



REGULAR MEETING

**JOINT SAND CITY COUNCIL AND
SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY**

TUESDAY, DECEMBER 5, 2023

5:30 PM

AGENDA
JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY OF THE REDEVELOPMENT
AGENCY

Regular Meeting - Tuesday, December 5, 2023
5:30 PM

THIS MEETING WILL BE HELD VIRTUALLY AND IN PERSON, IS COMPLIANT WITH ASSEMBLY BILL (“AB”) 2449, SIGNED INTO LAW ON SEPTEMBER 13, 2022, WHICH AMENDS GOVERNMENT CODE SECTION 54953 TO PROVIDE AUTHORITY FOR PUBLIC AGENCIES TO CONTINUE TO HOLD VIRTUAL MEETINGS AND REMAIN IN COMPLIANCE WITH THE BROWN ACT (GOV. CODE §§ 54950 ET SEQ.). TO PARTICIPATE IN THE ZOOM COUNCIL MEETING LIVE:

<https://us02web.zoom.us/j/4614728829>

Meeting ID: 461 472 8829

**To participate telephonically by calling the number below:
(669) 900-6833**

Meeting ID: 461 472 8829#

If prompted to enter a participant ID, press #

**TO PARTICIPATE IN PERSON:
City Hall Council Chamber
1 Pendergrass Way
Sand City, CA**

How to submit written Public Comments:

If any member of the public would like to provide written comments at the meeting, please do as set forth below.

Written: All comments received before 8:00 am the day of the meeting will be posted on the City’s website as “Correspondence” under the relevant agenda item and provided to the City Council members at the meeting. Please email your comments to: cityclerk@sandcityca.org.

Read Aloud During the Meeting: Email your comments to cityclerk@sandcityca.org. When the Mayor opens the public comment period for the relevant agenda item; please indicate the agenda item and title in your email subject line. If you want your comment read aloud, prominently write “Read Aloud at Meeting” at the top of the email and your comments will be read into the record (not to exceed three minutes at staff’s cadence).

DURING EACH MEETING, members of the public may participate by calling and speaking live during the designated time(s), subject to time limits that may be imposed pursuant to the

Brown Act at the number provided above. Please use the "raise your hand" option on Zoom, and the City Clerk will call on your name.

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. INVOCATION

4. ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, AND CITY MANAGER

5. COMMUNICATIONS

Members of the public may address the City Council/Successor Agency on matters not appearing on the City Council/Successor Agency Agenda at this time for up to three minutes. In order that the City Clerk may later identify the speaker in the minutes of the meeting, it is helpful if speakers state their names. Public comments regarding items on the scheduled agenda will be heard at the time the item is being considered by the City Council/Successor Agency.

The City Council Chambers podium is equipped with a portable microphone for anyone unable to come to the podium. If you need assistance, please advise the City Clerk as to which item you would like to comment on and the microphone will be brought to you.

6. CONSENT CALENDAR

The Consent Agenda consists of routine items for which City Council approval can be taken with a single motion and vote. A Council member may request that any item be placed on the Regular Agenda for separate consideration.

6A. Approve the City Council Regular Meeting Minutes for November 7, 2023
[Minutes](#)

6B. Approve Resolution of the Joint Powers Financing Authority Confirming its
Officers
[Staff Report](#)
[Resolution](#)
[Registry of Public Agencies](#)

6C. Hold Second Reading and Adopt and Ordinance Adding Chapter 13.07 the Law
Enforcement Military Equipment Funding, Acquisition, and Use Ordinance
[Staff Report](#)
[November 7, 2023 Staff Report](#)
[AB 481 Text](#)
[Draft Ordinance](#)
[Draft Policy, SCPD Policy 706](#)
[Draft Policy, SCPD Policy 706, SCPD Equip Owned Oper](#)

6D. Approve a Resolution of the Sand City Successor Agency Authorizing the
Executive Director to Execute a First Amendment to Professional Services
Agreement Between Sand City Successor Agency and RSG, Inc.
[Staff Report](#)

[Resolution](#)
[Att 2 Contract Amend.docx](#)
[Att 3 Original Agmt.pdf](#)

7. CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

8. PRESENTATION

8A. Monterey-Salinas Transit Update

9. PUBLIC HEARING

9A. First Reading of an Ordinance Granting to the California-American Water Company a Determinate Franchise to Construct, Maintain and Use Pipes and Appurtenances, Necessary or Proper for Transmitting Water Under, Along, Across or Upon the Public Streets Within the City of Sand City

[Staff Report](#)

[Ordinance](#)

9B. First Reading of an Ordinance Adding Chapter 18.100 to the Zoning Code Relating to Wireless Telecommunications Facilities Setting New Locational Requirements and Development Standards

[Staff Report](#)

[Ordinance](#)

10. NEW BUSINESS

10A. Discussion regarding whether the City Council should direct staff to draft an ordinance to:

1. Limit the hours of use of gas powered leaf blowers in Sand City; or
2. Ban the use of gas powered leaf blowers in the City.

10B. Approve a Resolution of the Sand City Successor Agency Approving the Recognized Obligation Payment Schedule (ROPS 24-25) and Administrative Budget for the Period July 1, 2024 Through June 30, 2025

[Staff Report](#)

[Resolution](#)

[Exhibit A](#)

[Exhibit B](#)

11. COMMENTS BY COUNCILMEMBERS ON ITEMS OF INTEREST TO SAND CITY

13. ADJOURNMENT

The current agenda is available in PDF format on our website at:
www.sandcity.org

If you have a request for a disability-related modification or accommodation, including auxiliary aids or services, which will allow you to participate in a Sand City public meeting, please call the City Clerk at (831)

394-3054 extension 220, or give your written request to the City Clerk at 1 Pendergrass Way, Sand City, CA 93955 at least 48 hours prior to the scheduled meeting to allow the City Clerk time to arrange for the requested modification or accommodation.

**AGENDA ITEM
6A.**

**Approve the City Council Regular Meeting
Minutes for November 7, 2023**

MINUTES
JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY

Regular Meeting - Tuesday, November 7, 2023 5:30 PM

As allowed by Assembly Bill AB 2449, this meeting was conducted in person and by
teleconference.

Mayor Carbone called the meeting to order at 5:30 PM.

1. ROLL CALL

Present: Mayor Carbone
Vice Mayor Blackwelder
Councilmember Diaz
Councilmember Hawthorne
Councilmember Sofer

Staff: City Manager Vibeke Norgaard
Police Chief David Honda
Interim City Attorney Adam Lindgren
City Clerk Kerry Lindstrom

2. PLEDGE OF ALLEGIANCE

Police Chief David Honda led the Pledge of Allegiance.

3. INVOCATION

Reverend Hellam led the invocation.

4. ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, AND CITY MANAGER

Mayor Carbone announced copies of the Mayor's Report were placed on the table in the Council Chamber for the public and City Manager Vibeke Norgaard stated she provided the Council with a written City Manager's Report and made it available to the public.

City Manager Vibeke Norgaard informed the Council of the Monterey-Salinas Transit (MST) Board Meeting being held on November 13, 2023 and requested an item be added to the November 7, 2023 Sand City, City Council Agenda for further discussion and direction on her attendance at the November 13, 2023 MST meeting.

Upon motion by Vice Mayor Blackwelder and seconded by Councilmember Hawthorne, Council amended the November 7, 2023 Sand City, City Council Agenda adding Item 9J.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz,
Hawthorne, and Sofer.
NOES: None.

ABSENT: None.
ABSTAIN: None.

5. COMMUNICATIONS

Public comment received from Chandler Roland.

6. CONSENT CALENDAR

No public comment received.

Upon motion by Vice Mayor Blackwelder and seconded by Councilmember Hawthorne, Council voted to approve the Consent Calendar.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

6A. Approved the City Council Regular Meeting Minutes for October 3, 2023 and Approve the City Council Closed Session and Regular Meeting Minutes for October 17, 2023.

6B. Approved Resolution SC 23-57 denying claim of Jane Staples.

6C. Received Check Register Reports for July, August, and September.

7. PUBLIC HEARING

8A. First Reading of an Ordinance Adding Chapter 13.07 the Law Enforcement Military Equipment Funding, Acquisition, and Use Ordinance

Public comment received from Brian Clark.

Upon motion by Councilmember Hawthorne and seconded by Councilmember Sofer, Council waived reading of the ordinance in full and read by title only.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

Upon motion by Councilmember Hawthorne and seconded by Vice Mayor Blackwelder, Council introduced and held first reading of an ordinance adding Chapter 13.07 the Law Enforcement Military Equipment Funding, Acquisition, and Use Ordinance.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

8. NEW BUSINESS

- 9A. Consideration and Approval for the Cancellation of the November 21, 2023 Regular City Council Meeting

Public comment received from Brian Clark.

Upon motion by Councilmember Hawthorne and seconded by Councilmember Diaz, Council approved the cancellation of the November 21, 2023 Regular City Council Meeting.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- 9B. Council discussed and provided direction regarding amending Sand City Municipal Code Chapter 2.04 to once a month Regular City Council Meetings. Direction was provided to keep the adopted schedule of twice a month meetings.
- 9C. Approve a Resolution Authorizing Application to and Participation in the Prohousing Designation Program

Public comment received from Brian Clark.

Upon motion by Councilmember Hawthorne and seconded by Councilmember Sofer, Council approved Resolution SC 23-58 authorizing application to and participation in the Prohousing Designation Program.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- 9D. Approve a Resolution to Amend the Professional Service Agreement with EMC Planning Group, Inc. for Fiscal Year 2023-2024 to Include the Addition of \$85,000 for a Full Website Re-Design and Economic Development Web Page

Public comment received from Brian Clark.

Upon motion by Councilmember Sofer and seconded by Councilmember Hawthorne, Council approved Resolution SC 23-59 to amend the Professional Service Agreement with EMC Planning Group, Inc. for Fiscal Year 2023-2024 to include the addition of \$85,000 for a full website re-design and Economic Development Web Page.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- 9E. Approve a Resolution for the Establishment of a Website Redesign Subcommittee

No public comment received.

Upon motion by Councilmember Hawthorne and seconded by Councilmember Diaz, Council approved Resolution SC 23-60 for the establishment of a Website Redesign Subcommittee and elected Councilmembers Diaz and Hawthorne to serve as subcommittee members.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- 9F. Approve a Resolution Approving a Service Agreement with SLV Management for the 2024 West End Celebration and Approving August 24-25, 2024 as the

Date for the Festival

Public comment received from Brian Clark.

Upon motion by Councilmember Sofer and seconded by Councilmember Hawthorne, Council approved Resolution SC 23-61 approving a service agreement with SLV Management for the 2024 West End Celebration and approving August 24-25, 2024 as the date for the festival.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- 9G. Approve a Resolution Announcing Intention to Grant a Water Franchise to the California-American Water Company

Public comment received from Brian Clark.

Upon motion by Vice Mayor Blackwelder and seconded by Councilmember Diaz, Council approved Resolution SC 23-62 announcing intention to grant a water franchise to the California-American Water Company.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz, Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- 9H. Approve a Resolution Authorizing the City Manager to Execute a Second Amendment to Professional Services Agreement with RGS

Public comment received from Brian Clark.

Upon motion by Vice Mayor Blackwelder and seconded by Councilmember Sofer, Council approved Resolution SC 23-63 authorizing the City Manager to execute a second amendment to Professional Services Agreement with RGS.

Motion carried 5-0, by the following vote:

AYES: Mayor Carbone, Vice Mayor Blackwelder, Councilmembers Diaz,

Hawthorne, and Sofer.
NOES: None.
ABSENT: None.
ABSTAIN: None.

9I. Discussion and Direction on a City Council Donations Policy

No public comment received.

Council discussed and provided direction on a City Council Donations Policy.

9J. Discussion and consideration of City Manager Vibeke Norgaard attending the November 13, 2023 Monterey-Salinas Transit (MST) Board Meeting discussing the SURF! Busway and Bus Rapid Transit Project.

No public comment received.

The Council unanimously approved the City Manager to attend the November 13, 2023 MST Board Meeting to request that the MST Board further analyze a roundabout at Playa and California Avenue.

9. COMMENTS BY COUNCILMEMBERS ON ITEMS OF INTEREST TO SAND CITY

10. ADJOURNMENT

Vice Mayor Blackwelder excused himself from the meeting at approximately 8:20 PM. Council adjourned the meeting at approximately 8:26 PM.

Kerry Lindstrom, City Clerk

**AGENDA ITEM
6B.**

**Approve Resolution of the Joint Powers
Financing Authority Confirming its Officers**



City of Sand City

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Kerry Lindstrom, City Clerk
SUBJECT: Confirmation of Joint Powers Financing Authority (JPFA) Officers
DATE: December 5, 2023

BACKGROUND/DISCUSSION:

In accordance with Government Code Section 53051, the State of California requires that the governing body of each public agency file with the Secretary of State on a form prescribed by the Secretary of State a Statement of Facts Roster of Public Agencies Filing of its governing body. The Bylaws of the JPFA require that an annual meeting of the Directors of the Joint Powers Financing Authority must be held at the second regular meeting of the City Council of Sand City during the month of November each year confirming its officers. The second regular meeting of the City Council of Sand City in November was canceled, and the annual meeting of the Authority is being held at the time of the first regular meeting in December. This is merely an annual update to the Statement of Facts.

CEQA:

This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

FISCAL IMPACT:

None.

RECOMMENDATION:

Approve the attached Resolution of the Sand City Joint Powers Financing Authority Confirming its Officers.

ATTACHMENTS:

1. Resolution of the Sand City JPFA Confirming its Officers
2. State of California Registry of Public Agencies Filing

**SAND CITY JOINT POWERS FINANCING AUTHORITY
RESOLUTION NO. JPFA _____, 2023**

**RESOLUTION OF THE SAND CITY JOINT POWERS FINANCING AUTHORITY
CONFIRMING ITS OFFICERS**

WHEREAS, the Bylaws (“Bylaws”) of the Sand City Joint Powers Financing Authority (the “Authority”) require the Directors of the Authority to hold an annual meeting at the time of the second regular meeting of the City Council of Sand City in November each year; and

WHEREAS, the second regular meeting of the City Council of Sand City in November was canceled, the annual meeting of the Authority is being held at the time of the first regular meeting of the City Council of Sand City in December.

NOW, THEREFORE, the Directors of the Authority do hereby resolve as follows:

1. The present members of the City Council of Sand City and staff are hereby confirmed as Directors of the Authority pursuant to Section 1.2 of the Bylaws of the Authority, as shown on the attached Statement of Facts:

Mary Ann Carbone, Chair
Jerry Blackwelder, Vice Chair
Marilee Diaz, Board member
Gregory Hawthorne, Board member
Elizabeth Sofer, Board member
Kerry Lindstrom, Secretary

PASSED AND ADOPTED, by the City Council of the City of Sand City, this ____, day of December, 2023 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mary Ann Carbone, JPFA Chair

ATTEST:

DATED: _____

Kerry Lindstrom, JPFA Secretary



Secretary of State
Registry of Public Agencies
(Government Code section 53051)

SF-405

IMPORTANT — Read Instructions before completing this form.

There is **No Fee** for a Registry of Public Agencies filing

Copy Fees – First page \$1.00; each attachment page \$0.50;
Certification Fee - \$5.00

This Space For Office Use Only

1. Type of Filing (Check one.)

- ☐ Initial Filing (first Registry of Public Agencies filing for an agency)
☒ Updated Filing (change to an existing Registry of Public Agencies record)

2. Agency Information

a. Full Legal Name of Public Agency

Sand City Joint Powers Financing Authority

b. Nature of Update (complete if Updated Filing)

Annual filing, confirmation of governing board members

c. County

Monterey

d. Official Mailing Address

1 Pendergrass Way, Sand City, California 93955

3. Chairperson, President, or Other Presiding Officer

a. Name

Mary Ann Carbone

b. Title

Mayor

c. Business or Residence Address

1 Pendergrass Way, Sand City, California 93955

4. Clerk or Secretary

a. Name

Kerry Lindstrom

b. Title

City Clerk

c. Business or Residence Address

1 Pendergrass Way, Sand City, California 93955

5. Other Members of the Governing Board (Enter as many as applicable. Attach additional pages for additional members.)

Name

Jerry Blackwelder

Business or Residence Address

1 Pendergrass Way, Sand City, California 93955

Name

Marilee Diaz

Business or Residence Address

1 Pendergrass Way, Sand City, California 93955

Name

Gregory Hawthorne

Business or Residence Address

1 Pendergrass Way, Sand City, California 93955

Name

Elizabeth Sofer

Business or Residence Address

1 Pendergrass Way, Sand City, California 93955

Name

Business or Residence Address

6. Date and Sign Below (Additional members set forth on attached pages, if any, are incorporated herein by reference and made part of this Form SF-405, Registry of Public Agencies.)

Date

Signature

Kerry Lindstrom, City Clerk

Type or Print Name

Instructions for Completing the Registry of Public Agencies (Form SF-405)

The governing body of a public agency is required, within 70 days after the commencement of the agency's legal existence, to file a specified statement of facts about the agency with the Secretary of State. This information is also required to be updated within 10 days of a change to it.

Fees:

- **Filing Fee:** There is **no fee** for a Registry of Public Agencies filing.

Copies: To obtain copies or certified copies of the filed document, include payment for copy fees and certification fees at the time the document is submitted. Copy fees are \$1.00 for the first page and \$0.50 for each additional page. For certified copies, there is an additional \$5.00 certification fee, per copy.

Payment Type: Check(s) or money orders should be made payable to the Secretary of State. **Do not send cash by mail.** If submitting the document in person in our Sacramento office, payment also may be made by credit card (Visa or Mastercard).

If you are not completing this form online, please **type or legibly print** in black or blue ink. **Complete the Registry of Public Agencies (Form SF-405) as follows:**

Item	Instruction	Tips
1.	You must check the appropriate box (check one).	• If this is the first Registry of Public Agencies filing for an agency, check "Initial Filing". • If this is a change to an existing Registry of Public Agencies record, check "Updated Filing".
2a.	Enter the full legal name of the public agency.	
2b.	Indicate the nature of the update if this is an updated filing.	• Leave this blank for initial filings. • For updated filings, list information that has changed.
2c.	Enter the county or counties in which the agency operates.	• List as many as applicable. If additional space is required, attach additional pages.
2d.	Enter the agency's official mailing address.	• The complete address is required, including the street name and number, city, state, and zip code. • P.O. box is acceptable.
3a.	Enter the Chairperson, President, or Other Presiding Officer's name.	
3b.	Enter the Chairperson, President, or Other Presiding Officer's official title.	• Include the full official title.
3c.	Enter the Chairperson, President, or Other Presiding Officer's business or residence address.	• A complete address is required, including the street name and number, city, state, and zip code.
4a.	Enter the Clerk or Secretary's name.	
4b.	Enter the Clerk or Secretary's official title.	• Include the full official title.

4c.	Enter the Clerk or Secretary's business or residence address.	A complete address is required, including the street name and number, city, state, and zip code.
5.	Enter the name and business or residence of any other members of the agency's governing board, if applicable.	- A complete address is required, including the street name and number, city, state, and zip code. - Attach additional pages if additional space is required.
6.	Date, sign, and print the name of the individual completing the form.	

Where to File: Completed forms along with the applicable fees, if any can be mailed to Secretary of State, Special Filings Unit, P.O. Box 942870, Sacramento, CA 94277-2870 or delivered in person (drop off) to the Sacramento office, 1500 11th Street, 2nd Floor, Sacramento, CA 95814. This form is filed only in the Sacramento office.

Legal Authority: General statutory filing provisions are found in Section [53051](#). All statutory references are to the California Government Code, unless otherwise stated.

**AGENDA ITEM
6C.**

**Hold Second Reading and Adopt and
Ordinance Adding Chapter 13.07 the Law
Enforcement Military Equipment Funding,
Acquisition, and Use Ordinance**



City of Sand City

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: David Honda, Chief of Police
SUBJECT: AB 481 Military Equipment
DATE: December 19, 2023

BACKGROUND/DISCUSSION:

On November 7, 2023, Council introduced and conducted the first reading of an ordinance to add Chapter 13.07, the Law Enforcement Military Equipment Funding, Acquisition, and Use ordinance to the Sand City Municipal Code. (Prior staff report attached to this Staff report). This item is an approval of the Ordinance.

CEQA:

This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

FISCAL IMPACT:

There are no new financial considerations for existing military equipment since most of the items were purchased prior to the enactment of AB 481 or already funded by the MPR SRU.

Ammunition utilized during training and qualifications for the patrol rifles and less lethal patrol shotguns is approximately \$2200 /year, but there are no anticipated purchases for this current fiscal year.

Equipment maintenance and replacement part costs are not anticipated this fiscal year; however, if circumstances arose that would necessitate utilization of said equipment the cost would be negligible.

RECOMMENDATION:

Staff is requesting the following motions:

1. Adopt an ordinance amending Sand City Municipal Code adding Chapter 13.07, The Law Enforcement Military Equipment Funding, Acquisition, and Use Ordinance.

ATTACHMENTS:

1. Staff report November 7, 2023
2. AB 481 Text

3. Draft Ordinance
4. Draft Policy, SCPD Policy 706
5. Draft Policy, SCPD Policy 706, SCPD Equip Owned Oper.pdf



City of Sand City

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: David Honda, Chief of Police
SUBJECT: AB 481 Military Equipment
DATE: November 7, 2023

BACKGROUND/DISCUSSION:

On November 7, 2023, Council introduced and conducted the first reading of an ordinance to add Chapter 13.07, the Law Enforcement Military Equipment Funding, Acquisition, and Use ordinance to the Sand City Municipal Code.

On September 30, 2021, California Assembly Bill 481 (AB 481) known as the Law Enforcement and state agencies: military equipment, funding, acquisition, and use Act was signed into law. Subsequently, the California Government Code (GC) §§ 7070, 7071, and 7072 were adopted to codify the requirements set forth in AB 481. The text of AB 481 is attached to this staff report for reference.

In enacting AB 481, the Legislature stated the public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials to increase transparency, accountability, and oversight. The same applies to the public's right to participate in any government agency's decision to fund, acquire, or use such equipment.

The bill requires a law enforcement agency (LEA) to obtain approval from the applicable governing body, through the adoption of a military equipment use policy as required by ordinance. The process shall be held at a regular public meeting in accordance with the Ralph M. Brown Act prior to the agency funding, acquiring, or using military equipment.

Other requirements are as follows:

- Draft a Military Equipment Use Policy that describes each piece of military equipment and the authorized uses for each piece (Each section listed in the attached policy and equipment list were created in adherence to the specified mandates of the GC)
- The LEA shall post the proposed policy on their website at least 30 days prior to any public hearing related to this policy.
- The LEA will submit an annual Equipment and Use Report within one year of approval, and annually thereafter.

- Seek approval of the Policy from their governing body by Ordinance before acquiring new military equipment or seeking funds for equipment purchases.
- The report shall be available on the LEA's website for as long as the equipment is available for use. The LEA shall hold a well-publicized and conveniently located community engagement meeting within 30 days of the report's submission.

GC § 7070 provides a list of sixteen (16) categories of equipment that are to be considered "Military Equipment" for the purpose of compliance with AB 481 and the associated government codes. The categories are listed below, and the items owned or purchased by the SCPD are in bold text:

- 1) **Unmanned, remotely piloted, powered aerial or ground vehicles.**
- 2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- 3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- 4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- 5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- 6) Weaponized aircraft, vessels, or vehicles of any kind.
- 7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
- 8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- 9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
- 10) **Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of**

less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

- 11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- 12) **“Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.**
- 13) Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
- 14) **The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons; and,**
- 15) Any other equipment as determined by a governing body or a state agency to require additional oversight.
- 16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

Sand City Police Dept equipment considered “Military Equipment” per AB481

AB 481 (1) The Sand City Police Department (SCPD) operates a small unmanned, remotely piloted aerial drone. This drone was donated to the police department through a community grant at no cost to the city. The drone, a DJI Mavic Pro, is a commercially available civilian model aircraft that is routinely sold to the public. The drone has a small camera and light to enable search operations in areas that are not easily accessed by officers or the public. The landing gear is also configured to drop a small inflatable flotation device for water rescues.

The drone is operated under an FAA license obtained through the SCPD partnership with the Regional Emergency Coordination Center (RECC). The SCPD currently has one officer trained to operate the drone under this licensing agreement; however, two are required. The officers train with other members of the RECC on a quarterly basis. The cost of maintaining the equipment is negligible.

AB 481 (10) The SCPD currently possesses and operates 12 AR15/M4 style semi-automatic rifles. Although, the rifles issued by the SCPD are considered standard issue and not required to be listed per AB 481, we have included them on our list of military equipment for Council review. These rifles are similar to civilian style rifles and are not controlled by the Department of Defense nor were they obtained through any surplus military program.

Specialized tools and firearms including patrol rifles, enable officers (when in compliance with the SCPD's Use of Force Policy) to address short to long distance threats, or those threats who are heavily armed, armored or both. Furthermore, in both short and long-distance deployments, rifles allow officers a more precise shot placement minimizing the risk to officers and innocent community members. Unfortunately, with the regularity of active shooters/active aggressor incidents throughout the country, this has become a necessary tool to counter such threats to our community. There are no known alternatives to these weapons that will provide the same level of distance or precision.

The rifles have been standard issue equipment for each officer in the department for almost 18 years and are carried in the patrol vehicle during the officer's routine patrol shifts. Each officer is required to complete a 16-hour POST certified rifle course before they are issued the rifle. Officers conduct semi-annual training on the rifle and qualify at the range at least once a year.

The SCPD purchased the rifles at differing times between 2005-2019. Each rifle with optics and accessories costs approximately \$1,500 to acquire at the time of purchase. These rifles were purchased prior to adoption of AB 481 and the Department does not have a current need to purchase additional rifles. The cost to maintain the rifles and accessories is negligible.

AB 481 (12)

The SCPD possesses three "bean bag" less lethal shotguns. These are old patrol issued shotguns converted to less-lethal devices. The converted shotguns are easily identified by the bright orange stock and foregrip and fire a kinetic energy munition that resembles a small bean bag (aka "bean bag" or "super sock"). Each projectile weighs approximately 40 grams and travels at a significantly lower velocity than a regular firearm projectile minimizing the potential for penetrating a person's clothing or skin. These devices are available to patrol officers as a less lethal option when confronting a non-cooperative or violent subject when other force or de-escalation options are not practical. The original shotguns are over two decades old and therefore no new costs to the city and the conversion kits were approximately \$350.00 per gun at the time of conversion.

Monterey Peninsula Regional Special Response Unit (MPR SRU or SRU for short)

The SCPD participates in the Monterey Peninsula Regional Special Response Unit (SRU). The SRU is a specialized team that operates under an MOU between seven Monterey Peninsula agencies. Each agency provides officers, command staff, and resources to provide a tactical team to address the ongoing needs of the Peninsula as well as assisting other jurisdictions in the region. The SRU provides a resource to respond to critical incidents, planned and unplanned high-risk events, and other specialized incidents as needed. The SRU utilizes various pieces of equipment that qualifies as Military Equipment as defined in AB 481. As part of its responsibility to the SRU, each participating city has acquired or maintains equipment for use by members of

the SRU. The listed equipment requires a government agency to purchase and since the SRU is a team of officers from each participating agency not an actual government agency, each participating agency shares in purchasing the various equipment the SRU utilizes. All SRU equipment is paid for by the SRU and not by the purchasing agency. The SRU equipment the Sand City PD is responsible for is listed below:

AB 481 (12)

Section 12 references “Flashbang grenades” and “Teargas.” The following items were purchased by the Sand City Police Department on behalf of the SRU, with SRU funds. These devices are used to distract and/or gain compliance of potentially dangerous individuals during critical incidents such as a violent barricaded subject, hostage situations, high-risk search warrant or arrest warrant situations and are utilized and maintained by members of the SRU exclusively.

- Noise-Flash Diversion Device, aka Flash-Bang Diversion Device
- Chlorobenzylidenemalononitrile (CS) Cannister Grenade
- CS Liquid 40mm munitions
- Inert Barricade 40mm munitions

AB 481 (14)

The SRU utilizes a Pen Arms 6 round 40MM Less Lethal Multi-Launcher with 40MM less lethal projectiles. The Multi-Launcher is registered to Sand City Police Department on behalf of the SRU. It is used and maintained by members of the SRU exclusively. The launcher provides tactical officers with a platform to subdue violent and uncooperative subjects in a critical incident. The launcher can fire rubber or sponge impact rounds as well as CS gas rounds in a variety of configurations.

The SRU maintains one or more officers with specialized POST approved training to monitor and deploy rounds through the multi-launcher. All members of the SRU are also trained to deploy less lethal and gas rounds from the launcher under the supervision of the less lethal/gas specialist. The launcher was obtained prior to the adoption of AB481 and there is no intent to purchase additional launchers in the coming fiscal year. There is negligible fiscal impact to maintain the multi-launcher. All members of the SRU train on the multi-launcher on an annual basis.

CEQA:

This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

FISCAL IMPACT:

There are no new financial considerations for existing military equipment since most of the items were purchased prior to the enactment of AB 481 or already funded by the MPR SRU.

Ammunition utilized during training and qualifications for the patrol rifles and less lethal patrol shotguns is approximately \$2200 /year, but there are no anticipated purchases for this current fiscal year.

Equipment maintenance and replacement part costs are not anticipated this fiscal year; however, if circumstances arose that would necessitate utilization of said equipment the cost would be negligible.

RECOMMENDATION:

Staff is requesting the following motions:

1. Adopt an ordinance amending Sand City Municipal Code adding Chapter 13.07, The Law Enforcement Military Equipment Funding, Acquisition, and Use Ordinance.

ATTACHMENTS:

1. AB 481 Text
2. Draft Ordinance
3. Draft Policy, SCPD Policy 706
4. Draft Policy, SCPD Policy 706, SCPD Equip Owned Oper.pdf

Assembly Bill No. 481

CHAPTER 406

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with
Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY
EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

O

**CITY OF SAND CITY
ORDINANCE NO _____, 20__**

**ORDINANCE OF THE CITY OF SAND CITY ADDING CHAPTER 13.07 THE LAW
ENFORCEMENT MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE
ORDINANCE**

WHEREAS, pursuant to the City of Sand City's (the "City") Charter the City is authorized to enact ordinances to protect the health, safety, and welfare of its citizens and to meet the City's obligations under applicable law; and

WHEREAS, Sand City Municipal Code ("SCMC") Chapter 13.07, Military Equipment is established; and

WHEREAS, Assembly Bill 481 (AB 481), Law enforcement and state agencies: military equipment: funding, acquisition, and use act of 2021, required law enforcement agencies to obtain approval of the applicable governing body, by adoption of a military equipment use policy; and

THE CITY COUNCIL OF THE CITY OF SAND CITY HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Chapter 13.07 is hereby added to Title 13, Public Services, of the Sand City Municipal Code to read as follows:

Chapter 13.07 Law enforcement military equipment funding, acquisition, and use ordinance.

13.07.010 Policy. The Police Department shall establish a policy by ordinance that requires approval from the City Council prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

13.07.020. Military Equipment. For purposes of this Chapter 13.07 “military equipment” shall have the meaning provided in California Government code 7070(c)

The policy shall be established, maintained, and amended as needed in accordance with the California Government Code, Title 1, Division 7 - Miscellaneous, Chapter 12.8, §§7071(a)(1)

SECTION 2: Determinations.

Based on the findings above, in addition to information provided to the City Council at the public meeting, the City Council determines as follows:

1. The military equipment identified in the annual military equipment report has complied with the standards for approval as set forth in Government Code section 7071 subdivision (d).
2. The Sand City Police Department's Military Equipment Use Policy is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
3. The Sand City Police Department's Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
4. The military equipment identified in the Sand City Police Department's Military Equipment Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety.
5. Prior military equipment use by the Sand City Police Department complied with the Military Equipment Use Policy although it was not yet in effect at the time, or if prior uses did not comply with the accompanying military equipment

use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

6. The Sand City Police Department's Military Equipment Use Policy, Policy 706, setting forth the City's military equipment use policy is approved.

SECTION 3: Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clause, or phrase be declared unconstitutional or invalid.

SECTION 4: Effective Date

This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 5: Codification

The City Clerk is hereby authorized and directed to codify the provisions of Section 1 of this Ordinance into the SCMC.

PASSED AND ADOPTED, by the City Council of Sand City, this ____ day of _____, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

DATED: _____

Mayor

Kerry Lindstrom, City Clerk

Sand City Police Department
Sand City PD Policy Manual (DRAFT)

706 Military Equipment

706.1 PURPOSE AND SCOPE

This policy governs the use of military equipment, as defined in Government Code § 7070, as may be amended. The Sand City Police Department (SCPD) and its members will comply with provisions of Government Code §§ 7071, 7072, and with otherwise applicable department policies, with respect to military equipment.

706.1.1 DEFINITIONS

This policy adopts the following definitions set forth in Government Code § 7070 (c)(1) through § 7070 (e)(16) as may be amended or superseded:

Governing body – The elected or appointed body that oversees the Department.

Military equipment –

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

Sand City Police Department
Sand City PD Policy Manual (DRAFT)

10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in sections § 30510 and § 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service issued handheld pepper spray.
13. TASER® Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the Federal Defense Logistics Agency.

706.2 POLICY

It is the policy of the Sand City Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment. Use of military equipment should safeguard public welfare, safety, civil rights, and civil liberties.

706.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police designates the Assistant Chief of Police to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.

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(b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.

(c) Conducting an inventory of all military equipment at least annually.

(d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Sand City Police Department (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.

(f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

(g) Coordinating the process for a person to register a complaint, concern, or question about the use of a type of military equipment. The Department will respond in a timely manner.

A complaint, concern or question related to Military Equipment utilization by the Sand City Police Department can be made through any of the below listed methods:

Email: sandcityrecords@sandcitypd.org

By phone: (831) 394 -1451

By mail: Sand City Police Department
Attn: Military Equipment Use Coordinator
1 Pendergrass Way
Sand City, CA 93955

In person: At the address list above

706.4 APPROVAL

This policy, and any subsequent amendments, will be available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue. This policy will be submitted to the City Council for approval and will remain in

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effect only if it is approved within 180 days of submission. Approval of this policy or any subsequent amendments requires adoption by ordinance at an open session of a regular meeting providing for public comment. The department will cease use of any military equipment if its use, or the policy for its use, is not approved. An approved military equipment use policy is required prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting, or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

706.5 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by other jurisdictions providing aid to SCPD shall comply with their respective military equipment use policies. SCPD is a participating member of the Sand City Peninsula Regional Special Response Unit (MPRSRU) in collaboration with other law enforcement agencies on the Sand City Peninsula. MPRSRU provides capabilities to address specific law enforcement issues, such as active shooter incidents, hostage situations, barricaded subject incidents, etc. SCPD also collaborates and works with the Sand City County Sheriff's Department and other local, state and federal law enforcement agencies that may provide aid to SCPD. Military equipment owned by other jurisdictions that may be used by MPRSRU inside the City of Sand City's jurisdiction is listed in Section Two of the Military Equipment Inventory. SCPD is authorized to use that military equipment in connection with MPRSRU activities/responses.

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706.6 ANNUAL REPORT

Within one year of approval of the military equipment use policy, and annually thereafter, the Chief of Police or the authorized designee will submit a military equipment report for each type of approved military equipment for as long as the military equipment is available for use. The annual military equipment report will be publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment.

706.7 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the public may discuss and ask questions regarding the funding, acquisition, or use of military equipment.

706.8 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment owned and/or utilized by the Sand City Police Department.

See attachment: SCPD 706, SCPD Equip Owned Oper.pdf

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Attachments

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SCPD 706
SCPD Equip Owned Oper.pdf

Sand City Police Department
Military Equipment List

Type	Section 14 - Less lethal shotguns and kinetic energy munitions
Description	Remington 870 patrol shotguns converted to less lethal The shotguns have orange colored stock and foregrip to signify a less-lethal device
Quantity	Three (3)
Capabilities	The less shotgun less lethal platform utilizes kinetic energy munitions (aka “bean bag” or <i>Super-Sock</i> ©) which are shot filled ballistic fiber, weighing approximately 40 grams, and resembling a small bean bag or sock. The bag travels at a lower velocity than a regular shotgun projectile to reduce any potential penetration and an advertised maximum effective range of 75 feet.
Expected Lifespan	20 + years
Manufacturer’s Description	The Remington Shotgun is milled from a single block of steel. The stock and fore grip are comprised of fiberglass-reinforced polymer with a rubber over-molding. This shotgun is a U.S.-made pump- action shotgun. The magazine tube holds 6 less-lethal rounds.
Purpose and Authorized Use	This platform and munitions are utilized as a less-lethal force option by officers who have successfully completed the required training.
Fiscal Impact	Initial: Unknown, the shotguns have been in SCPD inventory for more than two decades; however, the cost of conversion was approximately \$350.00 per shotgun. On-going: approximately \$200.00 for ammunition per year for practice and qualification
Legal, Procedural, and Compliance	CA Commission on Peace Officer Standards and Training (POST) Reg: 1005 (Minimum training standards), Reg 1081 (Shotgun) SCPD Policies – 300 (Use of Force), 303 (Control Devices and Techniques), 306 (Firearms)
Training Requirements	The initial training for the shotgun platform: POST Reg 1005 (Minimum training standards), 1081 (16 hours for shotgun), 1082 (Minimum Content – Less Lethal Instructors) Less lethal training: POST certified less lethal device course 2- or 4-hour course

Sand City Police Department
Military Equipment List

Type	Section 10 - Patrol rifle/carbine, semi-automatic
Description	Colt M4/AR15 (11); Ruger SR556 (1); Patrol rifles are fitted with EOTECH holographic sights
Quantity	Twelve (12)
Capabilities	Both platforms fire a .223 cal./5.56 mm rifle ammunition which offer more power, range, and accuracy at longer distance than the issued service handgun.
Expected Lifespan	15+ years
Manufacturer's Description	"The combat proven M4 platform takes a tactical turn with the release of the Colt® Law Enforcement M4 Carbine Semi-Auto Rifle. The 6-position collapsible stock offers custom adjustment from 35.5" down to 32" for increased maneuverability in tight quarters. This fast-aiming, and reliable carbine comes equipped with muzzle compensator and Magpul MBUS folding backup sight ready when you need it. The 16.1" M4 chrome-lined barrel has 1:7 rate-of-twist rifling*." "The RUGER® SR-556® and SR-762™ are gas-operated, piston-driven, box magazine fed, autoloading rifles. It is simple, reliable, and consists of relatively few components. The mechanism employs the Ruger short stroke piston system in conjunction with a rotating bolt. These rifles can be field stripped for cleaning to its basic subassemblies in seconds without the use of tools."
Purpose and Authorized Use	The patrol rifle/carbine enables officers to address short to long distance threats, and/or those threats who are heavily armed, armored, or both. In both short and long-distance deployments, patrol rifles provide officers with a platform that can assist in a more precise shot placement reducing the risk to officers and innocent by-standers.
Fiscal Impact	Initial: Approximately \$1,500/rifle at the time of purchase (between 2005 and 2019) Ongoing: approximately \$2,000.00 in ammunition cost annually for training and qualification
Legal, Procedural, and Compliance	Penal Code 33220(b) - Authorization and requisite POST training requirements POST Reg: 1005 (Minimum training standards), 1070 (Certified instruction), 1081(Rifle) SCPD Policies: 300 (Use of Force), 306 (Firearms)
Training Requirements	16-hour POST certified patrol rifle course taught by POST certified instructors; annual training and qualification

* Description for specific models owned by SCPD are no longer available on the current Colt website. Description taken from Cabelas.com for Colt LE Carbine.

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Military Equipment List

Type	Section 1 - Unmanned, remotely piloted, powered aerial vehicle
Description	DJI Mavic Pro, commercially available flying camera
Quantity	One (1)
Capabilities	Max speed – 9 mph; 12-megapixel camera; 4K video, micro-SD card; flight time 27 minutes (no wind at a consistent 15.5 mph); Max hover time 24 minutes (no wind)
Expected Lifespan	10 years
Manufacturer's Description	"The DJI Mavic Pro is DJI's smallest flying camera, featuring a fully stabilized camera, intelligent flight modes and obstacle avoidance inside a revolutionary folding design. It captures 4K videos and 12-megapixel photos and is capable of both <i>ActiveTrak™</i> and <i>Tapfly™</i> making complex shots effortless."
Purpose and Authorized Use	To enhance the safety of potentially dangerous situations by providing first responders with the ability to monitor video feed from vehicle cameras of hazardous areas prior to, or in lieu of, sending in personnel. UAS platforms may be used for search and rescue; suspect apprehension crime scene documentation; tactical operations; scene security; hazard monitoring; identification and mitigation; response to emergency calls; crisis communications; legally authorized surveillance.
Fiscal Impact	Acquired approximately 5 years ago; approximate 2018 cost of \$800.00 - \$1,000.00 (specific model is no longer available from manufacturer)
Legal, Procedural, and Compliance	SCPD Policy 606 (Unmanned Aerial System [UAS] Operations) Federal Aviation Administration (FAA): 14 CFR part 107 (Small UAS rule) or 49 U.S.C. §40102(a) and § 40125
Training Requirements	Remote Pilot Certification per FAA regulations and related POST certified remote pilot course (32 hours)

Sand City Police Department
Military Equipment List

Type	Section 14 - Less lethal 40 mm projectile launcher and kinetic energy munitions
Description	Penn Arms 40 mm less lethal multi-shot launcher and less lethal munitions; Combined Tactical Systems (CTS) 4557 40 mm Sponge Foam Baton; projectile is made of closed cell neoprene
Quantity	One (1) launcher. Thirty (30) Sponge Foam Baton munitions.
Capabilities	The 40mm Less Lethal Launcher is capable of firing 40mm Kinetic Energy Munitions (known as sponge projectiles), irritant munitions, and smoke munitions. The Sponge Foam Baton projectile is 60 grams, velocity is 240-260 fps, effective range approximately 50 yards
Expected Lifespan	15+ years; 5-year warranty on munition
Manufacturer's Description	"Penn Arms 40mm multi-shot launchers are manufactured using 4140 hardened steel, 6061-T6 mil-spec anodized aluminum, and DuPont super tough glass-filled nylon. These launchers are lightweight, versatile, and used worldwide by police and corrections officers." "The Model 4557 Sponge Baton is a spin-stabilized projectile delivering blunt trauma effect. Although it is extremely accurate and consistent, accuracy is dependent on the launcher, using open sights vs. an improved sight, environmental conditions, and the operator. Effectiveness depends on many variables, such as distance, clothing, stature, and the point where the projectile impacts."
Purpose and Authorized Use	The Monterey Peninsula Special Response Unit (SRU) members utilize the Pen Arms 6 round 40MM Less Lethal Multi-Launcher with 40MM less lethal projectiles. The Multi-Launcher is registered to the Sand City Police Department on behalf of the SRU. It is utilized and maintained by members of the SRU
Fiscal Impact	Initial: No direct cost by the City; approximate cost of \$3,336.00 funded by the SRU (2018) Ongoing: Cost of munitions for qualifications and critical incident response born by SRU not SCPD; Each Sponge Baton round is approximately \$23.00 (\$690.00 for recent purchase of 30) but varies each year depending on usage.
Legal, Procedural, and Compliance	POST Reg: 1070 (Certified Instruction), 1082 (Less Lethal Instructor) SCPD Policies: 300 (Use of Force), 303 (Control Devices and Techniques), 306 (Firearms)
Training Requirements	Less lethal training: POST certified less lethal device course 4-hour course plus annual qualification. SRU training: 80-hour POST certified basic S.W.A.T. course, 120 hours of annual training, and 24 hours of SWAT update training bi-annually.

Sand City Police Department
Military Equipment List

Type	Section 12 - Noise-flash Diversion Device aka Flash-bang Diversionary Device
Description	Combined Systems Inc. (CSI), Combined Tactical Systems (CTS) Flash-bang model 7290 series
Quantity	Twenty-four (24) 7290M Mini-bang, single use, steel body Twelve (12) 7290-3 Bang, single use, aluminum body Twelve (12) 7290-CI Command initiated, steel body
Capabilities	165 - 180 dB, 2M candela minimum per each model's specification sheet
Expected Lifespan	5-year warranty
Manufacturer's Description	"7290 -The CTS 7290 is the standard for diversionary flash-bang devices. The 7290 produces a 165-180db and 6-8 million candela of light output. The patented design of the 7290, incorporates a porting system that eliminates movement of the body at detonation even if the top or bottom of the device should be in contact with a hard surface. In addition, internal adjustments have greatly reduced smoke output. Flash Bangs are used by special tactical units during hostage rescue and high-risk warrants. It is an ATF-controlled Class-C explosive device that emits a bright light and thunderous noise to distract potentially dangerous individuals. Priced Individually, Must Order in Quantities of 12"
Purpose and Authorized Use	The Monterey Peninsula Special Response Unit (SRU) members utilize these devices to distract potentially dangerous individuals during critical incidents such as a violent barricaded subject, hostage situations, high-risk search warrant or arrest warrant situations.
Fiscal Impact	Initial: No direct cost to the City; \$4,125.00 funded by the SRU Ongoing cost: replacement varies depending on utilization \$ 48.00 – 125.00 per individual device
Legal, Procedural, and Compliance	Penal Code 13514.1 (POST required guidelines) POST Reg: 1070 (Certified Instruction), 1082 (Diversionary Device Instructor), 1084 (Standardized Curriculum) SCPD Policies: 404 (MPR SRU)
Training Requirements	SRU training: POST certified 80-hour basic SWAT course, 120 hours of annual training, and 24 hours of SWAT update training bi-annually. Annual 10-hour diversion device training.

Sand City Police Department
Military Equipment List

Type	Section 12 - Irritant munitions (aka "tear gas")
Description	Combined Systems Inc. (CSI), Combined Tactical Systems (CTS) irritant munitions
Quantity	Fifteen (15) CTS 3330, 37mm CS Liquid Barricade Smokeless Twenty-five (25) CTS 3300, 37mm Inert Barricade Smokeless Nine (9) CTS 5230, CS Cannister Grenade
Capabilities	3330 – Liquid CS filled projectile penetrates intermediate barriers and delivers irritant agents into an adjacent room. Velocity 385-425 fps, effective range of 50 yards 3300 – Inert. Velocity 385-425 fps, effective range of 50 yards 5230 - Large diameter burning grenade that discharges a high volume of smoke and chemical agent through multiple emission ports. Specifically for outdoor use and should not be deployed on rooftops, in crawl spaces or indoors due to potential fire hazard.
Expected Lifespan	5-year warranty
Manufacturer's Description	"CTS produces a full line of chemical irritant and smoke munitions. The comprehensive line includes grenades, 12gauge, 37mm and 40mm projectiles. These less-lethal options address a wide range of scenarios from assisting tactical teams in displacing or detecting barricaded subjects to aiding riot control units charged with maintaining order in public or correctional environments." "CTS Manufactures a wide range of single and multiple projectile munitions with payload capabilities exceeding those of any other less-lethal manufacturer. Single projectile offerings are extremely accurate for selective engagement in a variety of situations."
Purpose and Authorized Use	The Monterey Peninsula Regional Special Response Unit (SRU) members utilize these devices to distract and/or gain compliance of potentially dangerous individuals during critical incidents such as a violent barricaded subject, hostage situations, high-risk search warrant or arrest warrant situations.
Fiscal Impact	No direct cost to the City; Recent purchase was \$2,645.10 funded by the SRU Replacement cost varies depending on utilization \$ 23.00 – 36.00 per individual device, funded by SRU
Legal, Procedural, and Compliance	Penal Code 22820 (required POST training) POST Reg: 1070 (Certified Instruction), 1081 (Chemical Agents), 1082 (Chemical Agent Instructor) SCPD Policies: 300 (Use of Force), 404 (MPR SRU)
Training Requirements	POST chemical agents, three modules, 10-hour course. SRU training: 80-hour POST certified basic S.W.A.T. course, 120 hours of annual training, and 24 hours of SWAT update training bi-annually.

**AGENDA ITEM
6D.**

**Approve a Resolution of the Sand City
Successor Agency Authorizing the
Executive Director to Execute a First
Amendment to Professional Services
Agreement Between Sand City Successor
Agency and RSG, Inc.**



City of Sand City Successor Agency

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Vibeke Norgaard, SA Executive Director; Jennifer Pope, Finance Manager
SUBJECT: Amendment to the Contract for Professional Consulting Services Between the Sand City Successor Agency and RSG, Inc.
DATE: December 5, 2023

BACKGROUND/DISCUSSION:

On January 12, 2017, the Sand City Successor Agency entered into a Financial Consulting Services Agreement with HdL Coren & Cone for general financial advisory services to the Successor Agency on general administrative matters including the continuing disclosure/dissemination services for bond issues, as well as work associated with the Successor Agency activities in the winding down of the former Redevelopment Agency, submission of the Recognized Obligation Payment Schedule (ROPS), property tax, assistance in preparing the Comprehensive Annual Report, and other duties as directed by the Executive Director.

On October 27, 2022, HdL Coren & Cone announced that Cheryl Murase, who had assisted the Successor Agency with annual filing requirements of its Recognized Obligation Payment Schedule for the past 5 years, was departing the company and that HdL no longer had the capacity to continue to provide the Successor Agency with financial consulting services.

Staff reached out to Meyers Nave, who recommended RSG, Inc., a firm that is a leader in working with Successor Agencies on the administration of ROPS and working with over 30 successor agencies throughout California. Staff reached out to RSG, Inc., and on November 1, 2022, the Sand City Successor Agency entered into an agreement with RSG, Inc to assist with the preparation of the Recognized Obligation Payment Schedule (ROPS) and general Successor Agency consulting services. Suzy Kim, Director and Project Manager at RSG has extensive knowledge and experience working with Successor Agencies and has provided the City with exceptional service for the past year.

The Professional Services Agreement between the Sand City Successor Agency and RSG, Inc expires on December 31, 2023. Staff recommends extending the agreement to June 30, 2023, and increasing the contract by \$65,000 to cover the additional two and a half years of services.

CEQA:

This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

FISCAL IMPACT:

There is no additional fiscal impact associated with the adoption of the resolution for FY 23/24 as the Successor Agency budget has allocated \$29,000 for Management Consulting Services. The amended contract will increase the cost for services by \$65,000, which will be allocated in the Successor Agency budget over the next three years.

RECOMMENDATION:

Approve the attached Resolution of the Sand City Successor Agency authorizing the Successor Agency Executive Director to execute an amendment to the Professional Services Agreement for Successor Agency Consulting Services for the preparation of the 24/25 and 25/26 ROPS, and PPA.

ATTACHEMENTS:

1. Resolution of the Successor Agency
2. Contract amendment #1
3. Original Professional Services Agreement

**SAND CITY SUCCESSOR AGENCY
RESOLUTION SA 23-___, 2023**

**RESOLUTION OF THE SAND CITY SUCCESSOR AGENCY AUTHORIZING THE
EXECUTIVE DIRECTOR TO EXECUTE A FIRST AMENDMENT TO PROFESSIONAL
SERVICES AGREEMENT BETWEEN SAND CITY SUCCESSOR AGENCY AND RSG,
INC.**

WHEREAS, Sand City Successor Agency and RSG, Inc. agreed with assistance with the preparation of Recognized Obligation Payment Schedule (ROPS) and general Successor Agency consulting on November 1, 2022; and

WHEREAS, the term of the Professional Service Agreement will expire on December 31, 2023, and needs to be extended until June 30, 2026, for general consulting services and for assistance preparing the ROPS for FY 24/25 and 25/26.

NOW, THEREFORE, BE IT RESOLVED that the Sand City Successor Agency does hereby extend the term of the contract with RSG until June 30, 2026 and increases the agreement by an additional \$65,000.

PASSED AND ADOPTED by the Sand City Successor Agency this 5th, day of December 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST:

DATED: _____

Kerry Lindstrom, SA Secretary

AMENDMENT 1

FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SAND CITY SUCCESSOR AGENCY AND RSG, INC.

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this “**Amendment**”), dated December 5, 2023, amending that certain PROFESSIONAL SERVICES AGREEMENT (“**PSA**”) entered into on November 1, 2022 by and between the Sand City Successor Agency, a California municipal corporation (the “**City**”) and RSG, Inc. (“**Consultant**”). The City and the Consultant are each referred to herein as a “**Party**” and collectively referred to as the “**Parties**.”

WHEREAS, the Parties desire to amend the terms of the PSA, as follows:

Section 2. Term is hereby amended in its entirety to read as follows:

Section 2. Term The term of this Agreement shall begin on the date first noted above and shall end on June 30, 2026. Professional shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 10. The time provided to Professional to complete the services required by this Agreement shall not affect the Agency’s right to terminate the Agreement, as provided for in Section 11.

Section 4. Compensation is hereby amended in its entirety to read as follows:

Section 4. Compensation Successor Agency hereby agrees to pay Professional a sum not to exceed \$90,000, notwithstanding any contrary indications that may be contained in Professional’s proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Professional’s proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail.

Except as otherwise expressly set forth in this Amendment, all other terms and conditions of the PSA, including the three prior amendments thereto, remain unchanged and in full force and effect. In the event there is a conflict between the terms and provisions of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

PASSED AND ADOPTED by the City Council of the City of Sand City this 5th, day of December, 2023 by the following vote:

CITY
City of Sand City

CONSULTANT
RSG, Inc

By: _____
Vibeke Norgaard
City Manager/SA Executive Director

By: _____
Jim Simon
Principle

SAND CITY SUCCESSOR AGENCY

RESOLUTION SA _____, 2022

RESOLUTION OF THE SUCCESSOR AGENCY OF THE CITY OF SAND CITY AUTHORIZING THE SUCCESSOR AGENCY EXECUTIVE DIRECTOR TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT WITH RSG, INC.

WHEREAS, the Sand City Successor Agency had contracted with HdL Coren & Cone to provide general financial advisory services to the Agency on general administrative matters including municipal financing, bond disclosures, property tax, filing of the ROPS, and assistance in preparing the Comprehensive Annual Report since 2017, Resolution SA 17-01, but the firm no longer has the capacity to continue those services; and

WHEREAS, RSG, Inc. provides various consulting and financial advisory services to local government organizations and private entities; and

WHEREAS, RSG, Inc. has the necessary experience, technical expertise and four decades of knowledge to provide consulting services for the preparation of the Recognized Obligation Payment Schedule (ROPS) and Prior Period Adjustment (PPA).

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency of the City of Sand City that:

- 1) The Executive Director is authorized and directed to enter into a Professional Services Agreement with RSG, Inc. in substantially the same form as that attached as Exhibit A and as approved by the Agency Attorney for an amount not to exceed \$25,000.
- 2) An additional amount of \$4,000 is authorized for contingencies.
- 3) RSG, Inc. shall maintain a Sand City Business License.

PASSED AND ADOPTED by the Sand City Successor Agency this ____ day of November 2022, by the following votes:

AYES: Agency Members

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Chair
Successor Agency Board

Connie Horca, Secretary
Successor Agency Board

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE SAND CITY SUCCESSOR AGENCY AND RSG, Inc.
(Professional)**

THIS AGREEMENT for consulting services is made by and between the Sand City Successor Agency ("Agency"), and RSG, Inc., ("Professional") as of November 1, 2022.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Professional shall provide to Agency the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

Section 2. TERM. The term of this Agreement shall begin on the date first noted above and shall end on June 30, 2023. Professional shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 10. The time provided to Professional to complete the services required by this Agreement shall not affect the Agency's right to terminate the Agreement, as provided for in Section 11.

Section 3. STANDARD OF PERFORMANCE.

- 3.1 **Standard of Performance.** Professional shall perform all services and prepare all work products required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Professional is engaged in the geographical area in which Professional practices its profession.
- 3.2 **Assignment of Personnel.** Professional shall assign only competent personnel to perform services pursuant to this Agreement. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Professional shall, immediately upon receiving notice from Agency of such desire of Agency, reassign such person or persons.

Section 4. COMPENSATION. Agency hereby agrees to pay Professional a sum not to exceed Twenty-five thousand dollars (\$25,000), notwithstanding any contrary indications that may be contained in Professional's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Professional's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail.

Professional and Agency acknowledge and agree that compensation paid by Agency to Professional under this Agreement is based upon Professional's costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Professional. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Professional and its employees, agents, and subcontractors may be eligible. Agency therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 4.1 Invoices.** Professional shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date, which describe the work performed by Professional. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Professional.
- 4.4 Reimbursable Expenses.** Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 4.5 Payment upon Termination.** In the event that the Agency or Professional terminates this Agreement pursuant to Section 10, the Agency shall compensate the Professional for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Professional shall maintain adequate logs and timesheets in order to verify costs incurred to that date.
- 4.6 Authorization to Perform Services.** The Professional is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 5. FACILITIES AND EQUIPMENT. Except as set forth herein, Professional shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. Agency shall make available to Professional only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

Section 6. INSURANCE REQUIREMENTS. Professional shall comply with the insurance requirements contained in Exhibit B and shall procure, at its own cost and expense all insurance coverages listed in Exhibit B before beginning any work under this Agreement.

Section 7. INDEMNIFICATION.

- 7.1 General Requirement.** Professional shall indemnify, defend with counsel selected by the Agency, and hold harmless the Agency and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Professional or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Professional shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the Agency or its officers, employees, agents, or volunteers and (2) the actions of Professional or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Professional to

indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by Agency of insurance certificates and endorsements required under this Agreement does not relieve Professional from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Professional acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

7.2 PERS Indemnification. In the event that Professional or any employee, agent, or subcontractor of Professional providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of Agency, Professional shall indemnify, defend, and hold harmless Agency for the payment of any and all employee and/or employer contributions for PERS benefits on behalf of Professional or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency, and any attorneys' fees and costs incurred by the Agency to enforce this Section.

7.3 Design Professional. Notwithstanding Section 8.1 and 8.2, to the extent that the services under this Agreement include design professional services subject to California Civil Code Section 2782.8, as may be amended from time to time, Professional's duty to indemnify shall only be to the maximum extent permitted by California Civil Code Section 2782.8.

Section 8. STATUS OF PROFESSIONAL.

8.1 Independent Contractor. At all times during the term of this Agreement, Professional shall be an independent contractor as defined in Labor Code Section 3353, and shall not be an employee of the Agency. Nothing contained in this Agreement shall be construed to be inconsistent with the foregoing relationship or status. Agency shall have the right to control Professional only insofar as the results of Professional's services rendered pursuant to this Agreement; however, otherwise Agency shall not have the right to control the means and methods by which Professional accomplishes services rendered pursuant to this Agreement. Professional shall have no power or authority by this Agreement to bind the Agency in any respect. All employees and agents hired or retained by Professional are employees and agents of Professional and not of the Agency. The Agency shall not be obligated in any way to pay any wage claims or other claims made against Professional by any such employees or agents, or any other person resulting from performance of this Agreement.

Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Professional and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in

PERS as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits. Professional shall not allow any employee, agent or subcontractor to become eligible for a claim for PERS benefits.

- 8.2 **Professional Not an Agent.** Except as Agency may specify in writing, Professional shall have no authority, express or implied, to act on behalf of Agency in any capacity. Professional shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

Section 9. LEGAL REQUIREMENTS.

- 9.1 **Governing Law.** The laws of the State of California shall govern this Agreement. Any legal action filed by the Parties with respect to this Agreement shall be filed in Monterey County, California.
- 9.2 **Compliance with Applicable Laws.** Professional and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder. Professional's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 9.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Professional and any subcontractors shall comply with all applicable rules and regulations to which Agency is bound by the terms of such fiscal assistance program.
- 9.4 **Licenses and Permits.** Professional represents and warrants to Agency that Professional and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Professional represents and warrants to Agency that Professional and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Professional and any subcontractors shall obtain and maintain a valid Business License from Agency during the term of this Agreement.
- 9.5 **Nondiscrimination and Equal Opportunity.** Professional shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Professional under this Agreement. Professional shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this

Agreement, including but not limited to the satisfaction of any positive obligations required of Professional thereby. Professional shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 10. TERMINATION AND MODIFICATION.

- 10.1 Termination.** Agency may cancel this Agreement at any time and without cause upon written notification to Professional. Professional may cancel this Agreement upon sixty (60) days' written notice to Agency and shall include in such notice the reasons for cancellation. In the event of termination, Professional shall be entitled to compensation for services performed to the effective date of termination; Agency, however, may condition payment of such compensation upon Professional delivering to Agency any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Professional or prepared by or for Professional or the Agency in connection with this Agreement.
- 10.2. Extension.** Agency may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Section 2. Any such extension shall require a written amendment to this Agreement, as provided for herein. Professional understands and agrees that, if Agency grants such an extension, Agency shall have no obligation to provide Professional with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, Agency shall have no obligation to reimburse Professional for any otherwise reimbursable expenses incurred during the extension period.
- 10.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 10.4 Assignment and Subcontracting.** Agency and Professional recognize and agree that this Agreement contemplates personal performance by Professional and is based upon a determination of Professional's unique personal competence, experience, and specialized personal knowledge. Professional may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Professional shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 10.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Professional shall survive the termination of this Agreement.
- 10.6 Options upon Breach by Professional.** If Professional materially breaches any of the terms of this Agreement, Agency's remedies shall include, but not be limited to, the following:

- 10.6.1 Immediately terminate the Agreement;
- 10.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Professional pursuant to this Agreement;
- 10.6.3 Retain a different Professional to complete the work described in Exhibit A not finished by Professional; or
- 10.6.4 Charge Professional the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that Agency would have paid Professional pursuant to Section 4 if Professional had completed the work.

Section 11. KEEPING AND STATUS OF RECORDS.

- 11.1 **Records Created as Part of Professional's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Professional prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Professional hereby agrees to deliver those documents to the Agency upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the Agency and are not necessarily suitable for any future or other use. Agency and Professional agree that, until final approval by Agency, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 11.2 **Professional's Books and Records.** Professional shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Professional pursuant to this Agreement.
- 11.3 **Inspection and Audit of Records.** Any records or documents that Section 11.2 of this Agreement requires Professional to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency.

Section 12 MISCELLANEOUS PROVISIONS.

- 12.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which

that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 12.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Monterey or in the United States District Court for the Central District of California.
- 12.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 12.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 12.6 Conflict of Interest.** Professional may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Professional in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Professional shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- Professional hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the Agency. If Professional was an employee, agent, appointee, or official of the Agency in the previous twelve months, Professional warrants that it did not participate in any manner in the forming of this Agreement. Professional understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Professional will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Professional will be required to reimburse the Agency for any sums paid to the Professional. Professional understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code §1090 and, if applicable, will be disqualified from holding public office in the State of California.
- 12.7 Solicitation.** Professional agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

12.8 Contract Administration. This Agreement shall be administered by the Successor Agency Executive Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

12.9 Notices. Any written notice to Professional shall be sent to:

RSG, Inc.

[Redacted]

Any written notice to Agency shall be sent to:

Vibeke Norgaard,

City Manager/Successor Agency Executive Director,

Connie Horca,

City Clerk/Successor Agency Secretary

1 Pendergrass Way,

Sand City, CA 93955

12.10 Professional Seal. Where applicable in the determination of the contract administrator or when required by law, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

12.11 Integration. This Agreement, including the scope of work and compensation schedule attached hereto and incorporated herein as Exhibit A, and the insurance requirements attached hereto and incorporated herein as Exhibit B represents the entire and integrated agreement between Agency and Professional and supersedes all prior negotiations, representations, or agreements, either written or oral.

12.12 IRS Form W-9. Professional shall complete and submit Internal Revenue Service Form W-9 to the Agency before execution of this Agreement. The Agency's Finance Director shall have authority to waive this requirement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above, which date shall be considered by the Parties to be the effective date of this Agreement.

AGENCY OF SAND AGENCY

PROFESSIONAL

Vibeke Norgaard,
Successor Agency Executive Director

Date: _____

Date: _____

Attest:

Connie Horca, Agency Secretary/City Clerk

Date: _____

Approved as to Form:

Adam Lindgren, Agency Attorney

Date: _____

EXHIBIT A
CONSULTANTS PROPOSAL

November 7, 2022

Via Electronic Mail

Vibeke Norgaard, City Manager
Devon Lazzarino, Finance/HR Specialist
CITY OF SAND CITY / SAND CITY SUCCESSOR AGENCY
1 Pendergrass Way
Sand City, CA 93955

PROPOSAL — SUCCESSOR AGENCY CONSULTING SERVICES (ROPS 23-24 and PPA 21-22)

Dear Ms. Norgaard and Ms. Lazzarino:

RSG, Inc. ("RSG") is pleased to present this proposal to the City of Sand City ("City") and Sand City Successor Agency ("Successor Agency") to assist with the preparation of the Recognized Obligation Payment Schedule ("ROPS") and general Successor Agency consulting services.

RSG began as one of the most recognized experts in redevelopment until its dissolution in 2012. Today, RSG remains a leader working with successor agencies on the administration of ROPS and Long Range Property Management Plan ("LRPMP") disposition. Today we work for 30 successor agencies in California, which we believe is the most of any professional firm. In this capacity, we do everything from conduct cash balance audits, prepare Prior Period Adjustment forms, ROPS, ROPS amendments, meet and confer requests, and even serving as technical advisor on successor agency litigation against the state and on legislation to improve the Dissolution Act. We have fought on behalf of successor agencies against the state and been largely successful, resulting in clients getting more ROPS obligations approved and funded.

RSG has also served as fiscal consultant for over a dozen bond refundings in the past several years for successor agencies, resulting in savings and more benefits accruing to the cities and other taxing agencies.

Should you wish to discuss any of the information presented or how RSG can assist the City, I may be contacted directly over email at jsimon@webrsg.com or by phone at (714) 316-2120. Suzy Kim, Director and Project Manager, may also be contacted at skim@webrsg.com or (714) 316-2116.

Vibeke Norgaard and Devon Lazzarino
CITY OF SAND CITY
November 7, 2022
Page 2

If you wish to proceed, please e-mail a scanned a copy of this letter signed and dated below or send a contract in the City's preferred format.

Respectfully,

A handwritten signature in black ink, appearing to read "Jim Simon", enclosed in a rectangular box.

Jim Simon, Principal

A handwritten signature in black ink, appearing to read "Suzy Kim", enclosed in a rectangular box.

Suzy Kim, Director

APPROVED AND AUTHORIZED TO PROCEED:

Signature: _____

Printed
Name: _____

Title: _____

Date: _____

SCOPE OF WORK

Task 1: Annual ROPS 23-24 and Administrative Budget

The Successor Agency must submit an Annual ROPS to the Countywide Oversight Board ("Oversight Board") and California Department of Finance ("DOF"). RSG will assist the Successor Agency in completing the ROPS 23-24 that is due February 1, 2023 and responding to Oversight Board and DOF inquiries. Should the Successor Agency dispute DOF's ROPS determination, RSG will assist in drafting a Meet and Confer request and is available to attend the meeting. The Successor Agency is allowed to amend the ROPS once during the Annual ROPS period. RSG can assist the Successor Agency if this need arises.

The Successor Agency must submit an annual administrative budget supporting the use of the annual administrative allowance permitted by law. RSG will assist in preparing the annual administrative budget for fiscal year 2023-24, which will be submitted along with the ROPS.

Task 2: Prior Period Adjustment 21-22

A Prior Period Adjustment ("PPA") reporting the difference between payment amounts approved on the ROPS and actual payments is due by October 1 annually. RSG will assist with the PPA report of fiscal year 2021-22 expenses that is due October 1, 2023. This includes assisting the Successor Agency with providing any information requested by the County Auditor-Controller.

Task 3: Attend Meetings as Necessary

RSG will make a staff member available to the Successor Agency should they need assistance at Successor Agency, Oversight Board, or DOF meetings. The proposed Fee Schedule accounts for one virtual Successor Agency Board (City Council) meeting, one in-person Countywide Oversight Board meeting, and one virtual meeting with DOF.

Task 4: RPTTF Distribution Review

RSG will review the County Auditor-Controller's January and June Redevelopment Property Tax Trust Fund ("RPTTF") distribution reports to ensure accuracy, including a review of the City shares of pass-through and Residual RPTTF payments that go to the City General Fund.

Task 5: Additional Administrative Services as Needed

RSG will assist the Successor Agency with any additional administrative tasks as they arise and respond to general inquiries from DOF and other interested parties. This may include assistance with the Oversight Board and DOF's review of City loans to the former redevelopment agency or Successor Agency, including making a finding of legitimacy. RSG can also advise on and assist with LRPMP property disposition and navigating Surplus Land Act requirements.

Task 5 shall be billed on a time and materials basis pursuant to RSG's fee schedule, up to the negotiated contract amount. Should additional services be necessary that exceed the contract budget, RSG will seek staff's advance authorization and may require a contract amendment.

FEE SCHEDULE

RSG will complete consulting services on a time-and-materials basis, with a not to exceed amount of **\$25,000**. Should services be necessary that exceed the contract budget, such as assistance with City loan disputes or complex cash balance reconciliation issues, RSG will seek staff's advance authorization and may require a contract amendment.

Our Billing Rates are as follows:

Principal / Director	\$ 275
Senior Associate	\$ 200
Associate	\$ 185
Senior Analyst	\$ 150
Analyst	\$ 135
Research Assistant	\$ 125
Technician	\$ 80
Clerical	\$ 60

Reimbursable Expenses	Cost plus 10%
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RSG does not charge clients for travel or mileage (except direct costs related to field work/surveys), parking, standard telephone/fax expenses, general postage, or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs and teleconferencing services. We also charge for copies of reports, documents, notices, and support material more than five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended and the hourly rate.

COMPANY INFORMATION

RSG is a creatively charged counterpart to the State of California ("State") public agencies. We work with the people responsible for creating vibrant places to accomplish their goals. The inspired leaders at RSG create stronger communities capable of achieving bolder futures by bringing four decades of native knowledge to each engagement. As diverse as the agencies we work with, our services span economic development, real estate, fiscal health, and housing initiatives.

RSG is a State-based, Subchapter "S" corporation. Founded in 1979, the firm provides a wide array of community development consulting services to local government organizations and private entities. The firm is managed by principals Jim Simon and Tara Matthews. Our corporate headquarters are in Irvine, with additional offices in Vista and Berkeley.

RSG's federal taxpayer identification number is 95-343-5849 and state taxpayer identification number is 27600915. **RSG is also a State certified Small Business Enterprise (SBE - 2006876 DGS).**

MISSION STATEMENT

RSG creates solutions to enhance communities' physical, economic, and social future.

CORE VALUES

Our core values define who we are as people and the standards by which we provide service to our clients.



FIRM EXPERIENCE

For RSG, Fiscal Health is about more than just numbers – it's about community livelihood. Think of fiscal health as the oxygen of a community. A local government with a robust fiscal health is able to fully function to meet the needs of its residents and businesses, while on struggling must meet the same demands but with limited capability.

Either way, RSG strives to add clarity when performing our fiscal health services. Our staff recognizes value in presenting financial data that is not only accurate, but insightful to decision makers, be they investors in municipal financings, elected officials weighing the consequences in the policy choices available, or the public seeking transparency in a complex manner in which local services are funded.

Communities need to be served by their local government as this is not just a luxury, it is a right. Having worked with a variety of communities, we see those that suffer from a lack of resources strive to rise above their circumstances and find resolution. Underprivileged cities lack the financial resources required to help build and sustain communities capable of offering their residents amenities like municipal services, senior services, economic development programs and affordable housing, among other basic needs. Through our fiscal health services, we strive to pave the way for those communities and help them obtain access to the same services as communities who do not face those same struggles. Our overall goal is to help empower Cities by providing them with the tools they need to help their communities thrive and have access to the resources needed to secure sustainability and quality of life.

EFFECTIVE REDEVELOPMENT DISSOLUTION

With our extensive and deep background in redevelopment, RSG is proud that we are trusted advisors to more successor agencies than any other firm in the state. In this capacity, we work as an efficient extension of staff, providing technical, management, and administrative services. This includes preparation of PPAs and ROPS, as well as staff reports, resolutions, cash flow statements, and presentation material. We often present these items to decision makers on behalf of clients, making the burdensome and often confusing process easier on a finance department. In addition to efficiency, we also offer a wide variety of expertise in working with so many agencies enabling RSG to provide insights and suggestions to meeting a successor agency's specific and often unique needs effectively.

HELPING SECURE FINANCING

Often as an extension of our expertise with tax increment financing and successor agencies, RSG performs fiscal consulting and continuing disclosure services for many of our clients. Since 1979, RSG has served as an independent fiscal consultant on over 235 tax allocation bonds and similar financings, representing over \$5.8 billion in debt issued or refunded.

As one of our founders Kathy Rosenow once said, "Anyone with a computer can prepare revenue projections". We are experienced in preparing tax increment revenue projections that delineate taxing agency payments, administrative costs, project funds, and bonding capacity. RSG knows the nuances and importance of each assumption and variable. That can make a big difference when it comes to sizing a bond and getting the best interest rate and reducing costs of issuance.

After bonds are issued, RSG prepares continuing disclosure reports on behalf of our clients. Given our familiarity with the underlying data sources and required components, RSG can cost effectively ensure compliance with your financial reporting requirements. RSG also acts as a Dissemination Agent, posting the Annual Report for the FY and if needed, filing a notice of significant events to the Electronic Municipal Market Access database.

STUDYING FISCAL IMPACTS

Fiscal stability is one of the key drivers for revenue and expenses available to communities. The road to achieving financial efficiency often starts with fiscal impact analysis and forecasting, be it for a city, a department or division, or a specific development project. RSG's financial projection services have been used to develop long-range fiscal studies to ensure that the General Plan build out is economically feasible, develop short-and-long range budget forecasts, and develop program strategies.

Fiscal impact analyses are used to inform communities about the implications of discretionary approvals of development proposals, provide a data-driven foundation for incentivizing investment when necessary, as well as empower decision makers to have a basis for community benefit negotiations, often needed more than ever to mitigate gentrification risks. Our models allow the public and private sector to collaborate on viable solutions where needed beyond the ribbon cutting.

EXPANDING FINANCIAL CAPACITY

Because not all communities enjoy the benefits of a robust economy all the time, RSG is asked to assist in finding new sources of financing for projects and entice more private investment into communities. RSG can also identify potential financing and funding sources for various projects and programs that need to be implemented. These activities include identifying and researching the feasibility of obtaining grants, creating programs and incentives for local investment, and negotiating and devising public-private partnerships.

Finally, RSG helps our clients understand today's "alphabet soup" of tax increment financing options: EIFD, CRIA, AHA, NIFTI, and others to ascertain which of these is right for your community. We prepare feasibility studies to estimate the potential capacity, costs, and benefits, while showcasing the need for critical partnerships with other taxing agencies to make these resources more bountiful. We draw upon our 4 decades of experience in tax increment financing plus expertise in the current financing tools to help you decide which of these may best fit your communities' needs.

PREPARING MUNICIPAL SERVICE REVIEWS AND SPECIAL STUDIES

RSG has provided cutting-edge solutions for local government agencies, including outsourcing, shared service studies, and long-range fiscal planning. We have helped LAFCOs develop policies for island annexations and have worked with cities on crafting a viable path in delivering services to areas in their sphere of influence. We have helped cities understand how they need to restructure the services they deliver, and the manner in which they evaluate how they will take discretionary actions in the future. With our assistance, our clients have been able to instill more fiscal discipline at all levels of their organization, become more effective, and have staff engaged in identifying solutions that meet the strategic needs of their community.

Throughout various project engagements, we have both participated in and observed how MSRs have unfolded, including changes to the MSR statute and how LAFCOs have implemented MSRs in a variety of manners. In some situations, a lack of growth pressure or lack of significant changes in service levels do not warrant an extensive review and a “checklist” approach is sufficient to reaffirm an existing SOI. In other situations, a comprehensive, in-depth analysis of demographic trends, financial data, infrastructure capacity/conditions, rate structures, service extension barriers for “disadvantaged unincorporated communities,” and shared service delivery alternatives is warranted to lay the groundwork for SOI updates and/or imminent changes of (re)organization. And in other situations, there may be a political minefield and the MSR is a necessary tool that allows LAFCO to play independent facilitator and evaluator and bring parties together around common data and agreement points.

EVALUATING REORGANIZATION, ANNEXATION OR INCORPORATION PROPOSALS

Occasionally, how communities deliver services goes beyond the capacity of the agencies responsible for those services today, and local government and LAFCOs engage RSG to assist in the independent review of the fiscal and operational implications of proposals to annex, incorporate or reorganize local agencies. RSG has significant experience in providing extensive analysis of the potential municipal impacts associated with annexation and reorganization. RSG first seeks to understand the merits of the primary assumptions behind the prospect. Second, RSG reviews the major cost areas that are not a revenue offset, outlining more realistic approaches to projecting these costs. We conclude the study with final suggestions obtained from conducting a preliminary review of the costs and benefits associated with annexing or reorganizing.

RSG’s work products have led to many successful changes in local agency organization and withstood scrutiny of the public, decision makers, and even the State Controller.

CURRENT LIST OF RSG’S SUCCESSOR AGENCY CLIENTS (AS OF NOVEMBER 2022)

Apple Valley	Fountain Valley	Pleasant Hill
Atwater	Hemet	Port Hueneme
Avalon	Hercules	Ridgecrest
Camarillo	Hesperia	San Carlos
Carson	Irwindale	San Joaquin
Chula Vista	Murrieta	San Juan Capistrano
Cloverdale	Orange Cove	San Pablo
Coalinga	Oroville	South Gate
El Monte	Parlier	South San Francisco
Firebaugh	Pico Rivera	Tulare (City)

PERSONNEL EXPERIENCE

The staff at RSG strives to be trusted advisors to our clients, providing them with essential data and guidance. At the root of our services is the innate desire of our staff members to seek answers, and in every engagement, our clients' questions become our own. What should we do? How do we get there? What is best for our community? Our staff's problem-solving skills are products of training and experience, but it is also our tenacious desire to unearth practical solutions that pervades our corporate conscience.

RSG dedicates a Principal to each project assignment and creates a core group of project managers and staff who work on the individual assignments on a consistent basis throughout all stages of the contract engagement. Our staff is focused, committed, and passionate about the work we do. We conduct our engagements around our Core Values and are proud of it. We pride ourselves on our ability to appropriately allocate our time and resources to ensure that a project is completed on time and within budget.

This engagement would be led by Jim Simon, Principal-in-Charge. Jim would be assisted by Suzy Kim, Director and Project Manager. Ms. Kim manages RSG's Successor Agency product line and has personally overseen ROPS preparation for over 15 clients since dissolution. Additional RSG staff may be assigned as needed. Resumes are included on the following pages.



JIM SIMON

Principal & President

714.316.2120
jsimon@webrsg.com

PROFILE

"With determination and imagination, I serve myself and others to discover our capacity for what is possible by designing solutions for a complex world so we can cherish and nurture our communities."

OUT & ABOUT

CALED 40 at 40 Honoree for contributions to California Economic Development

Co-Chair, CALED EDFRE Technical Committee

Member, CALED Legislative Committee

"Business Retention and Attraction" – Advanced Certification Program Instructor (CALED)

"Community Economic Development" – Keys Program

Housing California

ABOUT JIM

Inspired to improve the Golden State in his work, Jim delivers intelligence, innovation, and passion to projects requiring his unparalleled expertise in fiscal health, real estate, and economic development. For over 30 years, Jim is proud to have led projects that have resulted in the investment of over \$10 billion in private and public capital, transforming cities and communities across California. As President of RSG, Jim is helping to shape the next generation of the firm's legacy - leading RSG's team of inspired, creative and insightful consultants that serve over 100 communities each year.

EDUCATION

Jim joined RSG in 1991 and has served as a Principal and shareholder since 2001. He received a BA in Business Administration with a concentration in entrepreneurial management from California State University, Fullerton.

In 2014, Jim was selected as an Advisory Board member of the California Association for Local Economic Development, where he serves as Co-Chair of CALED's Economic Development, Real Estate and Finance technical committee. Jim is also an Advisory member of the Legislative Committee for the California Association of LAFCOs (CALAFCO), and active in other professional organizations including NAIOP, ICSC, NPH, and SCANPH.

RECENT ENGAGEMENTS

Evaluated development proposals for the acquisition and development on behalf of the City and County of Los Angeles for the mixed used, mixed income redevelopment of the West LA Courthouse and Civic Center.

Negotiated terms and conditions for the redevelopment of affordable housing infill projects in South Gate, Pleasant Hill, Goleta, and San Carlos.

Led acquisition, financing, and redevelopment of a 4-acre Brownfield in San Carlos resulting in development of a 200-room upper midscale hotel and a 120% internal rate of return on the City's investment.

Oversaw acquisition and disposition of housing authority and housing successor assets in South Gate, including the surplus land act purchase of a 1 acre site from the LA County Office of Education.





SUZY KIM

Director

714.316.2116
skim@webrsg.com

PROFILE

"I value the close relationships I develop with clients while creating solutions driven by a genuine interest in improving our communities."

OUT & ABOUT

California Community
Economic Development
Association

Association of California Cities
Orange County (ACCOC)

Orange County Business
Council

California Association for
Local Economic Development

Non-Profit Housing
Association of Northern
California

Housing California

San Diego Housing Federation

ABOUT SUZY

Since joining RSG in 2006, Suzy has collaborated with over 80 jurisdictions throughout California, from rural unincorporated areas to large coastal cities. She has a broad range of expertise; her work ranges from creating economic development strategies, implementing loan programs to assist low-income homeowners, underwriting affordable housing financing requests, marketing City properties to meet placemaking goals, and monitoring the fiscal health of public funds.

Suzy is a talented project manager who prides herself on producing quality work for clients that responds to the unique needs of each project. She challenges herself to constantly evolve and learn from the diverse range of projects we have the privilege of working on at RSG.

EDUCATION

Suzy joined RSG in 2006. She received a dual BA in Sociology and Asian American Studies from Scripps College, and a Master of Urban and Regional Planning from the University of California, Irvine. Suzy anchors RSG's Berkeley office and has worked from the Bay Area since 2009.

RECENT ENGAGEMENTS

Lead property disposition efforts for Merced, Pinole, Pleasant Hill, and Tulare city-owned properties subject to surplus lands, housing successor, and redevelopment dissolution requirements. Advised on navigating multiple complex legal requirements while listing properties for sale, soliciting offers, and negotiating sales agreements.

Served as Fiscal Consultant for bond refundings throughout California, most recently in Hercules, Galt, and Apple Valley.

Has consulted over 15 successor agencies throughout California with redevelopment dissolution activities. Prepares ROPS, administrative budgets, cash flow projections, and property disposition documents. Regularly consults with State, County, and taxing agencies on behalf of Successor Agencies and Oversight Boards.

Served as a technical expert on legislative efforts involving successor agencies. Have drafted legislation and participated in committee hearings for bills on behalf of the Cities of Hercules, South San Francisco, and San Joaquin.



RELEVANT PROJECT DESCRIPTIONS AND REFERENCES

CITY LOAN REPAYMENT AND SUCCESSOR AGENCY SERVICES – SAN PABLO SUCCESSOR AGENCY

In 2021, RSG was retained by the City of San Pablo Successor Agency to prepare an analysis requested by the Department of Finance in an effort to appeal to the DOF's rejection of a \$1.9 million city advance for incorrect determinations on past ROPS by the DOF. In reviewing ROPS 21-22, DOF denied the Successor Agency's loan repayment, which set the stage for a new attempt for ROPS 22-23.

The Successor Agency has 27 separate funds and RSG had to go back and analyze trial balances, DOF determinations, RPTTF records, and other information in order to trace the reason(s) for the loan. This led to RSG reaching the conclusion that the DOF itself was at fault and provided documentation to support this. Despite the facts provided, the DOF initially denied the loan during their initial review in April 2022, which led to RSG drafting and leading the discussion in the meet and confer in which we reiterated the position of the Successor Agency and facts of the matter. In May 2022, the Successor Agency received approval for this funding and the loan will be repaid beginning on ROPS 22-23.

During this process, RSG also assisted the Successor Agency with the PPA for 19-20 and preparation of the ROPS itself. RSG is now under contract with the Successor Agency to take over administration of the ROPS beginning in 2022-23.

Contact: Norm Veloso, Director of Finance
(510) 215-3021 / normanv@sanpabloca.gov

CITY LOAN REPAYMENT LITIGATION/LEGISLATION AND SUCCESSOR AGENCY SERVICES – HERCULES SUCCESSOR AGENCY

The Hercules Successor Agency engaged RSG in 2016 to assist with a dispute over the repayment of a 2011 City advance that was made to avoid defaulting on redevelopment agency bonds. RSG reviewed documents to trace agency financial activity, responded to DOF inquiries on a Due Diligence Review, and managed the meet and confer process. DOF ultimately denied repayment of the City advance. Hercules filed litigation against DOF and later negotiated a settlement agreement. The City was eventually repaid through special legislation that made a one-time State Budget allocation to offset the lost revenues resulting from DOF's denial. RSG assisted with the litigation and legislative efforts with State Senator Nancy Skinner and Assemblymember Buffy Wicks.

Contact: Edwin Gato, Finance Director
(510) 799-8222 / egato@ci.hercules.ca.us

SUCCESSOR AGENCY ADMINISTRATIVE SERVICES – SOUTH SAN FRANCISCO SUCCESSOR AGENCY

RSG has provided the South San Francisco Successor Agency with post-redevelopment administrative and financial support services since 2018. Services include preparation of the PPA, the annual ROPS, and the Amended ROPS when needed. As part of these activities, RSG reviews cash balances and prior year payments of enforceable obligations, prepares the administrative budget, prepares staff reports and resolutions for meetings, and coordinates with the Countywide Oversight Board, County Auditor-Controller, and the Department of Finance with respect to review and inquiries regarding these documents.

South San Francisco's primary enforceable obligation is a complex Disposition and Development Agreement (DDA) to redevelop a former landfill with a life science complex and public open space. RSG coordinates with the City Manager, Economic and Community Development Director, Public Works Director, Finance Director, and consultants to determine construction costs eligible for payment on the ROPS. The cash balance form accounts for a special escrow account used to pay DDA-related costs.

Contact: Nell Selander, Director of Economic and Community Development
 (650) 829-6613 / nell.selander@ssf.net

EXHIBIT B

Insurance Requirements

Before beginning any work under this Agreement, Professional, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Professional and its agents, representatives, employees, and subcontractors. Professional shall provide proof satisfactory to Agency of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the Agency. Professional shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Professional's bid. Professional shall not allow any subcontractor to commence work on any subcontract until Professional has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to Agency. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Professional shall maintain all required insurance listed herein for the duration of this Agreement.

1. **Workers' Compensation.** Professional shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Professional. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Professional may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Professional, if a program of self-insurance is provided, shall waive all rights of subrogation against the Agency and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency. Professional shall notify Agency within fourteen (14) days of notification from Professional's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

The requirement to maintain Statutory Worker's Compensation and Employer's Liability Insurance may be waived by the Agency upon written verification that Professional does not have any employees.

2. **Commercial General and Automobile Liability Insurance.**

- 2.1 **General requirements.** Professional, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION

DOLLARS (\$1,000,000.00). The commercial general liability and automobile liability insurance shall be per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a commercial general liability insurance or an automobile liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

2.2 Minimum scope of coverage. Commercial general liability coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an “occurrence” basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. Agency and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Professional, including the insured’s general supervision of Professional; products and completed operations of Professional; premises owned, occupied, or used by Professional; and automobiles owned, leased, or used by the Professional. The coverage shall contain no special limitations on the scope of protection afforded to Agency or its officers, employees, agents, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the Agency and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the Agency shall be called upon to contribute to a loss under the coverage.
- d. Any failure of Professional to comply with reporting provisions of the policy shall not affect coverage provided to Agency and its officers, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be canceled except after thirty (30) days’ prior written notice by certified mail, return receipt

requested, has been given to the Agency. Professional shall notify Agency within fourteen (14) days of notification from Professional's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

3. **Professional Liability Insurance.** Professional, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.
 - 3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.
 - 3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.
 - 3.3 The following provisions shall apply if the professional liability coverages are written on a claims-made form:
 - a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
 - c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Professional must provide extended reporting coverage for a minimum of five (5) years after completion of the Agreement or the work. The Agency shall have the right to exercise, at the Professional's sole cost and expense, any extended reporting provisions of the policy, if the Professional cancels or does not renew the coverage.
 - d. A copy of the claim reporting requirements must be submitted to the Agency prior to the commencement of any work under this Agreement.
4. **All Policies Requirements.**
 - 4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
 - 4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Professional shall furnish Agency with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized

by that insurer to bind coverage on its behalf. The Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

4.3 Subcontractors. Professional shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4 Deductibles and Self-Insured Retentions. Professional shall disclose to and obtain the approval of Agency for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Professional may increase such deductibles or self-insured retentions with respect to Agency, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Professional procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

4.5 Waiver of Subrogation. Professional hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Professional, its employees, agents, and subcontractors.

4.6 Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Professional shall provide written notice to Agency at Professional's earliest possible opportunity and in no case later than five (5) days after Professional is notified of the change in coverage.

5. Remedies. In addition to any other remedies Agency may have if Professional fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Agency may, at its sole option exercise any of the following remedies, which are alternatives to other remedies Agency may have and are not the exclusive remedy for Professional's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Professional to stop work under this Agreement or withhold any payment that becomes due to Professional hereunder, or both stop work and withhold any payment, until Professional demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Request for Taxpayer Identification Number and Certification

Give form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership ☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ----- ☐ Exempt payee ☐ Other (see instructions) ▶	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

²However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ¹
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ²
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see Special rules for partnerships on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

5189021.1

**AGENDA ITEM
8A.**

Monterey-Salinas Transit Update

**AGENDA ITEM
9A.**

**First Reading of an Ordinance Granting to
the California-American Water Company a
Determinate Franchise to Construct,
Maintain and Use Pipes and
Appurtenances, Necessary or Proper for
Transmitting Water Under, Along, Across
or Upon the Public Streets Within the City
of Sand City**



City of Sand City

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Vibeke Norgaard, City Manager
SUBJECT: Hearing on Protests and Ordinance Granting Water Franchise to California-American Water Company
DATE: December 5, 2023

BACKGROUND/DISCUSSION:

The California-American Water Company ("Cal Am") is a Class A public utility water and wastewater company regulated by the California Public Utilities Commission ("Commission"). California American Water's service area as approved by the Commission includes customers residing the City's boundaries.

On October 25, 2023, Cal Am applied for franchise to provide water utility service to customers residing within the Sand City, consistent with California American Water's service area as approved and may be amended from time to time by the Commission.

On November 7, 2023, the City Council adopted a resolution of intent to grant a water franchise to Cal Am and set a hearing for December 5, 2023 in accordance with Public Utilities Code Section 6232 where all persons having an objection to the granting of a water franchise to the California American Water may appear before the City Council and be heard.

On November 17, 2023 the City Clerk caused to be published notice of the hearing once in at least one newspaper of general circulation within the City in accordance with the provisions of Public Utilities Code Section 6233.

As of the date of this staff report, the City has not received any signed protest stating objections against the granting of the franchise. If the City Clerk receives any written protests by the time of the hearing, the Council must hear such protests.

If no protests are received or, if after conducting the hearing, Council determines any protests to be insufficient, or overrules/denies them, then it can grant the franchise by adopting the ordinance.

The ordinance would grant Cal Am a water franchise for a 25-year period with additional 25-year renewal periods. It would require Cal Am to pay franchise fees in accordance with Public Utilities Code Section 6231 totaling 2% of the its gross annual receipts arising from the use, operation or possession of the franchise, except that this payment shall be not less than 1% of the gross annual receipts from the sale of water within the limits of the City.

CEQA:

This action does not constitute a "project" for purposes of the California Environmental Quality Act (Pub. Resources Code, § 21000 *et. seq.*) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*). Even if this action constituted a

“project” for purposes of CEQA, the project would be exempt from environmental review under State CEQA Guidelines section 15301 (Existing Facilities), 15320 (Organization of Local Agencies), and 15061(b)(3), which exempts projects for which it can be seen with certainty will not result in significant environmental impacts and none of the exceptions found in State CEQA Guidelines section 15300.2 exist.

FISCAL IMPACT:

Negative impact; City would receive increased revenue in the form of franchise fees (2% of gross annual receipts from use of franchise).

RECOMMENDATIONS:

1. Open the hearing, receive and consider protests to grant of franchise, if any, and close the hearing.
2. Motion to waive reading in full and read the ordinance by title only.
3. Motion to introduce the attached ordinance.

ATTACHMENTS:

1. Ordinance Granting Water Franchise to Cal Am

**CITY OF SAND CITY
ORDINANCE NO. SC 23-____, 2023**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAND CITY GRANTING
TO THE CALIFORNIA-AMERICAN WATER COMPANY A DETERMINATE
FRANCHISE TO CONSTRUCT, MAINTAIN AND USE PIPES AND
APPURTENANCES, NECESSARY OR PROPER FOR TRANSMITTING WATER
UNDER, ALONG, ACROSS OR UPON THE PUBLIC STREETS WITHIN THE CITY
OF SAND CITY**

**THE CITY COUNCIL OF THE CITY OF SAND CITY DOES ORDAIN AS
FOLLOWS:**

Section 1. Definitions. Whenever in this ordinance the words or phrases defined in this section are used, they shall have the respective meanings assigned to them in the following definitions:

(a) "City" means the City of Sand City, a California municipal corporation, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

(b) "Construct, maintain and use" means to lay, construct, erect, install, operate, maintain, use, repair, modify or replace.

(c) "Day" means a calendar day.

(d) "Grantee" means the California-American Water Company, a California Corporation, and its lawful successors or assigns.

(e) "Franchise" means the rights and privileges described in this ordinance.

(g) "Pipes and appurtenances" means pipe, pipelines, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, ditch, flume, appliance, attachment, appurtenance and any other property located or to be located in, upon, along, across, under or over the streets of the City, and used or useful in transmitting and distributing water; provided, however, that nothing in this franchise grants the right to use any of the foregoing facilities for any purpose other than the transmission or distribution of water. The term "facilities" may hereafter be used for convenience to refer to "pipes and appurtenances."

(h) "Public streets" means the public streets, ways, alleys and places as they may now or hereafter exist within the city limits of City, including State highways, now or hereafter established within City. "Public streets" includes a public right-of-way, whether or not formally included within City's public road system. "Public streets" does not include a public utility easement crossing private property, nor does "public streets" include any park, playground, school property or other municipal or

public property not constituting a public right-of-way. "Public streets" does not include, and this franchise does not allow the use of, a public utility easement described in Government Code Section 50335 or successor legislation, the use of which is governed by such terms and conditions as agreed upon by the parties thereto.

(i) "Term" shall mean the initial term as defined in Section 5(a) and any renewal term, unless otherwise required by the context.

Section 2. Grant of Franchise. City hereby grants Grantee a non-exclusive and determinate franchise to construct, maintain and use pipes and appurtenances necessary or proper for the transmission and distribution of water under, along, across or upon the public streets within those areas of the City located within the Grantee's dedicated areas of service as set forth in the tariff map filed by Grantee with the California Public Utilities Commission (CPUC). Grantee shall provide City with notice of any filing with the CPUC for a change in service area located within the boundaries of the City and all tariff maps filed by Grantee with the CPUC reflecting the service area of Grantee within the City, unless waived in writing by the Public Works Director.

Section 3. Compliance with Local Laws.

(a) Grantee shall construct, maintain and use all pipes and appurtenances in a good and workmanlike manner and in compliance with all lawful federal, State and City laws, ordinances, resolutions, regulations, policies, rules, orders, plans and specifications in force at the time this franchise becomes effective or as may be amended or added from time to time during the term of this franchise.

(b) All zoning, uniform code, business license, fee, or other generally applicable ordinances now existing, or enacted by the City Council in the future, are, to the extent lawful, fully applicable to Grantee, and the Grantee agrees to fully comply with these existing and future generally applicable lawful ordinances. The Grantee agrees that the City requiring the Grantee to comply with future generally applicable lawful ordinances, will not result, in any circumstances, in a substantial impairment of the Grantee's rights under this franchise. If there is a conflict between this franchise and any generally applicable lawful ordinance, the generally applicable lawful ordinance will prevail. If the City requires the Grantee to comply with a future generally applicable lawful ordinance that the Grantee determines will materially increase the Grantee's operations costs, the Grantee may request that the City approve a longer franchise term.

(c) Upon constructing, maintaining or using any pipes and appurtenances, or any part thereof, Grantee shall expeditiously at its own cost and expense restore all public property disturbed or altered as a result of Grantee's actions to the condition that the public property was in prior to being disturbed or altered as reasonably determined by the City. As used in this section, "public property" means public streets, rights-of-way and improvements and includes, but is not limited to, all public improvements associated with the public streets that may be affected by

Grantee's activities, such as landscaping, irrigation systems, street lights, street furniture, sidewalks and bus shelters. Grantee shall comply with City's terms and conditions concerning the location within the public streets of proposed facilities, except to the extent State or federal law or regulation preempts any such terms and conditions.

(d) Grantee's activities and each restoration of public property under this franchise shall be performed in a good and workmanlike manner, and in accordance with the lawful standard plans, specifications, orders, rules and regulations of City and each of its applicable departments, and subject to all lawful fees and exactions.

Section 4. Relocation. Grantee shall remove or relocate, without expense to City and within the time City reasonably specifies, any facilities installed, used and maintained by Grantee if and when made necessary by any lawful construction, change of grade, alignment, or width of any streets, ways and alleys or other public places by City, including the construction of any storm drain, sanitary sewer, subway or viaduct. City agrees that, except for emergency situations, which include unexpected relocations necessitated by a fault of Grantee (such as erroneous pipe location data), it shall make a good faith effort to provide as much notice as possible of such relocations so as to afford Grantee an adequate opportunity to budget for such relocation expenses. As a general guideline, the City shall strive to provide 90 days' notice of proposed construction potentially necessitating relocation of Grantee property.

Section 5. Term.

(a) The initial term of the franchise shall commence with the effective date of this franchise as certified under Section 21 and continue for a period of twenty-five (25) years ("Initial Term"), subject to renewal and termination as provided under this section. The aggregate term of the franchise, including the Initial Term and any Renewal Term as defined in subsection (b), shall not exceed fifty (50) years.

(b) At the conclusion of the Initial Term and upon application by Grantee, the term of the franchise may be renewed for an additional twenty-five (25) year period ("Renewal Term"). An application for renewal shall be filed with the City Clerk at least six (6) months before the expiration date of the current term. Such application shall be subject to the approval of the City Council after a public hearing. Notice of the hearing shall be published at least fifteen (15) days prior to the hearing in a newspaper of general circulation within City or posted in the places designated for posting of official notices. The City Council shall approve the application unless it finds, on the basis of substantial evidence, that Grantee is then in material violation of this franchise. In approving the application, the City Council may modify the franchise by ordinance based upon the experience of City in administering the franchise during the preceding term and to take into account changes in relevant technology and utility industry regulatory developments and business practices. Any modification of the franchise shall be based upon substantial evidence concerning the need for such modification in the record considered by the City Council. Grantee shall reimburse City

for all reasonable costs, staff time, legal and consulting fees incurred by City, in connection with processing the application, up to a maximum of \$5,000. Such payment shall be made within thirty (30) days after City shall have completed proceedings on the application and furnished Grantee with a written statement of such expenses. A renewal, including any modifications to the franchise ordinance, shall not be effective, unless Grantee accepts such renewal pursuant to Public Utilities Code Section 6235.

(c) During the term of the franchise, the franchise shall remain in full force and effect unless: (1) Grantee voluntarily surrenders or abandons the franchise, with the consent of the applicable State or federal regulatory agency; (2) the State or some municipal or public corporation purchases by voluntary agreement or condemns and takes under the power of eminent domain, all property actually used and useful in the exercise of the franchise and situate within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or (3) the franchise is forfeited for noncompliance with its terms by Grantee.

Section 6. Franchise Payment. Grantee shall pay the franchise payments set forth in this section.

(a) During the term of this franchise, Grantee shall pay City two percent (2%) of Grantee's gross annual receipts arising from the use, operation or possession of the franchise which shall include Grantee's receipts from the transmission and distribution of water, and from the sale of any service or use of facilities, which involves Grantee's use, operation or possession of the franchise, except that this payment shall be not less than one percent (1%) of Grantee's gross annual receipts derived from the sale within City limits of the utility service for which the franchise is awarded. This subsection is intended to be consistent with applicable decisional law.

(b) In the event the legislature amends the Franchise Act of 1937 or enacts any other state law which increases the franchise payment to cities to a level greater than that provided in Section 6(a), then the City shall have the option of prospectively employing the new legislative formula, which shall apply for the remaining term of this Franchise. If the City exercises this option, the legislative formula shall be prospectively applied hereto on the later of (i) the effective date of the legislation, or (ii) January 1 of the calendar year in which the City exercised this option.

(c) The franchise payment under this section constitutes payment for the privilege of using public streets, and is not in derogation of any other lawful fee or exaction. Nothing in this ordinance shall limit or otherwise affect any ability City may have to require franchisees making use of public streets to pay for and obtain encroachment permit fees and pay trench cut fees, as applicable. In no event may any such fees or exactions charged by the City in connection with obtaining any such permit or trench cut fees exceed the reasonable costs to the City in processing the permit application, or otherwise be unreasonable or discriminatory.

Section 7. Payment; Audit.

(a) Within three (3) months after the expiration of each calendar year, or fractional calendar year, following the effective date of this franchise as certified under Section 21, Grantee shall file with City's Finance Director or other official designated by City a verified statement under penalty of perjury showing in detail the total gross receipts of Grantee during the preceding calendar year, or fractional calendar year. Grantee's statement shall include such other data or information as City may need to calculate or determine the amounts which Grantee is obligated to pay City pursuant to the provisions of Section 6.

(b) Within fifteen (15) days after filing the statement required by Section 7(a), Grantee shall pay to City, in lawful money of the United States, the amount required by Section 6 for such calendar year or fractional calendar year.

(c) Annually, at Grantee's expense, the City shall have the right to audit the books and records of Grantee relating to the calculation of the franchise fee upon reasonable notice during normal business hours solely for the purpose of verifying the calculation of the franchise fee. City shall, to the extent permitted by applicable law, maintain the confidentiality of all information provided by Grantee to City in connection with such audit that Grantee has informed City is confidential. Nothing herein shall be construed to require Grantee to make available information which constitutes private or confidential information pertaining to specific customers of Grantee, without the prior written consent of such customers. All books and records of Grantee relating to the calculation of the franchise fee for any calendar year shall be maintained by Grantee for a period of at least four (4) years following the delivery of the certified statement for such year.

(d) Any neglect, omission or refusal by Grantee to file the verified statement, or to remit its payment as specified in this section and in the amount set forth in Section 6 shall be grounds for declaration of a forfeiture of this franchise and of all rights of Grantee hereunder, consistent with Public Utilities Code Section 6291.

Section 8. Authority. This franchise is granted under the Franchise Act of 1937.

Section 9. Indemnity; Liability.

(a) Grantee shall indemnify, defend and hold harmless City, its officers and employees from all liability for damages proximately resulting from any operations under the franchise. In addition, Grantee shall be liable to City for all damages proximately resulting from the failure of Grantee well and faithfully to observe and perform any lawful provision of the franchise and any provision of any applicable law under which this franchise is granted.

(b) In addition to the provisions of Section 9(a), Grantee shall specifically indemnify, defend and hold harmless City, its officers and employees from any claim, suit or action arising from the presence of any hazardous materials in a public street and proximately resulting from Grantee's operations under the franchise. As used in this section, 'hazardous materials' means any hazardous substances, materials or wastes (1) defined or listed as "hazardous substances," "toxic substances" or similarly identified under any provision of California law; (2) designated as "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sections 9601, *et seq.*), the Federal Hazardous Materials Transportation Law (49 U.S.C. Sections 5101, *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901, *et seq.*), or the Toxic Substance Control Act of 1976 (15 U.S.C. Sections 2601, *et seq.*); (3) defined as "toxic pollutants" under the Clean Water Act (33 U.S.C. Sections 1251, *et seq.*); (4) designated as "hazardous air pollutants" under the Clean Air Act (42 U.S.C. Sections 7401, *et seq.*); or (5) defined, designated or listed under any State or federal legislation or regulations adopted or amended during the term hereof. However, nothing in this section shall be interpreted in a way that would preclude Grantee from asserting defenses liability claims afforded public utilities regulated by the California Public Utilities Commission under California law (including court interpretations of California laws, such as *Hartwell Corp. v Superior Court* (2002) 27 Cal. 4th 256).

Section 10. Payment of Cost of Repairs. Grantee shall pay to City on demand the cost incurred by City for all repairs to public property made necessary by any of Grantee's operations under this franchise.

Section 11. Performance Bond or Letter of Credit.

(a) Grantee shall file with the City Clerk a corporate surety bond running to City and approved by the City Council, in a penal sum of \$15,000 (fifteen thousand dollars), which sum was set forth in the resolution of intention to grant this franchise. The bond shall be conditioned that Grantee shall well and truly observe, fulfill and perform each lawful term and condition of the franchise, and that in case of any material breach of condition of the bond the amount of the penal sum therein shall be recoverable. Grantee shall file such bond within five (5) days after the effective date of this ordinance. If the bond is not so filed, or is not approved by the City Council, the franchise may be refused or forfeited and any money paid to City in connection therewith shall be retained by City.

(b) Grantee shall maintain the bond in full force and effect throughout the Term of this franchise, at Grantee's sole expense. The bond shall be issued by an admitted surety insurer and comply with the requirements of the Bond and Undertaking Law, codified in Code of Civil Procedure Sections 995.010 *et seq.* This franchise shall be considered a "license or permit" within the meaning of the Bond and Undertaking Law, solely for purposes of application of such law to the bonding requirements of this section.

(c) Grantee may at its sole election provide an irrevocable standby letter of credit, in a form acceptable to the City Attorney, securing all or a portion of the amount otherwise required to be secured by the performance bond. The letter of credit shall be issued by an issuing bank with offices in California, or shall authorize an advising bank with offices in California to pay the beneficiary thereunder. The letter of credit shall authorize City to draw upon its proceeds in the event that Grantee fails to well and truly observe, fulfill and perform each lawful term and condition of the franchise, and that in case of any material breach of the franchise City may draw against the letter of credit up to the total amount set forth therein. If Grantee determines to file a letter of credit, Grantee shall file such letter of credit within five (5) days after the effective date of this ordinance.

Section 12. Publication Expenses. Grantee shall pay City a sum of money sufficient to reimburse City for all publication expenses incurred by it in connection with the granting of this franchise. Such payment shall be made within thirty (30) days after City shall have furnished Grantee with a written statement of such expenses. City shall furnish such written statement within thirty (30) days after this ordinance becomes effective.

Section 13. Other City Expenses. Grantee shall pay City a sum of money sufficient to reimburse City for all City staff time, legal and consulting fees reasonably incurred by City, in connection with the review and granting of this franchise, up to a maximum of \$5,000. Such payment shall be made within thirty (30) days after City shall have furnished Grantee with a written statement of such expenses. City shall furnish such written statement within thirty (30) days after this ordinance becomes effective.

Section 14. Insurance. During the term of this franchise, Grantee shall obtain and maintain at its sole cost and expense the insurance coverage required by this section.

(a) Grantee shall obtain and maintain commercial general liability insurance coverage for an aggregate annual amount of three million dollars (\$3,000,000), including bodily injury, personal injury and property damage or its equivalent in coverage, upon approval by the City. Such insurance coverage shall include, without limitation: (1) contractual liability coverage adequate to meet Grantee's indemnification obligations under Section 9; and (2) a cross-liability clause. Additionally, the insurance coverage shall contain the following endorsements as a part of each policy: (1) City is added as an additional insured for Grantee's operations under the franchise; and (2) the insurance shall cover the negligent acts of Grantee and the negligent acts of its employees, agents and subcontractors in the performance of work under the franchise.

(b) The insurance coverage required by this section may be satisfied by any combination of specific liability and excess liability policies, or by a self-insurance program reasonably satisfactory to City.

(c) The insurance coverage shall be primary and no insurance held by City shall be called to contribute to a loss under this coverage.

(d) Grantee shall submit proof of insurance to the City Clerk as set forth in Section 21 , and shall thereafter file additional such proof annually.

Section 15. Police Power. Nothing in this franchise shall limit or otherwise affect the police power of City, as such authority may affect Grantee.

Section 16. Acquisition of Grantee's Property. The franchise granted hereunder in no way impairs or affects the right of City to acquire the property of Grantee by purchase or condemnation, and nothing in this ordinance shall be constructed to contract away, modify or abridge either for a term or in perpetuity City's right of eminent domain in respect to any public utility.

Section 17. Valuation of Franchise. This franchise shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to Grantee of the necessary publication under Section 12 and any other sum paid by Grantee to City under Section 13 at the time of acquisition.

Section 18. Franchise Not Assignable. The franchise shall not be sold, leased, assigned or otherwise alienated, without the express consent of the City Council of City given by ordinance and subject to referendum.

Section 19. Resolution, Notice of Hearing and Protests. On November 7, 2023, the City Council adopted Resolution No. SC 23-62 stating its intent to grant this franchise. Notice of hearing was given in the manner required by law. The City Council has held a duly noticed public hearing on its intention to grant this franchise. The City Council has heard any and all protests, and hereby determines such protests to be insufficient, overruled or denied.

Section 20. Construction. Headings in this ordinance are for convenience only, and shall have no bearing on interpreting the provisions hereof. If any provision of this ordinance is held by a court to be void or unenforceable, the same shall in no way affect any other provision of this ordinance, the application of any such provision in another circumstance, or the validity or enforceability of this ordinance as a whole. In the event any provision of this ordinance is held by a court to be void or unenforceable, City shall have the opportunity to amend this ordinance in a manner consistent with the judgment with the consent of Grantee or to negotiate a new franchise with Grantee.

Section 21. Franchise Effective Date. The franchise granted hereby shall not become effective until each of the following conditions is satisfied: (1) Grantee files written acceptance thereof with the City Clerk, which shall occur no later than one hundred and twenty (120) days after the effective date of this ordinance or this ordinance shall be of no further force or effect. (2) Grantee pays all sums owed to City under Sections 12 and 13. (3) Grantee files with the City Clerk either a bond as

provided for in Section 11(a) or a letter of credit as provided in Section 11(c), and proof of insurance as required by Section 14. Upon receipt of the required documentation, the City Clerk shall certify the effective date of the franchise and notify Grantee thereof. Upon becoming effective, the water franchise granted hereunder shall supersede any previous water franchise issued to Grantee for service areas within the City of Sand City and shall be binding on Grantee.

Section 22. Enforcement.

(a) If Grantee fails, neglects or refuses to comply with any of the provisions or conditions prescribed in this ordinance in any material respect, and does not within ten (10) days after receipt of a written demand for compliance begin the work of compliance, or after such beginning does not prosecute the work with due diligence to completion, City through its City Council may declare the franchise forfeited, or assess damages as provided in this section for unexcused violations of the franchise.

(b) To implement enforcement under this section, City shall proceed as follows.

(1) Notice of demand for compliance shall be in writing signed by the City Manager or designee and delivered by personal delivery or certified mail to that person identified in Section 26. The notice shall demand correction within a reasonable time. Such time shall not be less than ten (10) days after receipt of the notice. If Grantee is shown to have violated the franchise, or to have failed to correct the violation within the time prescribed, or if Grantee fails to commence corrective action within the time prescribed and diligently remedy such violation thereafter, or if the violation is not correctable, then City shall give Grantee written notice of not less than ten (10) days of a public hearing to be held before the City Council. City shall also give public notice of the hearing. The notice shall specify the alleged violations.

(2) At the public hearing, the Council shall hear and consider all relevant evidence, and thereafter render written findings and its written decision. The hearing shall provide Grantee with the full opportunity to participate and present evidence.

(3) If the Council finds that no material violation exists, or that Grantee has corrected the violation, or has diligently commenced correction of such violation after notice thereof from City and is diligently proceeding to fully remedy such violation, the proceedings shall terminate and no penalty or other sanction shall be imposed. In determining whether a violation is material, City shall take into consideration the reliability of the evidence of the violation, the nature of the violation and the damage (if any) caused to City thereby, whether the violation was chronic, and any aggravating or mitigating circumstances and such other matters as City may deem appropriate. In the event a proceeding is terminated, and City subsequently finds that the violation has not been corrected, City may, without prejudice, reinstate the proceeding.

(4) If the Council finds that a material violation exists and that Grantee has not corrected the same in a satisfactory manner or has not diligently commenced correction of such violation, the Council may declare the franchise forfeited; or require payment of a dollar amount of compensatory damages resulting from Grantee's material violation; or declare the franchise forfeited and require payment of such compensatory damages. If Grantee fails to pay any sum due under this section within ten (10) days after invoice, City may require payment under the performance bond or letter of credit provided for in Section 11.

(5) If the Council finds that a material violation exists, Grantee shall have the right to seek review of the Council's decision in the Superior Court of the State of California. The Council's decision shall not be stayed pending such review, absent a contrary order of the Court.

(6) The remedies set forth in this section are cumulative, and are in addition to all other rights and remedies, including injunctive relief, available to City.

Section 23. Jurisdiction and Venue. Any dispute that arises under or relates to this franchise shall be resolved in the Superior Court of the State of California, and venue shall be proper in the county in which City is located. In any such litigation, Grantee and City shall each be responsible for its respective attorneys' fees and costs.

Section 24. Notices. All notices, demands or statements required by this franchise to Grantee shall be in writing and delivered by hand or certified mail addressed to

Manager
California-American Water Company
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

All notices required by this franchise to City shall be in writing and delivered by hand or certified mail addressed to the City Clerk. All notices shall be deemed given on the date of delivery by hand, or three days after deposit in the mail, postage prepaid.

Section 25. Effective Date and Publication. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation printed and published in Monterey County and circulated in the City of Sand City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Sand City this 5th day of December, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mary Ann Carbone, Mayor

ATTEST:

Kerry Lindstrom, City Clerk

5525555.1

**AGENDA ITEM
9B.**

**First Reading of an Ordinance Adding
Chapter 18.100 to the Zoning Code
Relating to Wireless Telecommunications
Facilities Setting New Locational
Requirements and Development
Standards**



City of Sand City

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Vibeke Norgaard, City Manager
PREPARED BY: Anthony Amara, City Attorney's Office
SUBJECT: Addition of Chapter 18 to the Sand City Municipal Code Pertaining to Wireless Communication Facilities Effective Citywide
DATE: November 30, 2023 (For City Council consideration on December 5, 2023)

BACKGROUND/DISCUSSION:

The Telecommunications Act of 1996 (the "Telecom Act") was signed into law by President Clinton in February 1996 and reflected the changes and rapid growth of telecommunications technologies. Under the Telecom Act, local zoning authorities were granted the ability to regulate the location and design of wireless communication facilities within their jurisdictional area through a discretionary permit process.

Since adoption of the Telecom Act, wireless technology has substantially changed. For example, in recent years, wireless carriers are seeking to install smaller wireless communication facilities in the public right-of-way. These "small cell facilities" are integrated into the carrier's existing wireless network to increase capacity. Concurrent with the new technology, there have been changes in wireless facilities law at both the federal and state levels. The Sand City Municipal Code does not address these new technologies or new regulations, most notably Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

Middle Class Tax Relief and Job Creation Act

The U.S. Congress adopted the Middle Class Tax Relief and Job Creation Act of 2012 (Act) which established additional regulations of wireless facilities and expedited permitting process for modification of and collocation to existing facilities. Section 6409(a) of the Act established new requirements for modification and collocation of existing wireless telecommunication towers and base stations.

An "eligible facilities request" refers to any request for modification of an existing wireless tower or base station that involves:

- Collocation of new transmission equipment,
- Removal of transmission equipment, or

- Replacement of transmission equipment.

For the purposes of this Staff Report, the following terms are described and simplified as follows:

- “Collocation” refers to the mounting of a wireless communication facility on the same tower or structure as an existing wireless communication facility.
- Tower” refers to a pole, mast, monopole, lattice tower, etc.
- Base station” refers to any structure that is not a tower.

Section 6409(a) of the Act does not define what constitutes a “substantial change” to an existing tower or base station. However, the Federal Communication Commission (FCC) issued rules and clarifications for modification of wireless telecommunication facilities that defined “substantial change”. According to the FCC, a modification substantially changes the physical dimension of a wireless tower or base station if it meets any one of the following criteria:

Type of Modification:	Type of Facility:	
	Towers (outside the public right-of-way)	Towers (inside the public right-of-way) and all Base Stations
Height	More than 10% <u>or</u> one additional antenna array with the separation from the nearest antenna is more than 20 feet	More than 10% <u>or</u> 10 feet, whichever is greater
Width	More than 20 feet, <u>or</u> more than the width of the tower, whichever is greater	More than 6 feet
Equipment Cabinets	Installation of more than 4 cabinets.	Installation of any equipment cabinets if there are no pre-existing ground cabinets, <u>or</u> ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets
Excavation/ Deployment Beyond Site	Excavation or deployment outside of the current boundaries of the leased or owned property surrounding the tower and any access or utility easements	Excavation or deployment beyond the area in proximity to the structure/equipment
Defeat Concealment Elements	Defeat the concealment elements of the wireless tower or base station	
Defeat Other Conditions	Not comply with the condition of approval, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the ‘substantial change’ thresholds.	

Regardless of the above, all modifications remain subject to building codes and other non-discretionary structural and safety codes.

Proposals Requiring Expedited Processing Under §6409(a)

Under the Act, the City must act on an application for a Section 6409(a) modification within 60 days unless the City notifies the applicant within 30 days that the specific information in the application is incomplete. After the applicant makes a supplemental filing, the agency has 10 days to notify the applicant if the application remains incomplete. If no decision on the application is made during the 60 -day review period (approval or denial), the request is “deemed granted.”

ANALYSIS

The following is an overview of the proposed amendments to Title 18 (Zoning Ordinance) to address wireless communication facilities in the public right-of-way and on private property. For the complete Ordinance additions, please refer to Attachment 1.

Wireless Communication Facilities (Chapter 18.100)

Based on these recent developments in federal and state law, and on the fact that the Sand City Municipal Code does not contain any regulations specifically applicable to wireless telecommunication facilities, there is a need for the City to update its Municipal Code to align with current telecommunications trends, updates in laws, as well as provide aesthetic and location options for wireless facilities.

Definitions (Section 18.100.030)

The City’s existing ordinance has a multitude of definitions for the technical terms related to wireless communication facilities. The proposed ordinance simplifies these definitions and eliminates the overly technical terms that have no relationship to the aesthetics of a facility, which is what the ordinance regulates.

Application Requirements (Section 18.100.060)

Section 6409(a) of the federally adopted Act, limits the application materials that the City can require for qualified modifications and collocations. The City may require an application, but may only seek documentation about whether the facility meets Section 6409(a) requirements. The City may not require documentation proving the need for the proposed modification or collocation. In response, the draft ordinance separates the application requirements for new facilities and modifications, and the application requirements for facilities which qualify under Section 6904(a).

Development Standards Regulations (Section 18.100.080)

This section is to ensure internal consistency in the Zoning Ordinance to clarify that the height limit exceptions do not apply to new wireless communication facilities. Instead, new wireless communication facilities are solely regulated by Chapter 18 and are limited to the height for the district in which they are located. However, it should be noted that modifications to existing wireless communication facilities that qualify under Section 6409(a), may exceed the height limits established by the Zoning Ordinance.

CEQA:

The California Environmental Quality Act (CEQA), together with State Guidelines and City Environmental Regulations require that certain projects be reviewed for environmental impacts and that environmental documents be prepared. Pursuant to the CEQA, Staff is recommending that the project be found exempt in accordance with CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that the amendments to Title 18 of the Sand City Municipal Code (Zoning Ordinance) will not have a significant effect on the environment. Pursuant to the FCC, changes to an existing telecommunications facility that complies with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, are considered minor changes and amending the Zoning Ordinance to comply with this Federal law would not impact the environment. As such, the proposed Zoning Ordinance Amendment is not subject to CEQA.

FISCAL IMPACT:

There is no direct fiscal impact associated the proposed ordinance. The ordinance may, however, increase City staff time in the processing and approval of applications.

RECOMMENDATION:

Staff recommends the following two motions:

1. that the City Council waive reading in full and read by title only
2. that the City Council introduce and approve the First Reading of the Ordinance.

ATTACHMENTS:

1. Wireless Communication Facilities Ordinance

**CITY OF SAND CITY
ORDINANCE NO. SC 23-____, 2023**

**AN ORDINANCE OF THE CITY COUNCIL OF SAND CITY ADDING CHAPTER 18.100 TO THE
ZONING CODE RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES SETTING
NEW LOCATIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS**

WHEREAS, California Public Utilities Code section 7901 authorizes wireless telecommunication service providers to construct facilities in the public right-of-way, subject to regulation by municipalities; and

WHEREAS, the Telecommunications Act of 1996 provides that local governments cannot enact regulations that would prohibit or effectively prohibit telecommunication services; and

WHEREAS, the Federal Communications Commission issued a Declaratory Ruling and Third Report and Order (“FCC Order”) on September 26, 2018; and

WHEREAS, the Order interprets the “effective prohibition” provisions under the Act and sets forth the various restrictions on the exercise of local aesthetic, zoning, public works, and fee restrictions when local governments review and regulate wireless telecommunications facilities deployment applications, including on City-owned poles in the public right of way; and

WHEREAS, the FCC Order requires that aesthetic requirements be (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance; and

WHEREAS, the City desires to amend the Municipal Code to adopt regulations regarding wireless telecommunication facilities in order to establish comprehensive requirements and standards for the development, siting, installation and operation of wireless telecommunication facilities in a way that protects and promotes public safety, community welfare and aesthetic quality; and

WHEREAS, the City desires to adopt design requirements that further govern the aesthetics of wireless telecommunication facilities; and

WHEREAS, the City Council finds that the proposed amendments to the Zoning Code are consistent with and support the Sand City General Plan by helping to ensure the aesthetic quality of wireless telecommunication facilities in a manner consistent with Federal law and regulations; and

WHEREAS, the City Council finds that the proposed Zoning Code amendment is intended to establish comprehensive requirements and standards for the development, siting, installation and operation of wireless telecommunication facilities in a way that protects and promotes public safety, community welfare and aesthetic quality.

WHEREAS, the City Council desires to adopt the proposed changes to the Zoning Code.

NOW, THEREFORE, the City Council of the City of Sand City does ordain as follows:

SECTION 1: Recitals.

The above recitals are true and correct and made a part of this Ordinance.

SECTION 2: Municipal Code Addition – Chapter 18.100.

Chapter 18.100 of the Sand City Municipal Code is added to provide as follows:

Chapter 18.100

WIRELESS COMMUNICATION FACILITIES

18.100.010 Purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in Sand City. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.

This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC’s regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

18.100.020 Intent.

The intent of the regulations contained herein is to protect and promote public health, safety, community welfare and to:

- A.** Protect the visual character of the City from the potential adverse effects of wireless communication facilities development and wireless communication facility installation;
- B.** Ensure against the creation of visual blight within or along the City;

- C.** Ensure that wireless communication facilities, to the maximum extent possible, are located in areas where the adverse impacts on the community are minimal;
- D.** Ensure that wireless communication facilities, which include equipment cabinets and shelters, are configured in a way that minimizes the adverse visual impact of the facilities;
- E.** Retain local responsibility for management of the use of the public right-of-way;
- F.** Enhance the ability of the provider of wireless communication services to provide such services to the community quickly, effectively and efficiently;
- G.** Ensure that a competitive and broad range of wireless communication services and high quality wireless communication service infrastructure are provided to serve the business community;
- H.** Encourage collocation when it will decrease visual impact and discourage collocation when it will increase negative visual impacts, to the extent allowed by state and federal law; and
- I.** Establish a process for obtaining necessary permits for wireless communication facilities while at the same time ensuring compliance with applicable zoning, building, and safety requirements under this code.

18.100.030 Definitions.

For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

Accessory Equipment. The term accessory equipment shall mean any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

Antenna. The term antenna shall mean any system of wires, poles, panels, rods, reflecting disc, or similar devices used for the transmission or reception of electromagnetic waves (or radio frequency signals) when such system is either external to or attached to the exterior of a structure, ground-mounted, or is portable or movable. “Antenna” includes devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

Base Station. The term base station means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or

houses equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii).

Collocation. The term collocation the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes.

Eligible Facilities Request. The term eligible facilities request means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.

Existing. The term existing means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which provides that a constructed tower or base station is existing for purposes of Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

Fully- Concealed Facility. The term fully-concealed facility refers to wireless communication facilities which are designed and constructed to blend in with the surrounding environment so that the antenna and related equipment are not readily visible. Examples include a cupola on a building, water tank, artificial tree, rocks and a utility pole where all antenna and related equipment are internally mounted or underground.

Height. The term height shall mean the distance measured from ground level to the highest point on the wireless communication facility, including an antenna or piece of equipment attached thereto. In the case of “crank-up” or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.

Owner or Operator. The term owner or operator shall mean the person, entity or agency primarily responsible for installation and maintenance of the wireless communication facility, which may or may not be the same person or entity which is the owner of the property on which the facility is located.

Personal Wireless Service. The term personal wireless service facilities mean the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal wireless services.

Public Right-of-Way. The term public right-of-way shall mean and include all public streets and easements, now and hereafter owned by the City or other public entity, but only to the extent of the City or public entity’s right, title, interest or authority to grant a license to occupy and use such streets and easements for wireless communication facilities.

Radio Frequency (RF). The term radio frequency (RF) shall mean electromagnetic energy with wave lengths between the audio range and the light range.

Readily Visible. The term readily visible means that an object can be seen from street level by a person with normal vision, and distinguished as an antenna or related equipment of a wireless communication facility, due to the fact that it is not fully-concealed, stands out as a prominent feature of the landscape, protrudes above or out from the structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials.

Related Equipment. The term related equipment shall mean all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.

Site. The term site means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(6), as may be amended, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Section 6409(a). The term Section 6409(a) refers to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. section 1455(a), as may be amended or interpreted in judicial or administrative decisions or implementing regulations.

Section 6409(a) Modification. The term Section 6409(a) Modification means a collocation, modification, or replacement of transmission equipment at an existing wireless tower or base station that does not result in a substantial change in the physical dimensions of the existing wireless tower or base station pursuant to Section 6409(a).

Substantial Change. The term substantial change means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(7), as may be amended, which defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC's criteria and thresholds for a substantial change according to the wireless facility type and location.

- a. For towers outside the public right-of-way, a substantial change occurs when:
 1. The proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
 2. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 3. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 4. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
- b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
 1. The proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
 2. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
 3. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or

4. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are 10% larger in height or volume than any existing ground-mounted equipment cabinets; or
 5. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:
1. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Planning Director; or
 2. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

Structure Ridgeline. The term structure ridgeline shall mean the line along the top of an existing roof or top of a structure, including existing parapets, penthouses, or mechanical equipment screens.

Tower. The term tower shall mean a mast, pole, monopole, lattice tower, or other structure erected on the ground or on a structure designed and primarily used to support antennas. A ground or building mounted mast greater than 15 feet tall and 6 inches in diameter supporting one or more antenna, dishes, arrays, etc., shall be considered a wireless communications tower.

Wireless Communication Facilities. The term wireless communication facilities shall mean a facility that transmits and/or receives electromagnetic signals, including antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or reception of such signals, towers or similar structures supporting the equipment, equipment buildings, shelters, cabinets, parking area and other accessory development.

18.100.040 Exemptions.

The following wireless communication facilities are exempt from the standards of this Chapter, but shall fully comply with other applicable requirements of the municipal code including, but not limited to, adopted building, electrical, plumbing, mechanical, and fire codes:

A. Antennas designed to receive video programming signals from direct broadcast satellite (DBS) services, multi-channel multipoint distribution providers (MMDS), or television broadcast stations (TVBS), provided that all of the following conditions are met:

1. The antenna measures 39 inches (one meter) or less in diameter within residential districts; or 78 inches (two meters) or less in diameter within commercial and industrial zoning districts;
2. If the antenna is mounted on a mast, the mast must measure less than twelve (12) feet in height;

3. The antenna does not pose a threat to public safety, including, but not limited to, minimum separation from power lines, compliance with electrical and fire code requirements, and secure installation, as determined by the Building Official;
 4. The antenna is not located on a site or building with historical significance, as demonstrated by inclusion on any list of historical sites officially adopted by any local, state, or federal governmental body;
 5. To the extent feasible, the antenna is installed in a location where it is not readily visible from the public right-of-way.
- B.** Amateur radio antennas that do not exceed the maximum building height for the zoning district in which it is located by more than 25 feet. If an antenna is installed on the roof of the building, the height of the antenna shall be inclusive of the building height.
- C.** Public communication facilities, including personal wireless services, used and maintained by the City, or any fire district, school district, hospital, ambulance service, governmental agency, or similar public use.
- D.** Minor repair and regular maintenance of an existing wireless telecommunication facility that does not increase the number, height, size, or appearance of the antennas or ancillary related equipment as previously approved by the City.
- E.** Any “co-location facility” that meets the requirements of California Government Code Section 65850.6.

18.100.050 Permitting Procedure.

A. A Zoning Compliance Review or Conditional Use Permit pursuant to Title 18 shall be required for all new or modified wireless communication facilities, unless otherwise noted in this Chapter.

B. Notwithstanding any provision of the Sand City Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall not apply to wireless telecommunications facilities.

18.100.060 Application Requirements.

A. New Wireless Communication Facilities. The following application materials are required for new wireless communication facilities:

1. **Plans.** Complete and accurate plans, fully-dimensioned and drawn to scale, which include the following items.
 - a. A depiction of all existing and proposed utility runs and points of contact.
 - b. A depiction of the leased or licensed area of the site with all rights-of-way and easements for access and utilities labeled in plan view.
 - c. Plan view and all elevations of a scaled depiction of the maximum permitted increase to towers, base stations and other support structures as authorized by Section 6409(a) of the 2012 Middle Class Tax Relief Act. The proposed project shall be used as the baseline for new facilities and the existing facility used as the baseline for modifications.
2. **Authorization.** A statement from property owner authorizing application.
3. **Description of Services.** A description of the services that the applicant proposes to offer or provide in conjunction with the proposed sites.

4. Definition of Service Area. Definition of the service area needed for coverage or capacity of a wireless communication facility and service area maps and information showing that the proposed facility would provide the needed coverage or capacity.

5. Visual Analysis. Photographs of facility equipment and an accurate visual impact analysis with photo simulations.

6. Noise Analysis. Noise impact analysis information for the proposed wireless communication facility including, but not limited to, equipment, such as air conditioning units and back-up generators. A manufacturer's specification sheet may be provided in lieu of a noise impact analysis, if determined appropriate by the City Planner.

7. RF Emissions. Written documentation demonstrating that emissions from the proposed wireless communications facility are within the limits set by the FCC. The document shall include both the actual levels as they exist currently and the cumulative levels for the proposed facility and all other facilities in the vicinity.

8. Landscape Plan. Where applicable, the applicant shall submit a plan depicting existing surrounding landscaping, proposed landscaping, a landscape protection plan for construction and a maintenance plan (including an irrigation plan).

9. Other Information. The applicant shall submit any other relevant information as required by the City Planner.

B. Modifications to Existing Wireless Communication Facilities. The following application materials are required for modifications to all existing wireless communication facilities except Section 6409(a) Modifications:

1. Plans. Complete and accurate plans, full-dimensioned and drawn to scale, which include the following items.

a. A depiction of all existing and proposed utility runs and points of contact.

b. A depiction of the leased or licensed area of the site with all rights-of-way and easements for access and utilities labeled in plain view.

2. Prior Permits. True and correct copies of all previously obtained land use approvals, including all required conditions of approval.

3. Noise Analysis. Noise impact analysis for the proposed wireless communication facility including, but not limited to, equipment, such as air conditioning units and back-up generators. A manufacturer's specification sheet may be provided in lieu of a noise impact analysis, if determined appropriate by the City Planner.

4. RF Emissions. Written documentation demonstrating that emissions from the proposed wireless communications facility are within the limits set by the FCC. The document shall include both the actual levels as they exist currently and the cumulative levels for the proposed facility and all other facilities in the vicinity.

5. Other Information. The applicant shall submit any other relevant information as required by the City Planner.

18.100.070 Section 6409(a) Modification.

Except as expressly modified by this section, an application for a Section 6409(a) Modification shall be subject to the provisions of this Chapter.

A. Application Materials. Notwithstanding Section 18.100.060 (Application Requirements), the following application materials are required for Section 6409(a) Modifications:

1. A site plan and elevation drawings for the facility as existing and as proposed with all height and width measurements explicitly stated. The plans must include plan views and all four elevations that depict the physical dimensions of the existing facility as it existed on February 22, 2012 or as approved if constructed after February 22, 2012.

2. A description of all construction that will be performed in connection with the proposed modification, including, but not limited to, the location of any excavations or deployments.

3. A written statement that explains in plain factual detail whether and how Section 6409(a) and applicable implementing regulations require approval of the proposed Section 6409(a) Modification. A complete written narrative analysis shall state the applicable standard and all facts that would allow the city to conclude the standard has been met. Bare conclusions without factual support shall not constitute a complete written analysis. As part of the written statement the applicant shall include: (i) whether and how the support structure qualifies as an existing tower or existing base station; and (ii) whether and how the proposed Section 6409(a) Modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment, or permit compliance.

4. True, correct and complete copies of all permits and other regulatory approvals, including without limitation any conditions of approval, issued in connection with the tower or base station to be collocated on or modified.

B. Review and Required Findings. Notwithstanding the provisions of 18.100.050 (Permitting Procedures) and 18.100.080 (Development Standards and Regulations), the City Planner shall approve or deny a request for a Section 6409(a) Modification in accordance with this section and applicable federal law or regulations. The City Planner shall approve an application for a Section 6409(a) Modification if he or she makes the following findings:

1. The proposed modification does not cause a substantial change in the existing tower or base station and otherwise fully qualifies as a Section 6409(a) Modification under applicable law;

2. The existing tower or base station was permitted with all required regulatory approvals required at the time of construction; and

3. The proposed modification does not violate any legally enforceable standard or permit condition reasonably related to public health and safety, including, but not limited to, building, structural, electrical, and safety codes.

A proposed modification to a wireless communication facility that does not qualify as a Section 6409(a) Modification shall be denied and will instead be subject to the requirements set forth in this Chapter for the specific type of wireless communication facility proposed.

C. Other. Nothing in this section prevents the city from imposing other lawful conditions on the approval of a Section 6409(a) Modification including, but not limited to, conditions consistent with obligations imposed on the initial installation. Nothing in this section shall be construed to waive or limit the city's proprietary right to control the use of its real or personal property for telecommunications purposes.

18.100.080 Development Standards and Regulations.

A. Residential Districts. Wireless communication facilities are prohibited on private property in all residential zoning districts except as indicated in Section 18.100.040.

B. Location Criteria. All wireless communication facilities shall be located so as to minimize their visibility. The following measures shall be implemented:

1. No facility may be located within the front setback, along major street frontages where it will be readily visible or between the face of a building and a public street, bikeway or park, except for approved facade-mounted equipment or facilities located on existing structures;
 2. No towers shall be installed closer than one half mile from any existing tower unless technologically required (technical evidence must be submitted to the City Planner showing a clear need for this facility, and the infeasibility of collocating it on an existing site), or visually preferable (i.e. fully-concealed facility that blends with the surrounding existing natural and artificial environment.
 3. Each facility shall be operated in such a manner so as to minimize any possible disruption caused by noise. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 8:00 p.m. and 7:00 a.m. on weekday nights. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line. If the facility is located within one hundred (100) feet of a residential use, noise attenuation measures shall be included to reduce noise levels to a level of 50 dBA measured at the property line.
5. All towers shall be set back at least twenty percent (20%) of the tower height from all property lines, and at least one hundred (100) feet from any public trail, park, or outdoor recreation area, unless it is a fully-concealed facility that blends with the surrounding existing natural and artificial environment.

C. Design Review Criteria. In addition to all other requirements set forth in this Chapter, all wireless communication facilities shall meet the following design requirements:

1. Minimizing Visual Impact. All wireless communication facilities shall incorporate appropriate techniques to camouflage, disguise and/or blend them into the surrounding environment. Wireless communication facilities shall be in scale and designed to blend with the existing natural or built surroundings and existing supporting structures. The City shall have the authority to require special design features for the wireless communication facilities in areas of particular sensitivity (e.g. proximity to historic or aesthetically significant structures, views and/or community features).

Based on potential aesthetic impact, the order of preference for facility type is: (1) Collocation sites, when such siting minimizes adverse effects related to land use compatibility, visual resources, public safety, and other environmental factors, (2) building-mounted (façade or roof) facilities, (3) ground-mounted facilities and (4) a new tower.

2. Paint and Finish Materials. Wireless communication facilities including the antennas and related equipment shall be constructed out of non-reflective materials, painted and/or textured to match the existing support structure and painted to blend with their surroundings.

3. Related Equipment. All equipment shelters or cabinets must be concealed from public view or made compatible with the architecture of surrounding structures or placed underground. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, or other camouflage treatment to minimize visual impacts.

4. Lightning Arrestors and Beacon Lights. Lightning arrestors and beacon lights shall not be included in the design of facilities unless required by the FAA. Lightning arrestors and beacons shall be included when calculating the height of facilities such as towers.

5. Height. The maximum height of a wireless communication facility shall be equal to the height limit for the district in which it is located. An exception to the height limit may be approved based on a visual analysis demonstrating that views of the facility are minimized or are substantially screened, and on an engineering analysis justifying the height of the proposed facility and demonstrating that a lower height is not feasible.

6. Lighting. Wireless communication facilities shall not be artificially lighted, unless required by the FAA or other applicable authority and designed to ensure the least disturbance to the surrounding views.

7. Satellite Dish/Parabolic Antennas - Ground-Mounted. Satellite dish or parabolic antennas that are ground-mounted shall be situated as close to the ground as possible to reduce visual impact without compromising their function. No such antenna shall be located in any front yard, nor in a corner side yard unless the antenna is screened from pedestrian-level view. No such antenna exceeding 39 inches in diameter shall be located within a required setback unless approved through a Site Development Review application upon a showing that no reasonable alternative location is available.

8. Roof Setbacks. Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area. Roof mounted antennas shall be designed to minimize their visibility and blend with the surroundings. Placing roof mounted antennas in direct line with significant view corridors shall be avoided.

18.100.090 Removal of Abandoned Facilities.

Any wireless communication facilities that are not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such facilities or the owner of the property upon which the facilities are located shall remove the same within ninety (90) days of receipt of notice from the City Planner notifying the owners of the removal requirement. If such facilities are not removed within the ninety (90) days, the City Planner may cause the antenna or tower to be removed at the expense of the owners of the facilities and the property. If there are two (2) or more users of a single tower, the tower shall not be deemed abandoned and shall not be subject to these provisions until all users have abandoned the facility.

SECTION 3: Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clause, or phrase be declared unconstitutional or invalid.

SECTION 4: CEQA

The California Environmental Quality Act (CEQA), together with State Guidelines and City Environmental Regulations require that certain projects be reviewed for environmental impacts and that environmental documents be prepared. Pursuant to the CEQA, Staff is recommending that the project be found exempt in accordance with CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that the amendments to Title 18 of the Sand City Municipal Code (Zoning Ordinance) will not have a significant effect on the environment. Pursuant to the FCC, changes to an existing telecommunications facility that complies with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, are considered minor changes and amending the Zoning Ordinance to comply with this Federal law would not impact the environment. As such, the proposed Zoning Ordinance Amendment is not subject to CEQA

SECTION 5: Effective Date

This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 6: Codification

The City Clerk is hereby authorized and directed to codify the provisions of Section 1 of this Ordinance into the SCMC.

PASSED AND ADOPTED, by the City Council of Sand City, this ____ day of____, 20____ by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Kerry Lindstrom, City Clerk

AGENDA ITEM 10A.

Discussion regarding whether the City Council should direct staff to draft an ordinance to: Limit the hours of use of gas powered leaf blowers in Sand City; or Ban the use of gas powered leaf blowers in the City.

**AGENDA ITEM
10B.**

**Approve a Resolution of the Sand City
Successor Agency Approving the
Recognized Obligation Payment Schedule
(ROPS 24-25) and Administrative Budget
for the Period July 1, 2024 Through June
30, 2025**



City of Sand City

STAFF REPORT

TO: Successor Agency Chair and Agency Members
FROM: Vibeke Norgaard, City Manager/Executive Director
PREPARED: Suzy Kim, RSG, Inc.
SUBJECT: Resolution Approving the Recognized Obligation Payment Schedule (ROPS 24-25) and Administrative Budget for the period July 1, 2024 - June 30, 2025
DATE: December 5, 2023

BACKGROUND/DISCUSSION:

Pursuant to Assembly Bill No. x1 26, enacted on June 28, 2011, and as subsequently amended by AB 1484 enacted on June 27, 2012 and SB 107 enacted September 23, 2015 ("**Dissolution Act**"), the Sand City Redevelopment Agency ("**Former Agency**") was dissolved on February 1, 2012. The City of Sand City elected to serve as the Successor Agency for the Former Agency ("**Successor Agency**") and is vested with all of the authority, rights, powers, duties and obligations of the Former Agency.

As part of the dissolution of the former Redevelopment Agency, Health and Safety Code Section 34177 (added by AB 1X 26, as amended to date) requires the Successor Agency to adopt a Recognized Obligation Payment Schedule ("**ROPS**") that lists all obligations of the former redevelopment agency that are enforceable within the meaning of subdivision (d) of Section 34167 for each twelve month period of each fiscal year.

ROPS 24-25

Successor Agency staff has prepared a proposed ROPS for the period of July 1, 2024 through June 30, 2025 ("**ROPS 24-25**"), substantially in the form shown in Attachment "2." The ROPS 24-25 follows the form prescribed by the California Department of Finance ("**DOF**") and incorporates the remaining obligations identified in the previous ROPS. The ROPS 24-25 is separated into two annual periods known as ROPS 24-25A (July 1, 2024-December 30, 2024) and ROPS 24-25B (January 1, 2025 – July 30, 2025).

For the period 24-25A (July – December), the Successor Agency is requesting funding for the following obligations:

Line 3	Sand City Admin. Cost Allowance	\$ 125,000
Line 11	Tax Sharing Agreement (City of Seaside)	\$ 182,261
Line 13	Sand City Redevelopment Project (City Loan)	\$ 400,000
Line 26	Series 2017 Refunding Tax Allocation Bonds	\$ 711,492
Line 27	Fiscal Agent Fees – 2017 Bonds	\$ 2,100
Total Requested RPTTF Funding		\$ 1,046,770
Total coming from Reserves		\$ 355,746
Total from Other Funds		\$ 18,337
Total for ROPS 24-25A		\$ 1,420,853

For the period 24-25B (January – June), the Successor Agency is requesting funding for the following obligations:

Line 3	Sand City Admin. Cost Allowance	\$ 125,000
Line 11	Tax Sharing Agreement (City of Seaside)	\$ 182,261
Line 22	Bond Disclosure Services (HdL)	\$ 5,000
Line 26	2017 Refunding Tax Allocation Bonds	\$ 380,204
Total Requested RPTTF Funding		\$ 692,465
Total for ROPS 24-25B		\$ 692,465

As outlined above, the Successor Agency's primary remaining enforceable obligations are the outstanding bonds and the City of Seaside Agreement. The ROPS 24-25 also requests Redevelopment Property Tax Trust Fund ("**RPTTF**") monies toward repayment of the City Loan (ROPS Item #13) in accordance with the City Loan Repayment Schedule (Seaside) approved by Successor Agency Resolution SA 21-02 and by the Consolidated Oversight Board for the County of Monterey ("**Oversight Board**") Resolution No. 2021-09. DOF denied the funding of the City Loan Repayment from RPTTF on the ROPS 23-24, however the Successor Agency is requesting funding on the ROPS 24-25 for payment under the City Loan in order to preserve its rights under pending litigation. No new enforceable obligations are included in the ROPS 24-25 that were not included in the previously adopted ROPS.

Administrative Budget 24-25

The Successor Agency staff has prepared an administrative budget for the fiscal period commencing on July 1, 2024 and continuing through June 30, 2025 ("FY 24-25 Administrative Budget"), substantially in the form shown in Attachment "3", attached hereto and incorporated herein by this reference.

In compliance with DOF guidance, all administrative costs, including city staff support costs, professional outside services, auditors and other administrative expenses have been combined into one line item. Pursuant to Health and Safety Code Sections 34171(b) and 34183(a)(3) the Successor Agency is entitled to an administrative cost allowance (the "Administrative Cost Allowance") in the amount of \$250,000.

Oversight Board and Department of Finance (DOF) Review

Pursuant to Section 34177 and 34180(g) of the Health & Safety Code, the ROPS 24-25 and Administrative Budget 24-25 have been submitted to the Oversight Board for consideration and approval at its January 20, 2024 meeting.

Applicable law requires that the ROPS 24-25 be submitted to DOF and the State Controller's office, after approval by the Oversight Board, no later than February 1, 2024. The DOF has until April 15, 2024 to make a determination on the ROPS 24-25.

CEQA:

Pursuant to the California Environmental Quality Act (CEQA), based upon a review of the evidence and information presented on the matter as it relates to the adoption of the ROPS 24-25, the Successor Agency has determined that such approval is categorically exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines because there is no possibility that the activities in question will have a significant impact on the environment and the amendment is merely the adoption of annual budget; it will not require any construction activities and will not lead to any direct or reasonably foreseeable indirect physical environmental impacts.

Fiscal Impact:

Total RPTTF requested on ROPS 24-25 of \$1,739,235 is necessary to satisfy enforceable obligations. If the attached ROPS 24-25 is approved by the Sand City Successor Agency, the Oversight Board and the Department of Finance, the fiscal impact will be reflected during the fiscal year 2024-25 for the amount approved.

Recommendation:

Staff seeks Successor Agency approval of the attached Resolution approving the Recognized Obligation Payment Schedule (ROPS 24-25) and Administrative Budget for the period July 1, 2024 through June 30, 2025.

ATTACHMENTS:

1. Resolution SA 23-____, 2023
2. ROPS 24-25
3. Administrative Budget FY 24-25

**SAND CITY SUCCESSOR AGENCY
RESOLUTION SA ____, 2023**

**RESOLUTION OF THE SAND CITY SUCCESSOR AGENCY TO THE FORMER
SAND CITY REDEVELOPMENT AGENCY, APPROVING THE RECOGNIZED
OBLIGATION PAYMENT SCHEDULE (ROPS 24-25) AND ADMINISTRATIVE
BUDGET FOR THE PERIOD JULY 1, 2024 THROUGH JUNE 30, 2025**

WHEREAS, pursuant to Assembly Bill No. x1 26, enacted on June 28, 2011, and as subsequently amended by AB 1484 enacted on June 27, 2012 and SB 107 enacted September 22, 2015 ("**Dissolution Act**"), the Sand City Redevelopment Agency was dissolved on February 1, 2012 and its rights, powers, duties, and obligations were transferred to a successor agency; and

WHEREAS, the City Council of the City of Sand City elected to act as the former Redevelopment Agency's successor agency ("**Successor Agency**") under Section 34173 of the Dissolution Act, and, as such, is charged with implementing enforceable obligations and winding down the affairs of the former Redevelopment Agency; and

WHEREAS, the Dissolution Act requires the Successor Agency to prepare and adopt a "Recognized Obligation Payment Schedule" ("**ROPS**") that lists all obligations of the former Redevelopment Agency that are enforceable within the meaning of subdivision (d) of Section 34171 for twelve month periods, including July 2024 through June 2025; and

WHEREAS, applicable law requires that the ROPS for the period July 1, 2024 through June 30, 2025 be submitted to the Department of Finance and the State Controller's office, after approval by the by the Consolidated Oversight Board of the County of Monterey ("**Consolidated Oversight Board**"), no later than February 1, 2024 or be subject to penalties; and

WHEREAS, the Successor Agency staff has prepared the ROPS 24-25 attached as Exhibit "A" and incorporated herein by reference and a FY 2024-25 Administrative Budget attached as Exhibit "B" and incorporated herein by reference for the fiscal period commencing on July 1, 2024 and continuing through June 30, 2025; and

WHEREAS, the ROPS 24-25 and the FY 2024-25 Administrative Budget are not considered projects under the California Environmental Quality Act (CEQA) and therefore no environmental analysis is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency to the Former Sand City Redevelopment Agency that:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Successor Agency finds the items on the ROPS 24-25 and the FY 2024-25 Administrative Budget are necessary for the continued administration of the ongoing enforceable obligations and the expeditious winding-down of the affairs of the former Redevelopment Agency.

SECTION 3. The Successor Agency hereby approves the attached Recognized Obligation Payment Schedule for the period July 1, 2024 through June 30, 2025 ("**ROPS 24-25**") (Exhibit "A"). Pursuant to Health & Safety Code Section 34173, the Successor Agency's liability, including, but not limited to, its liability for the obligations on the attached schedule, is limited to the total sum of property tax revenues it receives pursuant to Part 1.85 of AB X1 26.

SECTION 4. The Successor Agency hereby approves the attached FY 2024-25 Administrative Budget (Exhibit "B").

SECTION 5. The Successor Agency hereby authorizes and directs the Clerk of the Successor Agency to forward the ROPS 24-25 and the FY 2024-25 Administrative Budget to the Consolidated Oversight Board for consideration at its January 20, 2024 meeting and, following final approval and any amendments by the Consolidated Oversight Board, to the County of Monterey Auditor Controller, State Controller's Office, and the California Department of Finance, to place the ROPS 24-25 and FY 2024-25 Administrative Budget on the Sand City website, and to take such other actions on behalf of the Successor Agency as may be necessary in accordance with applicable law.

SECTION 6. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 7. This Resolution shall take effect from and after the date of its passage and adoption in accordance with, and subject to, all applicable requirements of the Health & Safety Code.

PASSED AND ADOPTED by the Sand City Successor Agency on this ____, day of December 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Chair of the
Successor Agency

Kerry Lindstrom
Clerk of the Successor Agency

Exhibit A

Recognized Obligation Payment Schedule (ROPS 24-25) - Summary
Filed for the July 1, 2024 through June 30, 2025 Period

Successor Agency: Sand City

County: Monterey

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	24-25A Total (July - December)	24-25B Total (January - June)	ROPS 24-25 Total
A Enforceable Obligations Funded as Follows (B+C+D)	\$ 374,083	\$ -	\$ 374,083
B Bond Proceeds	-	-	-
C Reserve Balance	355,746	-	355,746
D Other Funds	18,337	-	18,337
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	\$ 1,046,770	\$ 692,465	\$ 1,739,235
F RPTTF	940,107	567,465	1,507,572
G Administrative RPTTF	106,663	125,000	231,663
H Current Period Enforceable Obligations (A+E)	\$ 1,420,853	\$ 692,465	\$ 2,113,318

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/ _____
Signature Date

Sand City
Recognized Obligation Payment Schedule (ROPS 24-25) - ROPS Detail
July 1, 2024 through June 30, 2025

A	B	C	D	E	F	G	H	I	J	K	M	N	O	P	Q	U	V	W
Item #	Project Name	Obligation Type	Agreement Execution Date	Agreement Termination Date	Payee	Description	Project Area	Total Outstanding Obligation	Retired	ROPS 24-25 Total	ROPS 24-25A (Jul - Dec)				24-25A Total	ROPS 24-25B (Jan - Jun)		24-25B Total
											Fund Sources					Fund Sources		
											Reserve Balance	Other Funds	RPTTF	Admin RPTTF		RPTTF	Admin RPTTF	
								\$16,045,893		\$2,113,318	\$355,746	\$18,337	\$940,107	\$106,663	\$1,420,853	\$567,465	\$125,000	\$692,465
2	2008B Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	01/18/2008	11/01/2023	US Bank	Finance Redevelopment Activities	Sand City	-	Y	\$-	-	-	-	-	\$-	-	-	\$-
3	Sand City	Admin Costs	02/01/2012	06/30/2027	City acting as Successor Agency	Administrative Cost Allowance	Sand City	750,000	N	\$250,000	-	18,337	-	106,663	\$125,000	-	125,000	\$125,000
5	City of Sand City	Miscellaneous	04/01/1995	07/20/2037	City of Sand City	COP Reimbursement	Sand City	-	Y	\$-	-	-	-	-	\$-	-	-	\$-
10	McDonald Coastal Project	OPA/DDA/Construction	06/20/2001	07/20/2037	John King - DDA	Contingency Reimbursement	Sand City	1,454,766	N	\$-	-	-	-	-	\$-	-	-	\$-
11	Tax Sharing Agreement	Litigation	05/18/1989	12/31/2027	City of Seaside	Judgment Entered 1-19-2016	Sand City	1,275,824	N	\$364,522	-	-	182,261	-	\$182,261	182,261	-	\$182,261
12	Sand City Redevelopment Project	City/County Loan (Prior 06/28/11), Cash exchange	01/20/1987	07/20/2037	City of Sand City	Repay loans for Staff and Facilities ***	Sand City	3,628,058	N	\$-	-	-	-	-	\$-	-	-	\$-
13	Sand City Redevelopment Project	City/County Loan (Prior 06/28/11), Cash exchange	01/20/1987	07/20/2037	City of Sand City	Repay for Monetary Loans (Seaside) ***	Sand City	6,603,522	N	\$400,000	-	-	400,000	-	\$400,000	-	-	\$-
21	Fiscal Agent Fees	Fees	01/30/2008	11/01/2023	US Bank	Annual Fiscal Agent for bond issues	Sand City	-	Y	\$-	-	-	-	-	\$-	-	-	\$-
22	Bond Disclosure Services	Fees	01/17/2017	11/01/2027	HdL Coren & Cone	Annual continuing disclosure/dissemination services for bond issues	Sand City	15,000	N	\$5,000	-	-	-	-	\$-	5,000	-	\$5,000
26	Subordinate Tax Allocation Refunding Bonds, Series 2017	Bonds Issued After 12/31/10	08/10/2017	11/01/2027	US Bank	Refinance RDA Activities	Sand City	2,312,173	N	\$1,091,696	355,746	-	355,746	-	\$711,492	380,204	-	\$380,204
27	Fiscal Agent Fees	Fees	08/10/2017	11/01/2027	US Bank	Annual Fiscal Agent for bond issues	Sand City	6,550	N	\$2,100	-	-	2,100	-	\$2,100	-	-	\$-
28	Sand City Redevelopment Project	City/County Loan (Prior 06/28/11), Cash exchange	01/20/1987	07/20/2037	City of Sand City	Repay for Monetary Loans (Costco) ***	Sand City	-	Y	\$-	-	-	-	-	\$-	-	-	\$-

Sand City
Recognized Obligation Payment Schedule (ROPS 24-25) - Report of Cash Balances
July 1, 2021 through June 30, 2022
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.							
A	B	C	D	E	F	G	H
	ROPS 21-22 Cash Balances (07/01/21 - 06/30/22)	Fund Sources					Comments
		Bond Proceeds		Reserve Balance	Other Funds	RPTTF	
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS RPTTF and Reserve Balances retained for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	
1	Beginning Available Cash Balance (Actual 07/01/21) RPTTF amount should exclude "A" period distribution amount.	1,283,728		262,500	96,061	12,994	E: RPTTF Retained from 20-21 as Reserve for ROPS (\$262,500) 21-22 Bond Debt Service (Items 2 and 26) F: Other Funds Retained from 20-21 Reserved for ROPS 22-23 Item 2 (\$77,954) + Ending Other Funds Balance 20-21 (\$376) + PPA 20-21 correction for overreporting actual admin expenses (\$17,731) G: PPA 18-19 applied to ROPS 21-22 (\$12,994)
2	Revenue/Income (Actual 06/30/22) RPTTF amount should tie to the ROPS 21-22 total distribution from the County Auditor-Controller	333			230	1,178,736	F: Interest earned in 21-22 (\$230) G: RPTTF received for ROPS 21-22 (\$1,178,736)
3	Expenditures for ROPS 21-22 Enforceable Obligations (Actual 06/30/22)	937		262,500		906,820	E: RPTTF Retained from 20-21 as Reserve for ROPS 21-22 Bond Debt Service (\$262,500) G: ROPS 21-22 RPTTF expenditures match PPA, less reserve amount retained for ROPS 22-23 (\$906,820)
4	Retention of Available Cash Balance (Actual 06/30/22) RPTTF amount retained should only include the amounts	1,283,124			77,954	272,500	F: Other Funds Reserved for ROPS 22-23 Item 2 (\$77,954) G: RPTTF Reserve held for

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.

A	B	C	D	E	F	G	H
	ROPS 21-22 Cash Balances (07/01/21 - 06/30/22)	Fund Sources					Comments
		Bond Proceeds		Reserve Balance	Other Funds	RPTTF	
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS RPTTF and Reserve Balances retained for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	
	distributed as reserve for future period(s)						ROPS 22-23 Debt Service (Items 22 and 26) (\$272,500)
5	ROPS 21-22 RPTTF Prior Period Adjustment RPTTF amount should tie to the Agency's ROPS 21-22 PPA form submitted to the CAC		No entry required			12,410	G: PPA 21-22 (\$6,489) + PPA 20-21 (\$175) + PPA 19-20 (\$5,746)
6	Ending Actual Available Cash Balance (06/30/22) C to F = (1 + 2 - 3 - 4), G = (1 + 2 - 3 - 4 - 5)	\$-	\$-	\$-	\$18,337	\$-	F: Other Funds Ending Balance 20-21 (\$376) + Interest earned 21-22 (\$230)+ PPA 20-21 correction for actual admin expenses (\$17,731)

Sand City
Recognized Obligation Payment Schedule (ROPS 24-25) - Notes
July 1, 2024 through June 30, 2025

Item #	Notes/Comments
2	
3	
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**Exhibit B - SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY
PROPOSED ADMINISTRATIVE BUDGET
July 1, 2024 through June 30, 2025**

<u>EMPLOYEE COSTS:</u>	
Salaries	\$49,597.50
Deferred Compensation	\$630.00
PERS Retirement	\$6,408.75
Medicare	\$1,005.00
Health	\$10,455.00
Dental	\$743.25
Vision	\$125.25
LTD	\$386.25
Life	\$77.63
Workers Comp	\$3,375.00
Fitness	\$191.25
Auto	\$450.00
SUBTOTAL	\$73,444.88
<u>SUPPLIES & SERVICES:</u>	
Audit Services	\$7,500.00
Attorney/Legal Services	\$132,000.00
Mgmnt/Consultant Services	\$29,305.12
Office Supplies	\$500.00
Implementation of LRPMP/EMC	\$2,500.00
SUBTOTAL	\$171,805.12
<u>ALLOCATED COSTS:</u>	
Technical Support	\$500.00
Liability Insurance	\$2,500.00
Property Insurance	\$250.00
Misc. Expense (Property/Taxes/Expenses)	\$1,500.00
SUBTOTAL	\$4,750.00
<u>TOTAL</u>	<u>\$250,000.00</u>

Assembly Bill No. 481

CHAPTER 406

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with
Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY
EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

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