

Resolution 19-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ADOPTING SALARIES AND BENEFITS FOR UNREPRESENTED STAFF**

The City Council of the Town of Atherton hereby resolves as follows:

WHEREAS, Attachment A to this Resolution specifies terms and conditions of employment for Unrepresented Employees, and

WHEREAS, it is the intent of the Council that this resolution serve in lieu of a Memorandum of Understanding for unrepresented employees for purposes of defining and affording rights as outlined in this Resolution; and

WHEREAS, it is the intent of the Council that the rights as outlined in this Resolution be effective July 1, 2019; and

WHEREAS, in arriving at the various term and conditions in the Resolution, the Council and employees covered by this Resolution recognize that this Resolution may be amended in the future at any time, including prior to its expiration based on the discretion of the Council at that time; and

WHEREAS, the Council and employees covered by this Resolution recognize that it is the intent of the Council to meet annually to review and modify the terms and conditions of this Resolution based on the Town’s fiscal condition and/or employment needs dictate; and

WHEREAS, with respect to the salaries and benefits provided under this Resolution, the Council strives to pay employees a fair total compensation package in line with the average for similar positions in comparable agencies within the region.

Now, therefore, be it resolved by the City Council of the Town of Atherton that the salaries and benefits of the Unrepresented Employees of the Town of Atherton shall be as stated in Attachment A, effective July 1, 2019.

* * * * *

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 19th day of June, 2019, by the following vote:

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

Bill Widmer, Mayor
Town of Atherton

ATTEST:

Anthony Suber, City Clerk

APPROVED AS TO FORM:

William B. Conners, City Attorney

Attachment A

TOWN OF ATHERTON

Unrepresented Employees Salary & Benefit Resolution

GENERAL PROVISIONS:

The following salary and benefit programs shall apply to all local miscellaneous and safety employees in the classes and at the levels noted herein. It is intended that this Resolution serve in lieu of a Memorandum of Understanding for unrepresented employees for purposes of defining and affording rights as outlined in this Resolution.

1. **TERM:** This Resolution shall be effective July 1, 2019. As a practice, this Resolution may be returned annually to the City Council for review and modification as the Town's fiscal condition and/or employment needs dictate.

2. COVERED CLASSIFICATIONS & SALARIES:

Monthly salary ranges for employees in the covered classifications shall be as listed in Appendix A Salary Schedules FY 2019-20;

The classifications for the employees covered by this Resolution are as follows:

Job Title and Classification
<i>Management</i>
Police Chief
Finance Director
Police Commander
Deputy City Manager/City Clerk
Public Works Director
Senior Engineer/Maintenance Manager
Town Arborist/Park Manager
<i>Non-Management, Confidential</i>
Accountant
Assistant to the Chief/Training Manager
Jr. Accountant
Office Specialist

3. **TEMPORARY AND SEASONAL EMPLOYEES:** The City Manager may hire, on a part-time basis, positions identified as full-time according to the current salary resolution. Such positions shall only be hired when filling in temporarily for an existing full-time position. In addition to this authorization, the City Manager is authorized to hire the following temporary and/or seasonal hourly positions as operational needs dictate:

Position Title	Hourly Rate
Per-Diem Dispatcher	Hourly Rate As Applicable to FT Dispatcher
Police Officer Reserve Level I	Hourly Rate As Applicable to FT Police Officer
Intern	Hourly Rate Determined by City Manager

Unless prescribed by law, the benefits listed within this Resolution shall not apply to Temporary and Seasonal employees.

4. **HOURS OF WORK:** The standard workweek for employees occupying full-time positions consists of forty (40) hours in any seven (7) day period. The workweek begins at 12:01 A.M. Sunday and ends 11:59 P.M. the following Saturday. The City Manager shall designate shift schedules for all employees with due regard for the convenience of the public and the laws of the State and the needs of the Town. The Town reserves the right to consider changes to the standard workweek to facilitate adjustments to Town Hall operating hours.
5. **FLEXIBLE SCHEDULES:** At the request of the Department Head and following review and approval by the City Manager or his/her designee, a flexible work schedule may be implemented for employees covered by this Resolution. The City Manager's evaluation shall give consideration to the needs of the Department/Employee as well as the desire of the City Council to continue to provide all Town services on a schedule that is conducive to providing uninterrupted service to its residents throughout the week.

