



ITEM NUMBER:
DATE:

C-1
07/14/20

Atascadero City Council

Staff Report - City Manager

Sales Tax Ballot Measure

(The City Council must adopt resolutions to submit a ballot measure to the voters.)

RECOMMENDATIONS:

Council:

1. Introduce, on first reading by title only, Draft Ordinance amending Title 3 of the Atascadero Municipal Code to add a Chapter 18 "Essential Services Transactions and Use Tax" to be administered by the California Department of Tax and Administration, subject to adoption by the electorate.
2. Adopt the following Resolutions to submit to the voters a question relating to increased sales tax:
 - A. Draft Resolution A, approving ballot measure text relating to increased sales tax to be submitted to the qualified electors of the City at the General Municipal Election to be held on November 3, 2020, as called by Resolution No. 2020-051.
 - B. Draft Resolution B, setting priorities for filing written arguments regarding the City measure and directing the City Attorney to prepare an impartial analysis.
 - C. Draft Resolution C, providing for the filing of rebuttal arguments for City measures submitted at Municipal Elections.
3. Authorize the Director of Administrative Services to appropriate \$12,200 of General Fund Reserve monies to the City Clerk budget.

DISCUSSION:

The City of Atascadero is fiscally challenged. The City has approximately half the national average of police officers per capita for a City its size, is amongst the lowest paying City employer in the County for most positions (and as such has difficulties retaining employees), and has deteriorating infrastructure including fire stations, parks, roads, sidewalks, zoo facilities, and other buildings. While the City does a lot with the

small amount of revenue that it receives, the revenues have not kept pace with the increasing costs of providing police, fire, parks, recreation, and other services.

The City seeks to maintain essential services and is coming to a crossroads where it cannot sustain the services it provides with the projected available resources. Atascadero receives the lowest revenue per capita in Sales Tax, in Property Tax and in General Fund revenues among all San Luis Obispo County cities and money from a local, voter-approved funding measure is needed at the local level to address the community's local needs. At the May 26, 2020 City Council Meeting, the Council directed staff to prepare the necessary legislation for City Council consideration at the July 14, 2020 meeting to place a one cent local sales tax override measure on the November 2020 ballot. The Council cannot vote on whether the sales tax should be increased; but rather whether the voters should be given the opportunity to decide if an additional sales tax is the right thing for the community.

Sales Tax Measure Process

The City Council does not have the authority to establish or raise taxes, only to put a measure on the ballot for voter approval. In order to place a tax measure on the November 3, 2020 ballot, the City Council must approve the submission of the measure to the voters (Draft Resolution A) by a 2/3 vote of the City Council (at least 4 members). Note that Draft Resolution A also includes the specific language of the question that will be presented to the voters as required by the Elections Code as follows:

To provide funding for fire protection, paramedics, and 911 emergency response, police, crime prevention and investigations, maintenance of parks, public facilities and infrastructure, graffiti removal, and recreation, community services, and other general city services in the City of Atascadero, shall an ordinance establishing a one-percent sales tax be adopted, providing approximately 4.5 million dollars annually for city services until ended by voters, with annual independent audits and all money locally controlled?

If passed by the Council and the electorate, the tax would be effective no sooner than the first day of the first calendar quarter, commencing more than 110 days after the adoption of the ordinance by the voters. Therefore, the tax would be effective no sooner than April 1, 2021.

Proposition 218, requires that all City tax election measures be placed on the same election when City Council Members are selected. The next Council election is scheduled for November 3, 2020. Subsequent Council elections are held every two years. As noted at the May 26, 2020 Council Meeting, the Council will need to adopt the attached resolutions and introduce the Draft Ordinance at this meeting, in order to allow sufficient time for the placement of the measure on the November ballot.

Revenue and Taxation Code requires that the Council introduce and adopt an ordinance to establish the tax ballot measure, subject to approval by two-thirds of the City Council, and approval by voters at the November 3, 2020 General Municipal Election. The attached ordinance would then become the full text of the sales tax measure. If introduced at this meeting, the ordinance would be brought back before the

Council on August 11, 2020 for second reading and adoption and will be submitted to Atascadero voters on the November 3, 2020 ballot. Following approval and introduction of the Draft Ordinance, Council must take additional actions regarding the mechanics of placing the tax measure on the ballot.

