



Item No. 11 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

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

FROM: ANTHONY SUBER, DEPUTY CITY MANAGER / CITY CLERK

DATE: JUNE 17, 2020

**SUBJECT: ADOPT A RESOLUTION TO APPROVE JOINING EMPLOYMENT RISK
MANAGEMENT AUTHORITY (ERMA) FOR LIABILITY COVERAGE**

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an agreement with Employment Risk Management Authority (ERMA) for Employment Practice Liability coverage.

BACKGROUND | ANALYSIS

Employment Risk Management Authority (ERMA) is a statewide risk sharing pool comprised of ten (10) joint powers authorities that provides coverage and loss prevention services to California public entities. It has been in operation since July 1999 and it provides programs and coverage for more than 200 public entities throughout the state. The Town is a member of Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) who joined ERMA in February 2020 and Employment Practice Liability coverage can be extended to the Town at a discount. ERMA provides liability coverage for employer-employee related practices and staff recommends the Town participate in the program.

The Town evaluated the Employment Practices Liability coverage in place provided by Alliant Services set to expire on July 17, 2020. The existing coverage has a limit of liability coverage set at \$5,000,000 with a premium cost of \$39,390. The Town has a \$100,000 Self-Insured Retention limit. After a comparison of services and coverage limits with an identical Self-Insured Retention limit it was determined that coverage through ERMA would cost the Town \$28,333 resulting in a savings of \$11,400.

ERMA invests a considerable effort in prevention and education providing a full suite of online and in-person trainings including AB 1234, Ethics, Prevention of Harassment, Discrimination, and Retaliation. Coverage through ERMA includes administration and litigation, or workplace misconducts claims such as harassment, discrimination, or unlawful hiring practices.

The ERMA coverage would be provided to the Town through its membership with PLAN JPA. In order to be considered by the ERMA Board of Directors for inclusion the Town was required

to submit a letter of intent to participate, complete a liability application, submit seven years of audited financial statements, and provide employment practices loss information. The Town's membership was evaluated by the ERMA Underwriting Committee for recommendation to the Board of Directors. At the June 9, 2020, ERMA Board of Directors meeting PLAN JPA member agencies were considered, and the Town of Atherton received confirmation that our application was unanimously approved effective July 1, 2020. If approved, the coverage will be for three years beginning July 1, 2020 through June 30, 2023.

POLICY FOCUS

The recommendations in this report are consistent with Town policies and by moving to ERMA it allows for an opportunity to have all coverages housed under one roof (PLAN JPA).

FISCAL IMPACT

Our existing coverage cost the Town \$39,390 and the budget for FY 20/21 was set at \$44,000. By transitioning our coverage to ERMA at a cost of \$28,333 there will be a cost savings of over \$11,000 annually.

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.

- ___ 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. ERMA Resolution

RESOLUTION NO. 20- __

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON AUTHORIZING PARTICIPATION IN
EMPLOYMENT RISK MANAGEMENT AUTHORITY**

WHEREAS, the Town of Atherton (the “Town”) wishes to obtain Employment Practices Liability coverage for the period of July 1, 2020 to June 30, 2023; and

WHEREAS, the Employment Risk Management Authority (ERMA) is a self-insured joint powers authority created for the sole purpose of Employment Practices Liability Coverage. ERMA is comprised of various public entities who risk share up to \$1 million against potentially unlawful employment practices and discrimination claims; and

WHEREAS, ERMA formed primarily due to the fact that government entities have not historically been able to secure Employment Practices Liability (EPL) coverage at a competitive cost through the commercial insurance marketplace; and

WHEREAS, ERMA has met all of the high professional standards established by the California Association of Joint Powers Authorities (CAJPA) in the areas of governance, finance, claims control, safety and loss control and ERMA is fully accredited by CAJPA. CAJPA’s accreditation process requires reviews by independent consultants in the areas of accounting, claims adjusting, and actuarial analysis; and

WHEREAS, ERMA provides services to both Joint Powers Insurance Authorities and individual public entities; and

WHEREAS, the Town has determined that it is in the best interest to become a member of ERMA for the purpose of obtaining Employment Practices Liability coverage; and

WHEREAS, ERMA requires the Town to pass a Resolution expressing the desire and commitment of the Town of Atherton’s participation in ERMA, which requires a three-year minimum participation period. The Town also understands our entity will be bound by the provisions in the ERMA Joint Powers Agreement just as though it were fully set forth and incorporated herein whether our entity had signed it individually or through an underlying Joint Powers Insurance Authority.

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

THAT, the Town of Atherton approves participation in ERMA on June 17, 2020; and

THAT, the George Rodericks, City Manager on behalf of the Town of Atherton is hereby authorized to take any and all actions necessary to implement the foregoing Resolution.

ATTACHMENT 1

* * * * *

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 OR SPECIAL meeting thereof held on this __ day of _____, 2020, 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