



## CITY OF ATASCADERO CITY COUNCIL AGENDA

### **HYBRID MEETING INFORMATION:**

The City Council meeting will be available via teleconference for those who wish to participate remotely. The City Council meeting will also be held in the City Council Chambers and in-person attendance will be available at that location.

### **HOW TO OBSERVE THE MEETING REMOTELY:**

To participate remotely, residents can livestream the meeting on [Zoom](#), SLO-SPAN.org, on Spectrum cable Channel 20 in Atascadero, and listen live on KPRL Radio 1230AM and 99.3FM. The video recording of the meeting will repeat daily on Channel 20 at 1:00 am, 9:00 am, and 6:00 pm and will be available through the City's website and on the City's YouTube Channel. To participate remotely using the Zoom platform please visit [https://us02web.zoom.us/webinar/register/WN\\_ZwJ7a031S3KXauEym9ehaA](https://us02web.zoom.us/webinar/register/WN_ZwJ7a031S3KXauEym9ehaA).

### **HOW TO SUBMIT PUBLIC COMMENT:**

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

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

### **AMERICAN DISABILITY ACT ACCOMMODATIONS:**

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

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

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## AGENDA

Tuesday, June 27, 2023

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

<b><u>City Council Regular Session:</u></b>	<b>6:00 P.M.</b>
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**REGULAR SESSION – CALL TO ORDER: 6:00 P.M.**

**PLEDGE OF ALLEGIANCE:** Council Member Dariz

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

**APPROVAL OF AGENDA:** Roll Call

Recommendation: Council:

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

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

**1. City Council Draft Action Minutes – June 13, 2023**

- Recommendation: Council approve the June 13, 2023 Draft City Council Regular Meeting Minutes. [City Clerk]

**2. May 2023 Accounts Payable and Payroll**

- Fiscal Impact: \$2,260,980.41.
- Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for May 2023. [Administrative Services]

3. **Cooperation Agreement with the County of San Luis Obispo for Department of Housing and Urban Development Community Development Programs for Fiscal Years 2024 through 2026**
  - **Fiscal Impact:** Continued availability of CDBG funding for CDBG eligible programs over the next three years, including approximately \$122,000 in funding for Fiscal Year 2024.
  - **Recommendation:** Council approve the Cooperation Agreement with the County of San Luis Obispo for joint participation in the Community Development Block Grant Program, the Home Investment Partnerships Program, and the Emergency Solutions Grant Program for Fiscal Years 2024 through 2026. [Public Works]
4. **Reject Construction Bid and Re-evaluate Design Options for Downtown District Pavement Rehabilitation Project**
  - **Fiscal Impact:** Approximately \$20,000 of budgeted Local Transportation Funds for engineering consultant fees and staff time for plan revisions, phasing, and re-advertising the project.
  - **Recommendation:** Council:
    1. Reject the bid received from Papich Construction Company, Inc. for \$3,371,786 for the Downtown District Pavement Rehabilitation Project (Project No. C2021R02); and
    2. Direct the City Engineer to evaluate and implement measures to reduce project costs and resolicit construction bids for the Downtown District Pavement Rehabilitation Project. [Public Works]

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

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

**B. PUBLIC HEARINGS:**

1. **Adopting Sewer Service Charges to be Added to the 2023-2024 Property Tax Rolls**
  - **Fiscal Impact:** Approximately \$4,702,570 in sewer service charges for Fiscal Year 2023-2024.
  - **Recommendation:** Council:
    1. Conduct a public hearing to receive verbal testimony regarding the proposed sewer service charges to be levied onto property tax rolls; and

2. Adopt Draft Resolution, approving sewer service charges to be added to the 2023-2024 property tax rolls. [Public Works]

**2. Community Facilities District 2005-1 Annexation No. 25**

- Fiscal Impact: Assessments for the Marketplace annexation are estimated to be between \$0-\$71,680 annually beginning in fiscal year 2023-2024, and adjusted each year for inflation.
- Recommendation: Council:
  1. Conduct the public hearing for the proposed annexation; and
  2. Adopt Draft Resolution A, authorizing the territory identified in City Council Resolution 2023-035 to be annexed into Community Facilities District No. 2005-1, authorizing the levy of a special tax and submitting the levy of a special tax to qualified electors; and
  3. Direct the City Clerk to conduct a landowner vote of annexations and collect and count the ballots.

**Council to recess until ballots are counted**

4. Adopt Draft Resolution B, declaring the results of a special annexation landowner election for Annexation No. 25, determining the validity of prior proceedings and directing the recording of an amendment to the notice of special tax lien; and
5. Introduce, for first reading, by title only, Draft Ordinance, authorizing the levy of special taxes in Community Facilities District 2005-1 for certain annexation territory identified as Annexation No. 25.  
[Community Development]

**C. MANAGEMENT REPORTS:**

**1. Irrevocable Right to Use Agreement for Broadband Infrastructure**

- Fiscal Impact: \$1,300,000 of one-time budgeted General Fund and SB 1090 monies, plus \$5,000 annual expenditure toward broadband service.
- Recommendation: Council authorize the City Manager to execute an agreement with Astound Broadband for the Irrevocable Right to Use (IRU) a fiber network for broadband infrastructure with 10 Gb/s internet access connection maintained by Astound. [Community Development]

**2. Atascadero Transit System Modification**

- Fiscal Impact: Filing for transit funding under Article 8 will eliminate future Local Transportation Fund penalties due to farebox ratio noncompliance.
- Recommendation: Council approve Atascadero Transit service modifications, providing service to populations requiring special transportation assistance, and to file claims for funding through Local Transportation Funds under Article 8. [Public Works]

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

Mayor Moreno

1. City Selection Committee
2. County Mayors Round Table

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

Mayor Pro Tem 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

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

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

**ADJOURNMENT**



# CITY OF ATASCADERO CITY COUNCIL

## DRAFT MINUTES

Tuesday, June 13, 2023

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

<b><u>City Council Regular Session:</u></b>	<b>6:00 P.M.</b>
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### REGULAR SESSION – CALL TO ORDER: 6:00 P.M.

Mayor Moreno called the meeting to order at 6:01 p.m. and Council Member Bourbeau led the Pledge of Allegiance.

### ROLL CALL:

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

Absent: None

Others Present: None

Staff Present: City Manager Rachelle Rickard, Administrative Services Director Jeri Rangel, Community Development Director Phil Dunsmore, Police Chief Joe Allen, Public Works Director Nick DeBar, City Attorney Brian Pierik, Deputy City Manager/City Clerk Lara Christensen, Deputy City Manager – Marketing, Promotions and Outreach Terrie Banish, Deputy City Manager – IT Luke Knight, Battalion Chief Matt Miranda, and Public Works Analyst Ryan Betz.

### APPROVAL OF AGENDA:

Deputy City Manager/City Clerk Christensen noted that the Recommendation for Item B5 and Recommendation on Item B-5 should read “Council adopt Draft Resolution, confirming the annual assessment for the Downtown Parking and Business Improvement Area (Fiscal Year 2023-2024), Recommendation #5 for Item C-1 should read “Approve the 2023-2025 City of Atascadero Draft Action Plan”, and the Fiscal Impact for Item C-1 should have indicated “fiscal years 2023-2024 and 2024-2025” and that this information is correct in the staff reports included in the agenda packet.

**MOTION:** By Council Member Bourbeau and seconded by Council Member Newsom to:

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

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

**PRESENTATIONS:**

**1. Proclamation Recognizing LGBTQ+ Citizens of Atascadero**

The City Council presented a Proclamation Recognizing LGBTQ+ Citizens of Atascadero to Pastor Heather Branton (Community Church of Atascadero), who was accompanied at the dais by Maggie Fertschneider (representing the United Methodist Church), Vicki van den Eikhof (representing the LDS Church), and Bill Alexander (President, Congregation Ohr Tzafon).

Pastor Branton passed out Pride Flags to the City Council Members.

**A. CONSENT CALENDAR:**

**1. City Council Draft Action Minutes – May 23, 2023**

- Recommendation: Council approve the May 23, 2023 Draft City Council Regular Meeting Minutes. [City Clerk]

**2. Authorizing Temporary Road Closures for 2023 Hot El Camino Cruise Nite and Colony Days Parade Route**

- Fiscal Impact: None.
- Recommendation: Council
  1. Adopt Draft Resolution A, authorizing temporary road closures and restrictions on August 18, 2023 for the Hot El Camino Cruise Nite; and
  2. Adopt Draft Resolution B, authorizing temporary road closures and restrictions on October 7, 2023 for the Colony Days Parade Route.[Public Works]

**4. Atascadero Transit Innovative Clean Transit Zero Emissions Bus Rollout Plan**

- Fiscal Impact: None.
- Recommendation: Council adopt Draft Resolution, approving the Innovative Clean Transit (ICT) Zero Emissions Bus Rollout Plan for Atascadero Transit. [Public Works]

**5. Emergency Contract Award for Lake Fill Line**

- Fiscal Impact: \$75,000.
- Recommendation: Council:
  1. Ratify, by review and determination, that there is a need to continue the Emergency Services Director's authorization to contract with Souza Construction Inc. to complete emergency Lake Fill Line Clearing and Repairs, pursuant to City's Purchasing Policy and Public Contract Code Section 22035 and 22050; and

2. Authorize the Director of Administrative Services to appropriate \$75,000 in Parkland Facilities Fees Funds for the Emergency Lake Fill Line Repair Project. [Public Works]

City staff requested to remove Consent Calendar Item A-3 for public comment.

**MOTION: By Council Member Bourbeau and seconded by Council Member Dariz approve Consent Calendar Items A-1, A-2, A-4, and A-5. (#A-2: Resolution Nos. 2023-040 and 2023-041) (#A-4: Resolution No. 2023-043) (#A-5: Contract No. 2023-014)  
*Motion passed 5:0 by a roll-call vote.***

3. **Side Letters of Agreement for the Atascadero Police Officers Association, Atascadero Professional Firefighters Local 3600, Mid-Management/Professional Employees Association, Service Employees International Union Local 620, and Resolution for Non-Represented Professional and Management Workers and Confidential Employees**
  - Fiscal Impact: \$516,800 for fiscal year 2023-2024.
  - Recommendation: Council:
    1. Approve the Side Letters of Agreement for the Atascadero Police Officers Association, Atascadero Professional Firefighters Local 3600, Mid-Management/Professional Employees Association, Service Employees International Union Local 620; and
    2. Adopt the Draft Resolution for Non-Represented Professional and Management Workers and Confidential Employees; and
    3. Approve the Salary Schedule for Fiscal Year 2023-2024. [City Manager]

This was removed for separate vote in order to accommodate the requests to speak on this item.

**PUBLIC COMMENT:**

The following persons spoke on this item: Cindy Chavez, Dawn Patterson, Jessica Applegate, Zach Jackson, Ron Overacker, and Geoff Auslen.

***Mayor Moreno closed the Public Comment period.***

**MOTION: By Mayor Moreno and seconded by Council Member Bourbeau to:**

1. Approve the Side Letters of Agreement for the Atascadero Police Officers Association, Atascadero Professional Firefighters Local 3600, Mid-Management/Professional Employees Association, Service Employees International Union Local 620; (A2 to Contract No. 2021-028, A2 to Contract No. 2021-029, A1 to Contract No. 2021-030, and A3 to Contract No. 2021-018)
2. Adopt Resolution No. 2023-042 for Non-Represented Professional and Management Workers and Confidential Employees; and
3. Approve the Salary Schedule for Fiscal Year 2023-2024.  
*Motion passed 5:0 by a roll-call vote.*

**UPDATES FROM THE CITY MANAGER:**

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

**COMMUNITY FORUM:**

The following persons spoke in-person, by telephone or through the webinar: Diane Greenaway (Exhibit A), Livia Kellerman (Exhibit B), David Broadwater, Richard Mullen, Marty Brown, and Tom Waltman.

**B. PUBLIC HEARINGS:**

**1. Apple Valley Assessment Districts**

- Fiscal Impact: \$38,500 for road/drainage system maintenance and \$63,000 for landscape and lighting maintenance; these amounts will be assessed to the owners of parcels in Apple Valley, the City will contribute \$11,000 from its General Fund for half the cost of the park, and an equal revenue source will be recognized from contributions made by the developer.
- Recommendation: Council:
  1. Adopt Draft Resolution A, approving the final Engineer's Report regarding the Street and Storm Drain Maintenance District No. 01 (Apple Valley), and the levy and collection of annual assessments related thereto for fiscal year 2023/2024; and
  2. Adopt Draft Resolution B, ordering the levy and collection of assessments for fiscal year 2023/2024 for Street and Storm Drain Maintenance District No. 01 (Apple Valley); and
  3. Adopt Draft Resolution C, approving the final Engineer's Report regarding the Landscaping and Lighting District No. 01 (Apple Valley), and the levy and collection of annual assessments related thereto in fiscal year 2023/2024; and
  4. Adopt Draft Resolution D, ordering the levy and collection of assessments for fiscal year 2023/2024 for Landscaping and Lighting District No. 01 (Apple Valley). [Administrative Services]

Ex Parte Communications: None

Administrative Services Director Rangel presented this item and answered questions from Council.

**PUBLIC COMMENT:**

The following persons spoke in-person, by telephone or through the webinar: None

***Mayor Moreno closed the Public Comment period.***

**MOTION:** By Council Member Bourbeau and seconded by Council Member Newsom to:

1. Adopt Resolution No. 2023-044, approving the final Engineer's Report regarding the Street and Storm Drain Maintenance District No. 01 (Apple Valley), and the levy and collection of annual assessments related thereto for fiscal year 2032/2024; and

2. Adopt Resolution No. 2023-045, ordering the levy and collection of assessments for fiscal year 2023/2024 for Street and Storm Drain Maintenance District No. 01 (Apple Valley); and
3. Adopt Resolution No. 2023-046, approving the final Engineer's Report regarding the Landscaping and Lighting District No. 01 (Apple Valley), and the levy and collection of annual assessments related thereto in fiscal year 2023/2024; and
4. Adopt Resolution No. 2023-047, ordering the levy and collection of assessments for fiscal year 2023/2024 for Landscaping and Lighting District No. 01 (Apple Valley).

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

**2. De Anza Estates Assessment Districts**

- Fiscal Impact: \$30,562 for road/drainage system maintenance and \$15,875 for landscape and lighting maintenance; these amounts will be assessed to the owners of parcels in De Anza Estates, and the City will contribute \$1,400 from its General Fund for half the maintenance costs of the trails and open space.
- Recommendation: Council:
  1. Adopt Draft Resolution A, approving the final Engineer's Report regarding the Street and Storm Drain Maintenance District No. 03 (De Anza Estates), and the levy and collection of annual assessments related thereto for fiscal year 2023/2024; and
  2. Adopt Draft Resolution B, ordering the levy and collection of assessments for fiscal year 2023/2024 for Street and Storm Drain Maintenance District No. 03 (De Anza Estates); and
  3. Adopt Draft Resolution C, approving the final Engineer's Report regarding the Landscaping and Lighting District No. 03 (De Anza Estates), and the levy and collection of annual assessments related thereto in fiscal year 2023/2024; and
  4. Adopt Draft Resolution D, ordering the levy and collection of assessments for fiscal year 2023/2024 for Landscaping and Lighting District No. 03 (De Anza Estates). [Administrative Services]

Ex Parte Communications: None.

Administrative Services Director Rangel presented this item and answered questions from Council.

**PUBLIC COMMENT:**

The following persons spoke in-person, by telephone or through the webinar: None

*Mayor Moreno closed the Public Comment period.*

**MOTION:** By Council Member Bourbeau and seconded by Mayor Pro Tem Funk to:

1. Adopt Resolution No. 2023-048 approving the final Engineer's Report regarding the Street and Storm Drain Maintenance District No. 03 (De Anza Estates), and the levy and collection of annual assessments related thereto for fiscal year 2023/2024; and

2. Adopt Resolution No. 2023-049 ordering the levy and collection of assessments for fiscal year 2023/2024 for Street and Storm Drain Maintenance District No. 03 (De Anza Estates); and
3. Adopt Resolution No. 2023-050 approving the final Engineer's Report regarding the Landscaping and Lighting District No. 03 (De Anza Estates), and the levy and collection of annual assessments related thereto in fiscal year 2023/2024; and
4. Adopt Resolution No. 2023-051 ordering the levy and collection of assessments for fiscal year 2023/2024 for Landscaping and Lighting District No. 03 (De Anza Estates).

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

**3. Las Lomas (Woodridge) Assessment Districts**

- Fiscal Impact: \$99,189 for road/drainage system maintenance and \$74,160 for landscape and lighting maintenance; these amounts will be assessed to the owners of parcels in Las Lomas (Woodridge), and the City will contribute \$2,600 from its General Fund for 25% of the maintenance costs of the trails and open space.
- Recommendation: Council:
  1. Adopt Draft Resolution A, approving the final Engineer's Report regarding the Street and Storm Drain Maintenance District No. 02 (Las Lomas [Woodridge]), and the levy and collection of annual assessments related thereto for fiscal year 2023/2024; and
  2. Adopt Draft Resolution B, ordering the levy and collection of assessments for fiscal year 2023/2024 for Street and Storm Drain Maintenance District No. 02 (Las Lomas [Woodridge]); and
  3. Adopt Draft Resolution C, approving the final Engineer's Report regarding the Landscaping and Lighting District No. 02 (Las Lomas [Woodridge]), and the levy and collection of annual assessments related thereto in fiscal year 2023/2024; and
  4. Adopt Draft Resolution D, ordering the levy and collection of assessments for fiscal year 2023/2024 for Landscaping and Lighting District No. 02 (Las Lomas [Woodridge]). [Administrative Services]

Ex Parte Communications: None.

Administrative Services Director Rangel presented this item and answered questions from Council.

**PUBLIC COMMENT:**

The following persons spoke in-person, by telephone or through the webinar: None

*Mayor Moreno closed the Public Comment period.*

**MOTION:** By Council Member Bourbeau and seconded by Mayor Pro Tem Funk to:

1. Adopt Resolution No. 2023-052 approving the final Engineer's Report regarding the Street and Storm Drain Maintenance District No. 02 – Woodridge (Las Lomas), and the levy and collection of annual assessments related thereto for fiscal year 2023/2024.

2. Adopt Resolution No. 2023-053 ordering the levy and collection of assessments for fiscal year 2023/2024 for Street and Storm Drain Maintenance District No. 02 – Woodridge (Las Lomas).
3. Adopt Resolution No. 2023-054 approving the final Engineer’s Report regarding the Landscaping and Lighting District No. 02 – Woodridge (Las Lomas), and the levy and collection of annual assessments related thereto in fiscal year 2023/2024.
4. Adopt Resolution No. 2023-055 ordering the levy and collection of assessments for fiscal year 2023/2024 for Landscaping and Lighting District No. 02 – Woodridge (Las Lomas).

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

**4. Downtown Parking and Business Improvement Area (DPBIA) Confirmation of Annual Assessment (FY 2023-2024)**

- Fiscal Impact: Collection of \$14,540 in assessment revenue and expenditures budgeted at \$14,540 for fiscal year 2023-2024.
- Recommendation: Council adopt Draft Resolution, confirming the annual assessment for the Downtown Parking and Business Improvement Area (Fiscal Year 2023-2024). [Administrative Services]

Ex Parte Communications: None

Deputy City Manager Banish presented this item and answered questions from Council.

**PUBLIC COMMENT:**

The following persons spoke in-person, by telephone or through the webinar: Geoff Auslen

*Mayor Moreno closed the Public Comment period.*

**MOTION:** By Council Member Bourbeau and seconded by Council Member Dariz to adopt Resolution No. 2023-056, confirming the annual assessment for the Downtown Parking and Business Improvement Area (Fiscal Year 2023-2024).

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

**5. Atascadero Tourism Business Improvement District (ATBID) Confirmation of Annual Assessment (Fiscal Year 2023-2024)**

- Fiscal Impact: Collection of \$414,120 in assessment revenue and expenditures budgeted at \$419,890 for fiscal year 2023-2024.
- Recommendation: Council adopt Draft Resolution, confirming the annual assessment for the Downtown Parking and Business Improvement Area (Fiscal Year 2023-2024). [Administrative Services]

Ex Parte Communications: None

Deputy City Manager Banish presented this item and answered questions from Council.

**PUBLIC COMMENT:**

The following persons spoke in-person, by telephone or through the webinar: None

*Mayor Moreno closed the Public Comment period.*

**MOTION:** By Council Member Bourbeau and seconded by Council Member Dariz to adopt Resolution No. 2023-057, confirming the annual assessment for the Atascadero Tourism Business Improvement District (Fiscal Year 2023-2024).  
*Motion passed 5:0 by a roll-call vote.*

**C. MANAGEMENT REPORTS:**

**1. 2023-2025 Operating and Capital Budget**

- **Fiscal Impact:** Total revenues for all funds are budgeted at \$67,908,930 and \$58,390,010 for fiscal years 2023-2024 and 2024-2025, respectively; total expenditures for all funds are budgeted at \$86,968,290 and \$66,994,120 for fiscal years 2023-2024 and 2024-2025, respectively.
- **Recommendation:** Council:
  1. Adopt Draft Resolution A, adopting the budgets for the 2023-2024 and 2024-2025 fiscal years and delegating to the City Manager the authority to implement the same; and
  2. Adopt Draft Resolution B, amending the fiscal year 2022-2023 budget; and
  3. Adopt Draft Resolution C, adopting the fiscal year 2023-2024 annual spending limit; and
  4. Adopt Draft Resolution D, reaffirming the necessity of Development Impact Fees; and
  5. Approve the 2023-2025 City of Atascadero Draft Action Plan.  
[Administrative Services]

Administrative Services Director Rangel presented this item and answered questions from Council.

***Mayor Moreno closed the Public Comment period.***

**MOTION:** By Council Member Bourbeau and seconded by Council Member Newsom to:

1. Adopt Resolution No. 2023-058, adopting the budgets for the 2023-2024 and 2024-2025 fiscal years and delegating to the City Manager the authority to implement same; and
2. Adopt Resolution No. 2023-059, amending the fiscal year 2022-2023 budget; and
3. Adopt Resolution No. 2023-060, adopting the fiscal year 2023-2024 annual spending limit; and
4. Adopt Resolution No. 2023-061, reaffirming the necessity of Development Impact Fees; and
5. Approve the 2023-2025 City of Atascadero Draft Action Plan.

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

**D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS:**

Mayor Moreno

1. County Mayors Round Table
2. SLO Council of Governments (SLOCOG)

Mayor Pro Tem Funk

1. Homeless Services Oversight Council

Mayor Pro Tem Funk noted participation in a statewide press conference with CSAC urging the legislature to provide funding for cities and counties to address, and changes to law impacting, homelessness.

Council Member Bourbeau

1. Integrated Waste Management Authority (IWMA)

Council Member Dariz

1. Air Pollution Control District
3. Community Action Partnership of San Luis Obispo (CAPSLO)

**E. INDIVIDUAL DETERMINATION AND / OR ACTION: None**

**F. ADJOURNMENT**

Mayor Moreno adjourned the meeting at 7:45 pm.

**MINUTES PREPARED BY:**

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Lara K. Christensen  
City Clerk

Exhibit A – 4<sup>th</sup> of July Celebration flyer provided by Diane Greenaway  
Exhibit B – Letter submitted by Livia Kellerman

**APPROVED:**



*Music, Food, Root Beer Floats  
 Drinks by the Atascadero  
 Printery Foundation,  
 paddle boats and more!*

**4 - 8 pm**

*Atascadero*  
**4th of July**  
 MUSIC FESTIVAL

**At the Lake Park Bandstand**

Benefiting our Annual Community Celebration, Atascadero Colony Days

**2023 Benefit Concert!**

[Atascadero4thofJuly.org](http://Atascadero4thofJuly.org)

**Free Entry**

- Actual Grass**
- 4 On The Floor**
- Atascadero Community Band**

PLEASE BRING A CHAIR OR BLANKET

Sponsorships available, please contact Dianne Greenaway at [atascaderocolonydays@gmail.com](mailto:atascaderocolonydays@gmail.com) for more information.

The Atascadero Colony Days Committee is the force behind the annual celebration of the community of Atascadero. We are a 501(c)3 non-profit, and are fully supported by the community since 1974.



To: Atascadero City Council  
Re: Proclamation Recognizing LGBTQ+ Citizens of Atascadero  
Date: June 13, 2023

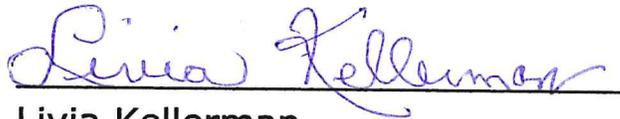
Members of the City Council,

I am 100% for your proclamation. It reinforces that they are just folks, good folks. We love science when it helps us as an individual like heart surgery. But, history has shown when it comes to the human spectrum we tend to be closed minded. Being left-handed was wrong and was punished. Those who had epileptic seizures were thought to be possessed, and so on. We have improved. We are proud of the Special Olympics. The way to open minds is through education and compassion especially with our youth.

Your proclamation is especially important to the youth of this community.

Thank you.

Sincerely,



Livia Kellerman



**Atascadero City Council**  
**Staff Report - Administrative Services Department**

**May 2023 Accounts Payable and Payroll**

**RECOMMENDATION:**

Council approve certified City accounts payable, payroll and payroll vendor checks for May 2023.

