesses where said payment of the percentage fee will be expected. Said approval shall be accomplished by the City Manager or his designated representative on the Sales Tax Audit Authorization form, a copy of which is attached as "Exhibit A." City shall pay audit fees upon Contractor's submittal of evidence of State Fund Transfers and payments to City from businesses identified in the audit and approved by the City.

- C. Above sum shall constitute full reimbursement to Contractor for all direct and indirect expenses incurred by Contractor in performing audits including the salaries of Contractor's employees, and travel expenses connected with contacting local and out-of-state businesses and Board of Equalization representatives.

CITY MATERIALS AND SUPPORT

City shall adopt a resolution in a form acceptable to the State Board of Equalization and in compliance with Section 7056 of the Revenue and taxation Code, authorizing Contractor to examine the confidential sales tax records of City. City further agrees to provide any information or assistance that may readily be available such as business within the City and copies of the monthly sales tax allocation reports received from the board of Equalization.

TERMINATION

This agreement may be terminated by either party with 30 days written notice. Upon the presentation of such notice, Contractor may continue to work through the date of termination. Upon termination, Contractor shall be paid the value of all tax analysis and reporting work performed less payments previously made. Compensation for any audit work previously authorized and satisfactorily performed shall be made at the times provided in the preceding section entitled "Consideration."

All documents, data, surveys and reports prepared by Contractor pursuant to this agreement shall be considered the property of the City and upon payment for services performed by Contractor, such documents and other identified materials shall be delivered to City by Contractor.

INDEPENDENT CONTRACTOR

Contractor shall perform the services hereunder as an independent contractor and shall furnish such services in his own manner and method, and under no circumstances or

conditions shall any agent, servant, or employee of Contractor be considered as an employee of City.

NON-ASSIGNMENT

This Agreement is not assignable either in whole or in part by Contractor without the written consent of City.

ATTORNEY'S FEES

In the event a legal action is commenced to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees.

GOVERNING LAW

The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this agreement and shall also govern the interpretation of this agreement.

INDEMNIFICATION

Contractor hereby agrees to, and shall hold City, its elective and appointive boards officers, agents and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for breach of confidentiality or property damage which may arise from Contractor's negligent acts, errors or omissions under this Agreement. Contractor agrees to and shall defend City and its elective and appointive boards, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid negligent acts, errors or omissions.

City hereby agrees to, and shall hold Contractor, its officers, agents and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for breach of confidentiality or property damage which may arise from City's negligent acts, errors or omissions under this Agreement. City agrees to and shall defend Contractor and its officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid negligent acts, errors or omissions.

NOTICE

All notices required by this Agreement shall be given to City and Contractor in writing, by first class mail postage prepaid, addressed as follows:

City: HERMOSA BEACH
1315 Valley Drive
Hermosa Beach, California 90254-3885

Contractor: HINDERLITER, DE LLAMAS, & ASSOCIATES
150 West First Street, Suite 280
Claremont, California 91711-4139

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf,

CITY:

CITY OF HERMOSA BEACH

June Williams
Mayor

Kathleen Missetto
City Clerk

CONTRACTOR:

HINDERLITER, DE LLAMAS & ASSOCIATES
A California Corporation

Hyde de Llamas

APPROVED AS TO FORM:

James G. [Signature]
City Attorney