



## Item No. 2 Town of Atherton

### **CITY COUNCIL STAFF REPORT – STUDY SESSION**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: GEORGE RODERICKS, CITY MANAGER**

**DATE: JULY 18, 2018**

**SUBJECT: FIRE SERVICES FISCAL REVIEW – REVIEW TASK 4 RESULTS;  
PROVIDE STAFF WITH FEEDBACK AND DIRECTION ON NEXT  
STEPS**

### **RECOMMENDATION**

Review Task 4 results and provide staff with feedback and direction on next steps.

### **BACKGROUND**

In October 2016, the City Council authorized the release of a Scope of Work to conduct a Fire Services Fiscal Review. That study was completed in January 2018 and at the January City Council meeting, the Council was presented with the completed Study and issued a letter to Atherton residents inviting comment and attendance at the February 21, 2018 City Council Meeting.

Tasks 1 through 3 of the Study revealed that the property tax revenue received by the Fire District specifically from Atherton residents far exceeds the cost to provide fire services to the community. To provide the community with the range of options available should the Council and community desire to address the identified financial equities, the Council authorized staff to move forward with Task 4.

The objective of Task 4 was an analysis of the range of options that might be open to the community, to include, a framework of the LAFCO detachment process, steps involved (staff and public), an estimate of potential cost areas, potential outcomes; as well as, any other options that might be pursued by the Town, to include, but not limited to legislative changes, agreements, etc.

Matrix Consulting has completed Task 4 and it is included with the Staff Report as Attachment 1.

### **ANALYSIS**

To help frame the issues involved and identify potential solutions, Matrix conducted a series of case study analyses of organizations dealing with similar issues. A major finding from this review was that are no reorganizations that have faced exactly the same scenario as the Town.

The Study analyzes several possible solutions should the Town and community desire to move forward.

- Detachment
- Tax Agreements
- Special Legislation

With respect to a detachment process, much of the upfront work has been accomplished through the Matrix Tasks 1 through 3; however, there remain two areas that will require further analysis to determine if a detachment, and subsequent reorganization, can be completed under LAFCO:

- 1) The financial feasibility of the remaining district. LAFCO is required to make findings for a request for detachment which includes a finding that the remaining special district will be able to provide the same level of service and will be financially viable; and
- 2) The ability of the municipality to provide fire services, either by establishing a municipal fire department or contracting services through another city or special district.

The Study goes into further detail on the steps and timeline involved should detachment be an option pursued by the Town.

Matrix also researched tax agreements (i.e., renegotiation of tax allocation). These agreements can be reached outside of a reorganization process. While there are even fewer case studies for tax negotiation agreements than detachments, there are a few key takeaways.

- 1) As in the case of the City of Irvine, while their interest has been in renegotiating the allocation of taxes currently funding fire services (from the Orange County Fire Authority), the process came into conflict with labor groups and a referendum put restrictions on the use of reallocated revenues for use only for fire purposes.
- 2) Tax negotiations may result in changing the percent of tax revenue transfer from the Town to MPFD or, as in the case of San Bernardino County, may result in tax zones which provide a means to retain revenues generated in one area to fund fire services in that area.

The Study goes into further detail on the issues and concerns found in a collaborative tax agreement.

Lastly, Matrix investigated special legislation that would accomplish either a reorganization or tax revenue reallocation. The research revealed two case studies of special legislation related to fire services funded by property taxes. However, the first bill, which was intended to support a financially unstable fire district, died in a State Assembly Committee. The second bill was the first legislation specifically limiting reallocation of structural fire funds supporting fire services provided by a JPA. The bill was drafted as a result of the ongoing funding equity question between the City of Irvine and the Orange County Fire Authority JPA. The bill permits reallocation only if the county board, two-thirds of member cities, and the JPA approves. The bill specifically addressed the JPA as the Orange County Fire Authority is a JPA. While the MPFPD is not a JPA, the possibility of special legislation remains and would likely require the approval of the District.

The Study goes into further detail on the process and expectations for legislative solutions.

Matrix could find no specific scenario that was exactly like the one between the Town and MPFPD through detachment, tax agreements, or special legislation. In other words, there were no case studies where a municipality recovers some or all of the tax going to fire services and the remaining fire district was financially and operationally sound. While there is no exact model or case in which to compare the subject situation, there are elements of similar scenarios that provide insight for the Town in moving forward.

Tasks 1 through 4 by Matrix Consulting did not initiate nor do they push for the initiation of a detachment process through LAFCO. The work completed by Matrix has been solely to help raise public awareness of the financial equity issues and inform/educate the Council and community on the processes and solutions open to them should they desire to move forward to address the issue.

### **POLICY FOCUS**

With the completion of Task 4, the Council has completed all phases of work contemplated for Matrix Consulting. These phases provide awareness and education around the financial equity issues for Atherton residents in the provision of fire services; options for alternative service delivery as well as the potential cost of those options; and paths that could be pursued for property tax reallocation (tax agreements and legislation).

If the Town desired to move forward with any of the above, it may be appropriate to meet with the Fire District to discuss the results of the Study; discuss the Town's concerns; and discuss possible solutions that the District may be open to exploring. It is in the best interest of the Town that the Fire District be a collaborative partner in a solution.

Staff suggests that the City Council discuss next steps which could include public education, meetings with the Fire District, and/or meetings with key legislators.

### **FISCAL IMPACT**

None at this time.

### **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.

### **COMMISSION/COMMITTEE FEEDBACK/REFERRAL**

This item      has or  X  has not been before a Town Committee or Commission.

Fire Services Fiscal Review

July 18, 2018

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- \_\_\_ Audit/Finance Committee (meets every other month)
- \_\_\_ Bicycle/Pedestrian Committee (meets as needed)
- \_\_\_ Civic Center Advisory Committee (meets as needed)
- \_\_\_ Environmental Programs Committee (meets every other month)
- \_\_\_ Park and Recreation Committee (meets each month)
- \_\_\_ Planning Commission (meets each month)
- \_\_\_ Rail Committee (meets every other month)
- \_\_\_ Transportation Committee (meets every other month)

**ATTACHMENT**

Attachment 1 – Matrix Consulting Scope of Work

# Assessment of Processes Associated with Detachment from a Special District

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TOWN OF ATHERTON, CALIFORNIA



**July 5, 2018**

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# 1. Introduction and Executive Summary

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The Matrix Consulting Group was retained by the Town of Atherton to provide an analysis of the property tax allocation to the Menlo Park Fire Protection District (MPFPD) and options for the Town to consider should the Town desire to address the cost/benefit equities. This study builds on the study our firm completed in January 2018 to evaluate the costs of the services received from the Menlo Park Fire Protection District as well as an overview of the LAFCO and legislative processes regarding fire service reorganization.

