



## Item No. 21 Town of Atherton

### **CITY COUNCIL STAFF REPORT – REGULAR AGENDA**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER**

**FROM: ROBERT BARRON III, FINANCE DIRECTOR**

**DATE: FEBRUARY 21, 2018**

**SUBJECT: REVIEW, DISCUSS, AND, IF APPROPRIATE, AUTHORIZE STAFF TO  
ISSUE A REQUEST FOR PROPOSAL FOR CONSULTANT FIRMS TO  
ASSIST WITH THE UPDATES TO THE TOWN'S BUSINESS LICENSE  
ORDINANCE TAX MEASURE AND OTHER POTENTIAL REVENUE  
ALTERNATIVES**

#### **RECOMMENDATION**

Review, discuss and authorize issuance of attached Request for Proposal (RFP) for consultant firms to assist with updates to the Town's business license ordinance tax measure and other revenue alternatives.

#### **BACKGROUND**

The City Council in recent years has discussed revenue options, alternatives, and updates to the Town General Fund. Part of discussions included Business License Tax, Benefit Assessment District's where feasible, annual review of Rents and Uses, and the possibility of a Utility User's Tax or Real Estate Transfer Tax. A result of the discussions, the City Council discussed a strategy plan for the Town's Business License Tax and possible adjustments to the Tax and other alternative revenue options to bring them current. In May 2017, staff presented a more in-depth look at Business License Tax structures and the Council discussed various models that might be useable in Atherton.

At its January 2018 meeting, staff presented to City Council for review and discussion an authorization to seek proposals from consulting firms to assist with updates to the Town Business License Ordinance Tax measure and assist with the education strategy plan.

#### **ANALYSIS**

To assist with amendments to a Business License Tax amendment the Council set a strategy plan that will involve community educational meetings to bring the Tax to a vote at the November 2018 election. Staff recommended that the Council engage a survey and tax consultant to assist with the next steps toward a ballot measure. During its January 2018 meeting, the Council directed staff to

create a request for proposal to solicit consulting firms for assistance in developing a new Business License Tax Ordinance that fits the Town, as well as further engagement and education on other revenue alternatives. With the implementation of an RFP and the time needed to solicit and review proposals, the Town strategy plan target has become tighter. Nevertheless, staff recommends the engagement of a consultant that specializes in the assistant of survey and tax measures strategies to assist the Town with a ballot measure.

Provided for your review is a request for proposal to solicit consulting firms that can provide the specialized resources in implementing and amending tax measures. The attached RFP proposal seeks a consultant to assist with the design and implementation of a community survey in connection with a proposed business tax or other revenue alternative ballot measures, public education materials, and surveys. The consultant scope is to also assist in the measure development process and community engagement such as surveying services, public outreach, building community awareness, and development of material and communications strategies.

Within the RFP, staff recommends the Town solicits a consultant to not only assist in the business license tax measure, but also review other two other alternative revenues – a potential Transient Occupancy Tax (TOT) focused on short-term rentals and the use of situs-based Sales Tax (SU) for construction projects. The TOT revenue is a general tax imposed on occupants that occupy rooms in hotel, motel, inn or other lodging facilities. Staff recommends that this be reviewed as there is increasing use of short-term rentals in the surrounding community and communities. While the Town does not permit short-term rentals, they are operating in Town and staff does not have the resources to enforce. Staff is also recommending a consultant assist with the review of a point of sales tax for construction sites to include voluntary tax on fixtures and materials. This is in reference to residential home development in the Town. As part of the RFP, staff recommends that the consultant provide an update on the feasibility of establishing a TOT and SU tax.

*Staff recommends that the Council review the RFP and make additional recommendations if any to the RFP. With Council authorization, staff would solicit proposals from consultants, and set up a review of proposals by a staff review committee and make a recommendation to Council based on qualifications, references and cost. Some firms staff anticipates sending RFP's to will also include Tramutola Advisers, Godbe Research, EMC research, MuniServices, or National Citizen Survey*

## **POLICY FOCUS**

As part of the strategy plan for the business license tax or revenue alternative opportunities, staff is seeking direction on solicitation of request for proposal from consulting firms to engage a consultant for polling, survey, and assistance with tax revenue modeling and assist with next steps toward a 2018 ballot measure. The Council will work on a defined business license tax revision or other alternative revenues for the 2018 ballot.

It is important to note that the timeline for a November 2018 ballot measure is tight. The Council would have to authorize a measure for the ballot in July 2018. As a result, the RFP will ask the consultant to identify a timeline of activity and tasks for a November 2018 measure and/or a November 2020 measure. The situs-based sales tax issue does not require a vote as it is voluntary

on the part of the vendors. The Business License Tax and Transient Occupancy Tax would require a ballot measure.

