



CITY OF ATASCADERO CITY COUNCIL AGENDA

HYBRID MEETING INFORMATION:

In accordance with City Council Resolution No. 2022-073 and the requirements of AB 361, the City Council Meeting will be available via teleconference for those who wish to participate remotely. The City Council meeting will also be held in the City Council Chambers and in-person attendance will be available at that location.

HOW TO OBSERVE THE MEETING REMOTELY:

To participate remotely, residents can livestream the meeting on [Zoom](#), SLO-SPAN.org, on Spectrum cable Channel 20 in Atascadero, and listen live on KPRL Radio 1230AM and 99.3FM. The video recording of the meeting will repeat daily on Channel 20 at 1:00 am, 9:00 am, and 6:00 pm and will be available through the City's website and on the City's YouTube Channel. To participate remotely using the Zoom platform please visit https://us02web.zoom.us/webinar/register/WN_ZwJ7a031S3KXauEym9ehaA.

HOW TO SUBMIT PUBLIC COMMENT:

Individuals who wish to provide public comment in-person may attend the meeting in the City Council Chambers. Individuals who wish to participate remotely may call **(669) 900-6833** (Meeting ID: 889 2347 9018) to listen and provide public comment via phone or via the [Zoom](#) platform using the link above.

If you wish to comment but not via a live platform, please email public comments to cityclerk@atascadero.org. Such email **comments must identify the Agenda Item Number in the subject line of the email**. The comments will be forwarded to the City Council and made a part of the administrative record. ***To ensure distribution to the City Council prior to consideration of the agenda, the public is encouraged to submit comments no later than 12:00 p.m. the day of the meeting.*** Those comments, as well as any comments received after that time, but before the close of the item, will be distributed to the City Council, posted on the City's website, and will be made part of the official public record of the meeting. ***Please note, email comments will not be read into the record.***

AMERICAN DISABILITY ACT ACCOMMODATIONS:

Any member of the public who needs accommodations should contact the City Clerk's Office at cityclerk@atascadero.org or by calling 805-470-3400 at least 48 hours prior to the meeting or time when services are needed. The City will use their best efforts to provide reasonable accommodations to afford as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

City Council agendas and minutes may be viewed on the City's website: www.atascadero.org/agendas.

Copies of the staff reports or other documentation relating to each item of business referred to on the Agenda are on file in the office of the City Clerk and are available for public inspection on our website, www.atascadero.org. Contracts, Resolutions and Ordinances will be allocated a number once they are approved by the City Council. The Minutes of this meeting will reflect these numbers. All documents submitted by the public during Council meetings that are made a part of the record or referred to in their statement will be noted in the Minutes and available for review by contacting the City Clerk's office. All documents will be available for public inspection by appointment during City Hall business hours.



CITY OF ATASCADERO CITY COUNCIL

AGENDA

Tuesday, December 13, 2022

City Hall Council Chambers, 4th floor
6500 Palma Avenue, Atascadero, California

City Council Regular Session:

6:00 P.M.

REGULAR SESSION – CALL TO ORDER: 6:00 P.M.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Newsom

ROLL CALL:
Mayor Moreno
Mayor Pro Tem Newsom
Council Member Bourbeau
Council Member Dariz
Council Member Funk

APPROVAL OF AGENDA: Roll Call

Recommendation: Council:

1. Approve this agenda; and
2. Waive the reading in full of all ordinances appearing on this agenda, and the titles of the ordinances will be read aloud by the City Clerk at the first reading, after the motion and before the City Council votes.

A. CONSENT CALENDAR: (All items on the consent calendar are considered to be routine and non-controversial by City staff and will be approved by one motion if no member of the Council or public wishes to comment or ask questions. If comment or discussion is desired by anyone, the item will be removed from the Consent Calendar and will be considered in the listed sequence with an opportunity for any member of the public to address the Council concerning the item before action is taken.)

1. City Council Draft Action Minutes – November 22, 2022

- Recommendation: Council approve the November 22, 2022 Draft City Council Regular Meeting Minutes. [City Clerk]

2. **AB 361 Requirements for Virtual Meetings**
 - Fiscal Impact: None.
 - Recommendation: Council adopt Draft Resolution making findings consistent with the requirements of AB 361 to continue to allow for the conduct of virtual meetings. [City Manager]
3. **City Council 2023 Meeting Schedule**
 - Fiscal Impact: None.
 - Recommendation: Council approve the City Council meeting schedule for 2023. [City Manager]
4. **Reciting the Fact of the November 8, 2022 General Municipal Election**
 - Fiscal Impact: None.
 - Recommendation: Council adopt the Draft Resolution, reciting the fact of the General Municipal Election held on November 8, 2022, declaring the result and such other matters as provided by law. [City Clerk]
5. **Santa Lucia Road Over Graves Creek Bridge Replacement Project Construction Phase Award**
 - Fiscal Impact: \$4,295,914 in Federal Highway Bridge Replacement and Rehabilitation Program funds.
 - Recommendation: Council:
 1. Award a construction contract for \$3,561,685 to Souza Construction for the Santa Lucia Road Bridge Replacement Project (City Project No. C2015B02, Federal Project No. BRLO-5423[029]).
 2. Approve a professional services contract for \$644,229 with Filippin Engineering, Inc. to provide construction engineering and inspection services for the Santa Lucia Road Bridge Replacement Project.
 3. Approve a professional services contract amendment for \$90,000 with Consor Engineers (previously Quincy Engineering) to provide construction design support services for the Santa Lucia Road Bridge Replacement Project. [Public Works]
6. **Purchase of Restrictive Covenant/Deed Restriction for 5970 El Camino Real**
 - Fiscal Impact: \$120,000.
 - Recommendation: Council approve purchase of the right to eliminate the grandfathered non-conforming automotive uses on 5970 El Camino Real, in the form of a restrictive covenant/deed restriction, for a total of \$120,000, and authorize the City Manager to execute all documents necessary to effectuate such purchase. [Community Development]

OATHS OF OFFICE:

1. **Administration of Oaths of Office**
 - Swearing in of Mayor Heather Moreno, Council Members Susan Funk and Heather Newsom, and Treasurer Gere Sibbach.

CITY COUNCIL REORGANIZATION:

1. **Council Appointment of Mayor Pro Tem**
 - Accept nominations from the Council Members and appoint a Mayor Pro Tem for a two-year term ending December 2024.

UPDATES FROM THE CITY MANAGER: (The City Manager will give an oral report on any current issues of concern to the City Council.)

COMMUNITY FORUM: (This portion of the meeting is reserved for persons wanting to address the Council on any matter not on this agenda and over which the Council has jurisdiction. Speakers are limited to three minutes. Please state your name for the record before making your presentation. Comments made during Community Forum will not be a subject of discussion. A maximum of 30 minutes will be allowed for Community Forum, unless changed by the Council. Comments will be allowed for the entire 30-minute period so if the final speaker has finished before the 30 minute period has ended and a member of the public wishes to make a comment after the Council has commenced another item, the member should alert the Clerk within the 30 minute period of their desire to make a comment and the Council will take up that comment upon completion of the item which was commenced. Any members of the public who have questions or need information may contact the City Clerk's Office, between the hours of 8:30 a.m. and 5:00 p.m. at (805) 470-3400, or cityclerk@atascadero.org.)

B. PUBLIC HEARINGS: None.

C. MANAGEMENT REPORTS:

1. General Plan Update Project – Phase 2 (GPA21-0067)

- Fiscal Impact: None.
- Recommendation: Council provide preliminary input on a series of questions designed to support the background data and receive an update on the General Plan Update Project. [Community Development]

2. Restaurant Development Incentive Loan Program

- Fiscal Impact: \$1,000,000 in General Fund balances for the loans and third-party loan administration, with interest income received back into the program.
- Recommendation: Council:
 1. Approve a Restaurant Development Incentive Loan Program to catalyze food-serving establishments and the revitalization of underutilized or vacant properties in the Downtown Zoning District in the amount of \$1,000,000.
 2. Authorize the Administrative Services Director to appropriate \$1,000,000 in General Funds to the Restaurant Development Incentive Loan Program.
 3. Authorize the City Manager to execute a contract with Economic Development Collaborative (EDC) for loan administrative services. [Community Development]

D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS: (On their own initiative, Council Members may make a brief announcement or a brief report on their own activities. The following represent standing committees. Informative status reports will be given, as felt necessary):

Mayor Moreno

1. City Selection Committee
2. County Mayors Round Table

3. Regional Economic Action Coalition (REACH)
4. SLO Council of Governments (SLOCOG)
5. SLO Regional Transit Authority (RTA)

Mayor Pro Tem Newsom

1. City / Schools Committee
2. Design Review Committee
3. League of California Cities – Council Liaison
4. Visit SLO CAL Advisory Committee

Council Member Bourbeau

1. City of Atascadero Finance Committee
2. City / Schools Committee
3. Integrated Waste Management Authority (IWMA)
4. SLO County Water Resources Advisory Committee (WRAC)

Council Member Dariz

1. Air Pollution Control District
2. California Joint Powers Insurance Authority (CJPIA) Board
3. City of Atascadero Finance Committee
4. Community Action Partnership of San Luis Obispo (CAPSLO)

Council Member Funk

1. Atascadero Basin Ground Water Sustainability Agency (GSA)
2. Design Review Committee
3. Homeless Services Oversight Council

E. INDIVIDUAL DETERMINATION AND / OR ACTION: (Council Members may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda. The Council may take action on items listed on the Agenda.)