## 1. Study Methodology

To conduct this study, the project team used an approach that included the following activities:

- **Conducted an in-depth understanding of existing and past special district detachment efforts in California.** The Matrix Consulting Group conducted interviews with California LAFCO executive directors and staff to identify case studies and evaluate possible alternatives.
- **Developed an in-depth understanding of the process to detach from a special district, alternatives to detachment, and key issues facing the Town in these processes.** The Matrix Consulting Group reviewed and developed case studies to understand the complexities of reorganization and tax reallocation. These case studies provide examples of the process and key issues, and potential limitations.
- **Identified the likelihood of success.** The processes for detachment, tax agreements, and special legislation are evaluated to identify opportunities to successfully implement detachment or an alternative.

The objective of the study was to provide a clear understanding of the LAFCO and legislation processes and requirements. This report summarizes our findings.

## 2. Executive Summary

The primary objective of this phase of the study was to identify organizational and financial reorganization processes relating to detachment from the Menlo Park Fire Protection District, renegotiation of tax revenue allocation and special legislation to achieve the same outcome(s).

To gain perspective on these processes, the project team conducted comparative case studies, from 10 major county LAFCO's across California. A major finding from these reviews was that there have been no reorganizations exactly like that of the Town's.

Two outcomes are required to be analyzed to determine if a reorganization can be completed under LAFCO:

- The financial feasibility of the remaining district. LAFCO is required to make findings for a request for detachment which include a finding that the remaining special district will be able to provide the same level of service and will be financially viable.
- The ability of the municipality to provide fire services, either by establishing a municipal fire department or contracting services through another city or special district.

The project team also researched tax agreement (i.e., renegotiation) scenarios outside of a reorganization process. There are even fewer case studies for tax negotiation agreements than detachments. However, our research highlighted key aspects related to tax negotiation agreements:

- As in the case of the City of Irvine, while their interest has been in renegotiating the allocation of taxes currently funding fire services (from the Orange County Fire Authority), the process came into conflict with labor groups and a referendum put restrictions on the use of reallocated revenues for use only for fire purposes.
- Tax negotiations may result in changing the percent of tax revenue transfer from the Town to MPFD or, as in the case of San Bernardino County, may result in tax zones which provide a means to retain revenues generated in one area to fund fire services in that area.

Lastly, the project team explored scenarios for special litigation to accomplish a reorganization of service and/or revenue allocation. The research revealed two case studies of special legislation related to fire services funded by property taxes. However, the first bill, which was intended to support a financially unstable fire district, died in a State Assembly Committee. The second bill was the first legislation specifically limiting reallocation of structural fire funds supporting fire services provided by a JPA. The bill was drafted as a result of the ongoing funding equity question between the City of Irvine and the Orange County Fire Authority JPA. The bill permits reallocation only if the county board, two-thirds of member cities, and the JPA approves.

The project team found no other scenario exactly like the one between the Town and MPFPD through detachment, tax agreements, or special legislation. In other words, there

were no case studies where a municipality recovers some or all of the tax going to fire services and the remaining fire district was financially and operationally sound.

While there is no exact model or case in which to compare the subject situation, there are elements of similar scenarios that provide insight for the Town in moving forward.

## 2. Case Studies

As part of the study, the project team reached out to 10 LAFCOs across the state of California. We conducted outreach to identify whether and where efforts to detach from a special district were attempted, how they were pursued and where these efforts proved successful. Our interviews also inquired as whether LAFCO knew of any tax agreement or special legislation efforts, outside of reorganization, as a means to reallocate tax revenues or otherwise.

The table below identifies what county jurisdictions experienced detachments from special districts, whether the jurisdiction experienced tax reallocation through a tax agreement or special legislation, and whether there has been recent interest in these processes.

Counties	Detachment from Special District	Other Reorganization	Tax Agreement	Special Legislation	Interest Shown
<b>Santa Clara</b>	None	None	None	None	Yes
<b>Alameda</b>	None	None	None	None	No
<b>Contra Costa</b>	Yes	Yes	None	Yes	Yes
<b>Solano</b>	None	None	None	None	No
<b>Monterey</b>	None	None	None	None	No
<b>Sonoma</b>	None	Yes	Yes	None	No
<b>Los Angeles</b>	None	None	None	None	No
<b>Orange</b>	None	None	Yes	Yes	No
<b>San Brnrдно</b>	Yes	None	Yes	None	Yes
<b>San Diego</b>	None	None	None	None	No

While interviews found only two jurisdictions with detachments from special districts, several jurisdictions experienced other types of reorganizations. Our research identified three counties with case studies for tax agreements and two with recent special legislation efforts.

The following subsections present case studies for special district detachment, other types of reorganizations, tax agreements, and special legislation.

## 1. Case Studies of Detachments from Special Districts

### **Contra Costa County – East Contra Costa Fire Protection District and the City of Brentwood.**

Approximately 4 years ago, the City of Brentwood showed interest in detaching from the East Contra Costa Fire District (ECCFPD). Starting with the Great Recession, the Fire District had reduced its facilities from nine stations to three stations. As a result, the City of Brentwood approached Contra Costa County LAFCO to explore the feasibility of detaching from the East Contra Costa Fire District. However, the detachment was not pursued because the cost of creating a new fire department was too high. Moreover, if Brentwood would have detached, remaining portions of eastern Contra Costa County would not have been able to sustain support for fire services.

A recently formed Task Force comprised of County, Brentwood and Oakley representatives succeeded in securing interim financing for the ECCFPD to re-open one station and is investigating longer-term solutions in partnership with affected agencies. ECCFPD continues to look for financial enhancements and governance options, through a Standards of Cover (SOC) Study, pursuit of independence through a directly elected board, and an ongoing quest for new funding sources.

#### **Key Insights**

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City costs to establish municipal fire department were too high to pursue detachment  
LAFCO would not support detachment because of the impacts on remaining district areas

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### **Contra Costa County – Contra Costa County Fire Protection District and the City of Lafayette.**

In 2013, the City of Lafayette, explored detaching from the Contra Costa County Fire Protection District. Lafayette created a task force to evaluate alternatives to provide fire service should the city pursue detachment from the Contra Costa County Fire Protection District. The task force found that Lafayette provides \$7.8 million in tax revenue to the District. On the other hand, the estimated cost to provide fire services to the City is approximately \$2.6 million each year.