Each flexible schedule approved shall be evaluated by the City Manager or his/her designee no later than six months following its implementation. The purpose of the evaluation will be to determine if it is in the best interests of the Town of Atherton to continue the flexible schedule, or any modifications to the schedule that would be necessitated by the City Manager's evaluation.

COMPENSATION

6. **WAGES – PROGRESSION WITHIN STEPS:** Employees are eligible to progress from Step A to Step B six (6) months after their hire date or date of entry into the job classification, provided they have received a satisfactory performance evaluation conducted by their supervisor. Thereafter, employees may progress between steps B through D twelve (12) months after date of entry into the previous step provided they have received a satisfactory evaluation.
7. **OVERTIME:** All non-management, confidential employees are subject to and shall receive when appropriate, overtime compensation in accordance with the provisions of the Fair Labor Standards Act and California labor laws. Management employees are exempt from overtime.

All compensable overtime must be authorized by the Department Head or designated representative in advance of being worked. If prior authorization is not feasible because of emergency conditions a confirming authorization must be made on the next regular working day following the date on which the overtime was worked.

Any authorized time worked in excess of forty (40) hours in the applicable designated FLSA workweek shall be considered overtime and shall be compensable at the rate of one and one-half (1½) times the employee's regular rate of pay. Compensatory time off may be taken in lieu of overtime payment. For purposes of this section, Overtime, as defined in applicable state or federal law, the term "time worked" excludes time in paid status but not worked (e.g. paid sick, vacation, holiday, disability or other compensatory time off.) Compensatory time off shall be at a time mutually agreeable to the employee and the Department Head. Compensatory time off which accrues in excess of forty-eight (48) hours will be liquidated by monetary payment during the month of October. An employee shall not be required to reduce a scheduled workday in whole or in part to avoid the payment for overtime worked on another scheduled work day.

8. **PAY FOR TEMPORARY OR INTERIM APPOINTMENT TO A HIGHER CLASSIFICATION:** An employee who is temporarily appointed and performs the work of a position in a higher classification temporarily vacated by its incumbent either covered by or outside of employees covered by this resolution for more than five (5) consecutive workdays shall be paid five percent (5%) above the regular rate he or she received in his or her regular lower classification for such time as working out of class. However, if the position in the higher classification is vacant (has no incumbent) and the employee is given an interim appointment to such position pending the permanent filling of such position, he or she shall be paid five percent (5%) above the regular rate he or she received in his or her regular lower classification, or the rate of the first step of the range assigned to the higher classification, whichever is greater for the period of time working in that position. In no event shall such pay exceed the maximum of the range of the classification in which the employee is temporarily assigned. Payment shall commence with the first (1st) workday of the temporary or interim assignment and shall continue, including holidays, during the period of temporary or interim assignment. Such appointment shall be in writing by the Department Head and approved by the City Manager or his designated representative; however, any appointment to a temporary Department Head classification shall be approved by the City Manager. Only the City Council may authorize a temporary appointment to the position of City Manager.

PAID LEAVES

9. **LEAVES COVERED UNDER STATE AND FEDERAL LAW AND ADMINISTRATIVE POLICIES:** In addition to the paid leave provisions outlined below, the Town shall provide leave pursuant to adopted Town Administrative Policies and consistent with state and federal law, these shall include but not be limited to leave for Jury Duty, Voting, Military Leave, Pregnancy Disability, and Family Medical Leave.
10. **ADMINISTRATIVE LEAVE:** In recognition of the hours required to accomplish the requirements of each management position, including the attendance at numerous meetings outside normal working hours, each Management Employee shall be granted forty (40) hours of Administrative Leave per fiscal year. Management employees may accumulate a maximum of 60 hours of Administrative Leave. No cash out of Administrative Leave shall be allowed. Administrative leave does not apply to non-management, confidential

employees.

11. **HOLIDAYS:** The following holidays will be observed by all employees.

- January 1, New Year's Day
- Third Monday in January, Martin Luther King, Jr. Day
- Third Monday in February, President's Day
- Last Monday in May, Memorial Day
- July 4, Independence Day
- First Monday in September, Labor Day
- Second Monday in October, Columbus Day
- November 11, Veteran's Day
- Fourth Thursday in November, Thanksgiving Day
- Fourth Friday in November, Day after Thanksgiving Day
- December 25, Christmas Day

Additionally, employees shall receive a personal holiday on a date to be determined by the employee subject to the approval of the City Manager or his/her designee. This holiday will be credited to the employee's vacation bank each January.

