



City of Sunnyvale

Notice and Agenda City Council

Tuesday, May 2, 2023

5:30 PM

Online and Bay Conference Room
(Room 145), City Hall,
456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting: Closed Session - 5:30 PM | Regular Meeting - 7 PM

Meeting online link: <https://sunnyvale-ca-gov.zoom.us/j/96111580540>

Public Participation

- *In-person participation: You may provide public comment by filling out a speaker card (optional) and giving it to the City Clerk.*
- *Online participation: You may provide audio public comment by connecting to the meeting online or by telephone. Use the Raise Hand feature to request to speak (*9 on a telephone):*

Meeting online link: <https://sunnyvale-ca-gov.zoom.us/j/96111580540>

Meeting call-in telephone number: 833-548-0276 | Meeting ID: 961 1158 0540

*(*9 to request to speak | *6 to unmute/mute)*

- *Watch the City Council meeting at <http://youtube.com/SunnyvaleMeetings> or on television over Comcast Channel 15, AT&T Channel 99*
- *Submit written comments to the City Council no later than 4 hours prior to the meeting start to council@sunnyvale.ca.gov or by mail to: City Clerk, 456 W. Olive Ave., Sunnyvale, CA 94086*
- *Review recordings of this meeting and past meetings at <https://sunnyvaleca.legistar.com/calendar.aspx> or <http://youtube.com/SunnyvaleMeetings>*

Accessibility/Americans with Disabilities Act (ADA) Notice

Pursuant to the Americans with Disabilities Act (ADA), if you need special assistance to provide public comment, or for other special assistance; please contact the City at least 48 hours prior to the meeting to enable the City to make reasonable arrangements to ensure accessibility to this meeting. The Office of the City Clerk may be reached at 408-730-7483 or cityclerk@sunnyvale.ca.gov (28

CFR 35.160 (b) (1)).

5:30 P.M. SPECIAL COUNCIL MEETING (Closed Session)

Call to Order

Call to Order in the Bay Conference Room - Room 145 (Open to the Public).

Roll Call

Public Comment

The public may provide comments regarding the Closed Session item(s). If you wish to address the Council, please refer to the notice at the beginning of this agenda. Closed Sessions are not open to the public.

Convene to Closed Session

Convene to Closed Session in the Council Conference Room (Closed to the Public).

- A** [23-0548](#) Closed Session held pursuant to Paragraph (1) of subdivision (d) of California Government Code Section 54956.9:
CONFERENCE WITH LEGAL COUNSEL-EXISTING
LITIGATION Name of case: John Doe v. City of Sunnyvale et al., United States District Court, Northern District of California, Case No. 5:22-cv-08685.
- B** [23-0230](#) Closed Session Held Pursuant to California Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATORS
Agency Designated Representatives: Tina Murphy, Director of Human Resources
Employee Organization: Sunnyvale Managers Association (SMA)

Adjourn Special Meeting

7 P.M. COUNCIL MEETING

Pursuant to Council Policy, City Council will not begin consideration of any agenda item after 11:30 p.m. without a vote. Any item on the agenda which must be continued due to the late hour shall be continued to a date certain. Information provided herein is subject to change from date of printing of the agenda to the date of the meeting.

CALL TO ORDER

Call to Order in the Bay Conference Room (Room 145)

SALUTE TO THE FLAG**ROLL CALL****CLOSED SESSION REPORT****SPECIAL ORDER OF THE DAY**

- C [23-0370](#) Affordable Housing Month
- D [23-0373](#) Public Service Recognition Week
- E [23-0374](#) Public Works Week
- F [23-0372](#) Municipal Clerks Week

PRESENTATION

- G [23-0494](#) Update Regarding Valley Water (VW) Proposed Rate
Increases by VW Director Richard Santos

ORAL COMMUNICATIONS

This category provides an opportunity for members of the public to address the City Council on items not listed on the agenda and is limited to 15 minutes (may be extended or continued after the public hearings/general business section of the agenda at the discretion of the Mayor) with a maximum of up to three minutes per speaker. Please note the Brown Act (Open Meeting Law) does not allow the Council to take action on an item not listed on the agenda. If you wish to address the Council, please refer to the notice at the beginning of this agenda. Individuals are limited to one appearance during this section.

CONSENT CALENDAR

All matters listed on the consent calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion of these items. If a member of the public would like a consent calendar item pulled and discussed separately, please refer to the notice at the beginning of this agenda.

- 1.A [23-0268](#) Approve the List(s) of Claims and Bills Approved for Payment
by the City Manager

Recommendation: Approve the list(s) of claims and bills.

- 1.B** [23-0441](#) Award of Contract to Pavement Coatings Co. for Slurry Seal 2023-B, Finding of Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15301(c)

Recommendation: Take the following actions:

- Award a contract in substantially the same form as Attachment 2 to the report in the amount of \$1,376,491.10 to Pavement Coatings Co.;
- Approve a 10% construction contingency in the amount of \$137,649.00;
- Authorize the City Manager to execute the contract when all necessary conditions have been met; and
- Make a finding of a categorical exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c).

- 1.C** [23-0326](#) Accept Google LLC's Donation of Voluntary Midblock Crosswalk Improvements on Borregas Avenue with an Estimated Construction Cost of \$126,000 and Finding of an Exemption from the California Environmental Quality Act

Recommendation: Accept Google LLC's Donation of Voluntary Midblock Crosswalk Improvements on Borregas Avenue with an Estimated Construction Cost of \$126,000 and Finding of an Exemption from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c).

PUBLIC HEARINGS/GENERAL BUSINESS

If you wish to speak to a public hearing/general business item, please refer to notice at the beginning of this agenda. Each speaker is limited to a maximum of three minutes. For land-use items, applicants are limited to a maximum of 10 minutes for opening comments and 5 minutes for closing comments.

- 2** [23-0169](#) Public Hearing to Adopt a Resolution Confirming the Annual Report to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District (BID) for Fiscal Year 2023/24

Recommendation: Alternative 1: Adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2023/24.

- 3 [23-0552](#) Consider Approval of Draft 2023 Housing and Urban Development (HUD) Action Plan

Recommendation: Alternative 1: Approve the 2023 HUD Action Plan as shown in Attachment 2 to the staff report.

- 4 [23-0438](#) Public Safety Military Equipment Use Annual Report Pursuant to California Assembly Bill No. 481

Recommendation: Alternative 1: Adopt a Resolution Regarding the Presentation of the Annual Public Safety Military Equipment Use Report and Renewing the Military Equipment Use Policy Pursuant to California Assembly Bill No. 481 and Finding the Uses Conformed to Policy and Find that the Action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

- 5 [23-0478](#) Introduce an Ordinance to Repeal and Re-Adopt Sunnyvale Municipal Code Chapter 12.60 (Stormwater Management) and Find That the Action is Categorically Exempt From the California Environmental Quality Act (CEQA) Pursuant to Section 15308 of the CEQA Guidelines

Recommendation: Alternative 1: Introduce the Ordinance in Attachment 1 to repeal and re-adopt Chapter 12.60 (Stormwater Management) of Title 12 (Waters and Sewers) of the Sunnyvale Municipal Code and find that this action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines.

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

NON-AGENDA ITEMS & COMMENTS

-Council

-City Manager

INFORMATION ONLY REPORTS/ITEMS

Visit <http://Sunnyvale.ca.gov/TCMAC> to view the Tentative Council Meeting Agenda Calendar (TCMAC) online. The TCMAC is updated each Thursday afternoon.

- [23-0051](#) Tentative Council Meeting Agenda Calendar

[23-0052](#) Board/Commission Meeting Minutes

[23-0235](#) Information/Action Items

ADJOURNMENT

NOTICE TO THE PUBLIC

The agenda reports to council (RTCs) may be viewed on the City's website at sunnyvale.ca.gov after 7 p.m. on Thursdays or at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue, during normal business hours, prior to Tuesday City Council meetings. Any agenda related writings or documents distributed to members of the City of Sunnyvale City Council regarding any open session item on this agenda will be made available for public inspection in the Office of the City Clerk located on the fourth floor of City Hall at 456 W. Olive Avenue, during normal business hours and in the Bay Conference Room (Room 145) on the evening of the Council Meeting, pursuant to Government Code §54957.5. Please contact the Office of the City Clerk at 408-730-7483 for specific questions regarding the agenda.