The City Council previously adopted Resolution Nos. 2020-051 and 2020-052 to initiate the election process and combine the City's election with the County. If the Council wishes to put the tax measure before the voters, specific language needs to be included in the Election Resolutions to clarify for the San Luis Obispo County Clerk-Recorder the requested wording for the November 3, 2020 ballots (Draft Resolution A).

A resolution setting the priorities for the filing of written arguments and directing the City Attorney to prepare an impartial analysis will need to be adopted (Draft Resolution B). The impartial analysis shall not exceed 500 words. In Resolution B, the City Council also authorizes Council Members to write arguments in favor of the measure. Council Members are not required to write an argument in favor of the Measure, however Draft Resolution B gives them the option. Registered voters, bona fide association of citizens, or a combination of voters and associations may also file written arguments in favor or opposition of the ballot measure with the City Clerk.

Arguments shall not exceed 300 words and must be signed by the author(s). The City Clerk has fixed July 24, 2020 as the last day for submitting arguments for and against the ballot measure, and the impartial analysis by the City Attorney. This will allow ample time for the 10-calendar-day public examination period, translation, typesetting, printing and submission to the County. A notice of this deadline will be posted in the kiosk in front of City Hall. If two or more arguments are submitted in favor of or against the measure, the California Elections Code sets up priorities the City Clerk must follow to select one of each for printing and distribution to the voters. In selecting the argument, the City Clerk shall give preference and priority to the City Council or members of the City Council who have been authorized by resolution of the City Council to submit an argument, either jointly or individually.

Additionally, the adoption of a resolution providing for the filing of rebuttal arguments for the ballot measure is required (Draft Resolution C). The rebuttal arguments shall not exceed 250 words. The deadline for the filing of rebuttal arguments is August 3, 2020, 10 days after the deadline for the filing of the arguments in favor or opposed.

Conclusion

The voters are the only ones who may approve an additional sales tax. The Council may place an item on the ballot for voter consideration, but the Council cannot impose an additional sales tax. In order to move forward with a sales tax measure, the Council must introduce and ultimately adopt an ordinance detailing the specifics of an increased sales tax as well as adopt resolutions to submit the proposed sales tax measure to the voters in order for the County Clerk to place the measure on the November ballot.

FISCAL IMPACT:

The cost to the City is determined by the number of registered voters on Election Day, and the number of Candidate Statements included in the Voter Pamphlet. The County's estimate for the 2020 election of officials in Atascadero is \$40,700. The City Clerk's estimate for the addition of the ballot measure is approximately \$12,000. Therefore, the total estimate for the 2020 election, including the ballot measure, is \$52,700 in General Funds.

ATTACHMENTS:

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

DRAFT ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING TITLE 3 OF THE ATASCADERO MUNICIPAL CODE TO ADD A NEW CHAPTER 18 “ESSENTIAL SERVICES TRANSACTIONS AND USE TAX” TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND ADMINISTRATION, SUBJECT TO ADOPTION BY THE ELECTORATE

WHEREAS, pursuant to California Revenue & Taxation Code Sections 7251 *et seq.* and 7285.9, the City of Atascadero (“City”) is authorized to levy a Transactions and Use Tax for general purposes, subject to voter approval and

WHEREAS, the City proposes to levy a Transactions and Use Tax for general purposes to fund maintain and enhance important City services, with the rate set at one cent; and

WHEREAS, the City is fiscally challenged and while it does well with the funding that it has, general fund revenue growth has not kept pace with the increasing costs of providing services to a growing population; and

WHEREAS, the City seeks to maintain essential services and is coming to a crossroads where it cannot sustain the services it provides with the projected available resources; and

WHEREAS, the City, has approximately half the national average of police officers per capita for a City its size, is amongst the lowest paying City employer in the County for most positions, and has deteriorating infrastructure including fire stations, parks, roads, sidewalks, zoo facilities and other buildings; and

WHEREAS, Atascadero receives the lowest revenue per capita in Sales Tax, in Property Tax and in General Fund revenues among all San Luis Obispo County cities and money from a local, voter-approved funding measure is needed at the local level to address the community’s local needs; and

WHEREAS, the proceeds from such transactions and use tax could not be taken by the State and would remain local, to be spent in the City of Atascadero for services such as police, fire, paramedic, parks, recreation, public facilities. infrastructure and other services; and

WHEREAS, all City revenues are subject to annual independent audits with public review of the City’s budget being widely available, including at City Hall, and online; and

WHEREAS, under applicable law, to enact a transactions and use tax, the City Council of the City of Atascadero must approve the Essential Services Transactions and Use Tax Ordinance and the voters of the City of Atascadero must also adopt it upon majority vote at an election.

