



CITY OF ATASCADERO CITY COUNCIL AGENDA

MEETING INFORMATION:

The City Council meeting will be held in the City Council Chambers and in-person attendance will be available at that location.

HOW TO OBSERVE THE MEETING REMOTELY:

To observe 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 observe remotely using the Zoom platform please visit:

https://us02web.zoom.us/webinar/register/WN_ZwJ7a031S3KXauEym9ehaA

HOW TO SUBMIT PUBLIC COMMENT:

Public comment may be provided in-person.

Written public comments are accepted at cityclerk@atascadero.org. **Comments should identify the Agenda Item Number in the subject line of the email.** Such comments will be forwarded to the City Council and made a part of the administrative record. **To ensure distribution to the City Council before consideration of an item, please submit comments not later than 12:00 p.m. the day of the meeting.** All correspondence will be distributed to the City Council, posted on the City's website, and be made part of the official public record of the meeting. **Please note, comments will not be read into the record.** Please be aware that communications sent to the City Council are public records and are subject to disclosure pursuant to the California Public Records Act and Brown Act unless exempt from disclosure under applicable law. Communications will not be edited for redactions and will be printed/posted as submitted.

AMERICANS WITH DISABILITIES 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.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS:

Pursuant to Government Code § 84308, City Council Members are disqualified and not able to participate in any agenda item involving contracts (other than competitively bid, labor, or personal employment contracts), franchises, discretionary land use permits and other entitlements if the City Council Member received more than \$250 in campaign contributions from the applicant or contractor, an agent of the applicant or contractor, or any financially interested participant who actively supports or opposes the City's decision on the agenda item since January 1, 2023. Members of the City Council who have received, and applicants, contractors or their agents who have made, campaign contributions totaling more than \$250 to a City Council Member since January 1, 2023, are required to disclose that fact for the official record of the subject proceedings. Disclosures must include the amount of the campaign contribution and identify the recipient City Council Member and may be made either in writing to the City Clerk before the agenda item or by verbal disclosure during consideration.

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 10, 2024

City Hall Council Chambers, Fourth Floor
6500 Palma Avenue, Atascadero, California

<u>City Council Regular Session:</u>

6:00 P.M.

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

PLEDGE OF ALLEGIANCE: Council Member Bourbeau

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

A. CONSENT CALENDAR: (All items on the consent calendar are considered routine and non-controversial by City staff and will be acted upon by a single action of the City Council unless otherwise requested by an individual Council Member for separate consideration. Public comment on Consent Calendar items will be invited prior to action on the Calendar.)

1. City Council Draft Minutes – November 12, 2024, Regular Meeting and December 2, 2024 Special Meeting

- **Recommendation:** Council approve the November 12, 2024, City Council Regular Meeting Minutes and the December 2, 2024, City Council Special Meeting Minutes. [City Clerk]

2. City Council 2025 Meeting Schedule

- **Fiscal Impact:** None
- **Recommendation:** Council approve the 2025, Atascadero City Council Meeting schedule. [City Clerk]

3. Reciting the Fact of the November 5, 2024 General Municipal Election

- **Fiscal Impact:** None.
- **Recommendation:** Council adopt the Draft Resolution, reciting the fact of the General Municipal Election held on November 5, 2024, declaring the result and such other matters as provided by law. [City Clerk]

4. **Notice of Treasurer Resignation**
 - Fiscal Impact: None
 - Recommendation: Council receive and file notice of resignation by City Treasurer, Gere Sibbach, effective December 10, 2024 [City Clerk]

5. **October 2024 Accounts Payable and Payroll**
 - Fiscal Impact: \$4,985,009.98
 - Recommendation: Council approve certified accounts payable, payroll and payroll vendor checks for October 2024 [Administrative Services]

6. **September 2024 Investment Report**
 - Fiscal Impact: None
 - Recommendation: Council receive and file the City Treasurer's report for quarter ending September 30, 2024 [Administrative Services]

7. **2nd Reading - Newton Development Agreement (DEV24-0075) Ordinance**
 - Fiscal Impact: None
 - Recommendation: Council adopt on second reading, by title only, Draft Ordinance to approve a Development Agreement between Scott Newton and the City of Atascadero, amend Title 9 to establish development agreement overlay zone DA1, and amend the official zoning map to establish DA1 on the subject property, and certify the proposed Mitigated Negative Declaration prepared for the properties located at 11450 Viejo Camino and 11505 El Camino Real [Community Development]

8. **2nd Reading - Emergency Shelter Overlay Zone Amendment (ECHO Expansion Project)**
 - Fiscal Impact: None
 - Recommendation: Council adopt on second reading, by title only, Draft Ordinance amending Atascadero Municipal Code Title 9 Chapter 3 Article 23 ES (Emergency Shelter) Overlay Zone text to allow for an expansion of an existing shelter and programs located at 6370 Atascadero Avenue [Community Development]

9. **2nd Reading - CEQA Thresholds Ordinance (ZCH23-0061)**
 - Fiscal Impact: It is intended that the proposed code amendments will reduce staff time, resulting in nominal cost savings to both staff and applicants within the development review process.
 - Recommendation: Council:
 1. Adopt on second reading, by title only, Draft Ordinance A to amend Title 9 (Planning and Zoning Code) to adopt discretionary review thresholds and standards for hillsides, historic and archaeological resources, and watercourse adjacent areas; and
 2. Adopt on second reading, by title only, Draft Ordinance B to approve a Zoning Map Amendment to remove the Historic Site (HS) Overlay Zone from certain properties containing colony homes and apply the Historical Site (HS) Overlay Zone to State and Federally registered historic resources. [Community Development]

10. Essential Services Transactions and Use Tax Contracting with the State of California

- **Fiscal Impact:** The sales tax measure will generate an estimated \$3 million in annual revenue. While the CDTFA cannot provide an estimate for the Preparatory Fee, staff anticipates costs being between \$5,000-\$40,000, and the on-going State administrative costs will be 0.57% of the revenue received from the tax increase. HdL will charge a \$100 monthly fee for the review and analysis services that will be paid from the General Fund, and 25% of the initial amount of new transactions or use tax revenue received by the City as a result of audit and recovery work performed by HdL. However, revenue will be received that otherwise would not have been realized, through the audit services that HdL will provide to the City, offsetting the costs.
- **Recommendation:** Council:
 1. Adopt Draft Resolution A authorizing the City Manager to execute agreements with the California Department of Tax and Fee Administration for implementation of a local transactions and use tax.
 2. Adopt Draft Resolution B authorizing representatives of the City of Atascadero to examine confidential transactions and use tax records of the California Department of Tax and Fee Administration (CDTFA) pertaining to transactions and use taxes collected by the CDTFA for the City of Atascadero.
 3. Authorize the City Manager to enter into a contract with Hinderliter, De Llamas and Associates for transactions tax audit and information services related to the Measure L-24 Sales Tax Revenue. [Administrative Services]

- B. 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 Funk

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

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. Community Action Partnership of San Luis Obispo (CAPSLO)
4. Design Review Committee
5. Visit SLO CAL Advisory Committee

Council Member Newsom

1. City of Atascadero Finance Committee
2. City / Schools Committee
3. League of California Cities – Council Liaison

PRESENTATIONS:

1. **Presentations recognizing outgoing Mayor Heather Moreno and Treasurer Gere Sibbach**

OATHS OF OFFICE:

1. **Administration of Oaths of Office**
Swearing in of Mayor Charles Bourbeau and Council Members Mark Dariz and Seth Peek

RECESS: The Mayor will call a recess for the City Council reception.

RECONVENE: The Mayor will reconvene the City Council at the conclusion of the City Council reception.

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 2026.

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. 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.)

C. PUBLIC HEARINGS:

1. **Atascadero Tourism Business Improvement District (ATBID) Assessment**
 - **Fiscal Impact:** Should there be insufficient protests from the lodging owners to be assessed, and should the ordinance go into effect, additional ATBID revenues in an estimated amount of \$46,500 through June 30, 2025, will be collected.
 - **Recommendation:** Council:
 1. Conduct a Public Hearing to receive all written and verbal protest votes from lodging owners.
 2. For a non-majority (less than 50%) protest, Council to conduct the second reading of the Draft ATBID Assessment Increase Ordinance amending Title

3, Chapter 16, section 3-16.04, changing the assessment rate under Streets and Highways Code Section 36541(a) for lodging businesses within the Atascadero Tourism Business Improvement District from 2% to 2.5% beginning early January 2025. **OR**

3. If a majority protest exists (over 50%), do not conduct second reading of the Draft ATBID Assessment Increase Ordinance; the ATBID Assessment stays at 2%. [Community Services and Promotions]

D. MANAGEMENT REPORTS:

1. Consideration of Action to Fill the Vacant Treasurer Position Arising From Former Treasurer Gere Sibbach's Resignation

- Fiscal Impact: Unknown. Staff estimates the cost for a City run, stand-alone election to be at least \$500,000. If the City Council chooses to appoint a successor, there would be no significant additional expenses.
- Recommendation: Discussion and consideration of whether to fill the City Treasurer vacancy by appointment of an eligible elector or by calling for a special election to fill the vacancy [City Clerk]

E. COMMITTEE REPORTS: (The newly elected Mayor will assign Council Members to standing committees)

F. 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

ADJOURNMENT



CITY OF ATASCADERO CITY COUNCIL

DRAFT MINUTES

Tuesday, November 12, 2024

City Hall Council Chambers, Fourth 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 Mayor Pro Tem Funk led the Pledge of Allegiance.

ROLL CALL:

Present: Council Members Bourbeau, Dariz, Newson, Mayor Pro Tem Funk, and Mayor Moreno

Absent: None

Others Present: None

Staff Present: City Manager Jim Lewis, Assistant City Attorney Craig Steele, Police Chief Dan Suttles, Fire Chief Casey Bryson, Public Works Director Nick DeBar, Public Works Analyst Ryan Betz, Community Development Director Phil Dunsmore, Planning Manager Kelly Gleason, Community Services & Promotions Director Terrie Banish, Deputy City Manager – IT Luke Knight, and Deputy City Clerk Amanda Muther

PRESENTATIONS:

1. Introduction to Central Coast Community Energy (3CE)

Central Coast Community Energy’s Chief Communications Officer, Catherine Stedman, gave a presentation about the City of Atascadero’s enrollment in 3CE.

A. CONSENT CALENDAR:

1. City Council Draft Minutes – October 22, 2024, Regular Meeting

- Recommendation: Council approve the October 22, 2024, City Council Regular Meeting Minutes. [City Clerk]

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: None.

Mayor Moreno closed the Public Comment period.

MOTION BY: Bourbeau

SECOND BY: Funk

1. Approve the Consent Calendar.

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

UPDATES FROM THE CITY MANAGER:

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

COMMUNITY FORUM:

The following persons spoke during Community Forum: Dave Garley, Geoff Auslen, Austin Solheim and Wendy Lewis

B. PUBLIC HEARINGS:

1. Emergency Shelter Overlay Zone Amendment (ECHO Expansion Project)

- Fiscal Impact: None
- Recommendations: Planning Commission recommends Council:
 1. Introduce for first reading, by title only, a Draft Ordinance amending Atascadero Municipal Code Title 9 Chapter 3 Article 23 ES (Emergency Shelter) Overlay Zone text;
 2. Adopt a Draft Resolution approving amendments to the Conditional Use Permit (PLN 2014-1492) and the Operations and Management Plan for the El Camino Homeless Organization (ECHO) to allow for an expansion of an existing shelter and programs located at 6370 Atascadero Avenue. [Community Development]

Ex Parte:

Mayor Moreno reported that the City Council had received approximately 15-20 emails regarding the item, largely in favor and a couple expressing concerns.

Council Member Newsom reported that she had a tour of the ECHO Homeless Shelter, met with ECHO staff, spoke with citizens regarding emails they sent in, and other residents regarding noticing with Planning Commission.

Council Member Funk reported attending meetings at ECHO looking at and discussing plans for the shelter, receiving concerns regarding homelessness as a member of HSOC, and talking with a few individuals expressing concerns about the project.

Council Member Bourbeau reported that he met with staff at ECHO. He also reported speaking with Mr. DeCou's neighboring property owner, School Superintendent Mr. Butler, and Atascadero Bible Church's Executive Pastor, Shaun Russell.

Council Member Dariz reported that he met with ECHO staff and went over the plans.

Mayor Moreno reported that she met with ECHO staff and went over the plans and speaking with a member of the public expressing concerns about the project.

Community Development Director Dunsmore gave the presentation. He and Police Chief Suttles answered questions from the Council. Austin Solheim and Wendy Lewis of ECHO also gave presentations and answered questions from the City Council.

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: Jay DeCou, John Sanders, Daniel Reich, Babett DeCou, Mike Zappas, Kelly Hedley, Lori Ferguson, Linda Valchine, Biz Steinberg, Tom O'Malley, Andrew Hayes, Kara Woodruff, Geoff Auslen and Max Zappas

Mayor Moreno closed the Public Comment period.

MOTION BY: Funk
SECOND BY: Newsom

1. Approve staff's recommendations to:

- 1. Introduce for first reading, by title only, a Draft Ordinance amending Atascadero Municipal Code Title 9 Chapter 3 Article 23 ES (Emergency Shelter) Overlay Zone text;**
- 2. Adopt Resolution No. 2024-063 approving amendments to the Conditional Use Permit (PLN 2014-1492) and the Operations and Management Plan for the El Camino Homeless Organization (ECHO) to allow for an expansion of an existing shelter and programs located at 6370 Atascadero Avenue with the following changes to the Conditions of Approval and the Operations and Management Plan:**
 - The maximum on the meal program be 100 persons, occurring effective on the issuance of the certificate of occupancy for the expanded shelter services.**
 - Adding a requirement that ECHO hold at least one (1) neighborhood meeting each calendar year with City staff and the Police Department for accountability.**
 - Amend the shower program language such that, there shall be up to 15 hours of shower availability per week, and the start time shall not be earlier than 4 P.M. on school days.**

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

Deputy City Clerk Muther read the title of the Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING THE ATASCADERO MUNICIPAL CODE TITLE 9, CHAPTER 3, ARTICLE 23 (EMERGENCY SHELTER) OVERLAY ZONE AND DETERMINING THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

**EMERGENCY SHELTER OVERLAY ZONE AMENDMENTS
EL CAMINO HOMELESS ORGANIZATION
(AMND24-0060 & ZCH24-0061)**

MOTION BY: Bourbeau
SECOND BY: Funk

- 2. Direct the City Manager to work with ECHO and City staff on a meaningful public engagement process and report the results with said process within six (6) months of the issuance of the building permit.**

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

Mayor Moreno recessed the Meeting at 9:06 P.M.

Mayor Moreno reconvened the Meeting with all present at 9:18 P.M.

2. CEQA Thresholds Ordinance (ZCH23-0061)

- **Fiscal Impact:** It is intended that the proposed code amendments will reduce staff time, resulting in nominal cost savings to both staff and applicants within the development review process.
- **Recommendations:** Planning Commission recommends Council:
 1. Introduce for first reading, by title only, Draft Ordinance A to amend Title 9 (Planning and Zoning Code) to adopt discretionary review thresholds and standards for hillsides, historic and archaeological resources, and watercourse adjacent areas; and
 2. Introduce for first reading, by title only, Draft Ordinance B to approve a Zoning Map Amendment to remove the Historic Site (HS) Overlay Zone from certain properties containing colony homes and apply the Historical Site (HS) Overlay Zone to State and Federally registered historic resources; and
 3. Adopt Draft Resolution adopting a generalized local historic resources list. [Community Development]

Ex Parte: None.

Community Development Director Dunsmore, Planning Manager Gleason and MIG Consultant Genevieve Sharrow, gave the presentation and answered questions from the City Council. Public Works Director DeBar also answered questions from the Council.

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: Audrey Taub

Mayor Moreno closed the Public Comment period.

MOTION BY: Bourbeau
SECOND BY: Funk

- 1. Approve the Planning Commission’s recommendation, as is, including the 12,500 foot limit regarding the hillside portion and introducing for first reading, by title only, Draft Ordinances A and B and Resolution No. 2024-064 adopting a generalized local historic resources list.**

Deputy City Clerk Muther read the titles of the Ordinances:

DRAFT ORDINANCE A

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA,
AMENDING TITLE 9: PLANNING & ZONING, TO ADOPT DISCRETIONARY REVIEW
THRESHOLDS AND STANDARDS FOR HILLSIDES, HISTORIC AND
ARCHAEOLOGICAL RESOURCES, AND WATERCOURSE ADJACENT AREAS**

**DISCRETIONARY REVIEW THRESHOLDS AND STANDARDS
(ZCH23-0061)**

DRAFT ORDINANCE B

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA,
APPROVING A ZONING MAP AMENDMENT TO REMOVE THE HISTORIC SITE
(HS) OVERLAY ZONE FROM CERTAIN PROPERTIES CONTAINING COLONY
HOMES AND APPLY THE HISTORIC SITE (HS) OVERLAY TO STATE AND
FEDERALLY REGISTERED HISTORIC RESOURCES**

**HISTORIC SITE OVERLAY ZONING MAP AMENDMENTS
(ZCH-0061)**

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

3. 2025 Community Development Block Grant Draft Recommendations

- Fiscal Impact: Approval of Atascadero's total 2025 CDBG allocation would result in the estimated revenue and expenditure of \$146,534 of CDBG funds.
- Recommendation: Council develop and adopt draft recommendations for the 2025 Community Development Block Grant (CDBG) funds. [Public Works]

Ex Parte: None.

Public Works Analyst Betz gave the presentation and answered questions from the City Council. Public Works Director DeBar and Community Services and Promotions Director Banish also answered questions from the Council.

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: Geoff Auslen and Austin Solheim

Mayor Moreno closed the Public Comment period.

MOTION BY: Bourbeau
SECOND BY: Newsom

1. Adopt the following recommendations for the 2025 Community Development Block Grant (CDBG) funds:

Sidewalk & Accessibility Improvements Project	\$ 95,248.00
City of Atascadero – Youth Scholarships	\$ 12,520.00
El Camino Homeless Organization	\$ 9,460.00
City Program Administration Costs	\$ 10,257.00
County Program Administration Costs	\$ 19,049.00
TOTAL 2025:	\$146,534.00

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

The Mayor asked for a motion to go past 11 P.M. before moving on to the next item on the agenda.

MOTION BY: Bourbeau
SECOND BY: Newsom

1. Approve continuing the City Council Meeting beyond 11 P.M.

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

C. MANAGEMENT REPORTS:

1. General Plan Update – Policy Discussion

- Fiscal Impact: None
- Recommendation: Council receive an update on the General Plan Update project, provide direction to staff on policy questions, and inform the Council and Community of next steps. [Community Development]

Community Development Director Dunsmore, Planning Manager Gleason and MIG Consultant Dan Amsden gave the presentation and answered questions from the City Council. City Manager Lewis and Public Works Director DeBar also commented on the item.

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: Dave Garley and Ranel Porter

Mayor Moreno closed the Public Comment period.

Council received the update on the General Plan Update project and provided staff with direction on policy questions.

D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS: None.

E. INDIVIDUAL DETERMINATION AND / OR ACTION: None.

ADJOURNMENT:

Mayor Moreno adjourned the meeting at 12:08 A.M.

MINUTES PREPARED BY:

Amanda Muther
Deputy City Clerk

APPROVED:



CITY OF ATASCADERO CITY COUNCIL

SPECIAL MEETING

DRAFT MINUTES

Monday, December 2, 2024

City Hall Council Chambers, Fourth Floor
6500 Palma Avenue, Atascadero, California

<u>City Council Special Session:</u>	6:00 P.M.
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SPECIAL SESSION – CALL TO ORDER: 6:00 P.M.

Mayor Moreno called the meeting to order at 6:00 P.M.

ROLL CALL:

Present: Council Members Bourbeau, Dariz, Newson, Mayor Pro Tem Funk, and Mayor Moreno

Absent: None

Others Present: None

Staff Present: City Manager Jim Lewis, Deputy City Manager/City Clerk Lara Christensen, Administrative Services Director Jeri Rangel, Community Development Director Phil Dunsmore, Community Services & Promotions Director Terrie Banish, Fire Chief Casey Bryson, Police Chief Dan Suttles, Public Works Director Nick DeBar, Deputy City Manager – IT Luke Knight, and Planning Manager Kelly Gleason

A. PUBLIC HEARINGS:

1. Newton Development Agreement (DEV24-0075)

- Fiscal Impact: None
- Recommendation: Planning Commission recommends Council: Introduce for first reading, by title only, Draft Ordinance to approve a Development Agreement between Scott Newton and the City of Atascadero,

amend Title 9 to establish development agreement overlay zone DA1, and amend the official zoning map to establish DA1 on the subject property, and certify the proposed Mitigated Negative Declaration prepared for the properties located at 11450 Viejo Camino and 11505 El Camino Real. [Community Development]

Ex Parte: None.

Community Development Director Dunsmore and Planning Manager Kelly Gleason gave the presentation and answered questions from the City Council. City Attorney Fleishman and City Manager Lewis also answered questions from the Council.

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: Geoff Auslen

Mayor Moreno closed the Public Comment period.

MOTION BY: Funk
SECOND BY: Newsom

1. **Approve the Planning Commission’s recommendation to introduce for first reading, by title only, Draft Ordinance to approve a Development Agreement between Scott Newton and the City of Atascadero, amend Title 9 to establish development agreement overlay zone DA1, and amend the official zoning map to establish DA1 on the subject property, and certify the proposed Mitigated Negative Declaration prepared for the properties located at 11450 Viejo Camino and 11505 El Camino Real with the addition of the two Whereas statements as noted by the City Attorney.**

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

2. Ordinance Increasing the Atascadero Tourism Business Improvement District (ATBID) Assessment from 2% to 2.5%

- **Fiscal Impact:** Should there be insufficient protests from the businesses to be assessed, and should the ordinance go into effect, additional ATBID revenues in an estimated amount of \$46,500 through June 30, 2025.
- **Recommendation:** Council conduct the first reading of the Draft ATBID Assessment Increase Ordinance amending Title 3, Chapter 16, section 3-16.04, changing the assessment rate under Streets and Highways Code Section 36541(a) for lodging businesses within the Atascadero Tourism Business Improvement District from 2% to 2.5% for the remainder of FY 2024-2025 and setting a public hearing for the second reading of the Ordinance on December 10, 2024. [Community Services and Promotions]

Ex Parte:

Mayor Moreno reported speaking with Friends of the Zoo board members as well as City staff. No other Council Members had anything to report.

Community Services Director Banish gave the presentation and answered questions from the City Council.

PUBLIC COMMENT:

Mayor Moreno opened the Public Comment period.

The following persons spoke on this item: None

Mayor Moreno closed the Public Comment period.

MOTION BY: Bourbeau

SECOND BY: Funk

- 1. Introduce for first reading, by title only, the Draft ATBID Assessment Increase Ordinance amending Title 3, Chapter 16, section 3-16.04, changing the assessment rate under Streets and Highways Code Section 36541(a) for lodging businesses within the Atascadero Tourism Business Improvement District from 2% to 2.5% for the remainder of FY 2024-2025 and setting a public hearing for the second reading of the Ordinance on December 10, 2024.**

AYES (5): Bourbeau, Dariz, Newsom, Funk, and Moreno

Passed 5-0

ADJOURNMENT:

Mayor Moreno adjourned the meeting at 6:20 p.m. to the next Regular Session scheduled for Tuesday, December 12, 2024, at 6:00 p.m.

MINUTES PREPARED BY:

Lara K. Christensen
Deputy City Manager/City Clerk

APPROVED:



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A2

Department: City Manager
Date: 12/10/24
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER
FROM: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK
PREPARED BY: ALYSSA SLATER, ADMINISTRATIVE ASSISTANT
SUBJECT: City Council 2025 Meeting Schedule

RECOMMENDATION:

Council approve the City Council meeting schedule for 2025.

REPORT IN BRIEF:

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 2025 to help in the coordination of these meetings with personal schedules. In 2025, Veteran's Day falls on the second Tuesday of the month. As such, the regular meeting will not be held that day. A special meeting will instead be held on Wednesday, November 12 to maintain meeting continuity.


FISCAL IMPACT:

None.

REVIEWED BY OTHERS:

This item has been reviewed by the Deputy City Manager/City Clerk.

REVIEWED AND APPROVED FOR COUNCIL AGENDA


James R. Lewis, City Manager

ATTACHMENT(S):

1. City Council 2025 Meeting Schedule



CITY CLERK’S OFFICE

City of Atascadero

Atascadero City Council 2025 Meeting Schedule

MEETING DATE	TYPE OF MEETING
January 14	Regular
January 28	Regular
February 11	Regular
February 25	Regular
March 11	Regular
March 25	Regular
April 8	Regular
April 22	Regular
May 13	Regular
May 27	Regular
June 10	Regular
June 24	Regular
July 8	Regular
August 12	Regular
September 9	Regular
September 23	Regular
October 14	Regular
October 28	Regular
November 12 (next day due to Veterans Day)	Special
December 9	Regular

Meetings are held at 6:00 p.m.
6500 Palma Avenue, Atascadero, CA 93422
(805)470-3400



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A3

Department: City Clerk's Office
Date: 12/10/24
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER

FROM: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK

PREPARED BY: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK

SUBJECT: Reciting the Fact of the November 5, 2024 General Municipal Election

RECOMMENDATION:

Council adopt the Draft Resolution, reciting the fact of the General Municipal Election held on November 5, 2024, declaring the result and such other matters as provided by law.

DISCUSSION:

The General Municipal Election was held on November 5, 2024. 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 20,388, which is 230 more than the total voter registration for the year 2022. In the final official election results posted by the County of San Luis Obispo's Clerk-Recorder's Office on December 3, 2024, 16,974 registered voters (83.25%) in the City of Atascadero voted in the November 5, 2024 election.

Atascadero voters were asked to vote for a Mayor, two Council Members and Ballot Measures L-24 and M-24. The final official results are attached to this report.

FISCAL IMPACT:

None.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT(S):

1. Final Official Results
2. Draft Resolution

City of Atascadero

Office of the City Clerk

FINAL - ELECTION RESULTS

(12/03/2024)

NAME	VOTES	% of VOTES
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ATASCADERO MAYOR

Mayor – Two Year Term

Charles Bourbeau	10,550	100.00%
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ATASCADERO CITY COUNCIL

City Council - Four Year Term – 2 seats

Seth Peek	7,835	35.32%
Mark Dariz	7,535	33.96%
Tori Keen	6,816	30.72%

BALLOT MEASURE #L-24 – F-14 Renewal Sales Tax Measure

Yes	10,890	70.68%
No	4,518	29.32%

BALLOT MEASURE #D-20 – Treasurer Measure

No	7,205	50.81%
Yes	6,976	49.19%

**THIS IS THE FINAL TOTAL COUNT.
 SAN LUIS OBISPO COUNTY CLERK-RECORDER
 CERTIFIED THE RESULTS ON DECEMBER 3, 2024, AND
 THE NEW OFFICIALS WILL BE SWORN IN AT
 THE CITY COUNCIL MEETING ON DECEMBER 10, 2024.**

DRAFT RESOLUTION

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ATASCADERO, CALIFORNIA,
RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION
HELD ON NOVEMBER 5, 2024, 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 5, 2024, 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 1,286.

That the whole number of *vote by mail* voter ballots cast in the City was 15,688, making a total of 16,974 ballots cast in the City.

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

Charles Bourbeau

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

Mark Dariz, Seth Peek, and Tori Keen

That the measures voted upon at the election are as follows:

<u>BALLOT MEASURE #L-24</u>	
ATASCADERO LOCAL ROADS AND VITAL SERVICES FUNDING EXTENSION MEASURE. To provide funding that cannot be seized by Sacramento, and that will be used locally for such things as repair of neighborhood roads, aging infrastructure along with other vital general government needs, shall the City extend its current ½ cent per dollar sales tax (Measure F-14), providing approximately \$3,000,000 annually, until ended by voters; with citizen committee oversight, published annual reporting and independent financial audits?	Yes
	No

<u>BALLOT MEASURE #M-24</u>	
Shall the office of City Treasurer be appointive?	Yes
	No

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 and for and against the measures are as listed in Exhibit “A” attached.

SECTION 4. The City Council does declare and determine that: Charles Bourbeau was elected as Mayor for the full term of two years; Seth Peek was elected as Member of the City Council for the full term of four years; and Mark Dariz was elected as Member of the City Council for the full term of four years.

That as a result of the election, a majority of the voters voting on Measure #L-24 relating to the extension of a ½ cent per dollar sales tax (Measure F-14) did vote in favor of it, and that the measure was carried, and shall be deemed adopted and ratified.

That as a result of the election, a majority of the voters voting on Measure #M-24 relating to the office of the City Treasurer being appointive, did not vote in favor of it, and that the measure was defeated, and shall not be deemed adopted and ratified.

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 10th day of December, 2024.

On Motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution was adopted on the following roll-call vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Dave Fleishman, City Attorney



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A4

Department: City Clerk's Office
Date: 12/10/24
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER

FROM: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK

PREPARED BY: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK

SUBJECT: Notice of Treasurer Resignation

RECOMMENDATION:

Council receive and file notice of resignation by City Treasurer, Gere Sibbach, effective December 10, 2024.

DISCUSSION:

The City Treasurer is an elected official who serves a 4-year term. The current Treasurer, Gere Sibbach, was elected in November 2022 for a term ending December 2026. Treasurer Sibbach tendered his resignation effective December 10, 2024. Since the current term is not expired, this resignation will leave a vacancy in the Office of the Treasurer. In a later report, the City Council will be provided an opportunity to review and discuss options for filling the vacancy.

FISCAL IMPACT:

None.

REVIEWED BY OTHERS:

This item has been reviewed by the Administrative Services Director as well as the City Attorney.

REVIEWED AND APPROVED FOR COUNCIL AGENDA

A handwritten signature in black ink, appearing to read "James R. Lewis", written over a horizontal line.

James R. Lewis, City Manager



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A5

Department: Administrative Services
Date: 12/10/24
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER
FROM: JERI RANGEL, DIRECTOR OF ADMINISTRATIVE SERVICES
PREPARED BY: KRYS CLARK, ACCOUNTING SPECIALIST
SUBJECT October 2024 Accounts Payable and Payroll

RECOMMENDATION:

Council approve certified City accounts payable, payroll and payroll vendor checks for October 2024.

DISCUSSION:

Attached for City Council review and approval are the following:

PAYROLL

Dated	10/10/24	Checks # 36182-36191	\$	6,871.42
		Direct Deposits		409,428.28
Dated	10/24/24	Checks # 36192-36202		9,956.20
		Direct Deposits		437,343.83

ACCOUNTS PAYABLE


Dated	10/1/24-10/31/24	Checks # 179487 - 179775 & EFTs 5328 -5330 & 5333-5366		4,121,410.25
		TOTAL AMOUNT	\$	4,985,009.98

FISCAL IMPACT:

Total expenditures for all funds is \$ 4,985,009.98

CERTIFICATION:

The undersigned certifies that the attached demands have been released for payment and that funds are available for these demands.