If any of the regular holidays (excluding personal holidays) falls on a Saturday, the Friday preceding shall be observed as the holiday. If the holiday falls on a Sunday, the following Monday shall be observed as the holiday.

12. **VACATION LEAVE:** Except as limited by this section, all employees in full-time positions shall accrue Vacation Leave on each pay period prorated based on the following annual rates while in paid status:

- Less than three years of service - 80 hours per year.
- Three years of service to eight years of service- 120 hours per year.
- Eight years of service and above- 160 hours per year.

Vacation can only be accumulated to two times the employee's annual accrual rate, but not to exceed a total of 240 hours. If the employee's balance exceeds 240 hours, they shall not accrue any new vacation leave until their balance is 240 hours or less.

Employees shall be allowed to have the Town buy back any accrued vacation, with the approval of the Town Manager that the employee has satisfied the following condition:

- An employee desiring to implement this option must submit his/her request at the time of vacation sign-up for the upcoming year. To be eligible to sell back vacation time, an employee must have a minimum balance in excess of one half of his/her annual vacation accrual, after any buy back.

13. **SICK LEAVE:** The Town shall provide each employee in paid status with paid sick leave at the rate of eight (8) hours per month (3.69 hours per pay period). There shall be a cap of

960 hours of sick leave accrual. For those employees whose balance now exceeds the cap, no further sick leave shall accrue until their balance is below the cap.

An employee may only use sick leave that has accrued prior to the current pay period. Sick leave is not cashed out upon separation. Probationary employees can earn and use sick leave.

The Town recognizes employees who demonstrate an outstanding attendance record over a prior calendar year. Under this program, employees are allowed to convert a portion of their unused sick leave to pay or compensatory time off in the month of December and the month of June each year. In order to be eligible for this recognition, an employee must have been a regular full-time employee of the Town for the full preceding calendar year, and must have used 24 or fewer hours of sick leave during the preceding six months.

Participating employees shall submit a request in writing to Human Resources by the 15th of the month (i.e., June 15th or December 15th). An initial full year's request in 2019 by July 15 shall be permitted upon the initiation of the program.

The option to buy back sick leave is subject to the requirement that the employee maintain 80 hours of combined leave (i.e., vacation, sick, compensatory time off, etc.) once the buy-back is applied. Buy-back shall be calculated at the employee's regular rate of pay.

Level 1: Employees who have not used any sick leave hours over the previous six (6) months have the option to buy back or convert up to 30 hours of unused sick leave.

Level 2: Employees who have used up to 12 sick leave hours over the previous six (6) months have the option to buy-back or convert up to 12 hours of unused sick leave.

Level 3: Employees who have used more than 12 but less than 24 sick leave hours over the previous six (6) months have the option to buy back or convert up to eight (8) hours of unused sick leave.

14. **BEREAVEMENT LEAVE:** An employee shall be allowed paid leave for not more than five (5) working days when absent because a death has occurred in their immediate family as defined within the Town's Administrative Policies.

BENEFIT PROGRAMS

The following benefits are provided to employees covered by this resolution. Benefit programs are not considered vested rights and may be subject to change. It is the intent of this Resolution that covered employees receive the same general benefits as other employees in similar department units.

15. **PUBLIC EMPLOYEES' RETIREMENT SYSTEM:** All full-time employees are enrolled in the California Public Employees Retirement System (CalPERS), as amended by AB 340 of 2012, in lieu of Social Security coverage. All local miscellaneous, CalPERS "classic" employees shall continue to be enrolled in the 2% at 55 retirement benefit plan.

All local miscellaneous employees subject to the Public Employees' Pension Reform Act (PEPRA) shall be enrolled in the 2% at 62 retirement benefit plan and be subject to the three year average basis for determining the pension benefit levels. All local miscellaneous employees shall contribute the full required employee contribution.

All public safety CalPERS "classic" employees covered by this resolution shall continue to be enrolled in the 3% at 50 retirement benefit plan subject to the highest one year of service. All public safety employees subject to the Public Employees' Pension Reform Act (PEPRA) shall be enrolled in the 2.7% at 57 retirement benefit plan, and be subject to the highest three years average basis for determining the pension benefit level. All public safety employees shall contribute the full required employee contribution.