1. City Council
2. City Clerk
3. City Treasurer
4. City Attorney
5. City Manager

F. ADJOURNMENT



CITY OF ATASCADERO CITY COUNCIL

DRAFT MINUTES

Tuesday, November 22, 2022

City Hall Council Chambers, 4th floor
6500 Palma Avenue, Atascadero, California

City Council Regular Session:

6:00 P.M.

REGULAR SESSION – CALL TO ORDER: 6:00 P.M.

Mayor Moreno called the meeting to order at 6:00 p.m. and the Pledge of Allegiance.

ROLL CALL:

Present: Council Members Bourbeau, Dariz (by Teleconference), and Funk, Mayor Pro Tem Newsom and Mayor Moreno

Absent: None

Others Present: None

Staff Present: City Manager Rachelle Rickard, Administrative Services Director Jeri Rangel, Community Development Director Phil Dunsmore, Fire Chief Casey Bryson, Interim Police Chief Jerel Haley, Public Works Director Nick DeBar, City Attorney Brian Pierik, Deputy City Manager/City Clerk Lara Christensen, Deputy Director of Community and Economic Development Loreli Cappel, and Deputy City Manager – IT Luke Knight

APPROVAL OF AGENDA:

MOTION: By Council Member Bourbeau and seconded by Council Member Funk to:

1. Approve this agenda; and,
2. Waive the reading in full of all ordinances appearing on this agenda, and the titles of the ordinances will be read aloud by the City Clerk at the first reading, after the motion and before the City Council votes.

Motion passed 5:0 by a roll-call vote.

PRESENTATIONS:

1. Proclamation Recognizing the 35th Anniversary of Coats for Kids of San Luis Obispo County

The City Council presented a Proclamation to Barbie Butz recognizing the 35th Anniversary of Coats for Kids of San Luis Obispo County.

A. CONSENT CALENDAR:

1. City Council Draft Action Minutes – November 8, 2022

- Recommendation: Council approve the November 8, 2022 Draft City Council Regular Meeting Minutes. [City Clerk]

2. October 2022 Accounts Payable and Payroll

- Fiscal Impact: \$3,071,528.99.
- Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for October 2022. [Administrative Services]

**MOTION: By Council Member Bourbeau and seconded by Mayor Pro Tem Newsom to approve the Consent Calendar.
*Motion passed 5:0 by a roll-call vote.***

UPDATES FROM THE CITY MANAGER:

City Manager Rickard gave an update on projects and events within the City.

COMMUNITY FORUM:

The following persons spoke in-person, by telephone or through the webinar: Janna Nichols, Josh Cross, Gary Kirkland, Barbie Butz, Austin Solheim and Wendy Lewis

B. PUBLIC HEARINGS:

1. 2023 Community Development Block Grant Draft Recommendations

- Fiscal Impact: Approval of Atascadero's total 2023 CDBG allocation would result in the estimated revenue and expenditure of \$139,689.
- Recommendation: Council develop and adopt draft recommendations for the 2023 Community Development Block Grant (CDBG) funds. [Public Works]

Ex Parte Communications

Mayor Moreno reported speaking with Wendy Lewis. Council Member Funk reported speaking with Janna Nichols and Wendy Lewis as a member of HSOC. No other Council Members had anything to report.

Public Works Director DeBar gave the report and answered questions from the Council.

PUBLIC COMMENT:

The following citizens spoke by telephone or through the webinar on this item: Janna Nichols, Wendy Lewis, and Geoff Auslen

Mayor Moreno closed the Public Comment period.

MOTION: By Council Member Bourbeau and seconded by Mayor Pro Tem Newsom to adopt the following draft recommendations for the 2023 Community Development Block Grant (CDBG) funds:

Accessibility & Barrier Removal Project	\$ 90,798.00
El Camino Homeless Organization	\$ 16,129.00
5 Cities Homeless Coalition	\$ 4,824.00
City Program Administration Costs	\$ 9,778.00
County Program Administration Costs	\$ 18,160.00
TOTAL 2023:	\$139,689.00

Motion passed 5:0 by a roll-call vote.

C. MANAGEMENT REPORTS:

1. North County Broadband Strategic Plan Project Update

- Fiscal Impact: None.
- Recommendation: Council to receive an update from the North County Broadband Project Consulting Team. [Community Development]

Deputy Director of Community and Economic Development Loreli Cappel briefed the Council on the report and introduced Maria Kelly of the North County Broadband Project Consulting Team who gave the report and answered questions from the Council.

The City Council received the update from the North County Broadband Project Consulting Team.

D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS:

The following Council Members gave brief update reports on their committees since their last Council meeting:

Mayor Pro Tem Newsom

1. County Mayors Roundtable
2. League of California Cities – Council Liaison

Council Member Bourbeau

1. League of California Cities Revenue and Taxation Committee
2. Integrated Waste Management Authority (IWMA)

Council Member Funk

1. Homeless Services Oversight Council

E. INDIVIDUAL DETERMINATION AND / OR ACTION:

Mayor Moreno and the rest of the Council Members wished everyone a safe and Happy Thanksgiving.

F. ADJOURNMENT

Mayor Moreno adjourned the meeting at 7:54 pm.

MINUTES PREPARED BY:

Lara K. Christensen
City Clerk

APPROVED:



Atascadero City Council

Staff Report - City Manager

Virtual Meetings – AB 361 Requirements

RECOMMENDATION:

Council adopt Draft Resolution making findings consistent with the requirements of AB 361 to continue to allow for the conduct of virtual meetings.

DISCUSSION:

On March 4, 2020, Governor Newsom declared a state of emergency due to the novel coronavirus COVID-19. That declaration is still in effect. Since March 12, 2020, Executive Orders from the Governor relaxed various Brown Act meeting requirements relating to teleconferencing rules, temporarily suspending the Brown Act provisions requiring the physical presence of council, board and commission members at public meetings. The most recent extension of those Orders expired on September 30, 2021.

On Friday, September 17, 2021, the Governor signed AB 361. AB 361 amends Government Code section 54953 to provide more clarity on the Brown Act's rules and restrictions surrounding the use of teleconferencing to conduct meetings. The newly enacted Government Code Section 54953(e) creates alternate measures to protect the ability of the public to appear before local legislative bodies.

With the passage of AB 361, local agencies are allowed to continue to conduct virtual meetings during a declared state of emergency, provided local agencies comply with specified requirements. The City Council previously adopted Resolution No. 2021-066 on September 28, 2021, finding that the requisite conditions exist for the legislative bodies of the City of Atascadero to conduct remote teleconference meetings in compliance with AB 361. (Government Code Section 54953(e).) AB 361 requires the City Council to reconsider the circumstances of the state of emergency not later than 30 days after teleconferencing for the first time pursuant to AB 361 and every 30 days thereafter in order to continue to conduct remote teleconference meetings. The City Council previously adopted Resolution No. 2021-069 on October 26, 2021; Resolution No. 2021-073 on November 23, 2021; Resolution No. 2021-074 on December 14, 2021; Resolution No. 2022-001 on January 11, 2022; Resolution No. 2022-003 on February 8, 2022; Resolution No. 2022-010 on March 8, 2022; Resolution No. 2022-010 on April 12, 2022; Resolution No. 2022-032 on May 10, 2022; Resolution No. 2022-038 on May 26, 2022; Resolution No. 2022-044 on June 14, 2022; Resolution No. 2022-064 on July 12, 2022; Resolution No. 2022-066 on August 9, 2022; Resolution No. 2022-068 on

September 13, 2022; Resolution No. 2022-071 on October 11, 2022; and Resolution No. 2022-073 on November 8, 2022, making the requisite findings to continue remote teleconferencing. Circumstances have not changed since the Council's adoption of Resolution No. 2022-073.

In order to continue remote teleconferencing, the City Council must make the following findings (Gov. Code § 52953(e)(3)):

- The City Council has reconsidered the circumstances of the state of emergency.
- Any of the following circumstances exist:
 - The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - State or local officials continue to impose or recommend measures to promote social distancing.

Social distancing is the term used for measures that reduce physical contact between infectious and susceptible people during a disease outbreak. While local and state mask mandates have been lifted, and the San Luis Obispo County local health emergency has been terminated, there are still some remaining social distancing measures in place to reduce the spread of COVID.