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the public hearing or presented in writing to the Office of the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE that Code of Civil Procedure section 1094.6 imposes a 90-day deadline for the filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure 1094.5.

Planning a presentation for a City Council meeting?

To help you prepare and deliver your public comments, please review the "Making Public Comments During City Council or Planning Commission Meetings" available at <http://Sunnyvale.ca.gov/PublicComments>

Planning to provide materials to Council?

If you wish to provide the City Council with copies of your presentation materials, please provide 12 copies of the materials to the Office of the City Clerk. The City Clerk will distribute your items to the Council.

Upcoming Meetings

Visit <https://sunnyvaleca.legistar.com> for upcoming Council, board and commission

meeting information.



City of Sunnyvale

Agenda Item

23-0548

Agenda Date: 5/2/2023

Closed Session held pursuant to Paragraph (1) of subdivision (d) of California Government Code Section 54956.9: CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Name of case: John Doe v. City of Sunnyvale et al., United States District Court, Northern District of California, Case No. 5:22-cv-08685.



City of Sunnyvale

Agenda Item

23-0230

Agenda Date: 5/2/2023

Closed Session Held Pursuant to California Government Code Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency Designated Representatives: Tina Murphy, Director of Human Resources

Employee Organization: Sunnyvale Managers Association (SMA)



City of Sunnyvale

Agenda Item

23-0370

Agenda Date: 5/2/2023

Affordable Housing Month



City of Sunnyvale

Agenda Item

23-0373

Agenda Date: 5/2/2023

Public Service Recognition Week



City of Sunnyvale

Agenda Item

23-0374

Agenda Date: 5/2/2023

Public Works Week



City of Sunnyvale

Agenda Item

23-0372

Agenda Date: 5/2/2023

Municipal Clerks Week



City of Sunnyvale

Agenda Item

23-0494

Agenda Date: 5/2/2023

Update Regarding Valley Water (VW) Proposed Rate Increases by VW Director Richard Santos



City of Sunnyvale

Agenda Item

23-0268

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

BACKGROUND

Pursuant to Sunnyvale Charter Section 802(6), the City Manager has approved for payment claims and bills on the following list(s); and checks have been issued.

<u>List No.</u>	<u>Date</u>	<u>Total Disbursements</u>
176	04-09-23 through 04-15-23	\$4,627,779.60

Payments made by the City are controlled in a variety of ways. In general, payments are reviewed by the appropriate City staff for compliance with the goods or services provided. Any discrepancies are resolved and re-submitted for payment. Different levels of dollar amounts for payments require varying levels of approval within the organization. Ultimately payments are reviewed and processed by the Finance Department. Budgetary control is set by Council through the budget adoption resolution.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

RECOMMENDATION

Approve the list(s) of claims and bills.

Prepared by: Tim Kirby, Director of Finance
Reviewed by: Jaqui Guzmán, Deputy City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. List(s) of Claims and Bills Approved for Payment

City of Sunnyvale

LIST # 176

List of All Claims and Bills Approved for Payment
For Payments Dated 04/09/2023 through 04/15/2023

Sorted by Payment Type, Payment Number and Invoice Number

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
CHECK	XXXXX8295	04/11/2023	Metropolitan Transportation Commission	18,300.00	AR031293	P-TAP Round 24	18,300.00	0.00	\$18,300.00
	XXXXX8296	04/11/2023	Stommel Inc.	393.53	SI85560	Misc parts	393.53	0.00	\$776.10
				382.57	SI85576	Misc parts	382.57	0.00	
	XXXXX8297	04/11/2023	Baker & Taylor, LLC	-50.00	0003274406	Duplicate barcodes issued	-50.00	0.00	\$9,244.93
				-5.45	0003275567	incorrect B/C applied	-5.45	0.00	
				-1.47	0003275657	Incorrect VAS charges for NCR items	-1.47	0.00	
				-34.75	0003276237	Laminate covers not provided	-34.75	0.00	
				-34.75	0003276820	Titles missing laminate	-34.75	0.00	
				-0.71	0003277861	Proc charges for No Charge replacement	-0.71	0.00	
				-17.46	0003278397	Blackstone Processing Errors	-17.46	0.00	
				-9.82	0003278709	Cataloging records sent in error	-9.82	0.00	
				8,731.53	41516802202 3V	VAS Charges	8,731.53	0.00	
				667.81	PCG030223S VAVP	CLS Cataloging & Processing charges Feb 23	667.81	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
	XXXXX8298	04/11/2023	Grainger	692.36	9498894295	Supplies	692.36	0.00	\$1,215.86
				444.15	9557892446	Supplies	444.15	0.00	
				79.35	9667775382	Supplies	79.35	0.00	
	XXXXX8299	04/11/2023	Valley Oil Co	31,576.74	151600	Gas	31,576.74	0.00	\$32,236.94
				660.20	603351	Oil	660.20	0.00	
	XXXXX8300	04/11/2023	Robert William Payne Jr.	1,350.00	SDPS-230401	Pre-Employment Examinations	1,350.00	0.00	\$1,350.00
	XXXXX8301	04/11/2023	Sunnyvale Towing Inc	187.50	323460	Towing Svc	187.50	0.00	\$312.50
				125.00	323482	Towing Svc	125.00	0.00	
	XXXXX8302	04/11/2023	Mountain View Community Television	6,245.39	7854	Jan. 2023	6,245.39	0.00	\$12,490.78
				6,245.39	7865	Feb. 2023	6,245.39	0.00	
	XXXXX8303	04/11/2023	Silicon Valley Electric Motor Corp.	6,870.00	RI9020	pump motor repair	6,870.00	0.00	\$6,870.00
	XXXXX8304	04/11/2023	Peterson Tractor Company	2,333.33	SW240188224	Parts & labor	2,333.33	0.00	\$2,333.33
	XXXXX8305	04/11/2023	Pacific Coast Flag	247.05	29737	Flag	247.05	0.00	\$247.05
	XXXXX8306	04/11/2023	Aaron's Industrial Pumping	225.00	AIP039	Pumped Grease Trap	225.00	0.00	\$225.00
	XXXXX8307	04/11/2023	Stearns, Conrad and Schmidt Consulting Engineers Inc	4,000.00	0460442	Feb 2023	4,000.00	0.00	\$4,000.00
	XXXXX8308	04/11/2023	Silicon Valley Electric Motor Corp.	6,870.00	RI9021	pump motor repair	6,870.00	0.00	\$6,870.00
	XXXXX8309	04/11/2023	Advance Design Consultants Inc	28,165.00	2130919-04Rv	Comm Center Renovation	28,165.00	0.00	\$29,045.00
				880.00	2130919-05Rv2	Comm Center Renovations	880.00	0.00	
	XXXXX8310	04/11/2023	Airgas, Inc.	333.50	9136586917	Oxygen	333.50	0.00	\$386.82
				53.32	9136679545	Oxygen	53.32	0.00	
	XXXXX8311	04/11/2023	Alpine Awards Inc	817.42	6102068	Apparel	817.42	0.00	\$817.42
	XXXXX8312	04/11/2023	Ascent Environmental	806.40	20220090.01-	Kifer Road Apt	806.40	0.00	\$806.40