Jeri Rangel
Director of Administrative Services

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT:

October 2024 Eden Warrant Register in the amount of

\$ 4,121,410.25

City of Atascadero
Disbursement Listing
For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
5328	10/01/2024	RABOBANK, N.A.	Payroll Vendor Payment	78,324.77
5329	10/01/2024	EMPLOYMENT DEV DEPARTMENT	Payroll Vendor Payment	23,842.73
5330	10/01/2024	EMPLOYMENT DEV. DEPARTMENT	Payroll Vendor Payment	4,465.36
179487	10/01/2024	WEX BANK - BUSINESS UNIVERSAL	Accounts Payable Check	13,734.90
179488	10/01/2024	WEX BANK - WEX FLEET UNIVERSAL	Accounts Payable Check	9,676.19
179489	10/01/2024	ANTHEM BLUE CROSS HEALTH	Payroll Vendor Payment	235,191.27
179491	10/01/2024	GIS BENEFITS	Payroll Vendor Payment	16,238.37
179492	10/04/2024	2 MEXICANS, LLC	Accounts Payable Check	1,516.50
179493	10/04/2024	A-1 PEST MANAGEMENT	Accounts Payable Check	794.00
179494	10/04/2024	AGM COMMUNITY PARTNERS	Accounts Payable Check	7,500.00
179495	10/04/2024	ALL SIGNS AND GRAPHICS, INC.	Accounts Payable Check	1,326.19
179496	10/04/2024	ALPHA ELECTRIC SERVICE	Accounts Payable Check	1,275.00
179497	10/04/2024	AMERICAN WEST TIRE & AUTO INC	Accounts Payable Check	1,253.17
179498	10/04/2024	ANTECH DIAGNOSTICS	Accounts Payable Check	83.71
179499	10/04/2024	AT&T	Accounts Payable Check	810.90
179501	10/04/2024	AT&T	Accounts Payable Check	1,998.41
179502	10/04/2024	AT&T	Accounts Payable Check	761.10
179504	10/04/2024	ATASCADERO MUTUAL WATER CO.	Accounts Payable Check	42,788.65
179505	10/04/2024	ATASCADERO MUTUAL WATER CO.	Accounts Payable Check	24,000.00
179506	10/04/2024	ATASCADERO PET CENTER, INC.	Accounts Payable Check	129.00
179507	10/04/2024	AVID IDENTIFICATION SYSTEMS	Accounts Payable Check	225.06
179508	10/04/2024	AVILA TRAFFIC SAFETY	Accounts Payable Check	5,343.87
179509	10/04/2024	TERRIE BANISH	Accounts Payable Check	300.00
179510	10/04/2024	BERRY MAN, INC.	Accounts Payable Check	961.70
179511	10/04/2024	JOHN R. BLEDSOE	Accounts Payable Check	2,330.00
179512	10/04/2024	BOUND TREE MEDICAL, LLC	Accounts Payable Check	167.34
179513	10/04/2024	BREZDEN PEST CONTROL, INC.	Accounts Payable Check	183.00
179514	10/04/2024	CCI OFFICE TECHNOLOGIES	Accounts Payable Check	768.00
179515	10/04/2024	CEN-CAL CONSTRUCTION	Accounts Payable Check	360,672.53
179516	10/04/2024	CENTRAL COAST BREWING, INC.	Accounts Payable Check	232.26
179517	10/04/2024	VOID	Accounts Payable Check	0.00
179518	10/04/2024	CENTRAL NEBRASKA PACKING, INC.	Accounts Payable Check	8,492.34
179519	10/04/2024	CHARTER COMMUNICATIONS	Accounts Payable Check	4,182.21
179520	10/04/2024	THE CHRISTMAS LIGHT GUY CO.	Accounts Payable Check	32,500.00
179521	10/04/2024	CLASSIC COACH WERKS	Accounts Payable Check	285.53
179522	10/04/2024	COLOR CRAFT PRINTING	Accounts Payable Check	548.71
179523	10/04/2024	CSG CONSULTANTS, INC.	Accounts Payable Check	3,319.38
179524	10/04/2024	SHARON J. DAVIS	Accounts Payable Check	182.00
179525	10/04/2024	NICHOLAS DEBAR	Accounts Payable Check	300.00
179526	10/04/2024	DEPARTMENT OF JUSTICE	Accounts Payable Check	468.00

City of Atascadero

Disbursement Listing

For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
179527	10/04/2024	DEPT. OF THE CA HIGHWAY PATROL	Accounts Payable Check	1,076.36
179528	10/04/2024	DISTINCTIVE GLASSWARE BRANDING	Accounts Payable Check	2,234.81
179529	10/04/2024	DIVISION OF STATE ARCHITECT	Accounts Payable Check	57.60
179530	10/04/2024	DOOMSDAY SKATE, LLC	Accounts Payable Check	480.00
179531	10/04/2024	PHILIP DUNSMORE	Accounts Payable Check	300.00
179532	10/04/2024	EL CAMINO VETERINARY HOSP	Accounts Payable Check	440.11
179533	10/04/2024	DANIEL E. ERNST	Accounts Payable Check	400.00
179534	10/04/2024	FAST PASS TRAILERS	Accounts Payable Check	5,585.91
179535	10/04/2024	FEDEX	Accounts Payable Check	13.58
179536	10/04/2024	FGL ENVIRONMENTAL	Accounts Payable Check	244.00
179537	10/04/2024	FILIPPIN ENGINEERING, INC.	Accounts Payable Check	48,993.75
179538	10/04/2024	FRAME PERFECT MEDIA	Accounts Payable Check	500.00
179539	10/04/2024	NICHOLAS C. FRANGIE	Accounts Payable Check	180.00
179540	10/04/2024	GHS PARTS, INC.	Accounts Payable Check	126.14
179541	10/04/2024	GIERLICH-MITCHELL, INC.	Accounts Payable Check	1,252.80
179542	10/04/2024	TRISTAN M. GUILLORY	Accounts Payable Check	180.00
179543	10/04/2024	HANSEN BRO'S CUSTOM FARMING	Accounts Payable Check	15,176.51
179544	10/04/2024	KELLIE K. HART	Accounts Payable Check	168.00
179545	10/04/2024	HERC RENTALS, INC.	Accounts Payable Check	157.69
179547	10/04/2024	HOME DEPOT CREDIT SERVICES	Accounts Payable Check	3,544.18
179548	10/04/2024	JASON HOWELL	Accounts Payable Check	356.74
179549	10/04/2024	ZACHARIAH JACKSON	Accounts Payable Check	111.00
179550	10/04/2024	JEFF & TONY'S DSD, LLC	Accounts Payable Check	857.28
179551	10/04/2024	JIFFY LUBE	Accounts Payable Check	170.82
179552	10/04/2024	JK'S UNLIMITED, INC.	Accounts Payable Check	1,852.42
179553	10/04/2024	LAUTZENHISER'S STATIONARY	Accounts Payable Check	499.73
179554	10/04/2024	JAMES R. LEWIS	Accounts Payable Check	300.00
179555	10/04/2024	MAINLINE UTILITY CO.	Accounts Payable Check	1,000.00
179556	10/04/2024	MEDSTOP URGENT CARE CENTER	Accounts Payable Check	739.00
179557	10/04/2024	MV TRANSPORTATION, INC.	Accounts Payable Check	15,114.58
179558	10/04/2024	NATURE PLANET, INC.	Accounts Payable Check	740.55
179559	10/04/2024	NORTH CO SEPTIC SERVICE, INC.	Accounts Payable Check	695.00
179562	10/04/2024	PACIFIC GAS AND ELECTRIC	Accounts Payable Check	52,851.58
179563	10/04/2024	PRO TOW	Accounts Payable Check	172.00
179564	10/04/2024	PROCARE JANITORIAL SUPPLY, INC.	Accounts Payable Check	281.45
179565	10/04/2024	QUADIENT, INC.	Accounts Payable Check	124.46
179566	10/04/2024	JERI RANGEL	Accounts Payable Check	300.00
179567	10/04/2024	RECOGNITION WORKS	Accounts Payable Check	108.75
179568	10/04/2024	RENEWELL FLEET SERVICE LLC	Accounts Payable Check	281.63
179569	10/04/2024	RICK ENGINEERING COMPANY	Accounts Payable Check	68,084.80

City of Atascadero

Disbursement Listing

For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
179570	10/04/2024	CORBIN J. ROSSI	Accounts Payable Check	210.00
179571	10/04/2024	SAGE DESIGNS INC	Accounts Payable Check	3,036.00
179572	10/04/2024	SANTA MARIA TIRE, INC.	Accounts Payable Check	2,714.71
179573	10/04/2024	ALBERT SANUDO JR.	Accounts Payable Check	120.00
179574	10/04/2024	SENSATIONS APPAREL	Accounts Payable Check	1,515.87
179575	10/04/2024	SITEONE LANDSCAPE SUPPLY, LLC	Accounts Payable Check	2,014.73
179576	10/04/2024	SLO CO INTERIORS	Accounts Payable Check	50.00
179577	10/04/2024	SLO COUNTY APCD	Accounts Payable Check	396.20
179578	10/04/2024	RANDY D. SMART, JR.	Accounts Payable Check	120.00
179579	10/04/2024	SOCAL GAS	Accounts Payable Check	260.92
179580	10/04/2024	SOUZA CONSTRUCTION, INC.	Accounts Payable Check	1,247,462.34
179581	10/04/2024	SUNBELT RENTALS, INC.	Accounts Payable Check	1,262.60
179582	10/04/2024	SUNLIGHT JANITORIAL, INC.	Accounts Payable Check	1,650.00
179583	10/04/2024	SUNSET SERVICE CENTER	Accounts Payable Check	969.75
179584	10/04/2024	TATUM ASPHALT	Accounts Payable Check	17,390.37
179585	10/04/2024	MADELINE M. TAYLOR	Accounts Payable Check	259.20
179586	10/04/2024	CHRISTOPHER DANIEL THOMAS	Accounts Payable Check	60.00
179587	10/04/2024	TOWNSEND PUBLIC AFFAIRS, INC.	Accounts Payable Check	4,000.00
179588	10/04/2024	TRIPEPI SMITH AND ASSC., INC.	Accounts Payable Check	6,218.75
179589	10/04/2024	UNDERGROUND SERVICE ALERT OF	Accounts Payable Check	2,426.98
179590	10/04/2024	UNITED RENTALS	Accounts Payable Check	4,384.10
179591	10/04/2024	USA BLUE BOOK	Accounts Payable Check	941.66
179592	10/04/2024	VANIR CONSTRUCTION MANAGEMENT	Accounts Payable Check	54,967.70
179593	10/04/2024	MICHAEL I. VENIA	Accounts Payable Check	600.00
179594	10/04/2024	VERIZON WIRELESS	Accounts Payable Check	2,050.47
179595	10/04/2024	VINO VICE, INC.	Accounts Payable Check	446.50
179596	10/04/2024	WALLACE GROUP	Accounts Payable Check	13,481.55
179597	10/04/2024	WATER SYSTEMS CONSULTING, INC.	Accounts Payable Check	57,120.24
179598	10/04/2024	WCJ PROPERTY SERVICES	Accounts Payable Check	1,125.00
179599	10/04/2024	WIGHTONS PLUMBING, HEATING	Accounts Payable Check	488.23
179600	10/04/2024	KAREN B. WYKE	Accounts Payable Check	1,049.10
5333	10/07/2024	ANTHEM BLUE CROSS HSA	Accounts Payable Check	200.00
179601	10/10/2024	ATASCADERO PROF. FIREFIGHTERS	Payroll Vendor Payment	1,151.80
179602	10/10/2024	IAFF MERP	Payroll Vendor Payment	1,900.00
179603	10/10/2024	MISSIONSQUARE	Payroll Vendor Payment	16,220.26
179604	10/10/2024	NATIONWIDE RETIREMENT SOLUTION	Payroll Vendor Payment	1,689.90
179605	10/10/2024	SLO COUNTY SHERIFF	Payroll Vendor Payment	200.00
5334	10/11/2024	MCGRUFF INSURANCE SERVICE TRUIST INSURANCE HC	Payroll Vendor Payment	1,377.94
5335	10/11/2024	ANTHEM BLUE CROSS HSA	Payroll Vendor Payment	11,052.60
5336	10/11/2024	STATE DISBURSEMENT UNIT	Payroll Vendor Payment	692.30

City of Atascadero

Disbursement Listing

For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
5337	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	17,776.48
5338	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	36,203.40
5339	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	2,902.18
5340	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	2,830.30
5341	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	8,773.51
5342	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	12,035.32
5343	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	19,101.17
5344	10/11/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	30,612.63
5345	10/11/2024	ATASCADERO POLICE OFFICERS	Payroll Vendor Payment	2,246.00
5346	10/15/2024	SEIU LOCAL 620	Payroll Vendor Payment	1,004.94
5347	10/15/2024	RABOBANK, N.A.	Payroll Vendor Payment	72,884.52
5348	10/15/2024	EMPLOYMENT DEV DEPARTMENT	Payroll Vendor Payment	22,625.61
5349	10/15/2024	EMPLOYMENT DEV. DEPARTMENT	Payroll Vendor Payment	4,253.81
179606	10/18/2024	A & T ARBORISTS & VEGETATION	Accounts Payable Check	5,600.00
179607	10/18/2024	A-1 PEST MANAGEMENT	Accounts Payable Check	199.00
179608	10/18/2024	ALLAN HANCOCK COLLEGE	Accounts Payable Check	2,244.70
179609	10/18/2024	ALLTECH SERVICES, INC.	Accounts Payable Check	748.04
179610	10/18/2024	ALTA LANGUAGE SERVICES, INC.	Accounts Payable Check	55.00
179611	10/18/2024	ALTHOUSE & MEADE, INC.	Accounts Payable Check	3,230.86
179612	10/18/2024	FRANCISCO AMAYA	Accounts Payable Check	10.00
179613	10/18/2024	AMERICAN WEST TIRE & AUTO INC	Accounts Payable Check	170.21
179614	10/18/2024	ANTECH DIAGNOSTICS	Accounts Payable Check	957.04
179615	10/18/2024	KELLY AREBALO	Accounts Payable Check	389.64
179616	10/18/2024	ASHLEY & VANCE ENGINEERING INC	Accounts Payable Check	3,225.00
179617	10/18/2024	ASSC. OF ZOOS & AQUARIUMS	Accounts Payable Check	6,699.00
179619	10/18/2024	AT&T	Accounts Payable Check	1,853.83
179620	10/18/2024	AT&T	Accounts Payable Check	760.93
179621	10/18/2024	ATASCADERO HAY & FEED	Accounts Payable Check	2,193.55
179622	10/18/2024	ATASCADERO YOUTH FOOTBALL	Accounts Payable Check	1,850.00
179623	10/18/2024	TERRIE BANISH	Accounts Payable Check	468.98
179624	10/18/2024	BASSETT'S CRICKET RANCH, INC.	Accounts Payable Check	1,329.61
179625	10/18/2024	BATTERY SYSTEMS, INC.	Accounts Payable Check	331.52
179626	10/18/2024	BAY AREA DRIVING SCHOOL, INC.	Accounts Payable Check	34.99
179627	10/18/2024	BELL'S PLUMBING REPAIR, INC.	Accounts Payable Check	225.00
179628	10/18/2024	KEITH R. BERGHER	Accounts Payable Check	22.50
179629	10/18/2024	BERRY MAN, INC.	Accounts Payable Check	1,582.50
179630	10/18/2024	JOHN R. BLEDSOE	Accounts Payable Check	2,839.00
179631	10/18/2024	BRANCH SMITH PROPERTIES	Accounts Payable Check	398.00
179632	10/18/2024	BRENDLER JANITORIAL SERVICE	Accounts Payable Check	955.00
179633	10/18/2024	CASEY BRYSON	Accounts Payable Check	18.14

City of Atascadero

Disbursement Listing

For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
179634	10/18/2024	BURKE,WILLIAMS, & SORENSON LLP	Accounts Payable Check	2,835.00
179635	10/18/2024	BURT INDUSTRIAL SUPPLY	Accounts Payable Check	1,651.02
179636	10/18/2024	CA BUILDING STANDARDS COMM.	Accounts Payable Check	203.40
179637	10/18/2024	CAL-COAST MACHINERY, INC	Accounts Payable Check	18,176.29
179638	10/18/2024	AIDEN J. CAPOZZOLI	Accounts Payable Check	384.00
179639	10/18/2024	CARLOS MOBILE DETAILING	Accounts Payable Check	1,500.00
179640	10/18/2024	CC DYNASTY FUTBOL CLUB	Accounts Payable Check	844.50
179641	10/18/2024	CELLEBRITE INC.	Accounts Payable Check	7,503.75
179642	10/18/2024	CHARTER COMMUNICATIONS	Accounts Payable Check	6,221.45
179643	10/18/2024	JOSEPH A. CHOUINARD	Accounts Payable Check	3,486.20
179644	10/18/2024	LARA CHRISTENSEN	Accounts Payable Check	10.75
179645	10/18/2024	CINTAS	Accounts Payable Check	333.96
179646	10/18/2024	CITY OF ATASCADERO	Accounts Payable Check	775.50
179647	10/18/2024	CLEATH-HARRIS GEOLOGISTS, INC.	Accounts Payable Check	195.00
179648	10/18/2024	CLEVER CONCEPTS, INC.	Accounts Payable Check	7,487.50
179649	10/18/2024	COAST MONUMENT SIGNS	Accounts Payable Check	109.00
179650	10/18/2024	COASTAL COPY, INC.	Accounts Payable Check	368.09
179651	10/18/2024	COLOR CRAFT PRINTING	Accounts Payable Check	1,356.66
179652	10/18/2024	JOANN CONNER	Accounts Payable Check	108.00
179653	10/18/2024	COUNTY OF SAN LUIS OBISPO	Accounts Payable Check	3,150.07
179654	10/18/2024	COYOTE TRACTOR SERVICES, LLC	Accounts Payable Check	1,500.00
179655	10/18/2024	CRYSTAL CRIMBCHIN	Accounts Payable Check	1,305.35
179656	10/18/2024	CRYSTAL SPRINGS WATER	Accounts Payable Check	20.00
179657	10/18/2024	CULLIGAN SANTA MARIA	Accounts Payable Check	507.98
179658	10/18/2024	CHRISTOPHER DEATON	Accounts Payable Check	383.69
179659	10/18/2024	JOE DEBRUIN, PH.D.	Accounts Payable Check	720.00
179660	10/18/2024	DEPARTMENT OF CONSERVATION	Accounts Payable Check	394.54
179661	10/18/2024	DOOLEY ENTERPRISES INC	Accounts Payable Check	4,158.18
179662	10/18/2024	PHILIP DUNSMORE	Accounts Payable Check	20.34
179663	10/18/2024	EL CAMINO VETERINARY HOSP	Accounts Payable Check	366.75
179664	10/18/2024	ESCRIBE SOFTWARE LTD	Accounts Payable Check	16,065.00
179665	10/18/2024	ESCUELA DEL RIO	Accounts Payable Check	900.00
179666	10/18/2024	FGL ENVIRONMENTAL	Accounts Payable Check	1,155.00
179667	10/18/2024	FIESTA MAHAR MANUFACTURNG CORP	Accounts Payable Check	404.24
179668	10/18/2024	FIGUEROA'S TIRES	Accounts Payable Check	240.31
179669	10/18/2024	FILIPPIN ENGINEERING, INC.	Accounts Payable Check	130,119.31
179670	10/18/2024	NICHOLAS C. FRANGIE	Accounts Payable Check	120.00
179671	10/18/2024	GHS PARTS, INC.	Accounts Payable Check	62.23
179672	10/18/2024	GMV SYNCHROMATICS CORP.	Accounts Payable Check	10,450.00
179673	10/18/2024	RYAN GOUDY	Accounts Payable Check	120.00

City of Atascadero

Disbursement Listing

For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
179674	10/18/2024	GREAT WESTERN INSTALLATION INC	Accounts Payable Check	3,572.00
179675	10/18/2024	TRISTAN M. GUILLORY	Accounts Payable Check	30.00
179676	10/18/2024	HAAKER EQUIPMENT COMPANY INC.	Accounts Payable Check	275,493.75
179677	10/18/2024	CHRISTOPHER HALL	Accounts Payable Check	619.00
179678	10/18/2024	HANSEN BRO'S CUSTOM FARMING	Accounts Payable Check	17,447.00
179679	10/18/2024	HARRIS STAGE LINES, LLC	Accounts Payable Check	900.00
179680	10/18/2024	HART IMPRESSIONS PRINTING	Accounts Payable Check	239.24
179681	10/18/2024	KELLIE K. HART	Accounts Payable Check	112.00
179682	10/18/2024	HIGH COUNTRY OUTDOOR, INC.	Accounts Payable Check	550.00
179683	10/18/2024	HOME DEPOT CREDIT SERVICES	Accounts Payable Check	6,386.20
179684	10/18/2024	INGLIS PET HOTEL	Accounts Payable Check	1,294.85
179685	10/18/2024	IRON MOUNTAIN RECORDS MGMNT	Accounts Payable Check	155.42
179686	10/18/2024	ZACHARIAH JACKSON	Accounts Payable Check	128.00
179687	10/18/2024	JK'S UNLIMITED, INC.	Accounts Payable Check	203.91
179688	10/18/2024	JOE A. GONSALVES & SON	Accounts Payable Check	3,000.00
179689	10/18/2024	K & M INTERNATIONAL	Accounts Payable Check	1,468.00
179690	10/18/2024	KMIT SOLUTIONS	Accounts Payable Check	1,275.00
179691	10/18/2024	KNECHT'S PLUMBING & HEATING	Accounts Payable Check	6,442.95
179692	10/18/2024	KPRL 1230 AM	Accounts Payable Check	320.00
179693	10/18/2024	KRITZ EXCAVATING & TRUCKNG INC	Accounts Payable Check	768.30
179694	10/18/2024	KSBY COMMUNICATIONS	Accounts Payable Check	1,810.00
179695	10/18/2024	KW CONSTRUCTION	Accounts Payable Check	2,200.00
179696	10/18/2024	LAYNE LABORATORIES, INC.	Accounts Payable Check	4,333.69
179697	10/18/2024	LEE WILSON ELECTRIC CO. INC	Accounts Payable Check	1,868.02
179698	10/18/2024	JAMES R. LEWIS	Accounts Payable Check	2,940.38
179699	10/18/2024	LIN LI	Accounts Payable Check	90.00
179700	10/18/2024	LIFE ASSIST, INC.	Accounts Payable Check	127.99
179701	10/18/2024	LINDE GAS & EQUIPMENT INC.	Accounts Payable Check	69.30
179702	10/18/2024	MADRONE LANDSCAPES, INC.	Accounts Payable Check	434.00
179703	10/18/2024	ANNETTE MANIER	Accounts Payable Check	68.14
179704	10/18/2024	MARBORG INDUSTRIES	Accounts Payable Check	1,112.79
179705	10/18/2024	MARK'S TIRE SERVICE, INC.	Accounts Payable Check	2,754.82
179706	10/18/2024	CRAIG MARTINEAU	Accounts Payable Check	700.00
179707	10/18/2024	RYAN J. MCNAMEE	Accounts Payable Check	300.00
179708	10/18/2024	MEA WINE, LLC	Accounts Payable Check	365.80
179709	10/18/2024	VOID	Accounts Payable Check	0.00
179710	10/18/2024	MICHAEL K. NUNLEY & ASSC, INC.	Accounts Payable Check	1,889.31
179711	10/18/2024	MID-COAST MOWER & SAW, INC.	Accounts Payable Check	80.76
179712	10/18/2024	MINER'S ACE HARDWARE	Accounts Payable Check	626.82
179713	10/18/2024	MIWALL CORPORATION	Accounts Payable Check	3,287.26

City of Atascadero

Disbursement Listing

For the Month of October 2024

Check Number	Check Date	Vendor	Description	Amount
179714	10/18/2024	MOTOROLA SOLUTIONS, INC.	Accounts Payable Check	1,248.30
179715	10/18/2024	MV TRANSPORTATION, INC.	Accounts Payable Check	29,640.63
179716	10/18/2024	NBS	Accounts Payable Check	8,234.94
179717	10/18/2024	NEW TIMES	Accounts Payable Check	1,411.00
179718	10/18/2024	NORTH COAST ENGINEERING INC.	Accounts Payable Check	1,050.00
179719	10/18/2024	ODP BUSINESS SOLUTIONS, LLC	Accounts Payable Check	930.27
179720	10/18/2024	DANIEL OGLESBY	Accounts Payable Check	193.57
179721	10/18/2024	RON OVERACKER	Accounts Payable Check	229.00
179722	10/18/2024	PACIFIC GAS AND ELECTRIC	Accounts Payable Check	43,769.90
179723	10/18/2024	PADRE ASSOCIATES, INC.	Accounts Payable Check	325.00
179724	10/18/2024	PASO ROBLES SAFE & LOCK, INC.	Accounts Payable Check	14,898.57
179725	10/18/2024	PEAKWIFI, LLC	Accounts Payable Check	650.00
179726	10/18/2024	PERRY'S PARCEL & GIFT	Accounts Payable Check	202.00
179727	10/18/2024	PROCARE JANITORIAL SUPPLY,INC.	Accounts Payable Check	178.57
179728	10/18/2024	ALBERT SANUDO JR.	Accounts Payable Check	210.00
179729	10/18/2024	SECURITAS TECHNOLOGY CORPORATN	Accounts Payable Check	727.87
179730	10/18/2024	SERVICE SYSTEMS ASSC, INC.	Accounts Payable Check	3,333.34
179731	10/18/2024	SLO CIDER LLC	Accounts Payable Check	517.20
179732	10/18/2024	SLO COUNTY SHERIFF'S OFFICE	Accounts Payable Check	101,077.25
179733	10/18/2024	SLO COUNTY TAX COLLECTOR	Accounts Payable Check	152.74
179734	10/18/2024	RANDY D. SMART, JR.	Accounts Payable Check	120.00
179735	10/18/2024	SOCAL GAS	Accounts Payable Check	108.18
179736	10/18/2024	SOFTWAREONE, INC.	Accounts Payable Check	88,715.47
179737	10/18/2024	SPEAKWRITE, LLC.	Accounts Payable Check	129.14
179738	10/18/2024	SPECIALIZED EQUIPMENT REPAIR	Accounts Payable Check	1,725.85
179739	10/18/2024	DR. CYNTHIA STRINGFIELD	Accounts Payable Check	301.99
179740	10/18/2024	DANIEL SUTTLES	Accounts Payable Check	10.00
179741	10/18/2024	TARGET SOLUTIONS LEARNING, LLC	Accounts Payable Check	1,584.64
179742	10/18/2024	CHRISTOPHER DANIEL THOMAS	Accounts Payable Check	90.00
179743	10/18/2024	THOMSON REUTERS - WEST	Accounts Payable Check	212.09
179744	10/18/2024	T-MOBILE USA, INC.	Accounts Payable Check	115.00
179745	10/18/2024	DR. ALAN J. TOUSIGNANT	Accounts Payable Check	980.80
179746	10/18/2024	TRIPEPI SMITH AND ASSC., INC.	Accounts Payable Check	3,616.25
179753	10/18/2024	U.S. BANK	Accounts Payable Check	33,274.75
179754	10/18/2024	ULTREX BUSINESS PRODUCTS	Accounts Payable Check	30.34
179755	10/18/2024	JAXON VACH	Accounts Payable Check	99.00
179756	10/18/2024	TYSON VAN HORN	Accounts Payable Check	140.29
179757	10/18/2024	VANIR CONSTRUCTION MANAGEMENT	Accounts Payable Check	15,420.00
179758	10/18/2024	VERDIN	Accounts Payable Check	37,766.77
179759	10/18/2024	VERIZON WIRELESS	Accounts Payable Check	152.04

City of Atascadero

Disbursement Listing

For the Month of October 2024

<u>Check Number</u>	<u>Check Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
179760	10/18/2024	VILLAGE ORIGINALS, INC.	Accounts Payable Check	544.13
179761	10/18/2024	VITAL RECORDS CONTROL	Accounts Payable Check	483.07
179762	10/18/2024	WCJ PROPERTY SERVICES	Accounts Payable Check	130.00
179763	10/18/2024	WESTERN JANITOR SUPPLY	Accounts Payable Check	273.84
179764	10/18/2024	WHATS UP NORTH COUNTY LLC	Accounts Payable Check	2,250.00
179765	10/18/2024	WHITLOCK & WEINBERGER TRANS.	Accounts Payable Check	1,705.00
179766	10/18/2024	YEH AND ASSOCIATES, INC.	Accounts Payable Check	7,087.50
179767	10/18/2024	YOUTH EVOLUTION SOCCER	Accounts Payable Check	1,713.60
179768	10/18/2024	ZOO MED LABORATORIES, INC.	Accounts Payable Check	417.73
179769	10/18/2024	ZOOM IMAGING SOLUTIONS, INC.	Accounts Payable Check	1,022.25
5351	10/24/2024	ANTHEM BLUE CROSS HSA	Payroll Vendor Payment	11,052.60
179770	10/24/2024	CA DEPT OF TAX AND FEE ADMIN.	Accounts Payable Check	3,849.00
179771	10/24/2024	ATASCADERO PROF. FIREFIGHTERS	Payroll Vendor Payment	1,151.80
179772	10/24/2024	IAFF MERP	Payroll Vendor Payment	1,900.00
179773	10/24/2024	MISSIONSQUARE	Payroll Vendor Payment	16,087.68
179774	10/24/2024	NATIONWIDE RETIREMENT SOLUTION	Payroll Vendor Payment	1,082.84
179775	10/24/2024	SLO COUNTY SHERIFF	Payroll Vendor Payment	200.00
5350	10/25/2024	MCGRIFF INSURANCE SERVICE TRUIST INSURANCE HC	Payroll Vendor Payment	1,377.94
5352	10/25/2024	STATE DISBURSEMENT UNIT	Payroll Vendor Payment	692.30
5361	10/25/2024	EMPLOYMENT DEV. DEPARTMENT	Accounts Payable Check	4.18
5362	10/25/2024	ATASCADERO POLICE OFFICERS	Payroll Vendor Payment	2,246.00
5363	10/28/2024	SEIU LOCAL 620	Payroll Vendor Payment	1,014.98
5364	10/29/2024	RABOBANK, N.A.	Payroll Vendor Payment	86,319.64
5365	10/29/2024	EMPLOYMENT DEV DEPARTMENT	Payroll Vendor Payment	27,299.12
5366	10/29/2024	EMPLOYMENT DEV. DEPARTMENT	Payroll Vendor Payment	4,452.64
5353	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	18,356.93
5354	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	36,176.98
5355	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	3,082.01
5356	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	2,830.30
5357	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	8,773.51
5358	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	15,171.99
5359	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	19,000.97
5360	10/30/2024	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	31,064.15
				<u>\$ 4,121,410.25</u>



CITY OF ATASCADERO
CITY COUNCIL STAFF REPORT

Item A6

Department: Administrative Services
Date: 12/10/24
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER
FROM: JERI RANGEL, DIRECTOR OF ADMINISTRATIVE SERVICES
PREPARED BY: KRYS CLARK, ACCOUNTING SPECIALIST
SUBJECT: September 2024 Investment Report

RECOMMENDATION:

Council receive and file the City Treasurer's report for quarter ending September 30, 2024.

REPORT IN BRIEF:

CASH AND INVESTMENTS

Checking Account	\$ 1,169,339	
Zoo Credit Card Deposit Account	2,930	
Mechanics Bank Money Market Account	4,255,349	
Certificates of Deposit	17,593,429	
Government Securities	27,802,627	
Supranational Securities	9,506,672	
Municipal Securities	1,509,182	
LAIF	7,950,889	
Cash with Fiscal Agents (2004 & 2010 Bonds)	15,942	
Cash with Fiscal Agents (2024 Bonds)	<u>1,478,666</u>	
Cash in Banks at September 30, 2024		\$ 71,285,025
Deposits in Transit		144,821
Timing Differences		(622,140)
Cash and Investments at September 30, 2024		<u>\$ 70,807,706</u>

INVESTMENT ACTIVITY

Securities Purchased:

<u>Purchase Date</u>	<u>Description</u>	<u>Type</u>	<u>Cost</u>	<u>Maturity Date</u>
07/11/24	Federal Farm Credit Bank CUSIP #3133ERKJ9	Government Security	\$ 1,008,642	07/05/29
07/17/24	BNY Mellon National Association	Certificate of Deposit	244,000	07/17/29
08/14/24	Federal Farm Credit Bank CUSIP #3133ERN1	Government Security	1,021,101	08/01/29
08/21/24	The Citizens Bank Batesville, AK	Certificate of Deposit	249,000	08/21/29
09/18/24	California St CUSIP #13063EBPO	Municipal Security	534,580	09/01/29

Securities Matured:

<u>Maturity Date</u>	<u>Description</u>	<u>Type</u>	<u>Original Cost</u>	<u>Amount Matured</u>
07/23/24	BankUnited Miami Lakes, FL	Certificate of Deposit	\$ 237,000	\$ 237,000
07/26/24	Abacus Federal Savings New York, NY	Certificate of Deposit	245,000	245,000
08/01/24	Federal Farm Credit Bank CUSIP #3133EJM55	Government Security	453,991	427,000
08/19/24	CF Bank Worthington, OH	Certificate of Deposit	245,000	245,000
08/28/24	Genoa Banking Company Genoa, OH	Certificate of Deposit	245,000	245,000
08/28/24	Int'l Bank for Recon & Dev CUSIP #459056HV2	Supranational Security	497,250	500,000
08/30/24	Preferred Bank Los Angeles, CA	Certificate of Deposit	245,000	245,000
09/10/24	Peoples Bank Rock Valley, IA	Certificate of Deposit	100,000	100,000
09/20/24	Bank of Deerfield Deerfield, WI	Certificate of Deposit	245,000	245,000
09/25/24	Grand River Bank Grandville, MI	Certificate of Deposit	245,000	245,000

Securities Sold Prior to Maturity:

<u>Transaction / Tran Date</u>	<u>Description / Type</u>	<u>Original Cost / Maturity</u>	<u>Sale Price</u>	<u>Gain / (Loss) on Sale</u>
None				

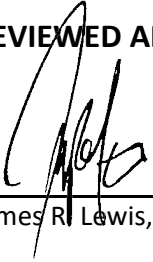
Other Reportable Activities:

None

REVIEWED BY OTHERS:

This item has been reviewed by the Administrative Services Director and the City Treasurer.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT(S):

1. Treasurer's Report

City of Atascadero
Treasurer's Report
Cash & Investments Activity Summary
for the quarter ending September 30, 2024

	<u>CHECKING ACCOUNTS</u>	<u>INVESTMENTS</u>	<u>FISCAL AGENT</u>	<u>TOTALS</u>
Balance per Banks at July 1, 2024	\$ 300,330	\$ 82,959,867	\$ 20,675,390	\$ 103,935,587
Receipts	249,830	7,771,661	275,090	8,296,581
Recognition of Premiums & Discounts	-	51,293	-	51,293
Disbursements	(20,056,442)	(14,996)	(20,926,998)	(40,998,436)
Transfers In	25,450,000	3,300,323	1,471,126	30,221,449
Transfers Out	<u>(4,771,449)</u>	<u>(25,450,000)</u>	<u>-</u>	<u>(30,221,449)</u>
Balance per Banks at September 30, 2024	<u>\$ 1,172,269</u>	<u>\$ 68,618,148</u>	<u>\$ 1,494,608</u>	71,285,025
Deposits in Transit				144,821
Timing Differences				<u>(622,140)</u>
Adjusted Treasurer's Balance				<u><u>\$ 70,807,706</u></u>

City of Atascadero
Investment Report
September 30, 2024

MATURITY DATE	DESCRIPTION (ISSUER)	PURCHASE DATE	INVESTMENT TYPE	INVESTMENT RATING	STATED % RATE	YIELD	FACE VALUE	PREMIUM/ (DISCOUNT)	COST OF INVESTMENT	MARKET VALUE	UNREALIZED GAIN / (LOSS)
Funds Managed by City											
n/a	Local Agency Invest. Fund (LAIF)	n/a	State Investment Fund	n/a	n/a	4.58%	\$ 7,950,889	n/a	\$ 7,950,889	\$ 7,967,276	\$ 16,387
n/a	Mechanic's Bank Money Market	n/a	Money Fund	n/a	n/a	4.85%	4,255,349	n/a	4,255,349	4,255,349	-
10/15/24	Federal National Mortgage Assn CUSIP #3135G0W66	03/13/20	Government Security	Aaa	1.63%	0.81%	500,000	167	500,167	499,350	(817)
11/08/24	Raymond James Bank St. Petersburg, FL	11/08/19	Certificate of Deposit	n/a	1.80%	1.80%	245,000	n/a	245,000	244,189	(811)
11/18/24	Federal Farm Credit Bank CUSIP #3133ENZ94	11/23/22	Government Security	Aaa	4.50%	4.70%	400,000	(110)	399,890	399,756	(134)
12/13/24	Federal Home Loan Bank CUSIP #3130A3GE8	03/13/20	Government Security	Aaa	2.75%	0.84%	500,000	1,930	501,930	498,100	(3,830)
01/15/25	Int'l Bank for Recon & Develop CUSIP #459058HT3	01/16/20	Supranational Security	Aaa	1.63%	1.66%	500,000	(57)	499,943	495,595	(4,348)
01/20/25	Live Oak Banking Company Wilmington, NC	01/24/20	Certificate of Deposit	n/a	1.85%	1.85%	245,000	n/a	245,000	242,922	(2,078)
01/24/25	Baycoast Bank Swansea, MA	01/24/20	Certificate of Deposit	n/a	1.70%	1.70%	245,000	n/a	245,000	242,653	(2,347)
02/12/25	Federal Home Loan Mtge Corp CUSIP #3137EAEPO	03/13/20	Government Security	Aaa	1.50%	0.79%	500,000	1,307	501,307	494,250	(7,057)
03/03/25	Federal Farm Credit Bank CUSIP #3133ELQY3	03/04/20	Government Security	Aaa	1.21%	0.88%	500,000	686	500,686	492,985	(7,701)
03/26/25	Evergreen Bank Group Oak Brook, IL	03/26/20	Certificate of Deposit	n/a	1.00%	1.00%	245,000	n/a	245,000	240,874	(4,126)
03/27/25	Bank of Romney Romney, WV	03/27/20	Certificate of Deposit	n/a	1.15%	1.15%	245,000	n/a	245,000	241,033	(3,967)
03/27/25	First Jackson Bank Stevenson, AL	03/27/20	Certificate of Deposit	n/a	1.15%	1.15%	245,000	n/a	245,000	241,033	(3,967)
04/01/25	El Cajon Taxable Pension Obl CUSIP 282659AX9	01/27/21	Municipal Security	Aa	1.18%	0.70%	650,000	1,558	651,558	639,327	(12,231)
04/28/25	First National Bank McGregor, TX	04/28/20	Certificate of Deposit	n/a	1.35%	1.35%	245,000	n/a	245,000	240,739	(4,261)
04/29/25	Flagstar Bank Troy, MI	03/26/20	Certificate of Deposit	n/a	1.15%	1.15%	245,000	n/a	245,000	240,458	(4,542)