The option to detach from Contra Costa County Fire Protection District and annex to the Moraga-Orinda Fire District appeared to be the best alternative for the City. However, after consideration of the costs and service implications, the City determined that the Contra Costa County Fire Protection District was a better option than the Moraga-Orinda Fire District.

Although the City did not pursue the detachment, of note, the City estimated that the cost to prepare the required LAFCO submittals would be between \$10,000 – \$25,000.

### Key Insights

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The City's estimate of the net revenue over costs to operate two stations is \$5.2 million.  
LAFCO application preparation was estimated at \$10,000 and \$25,000

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**San Bernardino County – Highlands and Yucaipa.** The City of Highland and the City of Yucaipa detached from County Service Area #38 and contracted with the California Department of Forestry and Fire Protection. But this was not before the cities endeavored to detach from the CSA and form their own fire district.

In 1998, the cities of Highland and Yucaipa submitted a joint application the San Bernardino County LAFCO to separate from CSA 38 and form their own Fire District, the East Valley FPD.

The County Auditor reviewed the financial information submitted by the cities, calculating the ratio of property tax to total revenues for the cities relative to the CSA. This proposed new entity had six tax rate areas for which service costs were calculated. The Auditor's ratio was applied to CSA service costs for each area and the total. The resulting total was the amount of property tax revenue that would go to the proposed EVFPD when formed.

Only CalFire submitted a service contract bid to provide fire services through the new district. The new district proposed a budget based on the bid and the anticipated revenue. LAFCO agreed that the EVFPD could maintain current level of service to the proposed district area. LAFCO also considered the governing board, the range and level of services, and the effects on other agencies. As a result, LAFCO determined that the new district was financially and organizationally feasible.

However, LAFCO also estimated that the formation of EVFPD would negatively impact the County's own fire service consolidation efforts by approximately \$865,000 per year and would require some stations to be changed from fulltime to paid-call.

One alternative / mitigation measure proposed by the cities was that the EVFPD negotiate with the County to transfer less than what was calculated.

The cities also argued that because the two-city district area generated 45% of the CSA fire revenues, then the proposed district should also be entitled to 45% of the CSA accumulated fire reserve funds. LAFCO could not support that position because service costs exceeded the revenue generated by the cities.

Ultimately, the proposal was denied by LAFCO due to the negative impacts to the County.

The Cities of Highland and Yucaipa then initiated their own individual applications to detach from CSA 38 and provide fire services separately. The cities assumed responsibility and now use the Cal Fire services. In order to join Cal Fire, both cities first went through their City Councils where each city council adopted a resolution to detach from CSA 38 and submitted an application to LAFCO.

Property Tax negotiation was successful. Each city negotiated with the Board of Supervisors which negotiated on behalf of CSA 38. It was agreed that the cities of Highland and of Yucaipa would receive the property tax revenue generated within their respective territories. No funds reserves were transferred and remained fully with the CSA.

#### Key Insights

LAFCO evaluated revenue and service costs in parallel with the cities

LAFCO did not support allocation of reserves consistent with operating revenues

The eventual transfer was whole for the cities

## 2. Other Types of Reorganization and Special Districts

**Contra Costa County.** In 2012, the City of Concord filed an application with Contra Costs County LAFCO to detach unincorporated area outside of Concord and Pleasant Hill, and within the Mt. Diablo Health Care District (MDHCD) and would also establish the MDHCD as a subsidiary district of the City of Concord. The reasons for the proposal included ensuring a greater portion of tax revenue received were used for health-related purposes with lower administrative costs and respond to concerns expressed by the general public about the effectiveness and cost of operating the MDHCD.

Pursuant to a Community Benefit Agreement (CBA), John Muir Health (JMH) operated and maintained the MDHCD facilities. Contra Costs County LAFCO, the Contra Costa Civil Grand Jury, and the Contra Costa Taxpayers Association raised concerns about the finances and service delivery associated with the application. LAFCO commissioned a study to identify alternatives for governance and financing options. Several alternatives were presented including dissolution of MDHCD and appointment of a successor agency to continue services. LAFCO supported the proposal and the City of Concord applied for detachment of the MDHCD and it to become the successor agency.

Pursuant to Government Code 56861, a district affected by a proposal to form a subsidiary district may consent, take no action, or adopt a resolution of intent to file an alternative proposal. MDHCD had concerns about Concord's proposal and filed an alternative proposal. The City of Concord and MDHCD met to discuss the concerns which resulted in the MDHCD Board rescinding its resolution of intent to file an alternative proposal.

LAFCO considered the City of Concord's proposal in conjunction with MDHCD's suggested conditions. LAFCO also considered factors in Government Code 56668, noting specifically that the proposal was essentially a jurisdictional change and had no physical effects on land use or the environment. LAFCO was also required to consider whether the proposal would have any effect on the fair treatment of minority or economically disadvantaged groups.

None of the cities affected by the detachment opposed the reorganization. LAFCO worked with the Auditor on property tax issues. The proposal was subject to a property tax exchange agreement with approval from the Board of Supervisors, on behalf of the District, and the City of Concord's City Council.

#### Key Insights

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A detachment and recreation of a public entity took place  
A reallocation of property tax revenue among affected tax rates areas occurred  
The process took approximately 18 months

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### 3. Tax Agreements

**Sonoma County.** The Windsor Fire Protection District is dissolving and annexing to the City of Windsor. However, the Windsor Fire Protection District may be negotiating with the City of Windsor to obtain more property tax revenue for coverage of the unincorporated periphery of the City. Sonoma LAFCO is currently conducting a Municipal Service Review (MSR), which will evaluate the level of service and provide insight on whether the current level of services could be supported by the current level of property tax revenue allocated to the Windsor Fire Protection District. The MSR will be publicly available in July 2018.

#### Key Insights

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None until and if the District successfully negotiates with the City.

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**Orange County.** The City of Irvine is one of 23 municipal agencies part of a JPA that provides fire services within the County (the Orange County Fire Authority). The City of Irvine is raising the possibility of tax negotiation because of its perennial findings that the City pays proportionally more in property taxes than other municipalities in the JPA and more than it receives in services. Irvine calculated that the property tax revenues going to the Fire Authority are substantially greater than the costs to provide fire service. In fact, if Irvine established its own fire department, the City estimates it would save \$20 million each year compared to current JPA contributions.