A. Employees shall pay 100% of the employees' share of the mandatory member contribution for CalPERS retirement, presently 9% for sworn and 7% for non-sworn. This amount shall be deducted from employees' paycheck and Town will forward to CalPERS.

B. Non-sworn employees shall pay an additional 1% toward the employers' share of the CalPERS retirement contribution.

C. Sworn employees shall pay an additional 3% toward the employers' share of the CalPERS retirement contribution.

The Town will continue to offer the voluntary salary reduction option offered by Section 414H2 of the IRS Code and the Public Employees Retirement System.

16. **HEALTH PLAN CONTRIBUTIONS:** The Town provides medical and hospitalization care benefits through the CalPERS Health Plan Program to the extent not supplanted by any mandated federal health coverage plan. For any CalPERS Health Plan Program, the Town shall pay the minimum amount required by law toward the monthly premium for hospital and medical care benefits under the CalPERS (PEMHCA) Health Plan referred to as the minimum employer contribution (MEC), currently the sum of \$133 per month (2018 rate). Any remaining premium shall be paid by the employee either through the Section 125 Plan (cafeteria flex-plan described below) or payroll deduction or a combination thereof unless replaced by a federally mandated health coverage plan. The Town reserves the right to modify the health insurance programs offered to its employees.

17. **DOMESTIC PARTNER COVERAGE:** The Town will provide domestic partner medical coverage to the extent and in the manner which CalPERS health plan carriers or federal law allow for the domestic partner's enrollment.

18. **IRC SECTION 125 FLEXIBLE BENEFIT PLAN:**

A. To the extent not supplanted by any mandated federal health coverage plan, the Town participates in the CalPERS Health Plan Program; however, the Town reserves the right to select the providers of any insurance program(s).

B. The Town shall contribute each month up to the amounts listed below, based on the employee's level of medical plan enrollment, to each active employee's IRC section 125 Cafeteria Flex Plan account. The benefit allowance is to be used to offset the costs of the

employer provided medical, dental and vision insurance premiums. An employee may not use the allowance for other reasons. These amounts may be adjusted by the City Council in superseding resolutions. Provisions of the Cafeteria Flex Plan shall be set forth by resolution of the City Council as soon as practical after adoption of this Resolution to clarify and implement the specifics of the plan which is outlined herein.

1. 90% of the 2019 CalPERS published rates for the Kaiser plan:

- One Party = \$691
- Two Party = \$1,383
- Three + Party = \$1,798

For any CalPERS Kaiser HMO rate increases, the cafeteria contribution shall be adjusted according the following agreement:

- For rate increases of up to and including 3% of any annual premium, the cafeteria plan contribution shall not be increased.
- For rate increases in excess of 3% of the annual premium, the cafeteria plan contribution shall be increased by one half (1/2) of the increase in excess of 3%.

2. Dental

- 90% of the published rates for single, 2-party, and family

3. Vision

- 90% of the published rates for single, 2-party, and family

Any required health, dental and/or vision premiums in excess of the amount in the Cafeteria Plan shall be paid by the employee, unless replaced by a federally mandated health coverage plan.

In the event that an employee elects insurance plans that do not use the entire Cafeteria Flex Plan benefit allowance, the Town agrees to contribute 60% of the unused benefit into the employee's health or flex savings account as allowed by law or refunded to the employee.

An employee who elects no medical coverage through the Town shall receive 60% of the Kaiser HMO benchmark used by the Town (employee only, employee plus one, or family) depending on which category the employee is eligible during the open enrollment period. The minimum payment shall be \$300 per month.

C. The Town shall establish a flexible spending plan under Internal Revenue Code Section 125, which shall include dependent care provisions under Internal Revenue Code Section 129. Employees may participate in the flexible spending plan according to its terms

as may be in effect from time to time, and those employees who are participating shall be responsible for their monthly participation fee.

D. Any Employee that enrolls in a Medical, Dental or Vision plan that has a higher premium than the benefit allowance, as stated above, will pay the difference via pre-tax payroll deductions.

E. Procedures for the administration of the Section 125 Plan shall be determined by the Town. The Town shall assume the administrative cost for the Plan.

F. Re-enrollment in the Town sponsored CalPERS (PEMHCA) Plan is subject to the limitations and exclusions time period instituted by CalPERS. Employees are eligible to reenroll during the CalPERS open enrollment period. Upon the effective date of reenrollment, payments pursuant to this section cease.