City of Atascadero
Investment Report
September 30, 2024

<u>MATURITY DATE</u>	<u>DESCRIPTION (ISSUER)</u>	<u>PURCHASE DATE</u>	<u>INVESTMENT TYPE</u>	<u>INVESTMENT RATING</u>	<u>STATED % RATE</u>	<u>YIELD</u>	<u>FACE VALUE</u>	<u>PREMIUM/ (DISCOUNT)</u>	<u>COST OF INVESTMENT</u>	<u>MARKET VALUE</u>	<u>UNREALIZED GAIN / (LOSS)</u>
05/01/25	Corona California Pension CUSIP #21969AAD4	04/12/23	Municipal Security	AA+	1.13%	4.50%	450,000	(8,611)	441,389	441,266	(124)
05/15/25	Tennessee Valley Authority CUSIP #880591EW8	11/09/22	Government Security	Aaa	0.75%	4.77%	\$ 205,000	\$ (4,991)	\$ 200,009	\$ 200,539	\$ 530
06/24/25	BMO Harris Bank NA Chicago, IL	11/08/23	Certificate of Deposit	n/a	3.20%	3.20%	225,000	(3,192)	221,808	223,225	1,417
06/30/25	US Treasury Notes CUSIP #912828XZ8	04/13/22	Government Security	Aaa	2.75%	2.61%	500,000	501	500,501	495,185	(5,316)
07/01/25	Northern Calif Power Agency CUSIP #664845FN9	04/13/22	Municipal Security	Aa3	2.39%	3.04%	305,000	(1,447)	303,553	300,761	(2,793)
07/01/25	University of California CUSIP #91412GU94	10/22/20	Municipal Security	Aa2	3.06%	0.81%	300,000	5,060	305,060	297,522	(7,538)
08/12/25	Goldman Sachs Bank New York, NY	11/08/23	Certificate of Deposit	n/a	3.05%	5.16%	246,000	(4,342)	241,658	243,702	2,044
08/18/25	Federal National Mortgage Assn CUSIP #3136G4M75	01/09/22	Government Security	Aaa	0.52%	4.70%	280,000	(9,993)	270,007	271,513	1,506
08/20/25	Northeast Community Bank White Plains, NY	07/19/23	Certificate of Deposit	n/a	0.45%	4.99%	160,000	(6,298)	153,702	154,939	1,237
09/01/25	San Bernardino Successor Agency Swansea, MA	10/22/20	Municipal Security	Aa	4.00%	0.71%	175,000	5,279	180,279	176,411	(3,869)
09/12/25	Federal Home Loan Bank CUSIP #3130A6C70	10/04/22	Government Security	Aaa	2.63%	4.13%	570,000	(7,885)	562,115	562,311	196
10/01/25	Folsom Cordova School District CUSIP #34440PCN9	11/10/20	Municipal Security	Aa-	3.00%	1.00%	400,000	7,962	407,962	395,012	(12,950)
10/03/25	Investar Bank Baton Rouge, LA	10/04/23	Certificate of Deposit	n/a	5.35%	5.35%	248,000	n/a	248,000	251,430	3,430
11/07/25	Federal National Mortgage Assn CUSIP #3135G06G3	12/14/20	Government Security	Aaa	0.50%	0.42%	500,000	440	500,440	481,135	(19,305)
11/15/25	Tulare Sewer Revenue CUSIP 899124MF5	12/11/20	Municipal Security	Aa	1.46%	0.58%	400,000	3,910	403,910	387,464	(16,446)
12/11/25	BMW Bank North America Salt Lake City, UT	12/11/20	Certificate of Deposit	n/a	0.50%	0.50%	245,000	n/a	245,000	235,259	(9,741)
12/18/25	Third Federal Savings & Loan Cleveland, OH	12/18/20	Certificate of Deposit	n/a	1.46%	1.46%	245,000	n/a	245,000	234,970	(10,030)
12/29/25	American Nat'l Bank Baxter, MN	09/29/23	Certificate of Deposit	n/a	5.00%	5.00%	248,000	n/a	248,000	251,276	3,276

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01/15/26	First Reliance Bank Florence, SC	01/15/21	Certificate of Deposit	n/a	0.30%	0.30%	245,000	n/a	245,000	233,889	(11,111)
01/22/26	ConnectOne Bank Englewood Cliffs, NJ	01/22/21	Certificate of Deposit	n/a	0.45%	0.45%	\$ 245,000	n/a	\$ 245,000	\$ 234,203	\$ (10,797)
01/22/26	Luana Savings Bank Luana, IA	01/22/21	Certificate of Deposit	n/a	0.40%	0.40%	245,000	n/a	245,000	234,075	(10,925)
02/09/26	First United Bank & Trust Durant, OK	03/16/23	Certificate of Deposit	n/a	4.25%	4.81%	120,000	(886)	119,114	120,574	1,460
02/11/26	Ind'l & Com'l Bank of China New York, NY	02/22/21	Certificate of Deposit	n/a	0.45%	0.45%	245,000	n/a	245,000	233,816	(11,184)
02/24/26	Eaglebank Bethesda, MD	03/16/23	Certificate of Deposit	n/a	4.25%	4.25%	244,000	n/a	244,000	245,071	1,071
03/02/26	Federal Farm Credit Bank CUSIP #3133EFH91	03/03/21	Government Security	Aaa	2.22%	0.75%	876,000	18,135	894,135	857,350	(36,785)
03/27/26	Federal Agriculture Mtge Corp CUSIP #31422XDX7	03/30/21	Government Security	n/a	0.83%	0.87%	500,000	(281)	499,719	478,885	(20,834)
04/23/26	Malaga Bank Palos Verdes Peninsula, CA	04/23/21	Certificate of Deposit	n/a	0.55%	0.55%	245,000	n/a	245,000	232,691	(12,309)
04/24/26	Federal National Mortgage Assn CUSIP #3135G0K36	04/26/21	Government Security	Aaa	2.13%	0.77%	500,000	10,532	510,532	487,835	(22,697)
05/19/26	Eaglemark Savings Bank Reno, NV	05/19/21	Certificate of Deposit	n/a	0.70%	0.70%	245,000	n/a	245,000	232,816	(12,184)
05/31/26	US Treasury Notes CUSIP #91282CCF6	11/23/22	Government Security	Aaa	0.75%	4.15%	500,000	(27,056)	472,944	476,230	3,286
06/01/26	Golden St TOB CUSIP #38122NC59	05/10/23	Municipal Security	A	2.16%	4.52%	150,000	(5,623)	144,377	144,611	234
06/05/26	Enterprise Bank Omaha, NE	09/27/23	Certificate of Deposit	n/a	0.85%	4.99%	249,000	(16,592)	232,408	236,871	4,463
06/24/26	First Financial Bank Dakota Dunes, SD	09/27/23	Certificate of Deposit	n/a	3.15%	5.11%	249,000	(8,068)	240,932	246,122	5,190
06/30/26	UBS Bank USA Salt Lake City, UT	05/19/21	Certificate of Deposit	n/a	0.90%	0.90%	245,000	n/a	245,000	232,836	(12,164)
07/01/26	New York Community Bank Hicksville, NY	06/29/21	Certificate of Deposit	n/a	0.85%	0.85%	245,000	n/a	245,000	232,679	(12,321)
07/20/26	Southern Bancorp Bank Arkadelphia, AR	01/19/24	Certificate of Deposit	n/a	4.00%	4.00%	249,000	n/a	249,000	249,740	740

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07/22/26	Toyota Financial Savings Bank Henderson, NV	07/22/21	Certificate of Deposit	n/a	0.95%	0.95%	245,000	n/a	245,000	232,708	(12,292)
08/01/26	Rancho Adobe Fire Protection CUSIP #752096AE7	10/14/21	Municipal Security	Aa	1.43%	1.25%	\$ 260,000	\$ 850	\$ 260,850	\$ 247,296	\$ (13,554)
08/03/26	Bridgewater Bank St. Louis Pk, MN	11/03/23	Certificate of Deposit	n/a	5.15%	5.15%	248,000	n/a	248,000	253,840	5,840
08/13/26	Synchrony Bank Draper, UT	08/13/21	Certificate of Deposit	n/a	0.90%	0.90%	245,000	n/a	245,000	232,130	(12,870)
08/15/26	Dallas TX Ind School District CUSIP #235308D83	05/09/24	Municipal Security	Aaa	4.00%	4.86%	150,000	(2,266)	147,734	150,594	2,860
08/15/26	El Paso TX CUSIP #283734Y21	05/09/24	Municipal Security	Aa	4.93%	4.93%	110,000	(7,463)	102,537	104,261	1,724
09/24/26	Federal National Mortgage Assn CUSIP #3135G0Q22	09/24/21	Government Security	Aaa	1.88%	0.80%	500,000	10,605	510,605	482,445	(28,160)
09/29/26	First Bank Richmond Richmond, IN	09/29/21	Certificate of Deposit	n/a	0.55%	0.55%	245,000	n/a	245,000	229,798	(15,202)
10/01/26	California Infrastructure Bonds CUSIP #13034AL73	10/05/22	Municipal Security	AAA	1.04%	4.69%	155,000	(10,706)	144,294	146,320	2,026
10/01/26	Manteca Redevelopment Bonds CUSIP #56453RBA1	10/05/22	Municipal Security	AA	2.04%	4.81%	115,000	(6,008)	108,992	110,334	1,342
10/13/26	Federal Agricultural Mtgce Corp CUSIP #31424WAN2	11/08/23	Government Security	n/a	5.00%	4.77%	700,000	3,102	703,102	717,864	14,762
10/31/26	US Treasury Notes CUSIP #912828YQ7	11/23/22	Government Security	Aaa	1.63%	4.07%	250,000	(12,091)	237,909	239,960	2,051
11/17/26	Capital One Bank Glen Allen, VA	11/17/21	Certificate of Deposit	n/a	1.10%	1.10%	245,000	n/a	245,000	231,535	(13,465)
11/17/26	Capital One National McLean, VA	11/17/21	Certificate of Deposit	n/a	1.10%	1.10%	245,000	n/a	245,000	231,535	(13,465)
11/17/26	Federal Agricultural Mtgce Corp CUSIP #31422XPS5	09/27/23	Government Security	n/a	1.15%	4.86%	500,000	(37,101)	462,899	474,275	11,376
12/21/26	Federal Home Loan Bank CUSIP #3130AQF65	12/30/21	Government Security	Aaa	1.25%	1.26%	500,000	(81)	499,919	474,115	(25,804)
12/28/26	Federal Farm Credit Bank CUSIP #3133EJ4E6	01/18/22	Government Security	Aaa	3.13%	1.58%	200,000	6,783	206,783	197,572	(9,211)
12/31/26	Bank Kremlin Kremlin, OK	12/31/21	Certificate of Deposit	n/a	1.05%	1.05%	245,000	n/a	245,000	230,494	(14,506)

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01/15/27	San Joaquin Hills Trans Agency CUSIP # 798111HF0	01/19/22	Municipal Security	A2	2.15%	1.88%	500,000	3,010	503,010	480,345	(22,665)
01/19/27	First Foundation Bank Irvine, CA	10/25/23	Certificate of Deposit	n/a	4.70%	5.05%	\$ 230,000	\$ (1,718)	\$ 228,282	\$ 234,402	\$ 6,120
02/10/27	Federal Agriculture Mtge Corp CUSIP #31422XTX0	02/17/22	Government Security	n/a	1.60%	1.96%	550,000	(4,547)	545,453	525,250	(20,203)
02/17/27	Beal Bank USA Las Vegas, NV	02/23/22	Certificate of Deposit	n/a	1.90%	1.90%	245,000	n/a	245,000	234,455	(10,545)
02/23/27	Sallie Mae Bank Salt Lake City, UT	10/13/22	Certificate of Deposit	n/a	2.20%	4.17%	184,000	(8,213)	175,787	177,245	1,458
03/01/27	Sonoma Marin Area Rail Transit CUSIP #835588BA1	12/07/22	Municipal Security	AA	1.73%	4.45%	500,000	(30,832)	469,168	473,450	4,282
03/12/27	Federal Home Loan Bank CUSIP #3130A3DU5	03/17/22	Government Security	Aaa	3.00%	2.20%	500,000	9,476	509,476	492,065	(17,411)
03/16/27	American Express Nat'l Bank Sandy, UT	03/16/22	Certificate of Deposit	n/a	2.00%	2.00%	245,000	n/a	245,000	234,705	(10,295)
03/17/27	Beal Bank Plano, TX	03/23/22	Certificate of Deposit	n/a	2.00%	2.00%	245,000	n/a	245,000	233,850	(11,150)
04/14/27	Comenity Capital Bank Draper, UT	04/14/22	Certificate of Deposit	n/a	2.65%	2.65%	245,000	n/a	245,000	238,191	(6,809)
04/30/27	US Treasury Notes CUSIP # 91282CEN7	01/18/23	Government Security	Aaa	2.75%	3.64%	1,000,000	(21,793)	978,207	979,410	1,203
05/01/27	LA Unified School District CUSIP # 544646A77	05/11/22	Municipal Security	Aa3	5.72%	3.81%	500,000	23,438	523,438	514,640	(8,798)
05/15/27	US Treasury Notes CUSIP #912828X88	05/24/22	Government Security	Aaa	2.38%	2.87%	500,000	(6,114)	493,886	484,825	(9,061)
06/09/27	Federal Home Loan Bank CUSIP #3130A5JU4	06/22/22	Government Security	Aaa	3.04%	3.43%	200,000	(1,961)	198,039	196,960	(1,079)
06/11/27	Federal Home Loan Bank CUSIP #3130ASGU7	06/22/22	Government Security	Aaa	3.50%	3.41%	200,000	494	200,494	199,296	(1,198)
06/15/27	Federal Farm Credit Bank CUSIP #3133EHNRO	06/22/22	Government Security	Aaa	2.58%	3.43%	480,000	(10,395)	469,605	467,419	(2,186)
07/01/27	Sequoia CA Union High CUSIP #817409N50	05/10/23	Municipal Security	AA1	1.95%	4.20%	350,000	(20,213)	329,787	332,990	3,203
07/16/27	Federal Farm Credit Bank CUSIP #3133EAXT0	07/26/22	Government Security	Aaa	2.75%	2.98%	135,000	(814)	134,186	131,961	(2,225)

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07/20/27	Federal Farm Credit Bank CUSIP #3133ELV92	10/25/23	Government Security	Aaa	0.77%	4.86%	500,000	(52,913)	447,087	462,545	15,458
08/01/27	Corona Norco Ca Unif Sch Dist CUSIP # 219764SB4	08/04/22	Municipal Security	AA-	2.30%	3.63%	\$ 250,000	\$ (8,882)	\$ 241,118	\$ 239,693	\$ (1,426)
08/01/27	Escondido CA Unif Sch Dist CUSIP # 2963871UV7	08/05/22	Municipal Security	AA2	1.13%	3.53%	100,000	(6,411)	93,589	92,904	(685)
08/01/27	Martinez CA Uni Sch Dist CUSIP # 573428MN6	08/04/22	Municipal Security	AA	1.26%	3.43%	250,000	(14,502)	235,498	232,805	(2,693)
08/01/27	San Marcos CA Uni Sch Dist CUSIP # 798755GC2	08/05/22	Municipal Security	AA	2.31%	3.68%	185,000	(6,743)	178,257	177,452	(805)
08/01/27	Southwestern Comm College CUSIP # 845389LS2	08/04/22	Municipal Security	AA-	1.53%	3.53%	155,000	(8,271)	146,729	145,771	(958)
08/26/27	Federal Agriculture Mtge Corp CUSIP #31422XF23	09/02/22	Government Security	n/a	3.20%	3.49%	500,000	(3,950)	496,050	494,205	(1,845)
09/15/27	Luminate Bank Minnetonka, MN	09/15/22	Certificate of Deposit	n/a	3.40%	3.40%	245,000	n/a	245,000	242,261	(2,739)
09/15/27	Ponce de Leon Fed Bank Bronx, NY	09/15/22	Certificate of Deposit	n/a	3.50%	3.50%	245,000	n/a	245,000	242,947	(2,053)
09/15/27	University of Pittsburgh CUSIP # 798755GC2	09/15/22	Municipal Security	AA+	3.18%	3.81%	500,000	(8,722)	491,278	490,250	(1,028)
10/08/27	Federal National Mortgage Assn CUSIP #3135G05Y5	10/12/22	Government Security	Aaa	0.75%	4.12%	1,000,000	(94,841)	905,159	919,580	14,421
10/31/27	US Treasury Notes CUSIP # 91282CAU5	11/09/22	Government Security	Aaa	0.50%	4.31%	600,000	(65,410)	534,590	546,516	11,926
11/15/27	Tulare CA Sewer Rev CUSIP #899124MH1	04/12/23	Municipal Security	AA	1.93%	4.47%	325,000	(23,832)	301,168	305,042	3,874
11/15/27	US Treasury Notes CUSIP # 9128283F5	12/07/22	Government Security	Aaa	2.25%	3.79%	500,000	(22,440)	477,560	480,490	2,930
12/01/27	Federal Agricultural Mtge Corp CUSIP #31422XR95	10/20/23	Government Security	n/a	4.03%	5.04%	500,000	(14,586)	485,414	504,715	19,301
12/15/27	Forbright Bank Potomac, MD	12/15/22	Certificate of Deposit	n/a	4.00%	4.00%	245,000	n/a	245,000	246,864	1,864
12/16/27	Community West Bank NA Goleta, CA	12/16/22	Certificate of Deposit	n/a	4.00%	4.00%	245,000	n/a	245,000	246,869	1,869
01/12/28	Inter-American Dev Bank CUSIP # 4581X0EH7	01/19/23	Supranational Security	Aaa	4.00%	3.70%	1,000,000	9,239	1,009,239	1,011,490	2,251

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02/10/28	First National Bk of Michigan Kalamazoo, MI	02/10/23	Certificate of Deposit	n/a	3.70%	3.70%	249,000	n/a	249,000	248,930	(70)
02/15/28	Belmont Bank & Trust Chicago, IL	02/15/23	Certificate of Deposit	n/a	3.75%	3.75%	\$ 249,000	n/a	\$ 249,000	\$ 249,351	\$ 351
02/15/28	US Treasury Notes CUSIP # 9128283W8	02/01/23	Government Security	Aaa	2.75%	3.64%	500,000	(14,064)	485,936	486,875	939
02/17/28	Vision Bank St. Louis, MN	02/17/23	Certificate of Deposit	n/a	3.75%	3.75%	249,000	n/a	249,000	249,364	364
03/10/28	Federal Home Loan Bank CUSIP # 3130ATS57	03/15/23	Government Security	Aaa	4.50%	3.90%	600,000	11,544	611,544	617,478	5,934
03/17/28	Affinity Bank Covington, GA	03/17/23	Certificate of Deposit	n/a	4.90%	4.90%	245,000	n/a	245,000	254,673	9,673
03/20/28	Bank Five Nine Oconomowoc, WI	03/20/23	Certificate of Deposit	n/a	4.65%	4.65%	245,000	n/a	245,000	252,718	7,718
04/01/28	California State Bonds-GO CUSIP #13063DGC6	04/12/23	Municipal Security	AA	3.50%	3.98%	525,000	(8,095)	516,905	520,753	3,848
04/01/28	California State Bonds-Taxable CUSIP #13063DGC6	04/12/23	Municipal Security	AA	3.50%	3.98%	150,000	(2,313)	147,687	148,787	1,100
04/06/28	Morgan Stanley Bank Salt Lake City, UT	09/28/23	Certificate of Deposit	n/a	4.65%	4.69%	244,000	(303)	243,697	251,723	8,026
05/12/28	Central Bank Little Rock, AR	05/12/23	Certificate of Deposit	n/a	3.85%	3.85%	249,000	n/a	249,000	251,983	2,983
05/16/28	CIBC Bank Chicago, IL	05/16/23	Certificate of Deposit	n/a	4.35%	4.35%	244,000	n/a	244,000	249,688	5,688
05/16/28	Univest Bank & Trust Souderton, PA	05/16/23	Certificate of Deposit	n/a	4.40%	4.40%	249,000	n/a	249,000	255,394	6,394
05/30/28	Idaho First Bank McCall, ID	05/30/23	Certificate of Deposit	n/a	4.20%	4.20%	245,000	n/a	245,000	257,140	12,140
05/31/28	Customers Bank Phoenixville, PA	05/31/23	Certificate of Deposit	n/a	4.45%	4.45%	244,000	n/a	244,000	255,858	11,858
06/09/28	Federal Home Loan Bank CUSIP #3130AEB25	06/20/23	Government Security	AA+	3.25%	4.03%	170,000	(4,487)	165,513	168,108	2,595
06/30/28	Federal Home Loan Bank CUSIP #3130AWN63	08/03/23	Government Security	Aaa	4.00%	4.33%	500,000	(5,631)	494,369	507,250	12,881
07/06/28	HSBC Bank USA McLean, VA	07/18/23	Certificate of Deposit	n/a	3.30%	4.57%	249,000	(10,959)	238,041	245,726	7,685

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September 30, 2024

<u>MATURITY DATE</u>	<u>DESCRIPTION (ISSUER)</u>	<u>PURCHASE DATE</u>	<u>INVESTMENT TYPE</u>	<u>INVESTMENT RATING</u>	<u>STATED % RATE</u>	<u>YIELD</u>	<u>FACE VALUE</u>	<u>PREMIUM/ (DISCOUNT)</u>	<u>COST OF INVESTMENT</u>	<u>MARKET VALUE</u>	<u>UNREALIZED GAIN / (LOSS)</u>
07/26/28	Park State Bank Duluth, MN	07/26/23	Certificate of Deposit	n/a	4.45%	4.45%	249,000	n/a	249,000	256,597	7,597
07/31/28	Medallion Bank Salt Lake City, UT	07/31/23	Certificate of Deposit	n/a	4.40%	4.40%	\$ 249,000	n/a	\$ 249,000	\$ 256,204	\$ 7,204
08/01/28	New York City Transitional Fin Auth CUSIP #64971XBN7	08/16/23	Municipal Security	Aa1	4.90%	4.90%	850,000	(51,543)	798,457	824,934	26,477
08/17/28	United Fidelity Bank FBS Evansville, IN	09/13/23	Certificate of Deposit	n/a	4.50%	4.50%	249,000	n/a	249,000	257,294	8,294
09/05/28	Discover Bank Greenwood, DE	09/07/23	Certificate of Deposit	n/a	4.55%	4.55%	244,000	n/a	244,000	252,806	8,806
09/13/28	Optum Bank Inc Draper, UT	09/13/23	Certificate of Deposit	n/a	4.55%	4.55%	244,000	n/a	244,000	252,796	8,796
09/21/28	Merrick Bank South Jordan, UT	09/21/23	Certificate of Deposit	n/a	4.50%	4.50%	249,000	n/a	249,000	257,705	8,705
09/27/28	Legacy Bank & Trust Mountain Grove, MO	09/27/23	Certificate of Deposit	n/a	4.50%	4.50%	249,000	n/a	249,000	257,780	8,780
09/29/28	Star Bank Maple Lake, MN	09/29/23	Certificate of Deposit	n/a	4.65%	4.65%	244,000	n/a	244,000	253,897	9,897
10/17/28	Southern First Bank Greenville, SC	10/26/23	Certificate of Deposit	n/a	4.85%	4.85%	244,000	n/a	244,000	256,456	12,456
10/23/28	Federal Home Loan Bank CUSIP #3130AXLQ9	10/25/23	Government Security	Aaa	5.03%	4.89%	500,000	2,532	502,532	526,370	23,838
10/27/28	Iowa State Bank Clarksville, IA	10/27/23	Certificate of Deposit	n/a	4.70%	4.70%	249,000	n/a	249,000	259,774	10,774
11/14/28	Wells Fargo Bank Sioux Falls, SD	11/14/23	Certificate of Deposit	n/a	5.05%	5.05%	248,000	n/a	248,000	262,121	14,121
11/16/28	Federal Home Loan Bank CUSIP #3130AFFX0	12/12/23	Government Security	Aaa	3.25%	4.29%	500,000	(19,432)	480,568	494,195	13,627
12/01/28	Sulphur Springs CA Uni Sch District CUSIP #865485EL6	12/07/23	Municipal Security	A2	1.97%	4.58%	110,000	(10,746)	99,254	101,046	1,792
12/04/28	Federal Agricultural Mtg Corp CUSIP #31424WCR1	12/12/23	Government Security	n/a	4.38%	4.33%	750,000	1,235	751,235	770,400	19,165
12/04/28	Federal Farm Credit Bank CUSIP #3133EHZ48	05/08/24	Government Security	Aaa	2.77%	4.49%	194,000	(12,614)	181,386	187,676	6,290
01/18/29	Federal Farm Credit Bank CUSIP #3133EPW84	01/19/24	Government Security	AA+	3.88%	4.04%	750,000	(4,764)	745,236	757,253	12,017

City of Atascadero
Investment Report
September 30, 2024

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01/26/29	Old Dominion National Bank North Garden, VA	01/26/24	Certificate of Deposit	n/a	3.85%	3.85%	249,000	n/a	249,000	251,662	2,662
01/26/29	Parkside Financial Bank Clayton, MO	01/26/24	Certificate of Deposit	n/a	3.85%	3.85%	\$ 249,000	n/a	\$ 249,000	\$ 251,662	\$ 2,662
02/13/29	Federal Farm Credit Bank CUSIP #3133EP3B9	02/14/24	Government Security	AA+	4.13%	4.28%	1,250,000	(7,409)	1,242,591	1,276,163	33,572
03/09/29	Federal Home Loan Bank CUSIP #3130AVBD3	04/10/24	Government Security	AA+	4.50%	4.47%	1,000,000	1,066	1,001,066	1,035,770	34,704
04/10/29	Federal Farm Credit Bank CUSIP #3133ERAK7	04/17/24	Government Security	AA+	4.38%	4.71%	1,000,000	(13,368)	986,632	1,031,960	45,328
05/01/29	Pasadena CA Ref Taxable CUSIP #70227RBQ2	05/03/24	Municipal Security	Aaa	2.30%	4.95%	330,000	(35,555)	294,445	305,418	10,973
05/15/29	Federal National Mortgage Assn CUSIP #31359MEU3	05/16/24	Government Security	AA+	6.25%	4.36%	750,000	58,789	808,789	834,240	25,451
06/08/29	Federal Home Loan Bank CUSIP #3130B1BC0	06/11/24	Government Security	Aaa	4.63%	4.49%	1,000,000	5,511	1,005,511	1,042,980	37,469
06/12/29	Morgan Stanley Private Bank National Association	06/12/24	Certificate of Deposit	n/a	4.70%	4.70%	244,000	n/a	244,000	255,192	11,192
07/05/29	Federal Farm Credit Bank CUSIP #3133ERKJ9	07/11/24	Government Security	Aaa	4.38%	4.18%	1,000,000	8,299	1,008,299	1,033,320	25,021
07/17/29	BNY Mellon National Association	07/17/24	Certificate of Deposit	n/a	4.15%	4.15%	244,000	n/a	244,000	249,427	5,427
08/01/29	Federal Farm Credit Bank CUSIP #3133ERN1	08/14/24	Government Security	Aaa	4.13%	3.66%	1,000,000	20,618	1,020,618	1,022,740	2,122
08/21/29	The Citizens Bank Batesville, AR	08/21/24	Certificate of Deposit	n/a	4.60%	4.60%	249,000	n/a	249,000	249,762	762
09/01/29	California State CUSIP #13063EBP0	09/18/24	Municipal Security	Aa2	5.13%	3.59%	500,000	34,386	534,386	530,300	(4,086)
Total Funds Managed by the City							69,170,238	(552,090)	68,618,148	68,718,733	100,585

City of Atascadero
Investment Report
September 30, 2024

<u>MATURITY DATE</u>	<u>DESCRIPTION (ISSUER)</u>	<u>PURCHASE DATE</u>	<u>INVESTMENT TYPE</u>	<u>INVESTMENT RATING</u>	<u>STATED % RATE</u>	<u>YIELD</u>	<u>FACE VALUE</u>	<u>PREMIUM/ (DISCOUNT)</u>	<u>COST OF INVESTMENT</u>	<u>MARKET VALUE</u>	<u>UNREALIZED GAIN / (LOSS)</u>
n/a	BNY Western Trust - 2010 Bonds Hamilton Treas. Money	n/a	Treasury Fund	Aaa	n/a	2.80%	\$ 10,975	n/a	\$ 10,975	\$ 10,975	-
n/a	BNY Western Trust - 2004 Bonds Hamilton Treas. Money	n/a	Treasury Fund	Aaa	n/a	2.80%	4,967	n/a	4,967	4,967	-
n/a	BNY Western Trust - 2024 Bonds Hamilton Treas. Money	n/a	Treasury Fund	Aaa	n/a	2.80%	1,478,666	n/a	1,478,666	1,478,666	-
Total Funds Managed by Fiscal Agent							1,494,608	n/a	1,494,608	1,494,608	-
							\$ 70,664,846	\$ (552,090)	\$ 70,112,756	\$ 70,213,341	\$ 100,585

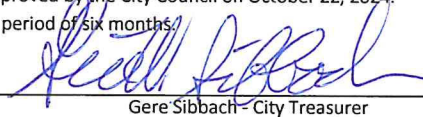
Average Maturity of Total Portfolio 830 Days

Weighted Average Yield of Total Portfolio 3.53%

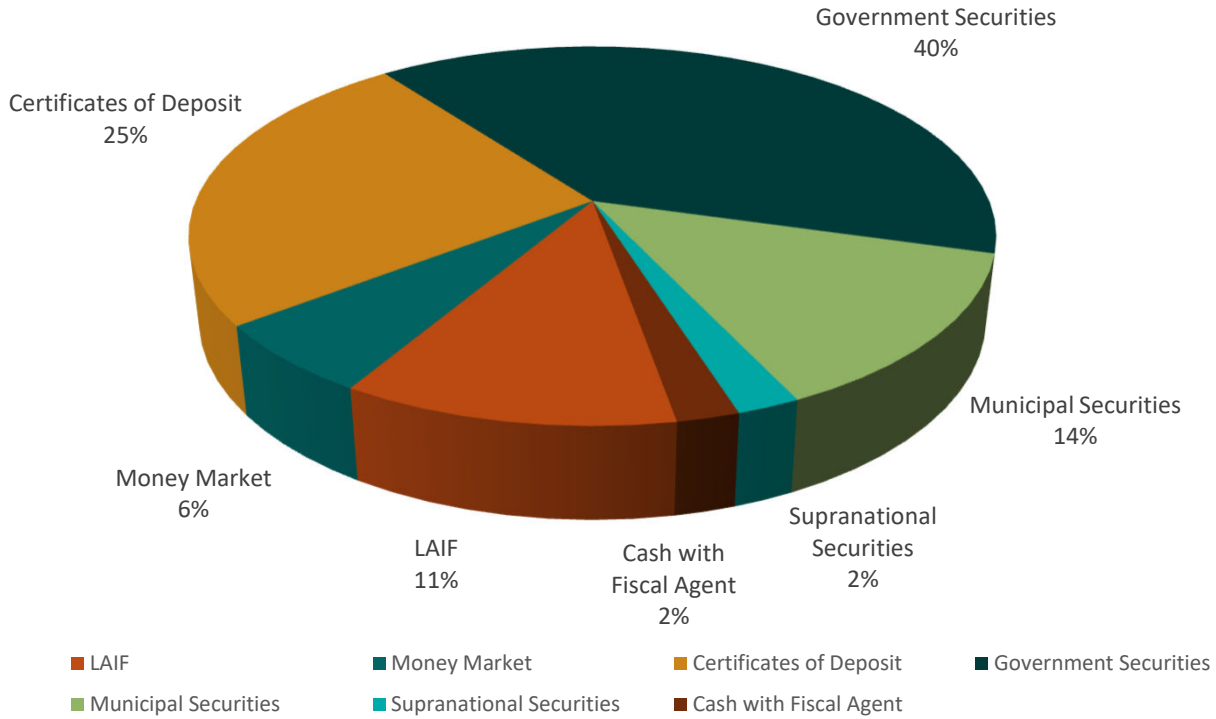
Certification:

It has been verified that this investment portfolio is in conformity with the City of Atascadero's investment policy, which was approved by the City Council on October 22, 2024. The City Treasurer certifies that there is sufficient liquidity to meet the City of Atascadero's estimated future expenditures for a period of six months.

Verified by: 
Jeri Rangel - Director of Administrative Services

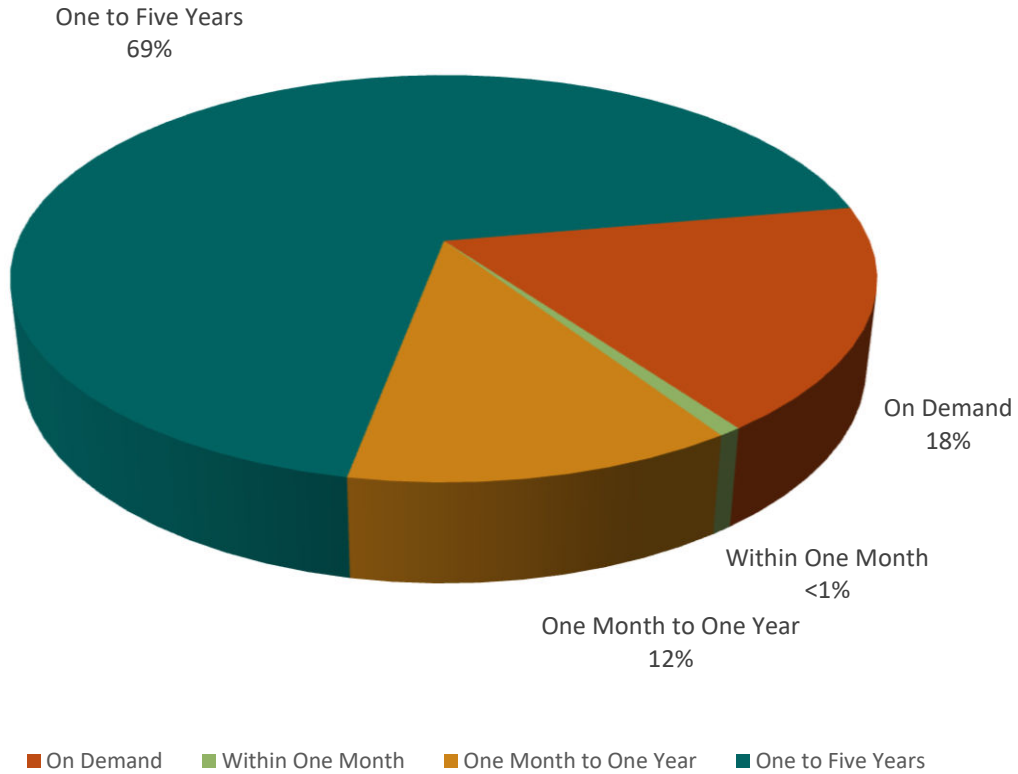
Approved by: 
Gere Sibbach - City Treasurer

City of Atascadero
Investments by Type
 September 2024



Investment	September 2024
LAIF	\$ 7,950,889
Money Market	4,255,349
Certificates of Deposit	17,593,429
Government Securities	27,802,627
Municipal Securities	9,506,672
Supranational Securities	1,509,182
Cash with Fiscal Agent	1,494,608
	\$ 70,112,756

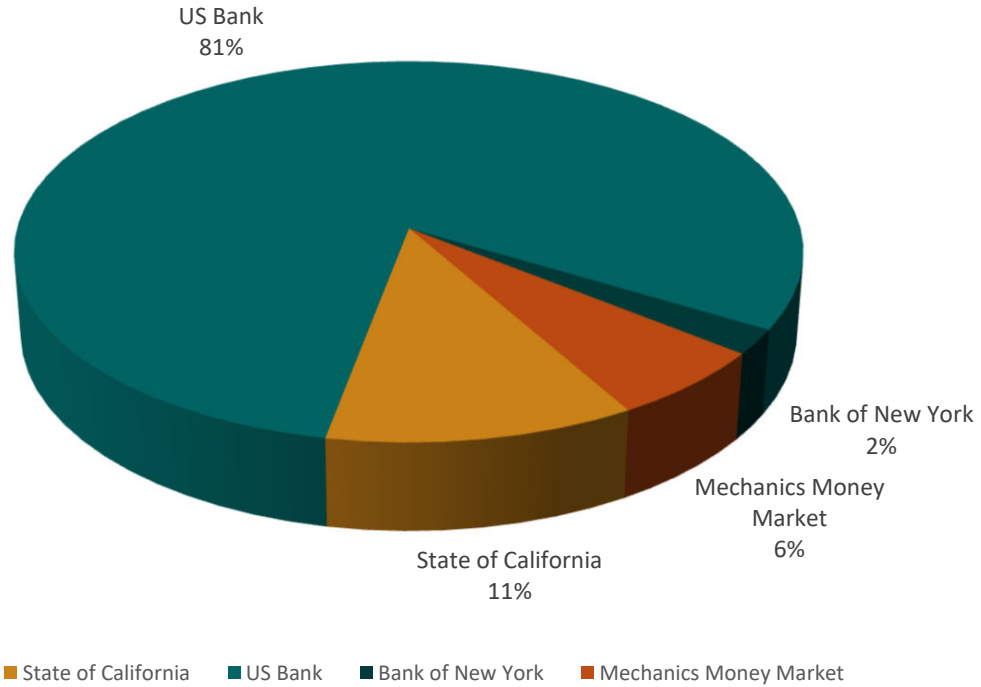
City of Atascadero
Investments by Maturity *
 September 2024



<u>Investment</u>	<u>September 2024</u>
On Demand	\$ 12,206,238
Within One Month	500,167
One Month to One Year	8,395,395
One to Five Years	47,516,348
	<u>\$ 68,618,148</u>

* Cash with fiscal agent is not included in the totals for this graph because the amounts are restricted based on bond covenants, and therefore, the City doesn't retain the option to liquefy these funds at will.