Moreover, the Orange County Fire Authority has recently been scrutinized for incurring debt for capital expenditures and the question of being able to cover future pension costs.

In 2012, the City of Irvine attempted to negotiate a plan to transfer funds back to the City. While the OCFA agreed to equity adjustment payments, the question was raised during litigation proceedings where the County argued the funds were dedicated for fire protection and could not be used for any other service.

In 2017, the Orange County Professional Fire Fighters Association sponsored special legislation, the first legislation that specified spending requirements or tax revenue collection for a JPA. Also in 2017, the City of Irvine again raised the possibility of tax

negotiation. At the same time, an Orange County Grand Jury report considered that similar to school districts, fire districts allow equitable distribution of services even if the revenue that pays for those services does not appear equitable.

The City of Irvine began tax negotiations with the Orange County Fire Authority this year. OCFA and the City were unable to reach an agreement, and on June 26, the City Council decided to notify OCFA that the City may exercise its option to withdraw from OCFA in 2020. Any lessons learned from this case study in regards to successful tax negotiation may only be revealed in the near future.

#### Key Insights

**At this time, tax negotiation has proven to be unsuccessful.**

Special legislation which accepts differential spending on a service.

**San Bernardino County.** In 2007, San Bernardino County LAFCO considered an application for reorganization that included the restructuring of service zones for special tax purposes. An umbrella reorganization, the San Bernardino County Fire Protection District, would be created to oversee four regional service zones. The SBCFPD would provide operational and administrative functions; the regional service zones would provide fire and emergency response activities. The application also restructured the existing CSA zones as fire service zones to be funded with the existing taxes.

This case study is relevant to the Atherton study for two reasons. First, it shows that taxes reserved for fire protection services remain dedicated to fire protection services. This illustrates that even if the Town of Atherton were to establish a fire department, the tax allocation may require that some or all of the existing taxes be used only for fire protection services.

Second, and perhaps more importantly, the case illustrates that the Town of Atherton could solidify a tax negotiation through the use of special zones for tax purposes. The creation of a special zone would enable the Town to establish that tax revenue collected in the Town would be required to be used for fire protection services in the Town. In other words, the tax revenue generated in the Town would stay in the Town. However, the result would still produce an excess of revenues funding fire services; the excess would now be in Atherton as opposed to the MPFPD but it would still be surplus revenue.

#### Key Insights

Potential that revenue formerly used for one service could not be used for other services.

Example of the creation of special tax zones for tax purposes.

## 4. Special Legislation

**Contra Costa County.** East Contra Costa County Fire Protection District (ECCFPD) is having financial trouble. A key issue is that of Proposition 13 and the rates and distribution

that were present when Proposition 13 was established. In 1979/1980, the level of development and population were relatively low especially when compared to surrounding / nearby jurisdictions. As a result, ECCFPD receives only 25% to 33% of what other fire districts in Contra Costa County receive.

The District has attempted to collect special taxes from residents to support the district and the growing level of services. None of the ballot measures were successful. A grassroots group proposed to reallocate a percentage from other special districts in the County to the ECCFPD. Those efforts also failed. Then, Assembly Member Frazier proposed a bill – AB-898 Property taxation: revenue allocations: East Contra Costa Fire Protection District – to reallocate property tax revenue from the East Bay Regional Park District.

The bill was first read on February 16, 2017 and proposed a special (as opposed to a general statute) that would direct the County Auditor to reallocate funds. The bill proposed to move \$10.5 million from a Park District to a Fire Protection District. Some proponents of the bill suggested implementing the change over several years, gradually increasing the tax transfer up to the \$10.5 million per year. AB 898 was coupled with AB 899 which would have allowed the proposal to be approved by voters should AB 898 fail at the legislative level.

The bill would have required a 2/3 vote from each house – the California Assembly and the Senate – to become law. The bill died on January 31, 2018 pursuant to Article IV Section 10 (c) of the Constitution because additional funding for the district was ‘found’ or secured; and the Parks District was against the proposal.

#### Key Insights

Though this process failed it is possible to get legislative support for such a proposal  
Existing other stakeholders have a say in this process too

**Orange County.** Related to the tax negotiation case discussed above, the fire union garnered support for special legislation to ensure that any funds reallocated from the fire service JPA received approval from at least three affected agencies. The historic bill, SB-302 Joint powers agencies (Orange County Fire Authority): was the first bill that dictated how JPA funds could be reallocated.

The bill would permit the transfer of funds if approved by the County, a majority of member cities, and the agency currently receiving the funds. Findings and declarations are required to state the necessity of this special statute.

#### Key Insights

Special legislation is possible  
This may indicate the strong support fire services and their organizations have with legislators

### 3. Detachment Process

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Detaching from the Menlo Park Fire Protection District would allow the Town of Atherton to provide fire services through a different means such as contracting with a neighboring fire service or establishing a municipal Fire Department. The following sections outline the steps in the process and what the project team has learned in counsel to our client.

#### 1. Pre-Application Studies and Communications

Prior to submitting an application for detachment to LAFCO, there are steps that the Town of Atherton should complete to assist the Town in determining whether to proceed with the detachment application and process. These pre-application actions relate to the supplemental materials and include providing financial information / evidence that shows the remaining district will be fiscally sound to provide fire services to the areas remaining in the district.

The table below lists the pre-application actions the Town of Atherton could take to preemptively verify the likelihood of a detachment application being supported by LAFCO based on the findings the Commission must make.

Pre-application Action	Reason	Priority
<b>Financial Analysis</b>	Determine whether remaining fire district would be financially feasible	High
<b>Plan for Service</b>	Determine whether remaining district's level of service will be maintained	Low
<b>Inter-agency Communication</b>	Proactively address questions / concerns	Mid

**Financial Analysis.** In our January 2018 study, the Matrix Consulting Group identified the financial implications of establishing a municipal Fire Department and, alternatively, contracting with an existing fire service agency. This fiscal analysis is part of the financial information that LAFCO will require with the application materials. However, LAFCO will also need to see that remaining district will be fiscally stable.

