



## Item No. 20 Town of Atherton

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

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

**FROM: ANTHONY SUBER, DEPUTY CITY MANAGER / CITY CLERK**

**DATE: JULY 20, 2022**

**SUBJECT: ADOPTION OF A RESOLUTION TO CONSOLIDATE AND CALL THE  
NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION AND  
CONTRACT WITH THE CHIEF ELECTIONS OFFICE FOR ELECTION  
SERVICES**

#### **RECOMMENDATION**

1. Adopt a Resolution calling and ordering a Tuesday, November 8, 2022, General Municipal Election for the Town of Atherton, for the purpose of electing two members to the City Council: and
2. Authorizing the City Manager to enter into a service agreement with San Mateo County's Chief Election Officer to conduct the election; and
3. Requesting the Board of Supervisors of the County of San Mateo to consolidate a Municipal Election to be held on November 8, 2022, with the Statewide General Election held on that date pursuant to Section 10403 of the Election Code.

#### **BACKGROUND | ANALYSIS**

Pursuant to State law and Town of Atherton Municipal Code Section 2.32.010 relating to elections, a regular General Election is scheduled to be held on every even numbered year for the purpose of filling vacant and/or term expired council seats. A General Municipal Election will take place on Tuesday, November 8, 2022, in which the Town of Atherton Council will have three (3) terms expiring.

The City Council will have three (3) expired terms as of December 2022. The terms that are expiring are held by Rick DeGolia, Bill Widmer and Robert Polito. In order to meet requirements, set by the Election Code, the City Clerk:

- Prepared the staff report and resolutions calling and ordering the General Municipal Election;
- Prepare and execute the San Mateo County Service Agreement to conduct the election and deliver it to the County Chief Elections Officer with a copy of the certified resolution after adoption; and
- Publish a Notice of Election in A local adjudicated newspaper

## **POLICY FOCUS**

The recommendations in this report are consistent with Town policies and Council goals.

## **FISCAL IMPACT**

\$12,000 has been appropriated in the Fiscal Year 2022 – 23 General Fund Budget in preparation for this election. San Mateo County will provide a final accounting and invoice to the City by January/February 2023.

## **GOAL ALIGNMENT**

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal A – Maintain Fiscal Transparency
- Goal E – Strengthen Community Engagement and Transparency
- Goal F – Be Forward-Thinking, Well-Managed and Well-Planned

## **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. Notices were also published in local newspapers.

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

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

- \_\_\_ 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)

## **ATTACHMENTS**

1. Resolution Calling the Election
2. Resolution for Board of Supervisors

3. Election Services Agreement

RESOLUTION NO. 22- \_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING AND ORDERING A GENERAL MUNICIPLA ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022; AND REQUIRING CANDIDATES TO PAY THE COST OF PUBLICATION AND DISTRIBUTION OF THE STATEMENT OF QUALIFICATIONS WITH THE SAMPLE BALLOT AND SPECIFYING THE LENGTH OF THE STATEMENT; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICE AGREEMENT WITH THE SAN MATEO COUNTY CHIEF ELECTIONS OFFICER TO CONDUCT THE TOWN'S ELECTION; AND**

**WHEREAS**, under the provisions of state law and the Town of Atherton ("Town") Municipal Regulations relating to elections, there is to be a General Municipal Election, Tuesday, November 8, 2022 for the purpose of electing two members to the City Council to each fill a four-year term; and

**WHEREAS**, a service agreement will be prepared and forwarded by the City Clerk to the San Mateo County Chief Elections Officer for the purpose of conducting the General Municipal Election for the Town of Atherton; and

**WHEREAS**, the City Clerk will cause a legal notice calling and ordering an election to be published in an adjudicated newspaper; and

**WHEREAS**, twelve thousand dollars (\$12,000) has been appropriated from the Town's General Fund in the 2022-23 Fiscal Budget to cover the cost of the San Mateo County's Registration & Elections Division ("County") services to the City connected to this election and the Town will receive an invoice from the County in January/February 2023; and

**WHEREAS**, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for municipal election, including costs of the candidate statement;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the Town of Atherton as follows:

**THAT**, the Town of Atherton calls and orders a Tuesday, November 8, 2022, General Municipal Election for the Town of Atherton, for the purpose of electing three (3) members to the City Council; and

ATTACHMENT 1

THAT, the Town authorizes the City Manager to enter into a service agreement with San Mateo County’s Chief Election Officer to conduct the election; and