City of Atascadero
Investments by Custodial Agent
 September 2024



Custodial Agent	September 2024
State of California	\$ 7,950,889
US Bank	56,411,910
Bank of New York	1,494,608
Mechanics Money Market	4,255,349
	<u><u>\$ 70,112,756</u></u>

City of Atascadero
Investment Yield vs. 2-Year Treasury Yield
 For the Quarter Ended September 30, 2024



	<u>City Yield</u>	<u>2-Yr Treasury Weighted Portfolio Yield</u>
September 2022	1.73%	2.45%
December 2022	2.19%	2.63%
March 2023	2.53%	2.93%
June 2023	2.68%	3.17%
September 2023	2.95%	3.20%
December 2023	3.12%	3.10%
March 2024	3.23%	3.20%
June 2024	3.68%	3.67%
September 2024	3.53%	3.39%



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A7

Department: Community Development
Date: 12/10/2024
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER
FROM: PHIL DUNSMORE, COMMUNITY DEVELOPMENT DIRECTOR
PREPARED BY: KELLY GLEASON, PLANNING MANAGER
SUBJECT: Newton Development Agreement (DEV24-0075)

RECOMMENDATION:

Council adopt on second reading, by title only, Draft Ordinance to approve a Development Agreement between Scott Newton and the City of Atascadero, amend Title 9 to establish development agreement overlay zone DA1, and amend the official zoning map to establish DA1 on the subject property, and certify the proposed Mitigated Negative Declaration prepared for the properties located at 11450 Viejo Camino and 11505 El Camino Real.

DISCUSSION:

The owner of the subject properties, Scott Newton, has requested that the City enter into a Development Agreement to allow for and facilitate future development of the site with up to 42 residential units. A development agreement is a legally binding contract between a property owner and a local government that outlines the terms and conditions for a development project. Under Government Code Section 65867, the Planning Commission was required to conduct a public hearing on development agreements. The Commission reviewed the proposed agreement on October 15, 2024, and voted to recommend the Council adopt the agreement. The Development Agreement will set standards, land uses, and expectations for future site development and acts outside of the existing zoning code but remains consistent with the General Plan.

The City Council heard the item at the December 2, 2024, meeting and introduced the draft ordinance for first reading on a 5-0 vote.

FISCAL IMPACT:

None

REVIEWED BY OTHERS:

This report and the draft Development Agreement has been reviewed by the City Attorney, Planning staff, and City Engineer.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENTS:

1. Draft Ordinance

DRAFT ORDINANCE

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, ADOPTING A DEVELOPMENT AGREEMENT BETWEEN SCOTT NEWTON AND THE CITY OF ATASCADERO, AMENDING TITLE 9 OF THE ATASCADERO MUNICIPAL CODE TO ESTABLISH DEVELOPMENT AGREEMENT OVERLAY ZONE DA1, AMEND THE OFFICIAL ZONING MAP TO ESTABLISH DA1 ON THE SUBJECT PROPERTY, AND CERTIFYING THE PROPOSED MITIGATED NEGATIVE DECLARATION PREPARED FOR 11450 VIEJO CAMINO AND 11505 EL CAMINO REAL

NEWTON DEVELOPMENT AGREEMENT (DEV24-0075)

WHEREAS, Scott Newton (“Owner”) is the owner of real property located at 11450 Viejo Camino (APN 045-342-009) and 11505 El Camino Real (APN 045-342-010) within the City (the “Property”).

WHEREAS, in 2018, Owner applied for a use permit to permit a self-storage facility on the Property (“Project 1”) which was denied by City Council on appeal; and

WHEREAS, in 2020, Owner applied for a second use permit to permit a modified self-storage facility on the Property (“Project 2”) which was denied by City Council on appeal; and

WHEREAS, Owner subsequently filed litigation against the City, alleging various claims against City over City’s application and hearing process; and

WHEREAS, On September 9, 2021, Owner amended his writ petition, withdrawing all claims against individual Council Members; and

WHEREAS, in April of 2023, the Court ruled in favor of the City in regards to the First and Second causes of action in Owner's Complaint, and thereafter granted City’s Motion for Judgment on the Pleadings on the Third and Fourth causes of action regarding Owner’s petition for writ of mandate; Owner appealed those rulings on November 28, 2023; and

WHEREAS, the City Council agreed to accept and process an application for a development agreement (“Project”) as part of a settlement agreement with Owner arising out of the litigation commenced by Owner against the City; and

WHEREAS, the settlement agreement provided that the development agreement would be processed pursuant to State law and any applicable local requirements; and

WHEREAS, Government Code Section 65865 allows the City to enter into development agreements with any person having a legal or equitable interest in real property; and

WHEREAS, Government Code Section 65867.5 requires a development agreement be adopted by ordinance; and

WHEREAS, an Overlay Zone is being processed concurrently to tie the development Agreement to the subject Property; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Draft Development Agreement and associated entitlements was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said application; and

WHEREAS, The Planning Commission held a duly noticed public hearing to consider the Project on October 15, 2024 and considered testimony and reports from staff and the public.

WHEREAS, after due study and deliberation, the Planning Commission found that the draft development agreement is consistent with the General Plan, and that it contains those matters required in a development agreement by State law; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Recitals: The above recitals are true and correct and incorporated herein as if set forth in full.

SECTION 2. Public Hearings. The City Council of the City of Atascadero, at a Public Hearing held on December 2, 2024, considered testimony and reports from staff and the public and introduced for first reading, by title only, an Ordinance adopting a Development Agreement, amending Title 9 of the Atascadero Municipal Code and amending the official Zoning Map.

SECTION 3. Facts and Findings. The City Council makes the following findings and determinations for approval of the proposed actions:

A. Findings for Development Agreement:

1. **FINDING:** The Development Agreement is consistent with the General Plan

FACT: The Development Agreement requires that any future development be consistent with the General Plan designation for the property based on proposed use. The Agreement requires that the applicant/owner process a future General Plan Amendment prior to property development should the residential use not be consistent with the General Plan Designation in place at the time of development application.

B. Findings for Zone Text and Map Amendment:

1. FINDING: The proposed project or use is consistent with the General Plan, and all other applicable ordinances and policies of the City.

FACT: The proposed amendments are consistent with the General Plan. The project site is designated Public and the Development Agreement requires any future residential project to be consistent with the General Plan Designation at the time of application.

2. FINDING: The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and

FACT: The amendment will not change the use or character of the neighborhood and will not be detrimental to the health, safety, or welfare of the general public or residents within the project.

3. FINDING: The proposed project or use will not be inconsistent with the character or the immediate neighborhood or contrary to its orderly development; and

FACT: The proposed amendments are consistent with the character of the neighborhood.

4. FINDING: The proposed zone change will not create any new significant and unavoidable impacts to traffic, infrastructure, or public service impacts; and

FACT: The proposed DA#1 overlay zone will allow for future development of the site with residential units. The corresponding Zoning Map amendment and adoption of a Development Agreement will result in a residential use that will not generate a substantial increase in traffic. The proposed future residential project will generate an insubstantial increase in the volume of traffic.

SECTION 4. CEQA. The City of Atascadero prepared an Initial Study to determine if the proposed project would have a significant adverse effect on the environment. The Initial Study found that no impacts of significance were identified. Consequently, a Mitigated Negative Declaration was prepared for the Project. Adoption of Mitigated Negative Declaration No. EDN 2024-0011 will satisfy the requirements of CEQA for the adoption of the Development Agreement and Mitigated Negative Declaration No. EDN 2024-0011 is hereby certified and adopted.

SECTION 5. Approval. The Development Agreement attached hereto as Exhibit “A” is hereby approved and the City Manager is directed to execute the Agreement on behalf of the City.

The City Manager is further authorized to make such minor amendments to the Development Agreement as are necessary to carry out the intent of the Development Agreement. Not later than ten (10) business days after the effective date of this Ordinance, the City Clerk is directed to record the Development Agreement with the San Luis Obispo County Recorder's office. The text amendments to Title 9 of the Atascadero Municipal Code attached hereto as Exhibit "B", and the Zoning Map amendment attached hereto as Exhibit "C", are approved to establish an Overlay Zone on the Property in substantial conformance with Exhibit A.

SECTION 6. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7. Preservation. Repealing of any provision of the Atascadero Municipal Code or of any previous Code Sections, does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 8. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the Atascadero Municipal Code or other City Ordinance by this Ordinance will be rendered void and cause such previous Atascadero Municipal Code provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 9. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 10. Notice. The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Atascadero's book of original ordinances, make a note of the passage and adoption in the records of this meeting and within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

INTRODUCED at a special meeting of the City Council held on December 2, 2024, and **PASSED, APPROVED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on December 10, 2024.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Dave Fleishman, City Attorney

NEWTON DEVELOPMENT AGREEMENT

1.0 Recitals

- 1.1 Legal Authority for a Development Agreement. Pursuant to California Government Code sections 65864-65869.5 (the “Development Agreement Statute”) the City of Atascadero (“City”) hereby enters into this Development Agreement (hereinafter "Agreement") with Scott Newton (“Owner”). The effective date of this Agreement (“Effective Date”) shall be the 31st day following the date on which the ordinance approving this Agreement is adopted by City.
- 1.2 Owner’s Interest. Owner currently holds a legal and/or equitable interest in certain real property located within the City, consisting of approximately 4.32 acres in two legal parcels, and as more particularly described in Exhibit “A” (the “Property”). Owner proposes to develop the Property with a maximum of 42 residential units, with a height of no more than 30 feet with an additional four feet for architectural and enhanced roof design elements, however configured, with associated improvements, drainage and flood control facilities, and modification of a drainage channel on the Property to provide flood control and habitat enhancement (the “Project;” the Project is shown and described in more detail in the plans attached as Exhibit “B”). The Project shall meet all applicable local, state, and federal requirements unless specifically detailed in this Agreement, including Objective Design Standards approved by the City on June 25, 2024.
- 1.3 Project Approvals. In connection with the Project, Owner submitted an application on August 20, 2024, which may eventually include a General Plan Amendment (“GPA”) and a Zoning Change, to accommodate the Project, as well as a request for processing of this Development Agreement, which Agreement was approved by the City on December 10, 2024 (“Project Approvals”).
- 1.4 Scope of Project Approvals. The permitted uses of the Property, the maximum density and intensity of use, the maximum height, bulk and size of proposed buildings, provisions for reservation or dedication of land for public purposes and location and maintenance of on-site and off-site improvements, location of public utilities, and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals, any

amendments to this Agreement or the Project Approvals, and Applicable Rules as defined herein.

2.0 Benefits

2.1 City. Under the policies, ordinances and regulations in effect at the time Owner submitted the application for the Project, the City was faced with litigation over the development of the Property, the suitability of the existing zoning and General Plan designations, and the development allowed on the Property under the then-existing zoning. The Project described in this Development Agreement provides needed housing for the City, flood control measures, and necessary street improvements to an important City Gateway parcel.

2.2 Owner. Under the ordinances and regulations in existence at the time the Owner submitted the application for the Project, Owner's right to proceed would not fully vest until recordation of final maps and commencement of substantial construction; however, as noted herein, Owner was unwilling to dismiss the litigation without the City's processing of this Agreement. Owner benefitted because such Project Approvals could be immediately vested, and Owner was willing to dismiss the litigation and provide such other benefits to the City as set forth herein.

3.0 Obligations of Parties.

3.1 City. The City agrees that:

3.1.1 Pursuant to this Agreement, Owner has a vested right to develop the Property and the Project in accordance with the policies, rules and regulations of the City in effect on December 10, 2024 ("Applicable Rules"). As set forth herein, "Applicable Rules" shall include, but not be limited to all state and federal statutory and regulatory provisions governing use of the Property, the California Environmental Quality Act ("CEQA") the environmental mitigation measures required for the Project attached as Exhibit C, and the rules, regulations and official policies of City, including the plans, municipal codes,

ordinances, resolutions and other local laws, regulations, fees and policies of City in force and effect on the Effective Date. Owner agrees to participate in and vote to approve the annexation to the City's Community Facilities District No. 2005-1 (Public Services) prior to issuance of any residential permit or recordation of any subsequent subdivision map, whichever occurs first.

3.1.2 Subject to the City's exercise of its police power authority and applicable limitations on development agreements in state law, the Owner shall have a vested right to: (i) receive from the City all future development approvals for the Property that are consistent with the Project Approvals; (ii) not have such approvals be conditioned or delayed for reasons which are inconsistent with this Development Agreement; and (iii) develop the Property in a manner consistent with such future development approvals in accordance with this Development Agreement. Any future development approvals for the Property, including without limitation general plan amendments, zoning changes, or parcel maps or tract maps, shall upon approval of the City be vested in the same manner as provided in this Development Agreement. In furtherance of the foregoing, the Owner retains the right to apportion the uses, intensities and densities, between itself and any other owners of the Property, upon the sale, transfer or assignment of any portion of the Property, so long as such apportionment is consistent with the future entitlements obtained from the City, and this Development Agreement.

3.1.3 City may apply to the Project and the Property any rule, regulation or official policy of City (including any plan, municipal code, ordinance, resolution or other local law, regulation, capital facility fee or policy of City) (each a "City Law") that does not conflict with Applicable Rules or this Agreement. City shall not, however, without the written consent of Owner apply to the Project or the Property (whether by initiative, referendum, imposition of mitigation measures not otherwise required under CEQA or otherwise) any City Law that is in conflict with the Applicable Rules or this Agreement.

3.1.4 Under this Agreement, Owner has a vested right to develop the Project in accordance with this Agreement, the Applicable Rules, and in accordance with the Project Approvals for the Project as described herein, for ten (10) years from the Effective Date of this Agreement ("Term") unless this Term is otherwise terminated or extended as set forth in this Agreement. If any person not party to this Agreement institutes any administrative, legal, or equitable action or other proceeding challenging the validity of any provision of

this Agreement, the Term shall be extended for the period of time required for the administrative, legal, or equitable action or other proceeding to come to a conclusion.

3.1.5 The City and Owner intend that Owner shall have such rights to develop the Project in accordance with the Project Approvals to the full extent provided for in the Development Agreement Statute and case law construing or interpreting Development Agreements, except as expressly modified by this Agreement.

3.1.6 This Agreement shall be subject to all the requirements and obligations of a Development Agreement under the Development Agreement Statute. Nothing herein shall prevent City from applying to the Project standards contained in uniform building, construction, fire or other uniform codes, as the same may be adopted or amended from time to time by City, provided that the provisions of any such uniform code shall: (i) Apply to the Project only to the extent that such code is in effect on a City-wide basis; and (ii) With respect to those portions of any such uniform code that have been adopted by City without amendment, be interpreted and applied consistently with the generally prevailing interpretation and application of such code in California. Nothing herein shall prevent City from applying to the Project those standards and specifications for public improvements (e.g., streets, storm drainage, parking lots, and driveway widths) that are in effect on a City-wide basis, as they are adopted or amended from time to time by City, provided that such standards and specifications shall apply to the Project and the Property only to the extent that they are in effect on a City-wide basis. Notwithstanding the foregoing sentence, Owner shall not be required to modify the existing drainage culvert beneath Viejo Camino unless required by applicable state and/or federal agencies.

3.1.7 City agrees that all impact fees within the control of the City shall be those in effect on the earlier of (a) the effective date of the ordinance approving this Agreement, or (b) the date on which a complete preliminary application is submitted pursuant to Government Code Section 65941.1(a). The impact fees shall be subject to annual adjustment each July 1 during the Term of the Development Agreement by the greater of the CPI-U, Los Angeles-Long Beach-Anaheim, All Urban Consumers, All Items. Owner shall pay any plan check and inspection fees in effect at the time of permit application(s) with exception of any in-lieu affordable housing fees or development agreement processing fees, or requirement of affordable housing units, which are expressly waived under the terms of this Agreement.

3.1.8 Due to the anticipated affordability of units within the Project, the City agrees that affordable housing shall not be required, and no affordable housing in lieu fees shall be assessed against the Project or Owner.

3.1.9 Due to the nature of the project, the City agrees that no traffic improvements shall be required except as required by this Agreement or as may be required to comply with CEQA.

3.1.10 City will allow a grading permit and realignment of the water way before submittal of the development application upon receipt of approvals for water way realignment from applicable state and/or federal agencies.

3.1.11 Owner may request expedited processing for all construction and building permits at the rates established in the City's master fee schedule and/or direct charges from the outside consulting plan checkers.

3.2 Owner. Owner agrees to the following restrictions and conditions on the Project:

3.2.1 Owner will dismiss the litigation within five business days after the effective date of the ordinance approving this Development Agreement. Owner further agrees to develop the Project in substantial conformity with the application already submitted.

3.2.2 The floodway shall be retained and the creek shall be designed as a natural feature and site amenity. If the creek is realigned, the project shall maintain a naturalized creek alignment and remap the floodway through FEMA. No channelization of the creek is allowed through the use of concrete armoring or other man-made structures. Pursuant to Policy 8.2 of the General Plan, all habitable structures on-site shall maintain a minimum 20-foot setback from the top of bank, or shall be located outside the mapped floodway, whichever is greater. All other structures shall maintain a minimum 10-foot setback from the top of bank.

3.2.3 Owner shall submit the Project's flood control measures and drainage channel improvements on the Property to the California Department of Fish & Wildlife ("CDFW") and other appropriate state and federal agencies, as necessary. Owner shall comply with all requirements imposed and permits issued by such state and federal agencies for flood control measures, drainage channel improvements, and biological remediation on the

Property. City shall not require any modifications to the approvals issued by any state and/or federal agencies.

3.2.4 A hydrology/hydrological drainage report prepared by a licensed civil engineer is required that demonstrates compliance with stormwater runoff rate control and post-construction requirements and that no negative impacts will occur to downstream, upstream, and adjacent properties at time of project submittal.

3.2.5 Access shall be from Viejo Camino and shall align with Bocina Lane to the greatest extent feasible, or other location mutually agreed upon by the City and Owner.

3.2.6 Frontage improvements shall be required on Viejo Camino to include concrete curb, gutter, and sidewalk (5-ft.) to accommodate the existing bike lane (5-ft.).

3.2.7 Street trees will be provided at a maximum spacing of 30-feet on-center to be planted behind sidewalk along Viejo Camino, and along El Camino Real outside the City's current right-of-way. Naturalized tree groupings may be permitted at a distance greater than 30 feet.

3.2.8 The project will design and construct and dedicate a vehicular access and public utilities easement for city maintenance needs unless alternative access to manholes is provided through circulation design of the project. If the easement remains the primary city access, the accessway must be constructed of base and built to carry the weight of the City's sewer cleaning truck. Owner shall dedicate an additional five-foot wide easement immediately adjoining the existing easement, on the southern Property boundary line, to ensure the City has unobstructed access to the existing easement once the floodway realignment has occurred. Owner agrees that the top of bank of the realigned floodway shall be a minimum of seven and one-half (7.5) feet from the City's existing sewer line in the easement.

3.2.9 All new and relocated utilities on the Project site will be undergrounded.

3.2.10 A pedestrian connection across the creek shall be provided internal to the project.

3.2.11 Creek crossings for both vehicles and pedestrians may utilize precast concrete or HDPC culverts and will not be deemed as "channelization."

3.2.12 Except as set forth in Section 4.1, Owner agrees that he shall not develop the Property with more than 42 residential units, nor shall he apply for a density bonus or other

waivers, incentives or concessions pursuant to Government Code Section 65915 or subsequently adopted similar statutes that require a public agency to grant density bonuses for specified reasons.

3.2.13 Owner acknowledges and agrees that the terms and provisions of this Agreement specifically permit City in some instances to impose requirements upon the Project that City would not otherwise be able to impose due to a lack of nexus, rough proportionality or reasonable relationship between the Project and such requirement or other reasons. To the extent any such requirement is imposed by City upon the Project consistently with the terms and provisions of this Agreement, Owner waives any right to challenge the imposition of such requirement by City.

4.0 Project Development

4.1 Conflicting enactments. Except as otherwise provided herein, any change in the Applicable Rules, including, without limitation, any change in any applicable general, area or specific plan, zoning, subdivision or building regulation, adopted or becoming effective after the Effective Date, including, without limitation, any such change by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the City Council, the Planning Commission or any other board, commission or department of City, or any officer or employee thereof, or by the electorate, as the case may be, which would, absent this Agreement, otherwise be applicable to the Project and which would conflict in any way with, be more restrictive, or impose greater obligations or burdens on Owner, than the Applicable Rules (“Subsequent Rules”), shall not be applied by City unless both Owner and City consent in writing. However, should subsequent City action result in an increase in allowable density, and the Project has not been completed, the increased density shall apply to the Project.

4.2 Expiration. Following the expiration of the ten-year Term of this Agreement, this agreement shall be deemed terminated and of no further force and effect except as to actions arising from enforcement of its terms during the Term; provided, however, such termination shall not affect any right or duty arising from City approvals, and provided that any ongoing construction work being performed pursuant to the Project Approvals shall be allowed to be completed pursuant to the Applicable Rules notwithstanding the termination of this Agreement.

4.3 Term of Maps and Other Project Approvals. Pursuant to California Government Code Sections 66452.6(a) and 65863.9, the term of any subdivision or parcel map that may be processed on all or any portion of the Project, and the term of each of the Project Approvals shall be extended for a period of time equal to the Term of this Agreement as set forth in Section 3.1.4.

4.4 Timing of Development. Because the California Supreme Court held in Pardee Construction Co. v. County of Camarillo (1984), 37 Cal.3d 465, that failure of the parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that Owner shall have the right (without obligation) to develop portions of the Project in such order and at such rate and at such times as Owner deems appropriate within the exercise of its subjective business judgment. City shall not attempt to limit or restrict the timing of development of the Project except in accordance with the terms of this Agreement.

4.5 Owner shall complete the Project not later than twelve (12) years after the Effective Date. Should Owner fail to complete construction on the Project within this time period, absent an agreed-upon extension of this Agreement, which shall not be unreasonably withheld by City, Owner's right to develop the Property as set forth herein shall lapse and be of no further force or effect. Notwithstanding anything to the contrary in Section 4.2, this section shall survive any termination of the Agreement.

4.6 Moratoria/Initiatives. No City-imposed moratorium or other limitation relating to the rate, timing or sequencing of the development or construction of all or any part of the Project, whether imposed by ordinance, initiative, resolution, policy, order or otherwise, and whether enacted by the City Council, the Planning Commission, an agency of City, the electorate, or otherwise, affecting parcel or subdivision maps (whether tentative, vesting tentative or final), building permits, occupancy certificates or other entitlements to use or service (including, without limitation, water and sewer unless such water or sewer moratoria or other limitations are imposed City-wide to protect the public health, safety and welfare) approved, issued or granted within City, or portions of City, shall apply to the Project.

4.7 Vesting of Owner's Rights. The rights to the Applicable Rules and entitlements pursuant to Project Approvals granted to Owner pursuant to this Agreement shall be and constitute "vested rights" or the equivalent of "vested rights" applicable to the

development of land and property and the right of a public entity to regulate or control such development of land or property, including, without limitation, vested rights to land use permits, building permits and certificates of occupancy consistent therewith, unless the City determines that failure to apply a new ordinance or regulation would place the residents of the Project or other residents of the City in a condition of substantial danger to their health or safety, or both. In such an instance, the City may condition or deny an entitlement, permit, extension or approval as may be necessary to comply with later enacted State or Federal laws regulations.

4.8 Future Amendments. In the future, there may be a need to make minor changes to the Modified Project Approvals, which minor changes will not significantly modify the Project, and which may be required to properly implement the Project Approvals. The parties agree that such minor modifications shall not be considered amendments to this Agreement, and they shall be allowed on approval of the Planning Director without notice and public hearings, or placement upon the agenda of the Planning Commission or the City Council. “Minor modification” is defined as any modification to the Project which will result in cost increases of less than \$250,000.00, or any mutually agreed upon modification.

4.9 Cooperation. The provisions of this Agreement require a close degree of good faith cooperation between the City and Owner. Implementation of the Project may require minor modifications of the details of the Project and affect the performance of the parties to this Agreement. The anticipated refinements of the Project and the development of the Property may require that appropriate clarifications and refinements are made to this Agreement with respect to the details of the performance of the City and the Owner which shall be considered by both parties in good faith. The parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement so long as the exercise of such flexibility does not result in a material change to either of the parties’ reasonable expectations consistent with the purpose of this Agreement. Except as the parties may otherwise agree, no amendment of this Development Agreement shall be required in connection with the issuance of any future Project approval. ___

5.0 Cooperation of Implementation.

5.1 Further Assurances: Covenants to Sign Documents. Each party shall take all actions and do all things, and execute, with acknowledgment or affidavit, if required, any and all documents and writings, that may be necessary or proper to achieve the purposes and objectives of this Agreement.

5.2 Processing by City. Upon satisfactory completion by Owner of all required preliminary actions and payments of appropriate processing fees, if any, City shall process the Project subject to all legal requirements, initiate process, complete at a reasonable time all required steps, and grant ministerial approvals or permits necessary for the development by Owner of the Project in accordance with this Agreement, including but not limited to, the processing of applications for and issuing of all ministerial approvals required for the implementation of and the determination of conformance with the Project Approvals, this Agreement, and Applicable Rules as necessary for the completion of the development of the Project (“Ministerial Approvals”).

5.3 Processing during litigation. The filing of any third-party lawsuit(s) against City or Owner relating to this Agreement or to other development issues affecting the Project shall not delay or stop the development, processing or construction of the Project, or issuance of Ministerial Approvals, unless the third party obtains a court order enjoining or otherwise preventing the activity. City shall not stipulate the issuance of any such order.

5.4 Defense of Agreement. Owner shall indemnify, and offer to defend (with counsel jointly selected by Owner and City,) and hold harmless City and its officers, employees and agents from and against any and all losses, liabilities, fines, penalties, costs, claims, demands, damages, injuries or judgments arising out of, or resulting from, City’s approval of this Agreement or either Party’s performance pursuant to this Agreement. Owner shall seek and secure City’s consent to any settlement of such action only if such settlement materially changes the Project or the Property, which consent shall not unreasonably be withheld or delayed. Owner agrees that Owner’s counsel will not disclose any information confidential to the City, gained during such defense, in any future proceedings where City may be adverse to Owner or Owner’s counsel, including quasi-judicial, or administrative proceedings. City further irrevocably agrees not to assert any representation in such defense by Owner’s counsel as a potential conflict of interest in any future quasi-judicial, or administrative proceeding, where City is a permitting agency, not related to the Project, and City hereby irrevocably waives any actual or potential conflict of interest under such circumstances. If this Agreement is adjudicated or determined to be invalid or

unenforceable, City agrees, subject to all legal requirements, to consider modifications to this Agreement to render it valid and enforceable to the extent permitted by applicable law.

5.5 Indemnity Arising From Construction. Owner shall defend and indemnify City from and against any and all damages, claims, costs and liabilities arising out of the personal injury or death of any person, or damage to the property of any person, to the extent such damages, claims, costs or liabilities result from the construction of the Project by Owner or by Owner's contractors, subcontractors, agents or employees, except as caused by the sole negligence, active negligence or willful misconduct of City, its officers, employees, contractors, consultants or agents.

5.6 Failure to Accept Tender of Defense. If Owner should fail to accept City's tender of defense as set forth in Sections 5.4 and 5.5, City shall defend any actions asserted against City and control the defense and/or settlement of such action as City decides in its sole discretion, and City may take any and all actions it deems necessary and appropriate in its sole discretion in connection therewith. Owner shall indemnify City against reasonable fees and costs arising out of the City's defense of such action. In any action or proceeding challenging the approval of this Agreement, the City shall reasonably cooperate with Owner in defending such action or proceeding. Notwithstanding the foregoing, if Owner determines for any reason that it no longer intends to develop the Project, then it may deliver notice of such determination to City, and Owner shall not be liable for any defense costs incurred by City more than 90 days following the delivery of such notice.

5.7 City Cooperation and Discretion. City agrees to cooperate with Owner in obtaining the approval of other public agencies by providing any documents or certificates reasonably required to process and obtain such permits and approvals from other public agencies. City retains full discretion in any future discretionary actions with respect to the Project consistent with the Applicable Rules and section 5.6 herein.

6.0 General Provisions

6.1 Covenants Run with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, reorganization, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring the Project, or any portion thereof, or any interest therein,

whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors and assigns. All of the provisions of this Agreement shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Civil Code Section 1468.

6.2 Transfer and Assignment. Right to Assign. Owner shall have the right to sell, assign or transfer all or portions of the real property comprising the Project to any person at any time during the Term of this Agreement. Upon the delegation of all duties and obligations and the sale, transfer or assignment of all or any portion of the Property, Owner shall be released from its obligations under this Agreement with respect to the Property, or portion thereof so transferred, arising subsequent to the effective date of such transfer if all of the following are true: (i) Owner has provided to City fifteen (15) business days' written notice of such transfer (ii) the transferee has agreed in writing to be subject to all of the provisions hereof applicable to the portion of the Property so transferred (iii) owner is not in default of this Agreement (iv) no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410 et seq., and (v) the City Council agrees to release the Owner from its duties and obligations under this agreement, which release shall not be unreasonably withheld. As to item (v) above, City's failure to respond within 30 days of the receipt of notice shall be deemed an agreement to release the Owner. Upon any transfer of any portion of the Property and the express assumption of Owner's obligations under this Agreement by such transferee, City agrees to look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Property acquired by such transferee. A default by any transferee shall only affect that portion of the Property owned by such transferee and shall not cancel or diminish in any way Owner's rights hereunder with respect to any portion of the Property not owned by such transferee. The transferee shall be responsible for the reporting and annual review requirements relating to the portion of the Property owned by such transferee, and any amendment to this Agreement between City and a transferee shall only affect the portion of the Property owned by such transferee.

6.3 Statement of Compliance. Within sixty days following any written request which either City or Owner may make from time to time, the other shall execute and deliver to the requesting party a statement ("Statement of Compliance") certifying that: (1) this Agreement has not been modified and in full force and effect or, if there have been modifications hereto, that this Agreement is in full force and effect, as modified, and stating the date and nature of such modifications; (2) there are no current known uncured

defaults under this Agreement or specifying the dates and nature of any such defaults; and (3) any other reasonable information requested. The failure to deliver such statement within such time shall be conclusive upon the party which fails to deliver such statement that this Agreement is in full force and effect without modification and that there are no uncured known defaults in the performance of the requesting party. The City Clerk shall be authorized to execute any Statement of Compliance pursuant to this section. City and Owner may make only one request for a Statement of Compliance, respectively, within any twelve-month period beginning at the Effective Date or the date of an immediate past request by the requesting party, whichever occurred last. City shall not be bound by a statement of compliance if a default existed at the time of execution but was concealed from the City.

6.4 Default. Failure by City or Owner to perform any term or provision of this Agreement for a period of sixty days, subject to extensions to time by mutual consent in writing, from the receipt of written notice thereof from the other shall constitute a default under this Agreement. Said notice shall specify in detail the nature of the alleged default and the manner in which said default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within such 60-day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period. Subject to the foregoing, after notice and expiration of the 60-day period without cure, the notifying party, at its option, may institute legal proceedings pursuant to this Agreement and/or give notice of intent to terminate this Agreement, in the manner provided by Government Code Section 65867 for adoption of a development agreement.

6.5 Default Remedies. In addition to that provided for in Section 6.4, in the event either party defaults (as defined in Section 6.4) under the terms of this Agreement, the other party shall have all rights and remedies provided herein or under applicable law, including the specific performance of this Agreement.

6.6 Legal Action. Any party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, or enforce by specific performance the obligations and rights of the parties hereto. Venue in any legal action instituted in the Superior Court of the State of California shall be San Luis Obispo County. Venue in any legal action instituted in United States District Courts shall be in the Central

District of California. Owner hereby consents to personal jurisdiction in these respective courts for that purpose.

6.7 Waiver & Remedies. Failure by City or Owner to insist upon the strict performance of any of the provisions of this Agreement, irrespective of the length of time for which such failure continues, shall not constitute a waiver of the right to demand strict compliance with this Agreement in the future. No waiver by City or Owner of a default or breach of any other party shall be effective or binding upon it unless made in writing, and no such waiver shall be implied from any omission by City or Owner to take any action with respect to such default or breach. No express written waiver of any defaults or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified in such express waiver. One or more written waivers of a particular default or breach under any provision of this Agreement shall not be a waiver of any subsequent default or breach of that provision or the performance of the same or any other term or provision contained in this Agreement. Subject to notice of default and opportunity to cure under Section 6.4, all of the remedies permitted or available under this Agreement, at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

6.8 Non-Recourse. The obligations of Owner under this Agreement shall be without recourse to the assets of the general partners or of any general partner, officer, shareholder, director, unit holder or employee of Owner or any general partner of Owner.

6.9 Permitted Delays & Supersedure By Subsequent Laws.

6.9.1 Permitted Delays. In addition to any specific provisions of this Agreement, performance of obligations hereunder shall be excused and the Term of Agreement shall be similarly extended during any period of delay caused at any time by reason of: acts of God, such as floods, earthquakes, fires, or similar catastrophes; wars, riots or similar hostilities; strikes and other labor difficulties beyond the party's reasonable control (including the party's employment force); the enactment of new laws or restrictions imposed or mandated by other governmental or quasi-governmental entities preventing this Agreement from being implemented; litigation involving this Agreement, the Project Approvals, or the Ministerial Approvals, which directly or indirectly delays any activity contemplated hereunder or other causes beyond the party's reasonable control. City and

Owner shall promptly notify the other party of any delay hereunder as soon as possible after the nature and duration of such delay has been ascertained.

6.9.2 Supersedure by Subsequent Laws. If any federal or state law, made or enacted after the Effective Date prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new law. Immediately after enactment or promulgation of any such new law, City and Owner shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. Owner and City shall have the right to challenge the new law preventing compliance with the terms of this Agreement, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect. Owner and City, by mutual consent, may elect to extend the term of this Agreement for the duration of the period during which such new law precludes compliance with the provisions of this Agreement.

6.10 Amendments. This Agreement may be amended from time to time by mutual consent of the parties to this Agreement, in accordance with the provisions of Government Code sections 65867 and 65868, unless compliance with those sections is excused under the terms of Paragraph 4.7, above.