In approving a reorganization, LAFCO must find that the proposal “promotes public access and accountability for community services needs and financial resources.” In other words, that there is an adequate source of funding to maintain service levels for all affected agencies. Should the remaining MPFPD be fiscally unsound, LAFCO would not support the detachment. In order to understand whether MPFPD would be fiscally sound and, thus, discover whether pursuing the detachment application is worthwhile for Town of Atherton, the Town should analyze the financials for the remaining district.

Analyzing the financial stability of the remaining district prior to submitting an application has multiple benefits. Not only will it provide the Town with the knowledge of LAFCO being able to support the detachment application, the financial analysis will also help determine if environmental review would be required as part of the application. If the remaining Menlo Park Fire Protection District is unable to maintain itself, LAFCO will require environmental review in the form of a Mitigated Negative Declaration or Environmental Impact Report. Understanding whether environmental review would be required will help prepare the cost estimate for the detachment process because environmental review could be a significant cost.

A third benefit to analyzing the financial implications for the remaining district prior to submitting the detachment application is that the analysis would provide a tool for discussion with the Menlo Park Fire Protection District. Should the detachment be approved, one of the last steps is negotiating the allocation of property tax revenue. The financial analysis would be a tool for not only for this step in the detachment process but also a tool for discussions with MPFPD should the Town pursue a tax negotiation outside of detachment. Most importantly, the financial analysis would provide a discussion tool for the Town to discuss the detachment proposal with MPFPD prior to submitting a LAFCO application which would help ensure the Town's assumptions about the remaining district's feasibility is reasonable.

The financial analysis should be conducted by a professional consultant in conjunction the San Mateo County Auditor-Controller and the MPFPD, as needed. The County Auditor-Controller would provide information regarding the tax revenue that is provided to the MPFPD currently and the resultant change in tax revenue should the detachment be approved.

**Plan for Service.** Pursuant to Government Code Section 56653, the applicant is responsible for providing a plan for service. Similar and related to the fiscal analysis, the Town should ensure the Plan for Service addresses the Town of Atherton and the remaining Fire District jurisdiction. However, LAFCO, as part of their analysis of an application for reorganization, would complete an assessment of the remaining district. While it would be advantageous for Atherton to know that the remaining district would be viable in terms of service needs, the Town is not required to complete a Plan of Service for the remaining district.

The Plan for Service needs to show who will provide service, how the service will be provided, and whether Atherton would more efficiently or cost effectively provide fire protection services than the current provider. LAFCO cannot approve service levels at less than what is currently provided. Therefore, the Plan for Service should show that the remaining jurisdiction will not receive a lower level of service than it currently receives.

As part of the Plan for Service, the Town of Atherton should conduct an inventory of assets that will become part of the municipal Fire Department. Much of the equipment

owned by the District is easily moved. Conducting an inventory will allow the Town to track facilities and other equipment affected by the transfer of fire services from the special district to the Town. For example, if the Town determines it wishes to acquire the hoses at fire station #3 from the Menlo Park Fire District, an inventory may record that there are four hoses today. If the Town acquires the facilities and equipment at fire station #3 and there are no hoses after transfer, the Town's record would show the asset transfer agreement was breached.

The inventory assessment could be developed by the financial consultant; the service assessment, including the impacts on the continued viability of the remaining District service area would be conducted by a fire service consultant.

**Inter-agency communication.** In addition to preparing supplemental materials, the Town of Atherton should also begin and continue discussions with the Menlo Park Fire Protection District, the San Mateo County Controller, and other agencies that may be impacted such as the Cities of East Palo Alto and Menlo Park. This communication should consist of meetings in which affected agencies discuss potential impacts of Atherton's detachment. The Town should also openly accept comments and questions from affected agencies which would allow Atherton to be aware of concerns and questions and, therefore, prepare a better / more complete application package to submit to LAFCO. This communication will provide the Town of Atherton the opportunity to address questions and concerns about the detachment proactively, instead of reactively.

These communications are consistent with good government, including LAFCO, goals of transparency.

## **2. Application and Supplemental Materials**

The application for detaching from a special district in California, such as the Menlo Park Fire Protection District is three pages and requires details about the proposal. The Town of Atherton must include general information, description of services, specific proposal information, and contact information.

The application must be submitted with materials to supplement the application. These materials include fiscal impact study, and Plan for Service, the initiating document. The table below lists the supplemental materials including the required number of copies.

Supplemental Materials	Number of Copies	Description / Details
Initiating Document	2	<ul style="list-style-type: none"> <li>• Resolution of Application adopted by the Town Council</li> <li>• Two certified copies with the original signature of the Town Clerk</li> </ul>
Environmental Review	3	<ul style="list-style-type: none"> <li>• Preliminary Environmental Information or completed</li> <li>• Environmental Impact Report</li> <li>• Describe physical characteristics of the property</li> <li>• Describe land uses</li> <li>• Identify site alternations</li> <li>• Describe impacts to remaining district</li> </ul>
Map	7 + 1 electronic copy	<ul style="list-style-type: none"> <li>• LAFCO and BOE to determine if required</li> </ul>
Legal Description	2 + 1 electronic copy	<ul style="list-style-type: none"> <li>• LAFCO and BOE to determine if required</li> </ul>
Plan for Service	3	<ul style="list-style-type: none"> <li>• Required by Government Code 56653</li> <li>• Level and range of each service for affected territory</li> <li>• Feasibility of proposed services in detached territory</li> <li>• Indication when service can be feasibility established</li> <li>• Identify improvements / upgrades / conditions of facilities</li> </ul>
Fiscal Impact Analysis	3	<ul style="list-style-type: none"> <li>• Estimated cost of services (detached area and remaining area)</li> <li>• Description of how service / improvements will be financed</li> <li>• At least 5-year projections for revenues and expenditures</li> <li>• Narrative discussion of sufficient revenues</li> </ul>
Filing Fee	N / A	<ul style="list-style-type: none"> <li>• Determined by San Mateo County LAFCO</li> </ul>

The supplemental materials include documents that require preparation by a professional consultant such as the Map and Legal Description and the Environmental Impact Report and are discussed further below.

**Initiating Document.** The initiating document is a resolution prepared by the Town and adopted by the Town Council. The resolution becomes part of the application package and is referred to as the initiating document. LAFCO requires two certified copies to be submitted.

**Environmental Review.** Preliminary environmental information should be submitted with the application. Preliminary information includes a description of physical characteristics of the property, land uses, site alternations, and impacts to the remaining district. This will help LAFCO determine whether the application is exempt from further environmental review, or if the application requires a Negative Declaration or Environmental Impact

Report. If LAFCO determines the project is not exempt, LAFCO will commission a consultant to prepare an initial study and the appropriate environmental document.

**Map and Legal Description.** A map and legal description is required for reorganization applications. The Town may request an exception to this requirement based on the fact that, in this case, no boundaries are changing. Rather, the boundary of the Town of Atherton currently exists and would become the edge of the MPFPD. LAFCO would consult with the Board of Equalization as to whether a map and legal description would be required.

If a map and legal description are required, the Town would need to acquire a licensed surveyor or civil engineer to prepare these documents.

**Plan for Service.** This document shows the level and range of each service, the feasibility of the proposed services, when service can be feasibility established, and any improvements / upgrades / conditions of facilities.

The January 2018 study prepared by Matrix Consulting Group provides this analysis for the Town of Atherton. However, in order to provide LAFCO with evidence that the remaining district's service would not be negatively impacted, the Town should proactively conduct a plan for the remaining district at minimum (the District could, of course, conduct its own). A Plan for Service for the remaining district is not explicitly listed as an application submittal item. However, drafting a preliminary plan would prove prudent and, in this case, be a proactive step in providing the Town with a level of assurance that LAFCO would not expressly deny the detachment proposal based on service impacts.

**Fiscal Impact Analysis.** Although the financial analysis is often a part of the Plan for Service, it can be prepared separately. The advantage to preparing the Fiscal Impact Analysis in conjunction with the Financial Analysis and Plan for Service is that in preparing it there would be a better estimate for facility and personnel cost estimates with a Plan for service that shows the proposed level of service.

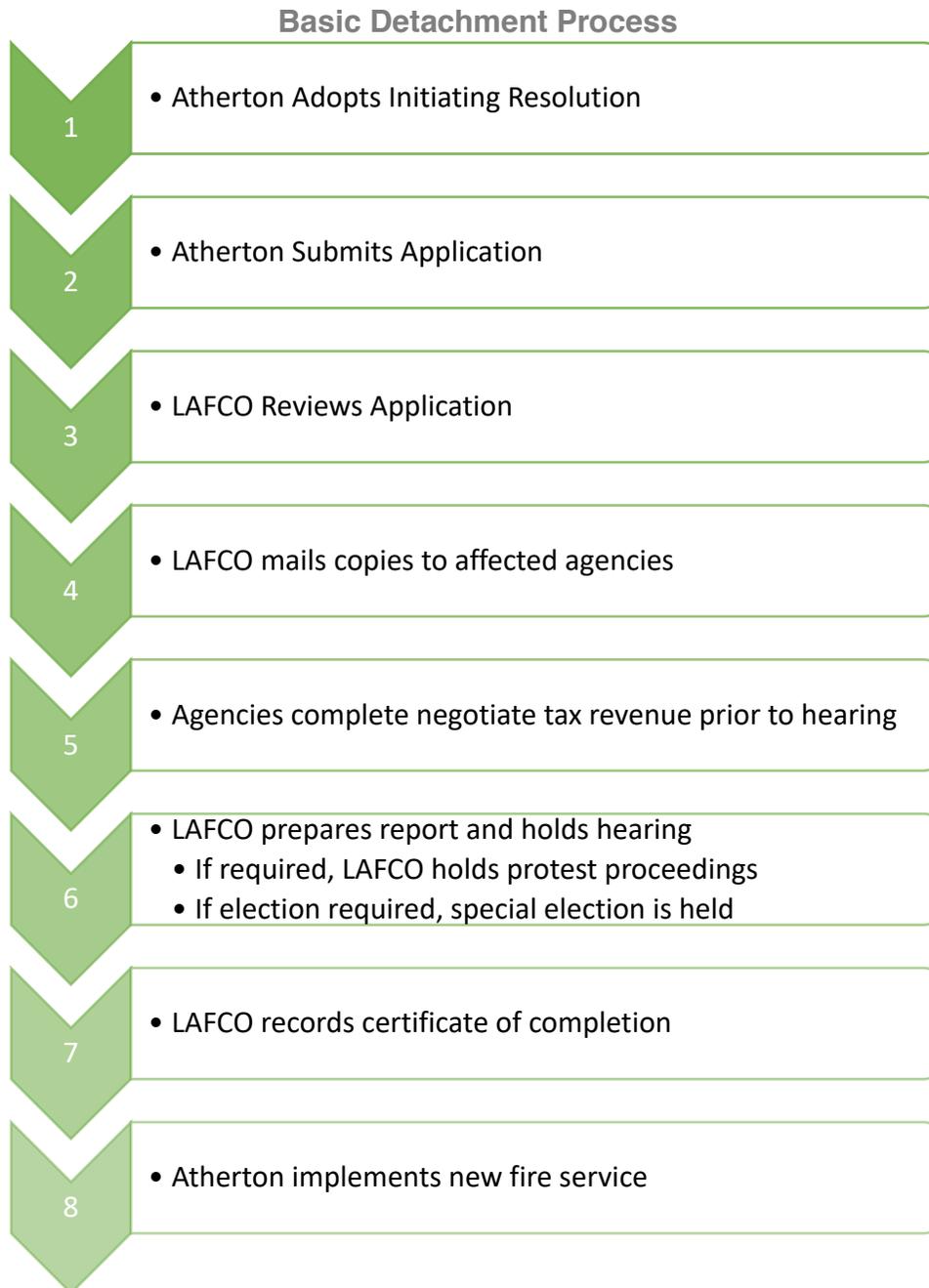
Similarly to the Plan for Service, the January 2018 study prepared by Matrix Consulting Group provides this analysis for the Town of Atherton. However, the Town should also consider the financial implications for the remaining district as LAFCO will do the same when they consider the detachment application.

**Filing Fee.** Filing fees depend on the scope of the application and area of land. The San Mateo LAFCO determines these fees.

In addition to the materials described above, San Mateo County LAFCO may request updated information to confirm the information in the most recent Municipal Service Review.

### 3. Application Process

LAFCO is charged with processing the application. The process involves at least one LAFCO hearing and, for a simple reorganization process can take at least five months. Submitting a complete application with supplemental materials and maintaining open dialogue with affected agencies will help reduce process time. The matrix below illustrates the application process.



Rather than repeating every aspect of what the Town already knows about these processes, key aspects of the application process are discussed below.