- The California Department of Public Health continues to strongly recommend masks for all persons, regardless of vaccine status, in indoor public settings and businesses.
- The City remains subject to the State Occupational Safety and Health Administration (CalOSHA) regulations which, among other requirements, continues to obligate an employer to provide training to employees on COVID-19 transmission and risk reduction, including "The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination." (CCR Section 3205(c)5(D).)
- CDC continues to have quarantine and isolation recommendations for those that have tested positive for COVID, those that have symptoms of COVID and for those that have been exposed to COVID. These isolation and quarantine requirements continue to often prevent employees and community members from attending meetings in person.

Should the Draft Resolution not be adopted, and the City Council (or an individual Council Member) elects to attend virtually, the City must comply with the provisions of Government Code Section 54953(3)(b):

- Agendas shall be posted at all teleconferencing locations
- Each teleconference location shall be identified on the agenda
- Each teleconference location shall be accessible to the public
- At least a quorum of the Council shall participate from locations with the boundaries of the City
- The public shall be provided an opportunity to address the Council directly at each teleconference location

Adoption of the Draft Resolution does not prohibit the conduct of a traditional or hybrid meeting in accordance with state and local regulations. At Council's direction on March 8, 2022, and because CDC measures are still in place that could prevent a member of the public from participating in the meeting in person, if the Draft Resolution were not adopted, hybrid City Council meetings will continue to be conducted, allowing public participation both virtually and in-person. At this time, there is not staff available to conduct all advisory body meetings (such as Planning Commission, Design Review Committee, ATBID, CSTOC) in a hybrid fashion and adoption of the Draft Resolution allows these meetings to continue to be conducted virtually. If the Draft Resolution was not adopted, these advisory bodies would need to return to the traditional in-person meeting model, effective immediately.

FISCAL IMPACT:

None.

ATTACHMENT:

Draft Resolution

DRAFT RESOLUTION

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF ATASCADERO, CALIFORNIA,
PROCLAIMING THE CONTINUING NEED TO MEET BY
TELECONFERENCE PURSUANT TO
GOVERNMENT CODE SECTION 54953(e)**

WHEREAS, all meetings of the City of Atascadero legislative bodies are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963); and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, Government Code section 54953(e) was added by AB 361, signed by Governor Newsom on September 17, 2021; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the City of Atascadero declared a State of Emergency as a result of the COVID-19 pandemic; and

WHEREAS, such State of Emergency remains in effect; and

WHEREAS, COVID-19 continues to threaten the health and lives of City of Atascadero residents; and

WHEREAS, subsequent variants are highly transmissible in indoor settings and breakthrough cases are more common; and

WHEREAS, state officials have imposed or recommended measures to promote social distancing to include the wearing of masks indoors, regardless of vaccination status; and

WHEREAS, the City Council previously adopted Resolution No. 2021-066 on September 28, 2021; Resolution No. 2021-069 on October 26, 2021; Resolution No. 2021-073 on November 23, 2021; Resolution No. 2021-074 on December 14, 2021; Resolution No. 2022-001 on January 11, 2022; Resolution No. 2022-003 on February 8, 2022; Resolution No. 2022-006 on March 8, 2022; Resolution No. 2022-010 on April 12, 2022; Resolution No. 2022-032 on May 10, 2022; Resolution No. 2022-038 on May 26, 2022; Resolution No. 2022-064 on July 12, 2022; Resolution No. 2022-066 on August 9, 2022; Resolution No. 2022-068 on September 13, 2022; Resolution No. 2022-071 on October 11, 2022; and Resolution No. 2022-073 on November 8, 2022, finding that the requisite conditions exist and continue to exist for the legislative bodies of the City of Atascadero to conduct remote teleconference meetings in compliance with Government Code Section 54953(e); and

WHEREAS, Government Code Section 54953(e) requires that the City Council must reconsider the circumstances of the state of emergency every 30 days in order to continue to conduct remote teleconference meetings in compliance with AB 361.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. Findings. The City Council does hereby find that:

1. The City Council has reconsidered the circumstances of the state of emergency declared as a result of the COVID-19 pandemic.
2. The state of emergency continues to directly impact the ability of the members to meet safely in person.
3. State or local officials continue to impose or recommend measures to promote social distancing.

SECTION 3. Compliance with Government Code Section 54953(e). The City Council and other legislative bodies will continue to meet by teleconference in accordance with Government Code section 54953(e).

SECTION 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) 30 days from the date of adoption of this Resolution, or (ii) such time the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of Atascadero may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of _____, 2022.

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk



Atascadero City Council

Staff Report – City Manager’s Office

City Council 2023 Meeting Schedule

RECOMMENDATION:

Council approve the City Council meeting schedule for 2023.

DISCUSSION:

The City Council, pursuant to Chapter 2, Section 1.01 of the Atascadero Municipal Code, meets the second and fourth Tuesday of each month. On occasion, the Council will hold special study sessions and/or joint meetings with one or both of the Commissions on a fifth Tuesday. Generally, in the summer months, the Council meets once a month and avoids conflicts with major holidays. Staff has prepared the attached schedule for the year 2023 to help in the coordination of these meetings with personal schedules.

FISCAL IMPACT:

None.

ATTACHMENT:

City Council 2023 Meeting Schedule

City of Atascadero

Office of the City Clerk

Atascadero City Council 2023 Meeting Schedule

MEETING DATE	TYPE OF MEETING
January 10	Regular
January 24	Regular
February 14	Regular
February 28	Regular
March 14	Regular
March 28	Regular
April 11	Regular
April 25	Regular
May 9	Regular
May 23	Regular
June 13	Regular
June 27	Regular
July 11	Regular
August 8	Regular
September 12	Regular
September 26	Regular
October 10	Regular
October 24	Regular
November 14	Regular
November 28	Regular
December 12	Regular

Meetings are held at 6:00 p.m.

**6500 Palma Avenue, Atascadero, CA 93422
(805) 470-3400**



Atascadero City Council

Staff Report - City Clerk

Reciting the Fact of the November 8, 2022 General Municipal Election

RECOMMENDATION:

Council adopt the Draft Resolution, reciting the fact of the General Municipal Election held on November 8, 2022, declaring the result and such other matters as provided by law.

DISCUSSION:

The General Municipal Election was held on November 8, 2022. California Elections Code §10262 states that the City Council shall meet to declare the results of the election upon certification of results by the County Election Department. The California Elections Code §10262 & 10264 also states that the Council shall adopt a resolution reciting the fact of the election, including a statement of the results.

Total voter registration for the City of Atascadero was 20,158, which is 48 less than the total voter registration for the year 2020. In the final official election results posted by the County of San Luis Obispo Clerk-Recorder's Office on December 7, 2022, 13,481 registered voters (66.88%) in the City of Atascadero voted in the November 8, 2022 election.

Atascadero voters were asked to vote for a Mayor, two Council Members, and the City Treasurer. The final official election results are attached to this report.

FISCAL IMPACT:

None.

ATTACHMENTS:

1. Final Official Results
2. Draft Resolution

City of Atascadero
Office of the City Clerk

FINAL OFFICIAL - ELECTION RESULTS
(12/07/22)

NAME	VOTES	% of VOTES
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ATASCADERO MAYOR

Mayor – Two Year Term

Heather Moreno	9,794	100.00%
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ATASCADERO CITY COUNCIL

City Council - Four Year Term – 2 seats

Heather Newsom	7,416	43.77%
Susan Funk	7,203	42.52%
Bret Heinemann	2,323	13.71%

ATASCADERO TREASURER

Treasurer– Four Year Term

Gere Sibbach	8,613	100.00%
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DRAFT RESOLUTION

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ATASCADERO, CALIFORNIA,
RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION
HELD ON NOVEMBER 8, 2022, DECLARING THE RESULT
AND SUCH OTHER MATTERS AS PROVIDED BY LAW**

WHEREAS, a General Municipal Election was held and conducted in the City of Atascadero, California, on Tuesday, November 8, 2022, as required by law; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, the County Election Department canvassed the returns of the election and has certified the results to this City Council, the results are received, attached and made a part hereof as “Exhibit A.”

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. That the whole number of ballots cast in the precincts except *vote-by-mail* voter ballots and provisional ballots was 1,123.

That the whole number of *vote-by-mail* voter ballots cast in the City was 12,358, making a total of 13,481 ballots cast in the City.

SECTION 2. That the names of persons voted for at the election for Mayor are as follows:

Heather Moreno

That the names of the persons voted for at the election for Member of the City Council are as follows:

Heather Newsom, Bret Heinemann, and Susan Funk

That the names of the persons voted for at the election for Treasurer are as follows:

Gere Sibbach

SECTION 3. That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates are as listed in Exhibit “A” attached.

SECTION 4. The City Council does declare and determine that: Heather Moreno was elected as Mayor for the full term of two years; Susan Funk was elected as Member of the City Council for the full term of four years; Heather Newsom was elected as Member of the City Council for the full term of four years; and Gere Sibbach was elected as Treasurer for the full term of four years.

SECTION 5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing: (1) The whole number of ballots cast in the City; (2) The names of the persons voted for; (3) The measures voted upon; (4) For what office each person was voted for; (5) The number of votes given at each precinct to each person, and for and against each measure; (6) The total number of votes given to each person, and for and against each measure.