6.11 Annual Review of Agreement. Pursuant to Government Code Section 65865.1, the annual review date for this Agreement (the "Review Date") shall be one year following the Effective Date and the annual anniversary of said date each year thereafter. The City's Planning Department shall initiate the annual review by giving to Owner, no later than sixty (60) days following the Review Date, written notice that the City intends to undertake such review for the annual period ending with the Review Date. Owner shall be required to pay to City such fees as are established by City Council resolution for the annual review of a development agreement, if any. Such fees shall be limited to the reasonable costs incurred by the City in conducting the Annual Review, if any. Owner shall provide evidence of good faith compliance with the terms and conditions of this Agreement to the Planning Department within thirty (30) days following receipt of the Planning Department's notice. The Planning Department shall review the evidence submitted by Owner and shall, within thirty (30) days following receipt of Owner's evidence, make a recommendation to the City Council either (1) that the City Council find that Owner has demonstrated good faith

compliance with the terms and conditions of this Agreement, or (2) that the City Council finds that Owner has not demonstrated good faith compliance with the terms and conditions of this Agreement, setting forth with specificity the basis on which the Planning Department makes its recommendation of a finding of non-compliance. In the event the City Council finds that Owner has not demonstrated good faith compliance with the terms and conditions of this Agreement, City may terminate this agreement pursuant to Government Code Section 65865.1. In the event that City does not initiate an annual review or that the City Council does not make its determination within six months of the Review Date for a given year, then it shall be deemed conclusively that Owner has complied in good faith with the terms and conditions of this Agreement during the period under review.

7.0 Miscellaneous Provisions

7.1 Incorporation of Recitals and Exhibits. *Exhibits A through C* attached hereto and referred to herein are incorporated in this Agreement as though fully set forth in the body hereof.

7.2 Negation of Partnership. The Project constitutes private development, neither City nor Owner is acting as the agent of the other in any respect hereunder, and City and Owner are independent entities with respect to the terms and conditions of this Agreement. None of the terms or provision of this Agreement shall be deemed to create a partnership between or among the parties in the businesses of Owner, the affairs of City, or otherwise, nor shall it cause them to be considered joint ventures or members of any joint enterprise.

7.3 No Third party beneficiary. This Agreement is not intended, nor shall it be construed, to create any third-party beneficiary rights in any person who is not a party, unless expressly otherwise provided.

7.4 Entire Agreement. This Agreement as augmented by the Project Approvals sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

7.5 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order shall in no way affect any

of the other provisions hereof or the application thereof to any other person or circumstance, and the same shall remain in full force and effect, unless enforcement of this Agreement, as so invalidated, would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement and the rights and obligations of the parties hereto.

7.6 Construction. The provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against Owner or City and consistent with the provisions hereof, in order to achieve the objectives and purposes. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine general shall include the feminine or neuter genders, or vice versa.

7.7 Section Headlines. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

7.8 Applicable law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objective and purposes of the parties hereto and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

7.9 Notice. Any notice shall be in writing and given by delivering the same in person or by sending the same registered, or certified mail, return receipt requested, with postage prepaid, by overnight delivery, or by facsimile to the respective mailing addresses, as follows:

City: Mr. Jim Lewis
 City Manager
 City of Atascadero
 6500 Palma Ave
 Atascadero CA 93422
 Email: jlewis@atascadero.org

Copy to: David Fleishman
City Attorney
Richards, Watson & Gershon
847 Monterey Street, Ste 206
San Luis Obispo CA
Email: dfleishman@rwglaw.com

Owner: Scott Newton
215 Santa Fe Ave
Pismo Beach CA 93449
Email: Scott@manyfigs.com

Copy to: Kate Neiswender
Law Office of K.M. Neiswender
Post Office Box 1225
Blue Jay CA 92317
Email: katelawventura@gmail.com

City or Owner may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt or air bill. Delivery by email shall not be an effective means of delivering notice; however, any notice provided should, whenever possible, be given by email as well as other means of allowed delivery.

7.10 Time is of the essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

7.11 Recordation. In order to comply with section 65868.5 of the Government Code, the parties do hereby direct the City Clerk to record a copy of this Agreement against the Property with the County Recorder of San Luis Obispo County within ten (10) days after the Effective Date.

7.12 Successors and Assigns. The provisions of this Agreement shall be binding of the parties hereto, and subsequent owner of all or any portion of the property and their respective successors and assigns. Any successors in interest to the City shall be subject to the provisions set forth in sections 65865.4 and 65868.5 of the California Government Code._

IN WITNESS WHEREOF, OWNER AND CITY have executed this Agreement as of the date hereinabove written.

CITY OF ATASCADERO

Mayor

ATTEST: _____
City Clerk

Approved as to Form:

David Fleishman, City Attorney

OWNER

Scott Newton

Kate M. Neiswender, Counsel for Owner

NEWTON DEVELOPMENT AGREEMENT EXHIBIT A: LEGAL DESCRIPTION

Real property in the City of Atascadero, County of San Luis Obispo, State of California, described as follows:

PARCEL ONE: (A.P.N.: 045-342-009)

That portion of Lot 7 of Block 66 of Atascadero Colony, in the City of Atascadero, County of San Luis Obispo, State of California, according to map recorded October 14, 1914 in [Book 3, Page 97](#) of Maps, and as shown on the record of Survey Map recorded March 26, 1980 in [Book 37, Page 69](#) of Records of Surveys, described as follows:

Beginning at the most Westerly corner of Lot 7, Block 66; thence along the line common to Lots 7 and 8 as shown on said Map, North 42° 17' 08" East, a distance of 495.30 feet to the True Point of Beginning, said point being on the Easterly right of way of El Camino real (old State Highway 101); thence continuing along said common line North 42° 17' 08" East, a distance of 294.14 feet to a point on the Southwesterly right of way of Viejo Camino; thence along said right of way as shown on said Map, South 70° 00' 48" East a distance of 251.26 feet to a point on the line common to Lots 6 and 7; thence along said common line as shown on said Map, South 42° 12' 9" West, a distance of 440.60 feet to a point on the Easterly right of way of before mentioned El Camino Real; thence along said right of way as shown on said Map, North 35° 20' 46" West, a distance of 238.65 feet to the True Point of Beginning.

Excepting therefrom all minerals and oils in, under or upon said land as reserved in deeds from Colony Holding Corporation and from A.P. Kottler recorded September 26, 1919 in [Book 129, Page 125](#) of Deeds and March 24, 1933 in [Book 134, Page 33](#) of Official Records, respectively.

Also excepting therefrom any portion of said land that may lie within the streets, roads or alleys as shown on the map of Atascadero Colony above referred to.

This legal description is made pursuant to that certain Certificate of Compliance recorded November 18, 1981, as Instrument No. [54089](#), Book 2370, Page 143 of Official Records.

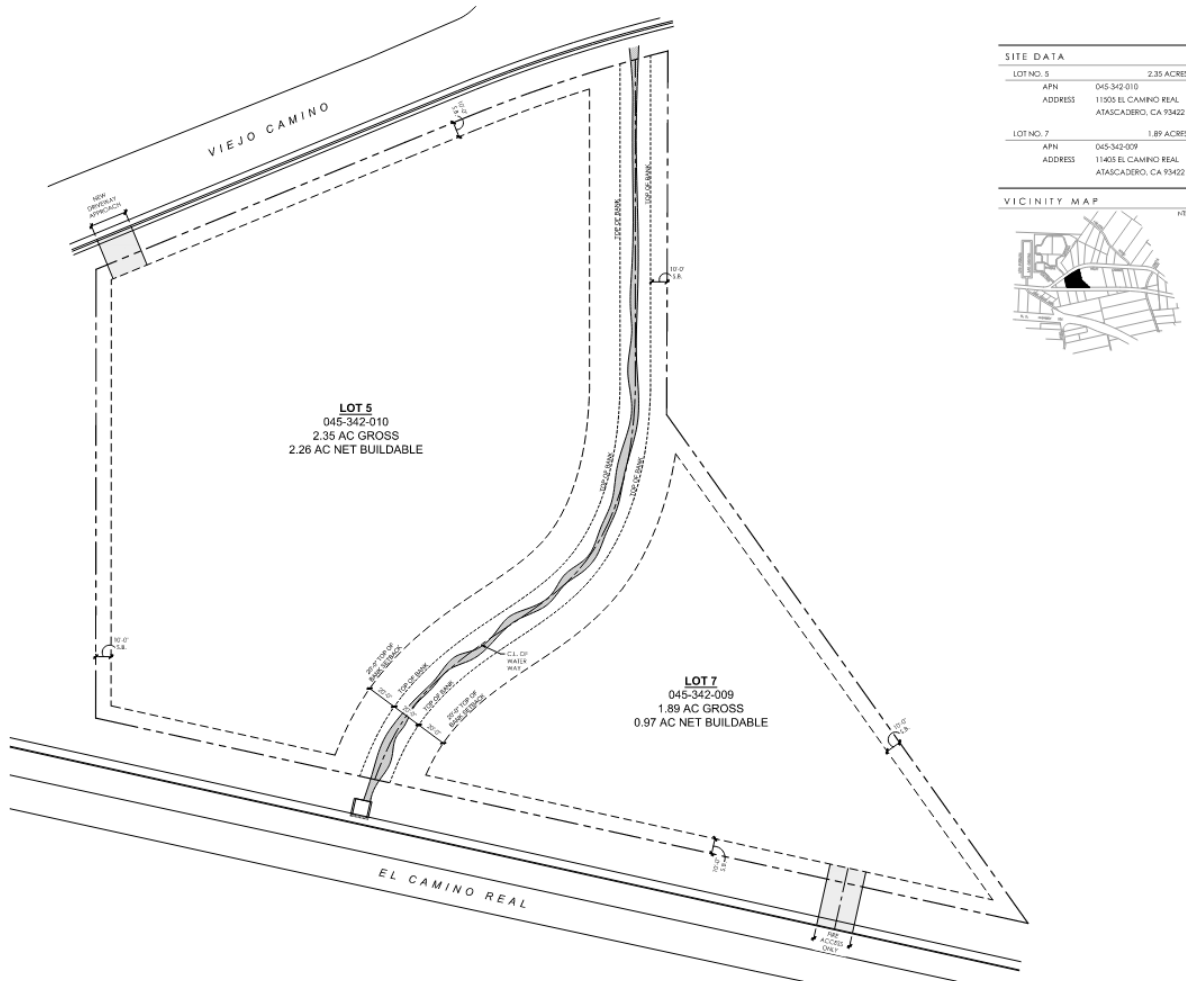
PARCEL TWO: (A.P.N.: 045-342-010)

All that portion of Lots 5 and 6 in Block 66 of Atascadero Colony, in the City of Atascadero, County of San Luis Obispo, State of California, according to map recorded October 21, 1914 in [Book 3 Page 1](#) et seq., of Maps, which was conveyed to Gertrude Hopper, by deed recorded September 13, 1918 in [Book 117, Page 331](#) of Deeds, which lies Northeasterly of the Northeasterly line of the right of way for State Highway purposes conveyed to the State of California, by deed recorded February 24, 1931 in [Book 108, Page 161](#) of Official Records.

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

Also excepting therefrom all streets, road and alleys shown on the map above referred to.

NEWTON DEVELOPMENT AGREEMENT EXHIBIT B: PROJECT PLAN



NEWTON DEVELOPMENT AGREEMENT EXHIBIT C: MITIGATION MONITORING PROGRAM

	MITIGATION MEASURE	TIMING
Aesthetics		
AES-1.1	All site retaining walls shall be constructed or clad in a natural looking material that blends with the surrounding site context. Retaining walls shall be dark colored split face block, rock/stone clad, or similar material and/or color profile.	Prior to Permit Issuance
Air Quality		
AQ 2-1	<p>The project shall comply with the following SLO APCD Standard Mitigation Measures for reducing nitrogen oxides (NOx), reactive organic gases (ROG) and diesel particulate matter (DPM) emissions from construction equipment:</p> <ul style="list-style-type: none"> • Maintain all construction equipment in proper tune according to manufacturer’s specifications; • Fuel all off-road and portable diesel-powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road); • Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner offroad heavy-duty diesel engines, and comply with the State Off-Road Regulation; • Use on-road heavy-duty trucks that meet the ARB’s 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation; • Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g., captive or NOx exempt area fleets) may be eligible by proving alternative compliance; • All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5-minute idling limit; • Diesel idling within 1,000 feet of sensitive receptors is not permitted; • Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; • Electrify equipment when feasible; 	During construction

	<ul style="list-style-type: none"> • Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and, • Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel. 	
AQ 2-2	<p>The project shall comply with the following SLO APCD Fugitive <i>Dust Mitigation Measures</i> for projects with nearby sensitive receptors and/or earthwork exceeding 4-acres to minimize nuisance impacts and to significantly reduce fugitive dust emissions:</p> <ul style="list-style-type: none"> • Reduce the amount of the disturbed area where possible; • Use of water trucks or sprinkler systems, in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the APCD’s limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible. Please note that during drought conditions, water use may be a concern and the contractor or builder shall consider the use of an APCD-approved dust suppressant where feasible to reduce the amount of water used for dust control. • All dirt stock pile areas should be sprayed daily as needed; • Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities; • Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established; • All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD; • All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used; 	During construction

	<ul style="list-style-type: none"> • Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site; • All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114; • “Track-Out” is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in California Vehicle Code Section 23113 and California Water Code 13304. To prevent Track Out, designate access points and require all employees, subcontractors, and others to use them. Install and operate a “track-out prevention device” where vehicles enter and exit unpaved roads onto paved streets. The track-out prevention device can be any device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices require periodic cleaning to be effective. If paved roadways accumulate tracked out soils, the track-out prevention device may need to be modified. • Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible; • All of these fugitive dust mitigation measures shall be shown on grading and building plans; and • The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD. Compliance Division prior to the start of any grading, earthwork or demolition. 	
AQ 2-3	<p>The Project shall comply with the following SLO APCD <i>Diesel Idling Restrictions for Construction Phases</i> to reduce air quality impacts to nearby sensitive receptors:</p> <ul style="list-style-type: none"> • Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; 	Prior to permit issuance

	<ul style="list-style-type: none"> • Diesel idling within 1,000 feet of sensitive receptors is not permitted; • Use of alternative fueled equipment is recommended whenever possible; and, • Signs that specify the no idling requirements must be posted and enforced at the construction site. • <u>Idling Restrictions for On-road Vehicles.</u> Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5-minute idling limit consistent with Section 2485 of Title 13, the California Code of Regulations • <u>Idling Restrictions for off-Road Equipment.</u> Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5-minute idling limit pursuant to Section 2449(d)(3) of the ARB's In-Use off-Road Diesel regulation. 	
Biological Resources		
BIO 1-1	<p>Pre Construction Surveys for Roosting Bats: Within 30 days prior to removal of existing structures and/or mature trees, a sunset survey shall be conducted by a qualified biologist to determine if bats are roosting on site. If bats are present, a follow-up acoustic monitoring survey shall be completed to determine, if feasible, which species are present. If roosts of special-status bat species are identified and will be impacted during the proposed project, CDFW will be consulted to determine appropriate measures to be implemented. If it is determined that no special-status bats are present, the project shall proceed under the guidance of a qualified biologist, in a manner that minimizes impacts to individual bats and roosts (e.g., conducting work only during the day or installing one-way exclusions prior to work).</p>	Prior to permit issuance
BIO 1-2	<p>Pre Construction Surveys for Nesting Birds: If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds within one week prior to activity beginning on site. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged or the nest is no longer deemed active. A non-disturbance buffer of 50 feet will be placed</p>	Prior to permit issuance

	<p>around non-listed, passerine species, and a 250-foot buffer will be implemented for raptor species. All activity will remain outside of that buffer until a qualified biologist has determined that the young have fledged or that proposed construction activities would not cause adverse impacts to the nest, adults, eggs, or young. If special-status avian species are identified, no work will begin until an appropriate buffer is determined in consultation CDFW, and/or the USFWS.</p>	
<p>BIO 2-1</p>	<p>Protection of Hydrologic Resources: Construction within and immediately adjacent to the drainage shall occur only when conditions are dry. For short-term, temporary stabilization, an erosion and sedimentation control plan shall be developed outlining Best Management Practices (BMPs), which shall be implemented to prevent erosion and sedimentation into the channel during construction. Acceptable stabilization methods include the use of weed-free, natural fiber (i.e., nonmonofilament) fiber rolls, jute or coir netting, and/or other industry standards. BMPs shall be installed and maintained for the duration of the construction period. In addition, the following general measures shall be implemented during construction:</p> <ul style="list-style-type: none"> • The limits of disturbance within the existing drainage feature shall be clearly shown on all sites plans and flagged within the drainages prior to project implementation. All construction personnel shall be directed to avoid impacts to the areas immediately upstream and downstream of the proposed development including the existing culvert features located at El Camino Real and Viejo Camino. • All equipment and materials shall be stored out of the streambed at the end of each working day, and secondary containment shall be used to prevent leaks and spills of potential contaminants from entering the stream. • During construction, washing of concrete, paint, or equipment and refueling and maintenance of equipment shall occur only in designated areas a minimum of 50 feet from all drainages and aquatic features. Sandbags and/or sorbent pads 	<p>Prior to permit issuance/During construction</p>

	<p>shall be available to prevent water and/or spilled fuel from entering drainages.</p> <ul style="list-style-type: none"> • Construction equipment shall be inspected by the operator on a daily basis to ensure that equipment is in good working order and no fuel or lubricant leaks are present. 	
BIO 2-2	<p>Compensatory Mitigation Plan: A compensatory mitigation plan shall be developed to offset permanent impacts to jurisdictional areas. The exact details and performance criteria of the restoration plan shall be determined during agency coordination with CDFW, RWQCB, and USACE, as necessary. Stabilization and restoration measures may include the installation of BMPs and/or revegetation using native seed mixes and plantings. Prior to project initiation, all applicable agency permits with jurisdiction over the project area (i.e., USACE, CDFW, and RWQCB) should be obtained. Additional mitigation measures required by these agencies would be implemented as necessary. The City shall not impose any additional mitigation measures in addition to or in lieu of agency-required measures without Owner’s consent.</p>	Prior to permit issuance
BIO 2-3	<p>Agency Permitting: Prior to issuance of any permits for grading or construction on-site, the applicant shall obtain permits from the following agencies, and any other agencies as necessary:</p> <ul style="list-style-type: none"> • California Department of Fish and Wildlife (CDFW) • US Army Corps of Engineers (USACE) • Regional Water Quality Control Board (RWQCB) <p>Any mitigation measures required by the above listed permits shall be implemented to their fullest extent. City shall not require any modifications to the approvals issued by any state and/or federal agencies.</p>	Prior to permit issuance
BIO 3-1	<p>Creek Channel Naturalization: The realigned creek shall be constructed in a manner which maintains and enhances natural flows and vegetation. A minimum 20-foot setback shall be maintained from the top of creek bank to any structures. Vehicular or pedestrian crossings of the re-aligned creek shall be permitted as part of any future development. Such crossings shall be designed as culvert crossings and shall</p>	Prior to permit issuance/Permit final

	obtain any required permits from agencies prior to construction.	
BIO 3-2	Wetland Restoration: Should wetland impacts occur, and wetland restoration be required on-site, the wetlands shall be monitored for a period of not less than 5-years. Annual reports from a qualified biologist shall be submitted to the City addressing any irrigation modifications or replanting that may be required to ensure successful naturalization of the restored wetland habitat. A contract with a qualified biologist shall be entered into prior to final of the development permit.	Post construction
BIO 4-1	Special Status Species Plant Surveys: Prior ground disturbing activities and when plants with potential to occur are in a phenological stage conducive to positive identification (i.e., usually during the blooming period for the species), a qualified biologist shall conduct surveys for special status plant species within the project site. Valid botanical surveys will be considered current for up to five years; if construction has not commenced within five years of the most recent survey, botanical surveys must be repeated.	Prior to permit issuance
BIO 5-1	Implementation of Best Management Practices: <ul style="list-style-type: none"> • Prior to ground disturbing and/or vegetation removal activities, a setback area of 20-feet from the drainage will be fenced with orange construction fencing and signed to prohibit entry. Fencing should be located a minimum of 20 feet from the OHWM and shall be maintained throughout the construction or until regulatory permits to impact the drainage have been acquired. • To control sedimentation during and after project implementation, appropriate erosion control best management practices (i.e., installation of silt fencing) will be implemented to minimize adverse effects on the drainage. The silt fencing shall be installed prior to commencing construction in adjacent areas and maintained throughout construction or until regulatory permits to impact the drainage have been acquired. • Any substances which could be hazardous to aquatic species resulting from project-related activities will be prevented from entering the drainage. All refueling, maintenance, and staging of equipment and vehicles shall occur at least 50 feet from the drainage and in a location where a potential spill would not drain directly toward the drainage. Prior to the onset of work activities, a plan will be in place for prompt and effective response to any accidental spills. 	During construction

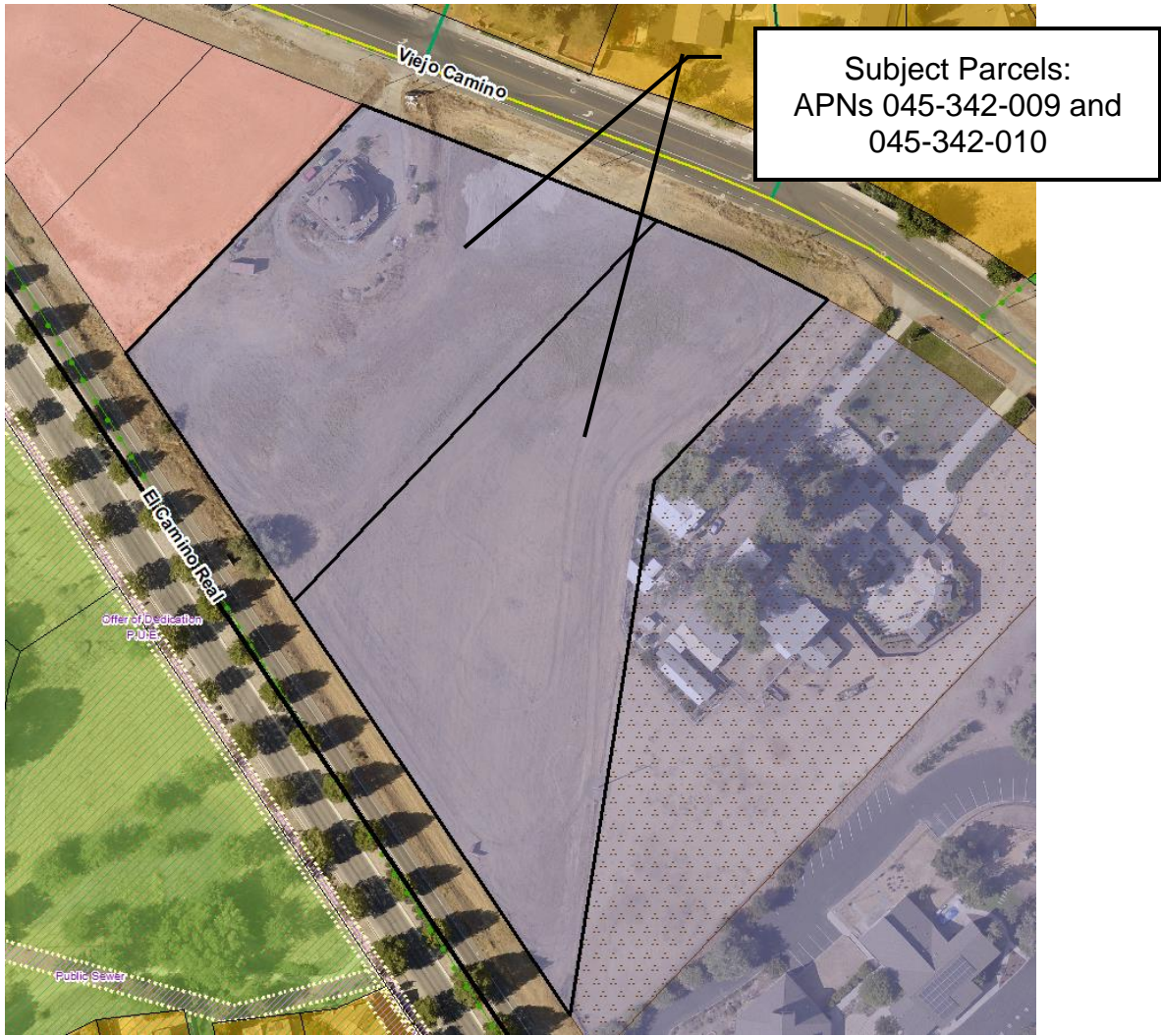
Water Quality and Hydrology		
WQH 1-1	The applicant shall obtain all necessary permits form the Regional Water Quality Control Board.	Prior to permit issuance
WQH 2-1	Prior to issuance of any building permits, a FEMA Conditional Letter of Map Revision (CLOMR) must be issued and received by the City Engineer.	Prior to permit issuance
WQH 2-2	The project design and construction shall comply with the CLOMR. Prior to a final inspection or Occupancy release, the developer must apply for and be issued a FEMA Letter of Map Revision (LOMR) and a copy filed in the Office of the City Engineer.	Prior to C of O
Land Use and Planning		
LUP 1-1	See BIO 3-1 and BIO 5-1	
Transportation / Traffic		
TR 1-1	The primary access shall be from Viejo Camino at Bocina Lane or La Paloma Court as approved by the City Engineer. A left turn lane shall be provided into the project site. Widen street, as needed, to accommodate lane configuration if entrance aligns with La Paloma Court.	Prior to permit issuance
TR 1-2	A Class II bike lane, curb, gutter, and sidewalk shall be installed along the Viejo Camino project frontage.	Prior to C of O
TR 1-3	The travel lanes on Viejo Camino east of El Camino Real shall be reduced to accommodate a bike lane or shared lane markings shall be installed within the existing Class II bike lane gap(s), subject to approval of the City Engineer.	Prior to C of O
TR 1-4	Install red curb at the El Camino Real / Viejo Camino intersections and driveways into the existing commercail development for pedestrian safety to and from the site.	Prior to C of O
TR 1-5	Provide an asphalt pedestrian pathway connection from the project site frontage to the existing sidewalk east of El Camino Real at the existing commercail development.	Prior to C of O
Tribal Cultural Resources		
TCR 1	The owner/developer shall have all natural grade ground disturbing activities monitored by a qualified professional or local tribal monitor. An executed monitoring contract shall be submitted to City staff prior to issuance of any permit involving ground disturbance of the natural grade of the existing site.	Prior to GP/BP

Exhibit B: AMC Title 9 Zoning Text Amendment

9-3.695: Establishment of Development Agreement Overlay No. 1 (DA1)

Development Agreement Overlay Zone No. 1 is established as shown on the Official Zoning Maps (Section 9-1.102 of this title) on parcels APNs 045-342-009 and 045-342-010. The subject properties are subject to the provisions of a Development Agreement recorded against the properties in San Luis Obispo County and on file with the City of Atascadero.

Exhibit C: Zoning Map Amendment



Current Zoning Designation: Public (P)

Amended Zoning Designation: Public / Development Agreement No. 1
(P/DA1)



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A8

Department: Community
Development
Date: 12/10/2024
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER

FROM: PHIL DUNSMORE, COMMUNITY DEVELOPMENT DIRECTOR

PREPARED BY: XZANDREA FOWLER, SENIOR PLANNER

SUBJECT: Emergency Shelter Overlay Zone Amendment (ECHO Expansion Project)

RECOMMENDATION:

Council adopt on second reading, by title only, Draft Ordinance amending Atascadero Municipal Code Title 9 Chapter 3 Article 23 ES (Emergency Shelter) Overlay Zone text to allow for an expansion of an existing shelter and programs located at 6370 Atascadero Avenue.

DISCUSSION:

ECHO currently operates a variety of emergency housing shelter activities at 6370 Atascadero Avenue. On November 12, 2024, the City Council reviewed amendments to the Emergency Shelter Overlay Zone and associated Conditional Use Permit and Operations and Management Plan for the existing emergency housing shelter operated by ECHO. At the meeting, the Council approved amendments that will facilitate the construction of a new 7,600-square-foot 2-story building at the site. The proposed amendments included:

1. An increase in the number of overnight beds from 60 to 90
2. An increase in the maximum number of meal program participants from 80 to 100
3. Modifications to the shower program operation hours

At the November 12, 2024 meeting, the Council also made modifications to the Conditional Use Permit and Operations and Management Plan which have been incorporated into those documents. Modifications included:

- Limitations on the shower program hours to after 4:00 pm on days when school is in session.
- Clarification that smoking is permitted on-site in designated areas.
- Adding a condition of approval to the Use Permit requiring annual neighborhood meetings, consistent with the Operations Plan.
- Delaying the increase in meal program participants until Certificate of Occupancy for the expanded facility has been granted.

In a subsequent motion, Council also directed the City Manager to work with ECHO and City staff on a meaningful public engagement process and to report the results of said process within six (6) months of the issuance of the building permit.

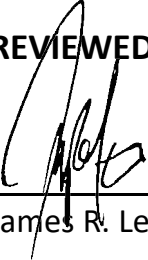
FISCAL IMPACT:

None.

REVIEWED BY OTHERS:

This item has been reviewed by the Community Development Director, Administrative Services Director, and Planning Commission.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT(S):

1. Draft Ordinance

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING THE ATASCADERO MUNICIPAL CODE TITLE 9, CHAPTER 3, ARTICLE 23 (EMERGENCY SHELTER) OVERLAY ZONE AND DETERMINING THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

EMERGENCY SHELTER OVERLAY ZONE AMENDMENTS EL CAMINO HOMELESS ORGANIZATION (AMND24-0060 & ZCH24-0061)

WHEREAS, an application was received from the El Camino Homeless Organization, PO Box 2077, Atascadero, CA 93423, (Owner/Applicant) for amendments to the ES (Emergency Shelter) Overlay Zone, Conditional Use Permit (PLN 2014-1492), and the El Camino Homeless Organization (ECHO) Operations and Management Plan to allow for an expansion of an existing shelter and programs located at 6370 Atascadero Avenue; and

WHEREAS, the Planning Commission has determined that it is in the best interest of the City to amend the Zoning Code Text to protect the health, safety, and welfare of its citizens by applying orderly development and expanding emergency shelter opportunities within the City; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA), have been adhered to; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Amendment application was held on October 1, 2024, by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said amendments to the Emergency Shelter Overlay Zone; and

WHEREAS, The Planning Commission of the City of Atascadero, resolved to recommend approval of said amendments to the Emergency Shelter Overlay Zone text subject to findings; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Amendment to the Emergency Shelter Overlay Zone text application was held on November 12, 2024, by the City Council of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said amendment; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Public Hearing. The City Council of the City of Atascadero, in a regular session assembled on November 12, 2024, resolved to introduce for first reading, by title only, an Ordinance that would amend the Atascadero Municipal Code Title 9 Chapter 2 Article 23 ES (Emergency Shelter) Overlay Zone Text as shown in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3. CEQA. The City Council makes the following environmental determinations:

1. The proposed amendments to the ES Overlay zoning text, to the conditions of approval for Conditional Use Permit (PLN 2014-1492), and the ECHO Operations and Management Plan are exempt from the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the enactment of proposed amendments will have any significant adverse environmental impacts.
2. Additionally, CEQA (Section 15301(c)(2)) exempts additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet when the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive. While the expansion of the facility is ministerial under State law, the proposed amendments to the ES Overlay Zone and operation plan will result in allowances for facility expansion. The proposed expansion of the existing shelter and program activities would result in an addition that is less than 10,000 square feet in an area where all public services and facilities are available to support the expansion of the existing shelter and on a site that has been previously developed and is not designated as an environmentally sensitive area.

SECTION 4. Findings and Facts. The City Council makes the following findings, determinations, and approvals with respect to the following:

Findings for Approval of a Zone Text Amendment:

1. **FINDING:** The ES (Emergency Shelter) Overlay Zone text amendment is consistent with General Plan policies and all other applicable ordinances and policies of the City.

FACT: The proposed zone text amendments align the code requirements with the vision, intent, and policies of the adopted General Plan.

2. **FINDING:** The Amendment of the Zoning Ordinance will provide for the orderly and efficient use of lands where such development standards are applicable.

FACT: The proposed text amendment provides for orderly development within the ES Overlay Zone in accordance with the adopted General Plan for the compatible use of the property based on neighborhood characteristics.

3. **FINDING:** The text change will not, in itself, result in significant environmental impacts.

FACT: The proposed text changes are minor and do not trigger any environmental impacts.

SECTION 5. Approval. Atascadero Municipal Code Title 9 Planning & Zoning is amended, modifying the Emergency Shelter Overlay Zone, as detailed in Exhibit A, attached hereto and incorporated herein by this reference.

EXHIBIT A: Emergency Shelter Overlay Zone Text

SECTION 6. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7. Preservation. Repealing of any provision of the Atascadero Municipal Code or of any previous Code Sections, does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 8. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the Atascadero Municipal Code or other City Ordinance by this Ordinance will be rendered void and cause such previous Atascadero Municipal Code provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 9. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 10. Notice. The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Atascadero's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

INTRODUCED at a regular meeting of the City Council held on November 12, 2024, and **PASSED, APPROVED, and ADOPTED** by the City Council of the City of Atascadero, State of California, on December 10, 2024.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Dave Fleishman, City Attorney

Article 23. ES (Emergency Shelter) Overlay Zone

9-3.504 Operating standards.

The following operating standards apply to emergency shelters:

- (a) Emergency Shelter Operator. Each shelter shall be operated by an agency or organization with experience in managing or providing social services.
 - (b) Maximum Number of Beds. An emergency shelter shall have a maximum number of beds for overnight clients served by the facility. This limitation on client beds does not include accommodations for management, employees, or volunteers. The following is the maximum number of client beds for approved shelter(s):
 - (1) Assessor Parcel Number (APN) 030-341-013: ninety (90) beds.
 - (c) On-Site Management and Supervision.
 - (1) Assessor Parcel Number (APN) 030-341-013. There shall be a minimum of one (1) on duty supervisor for every thirty (30) overnight shelter clients during the operating hours.
 - (d) Operating Hours.
 - (1) Assessor Parcel Number (APN) 030-341-013. Shelter hours of operation are limited to between 4:00 p.m. and 9:00 a.m. daily. Shelter clients and the general public are not permitted on the premises outside these hours unless otherwise permitted by the approval of a conditional use permit per section (h).
- Exceptions:
- (i) Temporary shelter clients are permitted on the premises during hours of operation.
 - (ii) Operator staff, board members, and contractors are not subject to any time restrictions.
 - (iii) Special Activities. Up to one special function per month is allowed for Non-Shelter Clients by appointment and under the supervision of ECHO Staff. ECHO may hold additional special functions (in excess of one per month) with City staff approval in writing. These functions may include but are not limited to:
 - a. Fundraisers (not involving shelter clients);
 - b. Neighborhood open houses (not involving shelter clients);
 - c. Neighborhood meetings (not involving shelter clients);
 - d. Holiday events for shelter clients; and
 - e. Official government enumeration surveys involving shelter clients.
 - (e) On-site Management Plan Contents. The operator must prepare and follow an on-site management plan that must include the following:
 - (1) Rules. A list of rules and regulations for overnight clients.
 - (2) Logs. Provide a methodology for tracking the number of overnight clients.
 - (3) Security and safety plan that will address security and safety of occupants, loitering control and management of outdoor areas.
 - (4) Types and descriptions of programs offered on-site.
 - (5) Required On-Site Signage:

- (i) No loitering signs
- (ii) No trespassing sign
- (iii) No camping signs
- (6) Identify a neighborhood liaison and provide the contact information for the liaison.
- (7) Hold at least one (1) neighborhood meeting each calendar year.
- (8) A dispute resolution process for any neighborhood issues that may arise.
- (9) Mechanisms for enforcement.
- (f) Management Plan Submittal—Approval and Review.

