Amendments to Existing Executive Management Contracts to be Consistent with AB 1344

RECOMMENDATION:

Council amend the existing contract between the City of Atascadero and the City Manager and provide the City Manager with authority to amend executive management employee contracts consistent with the provisions of AB 1344.

DISCUSSION:

As a result of the crisis in the City of Bell and Vernon last year, the state legislature drafted several bills in an attempt to address local government corruption, transparency, compensation and process. While many of the bills did not pass through the legislature, AB 1344 was passed and signed by the Governor.

This bill would, on and after January 1, 2012, prohibit an employment contract for a local agency executive, defined as the City Manager or Department Heads, from providing an automatic renewal of a contract that provides for an automatic compensation increase in excess of a cost-of-living adjustment (COLA). In other words, if a contract renews from year to year, automatic cost of living increases in excess of a COLA are not allowed. Increases in excess of a COLA would need to be approved by the City Council. Contracts will be amended to clarify the City’s adherence to this provision.

Additionally, this bill would, on and after January 1, 2012, require a contract executed or renewed between a local agency and an officer or employee of the local agency to include a provision that requires an officer or employee of a local agency who is convicted of a crime involving an abuse of his or her office or position, as defined, to fully reimburse the local agency for specified payments made by that local agency to the officer or employee. The bill would also require an officer or employee of the local agency, who is convicted of a crime involving an abuse of his or her office, to fully reimburse any such payments that are made by the local
agency in the absence of a contractual obligation between the agency and the officer or employee. Contracts will be amended to reflect these new requirements.

Finally, this bill would require the legislative body, or the presiding officer of the legislative body, to provide notice of each meeting, including special meetings, on the local agency’s Internet website, if the local agency has one, as specified. In addition, this bill would prohibit any legislative body from holding a special meeting regarding the salary, salary schedule, or other form of compensation for any local agency executive. However, the bill does not prohibit the discussion of the budget during a special meeting.

Based on this language, changes need to be made to the contracts for the City Manager and Department Heads. The recommended changes are as follows:

CITY MANAGER

Section 3 of the 2001 Employment Agreement between the City and Wade G. McKinney shall be amended to include the following provision:

2. **In the event that City Manager is convicted of a crime involving an abuse of his office or position, as defined in California Government Code section 53243.4,** City Manager shall be required to fully reimburse the City in accordance with California Government Code sections 53243, 53243.1, and/or 53243.2.

Section 5.1.a of the 2001 Employment Agreement between the City and Wade G. McKinney reads:

> Any across the board salary increases extended to City employees are automatically provided to the City Manager.

In accordance with AB 1344, this section shall be deleted and the remaining sections will be renumbered accordingly.

All other provisions of the Employment Agreement shall remain in full force and effect.

DEPARTMENT HEAD CONTRACTS

The City Manager shall amend all Employment Agreements between the City and its Department Heads as provided below:

All termination provisions shall provide that **In the event the Department Head is convicted of a crime involving an abuse of his office or position, as defined in California Government Code section 53243.4,** the Department Head shall be required to fully reimburse the City in accordance with California Government Code sections 53243, 53243.1, and/or 53243.2.
All other provisions of the Employment Agreements shall remain in full force and effect.

**FISCAL IMPACT:**

There is no fiscal impact as a result of these contract amendments.