SECTION 6. That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

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.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of December, 2022.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk



Atascadero City Council

Staff Report - Public Works Department

Santa Lucia Road Over Graves Creek Bridge Replacement Project Construction Phase Award

RECOMMENDATIONS:

Council:

1. Award a construction contract for \$3,561,685 to Souza Construction for the Santa Lucia Road Bridge Replacement Project (City Project No. C2015B03, Federal Project No. BRLO-5423[029]).
2. Approve a professional services contract for \$644,229 with Filippin Engineering, Inc. to provide construction engineering and inspection services for the Santa Lucia Road Bridge Replacement Project.
3. Approve a professional services contract amendment for \$90,000 with Consor Engineers (previously Quincy Engineering) to provide construction design support services for the Santa Lucia Road Bridge Replacement Project.

REPORT-IN-BRIEF:

The City was recently notified that Federal grant funding was appropriated for construction of the Santa Lucia Road Bridge Replacement over Graves Creek (as well as the Via Avenue Bridge Replacement over Atascadero Creek). Both these projects have been “shovel ready” for the past several years awaiting final Federal fund appropriations. The Santa Lucia Road Bridge Replacement Project has a very narrow construction window and was first publicly bid in anticipation of the Federal fund appropriation. Favorable bid proposals were received and Souza Construction has been determined to be the lowest responsive bidder for the project. This report seeks approvals to move the Santa Lucia Road Bridge Replacement Project into the construction phase for completion of the project.

DISCUSSION:

Background:

The existing Santa Lucia Road Bridge over Graves Creek (Bridge # 49C-0158) was originally constructed in 1926 and is nearly 100 years old. This bridge was identified in

2005 as needing replacement, and the Caltrans Bridge Inspection Records Information System (BIRIS) identified the Santa Lucia Road Bridge as functionally obsolete and structurally deficient. This determination allowed for the availability of federal funding for the replacement of the bridge. A Project Study Report was developed shortly thereafter, and an application for the Federal Highway Bridge Replacement and Rehabilitation Program (HBRRP) was prepared in 2014 for the bridge. The City was successful in obtaining HBRRP grant funding, which provides Santa Lucia Bridge with 100% of the costs covered by Federal funds.

In January 2016, the City solicited proposals from qualified consultants for professional engineering services and Council approved Quincy Engineering to perform final design and prepare construction plans, specifications, and cost estimates for the Santa Lucia Road Bridge Replacement Project.

After preliminary design and completion of hydrological, geotechnical and environmental studies, the City Council reviewed and approved preliminary design options for the bridge at their April 11, 2017 regular meeting. Council also considered options for detouring traffic and construction staging at that meeting. City staff held a neighborhood meeting with area residents to discuss the preliminary bridge design and three detour alternatives in advance of the Council meeting. Nearly all residents in attendance (approximately 40-50) preferred the detour alternative to install a temporary single lane bridge adjacent to the Santa Lucia Bridge. Given the tight constraint conditions for construction, public access to Llano Road at the bridge will be unavailable during construction. While access to this intersection of Llano Road will be prohibited to residents during construction, it is expected that emergency vehicles will be allowed continued access during construction. It was proposed to utilize the single lane wooden bridge (currently gated) at the north end of Llano Road to provide access between Santa Lucia Road and Llano Road properties. In anticipation of the need to utilize this bridge during construction of the Santa Lucia Road Bridge Replacement Project, coupled with emergency access needs, improvements were made to the Llano Road bridge in 2021 to allow it to be utilized as a detour during construction. Council agreed with the above detour option at their April 2016 meeting that allows the bridge to be demolished and constructed in a single stage that reduces project costs and construction schedule.

During 2018, City staff and the design team prepared CEQA documents and went through a formal public comment and revision period. CEQA documents were completed in August 2018, with the project determined to be Mitigated Negative Declaration (MND) under CEQA. Following CEQA completion work began concurrently to procure necessary permits, right-of-way acquisitions and agreements, and coordinate utility relocations.

Needed permits include a 401 Certification from the Regional Water Quality Control Board, a Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife, and a Section 404 Permit from the US Army Corps of Engineers. Permits have been finalized with each agency and the contractor will be required to meet the requirements of each permit during construction operations.

Hamner, Jewell and Associates (HJA) of Arroyo Grande was selected to provide the City with right-of-way appraisal and acquisition services. Work included appraisals and negotiation for right-of-way purchases and/or temporary construction easements (TCE's) on small portions of seven residential parcels adjacent to the Santa Lucia Bridge. HJA

negotiated on behalf of the City and formalized agreements with all property owners by August 2021. All costs associated with right-of-way acquisition and TCE's for the bridges is an allowable expense under the HBRRP Program.

Construction plans and specifications for the project were completed in 2020, but the City has been awaiting appropriation of construction funding through the HBRRP. In order to meet environmental permitting timelines that includes vegetation removal prior to the start of bird nesting season in February 2023, coupled with the high likelihood that the project would receive construction funding for the 2022/2023 Federal fiscal cycle, the City went ahead and applied for Advance Construction (AC) authorization. This action allowed the City to proceed with advertising the construction bid package and Construction Engineering RFP/RFQ before construction funds had been formally appropriated. On October 27, 2022, the City was notified that construction funds were appropriated and will now proceed with an AC conversion process, which is expected to be complete in early January 2023, allowing for construction to commence sometime in late-January.

Early construction work will be limited to vegetation removal and submittal review and ordering of long lead-time items, most notably the temporary bridge. Upon completion of these items, the project is anticipated to be suspended until May 2023 due to environmental work window limitations within Graves Creek. Work within the jurisdictional area (top of banks) is allowed to begin June 1, 2023 and needs to be complete prior to October 31, 2023. Removal and reconstruction of the bridge and adjacent roadways will be completed in four phases, with the bridge being completed within the work window listed above, and roadway approach work and environmental mitigation (replanting) potentially extending through the end of the year.

Bid Analysis

The project was publicly bid starting October 17, 2022 for a minimum of 30 days in accordance with State Contracting Laws and Atascadero Purchasing Policies. A public bid opening occurred on November 17, 2022 and three bids were received ranging from \$3,561,684 to \$4,900,000 with the two lowest bids below the Engineer's Estimate of \$4,292,200. The bids were reviewed for accuracy and compliance with project bidding requirements, and the City Engineer has determined that Souza Construction of San Luis Obispo is the lowest responsive bidder at \$3,561,684.

HBRRP funding requires that the City's contractor either meet a pre-determined project-specific Disadvantaged Business Enterprise (DBE) percentage, or submit a Good Faith Effort (GFE) package. The DBE percentage for this project was established at 17% and obligates the contractor to either be a registered DBE or subcontract at least 17% of the project work to DBE listed subcontractors. Souza Construction's bid included subcontracted work or materials totaling 17.8% of the total contract price, with calculations and DBE status confirmed by City staff. Souza Construction also submitted a GFE in the event that any errors were made or DBE status of subcontractor changed, but it was determined that full review and acceptance of the GFE is not necessary at this time.

The current budget provides \$5,361,250 in HBRRP monies for construction funding. Additional construction costs will include a follow-up mitigation (revegetation) contract to be bid separately for post-construction work. Costs for this revegetation work is estimated

at \$400,000. This work is to be bid separately, as it includes a five-year long monitoring and warranty period that is best administered separately from the prime bridge contract.

Other non-construction costs to be incurred include material testing, environmental monitoring, coordination, and construction management fees, plus staff time and design engineering support – which are estimated to total \$850,000, or about 22% of construction costs. Staff is recommending contracting with Filippin Engineering and Consor Engineering to provide these needed services (see additional information under Construction Engineering Analysis).

Construction Engineering Analysis

Due to the size and complexity of the project, coupled with the number of other capital projects planned for construction in 2023, the Public Works Department does not have staff capacity to provide construction management and inspection services for the Santa Lucia Bridge Replacement project. Proposals were solicited in October 2022 from qualified consultants to provide construction engineering, materials testing and environmental monitoring services. The scope of services included full construction Management, Construction Inspection and Construction Administration Services, Geotechnical and Materials Sampling and Acceptance Testing and Environmental Monitoring and Permit Compliance Services.

Staff received two proposals from qualified consultants including Filippin Engineering and MNS Engineers. While there are two other local area firms that provide similar services (Cannon and Wallace Group), both declined to propose stating workload and the experience of Filippin Engineering and MNS. Both proposals were individually reviewed and scored by a selection panel based upon experience with similar projects, particularly as relates to administering HBRRP projects, responsiveness to City needs, experience of key personnel, and other factors. The City was fortunate to receive excellent proposals and determined that Filippin Engineering submitted the most qualified proposal. Their experience working on similar projects for other public agencies was extensive, coupled with their experienced construction inspection team is extremely well qualified for this work.