### **FISCAL IMPACT**

Staff will return with a recommendation for hiring of a Business Tax and other alternative revenue consultant. At the time a budget amendment for an amount to cover consultant costs will be presented.

### **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

### **ATTACHMENT(S)**

Request for Proposal Business License Ordinance Review and Alternative Revenue Analysis



# Request for Proposal

## Business License Review and Alternative Revenue Analysis

Date Issued: February 22, 2018

Date Due: March 22, 2018 at 4:00 p.m

**TOWN OF ATHERTON, CALIFORNIA**  
**REQUEST FOR PROPOSAL BUSINESS LICENS ORDINANCE REVIEW AND**  
**ALTERNATIVE REVENUE ANALYSIS**

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## I. INTRODUCTION

### A. General Information

The Town of Atherton is requesting proposals from qualified Business License Tax and Revenue Consultants to perform an analysis of the Town's current Business License Tax ordinance; through community input and engagement, develop a business license tax option that best fits the Town; and provide a review and analysis of potential other revenues including Transient Occupancy Taxes (TOT) for short-term rentals and a Consumer Use Tax (SU) within Town limits. The selected consultant will also assist with recommendations for the type of tax model, measure development, public education materials, surveys and outreach. The consultant must use a generally accepted methodology to create a decision-making model to provide direction for an effective and up-to-date business licensing practice, procedure and fees. The consultant must do the same for the implementation of TOT and SU within the Town.

The Town is a residential community located in San Mateo County in the San Francisco Bay Area Peninsula. The Town has reviewed its current Business License Ordinance and has examined potential changes to it. The Town's business license tax is imposed solely to raise revenue for the Town, not for regulatory purposes. The Town's business license tax is a general tax.

The Town seeks proposed changes to the Business License tax ordinance to be prepared for the November, 2018 ballot measure. Proposed amendments need to be delivered to County Election's office by August 10, 2018. However, the consultant is advised to develop two timelines for implementation that can be considered by the Town. A timeline that would place measures on the ballot in November 2018 and a timeline that would place measures on the ballot in November 2020.

There are no commercial businesses located in the Atherton. The Town's current tax structure has four categories of business license tax. The majority of categories deal with contractors and subcontractors. The Town has extensive residential construction and this typically means that licenses are issued to a variety of residential development specialists and services.

The Town also seeks assistance and analysis for potentially establishing a transient occupancy tax (TOT) on short-term rental operations within the community. Within the analysis, the Town would like to know the benefits and opposition for TOT in the Town. Another revenue alternative the Town is seeking assistance is the review of establishing a

Consumer Use Tax (SU). Primarily a residential community, the Town has extensive residential home construction in the area. The Town is one of few municipalities in the Bay Area that does not have a building design standard. There are numerous real estate general contractors and subcontractors in the Town limits throughout the year. The Town is seeking assistance on establishing a voluntary SU tax base from home developers constructing homes.

There is no implied obligation for the Town of Atherton to reimburse the responding consultants for any expenses incurred in preparing proposals in response to this request.

For a consultant to be considered, Town must receive four (4) hard copies and one (1) electronic copy of the proposal by 4:00 pm on Friday March 22, 2018 at the following address:

Attn: Theresa DellaSanta  
City Clerk's Department  
Town of Atherton  
91 Ashfield Road  
Atherton, CA. 94027

Electronic Copy:  
[tdellasanta@ci.atherton.ca.us](mailto:tdellasanta@ci.atherton.ca.us)

All proposals must be sealed and marked "Proposal-Business License Tax and Other Revenue Alternatives Analysis"

A selection committee will evaluate proposals submitted. During the evaluation process the committee and the Town reserve the right to request additional information or clarifications from proposers. Firms submitting proposals may be subject to in-person interviews as part of the evaluation process.

The Town reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the proposal was selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Town of Atherton and the firm selected.

It is anticipated the selection of a firm and approval by City Council will be completed on or after April 4, 2018

## B. Terms of Engagement

A multi-year contract or until the Business License Tax and other revenue alternatives of Transient Occupancy Tax and Site Use Tax analysis is completed. Proposal package shall be inclusive of fees for preparation, community meetings, and presentation of the analysis. Conduct periodic coordination meetings with Town staff and designees to review progress and discuss issues.