**DISCUSSION:**

Attached for City Council review and approval are the following:

**Payroll**

Dated	5/11/23	Checks # 35766-35778	\$	11,454.77
		Direct Deposits		360,092.16
Dated	5/25/23	Checks # 35779-35790		8,347.25
		Direct Deposits		343,397.73

**Accounts Payable**

Dated	5/1/23-5/31/23	Checks # 174363 - 174650 & EFTs 4753-4782		2,260,980.41
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**TOTAL AMOUNT** \$ 2,984,272.32

**FISCAL IMPACT:**

Total expenditures for all funds is \$ 2,984,272.32

**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

**ATTACHMENT:**

May 2023 Eden Warrant Register in the amount of \$ 2,260,980.41

**City of Atascadero**  
**Disbursement Listing**

For the Month of March 2023

**ITEM NUMBER:**  
**DATE:**

**A-2**  
**06/27/23**

<b>Check Number</b>	<b>Check Date</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
174363	05/01/2023	ANTHEM BLUE CROSS HEALTH	Payroll Vendor Payment	216,411.65
174364	05/01/2023	BENEFIT COORDINATORS CORP	Payroll Vendor Payment	9,232.60
174365	05/01/2023	FIDELITY SECURITY LIFE INS CO	Payroll Vendor Payment	1,845.80
174366	05/01/2023	LINCOLN NATIONAL LIFE INS CO	Payroll Vendor Payment	1,982.99
174367	05/01/2023	WEX BANK - 76 UNIVERSL	Accounts Payable Check	13,531.67
174368	05/01/2023	WEX BANK - WEX FLEET UNIVERSAL	Accounts Payable Check	8,688.12
4753	05/02/2023	RABOBANK, N.A.	Payroll Vendor Payment	61,436.18
4754	05/02/2023	EMPLOYMENT DEV DEPARTMENT	Payroll Vendor Payment	18,159.86
4755	05/02/2023	EMPLOYMENT DEV. DEPARTMENT	Payroll Vendor Payment	2,475.79
174369	05/05/2023	13 STARS MEDIA	Accounts Payable Check	146.25
174370	05/05/2023	2 MEXICANS, LLC	Accounts Payable Check	3,047.00
174371	05/05/2023	A & T ARBORISTS & VEGETATION	Accounts Payable Check	10,000.00
174372	05/05/2023	A SUPERIOR CRANE, LLC	Accounts Payable Check	1,339.29
174373	05/05/2023	ADAMSKI,MOROSKI,MADDEN,	Accounts Payable Check	129.50
174374	05/05/2023	AMERICAN WEST TIRE & AUTO INC	Accounts Payable Check	2,107.44
174375	05/05/2023	AT&T	Accounts Payable Check	805.11
174376	05/05/2023	AT&T	Accounts Payable Check	323.81
174377	05/05/2023	AT&T	Accounts Payable Check	766.72
174378	05/05/2023	AVILA TRAFFIC SAFETY	Accounts Payable Check	5,703.02
174379	05/05/2023	BASSETT'S CRICKET RANCH,INC.	Accounts Payable Check	216.58
174380	05/05/2023	BELL'S PLUMBING REPAIR, INC.	Accounts Payable Check	150.00
174381	05/05/2023	KEITH R. BERGHER	Accounts Payable Check	2,126.25
174382	05/05/2023	BERRY MAN, INC.	Accounts Payable Check	729.85
174383	05/05/2023	BILL GAINES AUDIO, INC.	Accounts Payable Check	1,421.50
174384	05/05/2023	TERRI RECCHIA BLEDSOE	Accounts Payable Check	140.00
174385	05/05/2023	BRENDLER JANITORIAL SERVICE	Accounts Payable Check	800.00
174386	05/05/2023	BREZDEN PEST CONTROL, INC.	Accounts Payable Check	70.00
174387	05/05/2023	BURKE,WILLIAMS, & SORENSON LLP	Accounts Payable Check	22,178.87
174388	05/05/2023	CASEY PRINTING, INC.	Accounts Payable Check	1,880.28
174389	05/05/2023	CENTRAL COAST CASUALTY REST.	Accounts Payable Check	7,770.42
174390	05/05/2023	CG VISUAL SOLUTIONS CORP.	Accounts Payable Check	457.52
174391	05/05/2023	CHARTER COMMUNICATIONS	Accounts Payable Check	2,209.38
174392	05/05/2023	LARA CHRISTENSEN	Accounts Payable Check	112.00
174393	05/05/2023	KAREN A. CLANIN	Accounts Payable Check	399.00
174394	05/05/2023	COBAN TECHNOLOGIES, INC.	Accounts Payable Check	71,263.25
174395	05/05/2023	COLE FARMS, INC.	Accounts Payable Check	1,254.52
174396	05/05/2023	COLOR CRAFT PRINTING	Accounts Payable Check	783.92
174397	05/05/2023	CONSOR NORTH AMERICA, INC.	Accounts Payable Check	9,313.34
174398	05/05/2023	COPWARE, INC.	Accounts Payable Check	965.00
174399	05/05/2023	VINCENT CORCORAN	Accounts Payable Check	144.10
174400	05/05/2023	MIGUEL A. CORDERO	Accounts Payable Check	234.00
174401	05/05/2023	THE COUNSELING TEAM INTERNATIONAL	Accounts Payable Check	7,500.00
174402	05/05/2023	GREG C. CUNNINGHAM	Accounts Payable Check	78.00

**City of Atascadero**  
Disbursement Listing

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<b>Check Number</b>	<b>Check Date</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
174403	05/05/2023	DAN BIDDLE PEST CONTROL SERVIC	Accounts Payable Check	135.00
174404	05/05/2023	CORRINE L. DAVIS	Accounts Payable Check	132.00
174405	05/05/2023	NICHOLAS DEBAR	Accounts Payable Check	300.00
174406	05/05/2023	DEPARTMENT OF JUSTICE	Accounts Payable Check	477.00
174407	05/05/2023	DOOMSDAY SKATE, LLC	Accounts Payable Check	556.50
174408	05/05/2023	DRIVE CUSTOMS	Accounts Payable Check	332.63
174409	05/05/2023	PHILIP DUNSMORE	Accounts Payable Check	300.00
174410	05/05/2023	ESCROW CLEANING SERVICE	Accounts Payable Check	250.00
174411	05/05/2023	EXECUTIVE JANITORIAL	Accounts Payable Check	750.00
174412	05/05/2023	FAILSAFE TESTING, LLC	Accounts Payable Check	1,600.56
174413	05/05/2023	FERRELL'S AUTO REPAIR	Accounts Payable Check	805.75
174414	05/05/2023	FGL ENVIRONMENTAL	Accounts Payable Check	279.00
174415	05/05/2023	FILIPPIN ENGINEERING, INC.	Accounts Payable Check	14,782.49
174416	05/05/2023	GAS COMPANY	Accounts Payable Check	1,223.76
174417	05/05/2023	KELLY GLEASON	Accounts Payable Check	210.49
174418	05/05/2023	GRAINGER	Accounts Payable Check	262.48
174419	05/05/2023	HANSEN BRO'S CUSTOM FARMING	Accounts Payable Check	5,534.87
174420	05/05/2023	KELLIE K. HART	Accounts Payable Check	420.00
174421	05/05/2023	KYLE HERRERA	Accounts Payable Check	30.00
174422	05/05/2023	HIGH COUNTRY OUTDOOR, INC.	Accounts Payable Check	450.00
174423	05/05/2023	INTERWEST CONSULTING GROUP INC	Accounts Payable Check	107,947.59
174424	05/05/2023	BEN JABSON	Accounts Payable Check	250.00
174425	05/05/2023	JK'S UNLIMITED, INC.	Accounts Payable Check	1,077.71
174426	05/05/2023	JOE A. GONSALVES & SON	Accounts Payable Check	3,000.00
174427	05/05/2023	KRITZ EXCAVATING & TRUCKNG INC	Accounts Payable Check	408.31
174428	05/05/2023	L.N. CURTIS & SONS	Accounts Payable Check	492.22
174429	05/05/2023	LIN LI	Accounts Payable Check	90.00
174430	05/05/2023	LIFE ASSIST, INC.	Accounts Payable Check	584.60
174431	05/05/2023	LINDE GAS & EQUIPMENT INC.	Accounts Payable Check	67.20
174432	05/05/2023	CRAIG C. LOWRIE	Accounts Payable Check	182.00
174433	05/05/2023	MADRONE LANDSCAPES, INC.	Accounts Payable Check	385.00
174434	05/05/2023	MAINLINE UTILITY CO.	Accounts Payable Check	1,600.00
174435	05/05/2023	MARTIN MARIETTA MATERIALS, INC	Accounts Payable Check	800.79
174436	05/05/2023	MCMASTER-CARR SUPPLY CO.	Accounts Payable Check	231.16
174437	05/05/2023	SAMUEL HENRY MCMILLAN, JR.	Accounts Payable Check	156.00
174438	05/05/2023	MID-COAST MOWER & SAW, INC.	Accounts Payable Check	2,940.32
174439	05/05/2023	MIG	Accounts Payable Check	14,948.10
174440	05/05/2023	MINER'S ACE HARDWARE	Accounts Payable Check	108.14
174441	05/05/2023	MISSION UNIFORM SERVICE	Accounts Payable Check	365.77
174442	05/05/2023	ISABELLA M. MOEN	Accounts Payable Check	108.00
174443	05/05/2023	MOSS, LEVY, & HARTZHEIM LLP	Accounts Payable Check	13,195.00
174444	05/05/2023	DAVE MUEHLHAUSEN	Accounts Payable Check	1,209.47
174445	05/05/2023	MV TRANSPORTATION, INC.	Accounts Payable Check	12,716.55

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Disbursement Listing

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174446	05/05/2023	NATIONAL AUTO FLEET GROUP	Accounts Payable Check	52,463.94
174447	05/05/2023	KELLYE R. NETZ	Accounts Payable Check	434.00
174448	05/05/2023	NORTH COUNTY CARPET CLEANERS	Accounts Payable Check	400.00
174449	05/05/2023	ODP BUSINESS SOLUTIONS, LLC	Accounts Payable Check	126.15
174450	05/05/2023	RON OVERACKER	Accounts Payable Check	229.00
174451	05/05/2023	PACIFIC GAS AND ELECTRIC	Accounts Payable Check	14,689.37
174452	05/05/2023	PASO ROBLES ICE COMPANY	Accounts Payable Check	835.00
174453	05/05/2023	PEAKWIFI, LLC	Accounts Payable Check	650.00
174454	05/05/2023	PERRY'S PARCEL & GIFT	Accounts Payable Check	150.00
174455	05/05/2023	WARREN PITTINGER	Accounts Payable Check	350.00
174456	05/05/2023	PORTER CONSTRUCTION, INC.	Accounts Payable Check	20,904.00
174457	05/05/2023	PROCARE JANITORIAL SUPPLY, INC.	Accounts Payable Check	1,125.64
174458	05/05/2023	PRW STEEL SUPPLY, INC.	Accounts Payable Check	1,109.25
174459	05/05/2023	RAINSCAPE, A LANDSCAPE SVC CO.	Accounts Payable Check	6,892.00
174460	05/05/2023	JERI RANGEL	Accounts Payable Check	300.00
174461	05/05/2023	READYREFRESH BY NESTLE	Accounts Payable Check	102.23
174462	05/05/2023	RACHELLE RICKARD	Accounts Payable Check	300.00
174463	05/05/2023	BRIAN S. RICKS	Accounts Payable Check	286.00
174464	05/05/2023	SAN LUIS CUSTOMS, INC.	Accounts Payable Check	10,000.00
174465	05/05/2023	SAN LUIS CUSTOMS, INC.	Accounts Payable Check	125.00
174466	05/05/2023	SCOTT O'BRIEN FIRE & SAFETY CO	Accounts Payable Check	605.51
174467	05/05/2023	SENSATIONS APPAREL	Accounts Payable Check	1,974.25
174468	05/05/2023	CHAYSE L. SIMS	Accounts Payable Check	132.00
174469	05/05/2023	SLO COUNTY SHERIFF'S OFFICE	Accounts Payable Check	1,510.29
174470	05/05/2023	SPEAKWRITE, LLC.	Accounts Payable Check	59.18
174471	05/05/2023	SUNBELT RENTALS, INC.	Accounts Payable Check	1,534.57
174472	05/05/2023	SUNLIGHT JANITORIAL, INC.	Accounts Payable Check	4,850.00
174473	05/05/2023	SUPERION, LLC	Accounts Payable Check	5,000.00
174474	05/05/2023	SWCA, INC.	Accounts Payable Check	1,687.50
174475	05/05/2023	THEORY PRINTING & SIGNS	Accounts Payable Check	126.15
174476	05/05/2023	THOMSON REUTERS - WEST	Accounts Payable Check	201.99
174477	05/05/2023	KARL O. TOERGE	Accounts Payable Check	210.00
174478	05/05/2023	AYLA TOMAC	Accounts Payable Check	281.00
174479	05/05/2023	U.S. BANK	Accounts Payable Check	3,241.00
174480	05/05/2023	DAVID VAN SON	Accounts Payable Check	159.00
174481	05/05/2023	VERIZON WIRELESS	Accounts Payable Check	3,085.11
174482	05/05/2023	VINO VICE, INC.	Accounts Payable Check	602.00
174483	05/05/2023	VITAL RECORDS CONTROL	Accounts Payable Check	184.09
174484	05/05/2023	WALLACE GROUP	Accounts Payable Check	85,429.91
174485	05/05/2023	WICK'S ROOFING, INC.	Accounts Payable Check	2,000.00
174486	05/05/2023	YEH AND ASSOCIATES, INC.	Accounts Payable Check	3,080.00
174487	05/05/2023	YOUTH EVOLUTION SOCCER	Accounts Payable Check	3,340.80
4756	05/11/2023	ANTHEM BLUE CROSS HSA	Payroll Vendor Payment	12,903.23

**City of Atascadero**  
Disbursement Listing

For the Month of March 2023

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**A-2**  
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4758	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Payroll Vendor Payment	20,115.79
4759	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	33,918.53
4760	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	2,411.98
4761	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	2,311.58
4762	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	5,062.28
4763	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	9,331.68
4764	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	13,847.58
4765	05/11/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEM	Accounts Payable Check	20,876.02
174488	05/11/2023	ATASCADERO MID MGRS ORG UNION	Payroll Vendor Payment	40.00
174489	05/11/2023	ATASCADERO POLICE OFFICERS	Payroll Vendor Payment	2,186.25
174490	05/11/2023	ATASCADERO PROF. FIREFIGHTERS	Payroll Vendor Payment	1,151.80
174491	05/11/2023	CA FIREFIGHTERS BENEFIT TRUST	Payroll Vendor Payment	1,800.00
174492	05/11/2023	EMPLOYMENT DEV. DEPARTMENT	Accounts Payable Check	11,021.00
174493	05/11/2023	EMPOWER ANNUITY INS CO	Payroll Vendor Payment	7,865.60
174494	05/11/2023	MISSIONSQUARE	Payroll Vendor Payment	7,707.77
174495	05/11/2023	NATIONWIDE RETIREMENT SOLUTION	Payroll Vendor Payment	820.13
174496	05/11/2023	NAVIA BENEFIT SOLUTIONS	Payroll Vendor Payment	1,488.86
4757	05/12/2023	SEIU LOCAL 620	Payroll Vendor Payment	929.65
4766	05/16/2023	RABOBANK, N.A.	Payroll Vendor Payment	64,950.38
4767	05/16/2023	EMPLOYMENT DEV DEPARTMENT	Payroll Vendor Payment	19,854.97
4768	05/16/2023	EMPLOYMENT DEV. DEPARTMENT	Payroll Vendor Payment	2,610.50
174497	05/19/2023	13 STARS MEDIA	Accounts Payable Check	88.56
174498	05/19/2023	2 MEXICANS, LLC	Accounts Payable Check	1,564.00
174499	05/19/2023	A & R CONSTRUCTION	Accounts Payable Check	22,006.00
174500	05/19/2023	JAKE ABBOTT	Accounts Payable Check	240.00
174501	05/19/2023	ADVANCED BIOMEDICAL REPAIR	Accounts Payable Check	350.00
174502	05/19/2023	AGM CALIFORNIA, INC.	Accounts Payable Check	1,332.00
174503	05/19/2023	ALL ABOUT EVENTS, INC.	Accounts Payable Check	1,099.65
174504	05/19/2023	ALL SIGNS AND GRAPHICS, INC.	Accounts Payable Check	784.09
174505	05/19/2023	ALLAN HANCOCK COLLEGE	Accounts Payable Check	2,366.10
174506	05/19/2023	ALLIANT INSURANCE SERVICES INC	Accounts Payable Check	222.00
174507	05/19/2023	KELLY AREBALO	Accounts Payable Check	596.47
174509	05/19/2023	AT&T	Accounts Payable Check	1,369.75
174511	05/19/2023	ATASCADERO MUTUAL WATER CO.	Accounts Payable Check	4,667.00
174512	05/19/2023	AVILA TRAFFIC SAFETY	Accounts Payable Check	862.58
174513	05/19/2023	BAY AREA DRIVING SCHOOL, INC.	Accounts Payable Check	69.99
174514	05/19/2023	KEITH R. BERGHER	Accounts Payable Check	377.50
174515	05/19/2023	BOUND TREE MEDICAL, LLC	Accounts Payable Check	2,180.30
174516	05/19/2023	BRANCH SMITH PROPERTIES	Accounts Payable Check	386.00
174517	05/19/2023	BREZDEN PEST CONTROL, INC.	Accounts Payable Check	206.00
174518	05/19/2023	BUREAU VERITAS NORTH AMERICA	Accounts Payable Check	9,548.55
174519	05/19/2023	BUSINESS ORIENTED SOFTWARE SOL	Accounts Payable Check	4,104.00
174520	05/19/2023	CARBON HEALTH MED GROUP OF CA	Accounts Payable Check	350.00

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174521	05/19/2023	CARQUEST OF ATASCADERO	Accounts Payable Check	391.43
174522	05/19/2023	JENETTE CEMENTINA	Accounts Payable Check	40.64
174523	05/19/2023	CENTRAL COAST BREWING, INC.	Accounts Payable Check	539.00
174524	05/19/2023	CHARTER COMMUNICATIONS	Accounts Payable Check	4,057.69
174525	05/19/2023	DAVID S. CHOCK	Accounts Payable Check	950.00
174526	05/19/2023	CLEVER CONCEPTS, INC.	Accounts Payable Check	187.95
174527	05/19/2023	COASTAL COPY, INC.	Accounts Payable Check	748.80
174528	05/19/2023	COLE FARMS, INC.	Accounts Payable Check	4,689.60
174529	05/19/2023	COLOR CRAFT PRINTING	Accounts Payable Check	550.72
174530	05/19/2023	MIGUEL A. CORDERO	Accounts Payable Check	52.00
174531	05/19/2023	CRISP IMAGING	Accounts Payable Check	1,481.82
174532	05/19/2023	CRYSTAL SPRINGS WATER	Accounts Payable Check	20.00
174533	05/19/2023	CULLIGAN SANTA MARIA	Accounts Payable Check	176.63
174534	05/19/2023	CULLIGAN/CENTRAL COAST WTR TRT	Accounts Payable Check	140.00
174535	05/19/2023	MARK DARIZ	Accounts Payable Check	169.53
174536	05/19/2023	CORRINE L. DAVIS	Accounts Payable Check	84.00
174537	05/19/2023	SHARON J. DAVIS	Accounts Payable Check	273.00
174538	05/19/2023	JOE DEBRUIN, PH.D.	Accounts Payable Check	540.00
174539	05/19/2023	DEPARTMENT OF TRANSPORTATION	Accounts Payable Check	6,086.46
174540	05/19/2023	DRIVE CUSTOMS	Accounts Payable Check	800.00
174541	05/19/2023	EL CAMINO CAR WASH	Accounts Payable Check	44.99
174542	05/19/2023	ESCROW CLEANING SERVICE	Accounts Payable Check	700.00
174543	05/19/2023	FARO TECHNOLOGIES, INC.	Accounts Payable Check	980.00
174544	05/19/2023	FENCE FACTORY ATASCADERO	Accounts Payable Check	1,600.00
174545	05/19/2023	FERRELL'S AUTO REPAIR	Accounts Payable Check	280.84
174546	05/19/2023	FGL ENVIRONMENTAL	Accounts Payable Check	186.00
174547	05/19/2023	FILIPPIN ENGINEERING, INC.	Accounts Payable Check	12,054.53
174548	05/19/2023	ANNE E. GALLAGHER	Accounts Payable Check	517.50
174549	05/19/2023	GAS COMPANY	Accounts Payable Check	305.64
174550	05/19/2023	GRAINGER	Accounts Payable Check	372.39
174551	05/19/2023	TRISTAN M. GUILLORY	Accounts Payable Check	182.00
174552	05/19/2023	HANSEN BRO'S CUSTOM FARMING	Accounts Payable Check	8,302.29
174553	05/19/2023	HART IMPRESSIONS PRINTING	Accounts Payable Check	2,529.80
174554	05/19/2023	HERC RENTALS, INC.	Accounts Payable Check	3,406.54
174555	05/19/2023	HIGH COUNTRY OUTDOOR, INC.	Accounts Payable Check	450.00
174556	05/19/2023	HOME DEPOT CREDIT SERVICES	Accounts Payable Check	3,603.27
174557	05/19/2023	INFORMATION TECHNOLOGY	Accounts Payable Check	1,258.20
174558	05/19/2023	INTERWEST CONSULTING GROUP INC	Accounts Payable Check	1,982.50
174559	05/19/2023	J. CARROLL CORPORATION	Accounts Payable Check	82.30
174560	05/19/2023	JIFFY LUBE	Accounts Payable Check	155.28
174561	05/19/2023	JK'S UNLIMITED, INC.	Accounts Payable Check	294.73
174562	05/19/2023	JOEBELLA COFFEE ROASTERS	Accounts Payable Check	87.50
174563	05/19/2023	JOEL SWITZER DIESEL REPAIR,INC	Accounts Payable Check	2,365.11

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**06/27/23**

<b>Check Number</b>	<b>Check Date</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
174564	05/19/2023	KEY TERMITE & PEST CONTROL,INC	Accounts Payable Check	555.00
174565	05/19/2023	KPRL 1230 AM	Accounts Payable Check	720.00
174566	05/19/2023	L.N. CURTIS & SONS	Accounts Payable Check	278.02
174567	05/19/2023	JULIO LEYVA	Accounts Payable Check	500.00
174568	05/19/2023	LIFE ASSIST, INC.	Accounts Payable Check	154.71
174569	05/19/2023	LONE MADRONE, BRISTOLS CIDER	Accounts Payable Check	245.00
174570	05/19/2023	MATTHEW MADRIGAL	Accounts Payable Check	207.00
174571	05/19/2023	MARBORG INDUSTRIES	Accounts Payable Check	419.63
174572	05/19/2023	MCCLATCHY SHARED SERVICES, LLC	Accounts Payable Check	2,500.00
174573	05/19/2023	SAMUEL HENRY MCMILLAN, JR.	Accounts Payable Check	312.00
174574	05/19/2023	MEA WINE, LLC	Accounts Payable Check	308.00
174575	05/19/2023	MEDINA LIGHT SHOW DESIGNS	Accounts Payable Check	895.00
174576	05/19/2023	MICHAEL K. NUNLEY & ASSC, INC.	Accounts Payable Check	4,709.75
174577	05/19/2023	MID-COAST MOWER & SAW, INC.	Accounts Payable Check	49.20
174578	05/19/2023	MIG	Accounts Payable Check	6,831.25
174579	05/19/2023	MINER'S ACE HARDWARE	Accounts Payable Check	86.66
174580	05/19/2023	MISSION UNIFORM SERVICE	Accounts Payable Check	341.34
174581	05/19/2023	ISABELLA M. MOEN	Accounts Payable Check	72.00
174582	05/19/2023	KYLE NAKAZAWA	Accounts Payable Check	207.00
174583	05/19/2023	NEW TIMES	Accounts Payable Check	1,120.00
174584	05/19/2023	NORTH COAST ENGINEERING INC.	Accounts Payable Check	866.25
174585	05/19/2023	OASIS EQUIPMENT RENTAL	Accounts Payable Check	591.80
174586	05/19/2023	ODP BUSINESS SOLUTIONS, LLC	Accounts Payable Check	727.25
174587	05/19/2023	PACIFIC CNTRL COAST HLTH CTRS	Accounts Payable Check	155.00
174588	05/19/2023	PACIFIC GAS & ELECTRIC	Accounts Payable Check	61,061.16
174590	05/19/2023	PACIFIC GAS AND ELECTRIC	Accounts Payable Check	53,177.12
174591	05/19/2023	PAVEMENT ENGINEERING, INC.	Accounts Payable Check	465.00
174592	05/19/2023	PERRY'S ELECTRIC MOTORS & CTRL	Accounts Payable Check	8,050.75
174593	05/19/2023	PERRY'S PARCEL & GIFT	Accounts Payable Check	47.50
174594	05/19/2023	PROCARE JANITORIAL SUPPLY,INC.	Accounts Payable Check	1,576.60
174595	05/19/2023	GERALD D. PURIFY JR.	Accounts Payable Check	200.00
174596	05/19/2023	RAINSCAPE, A LANDSCAPE SVC CO.	Accounts Payable Check	350.00
174597	05/19/2023	RAMINHA CONSTRUCTION, INC.	Accounts Payable Check	2,080.71
174598	05/19/2023	RANGE MASTER	Accounts Payable Check	723.13
174599	05/19/2023	RECOGNITION WORKS	Accounts Payable Check	13.05
174600	05/19/2023	RICK ENGINEERING COMPANY	Accounts Payable Check	25,725.15
174601	05/19/2023	BRIAN S. RICKS	Accounts Payable Check	130.00
174602	05/19/2023	BRANDON ROBERTS	Accounts Payable Check	207.00
174603	05/19/2023	ROLSON MUSIC & SOUND	Accounts Payable Check	1,875.00
174604	05/19/2023	SCHINDLER ELEVATOR CORP	Accounts Payable Check	473.37
174605	05/19/2023	SIGN HERE	Accounts Payable Check	6,113.25
174606	05/19/2023	CHAYSE L. SIMS	Accounts Payable Check	96.00
174607	05/19/2023	SLO CIDER LLC	Accounts Payable Check	450.00

