

**JAMS ARBITRATION CASE REFERENCE NO. 1220056278**

**City of Calabasas**  
**Petitioner/Plaintiff,**

**vs.**

**Sachi Hamai, in her official capacity as**  
**Interim Chief Executive Officer for the**  
**County of Los Angeles; County of Los**  
**Angeles,**  
**Respondents/Defendants.**

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**ADVISORY RECOMMENDATION AFTER ARBITRATION**  
**PURSUANT TO CALIFORNIA REVENUE & TAXATION CODE SECTION 99(e)(1)(C)**

**Parties and Counsel:** The parties to this arbitration are identified in the caption and are represented as follows:

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Counsel for County of Los Angeles and Sachi Hamai

**Arbitrator:**

Hon. Richard J. McAdams (Ret.)  
160 West Santa Clara Street, Suite 1600  
San Jose, CA 95113  
408-346-0737 408-295-5267(fax)

**Date of Recommendation:**

September 19, 2017

THE UNDERSIGNED ARBITRATOR, having been duly appointed by JAMS and having fully considered the allegations, submissions, and evidence of the parties, the written and oral arguments of counsel and the last best offer of each party, finds, concludes and issues this Advisory Recommendation as follows:

**I. Introduction and Procedural Statement**

**(a) Procedural History**

*(1) The Agreement to Arbitrate*

In May 2017, in accordance with the order of the Superior Court of the County of Los Angeles in *City of Calabasas v. Sachi Hamai, et al.* (Case No. BS157268), the parties stipulated to arbitration under California Revenue and Taxation Code section 99(e) and submitted their Joint Claim re: Non-Binding Statutory Arbitration to JAMS.

*(2) Pleadings and Arbitrability*

On September 2, 2015, the City of Calabasas (City) filed a Petition for Writ of Mandate and Related Relief in the above-described matter against Sachi Hamai, in her official capacity as Interim Chief Executive Officer for the County of Los Angeles, and the County of Los Angeles (hereafter collectively, County) seeking court intervention in relation to the statutory tax revenue sharing agreement process arising from a proposed City annexation of property within the County. The County filed a general demurrer and

motion to compel mediation and advisory arbitration pursuant to Revenue and Taxation Code section 99 and on December 31, 2015, the court granted the motion to compel and sustained the demurrer with leave to amend following exhaustion of the alternative dispute resolution proceedings.

An Appointment of Arbitrator letter was issued by JAMS on June 5, 2017, appointing this Arbitrator.

A Preliminary Conference was held on July 7, 2017 and the claims were determined to be arbitrable under the advisory arbitration process set forth in Revenue and Taxation Code section 99.

*(3) Proceedings Before JAMS*

At the Preliminary Conference, a simultaneous briefing schedule was established. The parties timely filed and served their opening briefs, responses and replies.

Oral argument was heard on September 12, 2017, in a telephonic conference and the matter was submitted for the advisory recommendation.

**(b) Format of the Advisory Recommendation**

The parties stipulated that, in the interest of economy, it was unnecessary for the arbitrator to recite a detailed statement of the proposed annexation, the history of the negotiations and the issues raised by the two entities in their attempt to resolve any dispute through negotiation and mediation.

**II. The Respective Last Best Offers**

The last best offer of each party as required under Section 99 was submitted in their individual reply briefs. The descriptions of the offers below are arbitrator's summaries and are not intended to be a substitute for the actual offers formally submitted by the parties in their respective reply briefs.

**(a) The City of Calabasas**

*(1) Property tax*

Without waiving its argument that “the law does not permit the County to demand the City acquiesce to the County’s demand to share sales tax before the County will negotiate a property tax sharing agreement,” the City is prepared to accept as transfers from the County the following annual property tax-related revenue “identified in Table 2 of the consultant’s [EPS] Report:

County Property Tax: \$7,438  
Public Library Special Fund: \$3,905  
Lighting District #1687: \$690  
LLAD #32: \$11,000”

The offer further sets forth the specifics of the transfers to the library fund, the Lighting District No. 1687 and LLAD No. 32 and any “then-existing” fund balance for LLAD No. 32 (estimated to be \$183,000) and concludes that the total annual property tax-related revenue transfer would be \$23,033 plus the “one-time transfer” of LLAD No. 32 funds (with the City’s “caveat” concerning this figure and what the City understands could be the “actual assessment and fund balance...for LLAD No. 32 at the time of annexation.”).

*(2) Sales Tax*

Again without waiving its argument as noted above, the City’s offer proposes a sharing of the actual sales tax revenues collected in the annexed area for a ten year period, “beginning with a 50% split in year one” and then declining 5% each year from City to County thereafter.

**(b) The County of Los Angeles**

*(1) Property Tax*

Without waiving any opposition to the annexation, the County offers that the City can receive

“all property taxes from the [annexed] Property.”

*(2) Sales Tax*

The County’s offer proposes that the County would “retain sales tax attributable to Spirent [the major sales tax generating business entity within the proposed annexation] (and any [legal] successor business entity)...up to \$500,000 so long as Spirent...occupies the building on the Property.” Under this proposal, the City would be “entitled to any increase in annual sales taxes” over \$500,000.

**III. Arbitrator’s Recommendation**

Pursuant to Revenue and Taxation Code section 99(e)(1)(C), Arbitrator recommends the proposal by the City to the governing bodies of the City and the County:

1. The City’s offer presents a balanced sharing of tax revenues spread out over a time period that allows substantial time for any necessary adjustments and fiscal planning as a result of the annexation.
2. The anticipated sales tax revenue derived from Spirent is miniscule in relation to the County’s overall budget.
3. The County has presented no evidence that the loss of anticipated sales tax revenue would have a significant impact on the County’s ability to provide services or would “contradict orderly growth and development - two of the factors in the County’s own policies on evaluating proposed annexations (Los Angeles County Policy, section 3.095).
4. The County provides no justification for setting a \$500,000 level for sharing sales tax revenue for an unlimited time period.
5. The City’s proposal acknowledges that Spirent has been located in both the City and County over the past years.

It should be noted that the parties agreed that in light of the last best offers, the arbitrator need not incorporate into this recommendation any analysis, findings or conclusions concerning the issue of whether sales taxes can be the subject of the negotiations under Section 99.

**IV. Conclusion**

Arbitrator recommends the proposal by the City to the governing bodies of the City and the County.

**This recommendation addresses all claims between the parties submitted to Arbitrator in this proceeding.**

Dated: SEPT. 19, 2017



Hon. Richard J. McAdams (Ret.)  
Arbitrator

**PROOF OF SERVICE BY E-Mail**

Re: City of Calabasas vs. Hamai, Sachi, et al.  
Reference No. 1220056278

I, Michelle Penuliar, not a party to the within action, hereby declare that on September 19, 2017, I served the attached Advisory Recommendation after Arbitration Pursuant to California Revenue & Taxation Code Section 99(e)(1)(C) on the parties in the within action by electronic mail at San Jose, CALIFORNIA, addressed as follows:

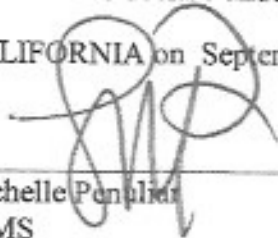
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Parties Represented:  
County of Los Angeles  
Sachi Hamai

I declare under penalty of perjury the foregoing to be true and correct. Executed at San Jose,  
CALIFORNIA on September 19, 2017.

  
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Michelle Penuliar  
JAMS  
mpenuliar@jamsadr.com