THAT, the Town requests the Board of Supervisors of the County of San Mateo to consolidate a municipal Election to be held on November 8, 2022, with the Statewide General Election held on that date pursuant to section 10403 of the Elections Code; and

THAT, by the City Council of the Town of Atherton that each candidate who requests that a Statement of Qualifications be published and distributed with the sample ballot for the General Election, to be held November 8, 2022, shall be charged a deposit of \$400.00 to cover the cost of publication of such Statement of Qualifications, including the cost of translation of such statement into Spanish and Chinese, if requested by the candidate. The Statement of Qualification may not exceed two hundred (200) words in length, and will be the only material sent with the sample ballots and no other material will be included for distribution.

\* \* \* \* \*

*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 this 20<sup>th</sup> day of July 2022, by the following vote:*

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

\_\_\_\_\_  
Rick DeGolia, MAYOR  
TOWN OF ATHERTON

\_\_\_\_\_  
Anthony Suber, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mona G. Ebrahimi, City Attorney

RESOLUTION NO. 22- \_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF  
ATHERTON REQUESTING THE BOARD OF SUPERVISORS OF  
THE COUNTY OF SAN MATEO TO CONSOLIDATE A  
MUNICIPAL ELECTION WITH THE STATEWIDE GENERAL  
ELECTION TO BE HELD ON NOVEMBER 8, 2022 PURSUANT TO  
SECTION 10403 OF THE ELECTIONS CODE**

**WHEREAS**, under the provisions of Elections Code Section 1001, et seq. relating to elections, there is to be a Presidential General Election (“General Election”) on Tuesday, November 8, 2022, and

**WHEREAS**, it is desirable that the Town of Atherton (“Town”) Municipal Election be consolidated with the General Election to be held on the same date and that within the Town precincts, vote centers and election officers of the two elections be the same, and that the County of San Mateo Assessor-County Clerk-Recorder & Elections Office canvass the returns of the municipal election and that the election be held in all respects as if there were only one election.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the Town of Atherton orders as follows:

**SECTION 1.** That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Mateo is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Presidential General Election on Tuesday, November 8, 2022.

**SECTION 2.** That pursuant to Section 10002 of the Elections Code, the Board of Supervisors of San Mateo County is requested to permit the Chief Elections Officer to render specified services to the Town of Atherton relating to the conduct of the election.

**SECTION 3.** That the County of San Mateo Assessor-County Clerk-Recorder & Elections Office is authorized to canvass the returns of the Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the applicable provisions of law regulating the statewide election.

**SECTION 4.** That the Board of Supervisors is requested to issue instructions to the County of San Mateo Assessor-County Clerk-Recorder & Elections Office to take all steps necessary for the holding of the consolidated election.

**SECTION 5.** That the Town of Atherton recognizes that additional costs will be incurred by the County of San Mateo by reason of this consolidation and agrees to reimburse

ATTACHMENT 2

the County for any justifiable costs for services upon the presentation of a properly submitted bill.

**SECTION 6.** That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County of San Mateo Assessor-County Clerk-Recorder & Elections Office.

**SECTION 7.** That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

\* \* \* \* \*

*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 this 20<sup>th</sup> day of July, 2022, by the following vote:*

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

\_\_\_\_\_  
Rick DeGolia, MAYOR  
TOWN OF ATHERTON

\_\_\_\_\_  
Anthony Suber, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mona G. Ebrahimi, City Attorney

**SERVICE AGREEMENT FOR THE PROVISION OF ELECTION SERVICES  
BETWEEN THE TOWN OF ATHERTON AND  
SAN MATEO COUNTY CHIEF ELECTIONS OFFICER & ASSESSOR-COUNTY CLERK-RECORDER**

This Service Agreement for the Provision of Election Services ("Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Town of Atherton (the "Municipality") and San Mateo County Chief Elections Officer & Assessor – County Clerk – Recorder (the "Chief Elections Officer");

WHEREAS, it is necessary and desirable that the Chief Elections Officer be retained for the purpose of conducting an election, described in more detail below, for the Municipality; and

WHEREAS, the Chief Elections Officer has been asked by the Municipality to conduct an election on November 8, 2022 (the "Election").

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

SERVICES TO BE PERFORMED BY THE MUNICIPALITY:

- 1) Within the time frame set by statute, the Municipality will request the Board of Supervisors, through the Chief Elections Officer, to conduct an election relating to the Municipality on November 8, 2022 and will request the services of the Chief Elections Officer in relation to the Election.
- 2) The Municipality will publish the Notice of Election and the Notice to File Declarations of Candidacy for the offices to be voted on and/or the Notice to File Arguments For or Against any measure.
- 3) The Municipality will submit to the Chief Elections Officer the offices to be voted on and the measure ballot questions by 88 days prior to the Election. The Municipality will submit to the Chief Elections Officer the names and ballot destinations of the candidates to appear upon the ballot by 81 days prior to the Election.
- 4) The Municipality will prepare and deliver to the Chief Elections Officer the ballot pamphlet information containing, as applicable, candidate designations and statements, ballot measure(s), tax rate statement(s), impartial analyses, arguments for or against measures and rebuttals thereto.
- 5) The Municipality will review and sign off on the official ballot wording for measures.
- 6) The Municipality will complete any other non-delegable tasks required by law in relation to the Election.
- 7) The Municipality shall maintain records/maps regarding the boundaries of the Municipality and will notify the Chief Elections Officer of any changes/additions to those boundaries by 125 days prior to the Election.

SERVICES TO BE PERFORMED BY CHIEF ELECTIONS OFFICER:

- 1) The Chief Elections Officer will select the sample and official ballot printer(s) and translators.
- 2) The Chief Elections Officer will prepare and deliver all election information to the printers and translators.
- 3) The Chief Elections Officer will determine the appropriate translation and transliteration of all pertinent documents.
- 4) The Chief Elections Officer will issue, receive and process vote by mail ballots.
- 5) The Chief Elections Officer will set up ADA compliant Vote Centers, publish any required notices and conduct the Election.
- 6) The Chief Elections Officer will provide services for any official recount or election contest, if applicable.
- 7) The Chief Elections Officer will conduct all aspects of the Canvass of Votes Cast. Pursuant to Section 10262 of the Elections Code, the Chief Elections Officer will submit a Certificate of Chief Elections Officer to the Municipality's governing body certifying the results of the Election.

- 8) The Chief Elections Officer will conduct other various and miscellaneous election-related activities directly required to conduct the Election itself. To the extent that the Municipality has obligations under law to perform various duties that relate to the Election beyond those directly involved with conducting the Election, those duties remain the responsibility of the Municipality. If the Municipality wishes to have any such duties performed by the Chief Elections Officer, the parties must mutually agree in advance in writing to have the Chief Elections Officer perform such duties. By way of example only, if the Municipality is required to send certain notices or adopt resolutions relating to the Election, those duties remain duties of the Municipality.

TERMS:

This Agreement shall be in effect for the performance of all services incident to the preparation and conduct of the Election to be held on November 8, 2022, including before and after said Election date.

In the event the Chief Elections Officer is unable to perform services required under this Agreement as a result of employer/employee relation conditions, vendor conditions, the unavailability of Federal, State, or County funds, COVID-19-related limitations, and/or other conditions beyond the control of the Chief Elections Officer, the Chief Elections Officer will be relieved of all obligations under this Agreement. The Chief Elections Officer may terminate this Agreement after giving 72 hours written notice, at which time the Chief Elections Officer will be relieved of all obligations under this Agreement.

This Agreement can be terminated by the Municipality upon 30 days written notice.

COST FOR SERVICES

In consideration of the performance of services and supplies provided by the Chief Elections Officer, including 1) any and all costs incurred during a recount or election contest that are not reimbursed by the voter requesting the recount or filing the contest as specified in the Elections Code and 2) any other costs associated with the Election, such as return postage costs and costs for ensuring voter accessibility, the Municipality shall pay to the Chief Elections Officer a sum equal to the full cost of the Election, including all such services, supplies, and other costs.

The Chief Elections Officer shall send an itemized invoice to the Municipality for all services provided pursuant to this Agreement after the Election is conducted and all related costs are determined. Payment on the full amount of the invoice shall be due and the Municipality shall submit payment to the County of San Mateo within forty-five (45) days of the date of the invoice (the "Due Date"). If the amount is not paid in full within this time, interest shall accrue monthly at a rate of 0.25% per month (equivalent to 3% annually) on the unpaid balance starting at the Due Date. Thereafter, invoices will be sent and shall be payable within thirty (30) days of the date of the invoice, with interest being added each month for any unpaid balance.

MUNICIPALITY

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

COUNTY

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_