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

SECTION 1. Title and Text. This Ordinance shall be known as the Essential Services Transactions and Use Tax Ordinance, the full text of which is set forth in Attachment “A,” attached hereto and incorporated herein by reference.

SECTION 2. Approval by City Council. Pursuant to California Revenue Taxation Code Section 7285.9, this Ordinance was duly introduced on July 14, 2020 and approved upon second reading for placement on the ballot by a two-thirds (2/3) supermajority of all members of the City Council on _____, 2020.

SECTION 3. Approval by the Voters. Pursuant to California Elections Code Section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Atascadero voting at the Regular Election on November 3, 2020, and shall be deemed adopted and take effect ten (10) days after the City Council has certified the results of that election by resolution.

SECTION 4. Operative Date. “Operative Date” for the Essential Services Transactions and Use Tax means the first day of the first calendar quarter commencing more than one hundred ten (110) days after the effective date of this Ordinance, as set forth in Section 3, above.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6. Summary. The title and a summary of the Ordinance, along with the names of the City Council members voting for and against the Ordinance, shall be published twice in a newspaper of general circulation in the City of Atascadero.

SECTION 7. Publication. The City Clerk shall certify to the adoption of this Ordinance no later than fifteen (15) days following the passage of this Ordinance, and shall cause this Ordinance to be published by title and summary.

PASSED AND ADOPTED by the City Council of the City of Atascadero, California, held on the _____ day of _____ 2020, by a vote of at least two-thirds of the City Council.

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian A. Pierik, City Attorney

ATTACHMENT A

**CHAPTER 3-18
ESSENTIAL SERVICES TRANSACTIONS AND USE TAX**

Sections:

- 3-18.010 Title.
- 3-18.020 Operative Date.
- 3-18.030 Purpose.
- 3-18.040 Contract with State.
- 3-18.050 Transaction Tax Rate.
- 3-18.060 Place of Sale.
- 3-18.070 Use Tax Rate.
- 3-18.080 Adoption of Provisions of State Law.
- 3-18.090 Limitations on Adoption of State Law and Collection of Use Taxes.
- 3-18.100 Permit Not Required.
- 3-18.110 Exemptions and Exclusions.
- 3-18.120 Amendments.
- 3-18.130 Enjoining Collection Forbidden.
- 3-18.140 Severability.
- 3-18.150 Effective Date.
- 3-18.140 Termination and Repeal.
- 3-18.170 Independent Annual Financial Audit.

3-18.010 Title.

This chapter is designated and shall be known as the Atascadero Essential Services Transactions and Use Tax Ordinance. The city of Atascadero hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3-18.020 Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter, the date of such adoption being as set forth below.

3-18.030 Purpose.

This chapter is intended to achieve the following, among other purposes, and shall be interpreted liberally in order to accomplish all of its lawful purposes:

A. To impose a retail transactions and use tax to be applied throughout the entire territory of the City to the fullest extent permitted by law and in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

E. To provide transaction and use tax revenue for unrestricted general revenue purposes, and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and be available for any legal municipal purposes.

3-18.040 Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this chapter; provided that, if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3-18.050 Transaction tax rate.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated territory of the City at the rate of 1% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date.

3-18.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3-18.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in the territory of the City at the rate of 1% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3-18.080 Adoption of provision of State law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3-18.090 Limitations on adoption of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of the City of Atascadero shall be substituted. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter;

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from the taxes of this chapter with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property, which would not be subject to tax by the State under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3-18.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3-18.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity

issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3-18.120 Amendments.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. The City Council may amend this chapter to comply with applicable law or as may be otherwise necessary in order to further the chapter's stated purposes.

However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter. The people of the City of Atascadero affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the City Council has acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or

C. The collection of the tax imposed by this Chapter even if the City had, for some period of time, failed to collect the tax.

3-18.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3-18.140 Severability.

If any provision of this chapter or its application to any person or circumstance is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall not effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

3-18.150 Effective date.

This chapter relates to the levying and collecting of the City transactions and use taxes and shall take effect 10 days after the election results are declared by the City Council (CA Elections Code §9217). The operative date (Section 2) will be the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, which will be April 1, 2021.

3-18.160 Termination and repeal.

The authority to levy a retail transaction and use tax shall be in effect until and unless repealed by the voters of the City in the manner provided by law.

3-18.170 Independent annual financial audit.

The revenue and expenditures of this new transactions and use tax shall be included in the annual audit of the City's financial operations by an independent certified public accountant.

DRAFT RESOLUTION A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, APPROVING SUBMISSION OF DRAFT ORDINANCE AMENDING TITLE 3 OF THE ATASCADERO MUNICIPAL CODE TO ADD CHAPTER 18 “ESSENTIAL SERVICES TRANSACTIONS AND USE TAX” AND BALLOT MEASURE TEXT RELATING TO INCREASED SALES TAX TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AS CALLED BY RESOLUTION NO. 2020-051

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, the City Council did previously call a General Municipal Election to be held on November 3, 2020, for the election of Municipal Officers in Resolution No. 2020-051; and

WHEREAS, the City Council proposes to increase the sales tax rate in the City to fund, enhance, and maintain important City services, with the rate set at one cent; and

WHEREAS, pursuant to California Revenue & Taxation Code Sections 7251 *et seq.* and 7285.9, the City of Atascadero (“City”) is authorized to levy a Transactions and Use Tax (sales tax) for general purposes, subject to voter approval; and

WHEREAS, the City Council desires to levy a Transaction and Use Tax for general purposes, to be known as the “Essential Services Transactions and Use Tax”; and

WHEREAS, the Essential Services Transactions and Use Tax cannot be imposed without voter approval; and

WHEREAS, the City Council desires to submit the Essential Services Transactions and Use Tax measure to the voters of the City at the General Municipal Election to be held on Tuesday, November 3, 2020, and to be consolidated with any other election to be held on that date.

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

SECTION 1. The City Council hereby finds and determines that the foregoing recitals are true and correct.

SECTION 2. The City Council hereby proposes the Essential Services Transaction and Use Tax more completely described in the Ordinance attached hereto as Attachment “A” and incorporated herein by reference.

SECTION 3. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Atascadero,

California on Tuesday, November 3, 2020, a General Municipal Election for the purpose of submitting to the voters a question relating to increased sales tax.

SECTION 4. As set forth in Resolution Nos. 2020-051 and 2020-052, adopted on June 23, 2020, the City Council of the City of Atascadero has ordered an election to be called and consolidated with any and all elections also called to be held on November 3, 2020 insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of Atascadero, and has requested that the Board of Supervisors of the County of San Luis Obispo order such consolidation under Elections Code Sections 10401 and 10403.

SECTION 5. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

<u>BALLOT MEASURE #</u>	Yes
To provide funding for fire protection, paramedics, and 911 emergency response, police, crime prevention and investigations, maintenance of parks, public facilities and infrastructure, graffiti removal, and recreation, community services, and other general city services in the City of Atascadero, shall an ordinance establishing a one-cent sales tax be adopted, providing approximately 4.5 million dollars annually for city services until ended by voters, with annual independent audits and all money locally controlled?	No

SECTION 6. That the proposed complete text of the measure (Ordinance) submitted to the voters is attached as Exhibit A.

SECTION 7. That pursuant to Article XIII C of the Constitution, this measure requires approval by a majority (50% + 1) of the votes cast.

SECTION 8. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 10. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 11. This Resolution is exempt from the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the adoption of this Resolution would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378(b)(4), 15061(b)(3)) and because the Resolution involves the possible approval of government revenues to fund existing

services (Pub. Resources Code § 21080, subd. (b)(8); CEQA Guidelines § 15273(a)(4)) it does not make any commercial activity lawful nor commit the City to fund any particular activity.

SECTION 12. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of _____, 2020.