## II. NATURE OF SERVICES REQUIRED

### A. Scope of Work to be performed

1. The Town of Atherton requires a consultant to complete a current business license tax ordinance analysis and document the findings. Develop a comprehensive business inventory of overall business activity in the Town. This includes classification of businesses operating in the Town.
2. Perform a comparative study of surrounding and similar communities' business license tax structures.
3. Provide the Town with various rate structures and revenue estimates for Council review, community and stakeholder input. Provide optional rate structure methodologies for staff and city council review.
4. Forecast modeling of rate structures based on the business inventory and provide revenue estimates.
5. Assist the Town in the implementation of a new rate structure approved by City Council and also revise the business tax ordinance. During this process provide samples of modern-day ordinances.
6. Conduct, support, and assist with public outreach, stakeholder meetings and engagement, public education materials, community surveys, and other revenue alternative opportunities during the ballot measure preparation.
7. Provide data gathering and feedback to the Council. This is to include voter surveys on proposed revenue alternatives.
8. Discussion of the data gathering results to assist in defining the business license tax revisions, and provide feedback on other revenue alternative opportunities to the Town.
9. Assist with the ballot measure language for proposed business license tax.
10. Include business licensing auditing service of revenue the Town is entitled to but not receiving from businesses. This is to include the detection, documentation, and corrections of omissions from businesses. Inform local businesses of compliance with the Business License Tax ordinance and educate on the requirements of the ordinance to prevent future omissions.
11. Provide an initial assessment of viability of Transient Occupancy Tax revenue as a general tax measure for short-term rental operations within the community. Understand

- the Revenue and Tax Code Sections 7280 and 7281 that provides the authority. The General Tax imposed on occupants that occupy rooms in hotel, motel, inn, other lodging facility and etc.
12. Provide benefits and opposition for establishing a TOT in Atherton on short-term rentals. Provide estimates of general purpose tax revenue derived.
  13. Understands Sales and Use tax and California Constitution Article XIII section 25.5 (a) (2), 29 and Revenue and Tax Code section 7200. Also understanding of SBOE Policy Resolution 12/6/94, SBOE operations memo 1023. Provide analysis and recommendation of “point of sales” tax for construction sites. This includes for fixtures or materials that the seller affixes to a property as part of the sale. Analysis of contractor of residential construction sites option to register the site with State Board of Equalization (BOE) as “point of sale” and obtaining job site permit from the BOE. This includes large construction site contracts that exceed \$5 Million. Analysis of the allocation the use tax derived from contracts or subcontracts to the Town limit job sites. Develop a process for the Town to capture this revenue.
  14. The Town expects the consultant to assist and coordinate with the City Attorney to ensure that all legal requirements are met with respect to communication with ballot measure and developing of educational materials.

### III. DESCRIPTION OF GOVERNMENT

#### A. Contact Persons

The consultant’s principal contact with the Town of Atherton will be Robert Barron III, Finance Director, who will coordinate the assistance to be provided by the Town to the consultant.

#### B. Background information

The Town of Atherton was incorporated in 1923 as a general law city operating as a Council-Manager form of government. The Town is 5.049 square miles and has a population of about 7,100. It is located in the San Francisco Bay Area peninsula region in San Mateo County. The Town provides most municipal services except for fire protection and water services. The City has 38 full time employees and has a combined all funds operating budget of approximately \$25 million. It is a residential community, there is no commercial business located in the Atherton.

#### Current Town Business License Ordinance

The Town’s business license ordinance does not tax all businesses or persons that conduct business in the Town limits. The Town’s current tax structure has four categories of business license tax. The majority of categories deal with contractors and subcontractors.

The Town has extensive residential construction and this typically means that licenses are issued to a variety of residential development specialists and services. The Town's current business license tax is levied at a flat rate and is done so by category of business. There are approximately 1,600 business licenses issued in the Town. The current business license tax is based on five (5%) percent of gross receipts or a flat tax, whichever is less, based on the category of business. The tax ranges from \$25 to \$250. The Town currently uses MuniServices for its business license tax management and administration. The Town will provide assistance for obtaining Town business license registration reports.

The Town's business license ordinance is in Chapter 5.12 of the Atherton Municipal Code. It focuses the business license tax on contractors and real estate firms conducting business in Town. The ordinance defines conducting a business as the act of "...conducting, managing, carrying on a certain business or occupation or any aspect thereof, including, without limitation, showing real property for sale or lease on behalf of the property owner or a potential buyer or lessee (in the case of a realtor)." The ordinance further defines a contractor as "...any person conducting, managing, carrying on or engaging in the business of construction or repair work for an agreed price..." The Town of Atherton business license ordinance Section 5.12.150 divides the business license tax requirement into four categories. Category I is firms with two or more employees doing business as general contractors, alarm installers, private patrol, maintenance companies (buildings, grounds/landscaping, swimming pools) and real estate firms. Category II is firms with two or more employees doing business as subcontractors. Category III is sole operators doing business as subcontractors, maintenance companies (buildings, grounds/landscaping, swimming pools), real estate brokers and home occupations. Category IV is handymen, horseshoers, solicitors, and delivery vehicles.