**Application Materials and Information.** LAFCO may determine that additional information and / or materials are required to make a decision. LAFCO may also determine that, pursuant to the California Environmental Quality Act (CEQA), environmental review is required.

**Tax Revenue Information.** As part of the application review process, LAFCO will send the proposal to affected agencies and collect concerns and tax information. The County Auditor and the County Assessor provide information to LAFCO regarding the existing tax allocation and the amount of tax revenue that could be negotiated. The Town may choose to submit the detachment application to obtain this information and see the true tax revenue implications. However, the Town may also choose to request this information from the County Auditor prior to submitting an application. Either way, obtaining this information from the County Auditor would provide the Town a clear calculation of the tax revenue that could be reallocated / negotiated.

**Tax Negotiation.** Pursuant to Revenue and Taxation Code Section 99, LAFCO is required to initiate property tax negotiation process with affected agencies. In the case of negotiations related to jurisdictional changes, the County Board of Supervisors would negotiate on behalf of the MPFPD.

**Special Election.** A proposal could require an election even if initially approved by LAFCO. One or more of the affected agencies would bear the costs of the special election. If Atherton submits the application it is likely Atherton will bear the costs of a special election which vary depending on whether the election is mail-in only or held at a polling place.

## 4. Required Filings

LAFCO is required to consider 16 factors pursuant to Government Code Section 56668. The table below lists the six key or most important factors relevant to the Town of Atherton and the resource the Town could use to support Atherton’s application.

Factor	Support / Resource
The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.*	Plan for Service / Financial Analysis

Factor	Support / Resource
The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.	Plan for Service / Financial Analysis
The comments of any affected local agency or other public agency.	Pre-application meetings with MPFPD and other affected agencies.
The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.	Plan for Service / Financial Analysis
Any information or comments from the landowner or owners, voters, or residents of the affected territory.	Pre-application meetings with other affected agencies.
The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.	Plan for Service / Financial Analysis

\* “Services,” as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

Several factors could be supported by the information contained in the Plan for Service and the Fiscal Impact Analysis. The other factors could be addressed with pre-application meetings with MPFPD and other affected agencies.

## 4. Tax Agreements

As an alternative to detachment, the Town of Atherton may consider tax reallocation through a tax exchange agreement or tax negotiation agreement. Sometimes called a side contract or a Revenue and Taxation Code 99 negotiation, any special district can ask a city for more taxes. Similarly, the Town could discuss and negotiate to change the percent or ratio of Atherton property taxes that are allocated to the Menlo Park Fire Protection District.

Pursuant to Tax and Revenue Code 99.02, any local agency may exchange allocable property tax revenue. The negotiation would be accomplished through the Town Council and Fire Protection District. If there were no boundary changes, the tax negotiation process would not go through LAFCO. This tax negotiation agreement process differs from the tax negotiation required as part of reorganization because without

reorganization, the District and the Town would negotiate as opposed negotiations between the County’s Board of Supervisors and the Town.

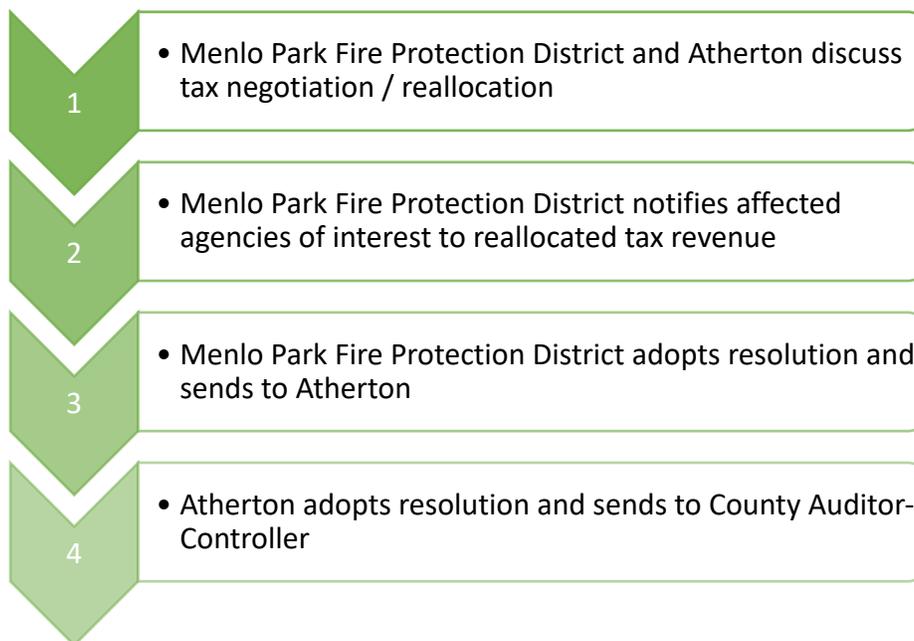
While the number of steps required in the tax agreement process are minimal, the length of time to complete negotiations may be substantial. Tax negotiations can be a source of conflict. It is common for public entities to experience declining revenues and increased costs; any efforts to further reduce revenues is likely to be met with opposition. While it is in the public’s interest for public agencies to cooperate, the Town and the MPFPD will have competing desired outcomes which would likely prolong the time it takes to reach an agreement.

The following sections describe the process and the required findings.

## 1. Negotiation Process

The flowchart below illustrates the process to negotiate tax revenue allocation rates.

### Basic Tax Negotiation Process



**Agencies Involved.** The process to negotiate tax rates involves the Town of Atherton and the Menlo Park Fire Protection District. The process involves fewer steps than the detachment process and has a better chance of succeeding because the process would not need to go through LAFCO and other agencies. However, the property tax exchange agreement must be approved by the Board of Supervisors (on behalf of the District and pursuant to Revenue and Taxation Code Section 99(b)(5)) and the Town Council.

In addition, the County Auditor-Controller has the authority to govern tax reallocations. The Town of Atherton would contact the San Mateo County Auditor-Controller and include County Auditor-Controller in discussions for reallocating taxes.

**Negotiating with MPFPD.** Although, the Town of Atherton may request negotiation to reallocate taxes, the Menlo Park Fire Protection District could decline. Our search for and analysis of case studies found that most tax negotiations start from a special district's need for additional funds. In Atherton's case, the negotiation would move funds from the district to the Town. One benefit to negotiation that Atherton can present to the district is the benefit of funds that the district would maintain as opposed to the funds they would lose if Atherton detached from the district. This is similar to the argument presented to the Orange County Fire Authority by Irvine.