Filippin Engineering provided a detailed fee estimate worksheet with their proposal that included labor hours/costs, reimbursable expenses, and subconsultant fees for the work scope identified in the City's request for proposals. Staff reviewed Filippin Engineering's work scope and fee and have determined that it is reasonable for full-time construction management and inspection. Staff is recommending awarding a contract to Filippin Engineering on a labor plus reimbursable basis for an estimated maximum fee of \$644,228.39 for construction engineering, inspection, and materials testing for the project.

Similar to the construction bid, consultants submitting proposals for Construction Engineering Services are required to either meet a DBE Goal of 10% of the total contract amount or document a Good Faith Effort. The selected consultant is a listed DBE, so the DBE Goal and no Good Faith Effort will be satisfied.

Construction Design Support Services Analysis

To also support the construction phase, the project design team at Consor Engineering (previously Quincy Engineering) is proposed to provide additional design services for the

project. Construction design support services include additional project coordination and support, additional bid support, response to contractor Requests for Information (RFI's), change order support, submittal reviews of specific technical project components, field reviews or special observations (2 total), and preparation and submittal of as-builts. Additionally, Consor Engineering will provide similar services for the follow-on construction contract for revegetation planting and monitoring. Total additional compensation for this work is estimated to be \$90,000.

As a note, the change of company name from Quincy Engineering to Consor Engineering is the result of an acquisition/merger; however, the same design team personnel have been maintained throughout the project. This additional work is proposed to be added as an amendment to the original professional engineering services contract with Quincy Engineering. However, this additional cost will result in the total fees to Consor Engineering exceeding the allowed 125% of the original contract price. Pursuant to the City's Purchasing Policy, City Council authorization is required for this additional expenditure.

ENVIRONMENTAL REVIEW:

The proposed project is a Mitigated Negative Declaration (MND) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.) The CEQA Admin Final is on file in the project records.

FISCAL IMPACT:

The fiscal impact of these awards is \$4,295,914 in HBRRP grant funds. The current projected uses and sources of funds for the Project are as follows:

ESTIMATED EXPENDITURES	
Design and Bid Phase	\$ 777,500
Right-of-Way Acquisition and Utility Relocations	347,000
Construction Contract	3,561,684
Construction Engineering / Testing / Administration	900,000
Construction Contingency @ 10%	356,168
Revegetation Construction and Administration (Supplemental)	519,898
Total Estimated Expenditures:	\$ 6,462,250

BUDGETED FUNDING SOURCES	
Highway Bridge Replacement and Rehabilitation Program Grant	\$6,462,250
Total Budgeted Funding Sources:	\$6,462,250

The City typically includes a 20% construction contingency for all projects, but HBRRP funding limits the allowable budgeted contingency to 10% of the construction contract. Should costs exceed this amount, the City may request a post-construction adjustment for actual construction costs.

ALTERNATIVES:

Staff does not recommend any alternatives. Council may direct staff to rebid the project, however, staff believes the low bid received is extremely reasonable given the current construction costs market, which is fully eligible for funding through the HBRRP program. Rebidding the project would also result in the project being delayed to at least 2024, with the potential to be pushed further if funding is reallocated.

ATTACHMENT:

Bid Summary

City of Atascadero
Office of the City Clerk
Bid Summary

TO: Public Works
 FROM: Amanda Muther ^A
 BID NO.: 2022-004
 OPENED: 11/17/2022
 PROJECT: Santa Lucia Bridge Replacement Federal Project No. BRLO-5423(29) - (C2015B03)

3 Bids were received and opened today, as follows:

<u>Name of Bidder</u>	<u>Bid Total</u>
Souza Engineering Contracting, Inc., dba Souza Construction	\$3,561,684.05
Papich Construction Company, Inc.	\$4,899,999.99
CalPortland Construction	\$3,797,907.44



Atascadero City Council

Staff Report – Community Development

Purchase of Restrictive Covenant/Deed Restriction for 5970 El Camino Real

RECOMMENDATION:

Council approve purchase of the right to eliminate the grandfathered non-conforming automotive uses on 5970 El Camino Real, in the form of a restrictive covenant/deed restriction, for a total of \$120,000, and authorize the City Manager to execute all documents necessary to effectuate such purchase.

BACKGROUND:

As part of the City's 2021-2023 Action Plan, the City Council asked staff to "explore incentives and code revisions to expedite the relocation of nonconforming uses" in the downtown. The property at 5970 El Camino Real (Property), is a key corner in downtown which is currently home to Pflum's Muffler and Auto Sales.

The Property is the northwest corner lot at the intersection of El Camino Real and Traffic Way. The Property is located in the Downtown Commercial Zoning District Zone (DC Zone), however Title 9, Chapter 3 does not allow muffler repair shops and used auto sales in the DC Zone. Because these uses existed on the lot prior to adoption of the existing DC Zone, the muffler repair shop and used car sales lot are, however, considered legal non-conforming uses in accordance with Atascadero Municipal Code 9-7.102(b) which states:

9-7.102 Nonconforming use defined.

Nonconforming use includes any of the following which were lawfully established before the effective date, or before any subsequent amendment, or this title:

(a) A building, structure (including signs), land use, or activity which was established or is conducted in a manner which does not conform with one or more standards or permit requirements of this title.

(b) A use of land established in a location where such use is not identified as allowable by this title. (Ord. 68 § 9-7.102, 1983)

Atascadero Municipal Code goes on to state:

9-7.103 Right to continue a nonconforming use.

A nonconforming use established prior to the effective date of this title, or prior to any subsequent amendment which creates such nonconformity, may be continued and maintained, except as otherwise provided by this chapter. Continuation of a nonconforming use may include a change of ownership, tenancy or management where the building, structure (including signs), land use or activity is substantially unchanged. (Ord. 68 § 9-7.103, 1983)

The City cannot take the owner's "grandfathered" rights to the automotive use without either providing just compensation or providing an amortization period of many years for the non-conforming use to occur.

The DC Zone is intended for commercial retail, restaurants, and uses that contribute to a downtown with a vibrant pedestrian and less auto-centric atmosphere. The City has a vested interest in bringing this property into conformance with the Atascadero Zoning Code to support the Council identified goals as outlined in the 2021-2023 Action Plan, to continue the private development momentum occurring in the Downtown, and to assist in creating the vibrant Downtown envisioned by the community.

In mid-2022, the property owner of 5970 El Camino Real approached the City with the desire to sell or lease the property to a new owner. An impediment to replacing the nonconforming automotive use is the high cost of improving the property to prepare it for new commercial or restaurant use. In other words, the owner can lease the property with minimal investment to another automotive use or the owner can invest a significant amount of money to attract a conforming use such as a restaurant or retail store. The current owner is willing to release the grandfathered non-conforming use rights and agree to future use restrictions in exchange for funds.

Following discussions with the property owner to understand their objectives and needs, staff analyzed current market lease rates for local automotive, restaurant, and retail spaces. Next, staff collected information on comparable costs of investment (tenant improvements) to change the current business from automotive to retail or restaurant use. These calculations helped determine a value of the grandfathered non-conforming use rights.

Based on negotiation with the property owner and consulting with our real property representative, staff is proposing to purchase the right to eliminate any grandfathered non-conforming automotive uses on the Property from the owner for a total of \$120,000. In exchange for the \$120,000, a restrictive covenant/deed restriction will restrict future uses of the Property to commercial retail or restaurant uses that wholly exclude automotive and industrial uses of the property consistent with Title 9, Chapter 3 of the Atascadero Zoning Code for the Downtown Commercial Zoning District. This restriction shall be deemed a deed restriction and shall run with the land in perpetuity.

Staff is asking Council to authorize the City Manager to execute the documents necessary to purchase the non-conforming use rights for 5970 El Camino Real, permanently eliminating automotive uses and other grandfathered non-conforming uses from occurring on the Property.

FISCAL IMPACT:

This program will use \$120,000 of the General Fund balance.

ATTACHMENTS:

Deed Restriction and Covenant Agreement.

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
City of Atascadero
Community Development Department
6500 Palma Avenue
Atascadero, CA 93422

Exempt from the \$75 Building and Jobs Act Fee per Gov't Code § 27388.1(2)(D) Public Agency
No fee pursuant to Government Code § 6103
No Documentary Transfer Tax per R&T Code § 11922
No Recording Fee per Government Code § 27383

DEED RESTRICTION AND COVENANT AGREEMENT

This Covenant and Deed Restriction is made and executed on this ____ day of December, 2022 by Fred D. Pflum, Trustee of the Fred C. Pflum Revocable Trust (“Owner”), owner of that certain real property located at 5970 El Camino Real in the City of Atascadero (the “City”), State of California. Said property is legally described in Exhibit “A” hereto (the “Property”).

Recitals:

- A. Owner certifies that he/she/they are the owners of the Property and hold all right, title and interest in the Property, including all rights to enter into this Agreement and grant the rights herein granted, without conflicts or claims of any other parties.
- B. Owner’s Property has historically been used for automotive business uses, specifically a muffler shop and used car sales. The Property is currently zoned DC (Downtown Commercial)_and ongoing automotive uses are permitted on the Property only in accordance with the “grandfathered” non-conforming historical uses as outlined in Title 9 Chapter 7 of the Atascadero Municipal Code.
- C. Owner seeks to sell or lease the Property to a new user.
- D. In accordance with City’s General Plan goals, City wishes to restrict the uses of the Property to commercial, non-automotive uses and have Owner cease any non-conforming uses on the Property which are not specifically allowed in the Downtown Commercial Zoning District in accordance with Atascadero Municipal Code 9-3.330.
- E. City seeks to eliminate non-conforming automotive uses of the Property and Owner is willing to sell and release said use rights and agree to such future use restrictions.

Now Therefore, Owner and City agree as follows:

- 1) **Compensation.** City hereby agrees to pay Owner compensation in the amount of \$120,000 for the right to restrict future uses of the Property to those in conformance with the existing

zoning for the Downtown Commercial Zoning District in accordance the City's Municipal Code, Title 9 – Chapter 3 – Article 9-3.330, which wholly excludes automotive and industrial uses of the Property. Said payment will be paid to Owner within twenty (20) days of the date that this Deed Restriction and Covenant Agreement is fully executed by Owner and City, and recorded in the Official Records of the San Luis Obispo County Recorder's Office.

- 2) **Deed Restriction.** Owner hereby agrees to cease all automotive land uses upon recordation of the Deed Restriction and Covenant Agreement. Owner hereby further agrees that the future use of the Property is restricted to those uses consistent with Title 9 Chapter 3 of the Atascadero Municipal Code for the Downtown Commercial Zoning District and that all automotive and industrial uses are explicitly extinguished, and Owner and Owner's successor's and assigns shall be so restricted in such future uses of the Property. This restriction shall be deemed a Deed restriction and shall run with the land in perpetuity.
- 3) **City Approval of Land Uses.** Owner agrees that any land use shall require review and approval by the City of Atascadero and shall require approval of a business license by City prior to any new occupancy. Allowed Land Uses in the Downtown Commercial Zoning District are listed in table 3-2 of section 9-3.330 of the Atascadero Municipal Code
- 4) **Recordation of this Deed Restriction and Covenant Agreement.** Owner consents to the recordation of this Deed Restriction and Covenant Agreement in the Official Records of the San Luis Obispo County Recorder's Office.

The purpose of this deed restriction is to provide notice and disclosure to the current Owner and to any subsequent purchaser or transferee of the limitations associated with the Property.

This Deed Restriction and Covenant runs with the land and binds all current owners, all future owners, and their successors, heirs or assigns, and continues in effect perpetually unless released by the City in writing. Any lease of any portion of the Property is subject to the restrictions in this Deed Restriction and Covenant, which are established for the general benefit of the entire community and which run with the land. The covenant is enforceable by remedy of injunctive relief in addition to any other remedy in law or equity.

This Deed Restriction and Covenant and the provisions hereof are irrevocable and non-modifiable except by the express written consent of the City. The City has the right to enforce each and every provision hereof.

If the owners, their heirs, assigns, or successors in interest fail to abide by the Deed Restriction and Covenants hereunder, all owners are bound to pay all costs and expenses incurred by the City in securing performance of such obligation, including reasonable attorney's fees and costs.

The parties to this Agreement hereby agree to be bound by all terms and conditions, restrictions and covenants stated herein, as of the date entered above, which shall match the date that this Agreement is fully executed by the parties hereto.

Signatures follow on next pages...

OWNER:
The Fred C. Pflum Revocable Trust

By _____
Fred D. Pflum, Trustee

Date

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____

On _____ before me, _____, Notary

Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

City of Atascadero
CERTIFICATE OF ACCEPTANCE
(Gov. Code section 27281)

This is to certify that the interest in real property conveyed by this Deed Restriction and Covenant Agreement dated December ____, 2022 from Fred D. Pflum, Trustee of the Fred C. Pflum Revocable Trust to the City of Atascadero, a municipal corporation government, Grantee, is hereby accepted by the undersigned officer or agent on behalf of the City of Atascadero pursuant to the authority conferred by Resolution of the City Council of the City of Atascadero adopted on December ____, 2022, and the Grantee consents to the recordation thereof by its duly authorized officer or agent.

In Witness Whereof, I have hereunto set my hand this ____ day of _____ 2022.

CITY OF ATASCADERO, a municipal corporation

By _____
Rachelle Rickard
City Manager

ATTEST:

By _____
Lara Christensen, City Clerk

EXHIBIT A

That portion of Lot 1 in Block GB of Atascadero, in the City of Atascadero, County of San Luis Obispo, State of California, according to map recorded October 21, 1914 in Book 4, Page 34 of Maps, described as follows:

Beginning at the Northeast corner of said Lot 1, said corner being the intersection of the center line of Traffic Way with the center line of California State Highway;

Thence North $58^{\circ} 56'$ West along the Northeasterly line of said Lot 1, 75 feet to the most Easterly corner of the property conveyed to J.A. Heir-Johnson, et ux., by deed recorded January 5, 1923 in Book 159, Page 2 of Deeds;

Thence South $31^{\circ} 04'$ West along the Southeasterly line of the property so conveyed, 167 feet to the most Southerly corner thereof;

Thence South $58^{\circ} 06'$ East 85 feet, more or less, to a point of the center line of Traffic Way, also being the Southeasterly line of said Lot 1;

Thence North $28^{\circ} 37'$ East along the Southeasterly line of said Lot 1, 167.10 feet, more or less, to the point of beginning.

Excepting therefrom all minerals and oil in, under or upon said land.

Also excepting therefrom all streets, roads and alleys shown on the map herein referred to.



Atascadero City Council

Staff Report – Community Development Department

General Plan Update Project – Phase 2 (GPA21-0067)

RECOMMENDATION:

Council provide preliminary input on a series of questions designed to support the background data and receive an update on the General Plan Update Project.

DISCUSSION:

On December 14, 2021, the City Council authorized the execution of a contract with MIG, Inc. for the preparation of the Atascadero General Plan Update. In November 2022, the project consultant team began gathering early feedback through a series of Community Engagement Questions while continuing the work on the existing conditions. These community engagement questions are designed to be an extension of the City's background data and existing conditions by gleaning information about the community in advance of a broader outreach process. This item continues a discussion around the engagement questions with the goal of furthering the data and information collection.

Background:

The phases of the GP update include:

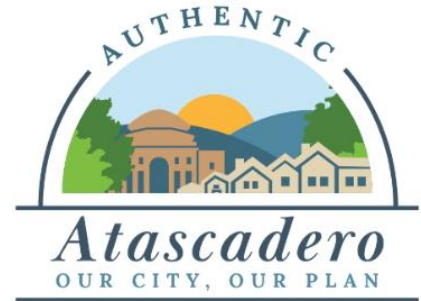
- **Phase 2: Discovery and Visioning:** includes gathering background data, technical studies, and initiation of the public engagement process. Including:
 - Base Mapping for Land Use and Community Form
 - Biological Resources Technical Study
 - Cultural Resources Technical Study
 - Traffic and Mobility Technical Study
 - Noise Technical Study
 - Infrastructure Technical Study
 - Parks and Recreation Technical Study
 - Economic Conditions Technical Study
 - Environmental Justice and Equity Technical Study
 - Existing Conditions and Policy Implications
 - Fiscal Conditions: fiscal analysis of the existing conditions in Atascadero today, which will be used as a baseline for evaluating General Plan Alternatives during Phase 3. This additional detail will allow the community

and City Council to understand the potential financial impacts of land uses, including both short-term impacts and longer-term ramifications.

- **Phase 3: Exploring Alternatives:** Building on existing conditions, this process outlines future alternatives for land use, transportation and other features.
- **Phase 4: A Plan for Atascadero 2045:** Based on direction provided in phase 3, this process outlines the actual draft community plan.
- **Phase 5: Celebrating our Future:** This process will include additional public outreach events, Planning Commission and City Council hearings, and review of draft community plan. The final plan will also be created in this phase along with the Environmental Impact Report.
- **Phase 6: Ongoing Team Coordination:** This is the final wrap-up phase and may include any final phases following plan adoption.

Currently the General Plan Update Project is in the middle of Phase 2: *Discovery and Visioning*. Some of the Phase 2 activities conducted to date include:

- **Website Launch:** Along with project branding, the project team created a City website and a corresponding QR code that is being circulated on the City's social media feed. The QR code has been printed on beverage coasters and distributed at the below mentioned community events and in local restaurants in the downtown to draw residents to the new project website.
(<https://www.atascadero2045.org>)



- **Cruisin' Weekend: Hot El Camino Nights and Dancing in the Streets.** In August, the Consultant team and City Planning Department held a pop-up workshop following Cruise Night at the Lake Park Car Mid-State Cruisers Car Show and Dancing in the Streets event at Sunken Gardens. The workshop booths included interactive engagement exercises, asking residents what they like most about Atascadero, and what big ideas they have for the community.