Payment Type	Payment #	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
					3	Project Consistency			
	XXXXX8313	04/11/2023	Bay Area PL Services	1,664.00	13939	FPO#FY23-163	1,664.00	0.00	\$1,664.00
	XXXXX8314	04/11/2023	Bear Electrical Solutions Inc	136,221.75	17731	Vehicle and Pedestrian LED Modules Maint and Repair	136,221.75	0.00	\$136,221.75
	XXXXX8315	04/11/2023	Bound Tree Medical LLC	637.98	84831011	Supplies	637.98	0.00	\$3,455.32
				1,640.10	84832661	Supplies	1,640.10	0.00	
				1,177.24	84871730	Supplies	1,177.24	0.00	
	XXXXX8316	04/11/2023	Cal-Vet Services Inc	629.00	15535	Equipment Rental	629.00	0.00	\$1,258.00
				629.00	15643	Equipment Rental	629.00	0.00	
	XXXXX8317	04/11/2023	Califa Group	7,843.00	6352	Mango Languages 6/1/23-5/31/24	7,843.00	0.00	\$7,843.00
	XXXXX8318	04/11/2023	California Department of Justice	320.00	623122	Nov 22	320.00	0.00	\$1,632.00
				736.00	628961	Dec 22	736.00	0.00	
				576.00	635140	Jan 23	576.00	0.00	
	XXXXX8319	04/11/2023	CDM Smith	171,040.70	90172640	WPCP Prog Mgmt Services	171,040.70	0.00	\$171,040.70
	XXXXX8320	04/11/2023	Century Graphics	366.64	57925	Apparel	366.64	0.00	\$366.64
	XXXXX8321	04/11/2023	Clay Planet	1,076.92	226606	Supplies	1,076.92	0.00	\$1,076.92
	XXXXX8322	04/11/2023	Contractor Compliance & Monitoring Inc	6,177.50	18177	Mar 2023	6,177.50	0.00	\$6,177.50
	XXXXX8323	04/11/2023	CSG Consultants Inc	4,902.50	45466	Greenbelt Pathway Rehab	4,902.50	0.00	\$4,902.50
	XXXXX8324	04/11/2023	Dell Marketing LP	522.26	10661633374	Logitech MK270 Wireless Keyboard	522.26	0.00	\$31,648.46
				6,246.32	10662063040	Dell 27 Monitor	6,246.32	0.00	
				6,106.95	10662353489	BASE	6,106.95	0.00	
				18,772.93	10663664371	Dell Latitude 5431	18,772.93	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
						XCTO Base			
	XXXXX8325	04/11/2023	Environmental Resource Assoc	2,153.88	036051	Chemicals	2,153.88	0.00	\$2,153.88
	XXXXX8326	04/11/2023	Ferguson US Holdings Inc	984.63	1779324	Parts	984.63	0.00	\$1,186.07
				201.44	1779326	Parts	201.44	0.00	
	XXXXX8327	04/11/2023	Gardenland Power Equipment	972.07	1002226	Parts	972.07	0.00	\$1,838.19
				295.30	962692	Parts	295.30	0.00	
				570.82	964293	Parts	570.82	0.00	
	XXXXX8328	04/11/2023	Global Access Inc	287.07	18502	Online Fax Bundle,	287.07	0.00	\$523.07
				236.00	18626	Online Fax Bundle,	236.00	0.00	
	XXXXX8329	04/11/2023	The Goodyear Tire & Rubber Co	2,046.83	189-1110127	Tires	2,046.83	0.00	\$2,046.83
	XXXXX8330	04/11/2023	Graniterock Co	730.69	2083080	Aggregate and Asphalt	734.71	4.02	\$730.69
	XXXXX8331	04/11/2023	GRM Information Management Services Inc.	3,982.86	00127230	Storage Dec 22	3,982.86	0.00	\$24,731.30
				4,090.78	00127881	Storage Jan 23	4,090.78	0.00	
				4,329.94	00128564	Storage Feb 23	4,329.94	0.00	
				4,604.48	00129217	Storage Mar 23	4,604.48	0.00	
				7,723.24	0130008	Storage Mar 23	7,723.24	0.00	
	XXXXX8332	04/11/2023	Humane Society Silicon Valley	25,449.26	INV370	March 2023	25,449.26	0.00	\$25,449.26
	XXXXX8333	04/11/2023	Infosend Inc	3,014.60	232251	Statement Postage	3,014.60	0.00	\$3,014.60
	XXXXX8334	04/11/2023	Inhouse Commercial Recyclers LLC	675.00	200821T68S5	Book Recycling Prog August 20	675.00	0.00	\$675.00
	XXXXX8335	04/11/2023	Intex Auto Parts	58.93	2-48674-14	Parts	58.93	0.00	\$2,041.52
				1,742.51	2-51635-13	Parts	1,742.51	0.00	
				240.08	2-51664-15	Parts	240.08	0.00	
	XXXXX8336	04/11/2023	Johnson Roberts & Associates, Inc.	52.50	150552	Mar 2023	52.50	0.00	\$52.50
	XXXXX8337	04/11/2023	Kovatch Mobile Equipment Corp.	2,031.66	ca 560042	hinges	2,031.66	0.00	\$2,031.66
	XXXXX8338	04/11/2023	LC Action Police	499.78	443157	Supplies	499.78	0.00	\$13,018.37

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
			Supply	85.12	443260	Supplies	85.12	0.00	
				604.55	444431	Supplies	604.55	0.00	
				157.14	444978	Supplies	157.14	0.00	
				981.31	445888	Supplies	981.31	0.00	
				1,777.37	446990	Supplies	1,777.37	0.00	
				196.26	447004	Supplies	196.26	0.00	
				37.65	447104	Supplies	37.65	0.00	
				1,733.47	447333	Supplies	1,733.47	0.00	
				381.94	448481	Uniforms & accesories	381.94	0.00	
				1,075.43	448531	Uniforms & accessories	1,075.43	0.00	
				1,075.43	448742	Uniforms & accessories	1,075.43	0.00	
				1,075.43	448744	Uniforms & accessories	1,075.43	0.00	
				55.60	449085	Uniforms & accessories	55.60	0.00	
				55.60	449088	Uniforms & accessories	55.60	0.00	
				1,075.43	449178	Uniforms & accessories	1,075.43	0.00	
				1,075.43	449179	Uniforms & accessories	1,075.43	0.00	
				1,075.43	449187	Uniforms & accessories	1,075.43	0.00	
	XXXXX8339	04/11/2023	Mallory Safety & Supply LLC	1,399.11	5593895	Stores Inventory	1,399.11	0.00	\$1,399.11
	XXXXX8340	04/11/2023	Mark Thomas & Company, Inc.	30,308.08	46729	Stevens Creek Trail Extension Project	30,308.08	0.00	\$30,308.08
	XXXXX8341	04/11/2023	McMaster Carr Supply Co	188.50	95075576	Outlet strip	192.35	3.85	\$1,736.48
				361.72	95183818	Materials	369.10	7.38	
				163.71	95412870	lights	167.05	3.34	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
				1,022.55	95413038	Pond Aerators cable repairs	1,043.42	20.87	
	XXXXX8342	04/11/2023	Midwest Tape LLC	-43.64	503337142	Inv 503335939 Test Audiobook	-43.64	0.00	\$101.24
				10.80	503586695	MARC Processing Svc	10.80	0.00	
				136.88	503586696	Processing Services	136.88	0.00	
				-2.80	503593960	Credit Processing Test Item	-2.80	0.00	
	XXXXX8343	04/11/2023	Musson Theatrical Inc	880.00	00463652	Repairs	880.00	0.00	\$880.00
	XXXXX8344	04/11/2023	National Construction Rentals Inc	277.30	6947413	301 Carl Rd 4/1-28/2023	277.30	0.00	\$438.21
				160.91	6947414	Rentals	160.91	0.00	
	XXXXX8345	04/11/2023	ODP Business Solutions, LLC (f/k/a Office Depot Business Solutions, LLC)	610.40	304931005001	Patricia Pickett	610.40	0.00	\$1,333.26
				151.23	304931006001	Patricia Pickett	151.23	0.00	
				43.09	305772444001	Janelle Resuello	43.09	0.00	
				85.10	306343761001	Thao Thanh Nguyen 3/28/23	85.10	0.00	
				39.26	306622287001	Anjelene Manzanares 4/5/23	39.26	0.00	
				141.34	307256195001	Rebecca Montalvo 4/6/2023	141.34	0.00	
				130.76	307451354001	Frances Morales 4/6/2023	130.76	0.00	
				95.17	307470152001	Stacy De Benedetti 4/7/2023	95.17	0.00	
				36.91	308101709001	Janelle Resuello 4/7/2023	36.91	0.00	
	XXXXX8346	04/11/2023	Pacific Gas & Electric	44,147.46	0314283663-	H2O Pollution	44,147.46	0.00	\$150,750.87

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
			Co		8 0223	Control			
				5,020.62	0522589865-8 0223	850 Russet Drive/Tennis Center	5,020.62	0.00	
				26,151.02	3272592818-1 0223	Parks & Fields	26,151.02	0.00	
				14,491.38	4314259418-3 0223	Swimming Pools	14,491.38	0.00	
				49,769.03	6022590556-5 0223	H2O Supply	49,769.03	0.00	
				11,171.36	9147590356-2 0223	Golf Courses	11,171.36	0.00	
	XXXXX8347	04/11/2023	Pine Cone Lumber Co Inc	999.59	183666	Supplies	1,008.75	9.16	\$999.59
	XXXXX8348	04/11/2023	QED Environmental Systems Inc	3,975.34	0000309914	Parts	3,975.34	0.00	\$3,975.34
	XXXXX8349	04/11/2023	Quadient	1,100.00	40204808	FPO#PUR-2305	1,100.00	0.00	\$1,100.00
	XXXXX8350	04/11/2023	Reeds Indoor Range	160.00	773311	Lane Rental Mar 23	160.00	0.00	\$160.00
	XXXXX8351	04/11/2023	Safety-Kleen Systems, Inc.	341.31	91206837	Parts Washer PM	341.31	0.00	\$786.31
				445.00	91378794	Waste Oil Pickup	445.00	0.00	
	XXXXX8352	04/11/2023	San Diego Police Equipment Co	2,145.24	654478	FPO#FY23-049	2,145.24	0.00	\$2,145.24
	XXXXX8353	04/11/2023	Santa Clara County Cities Managers Assn	600.00	SCCCMA 2023	Annual 2023 Membership Dues	600.00	0.00	\$600.00
	XXXXX8354	04/11/2023	Stericycle Inc	225.69	8003553972	AC# 1000431167	225.69	0.00	\$225.69
	XXXXX8355	04/11/2023	Spartan Tool LLC	2,116.94	IN00105815	cables	2,116.94	0.00	\$2,116.94
	XXXXX8356	04/11/2023	Roger Cleveland Golf Company Inc.	96.40	7296449 SO	Resale Merchandise	96.40	0.00	\$1,661.50
				271.92	7377326 SO	Resale Merchandise	271.92	0.00	
				681.36	7378741 SO	Resale Merchandise	681.36	0.00	
				611.82	7380669 SO	Resale Merchandise	611.82	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
	XXXXX8357	04/11/2023	Staples Inc	3.59	3533053353	Bill 8069597047 T Nguyen	3.59	0.00	\$2,123.43
				17.66	3533053354	Bill 8069597047 T Nguyen	17.66	0.00	
				7.22	3533053355	Bill 8069597047 T Nguyen	7.22	0.00	
				17.20	3534091554	Bill 8069752978 T Nguyen	17.20	0.00	
				26.31	3534091556	Bill 8069752978 T Nguyen	26.31	0.00	
				6.60	3534091557	Bill 8069752978 T Nguyen	6.60	0.00	
				1,996.32	3534091558	Bill 8069752978 Lisa Mason	1,996.32	0.00	
				48.53	3534091559	Bill 8069752978 T Nguyen	48.53	0.00	
	XXXXX8358	04/11/2023	Stevens Creek Chevrolet	242.19	173610-1	Parts	242.19	0.00	\$2,308.09
				41.37	173610-2	Misc parts	41.37	0.00	
				180.40	173742	Parts	180.40	0.00	
				988.94	173796	Misc Parts	988.94	0.00	
				146.27	173983	Parts	146.27	0.00	
				319.98	174093	Misc parts	319.98	0.00	
				388.94	611186	Misc. parts & labor	388.94	0.00	
	XXXXX8359	04/11/2023	Studio Em Graphic Design	136.41	18779	Direct Mail Design	136.41	0.00	\$4,937.92
				4,692.38	18819	Summer 2023 Activities Guide	4,692.38	0.00	
				109.13	18820	Human Relations Spanish Flyers	109.13	0.00	
	XXXXX8360	04/11/2023	Sunnyvale Ford	1.78	2147715 FOW	Misc parts	1.78	0.00	\$3,894.88
				1,376.72	217537 FOW	Misc parts	1,376.72	0.00	
				144.32	217694 FOW	Misc parts	144.32	0.00	
				40.29	217694-1	Misc parts	40.29	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
					FOW				
				159.18	217695 FOW	Misc parts	159.18	0.00	
				208.93	217709 FOW	Misc parts	208.93	0.00	
				8.42	217725 FOW	Misc parts	8.42	0.00	
				19.71	217764 FOW	Misc parts	19.71	0.00	
				108.35	217921 FOW	Misc parts	108.35	0.00	
				49.27	217957 FOW	Misc parts	49.27	0.00	
				43.99	218001 FOW	Misc parts	43.99	0.00	
				100.90	218001-1 FOW	Misc parts	100.90	0.00	
				633.37	218072 FOW	Misc parts	633.37	0.00	
				114.69	218092 FOW	Misc parts	114.69	0.00	
				206.39	218166 FOW	Misc parts	206.39	0.00	
				137.26	218258 FOW	Misc parts	137.26	0.00	
				541.31	218610 FOW	Stores Inventory	541.31	0.00	
	XXXXX8361	04/11/2023	Telstar Instruments Inc	5,154.00	115888	SCADA Programming Support	5,154.00	0.00	\$5,154.00
	XXXXX8362	04/11/2023	Home Depot USA Inc d/b/a The Home Depot Pro	1,069.25	738870815	Supplies	1,069.25	0.00	\$1,547.76
				478.51	739519478	Supplies	478.51	0.00	
	XXXXX8363	04/11/2023	TJKM	135.19	0053517	Svl Traffic Signal Upgrades	135.19	0.00	\$135.19
	XXXXX8364	04/11/2023	Turf & Industrial Equipment Co	336.39	IV45423A	Misc parts	336.39	0.00	\$1,231.85
				776.53	IV45675	Misc parts	776.53	0.00	
				97.83	IV45676	Misc parts	97.83	0.00	
				15.86	IV45740	Misc parts	15.86	0.00	
				5.24	IV45785	Misc parts	5.24	0.00	
	XXXXX8365	04/11/2023	Tyler Technologies	34,211.59	025-408475	EnerGov Support Dec 2022	34,211.59	0.00	\$40,674.09
				6,462.50	025-415071	EnerGov April-June 2022	6,462.50	0.00	
	XXXXX8366	04/11/2023	United Rotary Brush	465.03	CI295136	Misc parts	465.03	0.00	\$465.03

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
			Corp						
	XXXXX8367	04/11/2023	United Site Services of California, Inc.	974.03	INV-01429396	975 E Arques 2/10/23-3/9/23	974.03	0.00	\$1,948.06
				974.03	INV-01506861	E Arques 3/10/23-4/6/23	974.03	0.00	
	XXXXX8368	04/11/2023	Univar Solutions USA Inc	3,801.46	51037437	SOD Bisulfate	3,801.46	0.00	\$3,801.46
	XXXXX8369	04/11/2023	VWR International LLC	289.76	8812039678	Supplies	289.76	0.00	\$3,786.74
				530.73	8812336186	Supplies	530.73	0.00	
				379.36	8812336187	Supplies	379.36	0.00	
				109.08	8812356723	Supplies	109.08	0.00	
				458.67	8812383636	Supplies	458.67	0.00	
				315.70	8812399821	Supplies	315.70	0.00	
				85.65	8812482696	Supplies	85.65	0.00	
				29.39	8812486812	Supplies	29.39	0.00	
				527.70	8812486813	Supplies	527.70	0.00	
				45.29	8812490571	Supplies	45.29	0.00	
				289.76	8812490572	Supplies	289.76	0.00	
				109.13	8812495380	Supplies	109.13	0.00	
				252.99	8812495381	Supplies	252.99	0.00	
				146.28	8812495382	Supplies	146.28	0.00	
				217.25	8812518387	Supplies	217.25	0.00	
	XXXXX8370	04/11/2023	Wardell Auto Interiors and Tops LLC	950.05	15171	Parts & labor	950.05	0.00	\$950.05
	XXXXX8371	04/11/2023	Waypoint Analytical California Inc	243.50	098428	Evaluation & consulting	243.50	0.00	\$243.50
	XXXXX8372	04/11/2023	Gregg Crawford Construction Inc	439.00	14026	Leak Repairs	439.00	0.00	\$2,004.00
				927.00	14295	Leak Repairs	927.00	0.00	
				638.00	14306	Pipe Flashing Repairs	638.00	0.00	
	XXXXX8373	04/11/2023	Witmer Tyson Imports Inc	1,254.94	T14929	FPO#FY23-165	1,254.94	0.00	\$1,254.94
	XXXXX8374	04/11/2023	Park Consulting	10,545.00	34	EnerGov Proj	10,545.00	0.00	\$16,603.75

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
			Group, Inc.			Consulting			
				6,058.75	67	EnerGov Reports and Enhancements	6,058.75	0.00	
	XXXXX8375	04/13/2023	FedEx	40.64	8-078-35397	Mail	40.64	0.00	\$40.64
	XXXXX8376	04/13/2023	Gardenland Power Equipment	3,906.96	978214	Parts	3,906.96	0.00	\$7,055.31
				275.57	980030	Parts	275.57	0.00	
				1,075.95	980044	Parts	1,075.95	0.00	
				212.69	980045	Parts	212.69	0.00	
				1,584.14	989720	Parts	1,584.14	0.00	
	XXXXX8377	04/13/2023	Graniterock Co	5,064.49	2081979	Aggregate and Asphalt	5,064.49	0.00	\$5,064.49
	XXXXX8378	04/13/2023	Air Filter Control	416.85	611418	Parts	416.85	0.00	\$4,234.18
				3,817.33	614575	Parts	3,817.33	0.00	
	XXXXX8379	04/13/2023	Alhambra	144.74	19768402 040123 DPS FIRE	Water	144.74	0.00	\$63.85
				-80.89	19768402 040123 SA	Water Bottles Return	-80.89	0.00	
	XXXXX8380	04/13/2023	Infosend Inc	2,100.36	233397	Statement Postage	2,100.36	0.00	\$3,626.77
				1,526.41	233617	Monthly Maintenance	1,526.41	0.00	
	XXXXX8381	04/13/2023	Keller Supply Company	93.40	S021193750. 004	Supplies	93.40	0.00	\$4,471.44
				417.87	S021386457. 001	Supplies	417.87	0.00	
				3,960.17	S021515145. 002	Supplies	3,960.17	0.00	
	XXXXX8382	04/13/2023	Kelly Spicers Inc	581.42	11271384	Supplies	581.42	0.00	\$581.42
	XXXXX8383	04/13/2023	LC Action Police Supply	453.96	450782	Supplies	453.96	0.00	\$453.96
	XXXXX8384	04/13/2023	Mallory Safety & Supply LLC	221.97	5593514	Stores Inventory	221.97	0.00	\$221.97

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	XXXXX8385	04/13/2023	McMaster Carr Supply Co	726.06	94540081	Supplies	726.06	0.00	\$2,455.15
				728.52	95473230	Supplies \$13.35 Disc By 4/13	741.87	13.35	
				114.48	95482748	Supplies \$2.13 Disc By 4/13	116.61	2.13	
				431.15	95578183	Supplies \$8.45 Disc By 4/14	439.60	8.45	
				454.94	95659859	Supplies \$9.08 Disc By 4/15	464.02	9.08	
	XXXXX8386	04/13/2023	Metal Werx	252.23	008021	Supplies	252.23	0.00	\$252.23
	XXXXX8387	04/13/2023	Midwest Tape LLC	5,334.33	503583834	Digital Media M/E 3/31/2023	5,334.33	0.00	\$5,334.33
	XXXXX8388	04/13/2023	Mission Linen Service	103.71	518697246	Linen Svc	103.71	0.00	\$103.71
	XXXXX8389	04/13/2023	Municipal Resource Group LLC	3,712.50	03-23-131	Consulting Svc Thru 1/31/23	3,712.50	0.00	\$3,712.50
	XXXXX8390	04/13/2023	ODP Business Solutions, LLC (f/k/a Office Depot Business Solutions, LLC)	333.36	30315818800 1	Aaron Migliaccio 4/4/2023	333.36	0.00	\$1,541.66
				28.42	30337927100 1	Nicholas Finan 3/22/2023	28.42	0.00	
				166.21	30433254800 1	Jaime Hernandez 4/4/2023	166.21	0.00	
				75.06	30449484000 1	Celena Ruiz 4/4/2023	75.06	0.00	
				153.76	30583226500 1	Dustin Clark 3/24/2023	153.76	0.00	
				110.24	30633571600 1	Edith Alanis 4/5/2023	110.24	0.00	
				27.27	30633571800 1	Edith Alanis 4/5/2023	27.27	0.00	
				169.68	30633572100 1	Edith Alanis 4/5/2023	169.68	0.00	

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				70.82	306622289001	Anjelene Manzanares 4/5/23	70.82	0.00	
				140.08	306750731001	Edith Alanis 4/5/2023	140.08	0.00	
				22.29	307497030001	Shikha Gupta 4/4/2023	22.29	0.00	
				104.74	307767831001	Edith Alanis 4/10/2023	104.74	0.00	
				45.79	308099335001	Terri Furton 4/7/2023	45.79	0.00	
				25.85	308445810001	Lisa Mason 4/10/2023	25.85	0.00	
				26.63	308767873001	Stephen Napier 4/11/2023	26.63	0.00	
				41.46	309024641001	Linda Lovett 4/11/2023	41.46	0.00	
	XXXXX8392	04/13/2023	Amazon Capital Services Inc	-9.77	11KC-H9CQ-KLCG	For Inv#19LT-HM96-1VHC	-9.77	0.00	\$3,836.97
				424.50	11RD-Q7JQ-4R6R	Reiko Yoshidome	424.50	0.00	
				21.60	11XN-14MM-CRJJ	Devin Diazoni	21.60	0.00	
				110.64	136V-QMYT-3RNY	Grace Lo	110.64	0.00	
				282.62	1467-74XN-1KLY	Phyllis Chan	282.62	0.00	
				27.27	149Y-6PWT-FMD9	Dustyn Bindel	27.27	0.00	
				256.96	16M3-K9TD-RN1D	Dustyn Bindel	256.96	0.00	
				-9.77	16QH-4RG6-KKF1	For Inv#19LT-HM96-1VHC	-9.77	0.00	
				-9.77	196Q-CTGP-	For Inv#19LT-HM96-	-9.77	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
					KKXQ	1VHC			
				42.40	19CY-7C7V-C96N	Jaime Hernandez	42.40	0.00	
				104.68	19G1-JDG9-C9GH	Jaime Hernandez	104.68	0.00	
				674.80	19LT-HM96-1VHC	Anna Lewis	674.80	0.00	
				32.73	1D3M-RXFY-3NJF	Phyllis Chan	32.73	0.00	
				24.00	1FTR-617D-7RJH	Allan Bruce	24.00	0.00	
				-19.54	1GNV-41Y4-KGX1	For Inv#19LT-HM96-1VHC	-19.54	0.00	
				43.64	1GTD-7J6R-3GRX	Nancy Grove	43.64	0.00	
				76.35	1H9D-VHPG-367J	Phyllis Chan	76.35	0.00	
				52.20	1HJ3-JMNH-FKK9	Terri Furton	52.20	0.00	
				104.14	1J3X-R6MT-4KL4	Nan Choi	104.14	0.00	
				74.88	1JV3-FWKV-CHKH	Edith Alanis-Richelle	74.88	0.00	
				15.27	1KDK-H16P-3M11	Janelle Resuello	15.27	0.00	
				545.55	1KWN-1LLF-3MN6	Glenda Moncada	545.55	0.00	
				435.84	1LF7-GXVX-YTMG	Lea Velasco	435.84	0.00	
				-19.54	1MF7-3K9L-KMGP	For Inv#19LT-HM96-1VHC	-19.54	0.00	
				153.41	1MGP-YM99-9MKT	Nan Choi	153.41	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
				50.81	1MJW-MJVV-6WJG	Phyllis Chan	50.81	0.00	
				-78.16	1MVN-JN7Y-KFTC	For Inv#19LT-HM96-1VHC	-78.16	0.00	
				148.26	1PC6-K9LH-7QYX	Phyllis Chan	148.26	0.00	
				12.21	1PC6-K9LH-MNRL	Phyllis Chan	12.21	0.00	
				69.44	1PK6-KPRP-LJNG	Julie Jensen	69.44	0.00	
				-107.47	1RCX-PHWG-KCMG	For Inv#19LT-HM96-1VHC	-107.47	0.00	
				22.91	1RJ6-QGDC-3961	Rafael Bayani	22.91	0.00	
				-19.54	1RML-VGRD-KHWF	For Inv#1RML-VGRD-KHWF	-19.54	0.00	
				31.00	1VD3-H99J-3J7R	Thao Thanh Nguyen	31.00	0.00	
				-9.77	1VPJ-GQ4F-KJF9	For Inv#19LT-HM96-1VHC	-9.77	0.00	
				-97.70	1X19-1DRC-KJWK	For Inv#19LT-HM96-1VHC	-97.70	0.00	
				341.49	1XG3-JWPL-JV7K	Madeline Khair	341.49	0.00	
				38.40	1YQK-NL61-GQLH	Carmen Villegas	38.40	0.00	
	XXXXX8393	04/13/2023	American Leak Detection	715.00	48544A	Leak Detection	715.00	0.00	\$715.00
	XXXXX8394	04/13/2023	Applied Industrial Technologies	702.91	7026679907	Parts	702.91	0.00	\$702.91
	XXXXX8395	04/13/2023	Ascent Environmental	2,850.00	18010179.01 - 12	Air Quality-Noise-Environmental Justice	2,850.00	0.00	\$2,850.00

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
	XXXXX8396	04/13/2023	Belkorp AG LLC	22,644.93	875281	Parts	22,644.93	0.00	\$22,644.93
	XXXXX8397	04/13/2023	Caltest Analytical Laboratory	299.25	706699	Analysis	299.25	0.00	\$299.25
	XXXXX8398	04/13/2023	Carahsoft Technology Corporation	6,635.00	IN1371126	Enterprise Pro for Gov	6,635.00	0.00	\$6,635.00
	XXXXX8399	04/13/2023	Century Graphics	941.84	58162	Apparel	941.84	0.00	\$941.84
	XXXXX8400	04/13/2023	Cosco Fire Protection Inc	2,680.00	1000609290	Annual Inspection	2,680.00	0.00	\$2,680.00
	XXXXX8401	04/13/2023	D & M Traffic Services Inc	372.07	90211	Fluorescent Green Paint	375.83	3.76	\$372.07
	XXXXX8402	04/13/2023	Dahlin Group	8,437.50	2303-042	Update to SFH Design Doc.	8,437.50	0.00	\$8,437.50
	XXXXX8403	04/13/2023	E-Technologies Group Inc	3,000.00	INV-16325	Support	3,000.00	0.00	\$3,000.00
	XXXXX8404	04/13/2023	Kelly Spicers Inc	938.15	27393	Stores Inventory	938.15	0.00	\$938.15
	XXXXX8405	04/13/2023	Aantex Pest Control	120.00	515290	Pest Control	120.00	0.00	\$1,998.00
				110.00	515291	Pest Control	110.00	0.00	
				90.00	515292	Pest Control	90.00	0.00	
				95.00	515294	Pest Control	95.00	0.00	
				95.00	515296	Pest Control	95.00	0.00	
				95.00	515297	Pest Control	95.00	0.00	
				95.00	515298	Pest Control	95.00	0.00	
				95.00	515299	Pest Control	95.00	0.00	
				70.00	515300	Pest Control	70.00	0.00	
				70.00	515301	Pest Control	70.00	0.00	
				70.00	515302	Pest Control	70.00	0.00	
				55.00	515303	Pest Control	55.00	0.00	
				55.00	515304	Pest Control	55.00	0.00	
				55.00	515305	Pest Control	55.00	0.00	
				55.00	515306	Pest Control	55.00	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
				55.00	515307	Pest Control	55.00	0.00	
				55.00	515308	Pest Control	55.00	0.00	
				95.00	515311	Pest Control	95.00	0.00	
				63.00	515312	Pest Control	63.00	0.00	
				87.00	515313	Pest Control	87.00	0.00	
				150.00	515314	Pest Control	150.00	0.00	
				85.00	515316	Pest Control	85.00	0.00	
				88.00	515318	Pest Control	88.00	0.00	
				95.00	515333	Pest Control	95.00	0.00	
	XXXXX8406	04/13/2023	P&R Paper Supply Co., Inc.	2,967.28	60097994-00	Stores Inventory	2,967.28	0.00	\$2,967.28
	XXXXX8407	04/13/2023	Pacific Crest Landscape and Maintenance	14,995.00	48523	Shrub Pruning	14,995.00	0.00	\$15,828.33
				833.33	48648	April 2023	833.33	0.00	
	XXXXX8408	04/13/2023	R & R Refrigeration & Air Conditioning	1,687.38	74590	3/10/23 Parts & Labor	1,687.38	0.00	\$1,687.38
	XXXXX8409	04/13/2023	S & L Fence Co	4,862.65	5088	Fence Work	4,862.65	0.00	\$4,862.65
	XXXXX8410	04/13/2023	San Francisco Bay Bird Observatory	1,729.80	2675	Monitoring Prog Mar 2023	1,729.80	0.00	\$1,729.80
	XXXXX8411	04/13/2023	San Jose Boiler Works	5,434.77	18040	Parts & Repairs	5,434.77	0.00	\$5,434.77
	XXXXX8412	04/13/2023	San Jose Conservation Corps	13,905.32	7837	Glass Collection Jan 2023	13,905.32	0.00	\$27,810.64
				13,905.32	7848	Glass Collection March 2023	13,905.32	0.00	
	XXXXX8413	04/13/2023	Security Alert Systems of California Inc	330.00	179047	3/16/2023 Svc	330.00	0.00	\$330.00
	XXXXX8414	04/13/2023	California Newspapers Partnership	348.00	0006731214.	Ad Banner	348.00	0.00	\$2,594.00
				451.00	0006734694	Ad	451.00	0.00	
				451.00	0006734696	Ad	451.00	0.00	
				1,008.00	0006735486	Banner Ad	1,008.00	0.00	
				336.00	0006741792	Banner Ad	336.00	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
	XXXXX8415	04/13/2023	Studio Em Graphic Design	654.75	18810	Earth Day Faire Projects 2023	654.75	0.00	\$654.75
	XXXXX8416	04/13/2023	Laura P. Scott	9,832.50	777	Horizon Sprg 23 Special Edition	9,832.50	0.00	\$9,832.50
	XXXXX8417	04/13/2023	Sunbelt Rentals Inc	2,824.22	134796619-0001	Forklift 1/11-2/7/23	2,824.22	0.00	\$6,404.93
				1,883.35	137351875-0001	Plate Tamper 3/22-3/23/23	1,883.35	0.00	
				1,697.36	137437065-0001	Roller 3/23-3/27/23	1,697.36	0.00	
	XXXXX8418	04/13/2023	Talon Ecological Research Group	2,400.00	SU0010	Burrowing Owl Proj Mar 2023	2,400.00	0.00	\$2,400.00
	XXXXX8419	04/13/2023	Target Specialty Products Inc	1,304.09	INVP501091251	Supplies	1,304.09	0.00	\$1,304.09
	XXXXX8420	04/13/2023	Thomas Plumbing Inc	442.00	10524	Plumbing Svc	442.00	0.00	\$442.00
	XXXXX8421	04/13/2023	TMC Shooting Range Specialist Inc	6,545.00	2320	3/29/2023 Svc	6,545.00	0.00	\$6,545.00
	XXXXX8422	04/13/2023	The Toro Company	860.00	198688294	Promax Service	860.00	0.00	\$860.00
	XXXXX8423	04/13/2023	Turf & Industrial Equipment Co	671.01	IV45263	Equipment	671.01	0.00	\$737.03
				66.02	IV45937	Stores Inventory	66.02	0.00	
	XXXXX8424	04/13/2023	United Rentals (North America), Inc.	587.21	205570720-012	Electric Cart 2/27-3/27/23	587.21	0.00	\$587.21
	XXXXX8425	04/13/2023	United Site Services of California, Inc.	348.20	114-13536243	238 Garner 2/28-3/27/23	348.20	0.00	\$696.40
				348.20	114-13559128	238 Garner Dr 3/28-4/24/23	348.20	0.00	
	XXXXX8426	04/13/2023	Unity Courier Service Inc	1,035.76	488279	C30508 March 2023	1,035.76	0.00	\$1,035.76
	XXXXX8427	04/13/2023	Univar Solutions USA Inc	4,364.84	50954718	SOD BISULFITE	4,364.84	0.00	\$28,598.83
				5,095.01	50969581	SOD BISULFITE	5,095.01	0.00	
				4,867.76	51025753	SOD BISULFITE	4,867.76	0.00	

Payment Type	Payment #	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
				7,349.15	51046491	SOD HYPO	7,349.15	0.00	
				6,922.07	51057376	SOD BISULFITE	6,922.07	0.00	
	XXXXX8428	04/13/2023	Verizon Wireless	20,744.46	9930558975	270963598-00005 2/21-3/20	20,744.46	0.00	\$20,744.46
	XXXXX8429	04/13/2023	VWR International LLC	64.66	8812504372	Chemicals	64.66	0.00	\$128.44
				63.78	8812516659	Chemicals	63.78	0.00	
	XXXXX8430	04/13/2023	Water One Industries Inc	1,300.00	171083	Water Treatment Mar 2023	1,300.00	0.00	\$1,300.00
	XXXXX8431	04/13/2023	Watersavers Irrigation Inc	140.19	2772774-00	Supplies	140.19	0.00	\$688.28
				548.09	2781814-00	Supplies	548.09	0.00	
	XXXXX8432	04/13/2023	Weck Laboratories Inc	1,018.71	W3C2274	Lab Svc	1,018.71	0.00	\$4,910.68
				84.90	W3C2277	Lab Svc	84.90	0.00	
				324.80	W3C2369	Lab Svc	324.80	0.00	
				677.60	W3C2682	Lab Svc	677.60	0.00	
				677.60	W3C2685	Lab Svc	677.60	0.00	
				1,146.07	W3C2740	Lab Svc	1,146.07	0.00	
				981.00	W3D0260	Lab Svc	981.00	0.00	
	XXXXX8433	04/13/2023	Weco Industries LLC	11,772.06	0051305-IN	Parts & Asse	11,772.06	0.00	\$11,772.06
	XXXXX8434	04/13/2023	West Valley Engineering, Inc	2,368.44	324841	Netto, Margaret W/E 1/29/23	2,368.44	0.00	\$20,394.90
				2,368.44	325078	Netto, Margaret W/E 2/5/23	2,368.44	0.00	
				2,368.44	325358	Netto, Margaret W/E 2/12/23	2,368.44	0.00	
				2,236.86	325578	Netto, Margaret W/E 2/19/23	2,236.86	0.00	
				2,105.28	325797	Netto, Margaret W/E 2/26/23	2,105.28	0.00	
				2,105.28	326017	Netto, Margaret W/E 3/5/23	2,105.28	0.00	
				1,315.80	326244	Netto, Margaret W/E 3/12/23	1,315.80	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
				2,105.28	326457	Netto, Margaret W/E 3/19/23	2,105.28	0.00	
				2,105.28	326664	Netto, Margaret W/E 3/26/23	2,105.28	0.00	
				1,315.80	326883	Netto, Margaret W/E 4/2/23	1,315.80	0.00	
	XXXXX8435	04/13/2023	Winsupply of Silicon Valley	376.39	041391 03	Supplies	376.39	0.00	\$440.12
				63.73	041680 01	Supplies	63.73	0.00	
	XXXXX8436	04/13/2023	Zalco Laboratories	125.00	2303030	Gas Analysis	125.00	0.00	\$125.00
	XXXXX8437	04/13/2023	Endress & Hauser Inc	2,400.00	6002434476	Gas Meter Startup	2,400.00	0.00	\$2,400.00
	XXXXX8438	04/13/2023	JAMF Holdings Inc & Subsidiaries	5,414.50	INV316471	Renewal 04/26/23 - 10/25/23	5,414.50	0.00	\$5,414.50
	XXXXX8439	04/13/2023	Core & Main LP	2,095.20	S300516	Parts	2,095.20	0.00	\$6,638.03
				921.89	S312733	Parts	921.89	0.00	
				1,959.25	S550814	Parts	1,959.25	0.00	
				668.65	S629215	Parts	668.65	0.00	
				993.04	S654771	Parts	993.04	0.00	
	XXXXX8440	04/13/2023	Grainger	715.12	7109615869	Supplies	715.12	0.00	\$17,356.01
				788.23	9630441229	Supplies	788.23	0.00	
				157.82	9631791481	Supplies	157.82	0.00	
				345.38	9641543823	Supplies	345.38	0.00	
				164.22	9642548284	Supplies	164.22	0.00	
				617.43	9642827894	Supplies	617.43	0.00	
				579.98	9642957022	Supplies	579.98	0.00	
				31.53	9645946246	Supplies	31.53	0.00	
				2,218.33	9646278565	Supplies	2,218.33	0.00	
				3,813.02	9646373937	Supplies	3,813.02	0.00	
				5,963.00	9646373945	Supplies	5,963.00	0.00	
				266.80	9648085661	Supplies	266.80	0.00	
				1,219.86	9648166107	Supplies	1,219.86	0.00	
				65.67	9648504703	Supplies	65.67	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
				22.05	9648504711	Supplies	22.05	0.00	
				387.57	9656356061	Supplies	387.57	0.00	
	XXXXX8441	04/13/2023	Valley Oil Co	2,812.07	152653	Stores Inventory	2,812.07	0.00	\$5,512.50
				2,700.43	152654	Stores Inventory	2,700.43	0.00	
	XXXXX8442	04/13/2023	QOVO Solutions Inc	145.00	26-5749	Surveillance Support Apr 2023	145.00	0.00	\$145.00
	XXXXX8443	04/13/2023	Solenis LLC	98,776.02	132262062	Supplies	98,776.02	0.00	\$98,776.02
	XXXXX8444	04/13/2023	Rincon Consultants, Inc.	8,018.25	46448	Play Book Update Feb 2023	8,018.25	0.00	\$8,018.25
	XXXXX8445	04/13/2023	Kanopy Inc	1,236.00	344733-PPU	Videos	1,236.00	0.00	\$1,236.00
	XXXXX8446	04/13/2023	Megan Rizzo	1,500.00	1116	Graphic Design	1,500.00	0.00	\$1,500.00
	XXXXX8447	04/13/2023	Patron Point, Inc	15,725.00	1967	Setup & Subscrptn 3/23-3/24	15,725.00	0.00	\$15,725.00
	XXXXX8448	04/13/2023	mk Solutions, Inc.	56,788.75	71980	AMH Sys Lakewood 50% Pymt	56,788.75	0.00	\$56,788.75
	XXXXX8449	04/13/2023	Katerina Tadenev	500.00	23-01	Utility Box Public Art Proj Ph 2	500.00	0.00	\$500.00
	XXXXX8450	04/13/2023	Aaron's Industrial Pumping	225.00	AIP126	Grease Pumping	225.00	0.00	\$225.00
	XXXXX8451	04/13/2023	Micro Motion, Inc.	7,461.67	40730223	Rosemount Instruments	7,461.67	0.00	\$7,461.67
	XXXXX8452	04/13/2023	Otis Elevator Company	507.05	SJ16424001	3/22/203 City Hall Service	507.05	0.00	\$507.05
	XXXXX8453	04/13/2023	OverDrive Inc	2,051.55	13449CO230 72593	Library Materials	2,051.55	0.00	\$5,072.00
				2,445.26	13449CO231 02717	Library Materials	2,445.26	0.00	
				43.00	13449DA230 72961	Library Materials	43.00	0.00	
				109.10	13449DA230	Library Materials	109.10	0.00	

Payment Type	Payment #.	Payment Date	Vendor Name	Amount Paid	Invoice No.	Description	Invoice Amount	Discount Taken	Payment Total
					76062				
				32.00	13449DA230 80797	Library Materials	32.00	0.00	
				105.49	13449DA230 83722	Library Materials	105.49	0.00	
				128.04	13449DA230 91349	Library Materials	128.04	0.00	
				157.56	13449DA230 98859	Library Materials	157.56	0.00	
WIRE	XXXXX2302	04/11/2023	Public Employees Retirement System	1,863,295.16	10000001711 6231	Medical Premium 4/2023 Wire Date 4/06/2023	1,863,295.16	0.00	\$1,863,295.16
	XXXXX2381	04/13/2023	Bay Counties SMaRT	1,384,005.68	Bay Counties Feb 2023	Feb 2023 Invoice WR date 4/6/2023	1,384,005.68	0.00	\$1,384,005.68
Grand Total				4,627,779.60			4,627,864.99	85.39	\$4,627,779.60



City of Sunnyvale

Agenda Item

23-0441

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Award of Contract to Pavement Coatings Co. for Slurry Seal 2023-B, Finding of Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15301(c)

REPORT IN BRIEF

Approval is requested to award a construction contract in substantially the same form as Attachment 2 to this report, in the amount of \$1,376,491.10 to Pavement Coatings Co. of Sacramento for Slurry Seal 2023-B, and for approval of a 10% construction contingency in the amount of \$137,649.

EXISTING POLICY

Pursuant to Section 2.09.040 of the Sunnyvale Municipal Code, City Council approval is required for awards of public works contracts exceeding \$250,000.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c) for the operation, repair, maintenance, or minor alteration of existing facilities involving negligible or no expansion of the existing or former use.