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

- AYES:
- NOES:
- ABSENT:
- ADOPTED:

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian A. Pierik, City Attorney

DRAFT ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING TITLE 3 OF THE ATASCADERO MUNICIPAL CODE TO ADD A NEW CHAPTER 18 “ESSENTIAL SERVICES TRANSACTIONS AND USE TAX” TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND ADMINISTRATION, SUBJECT TO ADOPTION BY THE ELECTORATE

WHEREAS, pursuant to California Revenue & Taxation Code Sections 7251 *et seq.* and 7285.9, the City of Atascadero (“City”) is authorized to levy a Transactions and Use Tax for general purposes, subject to voter approval and

WHEREAS, the City proposes to levy a Transactions and Use Tax for general purposes to fund maintain and enhance important City services, with the rate set at one cent; and

WHEREAS, the City is fiscally challenged and while it does well with the funding that it has, general fund revenue growth has not kept pace with the increasing costs of providing services to a growing population; and

WHEREAS, the City seeks to maintain essential services and is coming to a crossroads where it cannot sustain the services it provides with the projected available resources; and

WHEREAS, the City, has approximately half the national average of police officers per capita for a City its size, is amongst the lowest paying City employer in the County for most positions, and has deteriorating infrastructure including fire stations, parks, roads, sidewalks, zoo facilities and other buildings; and

WHEREAS, Atascadero receives the lowest revenue per capita in Sales Tax, in Property Tax and in General Fund revenues among all San Luis Obispo County cities and money from a local, voter-approved funding measure is needed at the local level to address the community’s local needs; and

WHEREAS, the proceeds from such transactions and use tax could not be taken by the State and would remain local, to be spent in the City of Atascadero for services such as police, fire, paramedic, parks, recreation, public facilities. infrastructure and other services; and

WHEREAS, all City revenues are subject to annual independent audits with public review of the City’s budget being widely available, including at City Hall, and online; and

WHEREAS, under applicable law, to enact a transactions and use tax, the City Council of the City of Atascadero must approve the Essential Services Transactions and Use Tax Ordinance and the voters of the City of Atascadero must also adopt it upon majority vote at an election.

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

SECTION 1. Title and Text. This Ordinance shall be known as the Essential Services Transactions and Use Tax Ordinance, the full text of which is set forth in Attachment “A,” attached hereto and incorporated herein by reference.

SECTION 2. Approval by City Council. Pursuant to California Revenue Taxation Code Section 7285.9, this Ordinance was duly introduced on July 14, 2020 and approved upon second reading for placement on the ballot by a two-thirds (2/3) supermajority of all members of the City Council on _____, 2020.

SECTION 3. Approval by the Voters. Pursuant to California Elections Code Section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Atascadero voting at the Regular Election on November 3, 2020, and shall be deemed adopted and take effect ten (10) days after the City Council has certified the results of that election by resolution.

SECTION 4. Operative Date. “Operative Date” for the Essential Services Transactions and Use Tax means the first day of the first calendar quarter commencing more than one hundred ten (110) days after the effective date of this Ordinance, as set forth in Section 3, above.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6. Summary. The title and a summary of the Ordinance, along with the names of the City Council members voting for and against the Ordinance, shall be published twice in a newspaper of general circulation in the City of Atascadero.

SECTION 7. Publication. The City Clerk shall certify to the adoption of this Ordinance no later than fifteen (15) days following the passage of this Ordinance, and shall cause this Ordinance to be published by title and summary.

PASSED AND ADOPTED by the City Council of the City of Atascadero, California, held on the _____ day of _____ 2020, by a vote of at least two-thirds of the City Council.

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian A. Pierik, City Attorney

ATTACHMENT A

**CHAPTER 3-18
ESSENTIAL SERVICES TRANSACTIONS AND USE TAX**

Sections:

- 3-18.010 Title.
- 3-18.020 Operative Date.
- 3-18.030 Purpose.
- 3-18.040 Contract with State.
- 3-18.050 Transaction Tax Rate.
- 3-18.060 Place of Sale.
- 3-18.070 Use Tax Rate.
- 3-18.080 Adoption of Provisions of State Law.
- 3-18.090 Limitations on Adoption of State Law and Collection of Use Taxes.
- 3-18.100 Permit Not Required.
- 3-18.110 Exemptions and Exclusions.
- 3-18.120 Amendments.
- 3-18.130 Enjoining Collection Forbidden.
- 3-18.140 Severability.
- 3-18.150 Effective Date.
- 3-18.140 Termination and Repeal.
- 3-18.170 Independent Annual Financial Audit.