(1) The initial management plan must be submitted within sixty (60) days of approval of the overlay zone change and thereafter must be submitted for review by the City annually on February 1st of every year.

(2) The initial management plan must be approved by the City Council.

(3) Annual Review. The management plan will be reviewed annually by staff. Updates to the Operation Management Plan will be forwarded to the City Council for review at a public hearing.

(g) Meal Program CUP Requirement and Operating Standards (Assessor Parcel Number (APN) 030-341-013). Any on-site meal program that is open to the general public (Open Meal Program) is an ancillary use subject to the approval of a conditional use permit under Section 9-2.110 of this code. Any such approved Open Meal Program shall abide by the following operating standards:

(1) Hours of Operation. Open Meal Program service operating hours shall be between 4:00 p.m. and 6:00 p.m., daily. Non-Shelter Client participants shall vacate the site no later than 6:15 p.m.

(2) The operator shall take reasonable steps to prevent meal recipients from congregating in and around the site at all times to minimize adverse impacts on adjacent properties.

(3) Employees and Volunteers. In addition to the required staffing listed in 9-3.504(c)(1), the Open Meal Program shall operate with a staffing ratio of one (1) employee or trained volunteer for every ten (10) meal program participants. The operator shall provide training to all volunteers and employees.

(4) Outdoor Monitors. From 4:00 p.m. to 6:15 p.m. daily, the Open Meal Program shall include a minimum of one (1) outdoor monitor to supervise participants in the rear of the property and one (1) outdoor monitor to supervise participants in the front of the property. Outdoor monitors shall be considered employees or volunteers for the staffing ratio purposes listed in 9-3.504(h)(3).

(5) Number of Participants Served. The maximum number of participants in the meal program shall not exceed one hundred (100) persons served in one (1) day. This includes both temporary overnight shelter clients, and non-shelter client participants (general public).

(6) Participant Screening. All Open Meal Program participants must be screened by the operator prior to admission for meal service.

(7) Log of Participants. A log of Open Meal Program participants is required to be kept daily. The operator must make reasonable efforts to collect the following information:

- (i) Legal name
- (ii) Date of birth
- (iii) Housing status

(8) Review of Open Meal Program Participants. The operator must make available a log of Open Meal Program participants for periodic review by the City.

(9) Neighborhood Dispute Resolution Process. If the operator fails to follow these operating standards or any other conditions of approval, disputes regarding such alleged violations or other impacts on the neighborhood will be addressed as set forth in this subsection.

(i) Any complaints shall first be reported to the neighborhood liaison.

(ii) If a resolution does not occur, any complaint may be submitted as a code violation complaint to the City.

(iii) Repeated violations to these operating standards or the conditions of approval may result in a review of the operation of the shelter or the Open Meal Program by the City Council. Following such review, the City Council may amend these provisions to further regulate the shelter and Open Meal Program, including the possible suspension or revocation of the Open Meal Program.

(h) Optional Conditional Use Permit (CUP). The shelter operator may apply for a CUP to provide additional services or programs, including daytime service programs beyond those described in subsection (d)(1).



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A9

Department: Community Development
Date: 12/10/2024
Placement: Consent

TO: JIM LEWIS, CITY MANAGER
FROM: PHIL DUNSMORE, COMMUNITY DEVELOPMENT DIRECTOR
PREPARED BY: PHIL DUNSMORE, COMMUNITY DEVELOPMENT DIRECTOR
KELLY GLEASON, PLANNING MANAGER

SUBJECT: CEQA Thresholds Ordinance (ZCH23-0061)

RECOMMENDATION:

1. Adopt on second reading, by title only, Draft Ordinance A to amend Title 9 (Planning and Zoning Code) to adopt discretionary review thresholds and standards for hillsides, historic and archaeological resources, and watercourse adjacent areas; and
2. Adopt on second reading, by title only, Draft Ordinance B to approve a Zoning Map Amendment to remove the Historic Site (HS) Overlay Zone from certain properties containing colony homes and apply the Historical Site (HS) Overlay Zone to State and Federally registered historic resources.

DISCUSSION:

At the November 12, 2024 meeting, City Council voted 5-0 to introduce an ordinance for the adoption of objective standards for development within and/or adjacent to hillsides and other environmentally unique areas. These standards are intended to streamline the project application and review process, by clearly articulating the thresholds between ministerial and discretionary projects with the goal of reducing project timelines, staff processing time, and overall project cost. With these proposed Title 9 and Zoning Map amendments, the City can put in place standards and processes that provide clear direction and set City expectations for development, reducing staff time on CEQA documentation, and providing transparent guidance to developers and property owners while maintaining standard project mitigations and best practices to ensure neighborhood compatibility and minimization of impacts to native trees.

Adoption of new code standards (objective standards) are designed to provide alternatives to the CEQA process as result of development projects that result in changes to:

- Hillsides through Development and Grading
- Development and structures adjacent to Watercourses

- Development within or adjacent to Historic Resources
- Development on Sensitive Resource Areas (archaeological)

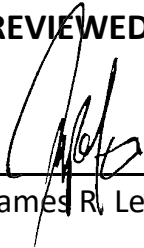
FISCAL IMPACT:

It is intended that the proposed code amendments will reduce staff time, resulting in nominal cost savings to both staff and applicants within the development review process.

REVIEWED BY OTHERS:

This item has been reviewed by the City Attorney, as well as the Community Development Director and City Engineer.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENTS:

- 1) Draft Ordinance A: Title 9 Amendments
- 2) Draft Ordinance B: Zoning Map Amendment

DRAFT ORDINANCE A

**ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, AMENDING TITLE 9:
PLANNING & ZONING, TO ADOPT DISCRETIONARY REVIEW
THRESHOLDS AND STANDARDS FOR HILLSIDES, HISTORIC AND
ARCHAEOLOGICAL RESOURCES, AND WATERCOURSE ADJACENT
AREAS**

**DISCRETIONARY REVIEW THRESHOLDS AND STANDARDS
(ZCH23-0061)**

WHEREAS, the 2021-2028 6th Cycle Housing Element was adopted by the City Council on November 10, 2020, and found by the California Department of Housing and Community Development to be in substantial compliance with State housing element law; and

WHEREAS, on April 28, 2020, the City Council authorized application for and entering into agreement for the Local Early Action Planning (LEAP) Grant Program funds with the California Department of Housing and Community Development to complete work to adopt standards that, when followed, can streamline projects through the development process and set clear pathways for ministerial and discretionary review; and

WHEREAS, the LEAP Grant Program is focused on helping jurisdictions in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance with the sixth-cycle Regional Housing Needs Assessment; and

WHEREAS, the City of Atascadero was awarded LEAP Grant Program funds implement permit streamlining in line with the City's Housing Element and State goals and policies; and

WHEREAS, the City of Atascadero (6500 Palma Avenue, Atascadero, CA 93422), is considering Zoning Text Amendments to Title 9 Planning and Zoning of the Atascadero Municipal Code to adopt modified discretionary review thresholds and standards related to hillside development, historic and archaeological resources, and watercourse-adjacent areas; and

WHEREAS, the Planning Commission has determined that it is in the best interest of the City to enact amendments to Title 9 Planning and Zoning of the Atascadero Municipal Code for consistency with the General Plan and to maintain a clear and legible set of Zoning Regulations that is easily interpreted by the public and staff; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Planning and Zoning Text Amendments was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said Planning and Zoning Text Amendments; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Zoning Map Amendment was held by the City Council of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said Zoning Map Amendment; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Recitals: The above recitals are true and correct and incorporated herein as if set forth in full.

SECTION 2. Planning Commission Recommendation. The Planning Commission of the City of Atascadero, on October 15, 2024, held a timely and properly noticed Public Hearing upon the subject Title 9 Atascadero Municipal Code amendments and associated actions, at which hearing evidence, oral and documentary, was admitted on behalf of said amendments and the Planning Commission recommended that City Council approve the proposed text amendments.

SECTION 3. Public Hearings. The City Council held a duly noticed public hearing to consider the project on November 12, 2024 and considered testimony and reports from staff and the public.

SECTION 4. Findings for Approval. The City Council makes the following findings and determinations for approval of the proposed text amendments:

1. **FINDING:** The Planning and Zoning Text Change is consistent with General Plan policies and all other applicable ordinances and policies of the City.

FACT: The proposed zoning code text updates are consistent with the General Plan.

2. **FINDING:** This Amendment of the Zoning Ordinance will provide for the orderly and efficient use of lands where such development standards are applicable.

FACT: The proposed text establishes standards for projects located on hillsides, in areas where archaeological resources may be located, near watercourses and wetlands, and associated with historic resources and sets forth clear processes for ministerial and discretionary review of such projects.

3. **FINDING:** The Text Change will not, in itself, result in significant environmental impacts.

FACT: The proposed text amendment establishes standards to protect existing environmental resources, is aligned with the California Environmental Quality Act Guidelines, and will not result in an environment impact.

SECTION 5. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA), Public resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the enactment of this Ordinance would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378(b)(4), 15061(b)(3)).

SECTION 6. Approval. The City Council of the City of Atascadero, in a regular session assembled on November 12, 2024, resolved to introduce, for first reading, by title only, an ordinance that would amend the Title 9 of the Atascadero Municipal Code consistent with the following:

1. Exhibit A: New Title 9 Sections (Establishment of AMC Sections 9-4.153 – 9-4.157 [Hillside Development], Sections 9-4.163 through 9-4.169 [Historic Resources] and Sections 9-4.169 through 9-4.174 [Watercourse-Adjacency Standards])
2. Exhibit B: Title 9 Amendments (Grading Sections 9-4.139 - 9-4.145, Drainage Sections 9-4.148 - 9-4.154, Article 26 HS [Historical Site] Overlay Zone Sections 9-3.621 - 9-3.623, Archaeological Resources Section 9-4.162, Precise Plan Section 9-2.109, and Section 9-4.164 Lot Line Adjustment Review for Flag Lots [renumbering only, to 9-4.170]).

SECTION 7. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 8. Preservation. Repealing of any provision of the Atascadero Municipal Code or of any previous Code Sections, does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 9. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the Atascadero Municipal Code or other City Ordinance by this Ordinance will be rendered void and cause such previous Atascadero Municipal Code provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 10. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 11. Notice. The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Atascadero’s book of original ordinances, make a note of the passage and adoption in the records of this meeting and within fifteen (15)

days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 12. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

INTRODUCED at a regular meeting of the City Council held on November 12, 2024, and **PASSED, APPROVED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on December 10, 2024.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Dave Fleishman, City Attorney

Repeal and Replace Section 9-2.109 as follows:

9-2.109 Precise plan.

- (a) Purpose and Applicability. Precise plans consider the greater effects such uses may have upon their surroundings, and the characteristics of adjacent uses which could have detrimental effects upon a proposed use. Precise Plans are required for the following projects:
- (1) Hillside. Grading and/or construction in a hillside area that does not comply with Section 9-4.157 (Hillside Development Standards);
 - (2) Watercourse-Adjacent. Development or placement of items in a watercourse-adjacent or wetland-adjacent area that does not comply with Section 9-4.175 and/or that the Community Development Director has determined has the potential to adversely affect watercourse or wetland resources (see Sections 9-4.170 through 9-4.175 [Watercourse-Adjacency Standards]);
 - (3) Historic Resources. Alterations to historic resources on the Historic Resources List that do not meet the Secretary of the Interior's Standards for the Treatment of Historic Properties applicable to the particular historic resource, and/or any alterations to historic resources listed on the National Register of Historic Places or on the California Register of Historical Resources (see Sections 9-4.163 through 9-4.169 [Historic Resources]);
 - (4) Archaeologically Sensitive Areas. Projects within archaeologically sensitive areas as documented on maps on file in the Planning Department where a Phase I archaeological study concludes that there is the potential to adversely affect archaeological resources pursuant to the California Environmental Quality Act (see Section 9-4.162 [Archaeological Resources]); and When a development or use of land is listed in a particular zoning district as an allowable use and when it is determined by the Community Development Director that the development project, or the establishment of a use of land which is not a development project, is not eligible for a categorical exemption pursuant to Public Resources Code Section 21084 and the State EIR Guidelines.
- (b) Precise Plan Applications. Precise plan applications shall include, as may be necessary, site plans, written descriptions of activities to be conducted, technical studies of site characteristics, and any other materials set forth on the application form or otherwise prescribed by City policy.
- (c) Review and Approval.
- (1) Review Authority.
 - (i) Community Development Director. The authority to take final action on a Precise Plan application as set forth in this subsection is assigned to the Community Development Director.
 - (ii) Elevate Review. The Community Development Director may refer project applications to the Planning Commission if it appears that such referral is necessary based on unique characteristics of a project or the need for additional community input and/or other reasons needed to accomplish the purposes of this Title.
 - (2) Public Notice. At a minimum, public notice shall be mailed to every property owner adjacent to the exterior boundaries of the project site. The notice may be combined with the required CEQA notice and shall include information about the proposed project and provide an opportunity to provide comments within the stated review period.

- (3) Effective Date of Approval. The approval shall become effective for the purpose of issuance of a building or grading permit, or establishment of a use not involving construction, fourteen (14) days after approval, unless an appeal is filed with the Planning Department as set forth in subsection (d) of this section.
- (4) Appeal. Any person may appeal a decision on a Precise Plan application as set forth in Section 9-1.111 (Appeal).

(d) Findings. The following findings are required for approval of a Precise Plan:

(1) General.

- (i) Consistency. The proposed project is consistent with the General Plan and any applicable specific plan; and complies with all other applicable provisions of the Zoning Code and the Municipal Code;
- (ii) Compatibility. The design, location, size, and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity; and
- (iii) Health and Safety. The proposed project will not be detrimental to the public health, safety, or welfare, or be injurious to property or other improvements in the vicinity.

(2) Hillside. If located in a hillside area as defined in Section 9-4.154:

- (i) The project design and site layout retains and utilizes natural contours of the site to the extent feasible;
- (ii) Unavoidable grading complements natural landforms to the extent feasible;
- (iii) The healthy, native tree canopy has been retained to the extent feasible; and
- (iv) Mass grading of large pads and excessive terracing has been avoided in residential zones and minimized in commercial and industrial zones.

(3) Watercourse and Wetland Buffers. If located within a watercourse-adjacent or wetland-adjacent area as defined in Section 9-4.171(a):

- (i) The location and design of the feature within the watercourse or wetland buffer, or other measures incorporated into the project, minimize adverse effects to scenic resources, water quality, and riparian habitat;
- (ii) The feature will not impact the floodway or the flood zone in a way that would create negative impacts to downstream properties; and
- (iii) The feature will not prevent the implementation of city-adopted plans.

(4) Historic Resources.

- (i) If altering an historic resource on the Historic Resource List (Section 9-4.166):

- a. The proposed alteration will not substantially diminish, eliminate, or adversely affect the character, character-defining features, or historic integrity of the historic resource, either due to the nature of the alteration or because mitigation measures incorporated into the project will reduce adverse effects; or
 - b. There is sufficient evidence, including evidence provided by the applicant, that denial of the proposed alteration or relocation would cause an immediate hardship because of conditions unique to the specific property.
 - (ii) If relocating an historic resource on the Historic Resource List:
 - a. Relocation of the historic resource is feasible from a technical, mechanical, and structural standpoint considering the historic resource's condition, and will not result in significant damage to the structure's historic integrity; and
 - b. Relocation of the historic resource will not result in significant adverse effects to its historic integrity as a result of a change in its location, generally maintaining or enhancing the setting.
 - (iii) If demolishing an historic resource on the Historic Resource list, any one of the following:
 - a. The potential negative effects of the action are outweighed by the benefits of the associated replacement project, as applicable; and
 - b. Alteration and/or relocation is infeasible from a technical, mechanical, or structural standpoint considering the historic resource's condition or location, and/or
 - c. The demolition is necessary to protect or promote the health, safety, or welfare of the city residents, including the need to eliminate blight or nuisance, or correct an unsafe or dangerous condition of the property.
- (5) Archaeologically Sensitive Areas. If located within an area documented on maps on file in the Planning Department as an archaeologically sensitive area:
- (i) All required mitigation measures from technical studies are incorporated and impacts have been minimized consistent with the requirements of 15064.5 of the State CEQA Guidelines; and
 - (ii) Tribes have been consulted per the requirements of Assembly Bill 52.

Repeal and Replace Article 26 HS (Historical Site) Overlay Zone, repealing Sections 9-3.621 through 9-3.625 and replacing with Sections 9-3.621 through 9-3.623.

Article 26 HS (Historical Site) Overlay Zone

§ 9-3.621 Purpose.

§ 9-3.622 Applicability of the HS Overlay Zone.

§ 9-3.623 Processing Requirements.

9-3.621 Purpose.

The Historic Site (HS) Overlay Zone recognizes the unique historical nature of historic resources listed on the California Register of Historical Resources and the National Register of Historic Places. The HS Overlay zone is intended to identify these regionally recognized historic resources. Refer also to Sections 9-4.163 – 9-4.169 (Historic Resources Ordinance).

9-3.622 Applicability of the HS Overlay Zone.

The HS Overlay Zone applies only to those parcels with historic resources that are listed on the California Register of Historical Resources or the National Register of Historic Places. Definitions in these Sections 9-3.621 – 9-3.623 shall be as defined in Section 9-4.165 (Historic Resources Definitions).

9-3.623 Processing Requirements.

- (a) **Alterations.** Alterations to historic resources listed on the California Register of Historical Resources and the National Register of Historic Places shall comply with Section 9-4.167(b) (Precise Plan Review).
- (b) **Relocation.** Relocation of historic resources listed on the California Register of Historical Resources and the National Register of Historic Places shall comply with Section 9-4.168(a)(2) (Precise Plan Review).
- (c) **Demolition.** Demolition of historic resources listed on the California Register of Historical Resources and the National Register of Historic Places shall comply with Section 9-4.168(b) (Demolition of Historic Resources).

Amend as redlined Sections 9-4.138 through 9-4.146:

9-4.138 Grading.

The following sections (9-4.138 through 9-4.145) establish standards, in addition to the standards contained in the Uniform Building Code, for grading and excavation activities to minimize hazards to life and property; protect against erosion, the sedimentation of water courses, and the inundation of low-lying areas; and protect the safety, use and stability of public rights-of-way and drainage channels. It is the City's intent to encourage grading that disturbs the minimum feasible area, that relates to the natural contours of the land, and that retains trees and other vegetation. Grading regulations are organized into the following sections:

- 9-4.139 Grading plan required.
- 9-4.140 Grading permit required.
- 9-4.141 Grading permit: Application content.

9-4.142 Grading permit review and approval.

9-4.143 Grading standards.

9-4.144 Sedimentation and erosion control.

9-4.145 Nuisance and hazard abatement.

9-4.139 Grading plan required.

In any case where a proposed project requiring a precise plan or conditional use permit approval involves fifty (50) or more cubic yards of earth moving, or in any case where a grading permit is required by Title 8 of this code, the application shall include a grading plan containing the information specified by this section. If engineered grading (Section 9-4.141(b)) is to occur, then the grading plan shall also include all information required by Section 9-4.141. A grading plan shall be neatly and accurately drawn to scale, including the following information:

- (a) Existing ground contours or elevations of the site at two (2) foot intervals.
- (b) Contours or site elevations after grading is completed, including any modifications to drainage channels.
- (c) Any required retaining walls or other means of retaining cuts or fills.
- (d) Elevations of the edge of the pavement or road at driveway entrance.
- (e) Elevation of the finish floor of the garage or other parking area.
- (f) Elevations at the base of building corners.
- (g) Area of disturbance in square feet.
- (h) Quantities of cut and fill.
- (i) Erosion control notes and details.
- (j) Drainage structures and other drainage design features.
- (k) Sections showing grading, showing any retaining walls, cut and fill slopes, pads, building structures and drainage structures.
- (l) Grading notes, details or other information required by the City Engineer.

9-4.140 Grading permit required.

A grading permit shall be obtained where required by Title 8 of this code.

9-4.141 Grading permit—Application content.

To apply for a grading permit, an application shall be submitted together with the additional information required by this section. Where grading requiring a permit is proposed in conjunction with a precise plan or conditional use permit request, those applications may be used to satisfy grading permit information requirements as long as all required information is submitted.

- (a) Minor Grading. Where Section 9-4.140 requires a grading permit and the grading will move less than five hundred (500) cubic yards and is located on slopes less than twenty percent (20%); the application for a grading permit is to include the following:
- (1) Contour Information.
 - (i) For sites with slopes of ten percent (10%) or less, generalized existing contours and drainage channels, including areas of the subject site (and adjoining properties) that will be affected by the disturbance either directly or through drainage alterations.
 - (ii) For sites with slopes greater than ten percent (10%) and less than thirty percent (30%), details of area drainage and accurate contours of existing ground at two (2) foot intervals; for slopes thirty percent (30%) or greater, contours at five (5) foot intervals.
 - (2) Location of any buildings or structures existing or proposed on the site within fifty (50) feet of the area that may be affected by the proposed grading operations.
 - (3) Proposed use of the site necessitating grading.
 - (4) Limiting dimensions, elevations or finished contours to be achieved by the grading, slopes of cut and fill areas and proposed drainage channels and related construction.
 - (5) Drainage plan in compliance with Municipal Code Section 9-4.147 and the City of Atascadero Drainage Standards.
 - (6) Where required by the Building Official, a soil engineering report, including data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and criteria for corrective measures when necessary and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.
 - (7) Where required by the Building Official, an engineering geology report, including a description of site geology, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.
 - (8) Intended means of revegetation, including the location, species, container size and quantity of plant materials proposed, and the proposed time of planting.
 - (9) Where required by the Building Official, protective measures to be taken during construction, such as hydro-mulching, berms (temporary or permanent), interceptor ditches, subsurface drains,

terraces, and/or sediment traps in order to prevent erosion of the cut faces of excavations or of the sloping surfaces of fills.

- (b) **Engineered Grading.** Where the grading will move five hundred (500) cubic yards or more, is located on slopes of twenty percent (20%) or greater, or is located within a Geologic Hazard Overlay Zone or Flood Hazard Overlay Zone, the grading plan shall be prepared and certified by a registered civil engineer and shall include specifications covering construction and material requirements in addition to the information required for minor grading.

9-4.142 Grading permit review and approval.

Grading permit applications shall be processed as follows:

- (a) **Application Processing.** The Building Official may approve a grading permit where the proposed grading is in conformity with applicable provisions of this title; provided:
- (1) The Building Official may require that grading operations and project designs be modified if delays occur that result in weather-generated problems not considered at the time the permit was issued.
 - (2) Where a CEQA document associated with the project has identified mitigation measures necessary to reduce environmental impacts, such mitigation measures shall be applicable to the approved grading permit and grading operations as conditions of approval.
- (b) **Criteria for Approval.** A grading permit may be issued only where the Building Official first finds, where applicable, that:
- (1) The proposed grading complies with all applicable provisions of the Municipal Code, and if a Precise Plan is required, the grading conforms to the approved Precise Plan; and
 - (2) Any permits required by State or Federal agencies for the proposed grading have been obtained or are required by conditions of approval to be obtained before grading work is started.

9-4.143 Grading standards.

All excavations and fills shall be conducted in accordance with the following standards:

- (a) **Area of Disturbance.** See Section 9-4.157(a).
- (b) **Minimize Grading.** Grading shall be completed in compliance with Sections 9-4.138 through 9-4.145, minimized to the extent feasible, and balanced on site whenever possible to avoid excessive cut and fill and to avoid import or export of soil to/from offsite.
- (c) **Cut and Fill Slope Ratio.** Cut or fill slopes shall not exceed a three-to-one (3:1) horizontal to vertical ratio, except that a two-to-one (2:1) ratio may be allowed where it can be demonstrated that it is

necessary to minimize impacts to native trees or natural drainage features, or reduce amount of disturbed area, or maintain grading within the property limits.

- (d) **Creation of Building Sites.** See Section 9-4.157(d).
- (e) **Final Contours.** The crest of all graded slopes greater than six (6) feet in vertical height shall be rounded. Where graded slopes intersect, the ends of each slope shall be horizontally rounded and blended.
- (f) **Grading Near Watercourses.** Grading, dredging, or diking may not alter any intermittent or perennial stream or natural body of water shown on any USGS 7 1/2 minute map or designated by another State or Federal agency with jurisdiction over said waters, except as permitted through approval of a drainage plan and appropriate State and Federal permits. Watercourses are to be protected as follows:
- (1) Watercourses shall not be obstructed unless an alternate drainage facility is approved.
 - (2) Fills placed within watercourses shall have suitable protection against erosion during flooding, and shall conform to the City's Flood Control Ordinance and any applicable FEMA regulations.
 - (3) Grading equipment shall not cross or disturb channels containing live streams without siltation control measures approved by the City Engineer in place.
 - (4) Excavated materials shall not be deposited or stored in or alongside a watercourse where the materials can be washed away by high water or storm runoff.
- (g) **Revegetation.** Where natural vegetation has been removed through grading in areas not affected by the landscaping requirements (Section 9-4.124 et seq.) and that shall not be occupied by structures, such areas shall be re-naturalized with vegetative material to blend with the adjacent undisturbed natural terrain as set forth in this subsection to prevent erosion after construction activities are completed.
- (1) Preparation for Revegetation. Topsoil removed from the surface in preparation for grading and construction shall be stored on or near the site and protected from erosion while grading operations are underway, provided that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil shall be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.
 - (2) Methods of Revegetation. Acceptable methods of revegetation include hydro-mulching, or the planting of rye grass, barley or other seed with equivalent germination rates. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscaping cover shall be sown at not less than four (4) pounds to each one thousand (1,000) square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Building Official. Plant materials shall be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to reduce irrigation demands.
- (h) **Off-Site Effects.** Grading operations shall be conducted to prevent damaging effects of erosion, sediment production and dust on adjacent property, including public and private rights-of-way.

9-4.144 Sedimentation and erosion control.

- (a) Sedimentation and Erosion Control Plan Required. A sedimentation and erosion control plan is required when:
- (1) Land is disturbed for any non-agricultural purpose.
 - (2) Grading which may affect adjacent property or private rights-of-way which is proposed to be conducted or left in an unfinished state during the period from October 15th through April 15th.
 - (3) Land disturbance activities are conducted in geologically unstable areas, on slopes in excess of thirty percent (30%), on soils rated as having severe erosion hazard, or within fifty (50) feet of any watercourse shown on the most current 7 1/2 minute USGS quadrangle map or designated by a State or Federal agency with jurisdiction over watercourse delineation.
 - (4) The placing or disposal of soil, silt, bark, slash, sawdust or other organic or earthen materials from logging, construction and other soil disturbance activities above or below the anticipated high water line of a watercourse where they may be carried into such waters by rainfall or runoff in quantities deleterious to fish, wildlife or other beneficial uses.
- (b) Sedimentation and Erosion Control Plan Preparation and Processing. Sedimentation and erosion control plans shall address both temporary and final measures and shall be submitted to the City Engineer for review and approval. These plans, when required, shall be prepared by a registered civil engineer when grading exceeds five hundred (500) cubic yards. Plans for land disturbance of one (1) acre or larger shall be developed and signed by an appropriately licensed individual in accordance with the State Water Resources Control Board requirements. These plans shall be in accordance with the City Standard Improvement Specifications and Drawings, and may be incorporated into and approved as part of a grading, drainage or other improvement plans, but must be clearly identified as an erosion and sedimentation control plan.
- (c) Plan Check, Inspection, and Completion. Where required by the City Engineer, the applicant shall execute a plan check and inspection agreement with the City and the sedimentation and erosion control facilities inspected and approved before a certificate of occupancy is issued.
- (d) Sedimentation and Erosion Control Measures. The control of sedimentation and erosion shall include, but not be limited to, the use of the following:
- (1) Slope Surface Stabilization.
 - (i) Temporary mulching, seeding or other suitable stabilization measures approved by the City Engineer shall be used to protect exposed erodible areas during construction,
 - (ii) Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.
 - (2) Erosion and Sedimentation Control Devices. In order to prevent polluting sedimentation discharges, erosion and sediment control devices shall be installed as required by the City

Engineer for all grading and filling. Control devices and measures which may be required include, but are not limited to:

- (i) Energy absorbing structures or devices to reduce the velocity of runoff water.
 - (ii) Sedimentation controls such as sediment debris basin and traps.
 - (iii) Dispersal of water runoff from developed areas over large undisturbed areas.
 - (iv) Multiple discharge points to reduce the volume of runoff over localized areas.
- (3) Final Erosion Control Measures. Within thirty (30) days after completion of grading, or prior to building final, requiring a sedimentation and erosion control plan, all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover, shall be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of mechanical or vegetative measures.

9-4.145 Nuisance and hazard abatement.

Existing grading that has become hazardous to life or property or grading performed in violation of this section or the Uniform Building Code shall be deemed a nuisance. Full abatement and restoration may be required and an assessment of cost may be levied in accordance with Chapter 9-8.

Amend as redlined Sections 9-4.148 and 9-4.149:

9-4.146 Drainage.

Standards for the control of grading and drainage are intended to minimize harmful effects of storm water runoff and resulting inundation and erosion on proposed projects, and to protect neighboring and downstream properties from drainage problems resulting from new developments. The standards of Sections 9-4.1498 through 9-4.1542 are applicable to projects and activities required to have a zoning approval.

- 9-4.147 Drainage plan required.
- 9-4.148 Drainage plan preparation and content.
- 9-4.149 Drainage plan review and approval.
- 9-4.150 Plan check, inspection and completion.

9-4.151 Drainage standards.

9-4.147 Drainage plan required.

Drainage plans must be submitted with or be made part of a building permit application, precise plan, conditional use permit or grading permit application for a project that:

- (a) Involves a land disturbance (grading or removal of vegetation down to duff or bare soil by any method) of more than one (1) acre; or
- (b) Will result in an impervious surface of more than one thousand (1,000) square feet; or
- (c) Is subject to local ponding due to soil conditions and lack of identified drainage channels; or
- (d) Is located in an area identified by the City Engineer as having a history of flooding or erosion that may be further aggravated by or have a harmful effect on the project; or
- (e) Is located within a designated Flood Hazard overlay zone; or
- (f) Involves land disturbance or placement of structures within fifty (50) feet of any watercourse shown on the most current USGS 7 1/2 minute quadrangle map, or designated by a State or Federal agency with jurisdiction over watercourse delineation; or
- (g) Involves hillside development on slopes steeper than ten percent (10%) or driveways over twelve percent (12%) slope.

Amend as redlined for renumbering only Sections 9-4.151 through 9-4.154:

9-4.148 Drainage plan preparation and content.

Drainage plans are to be neatly and accurately drawn, at an appropriate scale that will enable ready identification and recognition of submitted information. Drainage plans must be prepared by an appropriately licensed profession as required by the City Engineering Standards or as required by the City Engineer.

- (a) Basic Drainage Plan Contents. A drainage plan shall include the following information about the site:
 - (1) Flow lines of surface waters onto and off the site.
 - (2) Existing and finished contours at two (2) foot intervals or other topographic information approved by the City Engineer.
 - (3) Building pad, finished floor and street elevations, existing and proposed.
 - (4) Existing and proposed drainage channels including drainage swales, ditches and berms.
 - (5) Location, calculations and design of any proposed facilities for storage or for conveyance of runoff into indicated drainage channels, including sumps, basins, channels, culverts, ponds, storm drains, and drop inlets.

- (6) Estimates of existing and increased runoff resulting from the proposed improvements.
 - (7) Proposed erosion and sedimentation control measures.
 - (8) Proposed flood proofing measures where determined to be necessary by the City Engineer.
 - (9) One hundred (100) year flood elevations if the property is in flood hazard area.
 - (10) The drainage plan must show compliance with the City Drainage Standards and the Central Coast Water Board's Post Construction Stormwater Management Requirements for Development Projects in the Central Coast Region (upon adoption by the City Council). This includes all projects that add one thousand (1,000) square feet of impervious surface to the property.
- (b) Engineered Plan Content. Engineered drainage plans shall include an evaluation of the effects of projected runoff on adjacent properties and existing drainage facilities and systems in addition to the information required by subsection (a) of this section.

9-4.149 Drainage plan review and approval.

All drainage plans shall be submitted to the City Engineer for review and are subject to the approval of the City Engineer.

Repeal and Replace Section 9-4.150:

9-4.150 Plan check, inspection and completion.

Where required by the City Engineer, a plan check and inspection agreement shall be entered into and the drainage facilities inspected and approved before a certificate of occupancy is issued.

Amend as redlined Sections 9-4.151:

9-4.151 Drainage standards.

- (a) Design and Construction. Drainage systems and facilities subject to drainage plan review and approval that shall be located in the City or existing or future public right-of-way shall be designed and constructed as set forth in the City Engineering Department Standard Improvement Specifications Drainage Standards and Drawings and the Central Coast Water Board's Post Construction Stormwater Management Requirements for Development Projects in the Central Coast Region (upon adoption by the City Council). All systems and facilities subject to drainage plan review and approval shall be designed in accordance with the City's Drainage Standards, Central Coast Water Board's Post Construction Stormwater Management Requirements (upon adoption by the City Council), and good engineering practices.

- (b) Natural Channels and Runoff. Proposed projects may include design provisions to retain off-site natural drainage patterns and limit peak runoff to predevelopment levels when required by the City Engineer.
- (c) Flood Hazard Areas. Buildings are not permitted in an area determined by the City Engineer to be subject to flood hazard by reason of inundation, overflow or erosion, except where provisions are made to eliminate such hazards to the satisfaction of the City Engineer. Such provisions may include providing adequate drainage facilities, protective walls, suitable fill, raising the floor level of the building or by other means. The placement of the building and other structures (including walls and fences) on the building site shall be such that water or mudflow will not be a hazard to the building or adjacent property. The City Engineer in the application of this standard shall enforce as a minimum the current Federal flood plain management regulations as defined in Title 24, Chapter X, Subchapter B, National Flood Insurance Program, Part 1910.

Add new Sections 9-4.152 through 9-4.157:

9-4.152 Hillside Development

The purpose of the Hillside Development Sections (9-4.152 through 9-4.157) is to preserve the rural nature of hillside areas, encourage the preservation of existing trees and vegetation, and encourage grading and design that preserves natural landforms and geographical features, minimizes aesthetic impacts, and maintains slope stability. Hillside Development standards are organized into the following sections:

- 9-4.153 Applicability
- 9-4.154 Definitions
- 9-4.155 Reserved
- 9-4.156 Process
- 9-4.157 Hillside Development Standards

The provisions of the Hillside Development Sections shall apply in addition to the applicable provisions of Sections 9-4.138 through 9-4.151 pertaining to grading, sedimentation and erosion control, nuisance and hazard abatement, and drainage.

9-4.153 Applicability.

Sections 9-4.152 through 9-4.157 shall apply to all development, grading, and construction projects with an area of disturbance before grading of fifteen percent (15%) or more.

9-4.154 Definitions.

As used in these Sections 9-4.152 through 9-4.157, the following terms are defined:

- (a) **Area of Disturbance.** The portion of a project site that is disturbed to accommodate structures, foundations, all graded slopes, parking areas, driveways, graded outdoor recreation spaces, and any areas otherwise graded.
- (b) **Average Slope.** See “slope, average”, as defined in Chapter 9-9.102 (General definitions). The City may require a survey and slope analysis prepared by a licensed surveyor or licensed civil engineer showing average percent slope categories.
- (c) **Hillside Area.** A site with an area of disturbance with a slope before grading of fifteen percent (15%) or more.
- (d) **Primary Structure.** The structure of chief function on a site. In general, the primary use is carried out in a primary structure. (See also “Accessory Structure” and “Building, Accessory” in Section 9-9.102).