#### Transient Occupancy Tax (TOT)

The Town currently does not have a TOT in the Town limits. However, there are short-term rental operations within the Town limits. The Town would like to pursue recommendations on establishing a TOT as an additional alternative revenue to the Town as a general tax.

#### Consumer Use Tax (SU)

The Town of Atherton is a strictly residential town with several schools and a private club in its city limits. The Town is one of few cities that does not have a building design standard. The Town has approximately 2,468 parcels, with lot sizes ranging from quarter (1/4) acre to three (3) acre lots. As of FY 2017/18 the Town has a total assessed property value of \$10.2 Billion. The Town has extensive home construction in the area as there are numerous general contractors and subcontractors in the town throughout the year. The agency is interested in exploring the consumer use tax for large construction projects and

the use of job site permits to establish the use tax on fixtures and materials installed in the Town residential construction projects.

C. Services Provided

The Town of Atherton provides the following services to its citizens:

- General Government
- Public Safety
- Community Development
- Public Works
- Parks
- Capital Projects

IV. TIME REQUIRMENTS

A. Proposal Calendar

The following is date the proposals are to be submitted and the timeline of key dates (subject to change):

<u>Date</u>	<u>Activity</u>
2/22/18	Request for proposal issued
3/22/18	Due date for proposals
4/4/18	Notification to selected firm
4/5/18	Contract Date
4/5/18 – 7/11/18	Work to Be Performed

Provide business inventory, comparative of other municipalities, Community Engagement Stakeholders meetings, various rate structure methodologies, revenue estimates, Community Engagement meeting, rate structure, business ordinance update

7/18/18 Council adopts a resolution putting forth a ballot measure on business tax

08/1/18 Assist with the ballot measure placement to amend the new ordinance.

Public education materials

V. PROPOSAL REQUIREMENTS

A. Submission of Proposal

The proposal material is required to be received by 4:00 pm on March 22, 2018

## B. Proposal Requirements

### 1. General Requirements

For a consultant to be considered the following is the proposal requirements:

Four (4) hard copies and one (1) electronic copy of the proposal to include the following:

- Title page -Shows the request for proposal subject, the consultant's name, address and telephone number of the contact person and date of the proposal.
- Transmittal Letter- Signed letter of transmittal acknowledging the proposer's understanding of the work to be performed, commitment to perform the work within the time frame, a statement as why the consultant believes itself to be best qualified to perform the analysis.
- Detailed proposal- the proposal is to demonstrate qualifications and capacity of the consultant to perform the Business License fee and potential other revenue alternative of Transient Occupancy Tax and Consumer Use Tax study analysis. It should include the particular staff to be assigned to the analysis. The proposal should be prepared simply and economically, and include concise description of the consultant's qualifications, competence, and capacity of the consultants seeking to undertake this study analysis. Must also demonstrate the capability to satisfy the requirements of the request for proposal. Proposal shall also include timeline for community engagement, revenue rate structure methodologies, and milestones to meet 2018 ballot measure deadlines as well as an alternative timeline for 2020.

### 2. Consultant Qualifications and Experience

The consulting firm should state qualifications for performing the Business License fee and potential other revenue alternative of Transient Occupancy Tax and Consumer Use Tax study analysis. Identify the number and nature of professional staff to be used in performing this analysis. The consultant should identify the principal supervisor or management staff who would be assigned to this engagement.

### 3. Prior Engagements with Town of Atherton

The consultant should list separately any professional engagements with Town of Atherton over the past four years and the nature of the type of engagement. A statement is welcomed explaining why such relationships do not present a conflict of interest in performing the proposed analysis.

### 4. Report Format

The proposal should include sample of reports for the performed analysis.

C. Cost of Proposal

The cost of the proposal should include all costs directly related to performing the analysis on the Town's current Business License Ordinance fee update and potential other revenue alternative of Transient Occupancy Tax and Consumer Use Tax (SU). Hourly rates of staff performing the analysis should be included. Total maximum bid price is to include all direct and indirect costs.

VI. EVALUATION PROCEDURES

A. Selection Committee

Proposals will be reviewed by a selection committee which is expected to include the following: City Manager, Finance Director, two members of the City Council

B. Selection Criteria

Submitted proposals will be evaluated based on professional experience, qualifications, responsiveness and cost.

C. Final Selection

The Town of Atherton City Council will select a firm based upon recommendations from the selection committee.

D. Right to Reject Proposals

The Town of Atherton reserves the right to reject any and all proposals submitted and to request additional information from proposers. If the Town cannot successfully negotiate a professional agreement acceptable to both parties, the Town reserves the right to award the contract to any firm determined to be qualified to conduct the analysis study.