3-18.010 Title.

This chapter is designated and shall be known as the Atascadero Essential Services Transactions and Use Tax Ordinance. The city of Atascadero hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3-18.020 Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter, the date of such adoption being as set forth below.

3-18.030 Purpose.

This chapter is intended to achieve the following, among other purposes, and shall be interpreted liberally in order to accomplish all of its lawful purposes:

A. To impose a retail transactions and use tax to be applied throughout the entire territory of the City to the fullest extent permitted by law and in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

E. To provide transaction and use tax revenue for unrestricted general revenue purposes, and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and be available for any legal municipal purposes.

3-18.040 Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this chapter; provided that, if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3-18.050 Transaction tax rate.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated territory of the City at the rate of 1% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date.

3-18.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3-18.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in the territory of the City at the rate of 1% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3-18.080 Adoption of provision of State law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3-18.090 Limitations on adoption of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of the City of Atascadero shall be substituted. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter;

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from the taxes of this chapter with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property, which would not be subject to tax by the State under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3-18.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3-18.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity

issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3-18.120 Amendments.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. The City Council may amend this chapter to comply with applicable law or as may be otherwise necessary in order to further the chapter's stated purposes.

However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter. The people of the City of Atascadero affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the City Council has acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or

C. The collection of the tax imposed by this Chapter even if the City had, for some period of time, failed to collect the tax.

3-18.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3-18.140 Severability.

If any provision of this chapter or its application to any person or circumstance is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall not effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

3-18.150 Effective date.

This chapter relates to the levying and collecting of the City transactions and use taxes and shall take effect 10 days after the election results are declared by the City Council (CA Elections Code §9217). The operative date (Section 2) will be the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, which will be April 1, 2021.

3-18.160 Termination and repeal.

The authority to levy a retail transaction and use tax shall be in effect until and unless repealed by the voters of the City in the manner provided by law.

3-18.170 Independent annual financial audit.

The revenue and expenditures of this new transactions and use tax shall be included in the annual audit of the City's financial operations by an independent certified public accountant.

DRAFT RESOLUTION B

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a General Municipal Election is to be held in the City of Atascadero, California, on November 3, 2020, at which there will be submitted to the voters the following measure:

<u>BALLOT MEASURE #</u>	
To provide funding for fire protection, paramedics, and 911 emergency response, police, crime prevention and investigations, maintenance of parks, public facilities and infrastructure, graffiti removal, and recreation, community services, and other general city services in the City of Atascadero, shall an ordinance establishing a one-cent sales tax be adopted, providing approximately 4.5 million dollars annually for city services until ended by voters, with annual independent audits and all money locally controlled?	Yes
	No

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

SECTION 1. That the City Council authorizes the following member(s) of the City Council:

- _____, Council Member In Favor
- _____, Council Member In Favor
- _____, Council Member In Favor
- _____, Council Member In Favor
- _____, Council Member In Favor

to file (a) written argument(s), not exceeding 300 words regarding the City measure as specified above by printing name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected.

a. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of

the measure. If the measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis.

b. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city.

c. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of Measure ____."

d. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ____th day of ____, 2020.

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

AYES:
NOES:
ABSENT:
ADOPTED:

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian A. Pierik, City Attorney

DRAFT RESOLUTION C

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS

WHEREAS, § 9282 of the Elections Code of the State of California provides for written arguments to be filed in favor of or against city measures not to exceed 300 words in length; and

WHEREAS, § 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections.

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

SECTION 1. That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure (not exceeding 300 words each) which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the measure to the authors of any argument against the measure, and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five authors.

The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, **not more than 10 days after** the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3. That the provisions of Section 1 shall apply at the next ensuing municipal election and at each municipal election after that time.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of _____, 2020.

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

AYES:
NOES:
ABSENT:
ADOPTED:

CITY OF ATASCADERO

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian A. Pierik, City Attorney