



DATE: February 5, 2024

TO: Mayor and Members of the City Council

VIA: Stefan Chatwin, City Manager

FROM: Marlene Subhashini, Assistant City Manager
Sofia Mangalam, Community Development Director
Edmund Suen, Finance Director
Priscilla Schaus, Communications Director/City Clerk

DEPARTMENT: City Manager
Community Development
Finance
Communications/City Clerk

SUBJECT: INFORMATIONAL REPORT ON THE PRELIMINARY ANALYSIS OF
THE CITY'S CURRENT BUSINESS LICENSE TAX (BLT) STRUCTURE,
VARIOUS BLT METHODOLOGIES AND COMPARISON TO OTHER
CITIES

RECOMMENDATION

It is recommended that the City Council receive and accept an informational report on the preliminary analysis of the City's current Business License Tax (BLT) structure, various BLT methodologies and comparison to other cities' BLT structure. This is an informational report only. No action is required.

EXECUTIVE SUMMARY

Last year, the City Council adopted its key priorities and initiatives for the calendar year 2023 ([link](#)). Anticipating the fiscal challenges that are ahead of us, the City Council adopted Goal 3.1 "Identify new revenue sources and strengthen existing resources to ensure Foster City finances are more resilient to economic fluctuations and support city services." Under this goal, two (2) measures/initiatives were identified including:

- Initiate and engage in ongoing dialogue with City businesses to build strong relationships and assess their needs and understand their perspectives on a BLT ballot measure.
- Research BLT methodologies and consider feasibility of various methodologies (e.g., gross receipts, square footage, employee count) with presentation to Council in January 2024.

On October 16, 2023, staff presented a preliminary report outlining the strategy for amending the BLT Ordinance and the subsequent steps leading up to the potential ballot measure in the November 2024 General Election. Staff also noted the importance of engaging consultants who have the expertise on the subject matter prior to engaging with the business community and key stakeholders ([see staff report](#)). The City Council voted 5-0-0, adopting Minute Order No. 1944, to receive and accept the Preliminary Report on Potential Business License Tax Ordinance Amendment and November 2024 General Election Ballot Measure, and provided direction to (1): Reissue the RFP for BLT consulting services if responses received exceed the City Manager purchasing policy authority of \$50,000; and (2) direct staff to continue efforts regarding placing a potential BLT ballot measure on the November 2024 General Election.

BACKGROUND

The City of Foster City requires all businesses operating within the City to obtain a business license and pay business license taxes. This revenue is locally controlled and funds essential services. BLT is a common and important revenue source for many cities. BLT is an annual tax charged to anyone doing business in the city.

CITY'S CURRENT BUSINESS LICENSE TAX STRUCTURE

The City of Foster City's BLT Ordinance was enacted in 1972, shortly after the City's incorporation. Since that time, the BLT Ordinance has only been updated once in 2013. Foster City Municipal Code Title 5 "Business Licenses and Regulation" Chapters 5.04 to 5.40 outlines the provisions of the City's BLT. The model which the city follows is based on gross receipts with a single tax rate. This model has growth potential yet is also subject to economic downturns, which also means there may be significant revenue volatility during periods of expansion and contraction (gross receipts are self-reported by each business).

Below is an overview of the City's business license tax as of 2023.

Category	Minimum Tax	Gross Receipts Rate	Maximum Tax Calendar Year 2023	Business Count 2023	Maximum Tax Calendar Year 2024	Business Count 2024
General Contractor	\$200	\$0.75 per thousand	28,597	449	29,397	TBD
All Other Businesses	\$100			1,202		
			Total	<u>1,651</u>		

Business License Tax Revenues (In thousands)					
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Business License Tax Revenues	1,765	1,675	1,507	1,584	1,735

After declining to \$1.507 million in FY 2020-21 as a result of the pandemic, business license tax revenues recovered to \$1.735 million in FY 2022-23.

The Financial Challenge

On June 20, 2023, the City Council adopted the FY 2023-24 Budget. The FY 2023-24 Budget and 5-Year Financial Plan reflect ongoing General Fund structural deficits as budgeted annual expenditures, including transfers out to the City's CIP Fund exceed estimated annual revenues. Based on the Financial Plan, the current and next fiscal years' anticipated deficits are \$6.32 million and \$6.78 million respectively. In response to this fiscal challenge, City staff have been tasked with finding new revenue sources to resolve the anticipated General Fund structural deficits forecasted for the next five (5) years. While the City anticipates continued volatility in its various revenue streams, it is also committed to maintaining existing service levels and prudent General Fund reserve levels to protect the City's long-term fiscal sustainability.

October 16, 2023, City Council Meeting and work afterwards

During the October 16th Council meeting, staff briefly discussed the City's current BLT structure, financial outlook, and engagement of consultants to prepare an informational report. The staff report outlined the anticipated next steps leading up to a potential ballot measure.

Subsequent to the meeting, staff engaged with HdL to prepare an informational report on the City's current BLT structure, an analysis of comparable cities' BLT structures and alternative fee structures and discuss the pros and cons of the various BLT methodologies.

Concurrently, on October 26, 2023, staff issued a combined [Request for Proposals \(RFP\) for Polling and Public Outreach Consultant Services](#), with responses due on November 15, 2023. Staff received three (3) responses. Upon interviewing the three responders, staff decided that given the complexity of the scope of services, issuing the two (2) RFPs separately would yield a better outcome and/or response to the RFPs. Subsequently, staff issued the following RFPs:

- [Polling services RFP \(issued on December 01, 2023, with due date of December 11, 2023\)](#), and
- [Outreach services RFP \(issued on December 18, 2023, with due date January 15, 2024\)](#).

Staff received three (3) responses, each for the two (2) RFPs mentioned above.

The City has a purchasing policy under which the City Manager is authorized to approve contracts under \$50,000. GrassrootsLab was selected for outreach consulting services and FM3 research (FM3) was selected to provide polling services. Each of these contracts were under \$50,000.

This informational report marks the first step outlined in the October 16 Staff Reports in the progression leading up to a potential ballot measure.

ANALYSIS

In order to adequately inform the City Council, the residents and the business community, a comprehensive report on the City's current BLT Ordinance, other BLT structures, and notably, impact of proposed changes to BLT on the business community and city revenues is critical. Staff have engaged with a team of three (3) consultants to help the City with the efforts pertaining to modernization of its current BLT. The team includes HdL for tax study, GrassrootsLab for outreach and engagement, and FM3 for polling services.

The business license tax is a tax on "carry[ing] on any business, trade, profession, calling, or occupation in the City." (Foster City Municipal Code (FCMC), sect. 5.04.030). Once we know what is taxed, we need to measure how much of that taxable activity is occurring within the City (or subject to the City's taxation powers) referred to as the "measure of the tax."

In most cases, business license tax uses proxies for the measure of taxable activity. Those proxies fall into the three significant alternatives for measuring taxable activity: inputs (like the number of employees), flat taxes, and outputs or gross receipts.

On January 24, 2024, city staff had a kickoff meeting with all the three (3) consultants to share information on the city's current BLT structure, understand the makeup of the existing businesses that operate in the City, the process of putting a potential tax measure on the ballot and anticipated next steps. HdL presented its preliminary findings on the BLT study. A memo summarizing the preliminary findings is included as Attachment 1. The memo includes a detailed comparison of major types of business tax and weighs the pros and cons of each approach; Foster City's current business license tax structure and how it compares to other cities; and what possibilities are there to modernize the tax and preserve services.

Staff and consultants discussed the importance of conducting an early public opinion/community priorities survey informing the City's decision makers regarding public attitudes towards the city and its services, and the feasibility of any revisions to City revenue sources. This initial survey will be conducted in February.

Stakeholder Outreach and Engagement

Grassroots Lab has prepared a memo outlining key outreach components and associated timeline pertaining to potential revisions to BLT (see Attachment 2). The memo stresses

the importance of engaging the community and key stakeholders in a comprehensive manner, utilizing surveys, meetings, and outreach efforts to gather input, share information, and evaluate the program's effectiveness.

Polling

The memo prepared by FM3 emphasizes the importance of survey research in informing the City's decision-making process regarding BLT modernization, with a focus on both voter and business perspectives. The proposed timeline provides a structured approach to gather critical guidance for potential ballot measures and community engagement (Attachment 3).

ACTIONS REQUIRED AND ELECTION OVERVIEW

The City's current BLT is considered a general tax because funds generated from the tax are considered general fund revenues that can be used for any governmental purpose. A potential ballot measure to increase the BLT that utilizes funds generated from the tax in same manner would also be a general tax that would require a 2/3rd majority vote of the City Council (4 out of 5 Councilmembers) to be placed on the ballot and a simple majority vote (50% + 1) of the voters to pass. By law, a general tax may only be placed on the ballot when there is a City Council election, except in cases of emergency declared by a unanimous vote of the City Council. California Constitution Article XIII C Section 2(b) governs this requirement, which restricts the placement of such a measure during such election years. If revenue generated by a tax is used for a specified purpose the tax is considered a special tax which requires a majority vote of the Council to place the measure on the ballot and a 2/3 vote of the voters to pass.

Calling for Election and Consolidation of Election

A separate resolution is necessary to call for the election and place the measure on the ballot for the November 5, 2024, General Municipal Election. The County of San Mateo's deadline for the City to call an election and request consolidation for the election is July 3, 2024. Per the Elections Code, if the City Council wants to place a measure on the November 5th ballot, the Council must also adopt a resolution placing any such measures on the ballot and submit it to the County of San Mateo Board of Supervisors and Assessor County Clerk-Recorder Elections' Office no later than 5:00 PM on August 9, 2024. The resolution would contain the wording of the measure as it would appear on the ballot and request its consolidation with the November 5, 2024, General Election. At the meeting placing a potential measure on the ballot, the City Council would also establish Argument and Rebuttal deadlines that correspond to the deadlines set by the County.

Staff anticipates returning to the City Council for policy direction to call the election and potentially placing a measure on the ballot in June 2024.

NEXT STEPS

The consultant will conduct an early public opinion/community priorities survey to gauge the electoral viability of a potential BLT modernization measure and how it could potentially fit into community priorities. Staff will then bring back the results of the survey to the City Council for further direction. Pending direction from the City Council, the consultants will continue to engage with the community and stakeholders in Spring and early Summer, in parallel to refining the structure of a potential modernized BLT.

California Environmental Quality Act

This activity is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

City contracted with three (3) consultants: HdL in the amount of \$35,000; GrassrootsLab in the amount of \$49,000; and FM3 in the amount of \$49,900. All these agreements can be paid from the available funds in the Economic Development Division budget due to savings from the vacant Economic Development Manager position.

CITY COUNCIL VISION, MISSION, AND VALUE/PRIORITY AREA

Smart Planning, Development, and the Local Economy

ATTACHMENTS:

Attachment 1 – Memo from HdL

Attachment 2 – Memo from GrassrootsLab

Attachment 3 – Memo from FM3