9-4.156 Process.

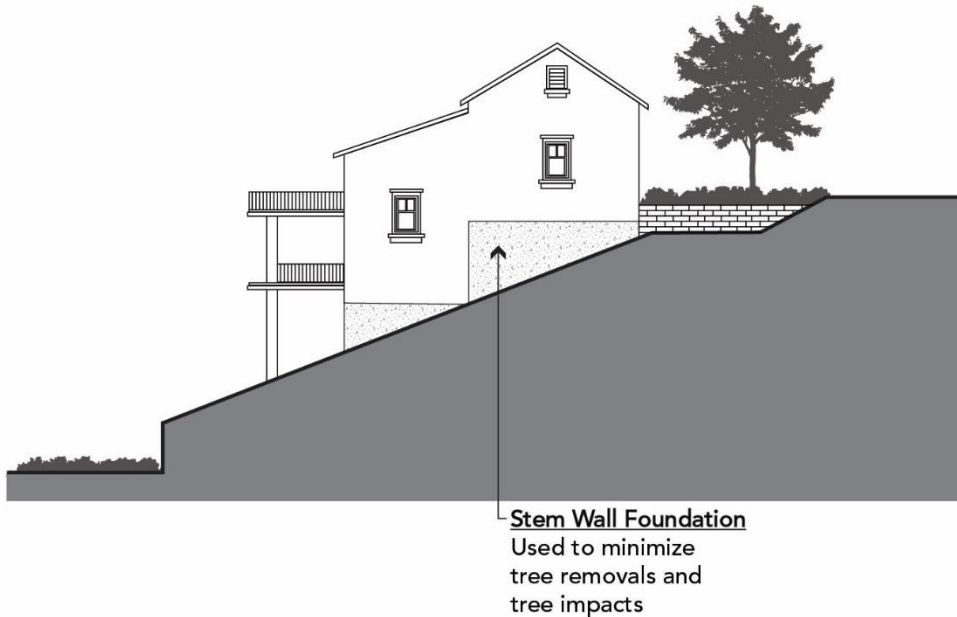
- (a) **Ministerial Review.** Development and/or grading in a hillside area that does not otherwise require a discretionary approval, or is not part of a project that requires discretionary approval pursuant to this Title 9 (including, but not limited to, Conditional Use Permits and Precise Plans), shall be processed as a ministerial review (e.g., Building/Grading Permit, as applicable), only if the development and/or grading is consistent with Section 9-4.157 (Hillside Development Standards).
- (b) **Discretionary Review.** Grading and/or construction in a hillside area that does not comply with Section 9-4.157 (Hillside Development Standards) shall require discretionary approval of a Precise Plan pursuant to Section 9-2.109 (unless a Conditional Use Permit is required pursuant to Section 9-2.110).

9-4.157 Hillside Development Standards.

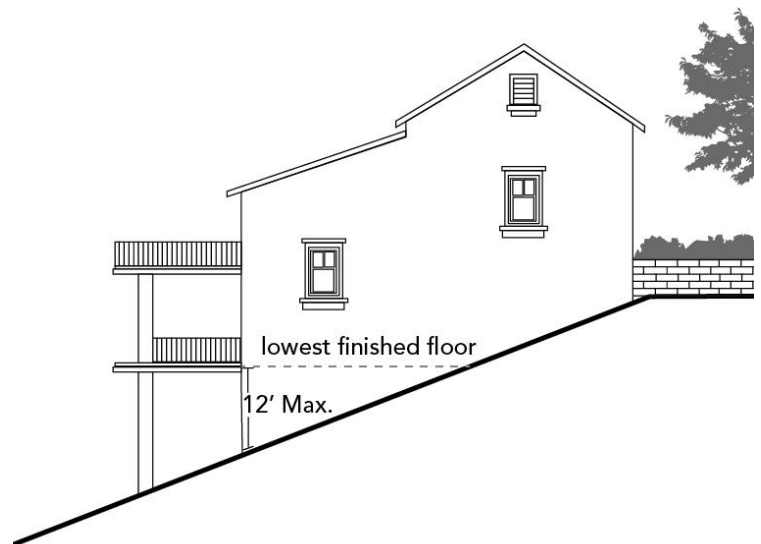
Except as allowed through discretionary review consistent with Section 9-4.156 (Process), the following standards apply to any area of disturbance with a slope of greater than fifteen percent (15%):

- (a) **Area of Disturbance Standards.** The maximum area disturbed by grading on a site shall not exceed twelve thousand five hundred (12,500) square feet, inclusive of areas allowed by Subsection 9-4.157(b, c, d, and e).
- (b) **Building Pad Standards.**
 - (1) Slopes up to 20%. Where the area of disturbance has an existing slope less than twenty percent (20%), individual pad grading is allowed if compliant with Section 9-4.157(a) and Sections 9-4.157(c – f).

- (2) Slopes 20%+. Where the area of disturbance has an existing slope of more than twenty percent (20%), pad grading is not allowed. Foundations shall incorporate special building techniques designed by a registered engineer or architect, including, but not limited to, split levels, benching, cantilevered, poles, piles, step and stem walls, and other methods designed to minimize soil disruption.

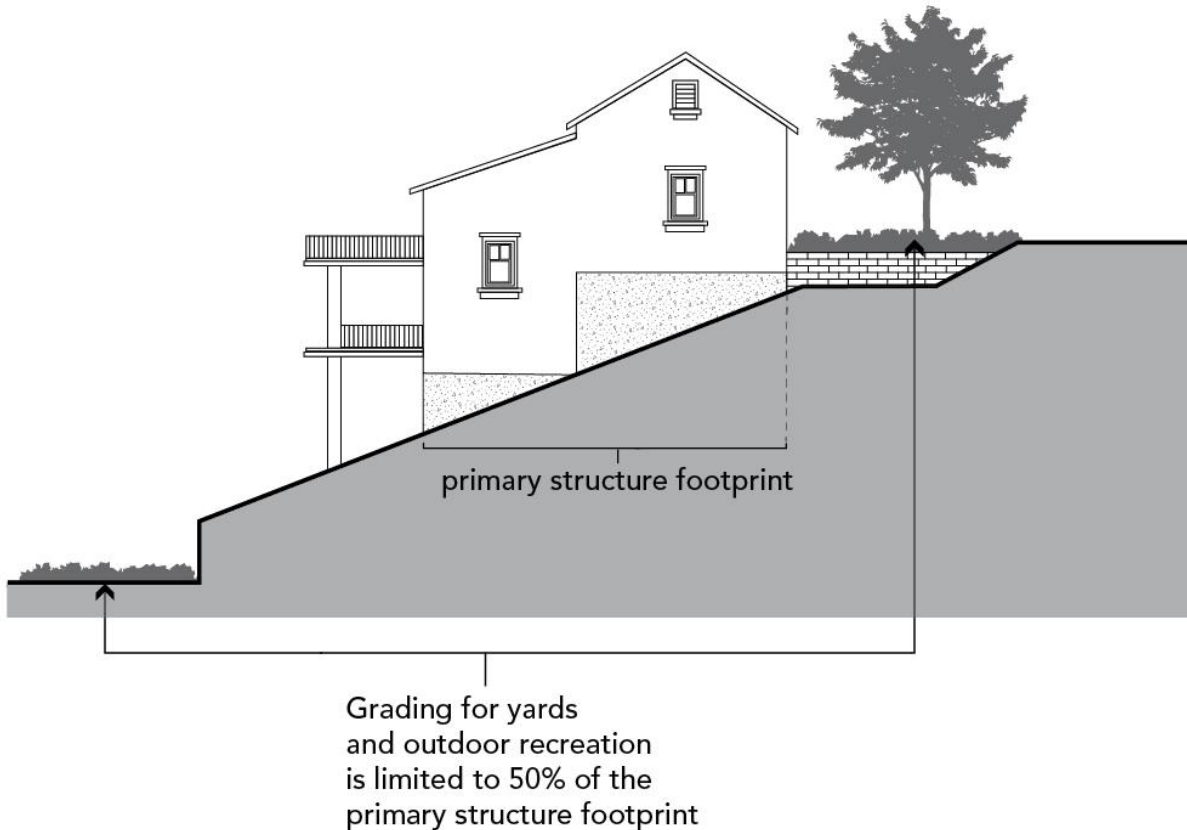


- (c) **Building Design.** The height of the lowest finished floor(s) of a building shall not be more than twelve (12) feet above the existing grade to ensure that buildings follow slopes.



(d) **Grading.**

- (1) See Sections 9-4.138 through 9-4.151 (Grading and drainage standards).
- (2) On slopes over twenty percent, (20%) grading for outdoor recreation/open spaces shall be equivalent to no more than fifty percent (50%) of the footprint of the primary structure, inclusive of all graded flat areas around the full perimeter of the primary structure.



(e) Retaining Walls.

(1) Height and Separation.

- (i) Height. The maximum height of a retaining wall shall be eight (8) feet, except a retaining wall up to twelve (12) feet high is permitted where it is integral to the foundation of the primary structure or a detached garage associated with the primary structure and where it can be demonstrated that it is necessary to minimize impacts to native trees or natural drainage features.
- (ii) Separation. All retaining walls shall be separated by a minimum of five (5) feet.
- (iii) Measurement. See Section 9-4.128(c)(1)(iv) for rules of measurement.

(2) Design.

- (i) Retaining walls shall be designed with lines that conform to the hillside topography.
- (ii) Materials shall consist of stone, soil nail, poured in place concrete, split face (or similarly textured) block, gabion walls, or similar method.

(f) Landscaping and Native Trees.

- (1) When a noncommercial project proposes to remove more than one native tree, removal of existing native trees as defined in Chapter 11 (Native Tree Regulations) shall:

- (i) Not exceed thirty percent (30%) of the total on-site tree canopy or 10,000 square feet of total on-site tree canopy area, whichever results in the least tree removal; and
 - (ii) Comply with Section 9-11.105(d)(4) (Conditions of Approval).
 - (iii) Nonresidential projects are exempt from Section 9-4.157(f)(1)(i).
- (2) Retaining walls along driveways, roads, and cut and fill areas shall be designed to minimize impacts to existing native trees, with retaining wall footings placed a distance equal to that of the tree's dripline plus fifty percent (50%) of that dripline distance at a minimum.
- (3) Where grading or erosion control requires reseeding, seeds and other plant materials used for erosion control and slope stabilization shall consist of native and/or drought tolerant species. The seed and plant material may not contain any non-native or non-drought tolerant plant species. See also 9-4.143(d) (Grading Near Watercourses).

Amend as redlined for renumbering only Section 9-4.164:

9-4.161 Lot line adjustment review for flag lots.

- (a) The adjustment of all property lines containing a flag lot shall be permitted in accordance with the following design standards:
- (1) The original lot shall have frontage on a dedicated street.
 - (2) The accessway to the rear lot shall be at least 20 feet wide for residential zones, except where the accessway is more than 150 feet long, it shall be at least 24 feet wide. For all other zones, the accessway shall be at least 30 feet wide.
 - (3) The lot farthest from the street shall own the accessway in fee. Other lots using the accessway shall have an access and utility easement over it.
 - (4) Lots utilizing the accessway of a flag lot may be required to enter into a road maintenance agreement to insure perpetual maintenance and repair of the accessway.

Amend as redlined Section 9-4.162:

9-4.162 Archaeological Resources.

- (a) The Planning Department shall retain maps on file with locations of known archaeologically sensitive areas. A Phase I archaeological study shall be completed and submitted to the City prior to construction or grading proposed within these mapped areas.
- (1) If the Phase I archaeological study determines there is not potential to adversely affect archaeological resources pursuant to the California Environmental Quality Act, and the project does not otherwise require a discretionary approval, or is not part of a project that requires

discretionary approval pursuant to this Title 9 (including, but not limited to, Conditional Use Permits and Precise Plans), the project shall be processed as a ministerial approval (e.g., Building/Grading Permit, as applicable).

- (2) If the Phase I archaeological study determines that there is the potential to adversely affect archaeological resources pursuant to the California Environmental Quality Act, projects shall be subject to Precise Plan review consistent with Section 9-2.109.

(b) In the event archaeological resources are unearthed or discovered during any construction or earth disturbing activities, the following standards apply:

- (1) Construction activities shall cease and the Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist and disposition of artifacts may be accomplished in accordance with State and Federal law.
- (2) In the event archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department so proper disposition may be accomplished.

Add new Sections 9-4.163 through 9-4.175:

9-4.163 Historic Resources Ordinance Purpose.

The following sections (9-4.163 through 9-4.169) establish standards and processes for the treatment of historic resources. The purpose of these sections is to promote public health, safety, and welfare and provide for the recognition and consideration of historic resources that reflect the social, cultural, historical, and architectural heritage of the city by establishing procedures and standards necessary to:

- (a) Implement the goals and policies of the General Plan;
- (b) Maintain historic community assets;
- (c) Integrate the consideration of historic resources into the development process;
- (d) Maintain rights of the owners of historic resources; and
- (e) Fulfill the City's responsibilities under any applicable state and federal laws, including the California Environmental Quality Act, National Environmental Policy Act, and the National Historic Preservation Act of 1966.

9-4.164 Historic Resources Ordinance Applicability.

The provisions of Sections 9-4.163 through 9-4.169 apply to historic resources, as defined in Section 9-4.165, located within Atascadero.

9-4.165 Historic Resources Definitions.

As used in these Sections 9-4.163 through 9-4.169, the following terms are defined:

- (a) **Alteration.** Change, repair, replacement, rehabilitation, remodel modification, or new construction to: (1) the exterior of an historic resource, including the replacement of windows, doors, siding, and anything considered to be a character-defining feature; (2) the structural elements that support the exterior walls, roof, or exterior elements of the historic resource; (3) character-defining features of the interior of an historic resource if the resource's significance is wholly or partially based on interior features and the resource is publicly accessible.
- (b) **Building.** Construction created principally to shelter any form of human activity, such as a house, barn, church, hotel, or similar, as defined in National Register Bulletin No. 15. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.
- (c) **California Register of Historical Resources.** The State register that includes buildings, sites, structures, objects, and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California pursuant to the California Public Resources Code Section 5024.1 and in the California Code of Regulations Title 14, Chapter 11.5, Section 4850, et seq., as it may be amended.
- (d) **Character Defining Feature.** The essential physical features that convey why a building, structure, object, site, or district is socially, culturally, or architecturally significant based on the applicable criteria for designation and its period of significance.
- (e) **Demolition.** Any act that destroys or removes, in whole or part, an historic resource such that its historic or architectural character and significance are materially altered.
- (f) **District, or Historic District.** A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development, as defined in National Register Bulletin No. 15.
- (g) **Historic Resource.** Districts, sites, buildings, structures, and objects listed in the National Register of Historic Places, California Register of Historical Resources, or the City of Atascadero's Historic Resources List (see Section 9-4.166).
- (h) **National Register of Historic Places.** The official inventory of districts, sites, buildings, structures, and objects significant in American history, architecture, engineering, archaeology, and culture that is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.
- (i) **Object.** Those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed (this definition is used to distinguish from buildings and structures), as defined in National Register Bulletin No. 15. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.
- (j) **Preservation.** The act or process of applying measures to sustain the existing form, integrity, and material of a historic property. Includes initial stabilization work, where necessary, as well as ongoing preservation maintenance and repair of historic materials and features, as defined in the Secretary of Interior's Standards.

- (k) **Rehabilitation.** The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural and architectural values, as defined in the Secretary of Interior's Standards.
- (l) **Relocation.** Removal of an historic resource from its original site and its re-establishment in essentially the same form, appearance, and architectural detailing at another location, as defined in the Secretary of the Interior's Standards.
- (m) **Restoration.** The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by removing features from other periods in its history and reconstructing missing features from the restoration period, as defined in the Secretary of the Interior's Standards.
- (n) **Secretary of the Interior's Standards.** The Secretary of the Interior's Standards for the Treatment of Historic Properties as published by the U.S. Department of the Interior and as it may be amended.
- (o) **Site.** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure, as defined in National Register Bulletin No. 15, as well as local cultural landscapes (e.g., Sunken Gardens, Lake Park, etc.).
- (p) **Structure.** Those functional constructions made usually for purposes other than creating human shelter (intended to be distinguished from buildings), including walls, fences, signs, bridges, monuments, and similar features, as defined in National Register Bulletin No. 15.

9-4.166 Historic Resources List.

- (a) **Creation of Historic Resources List.** The City shall create and maintain a list of historic resources in Atascadero known as the Historic Resources List, which shall be adopted by resolution of the City Council and which shall consist of historic resources meeting the following criteria:
 - (1) Colony Era and Pre-Colony Era structures built prior to 1926 that retain historical integrity; or
 - (2) Other buildings, structures, objects, or sites that:
 - (i) Are at least 50 years old;
 - (ii) Exhibit demonstrable historic significance consistent with the Historic Resource List eligibility criteria (Section 9-4.166(b)); and
 - (iii) Retain sufficient historic integrity to accurately convey its significance (Section 9-4.166(c)).
- (b) **Historic Resource List Eligibility Criteria.** In order to qualify as eligible for listing in the City's Historic Resources List, a resource must exhibit demonstrable historical significance consisting of one or more eligibility criteria:
 - (1) The resource is associated with a significant local event or pattern of development.
 - (2) The resource is associated with a significant person or persons.

- (3) The resource is recognized as possessing distinctive stylistic characteristics or workmanship significant for the study of a period, method of construction, or use of native materials.
 - (4) The resource is recognized as possessing special aesthetic merit or value in the community as a resource with quality of design or workmanship and that retains sufficient character-defining features embodying its aesthetic significance.
 - (5) The resource is associated with an architect, designer, or builder whose work has influenced the development of Atascadero.
 - (6) The resource is recognized as a significant example of the cultural, natural, archaeological, or built heritage of Atascadero.
- (c) **Historical Integrity.** In order to qualify as eligible for listing in the City's Historic Resources List, a resource must, in addition to exhibiting historical significance, exhibit historical integrity as defined in the National Register Bulletin No. 15, or other updated evaluation guidance published by the U.S. Department of the Interior and/or National Park Service, based on a combination of some of the following features:
- (1) Location
 - (2) Setting
 - (3) Design
 - (4) Materials
 - (5) Workmanship
 - (6) Feeling
 - (7) Association
- (d) **Amending Historic Resources List.**
- (1) **Adding Resources.** The Community Development Director, based on staff or community member recommendation, may amend the Historic Resources List from time to time to add historic resources, based on the factors listed in Section 9-4.166(a).
 - (2) **Removing Resources.** Following a staff recommendation that a particular resource no longer meets eligibility criteria and/or exhibits historical integrity, the removal of resources from the Historic Resources List is subject to review and approval by the Design Review Committee (DRC).
 - (3) **Public Notice.** Amendment of the Historic Resources List shall require public notice to the property owner of the subject historic resource.

9-4.167 Historic Resources Alterations.

- (a) **Ministerial Review.** The following alterations to historic resources on the Historic Resources List, which include additions to resources, shall be processed as a ministerial review (i.e., Building Permit):

- (1) Ordinary maintenance and repairs that do not change the exterior design, materials, architectural features, or character-defining features of an historic resource, including in-kind replacement of existing features. To be considered “replacement in kind,” the features must reasonably match the design, profile, material, and general appearance of the existing or original features; and
 - (2) Alterations that meet the Secretary of the Interior’s Standards for the Treatment of Historic Properties applicable to the particular historic resource type, its significance, and its character-defining features.
- (b) Precise Plan Review.** The following alterations to historic resources on the Historic Resources List shall be processed via Precise Plan review pursuant to Section 9-2.109 (Precise Plan):
- (1) Alterations that do not meet the Secretary of the Interior’s Standards for the Treatment of Historic Properties applicable to the particular historic resource; and
 - (2) Alterations to historic resources listed on the National Register of Historic Places or on the California Register of Historical Resources.
- (c) Alternative Building Code Provisions.** All buildings, structures, objects, or sites on the Historic Resources List are considered historical resources as defined by the California Environmental Quality Act (PRC §21000-22189) and may be eligible to use alternative building code provisions as determined by the Building Official, such as the California State Historical Building Code.

9-4.168 Historic Resources Relocation and Demolition.

(a) Relocation of Historic Resources.

- (1) **Ministerial Review.** Relocation of an historic resource on the Historic Resources List that meets the following conditions shall be processed as a ministerial review (i.e., Building Permit):
 - (i) The historic resource is significant for its architecture, design, construction method, or similar historical theme that is not derived from its original location, setting, or specific surrounding context;
 - (ii) The historic resource is significant for events, patterns of development, or similar historical themes, but:
 - a. The historic resource is being relocated a short distance such that it retains essential aspects of historical integrity; or
 - b. The historic resource is being relocated to a new location with a more appropriate context, as determined by a qualified architectural historian or equivalent professional than the existing context given proposed changes to the existing context;
 - (iii) All alterations to the historic resource—from preparing for relocation to final rehabilitation and occupation—meet the Secretary of the Interior’s Standards applicable to the particular historic resource; and

- (iv) The applicant has submitted to the City an Historic Resource Relocation Plan that demonstrates the project's adherence to the Secretary of the Interior's Standards.
- (2) **Precise Plan Review.** The following relocations of an historic resource on the Historic Resources List shall be processed via Precise Plan review pursuant to Section 9-2.109 (Precise Plan):
- (i) Relocations that are inconsistent with the Secretary of the Interior's Standards applicable to the particular historic resource; and
 - (ii) Relocations of historic resources listed on the National Register of Historic Places or on the California Register of Historical Resources.

(b) Demolition of Historic Resources.

- (1) **Precise Plan Review.** Demolition of an historic resource on the Historic Resources List shall be processed as via Precise Plan review pursuant to Section 9-2.109 (Precise Plan), unless the historic resource has been removed from the Historic Resources List pursuant to Section 9-4.166(d)(2) (Removing Resources).
- (2) **National and State Historic Resources.** Any proposed demolition or other action that will have an adverse effect on a resource on the National Register of Historic Places or on the California Register of Historical Resources shall comply with California Public Resources Code Section 5028.
- (3) **Unlisted Resources.** If a building, structure, object, or site is more than 50 years old but not listed in the Historic Resources Inventory, National Register of Historic Places, or California Register of Historical Resources, and is proposed for demolition, an historic resources assessment report may be required by the Director to determine its historical significance and status as a historic resource and the eligibility criteria for listing on the City's Historic Resource List. If determined an historic resource, the property shall be subject to the provisions of this Chapter.
- (4) **Requirements.** Prior to the issuance of a permit to demolish an historic resource on the Historic Resources List, the following measures shall be completed by the applicant:
- (i) **Documentation.** Each historic resource shall be documented to provide a record of the resource, which shall include the preparation of measured drawings and high-quality photographs consisting of:
 - a. **Drawings.** For buildings, plans shall include, but not be limited to, a site plan; floor plans; elevations; and detailed drawings of character-defining features, such as exterior ornamentation and interior details.
 - b. **High-Quality Photographs.** Photographs documenting a resource shall include the exterior and interior, context and important spatial features, and details of relevant character-defining features.
 - (ii) **Salvaged Features and Artifacts.** In an effort to preserve features and artifacts of buildings and structures, the City shall make a determination on whether items within or appurtenant to the building or structure shall be salvaged by the applicant prior to demolition. This is particularly true of historic Colony Homes, where certain materials may be utilized in repair and

rehabilitation efforts at other Colony Homes under the guidance included within Secretary of the Interior's Standards. Such salvaged features and artifacts, including the whole building or structure and listed elements, shall be advertised in a local publication for local use for 30 days before dispersal. To the extent feasible, all salvaged elements and features shall be stored on-site for this duration. In this instance, the site shall be demonstrably secured and the salvaged materials appropriately protected from the elements. Where on-site storage is not feasible, other secure locations with controlled access and appropriate protection from the elements may be used. A salvage and storage plan outlining these details shall be submitted to the City for approval.

- (iii) **Additional Mitigation Measures.** Additional mitigation measures may be required for historic resources listed on the National Register of Historic Places or on the California Register of Historical Resources or where identified as necessary by the Director for significant resources.

9-4.169 Historic Resources - Application and Process

- (a) **Application Submittal Requirements.** In addition to the application submittal requirements pertaining to the specific type of permit required for historic alterations, relocations, and demolitions, the following items may be required if determined necessary by the Director:
 - (1) Historic resource survey that provides photographs of the historic resource (exterior, interior, character-defining features, and setting) and a summary of the property's history, existing condition, and historical significance. All historic resource survey filings shall be conducted by a qualified architectural historian that meets the Secretary of the Interior's professional qualifications standards in architectural history, or equivalent professional; and/or
 - (2) Any other supporting information reasonably necessary for review of the proposed work or request.
- (b) **Concurrent Processing.** Any historic resource alteration, or relocation, or demolition associated with another permit application shall be processed concurrently and reviewed by the highest review authority designated by the Zoning Code for any of the applications.
- (c) **Accessory Dwelling Units.** Alterations to historic resources that consist of the addition of an accessory dwelling unit to an historic resource on the California Register of Historical Resources shall comply with Title 9, Chapter 5 (Accessory and Junior Accessory Dwelling Units).
- (d) **No Net Loss.** Notwithstanding the provisions of Section 9-4.168(b), demolition of an historic resource shall be consistent with the applicable provisions of Government Code Section 66300(d), including that in the case of a housing development project, as defined in Government Code Section 65589.5(h)(2), no demolition or other loss of a legally established residential dwelling unit in the city shall be approved unless it is part of a project that will create at least as many residential dwelling units as that to be demolished or otherwise lost.
- (e) **Unsafe Structures.** If a building, structure or object is determined by the City's Building Official and Community Development Director to be unsafe, presents a public hazard, is not securable, or is in imminent danger of collapse so as to endanger persons or property, the demolition standards of

Section 9-4.168(b) may not apply. The Building Official and Community Development Director's mutual determination on this matter shall be governed by applicable law.

9-4.170 Watercourse- and Wetland-Adjacent Development - Purpose.

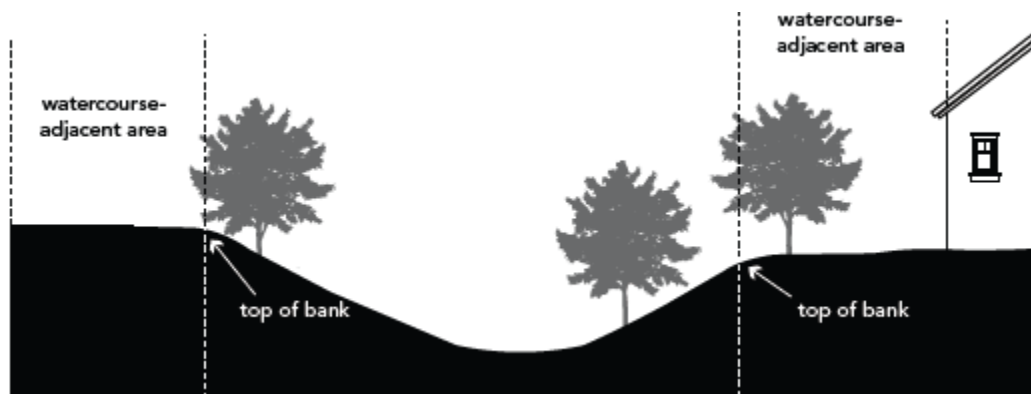
The following Sections 9-4.171 through 9-4.175 establish standards for the review of proposed development adjacent to watercourses and wetlands within Atascadero. The purpose of these sections is to promote public health, safety, and welfare by establishing procedures and standards necessary to:

- (a) Implement the goals and policies of the General Plan;
- (b) Consider potential flood impacts prior to approving development;
- (c) Consider sensitive resources in the development process;
- (d) Maintain rights of the owners of watercourse- and wetland-adjacent property; and
- (e) Fulfill the City's responsibilities under any applicable state and federal laws, including the California Environmental Quality Act and National Environmental Policy Act.

9-4.171 Applicability.

- (a) **General.** The provisions of Sections 9-4.170 through 9-4.175 apply to all watercourse- and wetland-adjacent areas in Atascadero, as defined below:
 - (1) **Watercourse-Adjacent Areas.** Watercourse-adjacent areas include the following:
 - (i) Areas located within one-hundred (100) feet of the Salinas River; and
 - (ii) Areas located within twenty (20) feet of any other major or minor watercourse, as defined in Section 9-4.172 (Definitions).
 - (2) **Wetland-Adjacent Areas.** Wetland-adjacent areas are those located within twenty (20) feet of a jurisdictional wetland, as defined in Section 9-4.172 (Definitions).

Figure 9-4.172-1: Watercourse-Adjacent Areas



- (b) **Floodway and Floodplain.** Development and activities within watercourse- and wetland-adjacent areas shall also comply with the provisions of Chapter 11 (Flood Damage Protection) and Title 7 (Public Works), as applicable. Where there is conflict between these Sections 9-4.170 through 9-4.175 and Chapter 11 of Title 7, the more restrictive provisions shall prevail.

- (c) **Prior Approvals.** Where the City has explicitly approved a watercourse- or wetland-adjacent development with differing standards than those listed by these Sections 9-4.170 through 9-4.175, that approval shall govern development standards so long as the approval remains active.

9-4.172 Definitions.

As used in these Sections 9-4.170 through 9-4.175, the following terms are defined:

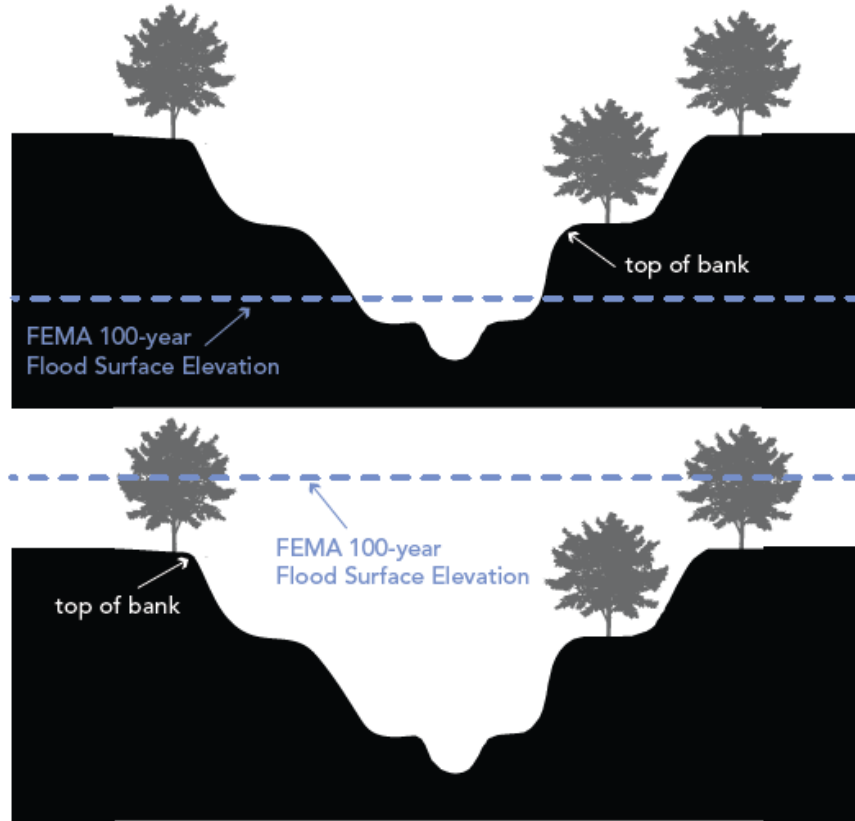
- (a) **Riparian Vegetation.** Those herbaceous plants, shrubs, and trees that are naturally associated with watercourses where the plant species tolerates, or requires, moist soil conditions. Riparian vegetation canopies may extend over, or beyond, the existing associated watercourse.
- (b) **Watercourse.** Rivers, streams, brooks, creeks, waterways, lakes, ponds, and all other bodies of water, vernal or intermittent, public or private, that are contained within, flow through, or border the city, and which are not considered “wetlands.”
- (1) **Major Watercourse.** The major watercourse features within the city limits are the Salinas River, Atascadero Creek, Graves Creek, Paloma Creek, and Boulder Creek.
- (2) **Minor Watercourse.** Minor watercourse features are those other perennial, intermittent, or ephemeral watercourse features that are considered jurisdictional by the state and/or federal government and not included in the definition of a major watercourse (Section 9-4.172[b][1]).
- (c) **Watercourse-Adjacent Areas.** See Section 9-4.171(a)(1) (Watercourse-Adjacent Areas).
- (d) **Wetland, or Jurisdictional Wetland.** Wetlands shall be consistent with the California Fish and Game Code and Clean Water Act definitions. Wetlands are typically areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- (e) **Wetland-Adjacent Areas.** See Section 9-4.171(a)(2) (Wetland-Adjacent Areas).

9-4.173 Measurement of Watercourse- and Wetland-Adjacent Areas.

- (a) **Watercourse-Adjacent Areas.** Measurement of water-course adjacent areas shall be from the existing top of bank or ordinary high watermark if no defined bank exists.
- (1) **Measuring Top of Bank.**
- (i) **General.** Top of bank determination shall be consistent with the California Department of Fish and Wildlife definition. Generally, where the watercourse has a sloped bank rising from the toe of the bank to a hinge point at the generally level upper ground, the hinge point is the “top of bank.”
- (ii) **100-Year Flood Plain.** Where the watercourse bank slope rises from the toe of the bank, levels off one or more times, then rises to a hinge point at the generally level upper ground, the hinge point at or directly above the FEMA 100-year flood surface elevation shall be considered top of bank. If the FEMA 100-year flood surface elevation is above the

highest hinge point, the highest hinge point is considered top of bank. See Figure 9-4.173-1: Measurement of Top of Bank.

Figure 9-4.173-1: Measurement of Top of Bank



- (b) **Wetland-Adjacent Areas.** Measurement of wetland-adjacent areas shall be from the edge of the jurisdictional wetland boundary as identified by a qualified environmental consultant or wetlands specialist.

9-4.174 Process and Application Submittal.

- (a) **Ministerial Review Process.** Development or placement of items in a watercourse- or wetland-adjacent area that does not otherwise require a discretionary approval, or is not part of a project that requires discretionary approval pursuant to this Title 9 (including, but not limited to, Conditional Use Permits and Precise Plans), shall be processed as a ministerial approval (e.g., Building/Grading Permit, as applicable), only if:
- (1) The development and placement of items are consistent with Section 9-4.175 (Permitted Improvements); and
 - (2) Upon confirmation by the Community Development Director based on a site visit and/or documentation that no applicable resources would be adversely affected.
- (b) **Discretionary Review Process.** Development or placement of items in a watercourse- or wetland-adjacent area that does not comply with Section 9-4.175 (Permitted Improvements) and/or that the Community Development Director has determined has the potential to adversely affect watercourse or

wetland resources, shall require discretionary approval of a Precise Plan pursuant to Section 9-2.109 (Precise Plan).