- **Colony Days Parade:** City staff from various departments participated in the Colony Days Parade to raise awareness about the General Plan Update project by carrying an informational banner and sharing the website QR code and website.



Now: Community Engagement Questions

In Phase 2, the “Discovery and Visioning” phase, the consultant and staff work together to gather historical and existing City data. As part of that data collection process, the consultant has begun an initial engagement process that focuses on a series of broad initial questions about the future of Atascadero (see below and Attachment 3). The purpose behind these questions is to broaden the data collection and find things that might not be revealed otherwise.

These same questions are what the Council and public will be providing preliminary input on tonight. The input generated by the public and individual Council Members at the meeting will be just one part of the broader Phase 2 public outreach/community engagement effort. As part of the broader conversation, the input provided should not be a Council consensus, but rather individual (both public and Council Member) answers to the following questions:

1. *What are the strengths, assets and unique qualities that make Atascadero great? What should be protected or enhanced?*

This broad question hopes to reveal some of the unique qualities that can’t be found in the data. Our small-town charm and genuine feel, for example, might be a good example of one of our strengths that needs to be protected.

2. *What are the most critical challenges or opportunities related to new residential, commercial, and/or employment development in Atascadero?*

Again, this question aims to garner an opinion or fact about the issues that we commonly face as a small community (land availability, cost, time delays, zoning laws, lack of workforce housing—all might be examples).

3. *Over the last 10 years, which development projects do you consider to be the most successful? Least successful? Why?*

This question should look at both the measure of both fiscal, physical, and overall improvement to the City and how the project was completed.

4. What do you feel are the biggest mobility and transportation challenges the community faces?

Mobility and transportation is directly tied to land use. This question looks at challenges to pedestrian, bicycle, and vehicle access, as well as roads, highways, and trails.

5. What are the most critical challenges or opportunities related to public facilities and services in Atascadero?

Roads, wastewater, police, fire, City staffing, and maintenance of parks and other infrastructure is all on the table for discussion here.

6. Overall, what is your vision for Atascadero? What are your two big ideas?

There is no limit to this question as it should be broad and bold in nature. The consultant and staff are looking for new innovative ideas.

7. Who else should we reach out to during this process? Stakeholders, community organizations, etc. How can we best reach them?

8. What else would you like to discuss? What would you like to be sure the project team is aware of as we move forward?

Next Steps

The following Phase 2 activities will take place in January 2023:

- The first of the broader public engagement activities will commence with **Community Workshop 1**, which is tentatively scheduled for **late January**. The proposed concept for this workshop will be an open-house format where people can drop in, speak with staff, and be led through a series of questions to help garner input. Following City Council input on this process, staff will establish the location and date.
- Following the Workshop 1, a Planning Commission workshop, followed by a City Council workshop, will continue the path of public outreach into February 2023.

The next 4-5 months are perhaps the most significant time in the update process as this is when we will be garnering the most significant outreach and beginning to formulate alternatives, concepts and a framework for our future land use and circulation plans. This will be followed by the actual completion of a draft City plan which will then become the basis of an additional significant outreach opportunity as part of phases four and five.

Phase 3 will begin following public engagement and will continue through early next year. Phase 3 includes the exploration of alternative scenarios for Atascadero's future. The consultant will use information gathered in the technical studies in Phase 2, along with the information gathered from the initial questions, and the community workshop and will prepare "Areas of Stability and Change" that will illustrate areas that have the potential to change in the future. They will also identify neighborhoods where no land use policy changes are anticipated. **Land Use Alternatives** will be developed along with an Alternatives Summary which will be discussed with the Community Development staff,

community members, property owners, developers, technical experts, and decision makers through an engagement process. Based on the outreach conducted, the team will refine the alternatives into a Preferred General Plan Alternative and will begin the CEQA process (initial study).

Conclusion:

Staff is seeking input from the Council and public on questions that help us define and better understand both the conditions as they exist today and the vision for the future. The input gathered tonight will be just one part of the community engagement process in Phase 2 of the General Plan Update.

ALTERNATIVES:

Council may direct staff to modify the scope of work—particularly the initial questions, the outreach program, and include any optional tasks as desired. Council should keep in mind that substantial changes at this juncture may impact the budget and timeframe or cost of the project.

ATTACHMENTS:

None

related to downtown vibrancy, restaurants, shopping and improvements.

Additional eating and drinking establishments would also better serve our residents and visitors and capture expendable income being spent outside of our City limits. Atascadero is also well-positioned to be more attractive to new businesses, quality jobs, and talent if we have a more vibrant downtown atmosphere and expand eating and drinking options. Jobs and sales tax revenue are critical to making our community “whole” and improving the balance of our ratio of jobs to housing.

Today’s cost of installing commercial kitchens is at an all-time high due to the inflated cost of materials, appliances, and labor. Recent estimates for tenant improvements to convert a commercial space to a full-service kitchen in downtown Atascadero range between \$50,000 to \$150,000. This makes the start-up of a new restaurant very difficult if not infeasible for local restaurateurs given the profit margins in the food industry. A low-interest loan program could catalyze and help finance the cost of kitchen installations and related tenant improvements within existing or proposed buildings in the Downtown Commercial District.

Proposed Program:

City Council’s Strategic Action Plan calls for enhancing downtown through “Assisting in the development of new restaurants and exploring ways to reduce start-up costs”. To respond to this priority, staff is proposing a Restaurant Development Incentive Loan Program within the Downtown Commercial (DC) Zoning District. This program will include low-interest loans at a rate of 4.25% (subject to change based on economic conditions, pending City approval) with a maximum term of 84 months, and a revolving loan fund amount of \$1,000,000. A fund with \$1,000,000 could incentivize approximately eight new restaurants Downtown, depending on the loan amount requested. Borrowers could request up to \$125,000 (overages may be considered with City approval) for the following purposes associated with starting up their restaurant:

- Equipment
- Machinery
- Fixtures
- Furniture

Staff proposes to contract with a third-party lender (Economic Development Collaborative or EDC) who could administer all the aspects of the loan program. Costs for a third-party administrator are estimated at approximately \$30,000 per year which could be paid quarterly in year one, and paid out of interest earned in subsequent years.

The EDC is a 501(c)(3) non-profit organization that serves several other Central Coast communities as a third-party lender. The EDC provides access to capital and direct business advising to roughly a thousand businesses a year. Since 1998, the EDC’s loan program has funded \$20 million in requests, created 1,200 new jobs in Santa Barbara and Ventura Counties, and they are looking forward to collaborating with the City of Atascadero on the Restaurant Development Incentive Loan Program. Each of the EDC’s grant or loan applicants are paired with top-tier financial advisors to ensure that businesses are successful and are utilizing the requested funding as intended.

Examples of programs currently operated by the EDC include the Camarillo Business Assistance Loan which offers funding for equipment, inventory purchases, and working capital. Additionally, the EDC operates the City of Oxnard's business grant program which provides support to disadvantaged business owners in low-income neighborhoods to fund equipment purchases, inventory purchases, leasehold improvements, and working capital. For additional protection against default losses, EDC engages with the California Infrastructure and Economic Development Bank (IBank) program for loan guarantees of up to 80% of loaned principal.

Further specifications about the proposed Restaurant Development Incentive Loan Program are as follows:

Who would be eligible for funds?

1. Local restauranteurs looking to expand or renovate
2. Restauranteurs with food service experience looking to invest
3. Eating or drinking establishments that:
 - o Will install a commercial kitchen
 - o Have on-site dining
 - o Are open 5 or more days per week, for at least two mealtimes
4. A property owner interested in completing improvements in a proposed or existing space to accommodate a restaurant meeting the criteria above

Who would not be eligible for funds?

1. Chain restaurants with more than 4 of the same restaurant locations within the same corporation
2. Restaurants that don't have on-site dining
3. Eating or drinking establishments that will not install a type 1 or 2 hood
4. Restaurants that are not open on a regular basis for at least 5 days a week

Which Downtown District properties are eligible?

1. Vacant buildings
2. Buildings currently occupied with non-restaurant-related uses
3. Current eating and drinking establishments looking to upgrade facilities, expand food service to add on-site dining, or a complete kitchen
4. New development site/new construction

How does this work?

1. Financing terms: The third-party lender provides up to \$125,000 (overages may be considered with City approval) for eligible expenses, in advance. Borrowers must provide receipts for all eligible expenses paid with loan funds. Any excess funding must be returned to the City through EDC. The lender will retain ownership of all removable fixtures if the restaurant closes or borrower defaults.
2. The landlord's signature on the application confirms their agreement (landlord waiver) with these terms.

Loan Criteria:

Loan terms:

- Loan maximum is \$125,000 (overages may be considered with City approval)

- Interest rate is 4.25%*
- Maximum loan term is 84 months
- \$200 loan origination fee, plus out-of-pocket expenses
- Three years of financial statements and/or projections
- Collateral for loans such as the personal real estate of the guarantor and/or any assets purchased by the loan and UCC-1 filing on all business assets

*Lender will have the ability to adjust the interest rates based on market trends with written approval by the City, depending on economic and other conditions.

