

## DRAFT RESOLUTION

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, IN SUPPORT OF GALAXY THEATRE, ALL COLONY SQUARE COMMERCIAL TENANTS AND THE COLONY SQUARE PROPERTY OWNER DURING COVID-19

**WHEREAS**, the City Council of the City of Atascadero adopted Resolution 2020-005 on March 17, 2020 which declared the existence of a local emergency within the City of Atascadero because of the outbreak of COVID-19, which state of emergency was retro-active to March 4, 2020 when Governor Newsom declared an emergency within the State of California; and

**WHEREAS**, the proclamation of local emergency was deemed to continue to exist until it is terminated by the City Council of the City of Atascadero pursuant to a resolution adopted by the City Council of the City of Atascadero; and

**WHEREAS**, a statewide shutdown of particular businesses, especially restaurants, theaters, and other venues that include public gathering, occurred in March of 2020 due to the pandemic; and

**WHEREAS**, the state of emergency continues to exist more than ~~10~~11 months later; and

**WHEREAS**, due to the continuation of the COVID-19 state of emergency, businesses in the City of Atascadero have faced governmental restrictions forcing them to temporarily close or severely limit operations as health regulations have been revised over time; and

**WHEREAS**, it is in the best interest of the City of Atascadero to encourage and facilitate stability in its business community, and in key downtown properties including Colony Square, as businesses prepare to eventually open up; and

**WHEREAS**, when open, and at typical capacity, Galaxy Theatre contributes substantially to the overall success of downtown Atascadero. The theater's survival and success is a major component of the future success of Atascadero as other development project's and public improvements fall into place downtown. Without the theater, the City of Atascadero will lose a significant entertainment venues in downtown and along with that loss, other businesses will suffer the loss with reduced lodging, dining, shopping and foot traffic; and

**WHEREAS**, since March 2020, Galaxy Theatre~~reer~~ in Atascadero has been primarily closed to the public, which closure has resulted in significant economic hardships to both Galaxy Theatres Atascadero LLC, property owner Cinema Square LLC and surrounding businesses that rely upon the synergy of the theater; and

**WHEREAS**, the impact of the COVID-19 closure of Galaxy Theatre~~reer~~ has been felt by both leaseholders and owners of Colony Square properties; and

**WHEREAS**, the portion of Colony Square that is occupied by Galaxy Theatre~~re~~ is owned by Jeff Nelson and Cinema Square LLC. The theater space is leased to Galaxy Theatres, Atascadero LLC. Several vacancies currently exist in Colony Square while only two businesses, SLODOCO donut shop and Que Pasa Mexican restaurant, remain operational. Both of these businesses have had their occupancies limited due to COVID-19 and have been further impacted by the loss of theater business; and

**WHEREAS**, ~~There~~ there are currently other businesses in Colony Square that exist in the separate Creekside building (former City Hall) which include Wild Fields Brewery, The Chamber of Commerce, a Physical Therapy office, and a new Karate studio. The Creekside building is separately owned by Clint Pearce with Madonna Enterprises; and

**WHEREAS**, Galaxy Theatres Atascadero LLC is one of the most significant tenants in Colony Square and provides the largest portion of rental revenue for the portion of Colony Square owned by Jeff Nelson and during the pandemic, Galaxy Theatre paid no rent and Que Pasa paid limited rent. According to the property owner, this loss of revenue significantly impacted the owner's ability to make mortgage payments on this portion of the commercial center; and

**WHEREAS**, the property owner has reported that:

- T~~he~~ Lender on the Cinema Square LLC property is a Wall Street lender lending group from New York including Wells Fargo, CW Capital, SEER Capital and Jeffries LoanCore and Wilmington Trust.
- The Lender ~~which~~ is prohibited under New York law from foreclosing on any New York property, but has elected to initiate foreclosure on this City of Atascadero property on October 27, 2020.
- The Lender has made a demand for a repayment between \$400,000 and \$1.2 million dollars above the amount of missed payments, because of the theatre~~re~~ being closed.
- The Lender has filed suit to replace the owner with a receiver as property manager; and
- Records from a Title Company demonstrate this foreclosure is the only COVID-related financial difficulty commercial foreclosure in the County of San Luis Obispo; and

**WHEREAS**, the property owner has reported advising the Lender that the Borrower's failure to make loan payments is solely based on the pandemic and loss of revenue from Galaxy Theatre~~re~~; and

**WHEREAS**, the property owner is seeking to delay the foreclosure process to allow for the application and award of grant funding and is seeking City support to encourage a delay on the foreclosure on a property that has been substantially impacted by COVID-19; and

**WHEREAS**, federal legislation enacted Dec. 27, 2020, provides for grant funding for severely impacted venues such as Galaxy Theatres Atascadero LLC and Cinema Square LLC (Grants for Shuttered Venue Operators, Section 24 of "Economic Aid to Hard-Hit Small

Businesses, Nonprofits and Venues”),-which can be the basis for making up past missed loan payments, rent and other expenses and can be an economic bridge to reopening of theateres; and

**WHEREAS**, grant funding soon available under the Shuttered Venues law can be a resource that helps bridge the gap between COVID forced closures and eventual re-opening of ~~the Galaxy Theatre Atascadero LLC~~businesses. The property owner reported the local Congressman’s office has participated in providing timely information to facilitate an efficient application for grant funding ~~by Galaxy Theatres Atascadero LLC~~; and

~~**WHEREAS**, the property owner reports that CEO of Galaxy Theatres Atascadero LLC, Frank Rimkis, has confirmed Galaxy is prepared to submit for grant funding to the SBA when it first becomes available. First priority grants under the Act are available to venues that had suffered over a 90% reduction in revenue from 2019 to 2020, which occurred for Galaxy Theatres Atascadero LLC; and~~

**WHEREAS**, all parties should cooperate in the process of seeking federal grant funding as a bridge to recovery; and

**WHEREAS**, vaccines have emerged in recent months that present an opportunity for eventual opening of businesses in the City of Atascadero; and

**WHEREAS**, on January 31, 2021, as a showing of support to the community during the pandemic, the property owner and Galaxy Theatreer’s CEO offered the use of the shuttered Galaxy Theatre to the County of San Luis Obispo as a supplemental vaccine location, if it would benefit the County.

**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 City Council finds that the continuity of ownership ~~and property management~~ -and tenancies is important for re-opening the City and the Colony Square property is a key part of the re-development of the downtown area.~~;~~and

**SECTION 3.** The City Council encourages all parties to work together and to operate in good faith going forward toward the continuity and success of Galaxy Theatres Atascadero LLC, Cinema Square LLC, and other businesses and property owners within Colony Square.~~;~~and

~~**SECTION 4.** The City Council encourages local parties in to seeking the Shuttered Venues Grant Funding and other grant funds that may be available to make missed loan payments, pay rents and cover other expenses-. for Galaxy Theatres Atascadero LLC so that past and future rents and other expenses can be paid for Galaxy Theatre per the terms of the grant.~~

**SECTION 54.** The City Council encourages the Lender for the Cinema Square LLC property to refrain from foreclosing on the property and refrain from changing property

| management during the pandemic and while grant funding is on the horizon to make up for past due payments. The Lender is further encouraged to be open to reasonable terms for replacement as the lender on the Cinema Square LLC property by a more local Lender who has a stake in the economic success of the City of Atascadero and the Central Coast.

**PASSED AND ADOPTED** at a regular meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

On motion by \_\_\_\_\_ and seconded by \_\_\_\_\_, 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

APPROVED AS TO FORM:

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