- (c) **Application.** In addition to the requirements of Chapter 2 (Applications: Content, Processing and Time Limits), and in addition to those requirements identified in Section 9-2.109 (Precise Plan), applications for development or placement of items in a watercourse- or wetland- adjacent area shall include the following, unless waived by the Community Development Director upon determining that no purpose will be served by such a report because no applicable watercourse or wetland resources will be affected:
- (1) **Vegetation/Top of Bank/Riparian Technical Report.**
 - (i) For lots with riparian vegetation associated with a watercourse, lots with wetlands, and/or, at the discretion of the Community Development Director, for lots adjacent to those with riparian vegetation associated with a watercourse or wetland, a technical report prepared by a qualified environmental consultant or wetlands specialist that describes and maps the types of vegetation, identifies and maps the watercourse tops of banks, and determines the edge of riparian vegetation and wetlands, pursuant to Section 9-4.173(b);
 - (ii) For lots with a watercourse and without riparian vegetation, a technical report prepared by a qualified environmental consultant, wetlands specialist, or licensed civil engineer that identifies the watercourse tops of banks and ordinary high-water mark, as applicable, pursuant to Section 9-4.173(a); and
 - (iii) For Precise Plan applications, a technical report prepared by a qualified environmental consultant or wetlands specialist determining that the watercourse or wetland will not be significantly impacted by the improvement, including a biological survey, a written analysis of the project impacts to special status species, riparian and/or wetland habitat, and required avoidance and minimization measures.
 - (2) **Soil Report.** For any structures proposed, a technical report prepared by a qualified soil engineer that confirms the watercourse bank and/or wetland is stable and is unlikely to erode, ensuring that the structure will not be structurally undermined.
 - (3) **Hydrology Report.** For Precise Plan applications, a hydrology report prepared by a qualified licensed engineer providing analysis of the project impacts to hydrology and hydraulics. The hydrology report shall include a topographical survey of the watercourse or wetland feature with one-foot contour lines at one (1) to twenty (20)-foot scale from bank to bank within the development area (and which may, at the discretion of a qualified licensed engineer and/or as required by the Community Development Director and/or the City Engineer or their designees, include additional areas up and downstream, including areas beyond the property lines), engineered grading and drainage plan of the site, and required avoidance and minimization measures.
- (d) **State and/or Federal Regulatory Agency Jurisdiction.** Applications for development within a watercourse-adjacent or wetland-adjacent area may also be subject to state and/or federal regulatory agency jurisdiction and shall ensure compliance with applicable regulations and permitting procedures.

9-4.175 Permitted Improvements.

(a) General Permitted Development and Placement of Items.

- (1) Allowed Items. The following items are allowed within the watercourse- and wetland-adjacent areas with ministerial approval pursuant to Section 9-4.174(a):
 - (i) Fences, provided such fences maintain seventy-five percent (75%) open air, such as welded wire mesh, hog wire, or split rail, and that if crossing a watercourse, do not extend below the ordinary high-water mark or otherwise impede water flow;
 - (ii) Landscape walls less than three (3) feet in height;
 - (iii) Walkways (either pervious or impervious) no more than six (6) feet in width;
 - (iv) The following patios, decks, and gazebos that cumulatively occupy no more than thirty percent (30%) of the property line adjacent to the watercourse (in linear feet):
 - a. Patios (either pervious or impervious) that encroach no more than two-hundred (200) square feet into the watercourse- or wetland-adjacent area;
 - b. Raised decks, including stairs and landings, that encroach no more than three-hundred (300) square feet into the watercourse- or wetland-adjacent area; and
 - c. Small open-air accessory structures including gazebos, patio covers, pergolas, trellises, or other similar structures without a solid roof, and constructed so that each side is open and unenclosed except for structurally necessary supports, that encroach no more than two-hundred (200) square-feet into the watercourse- or wetland-adjacent area;
 - (v) Non-fixed outdoor furniture that is not permanently attached to a structure or the ground;
 - (vi) Bioswales, rain gardens, and similar non-structural flood control and stormwater improvements constructed with natural materials and planted with non-invasive vegetative species;
 - (vii) Repairs to existing permitted structures and facilities that do not increase the size or footprint of the structures or facilities;
 - (viii) Minor landscape features not requiring grading;
 - (ix) Landscape installation of non-invasive vegetative species;
 - (x) Vegetation management, which may require agency permits if located within a riparian area;
 - (xi) Watercourse or wetland monitoring or gauging facilities operated by local, state, or federal agencies;
 - (xii) Underground utilities permitted by the United States Army Corps of Engineers, California Department of Fish and Wildlife, or Regional Water Quality Control Board;
 - (xiii) Private ground-mounted utilities (e.g., propane tank), only if there is no other feasible location on the property; and
 - (xiv) Public utilities.

- (2) Requirements for Placement. Items listed in Section 9-4.175(a)(1) are allowed provided:
- (i) Except fences allowed by Section 9-4.175(a)(1)(i), items do not extend:
 - a. Beyond the top of bank, or ordinary high watermark if no defined bank exists;
 - b. Into the watercourse channel; or
 - c. Within the delineated jurisdictional boundary of a wetland;
 - (ii) Items do not conflict with Title 7, Chapter 11 (Flood Damage Prevention); and
 - (iii) Items are consistent with all other development standards of Title 9 (Planning and Zoning).

(b) Permitted Development and Placement of Items in Downtown.

- (1) Permitted Items. In Downtown, between U.S. 101 and Hospital Drive, and adjacent to Atascadero Creek, on commercially or publicly owned properties, the following items are allowed within the watercourse- and wetland-adjacent areas with ministerial approval pursuant to Section 9-4.174(a):
- (i) All items listed in Section 9-4.175(a);
 - (ii) Publicly accessible trails; and
 - (iii) Outdoor dining areas and gathering spaces.
- (2) Requirements for Placement. Items listed in Section 9-4.175(b)(1) are allowed provided:
- (i) Except fences allowed by Section 9-4.175(a)(1)(i), items do not extend:
 - a. Beyond the top of bank, or ordinary high watermark if no defined bank exists;
 - b. Into the watercourse channel; or
 - c. Within the delineated jurisdictional boundary of a wetland;
 - (ii) Items do not conflict with Title 7, Chapter 11 (Flood Damage Prevention);
 - (iii) On commercially owned properties, items in total do not occupy more than 50 percent of the total required setback area on the lot; and
 - (iv) Items are consistent with all other development standards of Title 9 (Planning and Zoning).

(c) Watercourse Crossings.

- (1) Permitted Items. Over minor watercourses only, the following are allowed:
- (i) Clear span bridges;
 - (ii) Standard round culverts with a minimum fifteen (15) inch diameter and up to twenty-four (24) inches in diameter; and
 - (iii) Arched or natural bottom culverts over twenty-four (24) inches in diameter.
- (2) Requirements for Placement and Construction. Items shall be designed in accordance with all applicable best management practices to prevent obstruction or diversion of flood and drainage flow and to minimize adverse impacts to riparian vegetation and habitat and scenic resources

along or within the watercourse. Concrete sides and/or bottoms of watercourses are prohibited. See also Title 7, Chapter 11 (Flood Damage Prevention).

- (d) **Prohibited Activities.** The keeping and grazing of swine, ovines, and/or bovines; storage of vehicles or materials; and active recreation uses that result in natural landform modification are prohibited in watercourse- and wetland-adjacent areas. See also Title 5, Chapter 15 (Prohibited Camping).

DRAFT ORDINANCE B

**ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, APPROVING A ZONING MAP
AMENDMENT TO REMOVE THE HISTORIC SITE (HS) OVERLAY ZONE
FROM CERTAIN PROPERTIES CONTAINING COLONY HOMES AND
APPLY THE HISTORIC SITE (HS) OVERLAY TO STATE AND
FEDERALLY REGISTERED HISTORIC RESOURCES**

**HISTORIC SITE OVERLAY ZONING MAP AMENDMENTS
(ZCH-0061)**

WHEREAS, California Government Code Section 37361 enables city legislative bodies to provide for “places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use”; and

WHEREAS, Atascadero was one of the first master planned communities in California born out of the City Beautiful movement, with the Atascadero Colony subdivision recorded in 1913 beginning the “colony era” of colony home building between 1913 and 1926, providing important historic context for the City; and

WHEREAS, certain properties, buildings, and other known resources in Atascadero are listed on the State and/or National Register of Historic Places; and

WHEREAS, the existing Historic Site (HS) Overlay has been applied to certain properties with historic resources over the years, but not all recognized resources; and

WHEREAS, properties listed on the State and/or National Register of Historic Places are of unique importance; and

WHEREAS, the Historic Site (HS) Overlay serves as a companion to the City’s proposed Historic Resources Ordinance (new AMC Sections 9-4.163 through 9-4.169) specific to those properties listed on the State and/or National Register of Historic Places; and

WHEREAS, the Planning Commission has had the opportunity to review the Atascadero HS Overlay Zoning Map Amendment and has determined that it is in the best interest of the City to enact this amendment to the Official Zoning Map; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Zoning Map Amendment was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said Zoning Map Amendment; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Zoning Map Amendment was held by the City Council of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said Zoning Map Amendment; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Recitals: The above recitals are true and correct and incorporated herein as if set forth in full.

SECTION 2. Planning Commission Recommendation. The Planning Commission of the City of Atascadero, on October 15, 2024, held a timely and properly noticed Public Hearing upon the subject Title 9 Atascadero Municipal Code amendments and associated actions, at which hearing evidence, oral and documentary, was admitted on behalf of said amendments and the Planning Commission recommended that City Council approve the proposed text amendments.

SECTION 3. Public Hearings. The City Council held a duly noticed public hearing to consider the project on November 12, 2024 and considered testimony and reports from staff and the public.

SECTION 4. Findings for Approval. The City Council makes the following findings and determinations for approval of the proposed map amendments:

1. **FINDING:** The Zoning Map Amendment is consistent with General Plan policies and all other applicable ordinances and policies of the City.

FACT: The proposed Zoning Map Amendment is consistent with the General Plan, including Goal LOC 6: preserve natural flora and fauna and protect scenic lands, sensitive natural areas, historic buildings and cultural resources.

2. **FINDING:** This Amendment of the Zoning Map will provide for the orderly and efficient use of lands where such development standards are applicable.

FACT: The proposed map amendment identifies existing State and federally recognized historic resources and supports the orderly and efficient use of land.

3. **FINDING:** The Zoning Map Change will not, in itself, result in significant environmental impacts.

FACT: The proposed map amendment protects existing historic resources, is aligned with the California Environmental Quality Act Guidelines, and will not result in an environment impact.

SECTION 5. CEQA. The proposed Zoning Map Amendment is exempt from the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the enactment of this Ordinance would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378(b)(4), 15061(b)(3)).

SECTION 6. Approval. The City Council of the City of Atascadero, in a regular session assembled on November 12, 2024, resolved to introduce, for first reading, by title only, an ordinance that would amend the official zoning designation as detailed in Exhibit A (Zoning Map Amendment), attached hereto and incorporated by this reference.

SECTION 7. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 8. Preservation. Repealing of any provision of the Atascadero Municipal Code or of any previous Code Sections, does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 9. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the Atascadero Municipal Code or other City Ordinance by this Ordinance will be rendered void and cause such previous Atascadero Municipal Code provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 10. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 11. Notice. The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Atascadero's book of original ordinances, make a note of the passage and adoption in the records of this meeting and within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 12. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

INTRODUCED at a regular meeting of the City Council held on November 12, 2024, and **PASSED, APPROVED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on December 10, 2024.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Dave Fleishman, City Attorney

**EXHIBIT A:
LISTS OF PROPERTIES WHERE THE HISTORIC OVERLAY IS TO BE
REMOVED OR APPLIED**

PROPERTIES WHERE HISTORIC SITE OVERLAY IS ELIMINATED		
APN(S)	ADDRESS(ES)	NOTES
029-252-001	5735 Rosario	HS Overlay previously established with PD-28
029-322-022	5825 Ridgeway	HS Overlay previously established with PD-29
030-292-022	8255 San Andres	HS Overlay previously established with PD-25
049-104-032	5466 Regio	HS Overlay previously established with PD-17
056-131-015	8780 Portola	HS Overlay previously established with PD-23
049-105-001	1410 Medio	HS Overlay previously established with PD-17

PROPERTIES WHERE HISTORIC SITE OVERLAY IS ADOPTED AND APPLIED		
APN(s)	ADDRESS(ES)	NOTES
029-345-001 029-346-001	6500, 6505 El Camino Real	City Hall and Sunken Gardens; Listed on State and National Registers of Historic Places
029-331-003	6531 Olmeda	The Printery; Listed on State and National Registers of Historic Places



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item A10

Department: Administrative Services
Date: 12/10/24
Placement: Consent

TO: JAMES R. LEWIS, CITY MANAGER

FROM: JERI RANGEL, DIRECTOR OF ADMINISTRATIVE SERVICES

PREPARED BY: JERI RANGEL, DIRECTOR OF ADMINISTRATIVE SERVICES

SUBJECT: Essential Services Transactions and Use Tax Contracting with the State of California

RECOMMENDATIONS:

Council:

1. Adopt Draft Resolution A authorizing the City Manager to execute agreements with the California Department of Tax and Fee Administration for implementation of a local transactions and use tax.
2. Adopt Draft Resolution B authorizing representatives of the City of Atascadero to examine confidential transactions and use tax records of the California Department of Tax and Fee Administration (CDTFA) pertaining to transactions and use taxes collected by the CDTFA for the City of Atascadero.
3. Authorize the City Manager to enter into a contract with Hinderliter, De Llamas and Associates for transactions tax audit and information services related to the Measure L-24 Sales Tax Revenue.

DISCUSSION:

The City Council placed a Ballot Measure on the November 2024 ballot asking voters in Atascadero this question:

To provide funding that cannot be seized by Sacramento, and that will be used locally for such things as repair of neighborhood roads, aging infrastructure along with other vital general government needs, shall the City extend its current ½ cent per dollar sales tax (Measure F-14), providing approximately \$3,000,000 annually, until ended by voters; with citizen committee oversight, published annual reporting and independent financial audits?

Over 70% of the voting public voted Yes. The Essential Services Transaction and Use Tax Ordinance (No. 672), that was adopted in June 2024, extends the Transactions and Use Tax (one-half cent sales tax) to be administered by the California Department of Tax and Fee Administration (CDTFA). Included in this Ordinance, under Section 3-17.040 of Attachment A, it states, "Prior to

the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this Chapter..." The operative date of this Ordinance is April 1, 2027.

There are two contracts that need to be executed between the City and the California Department of Tax and Fee Administration:

1. Agreement for Preparation to Administer and Operate City's Transactions and Use Tax Ordinance; and,
2. Agreement for State Administration of City Transactions and Use Taxes.

The State will charge a Preparatory Fee for the work necessary to administer the City's Transaction and Use Tax Ordinance. The CDTFA's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance.

By law, the maximum preparatory cost is \$175,000. However, the actual amount charged is typically less than \$175,000 particularly in smaller cities and counties where fewer notification mailings are required. The preparatory fee is also influenced by how many new taxes are implemented concurrently. The size of the county and/or adjacent counties, the number of other taxes being implemented at the same time, and the number of taxpayer notifications sent influence the total preparatory costs. When several new taxes are implemented at the same time, the fee is lower because of the efficiencies achieved through group implementation. While it is difficult for the CDTFA to estimate the preparatory cost until all the abovementioned variables are known, the cost in 2015 for preparation of Measure F-14 administration was \$7,800 and the cost in 2021 for Measure D-20 was \$2,850.

The State will also be charging on-going administrative costs, at the rate of 0.77% of the revenue received from the tax extension.

The State requires a Resolution authorizing the City Manager to execute the agreements (Draft Resolution A). The State also requires the City adopt a Resolution authorizing representatives of the City of Atascadero to examine confidential transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected by the CDTFA for the City of Atascadero (Draft Resolution B).

While the City Manager and the Administrative Services Director are currently authorized to examine transactions and use tax records for the Bradley-Burns Sales tax (the base 1% sales tax), Measure F-14 sales tax information, and Measure D-20 sales tax information, a new Resolution must be adopted to allow for review of Measure L-24 sales tax information. Draft Resolution B would also authorize Hinderliter, De Llamas and Associates (HdL) to access the data necessary to provide the review and analysis services to the City.

HdL currently provides sales tax review and analysis services to the City for sales tax revenue received from the Bradley-Burns sales tax, Measure F-14 sales tax, and Measure D-20 sales tax. CDTFA requires that a separate agreement be executed for the Measure L-24 sales tax revenue and authorization be granted in a new Resolution.

Under the additional agreement for Measure L-24 sales tax revenue services, HdL will provide updated reports each quarter identifying changes in allocation totals by individual businesses, business groups, and by categories. Quarterly aberrations will be identified and quarterly reconciliation worksheets to assist the City with budget forecasting will be included. HdL will also provide the City with deficiency/allocation reviews and recovery to identify and correct unreported transactions and use tax payments and distribution errors.

Staff is recommending the Council adopt the Draft Resolutions. Following adoption of these Resolutions, the City Clerk will prepare the documentations and submit them to the CDTFA prior to December 27, 2024, allowing for an April 1, 2027 operative date.

FISCAL IMPACT:


The sales tax measure will generate an estimated \$3 million in annual revenue. While the CDTFA cannot provide an estimate for the Preparatory Fee, staff anticipates costs being between \$5,000-\$40,000, and the on-going State administrative costs will be 0.77% of the revenue received from the tax extension.

HdL monthly fee is estimated to be \$300 per month for the review and analysis services that will be paid from the General Fund, and 25% of the initial amount of new transactions or use tax revenue received by the City as a result of audit and recovery work performed by HdL. However, revenue will be received that otherwise would not have been realized, through the audit services that HdL will provide to the City, offsetting the costs.

REVIEWED BY OTHERS:

This item has been reviewed by the Deputy City Manager and the Deputy Director of Administrative Services.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT(S):

1. Draft Resolution A Authorizing the City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax
2. Draft Resolution B Authorizing Examination of Sales or Transactions and Use Taxes Records

DRAFT RESOLUTION A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX

WHEREAS, on June 11, 2024, the Atascadero City Council approved Ordinance No. 672 amending the City Municipal Code and providing for a local transactions and use tax; and,

WHEREAS, the California Department of Tax and Fee Administration (CDTFA) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and,

WHEREAS, the CDTFA will be responsible to administer and collect the transactions and use tax for the City; and,

WHEREAS, the CDTFA requires that the City enter into a “Preparatory Agreement” and an “Administration Agreement” prior to implementation of said taxes; and,

WHEREAS, the CDTFA requires that the City Council authorize the agreements.

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

SECTION 1. Recitals. The foregoing recitals are true and correct and the City Council so finds and determines.

SECTION 2. Preparatory Agreement. The Preparatory Agreement, attached as Exhibit A to this Resolution and incorporated herein by this reference, shall become part of this Resolution.

SECTION 3. Administrative Agreement. The Administrative Agreement, attached as Exhibit B to this Resolution and incorporated herein by this reference, shall become part of this Resolution.

SECTION 4. Approval. The City Council of the City of Atascadero, in a regular session assembled on December 10, 2024, resolved to authorize the City Manager to execute the Preparatory Agreement and the Administrative Agreement with the California Department of Tax and Fee Administration, attached as Exhibit A and Exhibit B, respectively, to this Resolution and incorporated herein by this reference.

SECTION 5. Effective Date. This Resolution shall take effect upon its adoption and shall remain in effect until revised by the City Council.

PASSED AND ADOPTED at a regular meeting of the City Council on the 10th day of December, 2024.

On motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Atascadero, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail or through email at jservices@cdtfa.ca.gov. If and when communications and notices may include confidential information, communications and notices must be sent through encrypted email at jservices@cdtfa.ca.gov or by mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
P.O. Box 942879 MIC: 27
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City of Atascadero
6500 Palma Avenue
Atascadero, California 93422

Attention: Director
Administrative Services Department

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF ATASCADERO

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

James R. Lewis
City Manager

Date: _____

Date: _____

**AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Atascadero has adopted, and the voters of the City of Atascadero (hereafter called “City” or “District”) have approved by the required majority vote, the City of Atascadero Transactions and Use Tax Ordinance (hereafter called “Ordinance”), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the California State Department of Tax and Fee Administration, (hereinafter called the “Department”) and the City do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.9, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 672, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES**

A. Administration. The Department and City agree that the Department shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

B. Other Applicable Laws. City agrees that all provisions of law applicable to the administration and operation of the Department Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Department pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Department shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Department shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

F. Security. The Department agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Department shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Department.

G. Records of the Department.

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Department agrees to permit authorized personnel of the City to examine the records of the Department, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Department's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Department pursuant to this Agreement.

H. Annexation. City agrees that the Department shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Department. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III

ALLOCATION OF TAX

A. Allocation. In the administration of the Department's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion

of the Department, to all districts with which the Department has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Department, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Department in determining the place of use.

ARTICLE IV COMPENSATION

The City agrees to pay to the Department as the State's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Department for the City.

ARTICLE V MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate or through email at jservices@cdtfa.ca.gov. If and when communications and notices may include confidential information, communications and notices must be sent through encrypted email at jservices@cdtfa.ca.gov or by mail.

Communications and notices to be sent to the Department shall be addressed to:

California State Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to the City shall be addressed to:

City of Atascadero
6500 Palma Avenue
Atascadero, California 93422

Attention: Director
Administrative Services Department

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2027. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Department completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Department written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Department the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Department may retain all payments made by City to Department to prepare to administer the City Ordinance.

2. City will pay to Department and allow Department to retain Department's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Department or to the State of California the amount of any taxes plus interest and penalties, if any, that Department or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Department its costs for rebating or refunding such taxes, interest, or penalties. Department's costs shall include its additional cost for developing procedures for processing

the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Department's staff for use in making these rebates or refunds and any other costs incurred by Department which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Department's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Department. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Department in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Department in connection with such refunds shall be billed by Department on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Department shall bill City on or before the 25th of each month for all costs incurred by Department for the preceding calendar month. City shall pay to Department the amount of such costs on or before the last day of the succeeding month and shall pay to Department the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Department costs incurred in making those refunds.

CITY OF ATASCADERO

CALIFORNIA STATE DEPARTMENT OF
TAX AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

James R. Lewis
City Manager

Date: _____

Date: _____

DRAFT RESOLUTION B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO AUTHORIZING EXAMINATION OF SALES OR TRANSACTIONS AND USE TAXES RECORDS

WHEREAS, pursuant to Ordinance No. 672 (formally Ordinance No. 581) of the City of Atascadero (City), Revenue and Taxation Code section 7270, the City entered into a contract with the California Department of Tax and Fee Administration (CDTFA) to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, the City Council of the City of Atascadero deems it desirable and necessary for authorized officers, employees and representatives of the City to examine confidential sales or transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected by the CDTFA for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of CDTFA records, and Section 7056.5 of the California Revenue and Taxation Code establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the CDTFA;

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

SECTION 1. That the City Manager and the Administrative Services Director, or other officer or employee of the City designated in writing by the City Manager to the California Department of Tax and Fee Administration is hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA pursuant to the contract between the City and the CDTFA.

SECTION 2. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City transactions and use taxes by the CDTFA pursuant to that contract, and for purposes related to the following governmental functions of the City:

- (a) City Administration
- (b) Revenue Management and Budgeting
- (c) Community and Economic Development
- (d) Business License Tax Administration
- (e) Financial Management

The information obtained by examination of CDTFA records shall be used only for those governmental functions of the City listed above.

SECTION 3. That Hinderliter, de Llamas & Associates DBA HdL Companies is hereby designated to examine the sales or transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the City and HdL Companies:

- a) has an existing contract with the City to examine those sales or transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City transactions and use taxes by the CDTFA pursuant to the contract between the City and the CDTFA and for those purposes relating to the governmental functions of the City listed in Section 2 of this resolution.

INTRODUCED, APPROVED AND ADOPTED at a regular meeting of the City Council on the 10th day of December, 2024.

On motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:

CITY OF ATASCADERO

 Heather Moreno, Mayor

ATTEST:

 Lara K. Christensen, City Clerk



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item C1

Department: Community Services
& Promotions
Date: 12/10/24
Placement: Public Hearing

TO: JAMES R. LEWIS, CITY MANAGER
FROM: TERRIE BANISH, DIRECTOR COMMUNITY SERVICES & PROMOTIONS
PREPARED BY: TERRIE BANISH, DIRECTOR COMMUNITY SERVICES & PROMOTIONS

SUBJECT: Atascadero Tourism Business Improvement District (ATBID) Assessment Increase from 2% to 2.5%

RECOMMENDATIONS:

Council:

1. Conduct a Public Hearing to receive all written and verbal protest votes from lodging owners.
2. For a non-majority (less than 50%) protest, Council to conduct the second reading of the Draft ATBID Assessment Increase Ordinance amending Title 3, Chapter 16, section 3-16.04, changing the assessment rate under Streets and Highways Code Section 36541(a) for lodging businesses within the Atascadero Tourism Business Improvement District from 2% to 2.5% beginning early January 2025.
OR
3. If a majority protest exists (over 50%), do not conduct second reading of the Draft ATBID Assessment Increase Ordinance; the ATBID Assessment stays at 2%.

DISCUSSION:

The City of Atascadero established the Atascadero Tourism Business Improvement District (ATBID) to levy annual assessments under the Parking and Business Improvement Area Law of 1989, by adopting Title 3, Chapter 16 of the Atascadero Municipal Code in April 2013. The activities to be funded by the assessments on lodging businesses within the ATBID, are tourism promotions and marketing programs to promote the City as a tourism destination. The formation and operation of a Tourism Business Improvement District is governed by the California Streets and Highways Code (Section 36500 et. Seq.). The budget for the ATBID is submitted in conjunction with the City's annual budget.

The City Council appointed ATBID Advisory Board Members to serve at the pleasure of the Council. The Advisory Board is made up of lodging business owners or employees, or other representatives holding the written consent of a lodging business owner within the ATBID area.

The Streets and Highways Code requires that the Advisory Board provide a specific report to the City Council annually for the expenditure of funds derived from the assessment paid by lodging businesses within the City. The Advisory Board did so in May, and the Council approved the report.

In September 2024, the ATBID Advisory Board met and approved a request to Council to increase the ATBID assessment from two percent (2%) to two and one-half percent (2.5%) effective January 9, 2025. The purpose of this increase is to help fund improvements and facilities at the Charles Paddock Zoo and adjacent areas with the purpose of providing for larger or more enhanced events thus increasing hotel stays in the City.

Under the revised ATBID annual report, ATBID revenue in fiscal year 2023-24 is expected to be approximately \$419,590, exceeding projected revenue of \$414,120 by \$5,470. In fiscal year 2024-25, revenue was projected to be approximately \$422,400, and expenses were projected to be \$432,470. The ATBID fund balance is projected to be \$749,870 on June 30, 2025. With the proposed increase in assessment from 2% to 2.5%, the anticipated ATBID revenue will increase by approximately \$46,500 through June 30, 2025, assuming collection of such additional assessments begins in early January 2025 following the adoption of the proposed ordinance.

At the City Council meeting on October 8, 2024, the Resolution was adopted and on October 9, 2024, a letter was mailed to each of the lodging owners noticing them of the ATBID Assessment Increase. The change in the assessment rate requires adoption of an ordinance under Streets and Highways Code Section 36541(a), and there are additional procedural steps needed that would not otherwise occur with the annual adoption of the ATBID assessment. Under Government Code Section 54954.6, the City Council must conduct both a public hearing on the proposed assessment increase, and a separate public meeting at which the public may provide testimony regarding the proposed increased assessment. The public meeting for the first reading was conducted on Monday, December 2, 2024, at a special City Council meeting and the ordinance setting the assessment rate at 2.5% was introduced for first reading. Tonight's public hearing is to allow for a protest hearing for those proposed to be assessed. Assuming there is not a majority protest to the increased assessment, the Council can conduct the second reading of the ordinance to impose the assessment at 2.5% of the ordinance required by Section 54954.6

The new ordinance seeks to increase the assessment on lodging businesses within the Atascadero Tourism Business Improvement District from 2% to 2.5% for the physical improvements to the Charles Paddock Zoo and adjacent areas in Atascadero Lake Park to drive events, tourism and additional lodging stays.

FISCAL IMPACT:

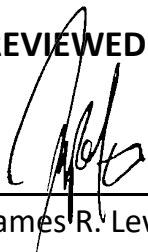
Should there be insufficient protests from the lodging owners to be assessed, and should the ordinance go into effect, additional ATBID revenues in an estimated amount of \$46,500 through June 30, 2025, will be collected.

ALTERNATIVE:

Council may choose to not proceed with the requested increase to the ATBID assessment, in which case the current annual ATBID report would govern the activities to be conducted with ATBID assessments through the end of the current fiscal year.

REVIEWED BY OTHERS:

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT(S):

1. Draft Ordinance Amending Section 3-16.04 of the Atascadero Municipal Code

DRAFT ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING SECTION 3-16.04 OF THE ATASCADERO MUNICIPAL CODE, SETTING THE ASSESSMENT RATE FOR THE ATASCADERO TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City of Atascadero (“City”) has formed the Atascadero Tourism Business Improvement District (“ATBID”), pursuant to Section 36500 of the Streets & Highways Code of the State of California; and

WHEREAS, the City Council has previously received an annual report pursuant to Section 36533 of said Code; and

WHEREAS, the City Council approved said report and adopted a resolution of intention pursuant to Section 36534, setting the assessment at two percent (2%) of the rent charged by the business per occupied room or space per night for transient occupancies; and

WHEREAS, on September 11, 2024, the ATBID Advisory Board recommended a request to the City Council to increase the assessment from two percent (2%) to two and one-half percent (2.5%) of the rent charged by the business per occupied room or space per night for transient occupancies to help fund improvements and facilities at the Charles Paddock Zoo and adjacent areas with the purpose of increasing hotel stays in the City; and

WHEREAS, pursuant to Government Code Section 54954.6, the City held a public meeting on December 2, 2024 to allow public testimony regarding the proposed modification to the assessment rate; and

WHEREAS, on December 10, 2024, the City Council held a public hearing on the proposed increased assessment pursuant to Government Code Section 54954.6, and under Streets and Highways Code Section 36525, there was no majority protest lodged against the proposed assessment by those proposed to be assessed; and

WHEREAS, Streets and Highways Code Section 36541(a) provides that the City Council shall modify the basis and method of levying the ATBID assessment by ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Findings. The Council hereby finds and declares the following:

A. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Approval. The City Council of the City of Atascadero adopts the proposed text amendments to Section 3-16.04 of Atascadero Municipal Code:

- (a) Assessment. Each lodging business will collect and remit to the City an ATBID assessment equal to 2.5% of the rent charged by the business per occupied room or space per night for transient occupancies.
- (b) New Lodging Business Subject to Assessment. Any new lodging business established within the boundaries of the ATBID subsequent to its formation will be required to collect and remit the applicable ATBID assessment.
- (c) Exemptions. No assessment will be imposed on a lodging business for any rent paid by a transient who is exempt by law from paying any transient occupancy taxes as provided in Section 3-3.04 of this code.
- (d) Extended Stays. No assessment will be imposed on any lodging business for any rent paid by a person who is not deemed a "transient" (as defined in Section 3-3.02 of this code) when such person's stay is longer than 30 consecutive calendar days.
- (e) Payment of Assessments. Each lodging business must remit the assessment at the time the business pays its transient occupancy taxes to the City and must complete and provide such form detailing the applicable rent received and assessment as may be required by the City. The assessment will not be included in gross room rental revenue for the purpose of determining the amount of transient occupancy taxes due.
- (f) Payment Prerequisite to Business License and Penalties and Procedures for Unpaid Assessments.
 - (1) No business license or tax certificate will be issued under Chapter 5 of this title unless the ATBID assessment payment is current.
 - (2) Penalties and interest will be assessed upon any unpaid assessment in manner specified in Section 3-3.08 of this code until such time as the current assessment is paid in full; provided, however, that if there is concurrently a delinquency of the transient occupancy tax as well as the assessment, a single penalty of \$200 will be imposed under Section 3-3.08(a) in addition to the 10% penalty on the amount of the unpaid assessment.
- (g) City Administrative Fee. The City will retain 1% of the collected assessments as and for its administrative fees and costs.

SECTION 3. CEQA. Because of the facts set forth in Section 1, the proposed text amendment is exempt from further environmental review under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it can be seen with certainty that there is no possibility that the enactment of this Ordinance would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378(b)(5), 15061(b)(3)).

SECTION 4. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 5. Preservation. Repealing of any provision of the Atascadero Municipal Code or of any previous Code Sections, does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 6. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the Atascadero Municipal Code or other City Ordinance by this Ordinance will be rendered void and cause such previous Atascadero Municipal Code provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 7. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 8. Notice. The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Atascadero’s book of original ordinances, make a note of the passage and adoption in the records of this meeting and within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 9. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

INTRODUCED at a regular meeting of the City Council held on December 2, 2024, and **PASSED, APPROVED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on December 10, 2024.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Dave Fleishman, City Attorney



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item D1

Department: City Clerk's
Office
Date: 12/10/24
Placement: Management
Report

TO: JAMES R. LEWIS, CITY MANAGER

FROM: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK

PREPARED BY: LARA CHRISTENSEN, DEPUTY CITY MANAGER/CITY CLERK

SUBJECT: Consideration of Action to Fill the Vacant Treasurer Position Arising From Former Treasurer Gere Sibbach's Resignation

RECOMMENDATION:

Discussion and consideration of whether to fill the City Treasurer vacancy by appointment of an eligible elector or by calling for a special election to fill the vacancy.

DISCUSSION:

State law requires each California city to have a City Treasurer. City Treasurers may be either elected or appointed. In Atascadero, the City Treasurer is currently elected and serves a four-year term. City Treasurer Gere Sibbach submitted his resignation from the position of City Treasurer, effective December 10, 2024. Pursuant to Government Code Section 1750(f) and 1770(c)(2), the resignation letter creates a vacancy in the Office of the City Treasurer on December 10, 2024.

Within sixty (60) days of the vacancy occurring, Government Code Section 36512 requires the City Council to either fill the vacancy by appointment of an eligible elector or call a special election to fill the vacancy. Therefore, the Council has until February 8, 2025, to appoint a successor or call a special election.

Section 36512(b) also notes that the successor serves out the remainder of the existing term and is not elected or appointed for a full term. In this case, Treasurer Sibbach had been elected for a four-year term in November 2022, so his successor in the term will serve only until November 2026.

If the Council chooses to appoint a successor, the Council is free to appoint whomever they prefer so long as the individual meets qualifications. State law establishes the qualifications for a City Treasurer, requiring that the person elected to this position must be a registered voter and resident of the City. There are no requirements that candidates for this office have any specific education, certification, or experience. The City Council could simply vote on persons nominated by the City Council Members or implement an application process. However, if the Council

chooses to set up interviews for candidates, such interviews must be conducted during a public meeting.

A vote to appoint an individual to the Treasurer position is a majority of the quorum. Accordingly, if four members are present then it will take three votes to appoint a person to the vacant seat and if only three Council Members are present to vote, two affirmative votes will appoint. The appointee will hold all the rights and privileges of the office, and will be subject to all its liability, duties, and obligations (Government Code Section 1777).

If a special election is called, it must take place on the next regularly scheduled election date that is at least 114 days from the date of the call of the special election. Accordingly, the election would be held on November 4, 2025. This would result in a term ending December 2026.

Staff reached out to the County Clerk-Recorder's Office to ascertain the cost to conduct a special election on November 4, 2025. However, the County Clerk-Recorder responded that she cannot commit to conducting any special elections for jurisdictions in 2025 noting that the Elections Team will be working on some potentially big changes to the way the Clerk-Recorder's Office conducts elections and this will require all the resources she has. Without the assistance of the County, the City would be required to run the election itself. Lacking the expertise in running an election, the City Clerk's Office would need to find and hire a consultant to not only train City employees but provide staff members to assist in all aspects of the election process. With consultant fees often at a premium, and a large number of registered voters in the City, the cost to the City would likely be \$500,000 or more. If the City Council chooses to appoint a successor, there would be no significant additional expenses.


FISCAL IMPACT:

Unknown. Staff estimates the cost for a City run, stand-alone election to be at least \$500,000. If the City Council chooses to appoint a successor, there would be no significant additional expenses.

REVIEWED BY OTHERS:

This item has been reviewed by the Administrative Services Director and the City Attorney.

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager