City of Atwater

1160 FIFTH STREET
ATWATER, CA 95301
(209) 357-6300

9/9/2026

Dear Foreman of the Civil Grand Jury of Merced County:

The Atwater City Council submits the following responses to the findings and recommendations contained in the 2025–2026 Merced County Civil Grand Jury report titled "City of Atwater, Where Are the Funds?"

These responses were reviewed and approved by the Atwater City Council at its regular meeting held on September 14, 2026. They are submitted in accordance with California Penal Code sections 933 and 933.05.

List of Findings:

F1: The City of Atwater failed to show that the funds received from the developers for undergrounding the canals as obligated by the Agreement with the City of Atwater and MID are retained for that purpose.

F2: The City of Atwater is unable to provide documentation of the check received from the developer of the Atwater Market Place Shopping Center, so the City of Atwater is unable to determine the amount of obligation for the Atwater Canal undergrounding.

F3: As recommended by the GASB standards, there is no dedicated account earmarking the funds meant for the undergrounding of the Atwater Drain and the Atwater Canal.

Responses to Findings:

Response to F1:

The City agrees that the $725,000 payment associated with the Applegate Ranch Commercial Center was deposited into the General Fund in 2010 and was not maintained in a separately identified account. However, the absence of a separate account does not, by itself, establish that the funds will not meet any legally established obligation associated with the undergrounding of the Atwater Drain.

City staff is reviewing the applicable agreements, financial records, and current status of the adjacent properties to determine the nature and amount of any remaining obligation. The City will take appropriate action based on the results of that review.

Response to F2:

The City agrees that staff has been unable to locate documentation confirming the amount and deposit of the payment reportedly made by the Atwater Market Place Shopping Center developer approximately 20 years ago.

However, the City disagrees that the inability to locate a copy of the check establishes, by itself, that the City cannot determine the amount of any obligation. The amount and nature of any obligation must be determined through a review of the applicable agreements, resolutions, development records, financial records, and other available documentation. That review is ongoing.

Response to F3:

The City agrees that the $725,000 payment associated with the Applegate Ranch Commercial Center was not placed in a separately identified account when it was received in 2010. City staff is reviewing the appropriate accounting treatment for any verified obligations relating to the undergrounding of the Atwater Drain and Atwater Canal.

List of Recommendations:

R1: The Atwater City Manager and the Finance Director should place the $725,000 received from the Applegate Ranch Shopping Center developer into a dedicated account earmarked for the completion of the undergrounding of the Atwater Drain before the end of the 2026 calendar year.

R2: Procedural improvements need to be made to ensure funds received for specific purposes and obligations are clearly specified by a dedicated line item in the City Budget eliminating the possibility of comingling funds before the end of the calendar year 2026.

R3: Proper training for budgeting specialized funds, using the GASB standard, needs to be put in place for current and future Finance Department employees before the end of the calendar year 2026.

R4: Independent third party auditing is recommended for all transactions relating to the undergrounding of the canals; and specifically to the funds paid by the Atwater Market Place Shopping Center developer before the end of the fiscal year 2026–2027.

Responses to Recommendations:

Response to R1:

The recommendation requires further analysis. The City will continue reviewing available agreements, financial records, and supporting documentation to determine whether the funds can be traced and what obligation can be verified. Due to the age of the transaction, complete documentation may not be available. The review will be completed by December 24, 2026, and the results and any recommended actions will be presented to the City Council.

Response to R2:

This recommendation has been implemented. The City's Finance Department currently maintains accounting procedures and internal controls for funds received for specific purposes. These procedures address account coding, documentation and retention of supporting records, identification of restrictions and obligations, and the use of separate funds, accounts, or other accounting designations when required or appropriate.

The City maintains its financial records in accordance with generally accepted accounting principles, and its accounting practices and internal controls are reviewed as part of the annual independent audit process. The Finance Department will continue to review and update these procedures as needed.

Response to R3:

The recommendation has not yet been implemented, but will be implemented in the future. The City will provide appropriate training for Finance Department employees responsible for receiving, recording, budgeting, and reporting funds that are restricted or designated for a specific purpose. The training will address applicable governmental accounting requirements, documentation, internal controls, and financial reporting. Initial training will be completed by December 31, 2026, and the subject will be incorporated into the training provided to future employees assigned these responsibilities..

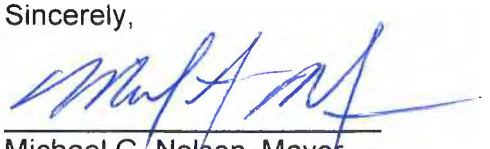
Response to R4:

This recommendation has not yet been implemented, but will be implemented in the future. The City of Atwater currently contracts with an independent auditing firm that performs the City's annual financial audits. The City Manager and Finance Director will consult with the City's independent auditor regarding the transactions associated with the undergrounding of the Atwater Drain and Atwater Canal, including the payment reportedly made by the Atwater Market Place Shopping Center developer.

The City will provide the independent auditor with all available agreements, financial records, and supporting documentation for review. This review will be completed as part of, or in connection with, the City's fiscal year 2026–2027 audit process by June 30, 2027.

The Atwater City Council appreciates the Civil Grand Jury's review. The City remains committed to accurate financial reporting, appropriate internal controls, and the proper accounting of funds received for specific purposes.

Sincerely,



Michael G. Nelson, Mayor
On behalf of the Atwater City Council