19. **RETIREE MEDICAL:** Current employees shall receive retirement medical benefits as provided under the contract in effect when they were hired.

Employees hired after the effective date of Resolution No. 13-03 shall not be entitled to Town-paid retiree medical beyond the monthly minimum contribution rate.

20. **LIFE INSURANCE:** The Town will provide employees paid term life/accidental death and dismemberment insurance in the following amounts:

Non-Management Confidential: \$50,000
Management: \$100,000
Police Chief & Police Lieutenant: \$140,000

21. **CELL PHONE STIPEND:** The Town will provide a fifty dollar (\$50) per month cell phone stipend to the following job classifications:

- Finance Director
- Deputy City Manager/City Clerk
- Senior Engineer/Maintenance Manager
- Town Arborist/Parks Manager

The Town will provide a seventy-five (\$75) per month cell phone stipend to the following job classifications:

- Chief of Police
- Commander
- Public Works Director/City Engineer

If the employee has a Town-issued cell phone they shall not be entitled to the cell phone stipend. Employees within the above classifications may also decline the stipend. Employees declining the stipend are required to provide written notice to the Town of their declination.

22. **P.O.S.T. CERTIFICATE:** Any Commander receiving an Intermediate and Advanced P.O.S.T certificate shall receive an incentive of two and one-half percent (2.5%) in wages above salary.
23. **EMPLOYEE ASSISTANCE PLAN:** The Town will continue its program for psychological counseling to covered employees and dependents, with total Town expenditures not to exceed \$3,000 per employee and family visits in any fiscal year for payment of up to six professional psychological sessions each year. Operation of the Employee Assistance Plan is subject to the City Council's funding of the plan within any fiscal year budget.
24. **LONG TERM DISABILITY INSURANCE (LTD):** Coverage for this Town-paid insurance is up to 67% of monthly earnings to a maximum of \$6,000 per month. This insurance becomes effective the first day of the month following date of employment subject to the terms and provisions contained in the policy. The waiting period following a disabling event is sixty (60) days. An employee does not accrue sick or vacation leave while on Long Term Disability absence.
25. **DEFERRED COMPENSATION:** Employees are eligible to participate in Deferred Compensation Plans offered by the Town.
26. **SHORT-TERM DISABILITY INSURANCE (STD):** Town-paid Short Term Disability Insurance can only be utilized after an employee has exhausted all of their available sick leave. The benefit is an amount equal to 70% of the employee's weekly earnings to a maximum of \$500 per week.
27. **FLEXIBLE SPENDING PLAN:** Regular full-time employees may enroll in this IRC Section 125 plan and take advantage of tax benefits as they pertain to medical and dependent care. Employees enroll upon employment and annually thereafter in the month of January.
28. **AUTOMOBILE PROVISION/MILEAGE REIMBURSEMENT:** Employees provided with a Town vehicle for the purposes of commuting to and from work and/or for use while on duty shall not be eligible for mileage reimbursement. Employees required to use their personal vehicle in the performance of their job will be compensated for mileage at the current Internal Revenue Service rate.
29. **TUITION REIMBURSEMENT:** The Town shall establish an \$8,000 annual educational reimbursement fund. The Town will reimburse employees who successfully complete courses approved in advance by the City Manager that will be beneficial to the employee in the course and scope of their job, in an amount up to \$2,500 per employee per fiscal year until the fund is depleted. Operation of the tuition reimbursement program is subject to the City Council's funding of the program within any fiscal year budget.
30. **WORKERS' COMPENSATION INSURANCE:** The Town shall provide Workers' Compensation Insurance as required by law with the premiums paid entirely by the Town.

31. **GENERAL PROVISIONS:** It is understood that federal law, state law, Town ordinances, Town Personnel Rules and Procedures, written departmental policies, and written administrative policies determine procedures and policies relating to the terms and conditions of employment, except as provided by this Resolution. Any and all prior provisions applicable to the positions covered under this Resolution that are contained in any but the aforementioned sources and in this Resolution are hereby declared null and void.

32. **DURATION:** Upon adoption, this Resolution shall be effective July 1, 2019.

The provisions of this Resolution supersede and terminate any and all prior or existing MOUs, understandings, rules, policies, agreements, resolutions or correspondence, whether formal or informal, regarding the compensation, benefits and terms and conditions of employment with respect to the employees covered by this Resolution, to the extent that those items are inconsistent with the terms of this Resolution.