Eligible expense:

The intent of the loan program is to cover non-construction-related items such as the cost of appliances and equipment.

- Equipment
- Machinery
- Fixtures
- Furniture

Ineligible expenses:

Items such as building and construction, permit fees, liquor licenses, supplies, operating costs, working capital, and marketing costs are not eligible for funding.

Additional criteria:

- Businesses must be in good standing with the California Secretary of State
- Upon completion of improvements, a business must pass inspection with County Health Department
- Each applicant will be paired with an advisor (from the third-party lender)
- Applicants must agree to six-month and one-year check-ins on the status and use of funding
- Applicants must agree to standards for non-performance in the contract
- Loan applicants must agree to the standards of repayment in the contract
- Businesses must comply with City zoning and have an active City business license
- The on-site improvements must be consistent with the California Building Code

Selection Committee:

Borrowers will be selected by a committee comprised of representatives of commercial bankers involved in the lending process. Selection criteria will be based on the following, in order of priority:

1. The applicant's business plan demonstrates that their business will be successful.
2. The restaurant will increase economic vitality and promote synergy in the Downtown District.
3. The restaurant will activate underutilized properties.

Because the loan funding is expected to be at market rate for this type of program, and the loan funds will be used for the purchase of equipment and fixtures, it is believed that prevailing wage requirements will not be triggered by these loans. Each loan applicant would be responsible for paying prevailing wage if this requirement is triggered by the use of the funds

This low-interest loan program will impact the community positively as it will serve as a catalyst for additional food-serving establishments and the revitalization of underutilized or vacant properties in the Downtown Zoning District. As a key priority that emerged from the Measure D20 community outreach, an economically vibrant downtown that provides entertainment, restaurants and a venue to create community connections, is of high importance to our residents. This program will help move the needle toward desired change by reducing the large hurdle posed by the cost of creating a commercial kitchen. By bringing activity and investment to the Downtown, the program will not only expand options and benefit our residents; it will also bring in visitors from neighboring communities and serve as a draw for businesses to bring additional jobs to our community.

Staff is requesting that Council approve the Loan Program and authorize the Administrative Services Director to appropriate \$1,000,000 in General Funds to the Restaurant Development Incentive Loan Program. Additionally, Council is asked to authorize the City Manager to enter into contract with Economic Development Collaborative (EDC) for loan administrative services.

FISCAL IMPACT:

This program will use \$1,000,000 in General Fund balance for the loans and third-party loan administration. Interest income will be put back into the program.

ATTACHMENT:

Restaurant Development Incentive Program Summary



Restaurant Development Incentive Loan Program

BACKGROUND

As part of the City's 2021-2023 Action Plan, the City aims to increase economic vitality and investment by creating a program to catalyze the installation of eating and drinking establishments in the Downtown Commercial (DC) Zoning District. The importance of focusing energy and investment in Downtown is to create a stronger sense of place, to better serve our residents, and to capture the leakage of expendable income being spent outside of our City limits. Atascadero is also well-positioned to be more attractive to new businesses, quality jobs, and talent if we have a more vibrant downtown atmosphere and expand eating and drinking options. Jobs and sales tax revenue are critical to making our community "whole" and improving the balance of our ratio of jobs to housing.

Today's cost of installing commercial kitchens is at an all-time high due to the inflated cost of materials, appliances, and labor. Recent estimates for tenant improvements to convert a commercial space to a full-service kitchen in downtown Atascadero range between \$50,000 to \$150,000. This makes the start-up of a new restaurant very difficult for local restaurateurs given the profit margins in the food industry. The City can play an important role in the success of building synergy and investment momentum in Downtown Atascadero. A low-interest loan program consisting of approximately \$1,000,000 could provide up to 8 new restaurants Downtown and help finance the cost of kitchen installations and related tenant improvements in existing or proposed buildings.

The return on investment and community benefit would include an increase in captured spending, more dining options with extended hours to serve our residents and neighboring communities, and assistance for small and more local restaurateurs. The end result is increased community vibrancy as new businesses and talented employees are drawn to atmospheres that provide dining, shopping, and entertainment options during and after the workday.

RESTAURANT DEVELOPMENT INCENTIVE LOAN PROGRAM

PROGRAM OVERVIEW

The City of Atascadero has initiated a Restaurant Development Incentive Loan Program to help finance the cost of kitchen installations and related tenant improvements within existing or proposed buildings in the Downtown Commercial Zoning District (see District boundaries below). The City will contract with a third-party lender (Ventura Economic Development Collaborative [EDC]), to operate the loan program.

Who would be eligible for funds?

1. Local restauranteurs looking to expand or renovate
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RESTAURANT DEVELOPMENT INCENTIVE LOAN PROGRAM

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- Each applicant will be paired with an advisor (from the third-party lender).
- Applicants must agree to six-month and one-year check-ins on the status and use of funding
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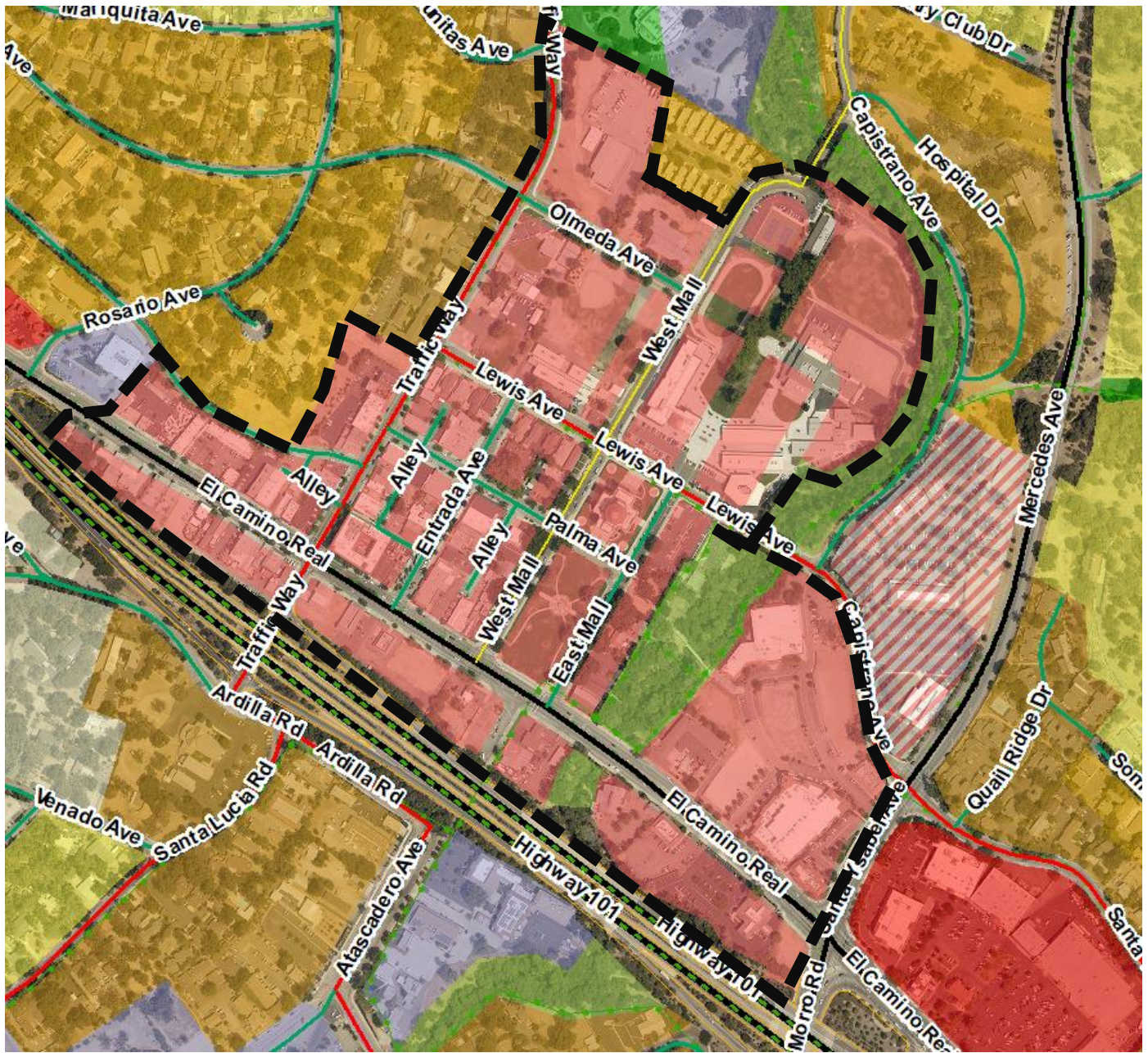
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RESTAURANT DEVELOPMENT INCENTIVE LOAN PROGRAM

Downtown Commercial Zoning District (DC zone)



DC Zoning Boundary