



## Item No. 11 Town of Atherton

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

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

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

**DATE: NOVEMBER 14, 2018**

**SUBJECT: ADOPT THE ATTACHED RESOLUTION OF THE TOWN OF  
ATHERTON AUTHORIZING EXAMINATION OF SALES, USE AND  
TRANSACTION TAX RECORDS BY HINDERLITER DE LLAMAS (HDL)  
CONSULTANTS.**

#### **RECOMMENDATION**

Adopt the attached Resolution of the Town of Atherton authorizing examination of sales, use and transactions tax records by Hinderliter de Llamas and Associates (HDL) consultants.

#### **BACKGROUND**

The City Council in recent years has discussed revenue options, alternatives, and updates to the Town General Fund. As part of exploration of alternative revenues staff identified the potential for additional allocation of sales and use tax through local construction contracts. This is in reference to residential home development in the Town. Staff enlisted the assistance of Hinderliter de Llamas and Associates (HDL), our property tax consultant, to explore the direct allocation of use tax through construction contracts (Situs Base Tax) of \$5,000,000 or more in Atherton. The Town has extensive home construction in the area as there are numerous general contractors and subcontractors in the town throughout the year. Within this program construction contractors have the option to allocate use tax derived from contracts of \$5 million or more directly to the local jurisdiction of the site location. This is a voluntary program for the tax payer, which includes voluntary tax allocation on fixtures and materials on construction projects in our jurisdiction.

#### **FINDINGS | ANALYSIS**

Town staff had Matt Hinderliter from HDL attend the September Finance Committee meeting to present an overview of the Construction Project Situs Base Tax program and other programs that would be feasible and worth exploring in Atherton. Mr. Hinderliter explained the process to analyze if it's possible for the Town to proceed down the path of the voluntary Situs Base tax allocation. This includes discussing options available, possible projections, and review of a point

**Review and Approve Resolution for Sales, Use Tax Records**

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of sales tax of projects from the County Pool and the California Department of Tax and Fee Administration (formerly California Board of Equalization).

*A Resolution is required to allow HDL to examine the sales, use and tax transactions records within the Department of Tax and Fee Administration, formerly the California Board of Equalization. This tax is primarily based on fixtures and materials installed on a construction project. HDL consultants will assist the Town in exploring the consumer use tax for large construction projects and see if this is an option that Town should further explore. HDL will review the sales, use and tax transactions and present to the Town any findings regarding the feasibility of a volunteer Situs Base Tax program.*

**POLICY FOCUS**

In recent years, the City Council has discussed revenue enhancement alternatives and updates to the General Fund Revenues. The purpose of this resolution discussion is to explore revenue alternatives of construction projects situs base tax programs and understand the processes required to establish the potential new revenue stream. The policy focus for the City Council is how to proceed with exploring the potential revenue alternative of voluntary program of tax allocation on fixtures and materials on construction projects in our jurisdiction.

**FISCAL IMPACT**

None.

**COMMISSION/COMMITTEE FEEDBACK/REFERRAL**

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

- X   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)
- Tree Committee (meets each month)

**ATTACHMENT**

Resolution of the Town of Atherton examination of sales, use and transaction records.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AUTHORIZING EXAMINATION OF SALES, USE AND TRANSACTIONS TAX  
RECORDS**

**WHEREAS**, pursuant to Ordinance 323 Section 5, the Town of Atherton entered into a contract with the California State Board of Equalization, now known as the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of local sales, use and transactions taxes; and

**WHEREAS**, the City Council of the City of Atherton deems it desirable and necessary for authorized representatives of the City to examine confidential sales, use and transactions tax records of the California Department of Tax and Fee Administration pertaining to sales, use and transactions taxes collected by the Department for the City pursuant to that contract; and

**WHEREAS**, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of California Department of Tax and Fee Administration records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales, use and transactions tax records of the Department.

**WHEREAS**, the City Manager designated Hinderliter de Llamas & Associates in writing as authorized to examine the sales, use and transactions records of the Department for the government functions and use of Town of Atherton.

**NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON HEREBY RESOLVES AS FOLLOWS:**

Section 1. That the City Manager, or other officer or employee or consultant of the Town designated in writing by the City Manager to the California Department of Tax and Fee Administration (hereafter referred to as Department), is hereby appointed to represent the Town of Atherton with authority to examine sales, use and transactions tax records of the Department pertaining to sales, use and transactions taxes collected for the Town by the Department pursuant to the contract between the City and the Department. The information obtained by examination of Department records shall be used only for purposes related to the collection of Town sales, use and transactions taxes by the Department pursuant to that contract.

Section 2. That the City Manager, or other officer or employee or consultant of the Town designated in writing by the City Manager to the Department, is hereby appointed to represent the

Town with authority to examine those sales, use and transactions tax records of the Department, for purposes related to the following governmental functions of the Town:

- (a) City administration
- (b) Revenue management and budgeting
- (c) Community and economic development
- (d) Business license tax administration

The information obtained by examination of Department records shall be used only for those governmental functions of the Town listed above.

Section 3. That Hinderliter, de Llamas & Associates a consultant to the Town, is hereby designated to examine the sales, use and transactions tax records of the Department pertaining to sales, use and transactions taxes collected for the Town by the Department. The person or entity designated by this section meets all of the following conditions:

- (a) has an existing contract with the Town to examine those sales, use and transactions tax records;
- (b) is required by that contract to disclose information contained in, or derived from, those sales, use and transactions tax records only to the officer or employee authorized under Sections 1 or 2 of this resolution to examine the information.
- (c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and
- (d) is prohibited by that contract from retaining the information contained in, or derived from those sales, use and transactions tax records, after that contract has expired.

The information obtained by examination of Department records shall be used only for purposes related to the collection of Town sales, use and transactions taxes by the Department pursuant to the contract between the City and the Department and for purposes relating to the governmental functions of the Town listed in section 2 of this resolution.

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 14<sup>th</sup> day of November, 2018, by the following vote:*

*AYES:*  
*NOES:*  
*ABSENT:*

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Cary Wiest, Mayor

Town of Atherton

ATTEST:

\_\_\_\_\_  
Theresa DellaSanta, City Clerk

APPROVED AS TO FORM:

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William B. Conners, City Attorney