



July 23, 2020

Ms. Lori Waterman
City Manager
City of Atwater
750 Bellevue Road
Atwater, CA 95301
LWaterman@atwater.org

Dear Ms. Waterman:

On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist statewide due to the threat of COVID-19. Since that time, COVID-19 has spread throughout California, requiring further action to protect the public health and safety. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which incorporated the State Public Health Officer's Stay-at-Home Order. This Order continues to apply statewide and remains necessary for the preservation of public health and safety. On May 4, 2020, the Governor issued Executive Order N-60-20. The Order allows local jurisdictions to take measured and meaningful steps to modify public health directives where public health data supports such a decision.

All of these actions were, and remain, necessary to preserve public health and safety. Merced County is no exception, as it has been on the county monitoring list for 24 days with elevated disease transmission and a test positivity rate of 16.7%. Additionally, hospitalizations in the county continue to increase. COVID-19 does not stop at administrative boundaries and one community's failure to follow public health orders will negatively impact other communities.

The State of California is providing and distributing financial support to assist local governments in responding to the impacts of the unprecedented COVID-19 pandemic. This funding is conditioned on the jurisdiction's adherence to federal guidance and the state's stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, subsequent executive orders or statutes, and all State Department of Public Health orders, directives, and guidance issued in response to the COVID-19 public health

emergency.¹ Local governments must certify compliance to the Department of Finance when they apply for this funding. In the certification, the jurisdiction must affirm it has not enacted any ordinances or resolutions that are inconsistent with the state's stay-at-home order. This is necessary to ensure that all jurisdictions are adhering to public health directives and ensure for the protection of public health and safety.

As you are aware, on May 15, 2020, the City of Atwater passed Resolution number 3148-20, declaring the City of Atwater "a sanctuary city for all businesses." This Resolution, which is inconsistent with the state's public health directives, threatens the public health and safety of the City of Atwater's residents and renders the City ineligible for up to \$387,428 in state assistance in accordance with the FY 20-21 State Budget Act.

It is our goal to ensure that every eligible jurisdiction in California, including the City of Atwater, receives this funding. In order to be eligible for funding, assuming it meets the other prescribed criteria, the City would need to rescind this resolution. I ask that you please advise once the City has formally rescinded this Resolution and has moved forward to expeditiously implement and enforce state public health guidelines. Thank you for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Ghilarducci", with a long horizontal flourish extending to the right.

MARK S. GHILARDUCCI
Director

Enclosure: City of Atwater Resolution 3148-20

cc: Assemblymember Adam Gray
Senator Anna Caballero
Representative Jim Costa

¹ http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB89



**CITY COUNCIL
OF THE
CITY OF ATWATER**

RESOLUTION NO. 3148-20

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATWATER AFFIRMING THE CITY'S
COMMITMENT TO FUNDAMENTAL RIGHTS OF
LIFE, LIBERTY, AND PROPERTY, AND
DECLARING THE CITY OF ATWATER A
SANCTUARY CITY FOR ALL BUSINESSES**

WHEREAS, the City of Atwater recognizes that the Constitution of the United States enshrines certain rights of all Americans, including those fundamental liberty interests set forth in the Fourteenth Amendment that prohibit any state from depriving any person of life, liberty, or property, without due process of law; and

WHEREAS, the City of Atwater recognizes that the Declaration of Independence advanced the "inalienable rights" of life, liberty, and the pursuit of happiness in the face of tyrannical governmental overreach; and

WHEREAS, each of the City of Atwater duly elected or appointed public servants have sworn to defend and uphold the United States Constitution and the Constitution of the State of California; and

WHEREAS, recent state and county orders have been issued which have deemed certain businesses as "essential" and ordered all other businesses to stay shuttered, closed, forcing them perilously on life support as they fight for their very economic survival and livelihood; and

WHEREAS, the City of Atwater welcomes, honors, and respects the contributions of all businesses, regardless of their size, and regardless of whether or not they have been deemed "essential" by state or county bodies; and

WHEREAS, the City of Atwater's diverse businesses positively contribute to the economic, cultural, and social fabric of the City; and

WHEREAS, all businesses in the City have not only been a catalyst for the City's recent economic recovery, but have been the backbone of the City throughout its 98-year history; and

WHEREAS, the City of Atwater's businesses are socially responsible, and are able and willing to maintain effective social distancing and health protocols to ensure the City remains one of the strongest COVID-19 success stories in California; and

WHEREAS, fostering a relationship of trust, respect, and open communication between City officials and businesses is essential to the City's mission of delivering effective public services in partnership with the community, thereby advancing a high quality of life for residents; and

WHEREAS, the City of Atwater seeks to foster trust, not fear, between City officials and businesses, while properly allocating limited local resources and encouraging cooperation and open communication, to ensure public safety and due process for all, irrespective of business status; and

WHEREAS, the City of Atwater desires to demonstrate its commitment to its businesses by providing a safe community and by assuring them that, in accordance with federal and state laws and all state licensing authorities, the City will not of its own accord abridge such freedoms and rights; and

WHEREAS, the City of Atwater recognizes the inalienable rights of individuals, as individuals, to earn a living, to employ others or be employed, to provide income for their families, to give back to the community, to treat neighbors with respect and care, and contribute to the overall health and well-being of the community, without the need for undue governmental overreach and coercion.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Atwater does hereby resolve as follows:

SECTION 1: City of Atwater shall not, in accordance with state and federal law, and in order to properly allocate limited local resources and optimize cooperation and communication to ensure public safety and due process for all, irrespective of business status, actively join forces with other agencies solely for the purpose of enforcing state or county COVID-19 orders; and

SECTION 2: City of Atwater shall not, in accordance with state and federal law, take any direct action against any businesses or individuals based solely on their actual or perceived business status; and

SECTION 3: The City of Atwater recognizes that state and county authorities directly license, permit, and regulate some businesses within the City and nothing in this Resolution is intended to abridge such authorities from overseeing applicable license regulations and restraints on such City businesses; and

SECTION 4: Subject to the foregoing, the City of Atwater hereby declares that it is a Sanctuary City for All Businesses.

The foregoing resolution is hereby adopted this 15th day of May 2020.

AYES: Vierra, Raymond, Cale, Creighton
NOES: None
ABSENT: Ambriz

APPROVED:



PAUL CREIGHTON, MAYOR

ATTEST:



LUCY ARMSTRONG, CITY CLERK