**City of Atascadero**  
Disbursement Listing

For the Month of March 2023

**ITEM NUMBER:**  
**DATE:**

**A-2**  
**06/27/23**

<b>Check Number</b>	<b>Check Date</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
174608	05/19/2023	SLO CO AIR POLLUTION CTRL DIST	Accounts Payable Check	2,880.00
174609	05/19/2023	SLO COUNTY SHERIFF'S OFFICE	Accounts Payable Check	56.00
174610	05/19/2023	SOUZA CONSTRUCTION, INC.	Accounts Payable Check	110,400.45
174611	05/19/2023	SPECIALIZED EQUIPMENT REPAIR	Accounts Payable Check	7,377.10
174612	05/19/2023	JENNIFER L. SPOTTEN	Accounts Payable Check	496.80
174613	05/19/2023	SUNRUN INSTALLATION SERVICES	Accounts Payable Check	1,222.16
174614	05/19/2023	SWCA, INC.	Accounts Payable Check	6,888.40
174615	05/19/2023	T.A.P.S. TRUCK ACCESSORY OUTLT	Accounts Payable Check	1,178.11
174616	05/19/2023	MADELINE M. TAYLOR	Accounts Payable Check	306.90
174617	05/19/2023	TELEWORX, LLC	Accounts Payable Check	76,925.00
174618	05/19/2023	TEMPLETON UNIFORMS, LLC	Accounts Payable Check	84.19
174619	05/19/2023	TENT CITY BEER COMPANY	Accounts Payable Check	395.00
174620	05/19/2023	CHRISTOPHER DANIEL THOMAS	Accounts Payable Check	286.00
174621	05/19/2023	TIN CITY CIDER, LLC	Accounts Payable Check	360.00
174622	05/19/2023	KARL O. TOERGE	Accounts Payable Check	168.00
174628	05/19/2023	U.S. BANK	Accounts Payable Check	42,921.86
174629	05/19/2023	THOMAS F. VELASQUEZ	Accounts Payable Check	104.00
174630	05/19/2023	VERDIN	Accounts Payable Check	21,777.37
174631	05/19/2023	VERIZON WIRELESS	Accounts Payable Check	121.05
174632	05/19/2023	VINO VICE, INC.	Accounts Payable Check	365.50
174633	05/19/2023	VISIT SLO CAL	Accounts Payable Check	56,354.21
174634	05/19/2023	WATER SYSTEMS CONSULTING, INC.	Accounts Payable Check	5,623.75
174635	05/19/2023	WEST COAST AUTO & TOWING, INC.	Accounts Payable Check	95.00
174636	05/19/2023	GEORGE P. WILLIAMS	Accounts Payable Check	300.00
174637	05/19/2023	WINE COUNTRY BALANCE	Accounts Payable Check	590.00
174638	05/19/2023	WISHPETS CO.	Accounts Payable Check	265.20
174639	05/19/2023	KAREN B. WYKE	Accounts Payable Check	868.20
174640	05/19/2023	YEH AND ASSOCIATES, INC.	Accounts Payable Check	6,527.65
174641	05/19/2023	YOUTH EVOLUTION SOCCER	Accounts Payable Check	1,670.40
174642	05/19/2023	ZOLL MEDICAL CORPORATION	Accounts Payable Check	233,572.09
4769	05/25/2023	ANTHEM BLUE CROSS HSA	Payroll Vendor Payment	12,314.81
4771	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Payroll Vendor Payment	20,115.79
4772	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	31,995.51
4773	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	2,411.98
4774	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	2,344.92
4775	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	5,062.28
4776	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	9,121.06
4777	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	13,677.06
4778	05/25/2023	CALIF PUBLIC EMPLOYEES RETIREMENT SYSTEI	Accounts Payable Check	20,560.55
174643	05/25/2023	ATASCADERO MID MGRS ORG UNION	Payroll Vendor Payment	40.00
174644	05/25/2023	ATASCADERO POLICE OFFICERS	Payroll Vendor Payment	2,249.75
174645	05/25/2023	ATASCADERO PROF. FIREFIGHTERS	Payroll Vendor Payment	1,151.80
174646	05/25/2023	CA FIREFIGHTERS BENEFIT TRUST	Payroll Vendor Payment	1,800.00

City of Atascadero  
Disbursement Listing

For the Month of March 2023

ITEM NUMBER:  
DATE:

A-2  
06/27/23

<u>Check Number</u>	<u>Check Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
174647	05/25/2023	EMPOWER ANNUITY INS CO	Payroll Vendor Payment	7,822.21
174648	05/25/2023	MISSIONSQUARE	Payroll Vendor Payment	7,689.30
174649	05/25/2023	NATIONWIDE RETIREMENT SOLUTION	Payroll Vendor Payment	685.30
174650	05/25/2023	NAVIA BENEFIT SOLUTIONS	Payroll Vendor Payment	1,488.86
4770	05/26/2023	SEIU LOCAL 620	Payroll Vendor Payment	902.99
4782	05/26/2023	STATE DISBURSEMENT UNIT	Payroll Vendor Payment	283.84
4779	05/30/2023	RABOBANK, N.A.	Payroll Vendor Payment	58,994.96
4780	05/30/2023	EMPLOYMENT DEV DEPARTMENT	Payroll Vendor Payment	17,451.93
4781	05/30/2023	EMPLOYMENT DEV. DEPARTMENT	Payroll Vendor Payment	2,478.70
				<u>\$ 2,260,980.41</u>



# ***Atascadero City Council***

## ***Staff Report – Public Works Department***

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### **Cooperation Agreement with the County of San Luis Obispo for Department of Housing and Urban Development Community Development Programs for Fiscal Years 2024 through 2026**

#### **RECOMMENDATION:**

Council approve the Cooperation Agreement with the County of San Luis Obispo for joint participation in the Community Development Block Grant Program, the Home Investment Partnerships Program, and the Emergency Solutions Grant Program for Fiscal Years 2024 through 2026.

#### **DISCUSSION:**

##### Background

Beginning with the 1994-1995 Fiscal Year, the City of Atascadero has jointly participated with the County of San Luis Obispo and other cities as part of the "urban county" Community Development Block Grant (CDBG) program. Urban counties receive annual, formula-based grants directly from the Department of Housing and Urban Development (HUD) under the CDBG, HOME Investment Partnerships (HOME) and the Emergency Shelter Grants (ESG). Cooperative agreements between the participating jurisdictions comprising an "urban county" establish a formula allocating CDBG funds by jurisdiction. The HOME and ESG funds are not formally divided up, but the cities provide recommendations to the County on these programs.

The City has a current Cooperative Agreement with the County for Fiscal Years 2021 through 2023 for joint participation in the Community Development Programs. In the agreement, the County provides the bulk of administration work for the programs, including monitoring and oversight for all CDBG grants. This provision applies to all cities participating in the urban county cooperation agreement with the County, including Arroyo Grande, Atascadero, Morro Bay, Paso Robles, and San Luis Obispo. The administrative work provided by the County will come with an associated cost to provide the monitoring and oversight services for the cities. The County provides project oversight and receives 13% of the total grant funds for administration services. Administrative funding is limited to 20% of the total grant; therefore, the City's administrative portion of the funding cannot exceed 7% of the total administrative grant amount.

Pursuant to HUD regulations, the County recently notified the City of its right to elect to continue to participate in the CDBG program. The term for the current Cooperation Agreement ends June 30, 2024, which covers CDBG recommendations made in March 2023 and available for allocation in July 2023. Cooperation work by the County for allocations in July 2024 begins around September 2023 with public outreach and is not covered by the current Cooperation Agreement.

### Analysis

The City can elect to continue to participate in the CDBG program by choosing from the following options:

1. Join the urban county to receive CDBG allocations through the County (current arrangement).
2. Become a stand-alone CDBG entitlement jurisdiction to receive CDBG funds directly from HUD.
3. Decline a formula CDBG allocation or entitlement and become an applicant to the competitive state CDBG program.

Staff has reviewed each of the three options available to the City and recommends continuation of the current CDBG allocation by participating as part of the "urban county" program (Option 1). This option is preferred for the following reasons:

1. Participation in the state CDBG program (Option 3) is competitive in nature and there is no guarantee that the City would receive any CDBG funding from year to year.
2. Becoming a stand-alone City (Option 2) would require the City to meet all of the HUD regulations as a grant recipient, including preparation of a five-year plan, annual allocation plan, preparation of various federally required reports, and other administrative activities. This would require additional staff resources to be allocated toward grant administration.
3. Administration of the CDBG program is highly regulated and involves technical processes and the County has staff that specializes in this area. Additional training and participation in HUD activities would be required for Options 2 and 3. This would require significant additional staff resources.
4. The Option 1 funding allocation to the City from the County application is identical to the formula used by HUD if the City received a direct allocation. There may be some additional increase in funding levels as a direct entitlement city; however, it would be offset by the increases in administration required for direct participation.

Participation as part of the "urban county" allocation program would continue to provide the City with annual allocation of CDBG funds and continue to limit the amount of time the City would be required to spend on program administration that increases with either of the remaining options. Participation in the program is for a three (3) year, fiscal year cycle; therefore, the City will be able to re-evaluate its options prior to the next three (3) year cycle.

Continued participation in the CDBG program with the County provides continued allocation of CDBG funding to Atascadero while limiting the financial and administrative resources necessary to participate in the program overall.

**FISCAL IMPACT:**

The Cooperative Agreement will provide continued availability of CDBG funding for CDBG eligible programs in Atascadero over the next three years. The current annual award amount is approximately \$140,000, of which 13% will be retained by the County to cover expenses for administrative project oversight, resulting in approximately \$122,000 in available funding to the City for CDBG programs.

**ALTERNATIVES:**

Council may choose to participate as a stand-alone CDBG entitlement jurisdiction or become an applicant to the competitive state program. This alternative is not recommended due to the cumbersome nature of HUD requirements that are most efficiently performed by one entity of the urban county (County of San Luis Obispo).

**ATTACHMENT:**

1. Cooperation Agreement for Fiscal Years 2024 through 2026

**A COOPERATION AGREEMENT BETWEEN THE COUNTY OF SAN LUIS OBISPO  
AND THE CITY OF ATASCADERO FOR JOINT PARTICIPATION IN THE  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, THE HOME  
INVESTMENT PARTNERSHIPS PROGRAM, AND THE EMERGENCY  
SOLUTIONS GRANT PROGRAM FOR FISCAL YEARS 2024 THROUGH 2026**

**THIS COOPERATION AGREEMENT** is made and entered into on the date and year last written below, by and between the County of San Luis Obispo, a political subdivision of the State of California, hereinafter called "County," and the City of Atascadero, a municipal corporation of the State of California, located in the County of San Luis Obispo, hereinafter called "City;" jointly referred to as "Parties".

**WITNESSETH**

**WHEREAS**, in 1974, the U.S. Congress enacted, and the President signed a law entitled, The Housing and Community Development Act of 1974, herein called the "Act." The Act is omnibus legislation relating to federal involvement in a wide range of housing and community development activities and contains eight separate titles; and

**WHEREAS**, Title I of the Act is entitled "Community Development" and governs programs for housing and community development within metropolitan cities and urban counties or communities by providing financial assistance annually for area-wide plans and for housing, public services, and public works programs; and

**WHEREAS**, the Community Development Block Grant Program (hereinafter referred to as "CDBG"), the HOME Investment Partnerships Act Program (hereinafter referred to as "HOME"), and the Emergency Solutions Grant Program (hereinafter referred to as "ESG") are consolidated under Title I of the Act; and

**WHEREAS**, the County has requested of the federal Department of Housing and Urban Development, hereinafter referred to as "HUD," designate the County as an "urban county;" and

**WHEREAS**, the County needs to requalify as an urban county and will be eligible to receive CDBG funds provided that the County's entitled cities defer

their entitlement to the County to enable both the County and the entitlement cities to jointly participate in the program; and

**WHEREAS**, the City desires to participate jointly with the County in said program; and

**WHEREAS**, if HUD redesignates the County as an urban county, then the County may also be eligible to receive funds from the HOME Program and the ESG Program; and

**WHEREAS**, the CDBG Regulations issued pursuant to the Act provide qualified urban counties must submit an application to HUD for funds, and cities and smaller communities within the metropolitan area not qualifying as metropolitan cities may join the County in said application and thereby become a part of a more comprehensive County effort; and

**WHEREAS**, as the urban county applicant, the County must take responsibility and assume all obligations of an applicant under federal statutes, including: the analysis of needs, the setting of objectives, the development of community development and housing assistance plans, the consolidated plan, and the assurances of certifications; and

**WHEREAS**, by executing this Agreement, the Parties hereby give notice of their intention to participate in the urban county CDBG, HOME, and ESG Programs.

**NOW THEREFORE**, in consideration of the mutual promises, recitals and other provisions hereof, the Parties agree as follows:

**SECTION I. General.**

- A. **Responsible Officers.** The Director of the County of San Luis Obispo Department of Social Services (hereinafter referred to as "Director") is hereby authorized to act as applicant for the CDBG, HOME, and ESG Programs and to administer funding and activities under the programs. The City Manager is hereby authorized to act as the responsible officer of the City under the programs.
- B. **Full Cooperation.** Parties agree to fully cooperate and to assist each other in undertaking eligible grant programs or projects, including but not

limited to community renewal and lower-income housing assistance activities, specifically urban renewal, and publicly assisted housing; public services; and economic development.

- C. **Term of Agreement – Automatic Renewal Provision.** The term of this Agreement shall be for a period of three (3) years commencing July 1, 2024, through June 30, 2027. In addition, this Agreement provides for automatic renewal for participation in successive three-year qualification periods, unless the City provides written notice at least 60 days prior to the end of the term that it elects not to participate in a new qualification period. The County will notify the City in writing prior to renewing the Cooperation Agreement for the Urban County for an additional three (3) year term of its right not to participate in the Urban County for a successive three-year term.

The Parties agree to adopt amendments to this Agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice by HUD for a subsequent three-year Urban County qualification period, prior to the subsequent three-year extension of the term. Any amendment to this Agreement shall be submitted to HUD as required by the regulations and any failure to adopt required amendments will void the automatic renewal of this Agreement for the relevant qualification period.

This Agreement remains in effect until the CDBG, HOME, and ESG Program funds and program income received with respect to the three-year qualification period, and the subsequent three-year renewals are expended, and the funded activities are completed. The Parties may not terminate or withdraw from this Agreement while this Agreement remains in effect.

- D. **Scope of Agreement.** This Agreement covers the following formula funding programs administered by HUD where the County is awarded and accepts funding directly from HUD: the CDBG Program, the HOME Program, and the ESG Program.

## **SECTION II. Preparation and Submittal of CDBG Funding Applications.**

- A. **Inclusion of City as Applicant.** The Parties agree the City shall be included in the application the County shall submit to HUD for Title I Housing and Community Development Block funds under the Act.
- B. **Consolidated Plan.** The City shall assist the County by preparing a community development plan, for the period of this Agreement, which identifies community development and housing needs, projects, and programs for the City; and specifies both short and long-term City objectives, consistent with requirements of the Act. County agrees to: (1) include the City plan in the program application, and (2) include City's desired housing and community development objectives, policies, programs, projects and plans as submitted by the City in the County's consolidated plan.
- C. **Application Submittal.** The County agrees to commit sufficient resources to completing and submitting the Consolidated Plan and supporting documents to HUD in time for the Parties to be eligible to receive funding beginning July 1, 2024, and to hold public hearings as required to meet HUD requirements.
- D. **County Responsibility.** Parties agree the County shall, as applicant, be responsible for holding public hearings and preparing and submitting the CDBG funding application and supporting materials in a timely and thorough manner, as required by the Act and the federal regulations established by HUD to secure entitlement grant funding beginning July 1, 2024.
- E. **Grant Eligibility.** In executing this Agreement, the Parties understand they shall not be eligible to apply for grants under the Small Cities or State CDBG Programs for appropriations for fiscal years during the period in which the Parties are participating in the Urban County CDBG entitlement program; and further, the City shall not be eligible to participate in the HOME, or ESG Programs except through the Urban County.

**SECTION III. Program Administration.**

- A. **Program Authorization.** The Director is hereby authorized to carry out activities that will be funded from the annual CDBG, HOME, and ESG Programs from fiscal years 2024, 2025, and 2026 appropriations and

from any program income generated from the expenditure of such funds.

- B. **Responsibilities of Parties.** The Parties agree the County shall be the governmental entity required to execute any grant agreement received pursuant to the CDBG, HOME, and ESG applications, and subject to the limitations set out in this Agreement, the County shall thereby become liable and responsible thereunder for the proper performance of the plan and CDBG, HOME, and ESG under County programs. County agrees to perform program administrative tasks such as environmental clearance under the National Environmental Policy Act (NEPA), subrecipient agreements and monitoring of subrecipients. The City agrees to act in good faith and with due diligence in performance of the City obligations and responsibilities under this Agreement and under all subrecipient agreements. The City further agrees that it shall fully cooperate with the County in all things required and appropriate to comply with the provisions of any Grant Agreement received by the County pursuant to the Act and its Regulations.
- C. **City Assistance.** The City agrees to undertake, conduct, perform or assist the County in performing the essential community development and housing assistance activities identified in the City's community development plan. Pursuant to the Act and pursuant to 24 CFR 570.501(b), the City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement with the County as set forth in 24 CFR 570.503.

**SECTION IV. Use of Program Funds.**

- A. **Allocation of CDBG funds.** All funds received by the County pursuant to this Agreement shall be identified and allocated, as described below, to the specific projects or activities set out in the application, and such allocated amounts shall be expended exclusively for such projects or activities; provided, however, that a different distribution may be made when required by HUD to comply with Title I of the Housing and Community Development Act of 1974, as amended.
- 1) **Metropolitan Cities' Allocation.** The Parties agree the County shall make available to the City a total amount of CDBG funds equal to that which the City would have been entitled had it applied

separately as a "metropolitan city," using HUD allocation formulas as applied by the County, except that an amount equal to thirteen (13) percent of the Metropolitan Cities' allocations of CDBG funds will be deducted by the County to meet its obligations under the terms of this Agreement and/or HUD requirements for administrative costs. Further, with respect to the availability of the funds, the County agrees to fully cooperate and assist the City in expending such funds.

- 2) **Non-Metropolitan Cities' Allocation.** The County agrees to allocate a portion of CDBG program funds to the non-Metropolitan, incorporated cities participating in the program. The amount of allocation per city shall be equal to that which the Urban County formula award from HUD increases as a result of the HUD allocation formulas as applied by the County, except that an amount equal to thirteen (13) percent of the Non-Metropolitan Cities' allocations of CDBG funds will be deducted by the County to meet its obligations under the terms of this Agreement and/or HUD requirements for administrative costs.
- 3) **Urban County.** Parties shall not recommend a CDBG award of less than \$8,000 for any one project or program due to the staff cost of processing such awards in compliance with federal requirements. A project or program recommended to receive an amount less than \$8,000 can still receive an award if any other Party or Parties make an award, which is aggregated to be greater than \$8,000.
- 4) **Administrative Costs.** The County hereby acknowledges the City, as a subrecipient defined in 24 CFR 570.500(c) and its eligibility to incur administrative costs per 24 CFR 570.206, or as otherwise negotiated and approved in the Action Plan for related Planning and Capacity Building costs per 24 CFR Part 570.205. The City shall submit invoices and supporting documentation to the County for reimbursement of eligible administrative costs in accordance with the following schedule:

2024 Program Year: Monday, June 23, 2025

2025 Program Year: Monday, June 22, 2026

2026 Program Year: Monday, June 21, 2027

Administrative funds that are not drawn down following the review and approval by county staff by the deadlines above will be used to reimburse the County's administrative costs.

- B. **Availability of Funds.** The County agrees to make CDBG funds available to all participating incorporated cities as set out here when HUD makes the CDBG funds available to it. The County shall immediately notify the participating incorporated cities of the availability of the funds.

It is understood by the Parties, hereto, the CDBG funds being used for the purposes of this Agreement are funds furnished to the County, through HUD, pursuant to the provisions of the Act. Notwithstanding any other provision of this Agreement, the liability of the County shall be limited to CDBG funds available for the Project. The City understands that the County must wait for release of CDBG funds from HUD before CDBG funds may be advanced or reimbursed. The County shall incur no liability to the City, its officers, agents, employees, suppliers, or contractors for any delay in making any such payments.

- C. **Public Services Costs.** The County agrees that after the availability of CDBG program funds to the City, the County shall not use its remaining balance of funds in any way that would limit the City's ability to use its CDBG funds to the maximum extent allowed by HUD for public service purposes.
- D. **Income Generated.** The City shall notify the County of any income generated by the expenditure of CDBG funds received by the City. Such program income may be retained by the City subject to the provisions of this Agreement, the Act, and its Regulations. Any program income retained must only be used for eligible activities in accordance with all CDBG requirements as they apply.
- E. **Use of Program Income.** The County shall monitor the use of any program income, requiring appropriate record-keeping and reporting by the City as may be needed for this purpose, and shall report the use of such program income to HUD. In the event of close-out or change of status of the City, all program income on hand or received by the

City subsequent to the close-out or change of status shall be paid to the County. In the event that the City withdraws from the Urban County to become an entitlement grantee, as provided under 24 CFR 570.504, all program income on hand or received by the City from Urban County activities shall be retained by the City to be used as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.

- F. **Change in Use of Property.** The City shall notify the County of any modification or change in the use of real property acquired or improved in whole or in part using CDBG funds that is within the control of the City, from that use planned at the time of acquisition or improvement including disposition. Such notification shall be made within thirty (30) calendar days of such change of use and comply with the provisions of 24 CFR 570.505.
- G. **Fair Housing Implementation.** The Parties agree no Urban County funding shall be allocated or expended for activities in or in support of any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with its fair housing certification.
- H. **Conflict Resolution.** In the event of disagreement between the County and the City as to the allocations, disbursement, use, or reimbursement of CDBG funds, the Parties agree to accept HUD's written determination as to the appropriate resolution or disposition of funds to the extent HUD is willing to resolve such disagreement.
- I. **Consolidated and Further Continuing Appropriations Act.** The City may not sell, trade, or otherwise transfer any portion of CDBG funds to another metropolitan city, Urban County, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under Title I of the Act.
- J. **Special Provisions for the Urban County.**

(1) To affirmatively further fair housing and implement the Analysis of Impediments to Fair Housing Choice or better known as the Fair Housing Plan, the cities are encouraged to contribute CDBG funds to affordable housing projects when there is an eligible CDBG component in the proposal that is located within the City's or County's jurisdiction.

(2) The County will enforce remedies for noncompliance pursuant to 2 CFR Part 200.338 and allowed per 2 CFR Part 200.207 by pulling CDBG funds for under performing projects or programs not implemented during agreed timeframe identified in the subrecipient agreement.

**SECTION V. Amendment or Extension of Agreement.**

- A. **Subrecipient Agreement.** For each fiscal year during the term of this Agreement, the County and the City shall enter into a Subrecipient Agreement, prepared jointly by the County and the City, which identifies a project or program that the County will administer with the City's CDBG entitlement funds during that program year. The Subrecipient Agreement will set forth the minimum requirements found at 24 CFR 570 and as otherwise required by applicable federal laws. In addition, the agreements will provide project changes, time schedule for completion of the project(s), deliverable checklist, and additional funding sources, if any. If substantial compliance with the completion schedule cannot be met by the City due to unforeseen or uncontrollable circumstances, then the County may extend the schedule for project completion, as allowed by federal regulations.
- B. **Amendments.** Any amendments to this Agreement shall be in writing. Parties agree any such fully executed amendment or amendments to this Agreement may be entered into at any time if required or necessary to implement the plans contemplated hereunder, or to comply with any grant agreement or the regulations issued pursuant to the Act.

**SECTION VI. Compliance with Federal Regulations.**

- A. **General.** The Parties agree to take all actions necessary to assure compliance with the urban county's certifications required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, regarding Title VI of the Civil Rights Act of 1964, 24 CFR part 1, the Fair Housing Act, affirmatively furthering fair housing,

Section 109 of Title I of the Housing and Community Development Act of 1974; the National Environmental Policy Act of 1969; the Uniform Relocation Assistance and Real Property Acquisition Act of 1970; regulations at 24 CFR part 100, and will affirmatively further fair housing and other applicable laws. Furthermore, the Parties agree to implement regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8, Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35, the Age Discrimination Act of 1975, and the implementing regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968.

- B. **Community Participation.** The Parties agree to comply with federal community participation requirements of 24 CFR Part 91 and provide community members with the following.
- 1) An estimate of the amount of CDBG funds proposed to be used for activities that will benefit persons of low and moderate income; and
  - 2) A plan for minimizing displacement of persons as a result of CDBG-assisted activities and programs, and to provide assistance to such persons.
- C. **Community Participation Plan.** The Parties agree to follow a community participation plan which:
- 1) Provides for and encourages community members participation, particularly those of low or moderate income who reside in slum or blighted areas where CDBG funds are proposed to be used;
  - 2) Provides community members with reasonable and timely access to local meetings, staff reports, and other information relating to grantee's proposed use of funds, as required by HUD regulations related to the actual use of funds under the Act;
  - 3) Provides for public hearings to obtain community members' views and to respond to proposals and questions at all stages of the community development program, including at least: 1) formulation

of needs; 2) review of proposed grant activities; and 3) review of program performance; for which public hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation of handicapped persons;

- 4) Provides a timely written answer to written complaints and grievances, within 15 working days, where practicable.
- 5) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
- 6) Identifies the use of non-traditional methods of community outreach, including the provision of CDBG documents in a user-friendly format, including but not limited to Braille, large print, oral format, and delivering copies to homebound individuals.

D. **The Parties hereby certify, to the best of their knowledge and belief, that:**

- 1) **Conflict of Interest.** No federal grant monies have been paid or will be paid, by or on behalf of the Parties, to any officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.
- 2) **Influence.** If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) **Certifications Disclosure.** Parties agree to include this certification in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements), and that all grant subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was executed.

E. **Certification Regarding Policies Prohibiting Use of Excessive Force and Regarding Enforcement of State and Local Laws Barring Entrances.**

In accordance with Section 519 Public Law 101-144 (the 1990 HUD Appropriations Act), the City certifies that it has adopted and is enforcing.