## 2. Negotiation Findings

Revenue and Taxation Code states that following conditions must be met in order for each local agency to reallocate property taxes:

- (1) The transferring agency determines that revenues are available for this purpose.
- (2) The transfer will not result in any increase in the ratio between the amount of revenues of the transferring agency that are generated by regulatory licenses, use charges, user fees, or assessments and used to finance services provided by the transferring agency.
- (3) The transfer will not impair the ability of the transferring agency to provide existing services.
- (4) The transfer will not result in a reduction of property tax revenues to school entities.

In terms of the first three findings, a fiscal analysis showing the Menlo Park Fire Protection District can operate without the exchanged revenues will support these findings. In terms of the fourth finding, impacts to the school district would not necessarily be part of the fiscal impact analysis. However, the Town of Atherton should ensure that the fiscal analysis includes this calculation.

## 5. Special Legislation

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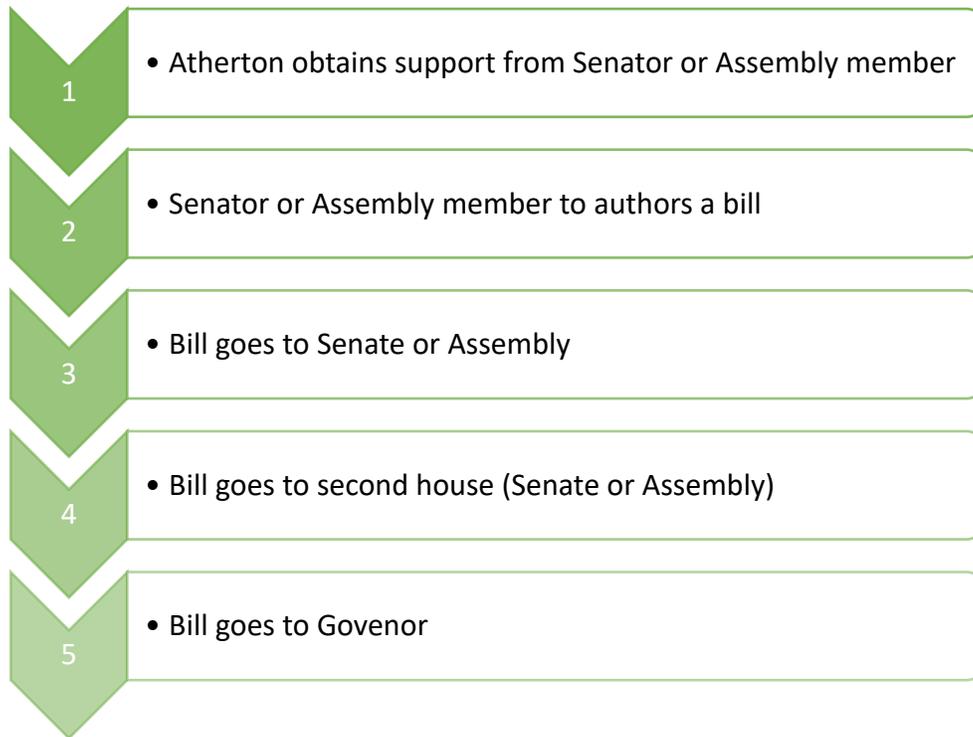
Fire districts are primarily funded by property taxes. However, the property tax allocation rates were set 35 years ago. As illustrated in the case studies, the allocation of property taxes to special districts does not reflect the needs and demands that special districts experience today. As an alternative to detaching from the Menlo Park Fire Protection District, the Town of Atherton may consider pursuit of special legislation that would reallocate property tax revenue.

The California State Legislature determines where property taxes go and they have the authority to make changes when necessary. Reallocating ad valorem property tax

revenue through special legislation would change the pro rata shares allocated (paragraph (3) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution). This requires approval by two-thirds of the membership of each house of the Legislature.

The chart below illustrates the process to obtain special legislation that would result in tax reallocation.

### Basic Special Legislation Process



Although the process is lengthy, the process for new legislative is relatively simple. In order to prepare the Town for the process of special legislation, the project team discusses three key actions below.

**Legislator Support.** Given that a legislator must author a bill, the first step will be scheduling a meeting with a legislator. The District Office will be a key point of contact for the Town of Atherton. The District Office can provide contacts for and information from the State’s capital.

The Town of Atherton will need to obtain support from a local Senator or Assembly member. The legislative member would then author the special legislation. Typically, legislative members defer to the local legislative members for local legislation. Therefore, once a local member provides support, there is a greater chance of the bill being passed.

**Preparation for the Legislative Review Process.** As part of the process, a bill is sent to the Senate or Assembly policy committee. The project team spoke with the Assembly’s Governance and Finance Committee. The committee representative was not aware of special legislation to reallocate tax revenue from a special district to a city occurring in the last 12 years. Additionally, based on experience from a variety of proposed legislation, the committee representative warned that the process would not be without dispute and conflict.

The committee suggested working with the legislative member’s staff and meeting with applicable organizations as a means to prepare for and reduce opposition. Specifically, the Town should meet with the legislative member’s staff to talk about options prior to and in conjunction with the bill review process. The Town should also meet with the California Professional Firefighters and Fire Districts Association, who both may become involved. The Town should meet with the League of Cities who may be able to offer help and information regarding logistics.

**Deadlines.** The deadlines for legislation will impact when the Town could expect to see results and the reallocation of tax revenue.

New bills must be introduced to the first house, either the Senate or Assembly depending on the support obtained by the Town, in February. Then, the bill must be reviewed by the appropriate house committee(s) and be passed by the first house by June. The second house would need to review and pass the bill by August to meet the required deadline. The table below reflects the deadlines legislation must meet each year.

Deadline / Date	House Action
January	Last day for house to pass bill introduced in odd year
February	Last day for new bills to be introduced
June	Last day for house to pass bills introduced
August	Last day for house to pass bills
October	Bills enacted on or before this date take effect Jan 1

These deadlines illustrate that it would take approximately one year for special legislation to pass through the legislative process. The deadlines do not account for the process prior to introduction of the bill. If the Town began the process in 2018, a bill was drafted to be introduced in 2019, and the bill successfully passed each house by the required deadlines, the legislation could be enacted in January 2020. However, should a bill not meet the deadlines shown above, the bill would die and would no longer progress through the process.