- 1) A policy prohibiting the use of excessive force by law enforcement agencies within their respective jurisdictions against any individuals engaged in non-violent civil rights demonstrations; and
- 2) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within their jurisdictions.

**SECTION VII. Execution of Agreement and Recordkeeping.**

- A. **HUD Certification.** The Director is hereby authorized to execute and submit to the County the HUD Certification Form with respect to the community development activities carried out within the boundaries of the City. It is further understood that the County will rely upon the certification executed by the Director for purposes of executing a certification form for submission to HUD.
- B. **Maintenance of Records.** The City shall maintain records of activities for any projects undertaken pursuant to the program and said records shall be open and available for inspection by auditors assigned by HUD and/or the County upon reasonable notice during the normal business hours of the City.

**NOW, THEREFORE,** it is agreed between the parties hereto that:

1. Agreement Signatures. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute one and the same agreement. This Agreement may be executed and delivered by facsimile or scanned signature by any of the Parties and the receiving Party may rely on the receipt of such document so executed and delivered by facsimile or email as if the original had been received.
2. The Parties hereto have caused this Agreement to be executed and attested by their proper officer thereunder duly authorized.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and the year set forth below.

**COUNTY OF SAN LUIS OBISPO**, A Political Subdivision of the State of California

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

JOHN NILON  
Ex-Officio Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

Dated: \_\_\_\_\_

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_

CITY OF ATASCADERO

BY: \_\_\_\_\_

Heather Moreno  
MAYOR

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

ATTEST:

BY: \_\_\_\_\_

Lara Christensen  
CITY CLERK

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

APPROVED AS TO CONTENT:

BY: \_\_\_\_\_

Rachelle Rickard  
CITY MANAGER

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

APPROVED AS TO FORM:

BY: \_\_\_\_\_

Brian Pierik  
CITY ATTORNEY

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



## ***Atascadero City Council***

### ***Staff Report – Public Works Department***

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#### **Reject Construction Bid and Re-evaluate Design Options for Downtown District Pavement Rehabilitation Project**

#### **RECOMMENDATIONS:**

Council:

1. Reject the bid received from Papich Construction Company, Inc. for \$3,371,786 for the Downtown District Pavement Rehabilitation Project (Project No. C2021R02); and
2. Direct the City Engineer to evaluate and implement measures to reduce project costs and resolicit construction bids for the Downtown District Pavement Rehabilitation Project.

#### **DISCUSSION:**

##### Background

The Downtown District Pavement Rehabilitation Project groups a total of 1.7 miles of roadways within Atascadero's downtown core into a single comprehensive pavement resurfacing and rehabilitation project.

This project also includes multiple locations where detailed design and replacement of roadway edge improvements is necessary, either as a result of existing drainage issues or ADA compliance requirements. Specifically, the project includes work scope to replace 15 corner curb ramps and modify two others (add truncated domes) to bring the ramps into compliance with current ADA requirements, replacement of subsided curb and gutter at four locations, and reconstruction of the northwest corner of the intersection of Traffic Way with Palma Avenue to allow for on-street parking.

Below is a list of the roadway segments selected for this project, with existing pavement conditions. A map showing these roadway segments and ADA ramps to be replaced is attached for reference (Attachment 1).

**Road Segments in Downtown District Pavement Rehabilitation Project**

Road Segment	From	To	Length (ft)	Area (sf)	2019 PCI*
City Alley #1	Palma Ave	305' South of Palma Ave	305	9,485	35
City Alley #2	Palma Ave	Entrada Ave	390	16,630	35**
City Alley #3	Palma Ave	130' North of Palma Ave	130	5,200	35**
East Mall	El Camino Real	Lewis Ave	810	29,930	45/72
Entrada Ave	El Camino Real	Lewis Ave	740	33,300	50
Lewis Ave	Traffic Way	Capistrano Ave	1,100	44,870	38/50/78
Olmeda Ave	Traffic Way	West Mall	615	20,295	49
Palma Ave	Traffic Way	East Mall	860	36,700	47/53
Traffic Way	El Camino Real	Tunitas Ave	1,780	80,250	48/69
West Mall	El Camino Real	Capistrano Ave	2,140	81,910	69/52

Total 8,870 358,570  
1.68 miles

\* For roadways with multiple segments in Pavement Management Plan, all PCI's shown.

\*\* Estimated. Not included in 2019 Pavement Assessment.

Given the large variation in existing pavement conditions, Earth Systems Pacific (ESP) performed pavement testing services and worked closely with the Rick Engineering design team to prepare an evaluation of conditions and preliminary treatment options. These options were then reviewed with City staff and based on staff direction final design work and preparation of construction plans, specifications and estimates (PS&E) was completed for the project. The project includes a combination of roadway reconstruction, localized digouts and deep lift paving repair, mill and overlay, asphalt overlay, and microsurfacing. All treatment options were based on an assessment of subgrade quality, current roadway conditions, and traffic volumes.

One item of note is the reconstruction of the northwest corner at Traffic Way and Olmeda Avenue. Due to sight distance constraints and safety concerns, on-street parking along the eastern edge of Olmeda Avenue was restricted in 2020. As part of this project the design team evaluated the feasibility of and options for reconstruction and widening of Olmeda Avenue. A solution was found which will allow for widening of the road and allowance of on-street parking, with those improvements included in this project.

Analysis

The project was publicly bid starting May 6, 2023 for a minimum of 30 days in accordance with State Contracting Laws and Atascadero Purchasing Policies. A public bid opening occurred on June 8, 2023 with only one bid received at a price of \$3,371,786 from Papich Construction Company, Inc.

Receiving only one single bid on a project of this size is unusual, and the bid amount was more than double the engineer's estimate (\$1,400,000). The engineer's estimate

was based on recent unit prices for similar work on City projects, so the the bid amount was unexpected.

While construction costs have risen steeply over the last several years, the lack of bidders and high bid amount on this project appears to be the result of an aggregation of multiple factors. Staff reached out to several other agencies and contractors on the Central Coast and found that multiple large projects are only seeing 1-2 bidders. The general consensus is that the emergency work resulting from the January and March storm events has overloaded local contractors, with many of the large emergency projects ongoing or just beginning. Additionally, local agencies have a significant number of budgeted capital projects, many of which are larger than the Downtown District Pavement Rehabilitation Project. Paired with ongoing high materials and equipment repair costs, and difficulty hiring additional workers, the local construction market has significantly more demand than supply. Papich's bid was evaluated to determine if there were any single items that were significantly atypical, but staff's determination is that there was merely a large premium applied across nearly all bid items.

Specific to this project, the project specifications placed tight timeframes on roadway construction adjacent to Atascadero Middle School (AMS) and Fine Arts Academy. The intention was to complete construction on these road segments (Lewis Avenue, East Mall, West Mall from Lewis Avenue to Capistrano Bridge, and Traffic Way from El Camino Real to Olmeda Avenue) during the school summer break. Although this requirement is not unusual, when added to the strained bidding market, it likely led to considerably higher pricing.

Staff recommends coordinating with the design engineer (Rick Engineering) to evaluate options for further value engineering and looking at splitting the project into two phases. This project includes a significant amount of concrete work (ADA ramps, cross gutters and spandrels, curb and gutter replacement), which is typically performed by subcontractors to the prime bidder (typically asphalt contractors for street projects). Bidding the concrete work as a stand-alone initial project allows concrete contractors to be the prime bidders. Concrete work for curbs, sidewalks, etc. is staged and completed prior to asphalt work and allows a second phase, stand-alone project for street pavement work in late summer/early fall. Staff expects more favorable bids from paving contractors if concrete work is not part of their project scope and bids are received later in the season. City staff will ensure that impacts to downtown businesses and school traffic are mitigated as much as possible during construction.

Pursuant to California Public Contracting Code 20166, the City Council "may reject any bids presented and readvertise." Staff recommends that Council reject the Papich Construction Company bid and evaluate and implement measures to reduce project costs for the Downtown District Pavement Rehabilitation Project.

## **FISCAL IMPACT:**

The Budget includes \$1,750,000 in Local Transportation Funds for this project. It is anticipated that plan revisions, phasing, and re-advertising for the project will result in an expenditure of approximately \$20,000 in engineering consultant fees and staff time.

**ALTERNATIVES:**

Council can award the project to Papich Construction Company for \$3,371,786 and increase the project funding nearly \$2,000,000. Staff recommends against this alternative and believes that repacking and re-advertising the project can significantly reduce the construction costs.

**ATTACHMENTS:**

1. Project Location Map
2. Bid Summary

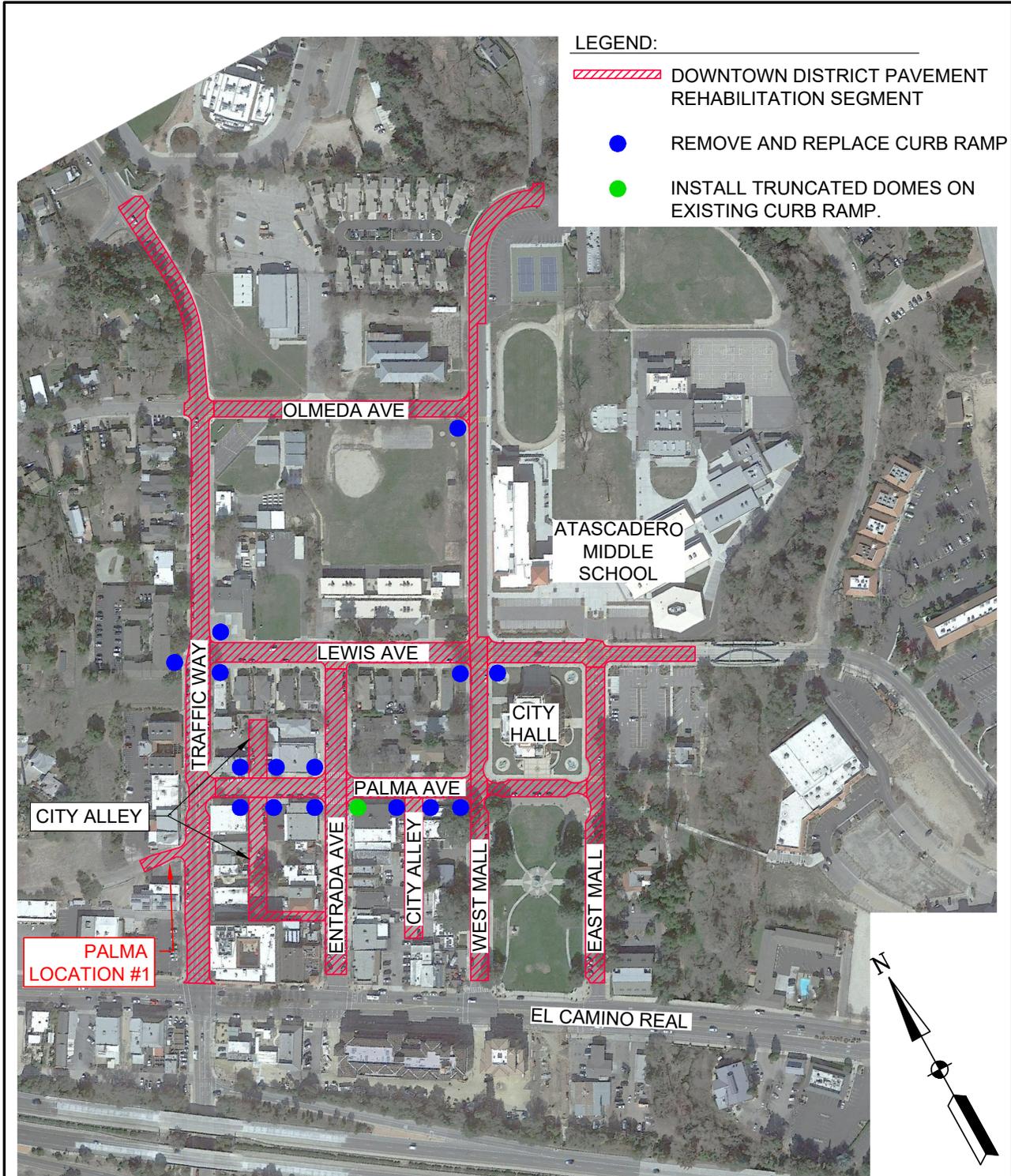


EXHIBIT  
 DOWNTOWN DISTRICT PAVEMENT  
 PAVEMENT REHABILITATION  
 STREET LOCATIONS

SCALE: 1"=300'  
 PAGE NO: 1 OF 1

*City of Atascadero*  
*Office of the City Clerk*  
*Bid Summary*

TO: Public Works  
 FROM: Dillon Dean James, Deputy City Clerk   
 BID NO.: 2023-002  
 OPENED: 6/8/2023  
 PROJECT: Downtown District Pavement Rehabilitation, Project No. C20:  
1 Bid was received and opened today, as follows:

<u>Name of Bidder</u>	<u>Base Bid Total</u>	<u>Add Alternate</u>
Papich Construction Company, Inc.	\$3,371,786.00	



# ***Atascadero City Council***

## ***Staff Report – Public Works Department***

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### **Adopting Sewer Service Charges to be Added to the 2023-2024 Property Tax Rolls**

#### **RECOMMENDATIONS:**

Council:

1. Conduct a public hearing to receive verbal testimony regarding the proposed sewer service charges to be levied onto property tax rolls; and
2. Adopt Draft Resolution, approving sewer service charges to be added to the 2023-2024 property tax rolls.

#### **DISCUSSION:**

The Atascadero Municipal Code provides for the collection of sewer service charges on the general County property tax bills. Charges have been collected in this manner since the City took ownership of the Atascadero County Sanitation District in 1984. Sewer service charges are fixed rates based upon strength factors and Equivalent Dwelling Units (EDU). One EDU is the equivalent of the average sewer discharge of a single-family residential dwelling (240 gallons per day).

The City Council approved increases to sewer service charges at their May 23, 2023 regular meeting in accordance with Proposition 218 requirements. This was the fifth time rates have been increased since 1994 and is estimated to increase FY23/24 revenue by over \$750,000 in sewer service charges. Monthly sewer service charges will increase \$7.69 from \$40.46 per single-family dwelling (one EDU) to \$48.15 beginning July 1, 2023. An additional two dollars are added to each property on the tax roll to cover the County fee to administer the levy process.

The public hearing for levying sewer service charges was publicly noticed on June 13<sup>th</sup> and June 21<sup>st</sup>, 2023. A list of properties by Assessor Property Numbers (APNs) and levy amount (which does not include the two-dollar County fee) are itemized on Exhibit A of the Draft Resolution available in the City Clerk's Office. Sewer service charges will appear as a line item entitled "ATAS SEWER CHARGE" on property tax statements. Any questions or concerns received during the public hearing should be referred to staff for resolution prior to submitting the charges to the County Auditor by the July 20, 2023 deadline.

**FISCAL IMPACT:**

The City estimates it will collect \$4,702,570 in sewer service charges for Fiscal Year 2023-2024 if Council adopts the attached resolution.

**ATTACHMENTS:**

1. Draft Resolution
2. Exhibit A - Annual Sanitary Sewer Charges 2023-2024  
(Available in the City Clerk's Office and as part of the online agenda packet.)

**DRAFT RESOLUTION**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ATASCADERO, CALIFORNIA, ADOPTING SEWER SERVICE  
CHARGES TO BE ADDED TO THE 2023-2024 PROPERTY TAX ROLLS**

**WHEREAS**, the City Council of the City of Atascadero (hereafter referred to as City Council) has duly held a public hearing on June 13, 2023 concerning the addition of the 2023-2024 sewer service charges to the 2023-2024 property tax bills; and

**WHEREAS**, due notice was given to the public in accordance with Section 5470 et seq of the Health and Safety Code; and

**WHEREAS**, the City Council of the City of Atascadero approved increases in sewer service rates on May 23, 2023 that become effective on July 1, 2023; and

**WHEREAS**, at said hearing the report marked “Exhibit A”, on file with the City Clerk and incorporated herein by reference, containing such charges reflecting said increases in sewer service rates was duly received by said Council; and

**WHEREAS**, at said public hearing opportunity was given for filing objections and protests and for presentation of testimony of other evidence concerning same; and

**WHEREAS**, it is in the public interest that this body adopt the charges and determine and confirm the report presented at the hearing.

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

**SECTION 1.** That the recitals set forth hereinabove are true, correct and valid.

**SECTION 2.** That the City Council hereby adopts the service charges set forth on the report marked “Exhibit A” which is on file in the City Clerk’s Office and hereby expressly incorporated herein by reference as though here fully set forth; and the City Council hereby determines and confirms the report containing such charges as set forth in said “Exhibit A” and hereby further determines and confirms that each and every service charge set forth in said report is true and accurate and is in fact owed.

**SECTION 3.** That the charges as so confirmed and determined and adopted shall appear as separate items on the tax bill of each parcel listed in said report, and such charges shall be collected at the same time and in the same manner as ordinary County ad valorem taxes are collected, and are subject to the same penalties in the same procedure and sale in case the delinquency is provided for such taxes.

**SECTION 4.** The City Clerk shall file a certified copy of this Resolution and said Exhibit A with the County Auditor upon its adoption.

**SECTION 5.** This Resolution is approved by at least a two-thirds vote of said Council.

**PASSED AND ADOPTED** at a regular meeting of the City Council held on the 27th day of June, 2023.

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



## Annual Sanitary Sewer Charges 2023 / 2024

APN	Tax Rate
028-051-013	\$577.80
028-051-030	\$577.80
028-051-031	\$577.80
028-051-042	\$577.80
028-051-043	\$577.80
028-051-045	\$577.80
028-051-049	\$577.80
028-051-050	\$577.80
028-051-051	\$577.80
028-051-052	\$577.80
028-051-057	\$577.80
028-051-058	\$577.80
028-051-059	\$577.80
028-052-001	\$577.80
028-052-006	\$577.80
028-052-009	\$577.80
028-052-011	\$577.80
028-052-012	\$577.80
028-052-013	\$577.80
028-052-014	\$577.80
028-052-017	\$577.80
028-052-018	\$577.80
028-052-019	\$577.80
028-052-020	\$577.80
028-052-021	\$577.80
028-052-031	\$577.80
028-052-032	\$577.80
028-052-033	\$577.80
028-052-034	\$577.80
028-052-035	\$577.80
028-052-036	\$577.80
028-052-037	\$577.80
028-052-038	\$577.80
028-061-007	\$577.80
028-061-009	\$577.80
028-061-012	\$577.80
028-061-016	\$577.80
028-061-017	\$577.80
028-061-018	\$577.80
028-061-019	\$577.80

028-061-020	\$577.80
028-061-021	\$577.80
028-061-022	\$577.80
028-061-023	\$577.80
028-061-028	\$577.80
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028-062-036	\$577.80
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029-273-005	\$1,155.60
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029-273-010	\$577.80
029-273-011	\$577.80
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029-281-028	\$577.80
029-281-029	\$577.80
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029-281-045	\$577.80
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029-281-047	\$577.80
029-281-048	\$577.80
029-281-049	\$577.80
029-291-003	\$577.80
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029-291-031	\$1,155.60
029-291-032	\$1,300.06
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029-291-034	\$1,155.60
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029-292-018	\$577.80
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029-292-045	\$577.80
029-292-046	\$577.80
029-292-047	\$577.80
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029-292-055	\$4,766.86
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029-301-032	\$577.80
029-301-033	\$577.80
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029-301-035	\$768.48
029-301-036	\$2,311.20
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029-302-048	\$1,155.60
029-302-049	\$2,166.76
029-302-052	\$577.80
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029-302-056	\$577.80

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029-311-031	\$577.80
029-311-032	\$1,444.50
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029-311-037	\$1,733.40
029-311-038	\$577.80
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029-311-041	\$1,733.40
029-311-044	\$1,733.40
029-311-047	\$768.48
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029-312-026	\$1,733.40
029-312-027	\$5,633.56
029-312-028	\$1,536.94
029-312-031	\$866.70
029-312-032	\$768.48
029-312-033	\$2,600.10
029-312-034	\$1,733.40
029-312-035	\$577.80
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029-321-022	\$577.80
029-321-024	\$577.80
029-321-025	\$577.80
029-321-026	\$577.80
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029-322-006	\$577.80
029-322-009	\$3,466.80
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029-322-021	\$1,733.40

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029-323-021	\$11,556.00
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029-323-025	\$577.80
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029-342-007	\$1,733.40
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029-343-014	\$577.80
029-343-016	\$866.70
029-343-017	\$866.70
029-343-018	\$866.70

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029-344-005	\$1,155.60
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029-344-028	\$577.80
029-344-029	\$577.80
029-344-032	\$577.80
029-344-033	\$2,311.20
029-344-034	\$3,177.90
029-344-036	\$1,155.60
029-344-037	\$577.80
029-344-038	\$577.80
029-344-039	\$1,155.60
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029-347-023	\$577.80
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029-361-022	\$4,911.30
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029-363-014	\$577.80
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029-371-019	\$577.80
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029-371-027	\$577.80
029-371-028	\$577.80

029-371-029	\$577.80
029-382-032	\$577.80
029-382-033	\$577.80
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029-391-037	\$433.36
029-391-038	\$433.36

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029-391-042	\$433.36
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029-391-044	\$433.36
029-391-045	\$433.36
029-391-046	\$433.36
029-391-047	\$433.36
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030-011-013	\$577.80
030-011-014	\$1,444.50
030-011-016	\$577.80
030-011-020	\$1,733.40
030-011-021	\$1,733.40
030-011-024	\$577.80
030-011-027	\$2,600.10
030-011-028	\$2,166.76
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030-011-036	\$577.80
030-011-038	\$2,600.10
030-011-039	\$2,166.76
030-011-040	\$2,600.10

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030-011-042	\$577.80
030-011-043	\$577.80
030-011-044	\$577.80
030-011-045	\$577.80
030-011-046	\$577.80
030-011-047	\$577.80
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030-021-015	\$1,155.60
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030-061-008	\$577.80
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030-071-060	\$577.80
030-071-061	\$577.80
030-071-062	\$577.80
030-081-017	\$1,155.60
030-081-022	\$8,089.20
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030-081-026	\$577.80
030-081-028	\$577.80
030-081-029	\$577.80
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030-081-032	\$577.80
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030-081-044	\$5,200.20
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030-081-048	\$4,911.30
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030-091-003	\$577.80
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030-091-011	\$2,166.76
030-091-014	\$2,600.10
030-091-015	\$577.80
030-091-016	\$577.80
030-091-017	\$1,155.60
030-091-018	\$2,166.76
030-091-019	\$2,600.10
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030-091-022	\$2,600.10
030-091-023	\$3,033.46
030-091-026	\$577.80
030-091-032	\$2,600.10
030-091-033	\$577.80
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030-091-036	\$577.80
030-091-037	\$577.80
030-091-038	\$577.80
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030-091-043	\$577.80
030-091-045	\$1,733.40
030-091-046	\$1,300.06
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030-091-053	\$2,166.76
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030-091-063	\$2,600.10
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030-101-006	\$1,155.60
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030-101-020	\$866.70
030-101-025	\$433.36
030-101-026	\$577.80
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030-101-028	\$1,155.60
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030-101-037	\$2,600.10
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030-111-012	\$577.80
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030-111-047	\$577.80
030-111-048	\$577.80
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030-121-002	\$1,733.40
030-121-003	\$4,622.40
030-121-004	\$577.80
030-121-006	\$577.80
030-121-024	\$1,155.60
030-121-028	\$577.80
030-121-029	\$1,444.50
030-121-037	\$577.80
030-121-038	\$577.80
030-121-039	\$5,778.00
030-121-040	\$577.80
030-121-041	\$7,366.96
030-121-043	\$2,311.20

030-121-044	\$6,974.04
030-121-045	\$2,889.00
030-121-046	\$5,778.00
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030-122-002	\$433.36
030-122-003	\$433.36
030-122-004	\$433.36
030-122-005	\$433.36
030-122-006	\$433.36
030-123-001	\$577.80
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030-123-007	\$577.80
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030-123-037	\$577.80
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030-131-001	\$577.80
030-131-006	\$577.80
030-131-008	\$1,733.40
030-131-009	\$866.70
030-131-010	\$2,311.20
030-131-011	\$1,733.40
030-131-012	\$1,733.40
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030-131-027	\$1,895.18
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030-131-042	\$1,733.40

030-131-044	\$1,300.06
030-131-046	\$577.80
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030-131-050	\$866.70
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030-132-008	\$1,733.40
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030-132-054	\$577.80
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030-141-067	\$577.80

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030-152-024	\$577.80

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030-152-037	\$577.80
030-152-038	\$2,311.20
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030-181-033	\$577.80
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030-181-047	\$577.80
030-181-052	\$2,022.30
030-181-061	\$577.80
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030-191-001	\$2,311.20
030-191-008	\$866.70
030-191-011	\$3,466.80
030-191-021	\$2,022.30
030-191-032	\$577.80
030-191-034	\$0.00
030-191-038	\$3,466.80
030-191-039	\$1,733.40
030-191-040	\$866.70
030-191-041	\$866.70
030-192-018	\$1,733.40
030-192-019	\$1,733.40
030-192-020	\$1,155.60
030-194-001	\$21,378.60
030-194-048	\$2,889.00
030-194-056	\$0.00
030-201-003	\$577.80
030-201-004	\$2,311.20
030-201-005	\$2,311.20
030-201-006	\$3,466.80

030-201-007	\$3,177.90
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030-202-007	\$577.80
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030-221-033	\$1,155.60
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030-222-045	\$3,466.80
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030-231-027	\$577.80
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030-231-029	\$577.80
030-231-031	\$577.80
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030-232-021	\$577.80
030-232-026	\$577.80
030-232-027	\$577.80
030-232-029	\$577.80
030-232-030	\$577.80
030-232-031	\$577.80
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030-233-009	\$577.80
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030-241-009	\$577.80
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030-241-012	\$1,733.40
030-241-013	\$577.80
030-241-020	\$577.80
030-241-033	\$1,733.40
030-241-036	\$577.80
030-241-045	\$1,155.60
030-241-051	\$2,889.00
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030-241-056	\$577.80
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030-242-038	\$577.80
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030-271-003	\$577.80
030-271-012	\$577.80
030-271-013	\$2,311.20
030-271-018	\$577.80
030-271-019	\$7,511.40
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030-281-003	\$577.80
030-281-006	\$1,155.60
030-281-011	\$1,155.60
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030-281-020	\$577.80
030-281-021	\$866.70
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030-281-024	\$577.80
030-281-025	\$577.80
030-281-028	\$577.80
030-281-029	\$577.80
030-281-030	\$577.80
030-281-031	\$577.80
030-281-032	\$866.70
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030-281-034	\$577.80
030-281-036	\$1,155.60
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030-283-011	\$577.80
030-283-012	\$577.80

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030-286-001	\$577.80
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030-291-015	\$1,444.50
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030-291-028	\$577.80
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030-291-031	\$577.80
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030-292-009	\$1,895.18
030-292-010	\$1,300.06
030-292-011	\$4,911.30
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030-292-016	\$577.80
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030-292-022	\$577.80
030-292-023	\$577.80
030-292-024	\$3,466.80
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030-292-038	\$577.80
030-292-041	\$577.80

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030-341-023	\$1,733.40
030-341-024	\$3,466.80
030-341-025	\$1,444.50
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030-371-023	\$577.80
030-371-024	\$577.80
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049-163-078	\$577.80
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049-163-080	\$577.80
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049-164-014	\$577.80
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049-211-055	\$5,200.20
049-211-058	\$5,778.00
049-211-059	\$14,109.88
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049-213-009	\$577.80
049-213-010	\$577.80
049-213-011	\$577.80

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049-213-013	\$577.80
049-213-014	\$577.80
049-213-015	\$577.80
049-213-016	\$577.80
049-213-017	\$577.80
049-213-018	\$577.80
049-213-019	\$577.80
049-213-020	\$577.80
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049-213-024	\$577.80
049-213-025	\$577.80
049-213-026	\$577.80
049-213-027	\$577.80
049-213-028	\$577.80
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049-214-017	\$577.80
049-214-018	\$577.80
049-214-019	\$577.80
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049-224-008	\$577.80
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049-224-011	\$577.80
049-224-012	\$577.80
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049-224-018	\$577.80
049-224-019	\$577.80
049-224-020	\$577.80
049-224-021	\$577.80
049-224-022	\$577.80
049-224-023	\$577.80
049-224-024	\$577.80
049-224-025	\$577.80
049-225-008	\$577.80
049-225-011	\$3,466.80
049-225-012	\$1,155.60
049-225-016	\$1,334.72
049-225-017	\$3,253.02
049-225-024	\$4,333.50
049-225-025	\$577.80
049-225-026	\$2,311.20
049-225-029	\$1,525.40
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049-226-002	\$1,536.94
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056-031-062	\$10,400.40
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056-081-019	\$1,155.60
056-081-028	\$2,311.20
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056-281-017	\$577.80
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056-281-029	\$577.80
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056-381-010	\$346.68
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056-381-013	\$346.68
056-381-014	\$346.68
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056-383-018	\$346.68
056-383-019	\$4,333.50
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056-383-030	\$346.68
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056-384-031	\$577.80
056-384-032	\$577.80



# ***Atascadero City Council***

## ***Staff Report – Community Development Department***

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### **Community Facilities District 2005-1 Annexation No. 25**

#### **RECOMMENDATIONS:**

Council:

1. Conduct the public hearing for the proposed annexation; and
2. Adopt Draft Resolution A, authorizing the territory identified in City Council Resolution 2023-035 to be annexed into Community Facilities District No. 2005-1, authorizing the levy of a special tax and submitting the levy of a special tax to qualified electors; and
3. Direct the City Clerk to conduct a landowner vote of annexations and collect and count the ballots.

#### **Council to recess until ballots are counted**

4. Adopt Draft Resolution B, declaring the results of a special annexation landowner election for Annexation No. 25, determining the validity of prior proceedings and directing the recording of an amendment to the notice of special tax lien; and
5. Introduce for first reading, by title only, Draft Ordinance, authorizing the levy of special taxes in Community Facilities District 2005-1 for certain annexation territory identified as Annexation No. 25.

#### **DISCUSSION:**

In July 2004, as a key part of the adoption of the City's Comprehensive Financial Strategy, the Council addressed the need to recover all costs associated with new residential development by directing the formation of a Community Facilities District (CFD). California law allows the formation of such districts for the purpose of recovering the cost of providing public safety services, including police and fire services, and park services for new developments. CFDs ensure that new homeowners pay special taxes in an amount equal to the actual cost of the City services they are expected to receive. Without such special taxes in place, new residential units have a negative impact on the General Fund.





On May 23, 2023, Council initiated the process for this annexation by adopting a resolution of intent (Resolution No. 2023-035) to annex the subject project into the existing Citywide CFD and set the date of the public hearing.

The Resolutions before Council (Attachment 1 and 2) are the final steps to annex the project (Annexation No. 25) into the existing Citywide CFD (CFD 2005-1) to fund new police, fire, and park services associated with the developments. The Special Tax levied against residential units for Fiscal Year 2022-2023 was \$779.10 annually per residential unit, which is subject to an annual escalator. The money collected can only be used to fund new public services authorized to be funded by the Mello-Roos Act and identified within the Rate and Method of Apportionment.

After the close of the Public Hearing, the City Council may adopt Draft Resolution A (Attachment 1), which officially establishes the annexation of territory to Community Facilities District 2005-1. If approved, the Resolution authorizes the levy of special taxes within the annexation area.

Following adoption of Draft Resolution A (Attachment 1), the City Clerk will hold a landowner election, verifying the property owner's wishes to annex into the City's CFD. If the landowner(s) elect to annex into the CFD, the City Council will certify the election by adopting Draft Resolution B (Attachment 2), and introduce, for first reading, by title only, Draft Ordinance A (Attachment 3), authorizing the special taxes for Annexation No. 25.

The development proposed for annexation into the CFD was conditioned to be fiscally neutral through annexation into the existing Citywide CFD (CFD 2005-1 – Public Services). If the annexation is not approved, the project will not be able to meet the conditions of approval.

**ALTERNATIVE:**

Council could require the developer to meet the fiscal neutrality condition of approval through some other mechanism.

**FISCAL IMPACT:**

Assessments for the Marketplace annexation are estimated to be between \$0 - \$71,680 annually beginning in fiscal year 2023-2024, and adjusted each year for inflation.

**ATTACHMENTS:**

1. Draft Resolution A
2. Draft Resolution B
3. Draft Ordinance

**DRAFT RESOLUTION A**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ATASCADERO, CALIFORNIA, AUTHORIZING THE  
ANNEXATION OF TERRITORY INTO COMMUNITY FACILITIES  
DISTRICT NO. 2005-1 (PUBLIC SERVICES), AUTHORIZING THE  
LEVY OF A SPECIAL TAX, AND SUBMITTING THE LEVY OF  
SPECIAL TAX TO QUALIFIED ELECTORS**

**WHEREAS**, under the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code; hereafter referred to as the “Act”), the City Council of the City of Atascadero (the “City”) previously conducted proceedings to establish the City of Atascadero Community Facilities District No. 2005-1 (Public Services) (the “District”), and

**WHEREAS**, this City Council on May 23, 2023, adopted its Resolution No. 2023-035 entitled “Resolution of the City Council of the City of Atascadero, California, declaring its Intention to Annex Territory into Community Facilities District No. 2005-1 (Public Services) as Annexation No. 25, and to Authorize the Levy of Special Taxes Therein” (the “Resolution of Intention”) stating its intention to annex the territory to the District pursuant to the Act; and

**WHEREAS**, a copy of the Resolution of Intention, incorporating a description and map of the proposed boundaries of the territory to be annexed to the District, stating the services to be funded by the District and the rate and method of apportionment of the special tax to be levied within the District to pay for the services is on file with the City Clerk and the provisions thereof are fully incorporated herein by this reference as if fully set forth herein; and

**WHEREAS**, on the date hereof, this City Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed annexation of territory to the District; and

**WHEREAS**, at the hearing all interested persons desiring to be heard on all matters pertaining to the annexation of territory to the District and the levy of special taxes within the area proposed to be annexed were heard and a full and fair hearing was held; and

**WHEREAS**, prior to the closing of the hearing, no written or oral protests had been made against the proposed annexation of territory to the District by (i) any registered voter residing in the existing District, (ii) any registered voter residing in the territory proposed to be annexed to the District, (iii) any of the owners of land in the existing District, or (iv) any of the owners of land in the territory proposed to be annexed to the District; and

**WHEREAS**, Annexation Map No. 25 to the District has been filed with the County Recorder of the County of San Luis Obispo, which map shows the territory to be annexed in these proceedings, and a copy of the map is on file with the City Clerk.

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

**SECTION 1.** The above recitals are true and correct.

**SECTION 2.** All prior proceedings taken by this City Council with respect to the District and the proposed annexation of territory thereto have been duly considered and are hereby determined to be valid and in conformity with the Act, and the District has been validly established pursuant to the Act.

**SECTION 3.** The boundaries of the territory to be annexed to the District, as set forth in the map entitled “Annexation Map No. 25 of Community Facilities District No. 2005-1 (Public Services)” on file with the City Clerk and heretofore recorded in the San Luis Obispo County Recorder’s Office on June 1, 2023, in Book 6 at Page 43 of Maps of Assessment and Community Facilities Districts are hereby finally approved, are incorporated herein by this reference, and shall be included within the boundaries of the District, and said territory is hereby ordered annexed to the District, subject to voter approval of the levy of the special taxes therein as hereinafter provided.

**SECTION 4.** The provisions of the Resolution of Intention is, by this reference incorporated herein, as if fully set forth herein.

**SECTION 5.** Pursuant to the provisions of the Act, the proposition of the levy of the special tax within the territory to be annexed to the District shall be submitted to the qualified electors of the area to be annexed to the District at an election called therefor as hereinafter provided.

**SECTION 6.** This City Council hereby finds that fewer than 12 persons have been registered to vote within the territory proposed to be annexed to the District for each of the 90 days preceding the close of the public hearing heretofore conducted and concluded by this City Council for the purposes of these annexation proceedings. Accordingly, and pursuant to Section 53326 of the Act, this City Council finds that the qualified electors for purposes of the annexation election are the landowners within the territory proposed to be annexed to the District and that the vote shall be by said landowners, each having one vote for each acre or portion thereof such landowner owns in the territory proposed to be annexed to the District.

**SECTION 7.** This City Council hereby calls a special election to consider the measure described in Section 5 above, which election shall be held in the meeting room of the City Council immediately following adoption of this Resolution. The City Clerk is hereby designated as the official to conduct said election. It is hereby acknowledged that the City Clerk has on file the Resolution of Intention, a certified map of the proposed boundaries of the territory to be annexed to the District, and a sufficient description to allow the City Clerk to determine the boundaries of the territory to be annexed to the District.

The voted ballots shall be returned to the City Clerk no later than immediately following the adoption of this Resolution; and when the qualified electors have voted the election shall be closed.

Pursuant the Act, the election shall be conducted by mail ballot under Section 4000 of the California Elections Code, provided, however, that for purposes of setting the date for the election, Sections 53326 and 53327 of the Act shall govern.

This City Council acknowledges that the City Clerk has caused to be delivered to the

qualified electors of the District ballots in the form set forth in Exhibit “A” hereto. The ballots indicate the number of votes to be voted by each landowner.

The ballots were accompanied by all supplies and written instructions necessary for the use and return of the ballot. The envelope to be used to return the ballot was enclosed with the ballot, had the return postage prepaid, and contained the following: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the landowner entitled to vote and is the person whose name appears on the envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration pursuant to clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing City Council.

Analysis and arguments with respect to the ballot measures are hereby waived, as provided in Section 53327(b) of the Act.

The City Clerk shall accept the ballots of the qualified electors in the City of Atascadero City Council meeting room upon and prior to the adoption of this Resolution, whether the ballot is personally delivered or is received by mail. The City Clerk shall have ballots available which may be marked at said location on the election day by the qualified electors.

**SECTION 8.** This City Council hereby further finds that the provision of Section 53326 of the Act requiring a minimum of 90 days following the adoption of this Resolution to elapse before said special election is for the protection of the qualified electors of the territory to be annexed to the District. The ballots to be executed by the qualified electors of the area to be annexed to the District contains a waiver of any time limit pertaining to the conduct of the election and a waiver of any requirement for ballot measure analysis and arguments in connection with the election. Accordingly, this City Council finds and determines that, to the extent that the qualified elector submits its ballot, the qualified elector will have been fully apprised of and have agreed to the shortened time for the election and waiver of ballot measure analysis and arguments, and will have thereby been fully protected in these proceedings. This City Council also finds and determines that the City Clerk has concurred in the shortened time for the election.

**SECTION 9.** This Resolution shall take effect upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the City Council held on the \_\_\_th day of \_\_\_, 2023.

CITY OF ATASCADERO:  
  
\_\_\_\_\_  
Heather Moreno, Mayor

ATTEST:  
  
\_\_\_\_\_  
Lara K. Christensen, City Clerk

**SPECIAL TAX ELECTION  
CITY OF ATASCADERO**

**ANNEXATION OF TERRITORY TO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)  
ANNEXATION NO. 25**

**(June 27, 2023)**

This ballot is for the use of the authorized representative of the following owner of land within Annexation No. 25 of the Community Facilities District No. 2005-1 (Public Services) (“CFD No. 2005-1”) of the City of Atascadero:

<u>Name of Landowner</u>	<u>Number of Acres Owned</u>	<u>Total Votes</u>
MP Annex LLC	12.08	13

According to the provisions of the Mello-Roos Community Facilities Act of 1982, and resolutions of the City Council (the “Council”) of the City of Atascadero (the “City”), the above-named landowner is entitled to cast the number of votes shown above under the heading “Total Votes,” representing the total votes for the property owned by said landowner. The City has sent the enclosed ballot to you so that you may vote on whether or not to approve the special tax.

This special tax ballot is for the use of the property owner of the parcel identified below, which parcel is located within the territory proposed to be annexed to the CFD No. 2005-1, City of Atascadero, County of San Luis Obispo, State of California. Please advise the City Clerk, at (805) 461-5000, if the name set forth below is incorrect or if you are no longer one of the owners of this property. This special tax ballot may be used to express either support for or opposition to the proposed special tax. To be counted, this special tax ballot must be signed below by the owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk, either by mail or in person, as follows:

**Mail**

**Delivery:** If by mail, place ballot in the return envelope provided, and mail in an adequate amount of time so that the City Clerk receives the signed ballot no later than June 27, 2023, the date set for the election.

**Personal**

**Delivery:** If in person, deliver to the City Clerk at any time up to 6:00 p.m. on June 27, 2023, at the Clerk’s office at 6500 Palma Ave, Atascadero, CA 93422.

However delivered, this ballot must be received by the Clerk prior to the close of the public meeting on June 27, 2023.

Very truly yours,

*Kelly Gleason*

Kelly Gleason  
Senior Planner

**TO CAST THIS BALLOT, PLEASE RETURN THIS ENTIRE PAGE.**

**OFFICIAL SPECIAL TAX BALLOT**

Name & Address of Property Owner:	Assessor's Parcel Number(s):
MP Annex LLC Attn: Clint Pearce 284 Higuera Street San Luis Obispo, CA 93401	049-102-045 049-102-048 049-102-051 049-102-076

ANNEXATION OF TERRITORY TO  
 COMMUNITY FACILITIES DISTRICT NO. 2005-1 (SERVICES)  
 ANNEXATION NO. 25

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT

<p><u>SPECIAL TAX BALLOT MEASURE</u></p> <p>Shall the City Council of the City of Atascadero be authorized to levy a special tax on an annual basis at the rates and apportioned as described in Resolution No. 2023-035 adopted by the City Council on May 23, 2023 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Annexation Boundary Map No. 25 of Community Facilities District No. 2005-1 (Public Services) City of Atascadero, County of San Luis Obispo, State of California" to finance certain services as set forth in Section 4 to the Resolution (including incidental expenses).</p>	<p>MARK "YES" OR "NO" WITH AN "X":</p> <p>YES _____</p> <p>NO _____</p>
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Certification for Special Election Ballot

The undersigned is an authorized representative of the above-named landowner and is the person legally authorized and entitled to cast this ballot on behalf of the above-named landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_, 2023.

Clint Pearce, Manager

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

**DRAFT RESOLUTION B**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, DECLARING THE RESULTS OF A SPECIAL ANNEXATION LANDOWNER ELECTION, DETERMINING VALIDITY OF PRIOR PROCEEDINGS, AND DIRECTING THE RECORDING OF AN AMENDMENT TO NOTICE OF SPECIAL TAX LIEN**

**WHEREAS**, under the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code; hereafter referred to as the “Act”), the City Council of the City of Atascadero (the “City”) previously conducted proceedings to establish the City of Atascadero Community Facilities District No. 2005-1 (Public Services) (the “District”), and,

**WHEREAS**, in proceedings conducted by this City Council pursuant to the Act, this City Council has adopted a Resolution entitled “Resolution of the City Council of the City of Atascadero, California, Authorizing the Annexation of Territory into Community Facilities District No. 2005-1 (Public Services), Authorizing the Levy of a Special Tax, and Submitting the Levy of Special Tax to Qualified Electors” (the “Resolution of Annexation”), which called for a special election of the qualified landowner electors in the territory of land proposed to be annexed to the District; and,

**WHEREAS**, pursuant to the terms of the Resolution of Annexation, which is by this reference incorporated herein, the special election has been held and the City Clerk has on file a Canvass and Statement of Results of Election, (the “Canvass”) a copy of which is attached hereto as Exhibit A; and,

**WHEREAS**, this City Council has been informed of the Canvass, finds it appropriate, and wishes to complete its proceedings for the annexation of territory into the District.

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

**SECTION 1.** The above recitals are true and correct.

**SECTION 2.** The issue presented at the special election was the levy of a special tax within the territory annexed to the District, to be levied in accordance with the formula heretofore approved by this City Council, all as described in Resolution No. 2023-035, entitled “Resolution of the City Council of the City of Atascadero, California, Declaring its Intention to Annex Territory into Community Facilities District No. 2005-1 (Public Services) as

Annexation No. 25, and to Authorize the Levy of Special Taxes Therein” adopted by this City Council on May 23, 2023.

**SECTION 3.** Pursuant to the Canvass on file with the City Clerk, the issue presented at the special election was approved by the landowners of the territory annexed to the District by more than two-thirds (2/3) of the votes cast at the special election.

**SECTION 4.** Pursuant to the voter approval, the annexed territory is hereby declared to be fully annexed to and part of the District and this City Council may levy special taxes therein as heretofore provided in these proceedings.

**SECTION 5.** It is hereby found that all prior proceedings and actions taken by this City Council with respect to the District and the territory annexed thereto were valid and in conformity with the Act.

**SECTION 6.** Within 15 days of the date of adoption hereof, the City Clerk shall execute and cause to be recorded in the office of the County Recorder of the County of San Luis Obispo, an Amendment to Notice of Special Tax Lien, as required by Section 53328.3 of the Act.

**SECTION 7.** This Resolution shall take effect upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the City Council held on the \_\_\_th day of \_\_\_, 2023.

CITY OF ATASCADERO:

\_\_\_\_\_  
Heather Moreno, Mayor

ATTEST:

\_\_\_\_\_  
Lara K. Christensen, City Clerk

EXHIBIT A

City of Atascadero  
 Community Facilities District No. 2005-1  
 (Public Services)  
 Annexation No. 25

CANVASS AND STATEMENT OF RESULT OF ELECTION

I hereby certify that on June 27, 2023, I canvassed the returns of the election held on June 27, 2023, for the City of Atascadero Community Facilities District No. 2005-1 (Public Services) Annexation No. 25 and the total number of votes cast in such election and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

	<b>Qualified Landowner Votes</b>	<b>Votes Cast</b>	<b>Votes YES</b>	<b>Votes NO</b>
City of Atascadero Community Facilities District No. 2005-1 (Public Services) Annexation No. 25 Special Tax Election, June 27, 2023	6	_____	_____	_____

**BALLOT MEASURE:** Shall the City Council of the City of Atascadero be authorized to levy a special tax on an annual basis at the rates and apportioned as described in Resolution No. 2023-035 adopted by the City Council on May 23, 2023 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Annexation Boundary Map No. 25 of Community Facilities District No. 2005-1 (Public Services) City of Atascadero, County of San Luis Obispo, State of California" to finance certain services as set forth in Section 4 to the Resolution (including incidental expenses).

YES: \_\_\_\_\_

NO: \_\_\_\_\_

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND on June 27, 2023.

By: \_\_\_\_\_  
 Lara K. Christensen, City Clerk  
 City of Atascadero

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
ATASCADERO, CALIFORNIA, AUTHORIZING THE LEVY OF  
SPECIAL TAXES IN COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(PUBLIC SERVICES), INCLUDING CERTAIN ANNEXATION  
TERRITORY**

**WHEREAS**, the City of Atascadero (the “City”) has conducted proceedings pursuant to the “Mello-Roos Community Facilities Act of 1982”, being Chapter 2.5, Part 1 Division 2, Title 5 of the Government Code of the State of California (the “Act”) and the City of Atascadero Community Facilities District No. 2005-1 (Public Services) Ordinance enacted pursuant to the powers reserved by the City of Atascadero under Sections 3, 5, and 7 of Article XI of the Constitution of the State of California (the “CFD Ordinance”) (the Act and the CFD Ordinance may be referred to collectively as the “Community Facilities District Law”), to establish the City of Atascadero Community Facilities District No. 2005-1 (Public Services) (the “District”) for the purpose of financing police services, fire protection and suppression services, and park services (the “Services”) as provided in the Act; and,

**WHEREAS**, the rate and method of apportionment of special tax for the District is set forth in Exhibit B to the City Council Resolution entitled “A Resolution of the City Council of the City of Atascadero, California, For the Formation of Community Facilities District No. 2005-1 (Public Services) (the “Resolution of Formation”), which was adopted on May 24, 2005; and,

**WHEREAS**, the City has conducted proceedings to annex territory into the District and, with respect to the proceedings, following an election of the qualified electors in the territory proposed for annexation (the “Annexation Territory”), the City Council, on June 27, 2023, adopted a Resolution entitled “Resolution of the City Council of the City of Atascadero, California, Declaring the Results of Special Annexation Landowner Election, Determining Validity of Prior Proceedings, and Directing the Recording of an Amendment to Notice of Special Tax Lien.”

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

**SECTION 1.** The above recitals are true and correct.

**SECTION 2.** By the passage of this Ordinance, the City Council hereby authorizes and levies the special tax within the District, including the Annexation Territory, pursuant to the Community Facilities District Law, at the rate and in accordance with the rate and method of apportionment of special tax set forth in the Resolution of Formation, which rate and method is by this reference incorporated herein. The special tax has previously been levied in the original territory of the District beginning in Fiscal Year 2006-07 pursuant to Ordinance No. 478 passed and adopted by the City Council on July 12, 2005 and the special tax is hereby levied commencing in Fiscal Year 2022-23 in the District, including the Annexation Territory, and in each fiscal year thereafter to pay for the Services for the District and all costs of administering the District.

**SECTION 3.** The City’s Finance Director or designee or employee or consultant of the City is hereby authorized and directed each fiscal year to determine the specific special tax to be levied for the next ensuing fiscal year for each parcel of real property within the District, including the Annexation Territory, in the manner and as provided in the Resolution of Formation.

**SECTION 4.** Exemptions from the levy of the special tax shall be as provided in the Resolution of Formation and the applicable provisions of the Community Facilities District Law. In no event shall the special tax be levied on any parcel within the District in excess of the maximum special tax specified in the Resolution of Formation.

**SECTION 5.** All of the collections of the special tax shall be used as provided in the Community Facilities District Law and in the Resolution of Formation, including, but not limited to, the payment of the costs of the Services, the payment of the costs of the City in administering the District, and the costs of collecting and administering the special tax.

**SECTION 6.** The special tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the City Council may provide for other appropriate methods of collection by resolution(s) of the City Council. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of San Luis Obispo in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured property tax roll of the County of San Luis Obispo for Fiscal Year 2023-24 and for each fiscal year thereafter until no longer required to pay for the Services or until otherwise terminated by the City.

**SECTION 7.** If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, including the Annexation Territory, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the District, including the Annexation Territory, shall not be affected.

**SECTION 8.** A summary of this ordinance, approved by the City Attorney, together with the ayes and noes, shall be published twice: at least five days prior to its final passage in the Atascadero News, a newspaper published and circulated in the City of Atascadero, and; before the expiration of fifteen (15) days after its final passage, in the Atascadero News, a newspaper published and circulated in the City of Atascadero. A copy of the full text of this ordinance shall be on file in the City Clerk’s Office on and after the date following introduction and passage and shall be available to any interested member of the public.

**SECTION 9.** This Ordinance shall take effect 30 days from the date of final passage.

**ITEM NUMBER: B-2**  
**DATE: 06/27/23**  
**ATTACHMENT: 3**

**INTRODUCED** at a regular meeting of the City Council held on \_\_\_\_\_, 2023, and **PASSED, APPROVED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on \_\_\_\_\_, 2023.

CITY OF ATASCADERO:

\_\_\_\_\_  
Heather Moreno, Mayor

ATTEST:

\_\_\_\_\_  
Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian A. Pierik, City Attorney



# ***Atascadero City Council***

## ***Staff Report – Community Development Department***

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### **Irrevocable Right to Use Agreement for Broadband Infrastructure**

#### **RECOMMENDATION:**

Council authorize the City Manager to execute an agreement with Astound Broadband for the Irrevocable Right to Use (IRU) a fiber network for broadband infrastructure with 10 Gb/s internet access connection maintained by Astound.

#### **DISCUSSION:**

##### **Background:**

With remote work, online education, telehealth doctor appointments, virtual meetings, and more, Atascadero residents increasingly rely on stable, fast, reliable internet. The 2021-2023 Action Plan prioritized the enhancement of broadband internet infrastructure in our community and committed funding from the City's General Fund and California Senate Bill 1090 (SB 1090) toward the advancement of broadband technology.

On May 11, 2022, the cities of Atascadero and Paso Robles engaged in a collaborative effort to develop a Broadband Strategic Plan and formalized a Memorandum of Understanding (MOU). The Cities released a joint Request for Qualifications in July 2022, and in August selected TeleworX to develop the North County Broadband Strategic Plan.

On November 4, 2022, the cities were notified that they had successfully secured a Broadband Local Area Technical Assistance (LATA) grant through a joint Paso Robles-Atascadero application submitted in September 2022 to the California Public Utilities Commission (CPUC). The cities were reimbursed for the full \$200,000 costs of the project through the grant.

The North County Broadband Strategic Plan Project was a 25-week effort, beginning in October 2022, and was adopted by the City Council on April 25, 2023. The Project included data analysis, the identification of broadband needs and gaps in Northern San Luis Obispo County, and the creation of a Strategic Plan to meet those needs.

##### **Plan Implementation:**

The North County Broadband Strategic Plan contains an Implementation/Action Plan which outlines the steps necessary for advancing Broadband in our community. The adopted Implementation/Action Plan is structured in three categories: 1) Broadband

Infrastructure, 2) Broadband Policies & Management, and 3) Digital Inclusion. Staff and the consultant are actively involved in all three categories of implementation and are currently engaged in Task 1.

During the Strategic Planning effort, TeleworX, on behalf of the City, conducted an RFI (Request for Information) from local and non-local ISP's to maximize the long-term value to the City's allocated broadband funds. All of the RFI's were analyzed by TeleworX and Astound Broadband's proposal was selected as having the highest return on investment. City staff with the support of TeleworX negotiated an agreement (in the form of an Irrevocable Right to Use, or IRU) with Astound for execution pending Council approval. This agreement will provide the City with a fiber network for broadband infrastructure with 10 Gb/s internet access connection that will be maintained by Astound.

**IRU Agreement:**

The IRU agreement (Attachment 1) is for a 30-year service agreement to secure a 10 Gb/s fiber network connecting 11 City locations with fiber optic cable for the internal City network, terminating at the Astound Point of Presence. For this service—and for expanding the Astound network to allow residential and business connections—the City will pay \$1,300,000 within thirty (30) days of the IRU Effective Date, as well as \$5,000 per year over the term of the Agreement with no Consumer Price Index (CPI) adjustment. The service agreement with Astound would commence once it completes its private fiber infrastructure. As the current City network is served with speeds less than 1 Gb/s, this new network represents a substantial upgrade in performance.

An internet connection with upload and download speeds of 10 Gb/s will allow data backups to be stored in the cloud to ensure data is safe during a local or regional disaster, ensure adequate bandwidth for increased audio/video streaming requirements for remote and hybrid meetings and present options for hosting more storage and compute processes in the cloud which would reduce the need for physical hardware at City facilities. A 10 Gb/s connection between City facilities will ensure minimal lag time between all City facilities for phone calls, file access, database access, and other City resources. In addition to increased bandwidth, as part of the agreement, the Pine Mountain Communication Site will be added to the City network which currently lacks connectivity. Connectivity to this site will allow emergency radio communications to be transmitted from the 911 dispatch center to the radio repeaters, ensuring clear and stable communications for police and fire.

The City's current cost of connectivity between City facilities and internet connectivity is approximately \$70,000 per year and covers fewer sites (7), lower speeds (1Gb/s between facilities and 200 Mb/s internet connection), and lacks price protection. With this agreement, the estimated annual savings to the operating budget is in the range of \$65,000 per year (\$70,000 minus \$5,000) in the early years and well over \$100,000 per year savings in the out years, assuming a 3% annual increase in current costs starting in 2025. Overall savings to the operating budget is expected to be between \$2,500,000 and \$3,000,000 over the duration of the contract. Staff believes there is additional, likely substantial, cost savings from adding service to Pine Mountain Communication Site and higher speed/bandwidth over the duration of this contract since these services are not

currently available with our provider and it is anticipated these would come with significant costs to implement should they become available.

As part of establishing a presence in our community, the City anticipates that Astound will provide fiber-based 1 Gb/s symmetrical broadband service to Atascadero residents and businesses. This will bring competition and expanded customer choice, greatly benefiting the Atascadero community. The IRU Agreement is an important step forward to establish a modern state-of-the-art City network for the future and realize the vision of Atascadero as a "gigabit city" through Astound's market entry.

The Draft Agreement outlines the details of the IRU as synthesized above. The Agreement with Astound widens the fiber network in the City and upgrades internet speeds for the City from 200 Mb/s to 10 Gb/s service. The City will utilize the previously earmarked funds for Broadband allocated from SB 1090 and the General Fund.

### **FISCAL IMPACT:**

The fiscal impact is estimated at \$1,300,000 of one-time budgeted General Fund and SB 1090 monies. There will also be an ongoing, annual general fund expenditure of \$5,000 toward broadband service, which is a savings of \$65,000 from the current annual City cost for internet service.

### **ATTACHMENTS:**

1. Draft IRU

**DARK FIBER IRU SERVICE AGREEMENT**

This DARK FIBER IRU SERVICE AGREEMENT (this “**Agreement**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023 (the “**Execution Date**”), by and between ASTOUND BROADBAND, LLC, a Washington limited liability company, acting on behalf of itself and as agent for its Affiliates (“**Astound**”), and the CITY OF ATASCADERO, a California municipal corporation (“**Customer**”). Each of Astound and the Customer may be referred to in this Agreement as a “**Party**,” and collectively as the “**Parties**.” With respect to either Party, the term “**Affiliate**” shall mean any person who directly or indirectly controls, is controlled by, or is under common control with that Party. Affiliates of Astound Broadband, LLC include, without limitation: (i) WaveDivision Holdings, LLC, (ii) Wave Business Solutions, LLC, (iii) RCN Telecom Services, LLC, (iv) Grande Communications Networks, LLC, and (v) Astound Business Solutions, LLC.

Background

- A. Astound and its Affiliates own and operate a fiber optic communications network (the “**Astound Network**”) used by Astound to provide telecommunications, data transport, Internet access, dark fiber, video, telephone and related services to its customers.
- B. Customer desires to obtain from Astound the exclusive, irrevocable and indefeasible right to use certain strands of single mode dark fiber belonging to Astound for a period of thirty (30) years, as more fully described in this Agreement.
- C. Customer also desires to receive from Astound a 10 Gbps / 10 Gbps dedicated Internet access connection to be delivered at one of the End Points of the IRU Fibers, with the specific location to be determined by Customer no less than thirty (30) days prior to the IRU Effective Date.
- D. In exchange for the dark fiber IRU and the Internet access, Customer shall pay to Astound (i) a non-recurring payment in the amount of One Million Three Hundred Thousand and No/100 Dollars (\$1,300,000.00), and (ii) an annual payment in the amount of Five Thousand and No/100 Dollars (\$5,000.00) each year during the IRU Term.
- E. Astound is willing to grant Customer an irrevocable and indefeasible right to use the dark fiber at issue, and provide Customer with the 10 Gbps Internet access connection in exchange for the above-described consideration.
- F. Accordingly, Astound and Customer are executing this Agreement to implement the foregoing, all as more fully provided in the terms and conditions set forth below.

Agreement

NOW, THEREFORE, in consideration of the mutual promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Astound and Customer agree as follows:

**ARTICLE 1: THE IRU FIBERS**

1.1 Description of IRU Fibers. This Agreement initially involves the following segments of dark fiber (each, a “**Segment**,” or, the “**IRU Fibers**”); additional Segments may be added by Customer in writing subject to the terms of this Agreement:

#	Site	ADDRESS
1	City Hall	6500 Palma Ave
2	Police Station	5505 El Camino Real
3	Fire Station 1	6005 Lewis Ave
4	Fire Station 2	9801 W Front Rd
5	Pavilion on the Lake	9315 Pismo Ave
6	Charles Paddock Zoo	9100 Morro Rd
7	Colony Park Community Center	5599 Traffic Way

8	Corp Yard/Wastewater Treatment Plant	8005 Gabarda Rd
9	A-town Skate Park	5493 Traffic Way
10	Paloma Creek Park	11665 Viejo Camino
11	Pine Mtn Communication Site	7125 Serena Ct
12	AT&T Central Office	6220 Atascadero Ave

Each of the fiber optic cables in which all or any portion of the IRU Fibers is located shall be referred to in this Agreement as a “Cable,” or, collectively, as the “Cables.”

1.2 Illustrative Maps. For the convenience of the Parties, the approximate locations and routes for each of the Segments of the IRU Fibers is depicted on a map attached to this Agreement as Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6, Schedule 7, and Schedule 8, respectively. The routes depicted on Schedule 1 through Schedule 8 are approximations for illustrative purposes only, and Customer understands and agrees that the actual installed route of any one or more of the Segments may differ from the route shown in the applicable Schedule.

1.3 Right to Add Additional Sites. Should Customer, at any time and from time to time during the IRU Term, do either of the following: (i) relocate or otherwise move its operations from one of the End Points listed in Section 1.1 above to a different building, facility or location within the City of Atascadero, or (ii) obtain, construct, lease or otherwise acquire within the City of Atascadero another significant building or facility for its operations that is in addition to the buildings and facilities located at the End Points listed in Section 1.1 above, such new building or facility shall be referred to in this Agreement as a “New Site.” For clarity, the Parties intend that only significant Customer operating facilities shall fall within the term New Sites (e.g., office buildings, water treatment facility, transportation depot / fleet management center, courthouse, police department, waste management and/or recycling center); minor facilities or infrastructure shall not constitute New Sites. Customer shall have the right to request that Astound add New Sites to the dark fiber network established by this Agreement. So long as Astound continues to have excess fiber available within Customer’s jurisdiction, Astound shall use commercially reasonable efforts to accommodate Customer’s request. Promptly after receiving notice from Customer regarding the desired addition of a New Site, Astound and Customer shall work cooperatively to determine a mutually agreeable method and timeline for connecting the New Site to the dark fiber network established by this Agreement. If any lateral extension is required to reach the New Site, Astound must provide such lateral extension; provided, that if the cost of installing any such lateral extension exceeds \$3,000, calculated on a time and materials basis, then Customer will reimburse Astound for its costs incurred in providing access to the Cables, including a 15% administrative mark-up. The Parties will document the addition of any New Site in a written amendment to this Agreement.

**ARTICLE 2: EQUIPMENT**

2.1 Equipment. “Equipment” means network components including, but not limited to, any gateway or edge electronic device, antenna, node, concentrator, bridge, receiver, transmitter, transceiver, router, switch, hub or communications lines/cables, and associated software.

2.2 Customer Equipment. Any Equipment provided by the Customer in connection with the IRU Fibers shall be referred to as the “Customer Equipment.” Except as expressly provided to the contrary elsewhere in this Agreement, throughout the IRU Term, the Customer Equipment shall remain the property of Customer and Customer shall be responsible for all maintenance and repair of the Customer Equipment. Neither Astound nor any third party acting under Astound’s authority will relocate, modify, tamper with, attempt to repair or otherwise interfere with the Customer Equipment.

2.3 Astound Equipment. Any Equipment provided by Astound in connection with the IRU Fibers shall be referred to as the “Astound Equipment.” Except as expressly provided to the contrary elsewhere in this Agreement, throughout the IRU Term, the Astound Equipment shall remain the property of Astound and Astound shall be responsible for all maintenance and repair of the Astound Equipment. Neither the Customer nor any third party acting under the Customer’s authority will relocate, modify, tamper with, attempt to repair or otherwise interfere with the Astound Equipment.

### ARTICLE 3: INSTALLATION, TESTING AND ACCEPTANCE OF IRU FIBERS

3.1 Construction and Installation. Astound shall prepare all required plans and submit all necessary permit applications for the construction and installation of the IRU Fibers within sixty (60) days following the Execution Date of this Agreement. Once Astound has received all necessary permits from the applicable permitting jurisdictions, Astound shall use commercially reasonable efforts to complete construction of the Segments and deliver the IRU Fibers to Customer within twelve (12) months.

3.2 Connecting the IRU Fibers. Upon Astound's completion of construction of each Segment, Customer shall provide appropriate connecting Equipment and facilities, including all cross-connect facilities, at each End Point, and Astound shall interconnect Customer's communications system with the IRU Fibers at the applicable End Points. All interconnections of the IRU Fibers and all other work with respect to the Astound Network shall be performed by Astound and in accordance with Astound's applicable specifications and operating procedures. It is the responsibility of Customer to obtain any and all governmental and other approvals and consents necessary with respect to Customer's placement of Customer Equipment at the End Points.

3.3 Joint Testing. With respect to each Segment, when Astound has completed the installation and configuration of that Segment, the Parties shall jointly test (the "**Joint Testing**") the applicable dark fibers in the Segment to verify that they are performing properly and meet the fiber specifications contained on Schedule 9 (the "**Fiber Testing Specifications**"). Astound shall provide Customer with at least five (5) business days' advance notice of the date and time on which Astound intends to perform the Joint Testing of the Segment (the "**Joint Testing Notice**"). If Customer informs Astound within said time period that the Customer desires to participate in the Joint Testing, the Parties shall agree on a mutually convenient date and time for same. If Customer fails to timely respond to Astound's Joint Testing Notice, Customer shall be deemed to have elected not to participate in Joint Testing of the Segment at issue and Astound may proceed with testing the Segment by itself.

3.4 Service Commencement Date. If Customer participates in Joint Testing and the Joint Testing demonstrates that the applicable dark fibers at issue are properly installed and operating consistent with the Fiber Testing Specifications, then the "**Service Commencement Date**" for that Segment shall be the first calendar day following the day on which the Joint Testing was successfully completed. If Customer elects not to participate in Joint Testing, either by affirmatively foregoing said opportunity or by failing to timely respond to Astound's Joint Testing Notice, and Astound's unilateral testing demonstrates that the applicable dark fibers in the Segment are properly installed and operating in accordance with the Fiber Testing Specifications, then the Service Commencement Date for that Segment shall be the first calendar day after Astound's successful completion of its unilateral testing. If either Joint Testing or Astound's unilateral testing reveals problems with the Segment, Astound shall correct same and deliver another Joint Testing Notice to the Customer once the problems have been corrected. In such event, the Parties shall repeat the process described in Section 3.3 above.

3.5 Acceptance of Segment; Revision to Service Commencement Date. Customer shall have a period of fifteen (15) calendar days after the Service Commencement Date for the Segment in which Customer may notify Astound that the dark fibers in the Segment are not functioning properly. If Customer notifies Astound of problems with a Segment pursuant to this Section 3.5, Astound shall investigate same. If Astound determines there are problems with the Segment, Astound shall correct same and the Service Commencement Date for the Segment at issue shall be revised to be the first calendar day after the date on which Astound has corrected the problems. Unless Customer delivers notification of problems to Astound within the time period set forth above, Customer shall be deemed to have accepted the applicable dark fibers in the Segment at issue and to have confirmed that the Segment has been installed and is functioning properly in accordance with the Fiber Testing Specifications as of the Service Commencement Date.

### ARTICLE 4: GRANT OF IRU

4.1 Grant of IRU. Astound hereby grants, transfers and conveys to Customer, and Customer receives and accepts from Astound, an exclusive, irrevocable and indefeasible right of use in the IRU Fibers, together with the right to access the IRU Fibers at the End Points of each of the Segments. Customer's rights in the IRU Fibers granted pursuant to this Section 4.1 shall be referred to as the "**IRU.**" The IRU is granted to Customer subject to the terms and conditions set forth in this Agreement. The IRU shall take effect upon the IRU Effective Date.

4.2 Effect of IRU. To the fullest extent permitted by law, the Parties intend that the IRU shall grant, transfer and convey to Customer all beneficial right, title and interest in the IRU Fibers and that Customer shall have exclusive possession, use and

control over and shall be for all purposes the equitable owner of the IRU Fibers during the Term; provided, however, the IRU does not convey actual legal title or legal ownership of the IRU Fibers.

4.3 No Revocation by Astound; Customer's Right to Specific Performance. Notwithstanding the occurrence of a breach or violation by Customer of any legal duty or obligation imposed by any contract, including this Agreement, by the law of torts (including simple or gross negligence, strict liability or willful misconduct), or by any federal, state or local laws, rules, regulations, orders, standards, judicial decrees or ordinances, during the IRU Term, Astound shall have no right to revoke or restrict the IRU in any manner or to any degree whatsoever, through injunctive relief or otherwise. Conversely, and in recognition that the IRU cannot be readily obtained in the open market and that Customer will be irreparably injured if this Agreement cannot be specifically enforced, Customer shall be entitled, in addition to bringing suit at law or equity for monetary or other damages, to obtain specific performance to order implementation of the IRU contemplated by this Agreement. In any action to enforce the provisions of this Agreement, Astound hereby irrevocably and forever waives the defense that there is an adequate remedy at law and hereby irrevocably agrees that Customer shall have the right to obtain specific performance of the IRU contemplated by this Agreement.

4.4 Limitations. The IRU shall not include: (i) the right to own, control, maintain, modify, relocate or repair the Cables in which each of the Segments of the IRU Fibers are located, any Astound Equipment, or any other portion of Astound's network facilities; (ii) except for the right to access the Segments of the IRU Fibers at their respective End Points, the right to physically access the Cables or any other portion of Astound's network facilities; (iii) the right to encumber the Cables or any other portion of Astound's network facilities in any manner; or (iv) the right to use the Cables or any other portion of Astound's network facilities except as expressly set forth herein. Customer expressly acknowledges and agrees that Customer shall receive no rights to use any of the Astound Equipment in connection with the IRU. Astound is not supplying nor is Astound obligated to supply to Customer any optronics or electronics or optical or electrical equipment or other facilities, all of which are solely the responsibility of Customer, nor is Astound responsible for performing any work in connection with the IRU Fibers other than as specified in this Agreement. Customer shall keep the Cables, the IRU Fibers, the Astound Equipment and all other portions of Astound's network facilities, free from any liens, rights or claims of any third party attributable to Customer.

4.5 Network Configuration. Each Party shall have full and complete control and responsibility for determining its own network and service configurations or designs, regrooming, rearrangement or consolidation of channels or circuits and all related functions with regard to the use of that Party's fiber contained in each of the Cables; provided that such control and responsibility by Customer shall not adversely affect the use by Astound or any other authorized user (each, an "Authorized User") of the Cables, of Astound's network facilities and/or of any Equipment used by Astound or an Authorized User in connection therewith.

#### ARTICLE 5: INTERNET ACCESS CIRCUIT

Commencing on the IRU Effective Date and continuing through the IRU Term, Astound shall provide Customer with a 10 Gbps / 10 Gbps dedicated Internet access circuit (the "Internet Access") at one (1) of the End Points of one (1) of the Segments of IRU Fibers. As of the Execution Date of this Agreement, Customer has not yet decided at which location Customer would like to receive the Internet Access. Once Customer has decided upon the location for the Internet Access, Customer shall deliver no less than thirty (30) days' advance written notice to Astound specifying the selected location. The Internet Access shall be provided consistent with the Service Level Agreement attached hereto as Schedule 10 (the "Internet SLA")

#### ARTICLE 6: CONSIDERATION FOR IRU AND INTERNET ACCESS

6.1 IRU Fee. In consideration of receiving the IRU and the Internet Access, Customer shall pay to Astound a non-recurring fee in the amount of One Million Three Hundred Thousand and No/100 Dollars (\$1,300,000.00) (the "IRU Fee"). Customer shall pay Astound the IRU Fee within thirty (30) days following the IRU Effective Date.

6.2 Scheduled Maintenance Fees. Beginning on the IRU Effective Date, Customer shall pay to Astound an annual "Scheduled Maintenance Fee" with respect to the IRU Fiber, in the amount of Five Thousand and No/100 Dollars (\$5,000.00) per year.

6.3 Emergency Maintenance Costs. Customer shall be responsible for paying its Proportionate Share of Emergency Maintenance Costs, as those terms are defined in Article 8 below.

6.4 Invoicing and Payment for Maintenance Costs. Astound shall invoice the Customer for Scheduled Maintenance Fees and Unscheduled Maintenance Costs. Customer shall pay all undisputed invoices within sixty (60) days of receipt. If the Customer in good faith disputes any portion of a Astound invoice, Customer shall pay the undisputed portion of the invoice and submit written notice to Astound regarding the disputed amount, which notice shall include documentation supporting the alleged billing error (each such notice, a “**Fee Dispute Notice**”). A Fee Dispute Notice must be submitted to Astound within ninety (90) days from the date the invoice at issue is received by the Customer. Astound shall respond to a Fee Dispute Notices within thirty (30) days of receiving same. The Parties shall negotiate in good faith to attempt to resolve any such disputes within sixty (60) days after the Customer’s delivery of the applicable Fee Dispute Notice.

#### ARTICLE 7: TERM OF IRU

7.1 IRU Effective Date. The IRU shall become effective on the last to occur of the following (the “**IRU Effective Date**”): (i) the Service Commencement Date for Segment 1; (ii) the Service Commencement Date for Segment 2; (iii) the Service Commencement Date for Segment 3; (iv) the Service Commencement Date for Segment 4; (v) the Service Commencement Date for Segment 5; (vi) the Service Commencement Date for Segment 6; (vii) the Service Commencement Date for Segment 7; or (viii) the Service Commencement Date for Segment 8.

7.2 Initial IRU Term. Unless earlier terminated pursuant to this Agreement, the initial term of the IRU shall be for thirty (30) years (the “**Initial IRU Term**”), commencing on the IRU Effective Date, and expiring on the date that is one day prior to the thirtieth (30<sup>th</sup>) anniversary of the IRU Effective Date (the “**Initial IRU Term Expiration Date**”).

7.3 Conditional Renewal Term.

(a) Availability of Renewal Term. If, at the time of the Initial IRU Term Expiration Date, the IRU Fibers have not yet reached the end of their useful life, and remain in good and usable condition, then Customer shall have the option to renew the IRU for an additional period of five (5) years (the “**IRU Renewal Term**”); provided, that Astound’s maintenance obligations during any IRU Renewal Term shall differ as set forth in Section 7.3(b), below. To exercise its conditional renewal option, Customer must deliver written notice of renewal to Astound no less than ninety (90) days prior to the Initial IRU Term Expiration Date. Promptly following receipt of Customer’s renewal notice, the Parties shall work cooperatively to determine whether the then-current condition of the IRU Fibers remains sufficiently sound to support an IRU Renewal Term. Should the Parties agree that an IRU Renewal Term is appropriate, the IRU Renewal Term shall commence on the thirtieth (30<sup>th</sup>) anniversary of the IRU Effective Date, and expire on the date that is one day prior to the thirty-fifth (35<sup>th</sup>) anniversary of the IRU Effective Date.

(b) Change in Maintenance Obligations During Renewal Term. Customer expressly understands and agrees that even if it appears to the Parties at the time of the Initial IRU Term Expiration Date that the IRU Fibers have not yet reached the end of their useful life, and the Parties agree an IRU Renewal Term is appropriate, neither Party will have any way of knowing exactly how much useful life remains in the IRU Fibers, or at what point the IRU Fibers may begin to degrade such that they are no longer capable of meeting some or all of the Testing Specifications. Accordingly, if there is an IRU Renewal Term, and, if at any point during that IRU Renewal Term all or any portion of the IRU Fibers no longer meet some or all of the Testing Specifications (other than due to a fiber cut or other similar event requiring emergency maintenance), Astound shall have no obligation to replace any such IRU Fibers or to undertake any other type of activity or incur any other type of expense to cause the IRU Fibers to again meet the Testing Specifications. Should the IRU Fibers begin to degrade prior to the expiration of the IRU Renewal Term, Customer may terminate this Agreement by delivering no less than thirty (30) days’ advance written notice of termination to Astound.

7.4 IRU Term and IRU Expiration Date. The total period of time during which the IRU is in effect shall be referred to in this Agreement as the “**IRU Term.**” The date on which the IRU Term expires shall be referred to in this Agreement as the “**IRU Expiration Date.**”

7.5 Effect of Expiration. Upon the expiration of the IRU Term, all rights to the use of the IRU Fiber shall revert to Astound without reimbursement of any of the IRU Fee or other amounts previously paid, or required to be paid, by Customer hereunder, and Customer shall have no further right hereunder to use the IRU Fiber.

## ARTICLE 8: AVAILABILITY, MAINTENANCE AND REPAIR

8.1 Availability. During the Term, Astound shall use commercially reasonable efforts in keeping with normal industry standards to ensure that the IRU Fibers are available to the Customer twenty-four (24) hours per day, seven (7) days per week consistent with the service level agreement attached to this Agreement as Schedule 11 (the “SLA”). It is possible, however, that there will be interruptions in the availability of the IRU Fibers. Customer understands and agrees that the IRU Fibers, or certain portions or components of the IRU Fibers, may be unavailable from time to time either for scheduled or unscheduled maintenance, due to fiber cuts or other reasons beyond Astound’s reasonable control. Temporary interruptions in the availability of the IRU Fibers for such reasons, as well as interruptions or outages caused by the Customer, its agents and employees, or by Force Majeure Events, will not constitute failures by Astound to perform its obligations under this Agreement. Instead, the Customer’s sole remedy for any such failures in the IRU Fibers shall be as set forth in the SLA.

8.2 Regular Maintenance. At all times during the IRU Term, Astound shall be responsible for performing regular maintenance and repair activities with respect to the IRU Fibers, as described in Schedule 10 to this Agreement. Customer agrees to pay Astound for maintenance in accordance with Section 6.2 above. Notwithstanding anything to the contrary contained elsewhere in this Agreement, Astound’s obligation to provide maintenance services in accordance with this Article 8 is contingent upon Customer’s timely payment of the Scheduled Maintenance Fee. Should, at any time during the IRU Term, Customer be in Default for failure to pay Scheduled Maintenance Fees, Astound’s obligation to perform maintenance under this Agreement shall cease until such time as the Default is remedied and Customer’s account is current.

8.3 Emergency Maintenance. At all times during the IRU Term, Astound shall be responsible for performing any necessary emergency maintenance with respect to the IRU Fibers. Except for the costs of emergency maintenance necessitated due to the negligence or intentional misconduct of Customer, for which Customer shall be solely responsible, as between Astound and Customer the costs of performing emergency maintenance (the “**Emergency Maintenance Costs**”) will be borne by Astound.

## ARTICLE 9: TAXES, FEES AND OTHER IMPOSITIONS

9.1 Definition of Impositions. As used in this Agreement, the term “**Impositions**” shall mean all taxes, fees, assessment levies, imposts, duties, charges or withholdings of any nature (including, without limitation, ad valorem, real property, gross receipts, franchise, license and permit fees), together with any penalties, fines or interest thereon arising out of the transactions contemplated by this Agreement and/or imposed upon the Cable, or any part thereof, by any federal, state or local government or other public taxing authority, including “Access Fees.” The term “**Access Fees**” shall mean all fees charged or assessed by any governmental authority in respect of those portions of the Cable located on or crossing or passing through lands owned or administered by such governmental authority including, without limitation, such as are calculated or otherwise based on the number of crossings, the aggregate distance of crossings, land value or the revenue, projected revenue, receipts, income, profits or other amounts calculated in a similar manner.

9.2 Minimization and Equitable Distribution of Impositions. The Parties acknowledge and agree that it is their mutual objective and intent to (i) minimize the aggregate Impositions payable with respect to the Cable, and (ii) share such Impositions according to their respective interests in the Cables at issue. The Parties agree to cooperate with one another and coordinate their efforts to achieve such objectives in accordance with the provisions of this Article.

9.3 Payment of Impositions Prior to IRU Effective Date. Prior to the IRU Effective Date, Astound shall be responsible for and shall timely pay any and all Impositions with respect to the operation or physical location of the Cables.

9.4 Payment of Impositions During the IRU Term. Beginning on the IRU Effective Date and continuing through the IRU Expiration Date, Customer shall be responsible for and shall pay: (i) all Impositions imposed on, based on, or otherwise measured by the gross receipts, gross income, net receipts or net income received by or accrued to Customer with respect to its use of the IRU Fiber; and (ii) all Impositions which have been separately assessed, allocated to, or imposed on the IRU Fiber. If the IRU Fiber constitutes the only fibers located in a Cable from the point where the Cable leaves the Astound Network right-of-way to a Customer POP, Customer shall be solely responsible for any and all Impositions imposed on or with respect to such portion of the Cable. To the extent such Impositions are not separately assessed, allocated to or imposed on the IRU Fiber, Astound will pay, or request proportionate payment by Astound and Customer of, all such Impositions. Astound shall notify Customer of such Imposition, and Customer shall promptly reimburse Astound for (or pay directly) Customer’s share of all such Impositions, which shall be determined as follows:

- (a) to the extent that such Impositions are calculated based on the revenue, projected revenue, receipts, income or profits of Customer, Customer will be responsible for the portion of the amount of such Impositions as is calculated based on the revenue, projected revenue, receipts, income or profits of Customer or its Affiliates;
- (b) to the extent that such Impositions are calculated based on the revenue, projected revenue, receipts, income or profits of Astound or its Affiliates, Astound will be responsible for the portion of the amount of such Impositions as is calculated based on the revenue, projected revenue, receipts, income or profits of Astound or its Affiliates; and
- (c) otherwise, Customer will be responsible for its Proportionate Share of the Impositions and Astound, and any other Authorized Users of the Cable, will be responsible for their respective Proportionate Shares of the Impositions.

9.5 Right to Contest. Astound shall have the right to contest in good faith any Imposition (including by nonpayment of such Imposition) and Customer shall have the sole and exclusive right to contest any Imposition applicable only to Customer or the Customer Equipment. The out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred by Astound in any such contest shall be shared by Astound and Customer in the same proportion as to which the parties would have shared in such Impositions as they were assessed. Any refunds or credits resulting from a contest brought pursuant to this Section 8.5 shall be divided between Astound and Customer in the same proportion as originally assessed.

9.6 Preparation of Returns and Reports. Astound and Customer agree to cooperate fully with one another in the preparation of any returns or reports relating to the Impositions.

#### ARTICLE 10: UNDERLYING RIGHTS; RELOCATION

10.1 Underlying Rights. Subject to the terms and provisions of this Agreement, Astound shall use commercially reasonable efforts to obtain and maintain during the IRU Term, all rights-of-way use and other use or access permits or agreements which are necessary for the installation, location, maintenance and use of the Cables in accordance with this Agreement (the "**Underlying Rights**"). The IRU is subject to the terms of the Underlying Rights, and subject to the terms under which the applicable rights-of-way are owned or held by the grantor of the Underlying Rights.

10.2 Relocation. After the IRU Effective Date, Astound may relocate, at Astound's sole cost and expense, all or any portion of any one or more of the Cables, including any one or more of the Segments of the IRU Fibers and/or any of the facilities used or required in providing any of the Segments of the IRU Fibers to the Customer, under any of the following circumstances: (i) Astound is required to relocate by a third party with legal authority to so require (including, without limitation, the grantor of an Underlying Right); (ii) in Astound's good faith business judgment, it is commercially reasonable for Astound to relocate; or (iii) Customer agrees to the relocation. Should any of the foregoing occur, Astound shall proceed with such relocation, including without limitation, the right, in good faith, to reasonably determine the extent of, the timing of, and methods to be used for such relocation; provided that any such relocation shall incorporate fibers meeting or exceeding the specifications of the IRU Fibers. In the event of any such relocation, Astound shall use commercially reasonable efforts to minimize any service interruptions to the Customer.

#### ARTICLE 11: OPERATION AND USE OF THE IRU FIBER

11.1 Compliance with Underlying Rights Requirements. The requirements, restrictions, and/or limitations on the Customer's right to use the IRU Fibers contained in this Agreement, all applicable government codes, ordinances, laws, rules and regulations, and safety, operational and other rules and regulations imposed in connection with the Underlying Rights are referred to collectively as the "**Underlying Rights Requirements.**" The Customer represents, warrants and covenants to Astound that it will use the IRU Fibers in compliance with and subject to the Underlying Rights Requirements.

11.2 Permits and Approvals. The Customer shall secure, prior to the IRU Effective Date, any franchises, licenses or similar approvals from governmental authorities (other than the Underlying Rights to be obtained by Astound) which are necessary for the Customer's use and operation of the IRU Fibers.

11.3 Use Restriction. IRU FIBERS PROVIDED TO CUSTOMER PURSUANT TO THIS AGREEMENT ARE FOR THE SOLE BENEFIT OF CUSTOMER, ACTING IN CUSTOMER'S PROPRIETARY CAPACITY BUT IN FURTHERANCE OF THE PUBLIC INTEREST. CUSTOMER MAY NOT UTILIZE THE FIBER FOR ANY COMMERCIAL PURPOSE. CONSEQUENTLY, CUSTOMER SHALL NOT GRANT TO ANY THIRD PARTY THE RIGHT TO USE ANY OF THE IRU FIBERS THAT ARE THE SUBJECT OF THIS AGREEMENT, REGARDLESS OF WHETHER SUCH GRANT WERE TO TAKE THE FORM OF A LICENSE, SUBLICENSE, LEASE, SUBLEASE, JOINT USE UNDERTAKING, SHARED USE AGREEMENT, INFRASTRUCTURE SWAP, OR ANY OTHER FORM. NOR SHALL CUSTOMER USE ANY ONE OR MORE OF THE IRU FIBERS FOR COMMERCIAL PURPOSES THAT ARE COMPETITIVE WITH ASTOUND'S BUSINESS (E.G., USE THE IRU FIBERS TO SELL INTERNET ACCESS SERVICES, DATA TRANSPORT SERVICES, VOIP SERVICES). CUSTOMER UNDERSTANDS THAT THE USE RESTRICTIONS SET FORTH IN THIS SECTION 11.3 ARE MATERIAL TO ASTOUND; BUT FOR CUSTOMER'S AGREEMENT TO COMPLY WITH THIS SECTION 11.3, ASTOUND WOULD NOT HAVE ENTERED INTO THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, "CUSTOMER" INCLUDES ANY PERSON ACTING ON CUSTOMER'S BEHALF, WHETHER AS AN OFFICIAL OR EMPLOYEE, IN FURTHERANCE OF CUSTOMER'S GOVERNMENTAL PURPOSE. VIOLATION OF THIS SECTION 11.3 BY CUSTOMER CONSTITUTES A MATERIAL BREACH OF THIS AGREEMENT BY CUSTOMER WHICH, IF NOT TIMELY CURED CONSISTENT WITH THE PROCEDURES SET FORTH IN ARTICLE 15 BELOW, SHALL PROVIDE ASTOUND WITH THE RIGHT TO TERMINATE THIS AGREEMENT, INCLUDING TERMINATION OF THE IRU GRANTED TO CUSTOMER BY THIS AGREEMENT.

11.4 Cooperation. Each of the Customer and Astound agree to promptly notify the other Party of any matters pertaining to, or the occurrence (or impending occurrence) of, any event which would be reasonably likely to give rise to any damage or impending damage to or loss of any one or more of the Cables, or traffic thereon, that becomes known to such Party. The Customer and Astound each agrees to cooperate with and support the other in complying with any requirements applicable to their respective rights and obligations under this Agreement.

11.5 Non-Interference. Customer shall not use its telecommunications systems in a way that physically interferes in any way with or otherwise adversely affects the use of the other fibers in the Cables by Astound or any other Authorized User of the Cables and/or other portions of Astound's network. Customer acknowledges that the Cables and the locations at which the Cables are installed include other participants, including Astound, other Authorized Users, and other owners and users of telecommunication systems.

#### ARTICLE 12: LIMITATION OF LIABILITY

12.1 No Special Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, INCLUDING LOST PROFITS OR REVENUES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, SUCH PARTY'S PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING, CLAIMS OF LESSEES OR CUSTOMERS, CLAIMS FOR WHICH DAMAGES ARE HEREBY SPECIFICALLY WAIVED; AND PROVIDED FURTHER THAT THIS LIMITATION SHALL NOT RESTRICT EITHER PARTY'S RIGHT TO PROCEED FOR INJUNCTIVE RELIEF. NOTHING CONTAINED HEREIN SHALL OPERATE AS A LIMITATION ON THE RIGHT OF EITHER PARTY TO BRING AN ACTION FOR DAMAGES AGAINST ANY THIRD PARTY, INCLUDING CLAIMS FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, BASED ON ANY ACTS OR OMISSIONS OF SUCH THIRD PARTY.

12.2 Disclaimer of Warranties. EXCEPT FOR AND EXCLUDING COVENANTS, REPRESENTATIONS OR WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT AND/OR ANY EXHIBIT(S) ATTACHED HERETO, ASTOUND MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE IRU FIBERS, THE ASTOUND EQUIPMENT OR ANY OTHER PORTION OF THE ASTOUND NETWORK, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

#### ARTICLE 13: INSURANCE

13.1 Required Insurance. Beginning on the IRU Effective Date, and continuing through the expiration of the IRU Term, each Party shall procure and maintain in force, at its own expense, insurance coverage in amounts that a reasonably prudent business person would maintain considering the obligations of the Parties hereunder, but in no event less than coverage of the following types and limits:

- (a) Workers' compensation as required by applicable law(s);
- (b) Employer's liability with minimum limits of \$1,000,000 each accident;

- (c) Commercial General Liability including coverage for (i) premises/operations, (ii) independent contractors, (iii) products/completed operations, (iv) personal injury, (v) contractual liability, and (vi) explosion, collapse and underground hazards, with combined single limit of not less than \$1,000,000 each occurrence or its equivalent;
- (d) Automobile liability with minimum limits of \$1,000,000 each accident; and
- (e) Excess or Umbrella Liability, applicable to items (b), (c) and (d), with minimum limits of \$5,000,000, per occurrence.

13.2 Insurance Providers. Each Party shall maintain the required insurance coverage with insurers licensed to conduct business in the applicable jurisdiction(s) and having an AM Best Rating of A – /VII, or equivalent from another recognized rating agency, and each Party shall, upon request, provide the other Party with an insurance certificate confirming compliance with the requirements of this Article.

13.3 Failure to Carry. In the event either Party fails to maintain the required insurance coverage and, a claim is made or suffered, such Party shall defend, indemnify and hold harmless the other Party from any and all claims for which the required insurance would have provided coverage.

**ARTICLE 14: NOTICES**

Notices under this Agreement shall be in writing and delivered by overnight courier (e.g., Federal Express, UPS) or certified mail, return receipt requested, to the persons whose names and business addresses appear below and such notice shall be effective on the date of receipt or refusal by the receiving Party:

**If to Astound:**

Astound Broadband, LLC  
650 College Road East, Suite 3100  
Princeton, NJ 98021  
ATTN: Business Solutions

**If to Customer:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_  
Email: \_\_\_\_\_

**With a Copy to:**

Astound Broadband, LLC  
650 College Road East, Suite 3100  
Princeton, NJ 08540  
ATTN: Legal Department

**With a Copy to:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_  
Email: \_\_\_\_\_

A Party may change its address and point of contact by notifying the other Party in writing in accordance with this Article.

**ARTICLE 15: DEFAULT**

- 15.1 Definition. A “Default” shall be deemed to have occurred under this Agreement under the following circumstances:
- (a) in the case of a failure to pay any amount when due under this Agreement, a Party fails to pay such amount within fifteen (15) days after written notice from the other Party specifying such breach; or
  - (b) in the case of any other material breach of this Agreement, a Party fails to cure such breach within thirty (30) days after written notice from the other Party specifying such breach, provided that if the breach is of a nature that cannot reasonably be cured within said thirty (30) day time period, a Default shall not have occurred so long as the breaching Party has commenced cure within said thirty (30) day time period and thereafter diligently pursues cure to completion.

15.2 Remedies. In the event of any Default hereunder, the non-Defaulting Party may do any one or more of the following: (i) take such actions as it deems reasonably necessary to correct the Default; (ii) pursue any other remedies available to it under this Agreement; and/or (iii) initiate the dispute resolution process contained in Article 17. The Parties intend for a Party's good faith participation in the dispute resolution process described in Article 17 to constitute a necessary pre-requisite to the commencement by such Party of any legal action regarding this Agreement.

15.3 No Waiver. A waiver by either Party at any time of any of its rights regarding a particular breach or Default of the other Party under this Agreement shall not be deemed a permanent waiver of such rights, nor shall any such waiver be deemed a waiver of any subsequent breach or Default.

#### ARTICLE 16: FORCE MAJEURE

Neither Party will have any claim or right against the other for any failure of or delay in performance by the other Party if the failure or delay is caused by or the result of any act of God, fire, flood, hurricane or other natural catastrophe, terrorist actions, vandalism, cable cut or other similar catastrophe, any law, order, regulation, direction or action of any governmental, civil or military authority, national emergency, insurrection, riot or war; inability to obtain equipment, material or other supplies, strike, lockout or other similar occurrence beyond the control and without the fault or negligence of the affected party (each, a "**Force Majeure Event**"). Notwithstanding the foregoing, if the force majeure delay exceeds thirty (30) days, either Party may terminate this Agreement on written notice without incurring any liability hereunder.

#### ARTICLE 17: DISPUTE RESOLUTION

17.1 Good Faith Negotiations. Except for actions seeking a temporary restraining order or injunction, in the event any controversy, disagreement or dispute (each, a "**Dispute**") arises between the Parties in connection with this Agreement, the Parties shall use good faith efforts to resolve the Dispute through negotiation. In the event of a Dispute, either Party may give the other Party written notice of the Dispute (each, a "**Dispute Notice**"). The parties will meet and attempt to resolve the Dispute within sixty (60) days of the date on which the Dispute Notice is delivered. All discussions occurring and documents exchanged during negotiations under this Section are confidential and inadmissible for any purpose in any legal proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation process. If the Parties do not resolve the Dispute within the sixty (60) day period, either of the Parties may pursue any remedy available to it under this Agreement, at law or in equity.

17.2 Governing Law. This Agreement and all matters arising out of this Agreement shall be governed by the laws of the State of California. Any judicial action arising in connection with this Agreement shall be in the Superior Court of the State of California in and for San Luis Obispo County, or in the Federal District Court for the Western Division of the Central District of California, as applicable.

#### ARTICLE 18: ASSIGNMENT

Neither Party shall assign its rights under this Agreement without the prior written consent of the other Party, which will not be unreasonably withheld, delayed or conditioned; provided, however, that Astound may, without obtaining Customer's consent, assign its interest in and to this Agreement to: (i) any entity acquiring Astound, whether through merger or through purchase of substantially all the assets of Astound; or (ii) an Affiliate of Astound.

#### ARTICLE 19: MISCELLANEOUS

19.1 Warranty of Authority. Each of the signatories hereto warrants and represents that he or she has been duly authorized to execute this Agreement on behalf of the Party for whom he or she purports to sign this Agreement, and that this Agreement is binding on such Party in accordance with its terms.

19.2 Indemnification.

A. Astound indemnifies and holds Customer harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, asserted against Customer arising out of this Agreement, or its performance to the extent the same arise out of, are caused by or are due to (collectively, the "**Indemnified Claims**");

(i) Astound's negligence or willful misconduct in exercising its rights and performing its obligations under this Agreement; (ii) Astound's noncompliance with or Default under this Agreement; and/or (iii) Astound's failure to comply with applicable law in connection with its performance under this Agreement. Should Customer be named in any Indemnified Claim, or should any Indemnified Claim be brought against it by suit or otherwise, whether the same be groundless or not, Astound will defend Customer (at Customer's request and with counsel satisfactory to Customer) and will indemnify Customer for any judgment rendered against it or any sums paid out in settlement or otherwise.

B. Notwithstanding any provision to the contrary, Astound will, at its own expense, indemnify and defend Customer against any claim that Astound's services or work product furnished under this Agreement infringes a patent or copyright in the United States or Puerto Rico. In such event, Astound will pay all costs damages and attorney's fees that a court finally awards as a result of such claim. To qualify for such defense and payment, Customer must (a) give Astound prompt written notice of any such claim; and (b) allow Astound to control, and fully cooperate with Astound in the defense and all related settlement negotiations. Customer agrees that if the use of Astound's services or work product becomes, or Astound believes is likely to become, the subject of such an intellectual property claim, Customer will permit Astound, at its option and expense, either to secure the right for Customer to continue using Astound's services and work product or to replace it with comparable services and work product.

C. For purposes of this section "Customer" includes Customer's officers, officials, employees, agents, representatives, and volunteers.

D. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

19.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document signed by the Party against whom such modification is sought to be enforced.

19.4 Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

19.5 Survival. Those provisions of this Agreement that by their nature and import must survive the expiration or earlier termination of this Agreement in order to be given their full force and effect shall so survive.

19.6 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

19.7 No Joint Venture. The relationship between Customer and Astound shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to federal income tax purposes.

19.8 No Third Party Beneficiaries. This Agreement is made and entered into for the sole benefit of Customer and Astound. No third party shall be deemed to have any rights under this Agreement; there are no third party beneficiaries to this Agreement.

19.9 Standard of Performance. Except as specifically set forth herein, for the purpose of this Agreement the standards and practices of performance within the telecommunications industry in the relevant market shall be the measure of a Party's performance.

19.10 Compliance with Law. Each Party shall exercise its rights and perform its obligations under this Agreement in full compliance with all applicable laws, rules and regulations of any governmental authority having proper jurisdiction.

19.11 Exhibits. The following Schedules are attached to this Agreement and incorporated herein by this reference:

- SCHEDULE 1 - Map Depicting Approximate Location of Segment 1
- SCHEDULE 2 - Map Depicting Approximate Location of Segment 2
- SCHEDULE 3 - Map Depicting Approximate Location of Segment 3
- SCHEDULE 4 - Map Depicting Approximate Location of Segment 4
- SCHEDULE 5 - Map Depicting Approximate Location of Segment 5
- SCHEDULE 6 - Map Depicting Approximate Location of Segment 6
- SCHEDULE 7 - Map Depicting Approximate Location of Segment 7
- SCHEDULE 8 - Map Depicting Approximate Location of Segment 8
- SCHEDULE 9 - Fiber Testing Specifications
- SCHEDULE 10 - Internet SLA
- SCHEDULE 11 - Service Level Agreement for Availability, Maintenance and Repair

19.12 Execution in Counterparts; Consent to Electronic Signatures. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Any executed documents sent to the other Party in portable document format (pdf) images via email will be considered the same as an original document. The Parties consent to the use of electronic signatures.

IN WITNESS WHEREOF, Astound and Customer, intending to be legally bound hereby, have duly executed this Agreement as of the date first above written.

**ASTOUND:**

Astound Broadband, LLC, a Washington limited liability company

By \_\_\_\_\_

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

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

**CUSTOMER:**

City of Atascadero, a California municipal corporation

By \_\_\_\_\_

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

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

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SCHEDULE 1  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 1**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 2  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 2**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 3  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 3**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 4  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 4**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 5  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 5**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 6  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 6**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 7  
to  
Dark Fiber IRU Agreement

Map Depicting Approximate Location of Segment 7

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

SCHEDULE 8  
to  
Dark Fiber IRU Agreement

**Map Depicting Approximate Location of Segment 8**

*[INSERT ROUTE MAP]*

*[The remainder of this page is intentionally left blank.]*

**SCHEDULE 9  
 to  
 Dark Fiber IRU Agreement**

**Fiber Testing Specifications**

**Circuit Testing Acceptance Standards**

OTDR traces will be taken in both directions at 1310 nm and 1550 nm for all circuits less than 50 Km. For circuits over 50 Km we take OTDR traces at 1550 nm. All circuits will be shot with a launch cable with a minimum length of .5 Km or the length agreed to in the customer’s MSA. These traces will be reviewed before the circuit is handed off. For a circuit to be handed off it must comply with the specifications for splice, reflectance and span attenuation.

**Splice Loss Specifications**

Pig Tail - < .5 per connector or 1.0 per jumper

For values greater than this, the splice will be broken and re-spliced until an acceptable loss value is achieved. If, after three attempts is not able to produce a loss value less than 0.50 dB, the splice will be marked as Out-of-Spec (“OOS”) on the OTDR report.

Splice Point - Bi-directional average loss of 0.15 dB or less.

The objective for each splice is a loss of 0.15 dB or less. If, after three attempts, we are not able to produce a loss value of less than 0.15 dB, then 0.25 dB will be acceptable. If, after two additional attempts, a value of less than 0.25 dB is not achievable, then the splice will be marked as OOS

Splice Point - Uni-directional OTDR testing, the objective for each splice is a loss of 0.15 dB or less. If, after three attempts, we are not able to produce a loss value of less than 0.15 dB, then 0.25 dB will be acceptable.

**Connector Reflectance**

Reflectance at jumper – Will be less than -40dB, we will work to achieve less than -40dB by cleaning & polishing fiber tips and/or fiber jumpers or provide alternative fiber strands that achieve results less than -40dB. If we are unable to do so after 3 attempts, the port will be marked as OOS.

**Total loss for a circuit**

Attenuation due to distance

At 1310nm: (0.40 dB/km x km of cable)

At 1550nm: (0.30 dB/km x km of cable)

Average Splice Loss per circuit

The standard for each fiber within a span shall be an average bi-directional loss of 0.10 dB or less for each splice. For example, if a given span has 10 splices, each flow shall have total bi-directional loss (due to the 10 splices) of 1.0 dB or less. Each individual splice may have a bi-directional loss of 0.15 dB or less, but the average bi-directional splice loss across the span must be 0.10 dB or less.

Acceptable Total loss per circuit will be calculated with the following formula:

At 1310nm: (0.40 dB/km x km of cable) + (number of connectors x 0.5 dB) + (0.10 dB x number of splices).

At 1550nm: (0.30 dB/km x km of cable) + (number of connectors x 0.5 dB) + (0.10 dB x number of splices).

**Mass Fusion Splicing**

**Ribbon Fiber Bi-directional Splice Loss Standards**

Fiber Type	Splicing Method	Splice Loss (dB)
Standard Single Mode	Mass fusion splicing	0.20 dB

Non-zero Dispersion-shifted	Mass fusion splicing	0.25 dB
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In the event that the splice loss values listed cannot be achieved by at least 66% (8 out of the 12) of the fibers in the ribbon, the ribbon containing the OOS fiber(s) will be broken and re-spliced. The re-splice procedure and acceptable values are listed in the table below. Ribbons containing any splices above a 1.0 dB loss will be broken and re-spliced.

**Mass Fusion Re-splice Acceptance**

Ribbon Fiber	Standard Single Mode	Non-zero Dispersion Shifted
Acceptance Criteria	0.20 dB	0.25 dB
After 3 attempts	0.30 dB	0.35 dB
After 2 additional attempts	0.40 dB	0.50 dB

**Note:**

Five (5) attempts are to be performed and all non-successful splices will be recorded and marked as OSS.

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**SCHEDULE 10  
to  
Dark Fiber IRU Agreement**

**Internet SLA**

*[See attached.]*

SCHEDULE 11  
to  
Dark Fiber IRU Agreement

Service Level Agreement for Availability, Maintenance and Repair

1. DEFINITIONS.

For purposes of this Schedule 11 the following terms shall have the meanings set forth below.

“Availability” means the IRU Fibers are available to and accessible by Customer at the End Points, are capable of transmitting signals and can otherwise be used by Customer. Availability does not involve the quality of data transmission. Periods of Excused Outage are not included in the Availability metric. Astound does not monitor the use or availability of dark fiber services, thus any Outage must be reported to the Astound CNOC by Customer.

“Credit” means a credit towards the amount of the monthly Scheduled Maintenance Fee that would otherwise be due and payable by Customer to Astound under this Agreement.

“Excused Outage” means any disruption to or unavailability of the IRU Fiber caused by or due to (i) Scheduled Maintenance, or (ii) circumstances beyond Astound’s reasonable control, such as, by way of example only, Force Majeure, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by Astound, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for Astound’s delivery of the IRU Fiber to Customer.

“Force Majeure” means causes beyond Astound reasonable control including, but not limited to, acts of God, fire, explosion, vandalism, cable cut, flood, storm, or other similar natural disaster, terrorist acts, insurrection, riot, national emergency, war or other catastrophe, inability to obtain equipment, material or other supplies due to strike, lockout or work stoppage, or any law, order, regulation, direction, action or request of any civil or military governmental authority.

“Mean Time to Restore” or “MTTR” means the average time required to restore the IRU Fiber to a normally operating state in the event of an Outage. MTTR is calculated on a path/route basis, as a monthly average of the time it takes Astound to repair all service Outages on the specific path/route. MTTR is measured from the time Customer opens an Outage related Trouble Ticket is with the Astound CNOC until the time the IRU Fiber is again Available. The cumulative length of service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

$$\text{MTTR in Hrs (per calendar month)} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}$$

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the IRU Fiber making the IRU Fiber completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related Credits, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by Astound. Unavailability does not include periods of service degradation, such as slow data transmission.

“Scheduled Maintenance” means any maintenance of the portion of the Astound Network to which Customer’s router is connected that is performed during a standard maintenance window (12:00AM – 6:00AM Local Time). Customer will be notified via email at least ten (10) business days in advance of any scheduled maintenance that is likely to affect the IRU Fibers.

“Trouble Ticket” means a trouble ticket generated through the Astound CNOC upon notification of a service-related problem. In order for Customer to be eligible for Credits under this SLA, Customer must contact the Astound CNOC and open a Trouble Ticket regarding the problem.

“ASTOUND’s Commercial Network Operations Center” or “ASTOUND’s CNOC” means ASTOUND’s commercial network operations center which is staffed 24x7x365 and can be reached at: 888-317-0488.

“ASTOUND Network” means all equipment, facilities and infrastructure that Astound uses to provide services to Customer, and includes Customer’s access port. The “Astound Network” does not include Customer owned or leased equipment (unless leased from Astound), or any portion of Customer’s local area network after the demarcation point for the Services provided by Astound.

2. ASTOUND’S MAINTENANCE OBLIGATIONS.

2.1 Routine Maintenance. Routine maintenance and repair of the IRU Fibers described in this Section 2 shall be performed by or under the direction of Astound, at Astound’s reasonable discretion or at Customer’s reasonable request. Routine maintenance shall commence upon the IRU Effective Date, and will include industry standard preventative maintenance activities appropriate for the IRU Fiber routes at issue, which may include activities such as the following:

- (i) Patrol of IRU Fiber route on a regularly scheduled basis, which will be weekly unless hyrail access is necessary, in which case, it will be quarterly;
- (ii) Maintenance of a “Call-Before-You-Dig” program and all required and related cable locates;
- (iii) Maintenance of sign posts along the IRU Fiber route right-of-way with the number of the local “Call-Before-You-Dig” organization;
- (iv) Assignment of fiber maintenance employees to locations along the IRU Fiber route at intervals dependent upon terrain, accessibility, locate ticket volume, etc. Astound shall decide the staffing of fiber maintenance employees for the IRU Fiber;
- (v) Astound shall have qualified representatives on site any time Astound has reasonable advance knowledge that another person or entity is engaging in construction activities or otherwise excavating within five (5) feet of the IRU Fiber; and
- (vi) At Customer’s request, perform and provide Customer with results of annual quality test showing the IRU Fibers continue to meet the Fiber Testing Specifications.

2.2 Emergency Maintenance. “**Emergency Maintenance**” means Astound’s efforts to correct conditions on the Astound Network that are likely to cause a material disruption to or outage in services provided by Astound and which require immediate action. Emergency Maintenance may degrade the quality of the services provided to Customer, including possible outages. Astound may undertake Emergency Maintenance at any time Astound deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances. Emergency Maintenance and repair of the IRU Fiber shall be performed by or under the direction of Astound. Astound’s obligation to perform any necessary Emergency Maintenance shall commence upon the IRU Effective Date. Emergency Maintenance may be commenced in response to any of the following: (i) an alarm identification by Astound’s CNOC, (ii) notification by Customer, or (iii) notification by any third party of any failure, interruption or impairment in the operation of the Cable in which the IRU Fiber is located, or any event imminently likely to cause the failure, interruption or impairment in the operation of the IRU Fiber.

Customer shall immediately report the need for Emergency Maintenance to Astound in accordance with procedures promulgated by Astound from time to time. Astound will log the time of Customer’s report, verify the problem and dispatch personnel immediately to take corrective action.

3. OPERATIONS CENTER. Astound shall operate and maintain the Astound CNOC, capable of receiving alarms twenty-four (24) hours a day, seven (7) days a week. Astound’s maintenance employees shall be available for dispatch twenty-four (24) hours a day, seven (7) days a week. Astound shall have its first maintenance employee at the site requiring Emergency Maintenance activity within four (4) hours after the time Astound becomes aware of an event requiring Emergency Maintenance, unless delayed by circumstances beyond the reasonable control of Astound. Astound shall maintain a toll-free telephone number to contact personnel at the CNOC. Astound’s CNOC personnel shall dispatch maintenance and repair personnel to handle and repair problems detected in the IRU Fiber.

4. COOPERATION AND COORDINATION. Customer shall utilize an Escalation List, as updated from time to time, to report and seek immediate action on exceptions noted in the performance of Astound in meeting maintenance service objectives. Customer will, as necessary, arrange for unescorted access for Astound to all sites of the IRU Fiber, subject to applicable contractual, underlying real property and other third-party limitations and restrictions. In performing its services hereunder, Astound shall take workmanlike care to prevent impairment to the signal continuity and performance of the IRU Fiber. The precautions to be taken by Astound shall include notifications to Customer. In addition, Astound shall reasonably cooperate with Customer in sharing information and analyzing the disturbances regarding the cable and/or fibers. In the event that any Scheduled or Unscheduled Maintenance hereunder requires a traffic roll or reconfiguration involving cable, fiber, electronic equipment, or regeneration or other facilities of the Customer, then Customer shall, at Astound's reasonable request, make such personnel of Customer available as may be necessary in order to accomplish such maintenance, which personnel shall coordinate and cooperate with Astound in performing such maintenance as required of Astound hereunder.

5. FACILITIES. Astound shall maintain the IRU Fiber in a manner which will permit Customer's use. All common systems within facilities along the Cable for the IRU Fiber shall be maintained in accordance with manufacturer's specifications, to include battery plants, generators, and HVAC units. Except to the extent otherwise expressly provided in the Agreement, Customer will be solely responsible for providing and paying for any and all maintenance of all electronic, optronic and other equipment, materials and facilities used by Customer in connection with the operation of the IRU Fiber, none of which is included in the maintenance services to be provided hereunder.

6. FIBER OPTIC CABLE/FIBERS. Astound shall perform appropriate and routine testing on the Cable in which the IRU Fiber is located in accordance with Astound's then current preventative maintenance procedures as agreed to by Customer, which shall not substantially deviate from standard industry practice. Astound shall communicate with Customer during Emergency Maintenance in order to provide regular status updates during the restoration process. When correcting or repairing fiber optic cable discontinuity or damage, including but not limited to, an event of Emergency Maintenance, Astound shall use reasonable efforts to repair traffic-affecting discontinuity within eight (8) hours after the Astound maintenance employee's arrival at the problem site. In order to accomplish such objective, it is acknowledged that the repairs so affected may be temporary in nature. In such event, within twenty-four (24) hours after completion of any such Emergency Maintenance, Astound shall commence its planning for permanent repair, and thereafter promptly shall notify Customer of such plans, and shall implement such permanent repair within an appropriate time thereafter. Restoration of open fibers on fiber strands not immediately required for service shall be completed on a mutually agreed-upon schedule. During restoration, the parties agree to work together to restore all traffic as quickly as possible. Astound, promptly upon arriving on the site of the cut, shall determine the course of action to be taken to restore the IRU Fiber and shall begin restoration efforts. Astound shall splice fibers tube by tube or ribbon by ribbon in a logical order with consideration to all lit fibers within the Cable. Astound's representatives that are responsible for initial restoration of a cut fiber optic cable shall carry on their vehicles the typical appropriate equipment that would enable a temporary splice, with the objective of restoring operating capability in as little time as possible. Astound shall maintain and supply an inventory of spare fiber optic cable in storage facilities supplied and maintained by Astound at strategic locations to facilitate timely restoration.

7. MAINTENANCE WINDOW (MW). Scheduled Maintenance, which is reasonably expected to produce any signal discontinuity, must be coordinated between the parties. Generally, this work should be scheduled after 12:00 a.m. and before 6:00 a.m. local time. Major system work, such as fiber rolls and hot cuts, will be scheduled for MW weekends and shall allow work during daylight hours if on a Saturday or Sunday. Astound and Customer will agree upon a MW calendar. The intent is to avoid jeopardy work on high-traffic holidays.

8. SUBCONTRACTING. Astound may subcontract any of the maintenance services hereunder; provided that Astound shall require the subcontractor(s) to perform in accordance with the requirements and procedures set forth herein. The use of any such subcontractor shall not relieve Astound of any of its obligations hereunder.

9. SERVICE LEVEL AGREEMENT. This Section 9 constitutes Astound's "**Service Level Agreement**" or "**SLA**" with respect to the IRU Fiber.

9.1 Availability SLA

Astound’s dark fiber paths are designed to provide a target Availability of **at least 99.9%** per calendar month. If the Availability target is not met with respect to the IRU Fibers in a given calendar month, Customer will be entitled to a Credit in the amount set forth below (which is based on the amount of the annual Scheduled Maintenance Fee allocable to the month in which the incident occurred), which must be claimed as described in this SLA.

Duration of Unavailability	Customer Credit as % of Monthly Scheduled Maintenance Fee
Less than 45 minutes	Target Met
45 Min. up to 8 hours	5%
> 8 hours up to 16 hours	10%
> 16 hours up to 24 hours	20%
> 24 hours	35%

9.2 Mean Time to Restore (“MTTR”) SLA

In the event of Outages in the IRU Fibers, Astound’s NOC is designed to provide a MTTR of **no greater than 4 hours**. If the target MTTR is not met for the IRU Fibers in a given calendar month, then Customer shall be entitled to Credit set forth in the table below (which is based on the amount of the annual Scheduled Maintenance Fee allocable to the month in which the incident occurred), which must be claimed as described in this SLA.

Target MTTR	Actual MTTR	Customer Credit as % of Monthly Scheduled Maintenance Fee
<b>4 hr MTTR</b>	≤ 4 Hrs.	Target Met
	> 4 Hrs. to 6 Hrs.	5%
	> 6 Hrs. to 8 Hrs.	10%
	> 8 Hrs.	25%

9.3 Claiming Credits

(a) Requesting SLA Credits. To be eligible for any SLA-related Credit, Customer must be in good standing with Astound and current in its financial obligations to Astound. Credits are exclusive of any applicable taxes charged to Customer or collected by Astound. To claim SLA-related Credits, Customer must do the following:

- (i) Open a Trouble Ticket with the Astound CNOc within twenty-four (24) hours of the occurrence giving rise to the claimed Credit(s);
- (ii) Submit a written request for the Credit(s) to Astound’s customer service department within fifteen (15) days after the end of the calendar month in which the incident giving rise to the Credit(s) occurred; and
- (iii) Provide the following documentation when requesting the Credit(s):
  - Customer name and contact information;
  - Trouble Ticket number(s);
  - Date and beginning/end time of the claimed Outage or failed SLA metric;
  - Circuit IDs for each pertinent circuit/path; and
  - Brief description of the characteristics of the claimed Outage or failed SLA metric.

If Customer fails to timely submit, pursuant to the procedure described in this Section 9.3(a), a request for any SLA-related Credit for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such Credit. The Credits provided by this SLA are Customer’s sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of the IRU Fibers.

(b) Astound's Evaluation of Claims. All claims for SLA-related Credits are subject to evaluation and verification by Astound. Upon receiving a claim for SLA-related Credit, Astound will evaluate the claim and respond to Customer within thirty (30) days. If Astound requires additional information in order to evaluate Customer's claim, Astound will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives Astound's request for additional information in which to provide the requested information to Astound. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. Astound will promptly notify Customer of Astound's resolution of each Customer claim. If Customer's claim for an SLA-related Credit is rejected, the notification will specify the basis for the rejection. If Customer's claim for a Credit is approved, Astound will issue the credit to Customer's account, to appear on the next monthly invoice. Astound's good faith determination regarding whether or not an SLA has been violated shall be final.

(c) Limits and Exclusions. Total Credits for any given calendar month shall not exceed 100% of the monthly Scheduled Maintenance Fee for the IRU Fiber. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable Credit amount. This SLA will not apply and Customer will not be entitled to any Credit under this SLA for any impairment of the IRU Fiber that is caused by or due to any of the following: (i) the acts or omissions of Customer, its agents, employees, contractors, or Customer's end users, or other persons authorized by Customer to access, use or modify the IRU Fibers or the equipment used to provide the IRU Fiber, including Customer's use of the IRU Fiber in an unauthorized or unlawful manner; (ii) the failure of or refusal by Customer to reasonably cooperate with Astound in diagnosing and troubleshooting problems with the IRU Fiber, including the unavailability of required Customer personnel due to Customer's failure to keep Astound provided with current and accurate contact information for such personnel; (iii) scheduled alteration, maintenance or implementation; or (iv) Force Majeure events.

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# ***Atascadero City Council***

## ***Staff Report – Public Works***

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### **Atascadero Transit Service Modification**

#### **RECOMMENDATION:**

Council approve Atascadero Transit service modifications, providing service to populations requiring special transportation assistance, and to file claims for funding through Local Transportation Funds under Article 8.

#### **DISCUSSION:**

##### Background

Atascadero Transit, known as Dial-A-Ride (DAR), has been providing transportation service to the residents of Atascadero since the City's incorporation in 1979. The service is a curb-to-curb, demand response public transit system serving disabled and mobility-impaired individuals, seniors and the general public.

Atascadero DAR services are currently funded through the Transportation Development Act (TDA). Atascadero DAR is a subrecipient of San Luis Obispo Council of Governments (SLOCOG) and Regional Transit Authority (RTA) for transit funds. SLOCOG and RTA are also responsible to ensure that Atascadero DAR meets all funding regulations and perform routine audits of DAR operations. One of these requirements for TDA funding requires that Atascadero DAR service meet a farebox recovery ratio of 14.5%. Fairbox recovery ratio is defined as the total passenger revenue divided by the total operating expenses. When fairbox recovery ratio is not met, TDA rules mandate that SLOCOG must penalize Atascadero DAR by reducing Atascadero's receipt of Local Transportation Funds. The penalty is estimated to be around \$25,000 each year that fairbox recovery ratio is not met.

Atascadero DAR fairbox recovery ratio has been decreasing each year from 9.53% in FY18/19 to 6.88% in FY21/22, and is currently trending below 5% for FY22/23. This decrease is primarily due to a decline in ridership and increasing operational costs. Beginning in 2019, farebox ratio requirements were waived due to the COVID-19 impacts. However, this deferment period is set to expire on July 1, 2023, and farebox ratio requirements will be reinstated and must be met or subject to potential penalty.

##### Analysis

In June 2019, Atascadero's Triennial Performance Audit stated the City has managed Atascadero DAR operations effectively and efficiently with limited resources. The report acknowledged that while Atascadero DAR had been unable to meet the required farebox

ratio, it is an important community service and provides mobility to members of disadvantaged, and transit dependent or semi dependent populations in the City.

The audit report recommended that Atascadero work with the San Luis Obispo Council of Governments (SLOCOG) to file for Local Transportation Funds (LTF) under Article 8, which would require Atascadero DAR to provide service only to populations requiring special transportation assistance, including the following:

1. Seniors;
2. Individuals with disabilities;
3. School children; and
4. People with low incomes.

The vast majority of Atascadero DAR riders fall into the above service populations, so impacts to current customers are not anticipated with this proposed service modification. General public population that does not fall into the above service population categories have other door-to-door transportation options within Atascadero including Uber, Lyft, and a number of taxi services.

On June 3, 2020, the SLOCOG Board adopted a resolution that allows Atascadero Transit to file for funding under Article 8 (see attached). By filing for funding under Article 8, Atascadero Transit can continue to meet the needs of its community, but be evaluated by relevant operational data, rather than the customary farebox ratio. If Council approves the above service modifications to Atascadero DAR, the following operational data will need to be collected and reported to SLOCOG at the end of each quarter:

1. Actual count of all passengers by population.
2. Vehicle miles listed by service miles, deadhead miles and revenue miles.
3. Vehicle hours listed by service, revenue and non-revenue hours.
4. Passengers per revenue hour, service hour, revenue mile and service mile
5. Total fare collected by passenger-trip.
6. Date, time and origin of each trip denial due to capacity constraints.
7. Number of missed-trips caused by Operator.
8. Number of passenger No-Shows.
9. Number of late cancellations (more than one but less than eight hours).
10. Number of wheelchair boardings.
11. Number of roadcalls.
12. Number of vehicle collisions (chargeable and non-chargeable).
13. Number of passenger incidents (behavior-related, injury and non-injury).
14. Summary of service complaints.
15. On-time performance.
16. Number of same day trips (if possible).
17. Passenger pick-up and drop-off times and locations.

### Conclusion

Staff recommends modifying Atascadero DAR service to populations requiring special transportation assistance including seniors, individuals with disabilities, school children, and people with low incomes. The vast majority of current customers fall into these categories and those that do not have other door-to-door options available within the City

limits. Approving staff recommendations will eliminate the 14.5% farebox recovery ratio requirement for Atascadero DAR and any associated penalties for not meeting the ratio.

**ALTERNATIVE:**

Continue to provide general public transit services enough to meet the farebox ratio requirement of 14.5%, with the understanding that a penalty will be assessed if the farebox ratio is not achieved.

**FISCAL IMPACT:**

Filing for transit funding under Article 8 will eliminate future LTF penalties due to farebox ratio noncompliance.

**ATTACHMENTS:**

1. SLOCOG Staff Report and Resolution (June 3, 2020)

## SAN LUIS OBISPO COUNCIL OF GOVERNMENTS

### STAFF REPORT

<b>MEETING DATE:</b>	<b>JUNE 3, 2020</b>	<b>ITEM D-5</b>
<b>SUBJECT:</b>	<b>Atascadero Transit System Modification: Resolution to File for Transportation Development Act Funds under Article 8</b>	
<b>STAFF CONTACT:</b>	<b>Sarah Woolsey</b>	

#### SUMMARY

This staff report provides SLOCOG the finding that Atascadero Transit Dial-A-Ride service responds to a transportation need not otherwise being met within Atascadero and that the service is coordinated with other existing transportation service options.

This finding will allow Atascadero City to file their Transportation Development Act (TDA) claim for Article 8 funds. Atascadero City will be required to submit additional reporting outlined in Attachment B. This finding will change Atascadero Dial-A-Ride's service population from general public to populations requiring special transportation assistance, including:

1. Seniors
2. Individuals with Disabilities
3. Schoolchildren
4. People with Low Incomes

By filing for TDA, Article 8 funds, Atascadero Transit will not be held to TDA farebox recovery ratio requirements. This will take away SLOCOG's obligation to penalize Atascadero City's Local Transportation Fund (LTF) claim.

#### RECOMMENDATIONS

- Staff:** Adopt resolution finding that Atascadero Transit responds to a transportation need not otherwise being met within Atascadero and that the service is coordinated with other existing transportation service options.
- SSTAC:** Support staff recommendations
- TTAC:** Support staff recommendations
- CTAC:** Support staff recommendations

#### DISCUSSION

In 2019, Atascadero Transit's Triennial Performance Audit recommended Atascadero file their Local Transportation Fund (LTF) claim under Article 8. This recommendation was given due to Atascadero Transit's inability to meet Transportation Development Act (TDA) required farebox recovery ratio. When farebox recovery ratio is not met, the TDA mandates that SLOCOG must penalize the claimant.

Before immediately implementing this recommendation, as it would require Atascadero Dial-A-Ride (DAR) to limit their service population to populations requiring special transportation assistance, Atascadero Transit attempted to increase farebox recovery ratio by increasing their service area, and providing service to Templeton. This service expansion did not have the desired effect. The service to Templeton began June 26, 2019, and farebox recovery ratio for the first two quarters of FY 19/20 was 7.37%, compared to 9.53% for the same time period in FY 18/19.

At the April 1, 2020 Board meeting, SLOCOG agreed to waive FY 20/21 potential penalties to Atascadero Transit until the 3<sup>rd</sup> quarter of FY 20/21 unless statutory relief was not provided. There are two pieces of legislation in the pipeline that would change TDA law such that penalizing Atascadero Transit would not be necessary.

1. Senate Bill 1459 would amend Section 99270.8 of the Public Utilities Code and eliminate SLOCOG's need to penalize Atascadero Transit for inadequate farebox recovery ratio. Additional information regarding SLOCOG's effort to move this legislation forward can be found in item A-3 of this agenda, State Legislative Update.
2. California Transit Association's effort to amend Section 99268.9 of the Public Utilities Code to not allow transportation planning agencies to impose financial penalties in or due to fare ratios calculated in an operator's fiscal year 2019-20 and 2021-22. This legislation is being sought due to COVID-19.

While these efforts are promising, they do not ensure Atascadero Transit will not be penalized during FY 2020/21 and beyond. Because the majority of Atascadero Transit's ridership is made up of populations requiring special transportation assistance, they are opting to file for TDA Article 8 funds. To file for Article 8 funds, Atascadero Transit will be required to submit additional reporting outlined in Attachment B. Filing for Article 8 funds will also limit the populations Atascadero Transit is able to serve. Atascadero Dial-A-Ride's service population will no longer be for general public, instead Atascadero Transit will serve populations requiring special transportation assistance, including:

1. Seniors
2. Individuals with Disabilities
3. School children
4. People with Low Incomes

Attachment A is a resolution finding that Atascadero Transit Dial-A-Ride service responds to a transportation need not otherwise being met within Atascadero and that the service is coordinated with other existing transportation service options.

Attachment A

**SAN LUIS OBISPO COUNCIL OF GOVERNMENTS  
RESOLUTION NO. 20-\_\_**

**RESOLUTION CONCERNING ATASCADERO TRANSIT'S  
TRANSPOTATION DEVELOPMENT ACT CLAIMS**

The following Resolution is now offered and read:

**WHEREAS**, the San Luis Obispo Council of Governments, hereinafter referred to as the Agency has been designated as the Regional Transportation Planning Agency; and

**WHEREAS**, said Agency has adopted a Regional Transportation Plan directed at the achievement of a balanced coordinated transportation system; and

**WHEREAS**, said Agency shall in implementation of its plan allocate monies in the Local Transportation Fund (LTF) and State Transit Assistance Fund in accordance with the rules and regulations which implement the Transportation Development Act of 1971 as amended; and

**WHEREAS**, the Public Utilities Code, Section 99268.9, requires the Agency to reduce Local Transportation Funds to an operator if they do not maintain the required farebox recovery ratio; and

**WHEREAS**, Atascadero Transit has been unable to meet the required farebox recovery ratio since fiscal year 2015/2016; and

**WHEREAS**, in 2019, Atascadero Transit's Triennial Performance Audit recommended Atascadero file their Local Transportation Fund claim under Article 8; and

**WHEREAS**, to file a Local Transportation Fund claim under Article 8, the transportation planning agency shall make a finding that the transportation services contracted for are responding to a transportation need not otherwise being met within the community or jurisdiction of the claimant and that, where appropriate, the services are coordinated with the existing transportation service; and

**WHEREAS**, Atascadero Transit has agreed to change their service population from general public to groups requiring special transportation assistance; and

**WHEREAS**, this change in Atascadero Transit's Local Transportation Fund claim will eliminate the Agency's mandate to reduce Atascadero Transit's LTF claim due to inadequate farebox recovery ratio.

**NOW, THEREFORE, BE IT RESOLVED** that the Agency, acting as the Regional Transportation Planning Agency, makes the following findings:

Atascadero Transit responds to a transportation need not otherwise being met within Atascadero and that the service is coordinated with other existing transportation service options.

On motion by Delegate \_\_\_\_\_, seconded by Delegate \_\_\_\_\_, and on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINING:**

The foregoing resolution is hereby adopted this 3<sup>rd</sup> day of June 2020.

\_\_\_\_\_  
Fred Strong, President  
San Luis Obispo Council of Governments

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

**ATTEST:**

\_\_\_\_\_  
Peter F. Rodgers, Executive Director  
San Luis Obispo Council of Governments

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

APPROVED AS TO FORM AND LEGAL EFFECT:

\_\_\_\_\_  
Nina Negranti, SLOCOG Legal Counsel

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

Attachment B

Atascadero Transit shall collect, record, and report to SLOCOG relevant operational data listed below, 1 through 17, for the Dial-A-Ride service. Reports are required within (45) calendar days after the end of each quarter. Operational data for the services shall include at a minimum the following information:

1. Actual count of all passengers by population.
2. Vehicle miles listed by service miles, deadhead miles and revenue miles.
3. Vehicle hours listed by service, revenue and non-revenue hours.
4. Passengers per revenue hour, service hour, revenue mile and service mile
5. Total fare collected by passenger-trip.
6. Date, time and origin of each trip denial due to capacity constraints.
7. Number of missed-trips caused by Operator.
8. Number of passenger No-Shows.
9. Number of late cancellations (more than one but less than eight hours).
10. Number of wheelchair boardings.
11. Number of roadcalls.
12. Number of vehicle collisions (chargeable and non-chargeable).
13. Number of passenger incidents (behavior-related, injury and non-injury).
14. Summary of service complaints.
15. On-time performance.
16. Number of same day trips (if possible).
17. Passenger pick-up and drop-off times and locations.