BACKGROUND AND DISCUSSION

The Slurry Seal 2023 B (Public Works Project No. ST-23-05) consists of the installation of 923,076 square feet of slurry seal on various streets segments along Mary Avenue and Reed Avenue. This Project also includes sewer manhole cover adjustments and installing thermoplastic pavement striping, markings, legends, green bike lane, and raised pavement markers.

An invitation for bids was posted on City's DemandStar public procurement network, distributed to local Bay Area Builder's Exchanges, and published on the City's website on January 20, 2023. Sixteen (16) contractors requested bid documents with four (4) sealed bids publicly opened on February 15, 2023. The bid summary is contained in Attachment 1 to this report.

Staff recommends awarding the project to the lowest responsive and responsible bid, which was submitted by Pavement Coatings Co. in the amount of \$1,376,491.10.

FISCAL IMPACT

Project costs include the base bid of \$1,376,491.10 and a recommended 10% contingency in the amount of \$137,649, for a total of \$1,514,140.10. Budgeted funds are available in Projects 828030 - Annual Slurry Seal of City Streets and 825290 - Pavement Rehabilitation. Project 831680 - Adjust Sewer Utilities in Support of Paving Projects) will fund \$7,000 for adjusting manholes and other utility infrastructure impacted by the Project.

Funding Source

Funding for pavement rehabilitation comes from the General Fund, Gas Tax Street Improvement Subfund, Road Maintenance & Rehabilitation Account (RMRA) Subfund, VRF Local Road Improvement Program Subfund and 2016 Measure B - Santa Clara VTA Subfund. The Wastewater Management Fund will fund the work related to manhole adjustments.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

RECOMMENDATION

Take the following actions:

- Award a contract in substantially the same form as Attachment 2 to the report in the amount of \$1,376,491.10 to Pavement Coatings Co.;
- Approve a 10% construction contingency in the amount of \$137,649.00;
- Authorize the City Manager to execute the contract when all necessary conditions have been met; and
- Make a finding of a categorical exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c).

Prepared by: Gregory S. Card, Purchasing Officer

Reviewed by: Tim Kirby, Director of Finance

Reviewed by: Chip Taylor, Director of Public Works

Reviewed by: Jaqui Guzmán, Deputy City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Bid Summary
2. Draft General Construction Contract
3. Project - 825290 - Pavement Rehabilitation
4. Project - 828030 - Annual Slurry Seal
5. Project - 831680 - Adjust Sewer Utilities

DRAFT GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT dated _____ is by and between the CITY OF SUNNYVALE, a California chartered municipal corporation of the State of California ("Owner") and PAVEMENT COATINGS CO., a California corporation ("Contractor").

RECITALS:

The parties to this Contract have mutually covenanted and agreed, as follows:

1. The Contract Documents. The complete Contract consists of the following documents: Notice Inviting Bids; Instructions to Bidders; Performance Bond and Payment Bond; Guaranty; City of Sunnyvale Standard Specifications for Public Works Construction, 2006 Edition; City of Sunnyvale Standard Details for Public Works Construction, 2006 Edition; Plans and Specifications, "Slurry Seal 2023-B, Project No. ST-23-05, Invitation for Bids No. PW23-19", including Three (3) Addenda; OSHA, and other standards and codes as outlined in the Specifications. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents.

All obligations of the Owner and the Contractor are fully set forth and described therein.

All the above documents are intended to work together so that any work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all documents.

2. The Work. Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete the project in a good and workmanlike manner. The work consists of furnishing all labor, materials, equipment, tools, and incidentals necessary to remove (by grinding) existing thermoplastic striping, pavement markings, and legends; remove raised pavement markers; perform digout repair; apply pavement crack sealant; apply slurry seal in areas indicated; install new striping, pavement markings, legends and raised pavement markers, ready for use, as called for, and in the manner designated in, and in strict conformity with, the Plans and Specifications prepared and adopted by the Owner. These Plans and Specifications are entitled respectively, Slurry Seal 2023-B, Project No. ST-23-05.

It is understood and agreed that the work will be performed and completed as required in the Plans and Specifications under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner, or its representatives. The Owner hereby designates as its representative for the purpose of this contract the Senior Civil Engineer for Construction or an employee of the Owner who will be designated in writing by the Director of Public Works.

3. Contract Price. The Owner agrees to pay, and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of One Million Three Hundred Seventy Six Four Ninety One and 10/100 Dollars (\$1,376,491.10) subject to final determination of the work performed and materials furnished at unit prices per "Exhibit A" attached hereto and incorporated by this reference, and subject to additions and deductions in accordance, as provided in the Documents and in accordance with Contract Documents.

4. Permits; Compliance with Law. Contractor shall, at its expense, obtain all necessary permits and licenses, easements, etc., for the construction of the project, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules, and regulations relating to the work and to the preservation of the public health and safety.

5. Inspection by Owner. Contractor shall always maintain proper facilities and provide safe access for inspection by the Owner to all parts of the work, and to the shops wherein the work is in preparation. Where the Specifications require work to be specially tested or approved, it shall not be tested or covered up without timely notice to the Owner of its readiness for inspection and without the approval thereof or consent thereto by the latter. Should any such work be covered up without such notice, approval, or consent, it must, if required by Owner, be uncovered for examination at the Contractor's expense.

6. Extra or Additional Work and Changes. Should Owner at any time during the progress of the work request any alterations, deviations, additions, or omissions from the Specifications or Plans or other Contract Documents it shall be at liberty to do so, and the same shall in no way affect or make void the contract but will be added to or deducted from the amount of the contract price by a fair and reasonable valuation, agreed to in writing between the parties hereto. No extra work shall be performed, or change be made, unless in pursuance of a written order from the Director of Public Works or authorized representative, stating that the extra work or change is authorized and no claim for an addition to the contract sum shall be valid unless so ordered.

7. Time for Completion. All work under this contract shall be completed before the expiration of seventy-five (75) working days from the date specified in the Notice to Proceed.

If Contractor shall be delayed in the work by the acts or neglect of Owner, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts by others, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Owner, or by any cause which the Owner shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Owner may decide.

This provision does not exclude the recovery of damages for delay by either party under other provisions.

8. Inspection and Testing of Materials. Contractor shall notify Owner a sufficient time in advance of the manufacture or production of materials, to be supplied under this contract, in order that the Owner may arrange for mill or factory inspection and testing of same, if Owner requests such notice from Contractor.

9. Termination. If Contractor should file a bankruptcy petition and/or be judged bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor or any subcontractors should violate any of the provisions of the Contract, Owner may serve written notice upon Contractor and its surety of Owner's intention to terminate the Contract. The notice shall contain the reasons for such intention to terminate the Contract, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten days, the Contract shall cease and terminate. In the event of any such termination, Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided, however that, if the surety within fifteen (15) days after the serving upon it of notice of termination does not give Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty (30) days from the date of the serving of such notice, Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to Owner for any excess cost occasioned Owner thereby, and in such event Owner may without liability for so doing take possession of and utilize in completing the work, such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

10. Owner's Right to Withhold Certain Amounts and Make Application Thereof. In addition to the amount which Owner may retain under Paragraph 21 until the final completion and acceptance of all work covered by the Contract, Owner may withhold from payment to Contractor such amount or amounts as in its judgment may be necessary to pay just claims against Contractor or any subcontractors for labor and services rendered and materials furnished in and about the work. Owner may apply such withheld amount or amounts to the payment of such claims in its discretion. In so doing Owner shall be deemed the agent of Contractor and any payment so made by Owner shall be considered as a payment made under the Contract by Owner to the Contractor and Owner shall not be liable to Contractor for any such payment made in good faith. Such payment may be made without prior judicial determination of the claim or claims.

11. Notice and Service Thereof. All notices required pursuant to this Contract shall be communicated in writing, and shall be delivered in person, by commercial courier or by first class or priority mail delivered by the United States Postal Service. Nothing in this provision shall be construed to prohibit

communication by more expedient means, such as by email or fax, to accomplish timely communication. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three business days after mailing. All notices sent pursuant to this Contract shall be addressed as follows:

Owner: City of Sunnyvale
Department of Public Works
Construction Contract Administrator
P. O. Box 3707
Sunnyvale, CA 94088-3707

Contractor: Pavement Coatings Co.
Attn: Tim Schmid
2150 Bell Ave. Ste. 125
Sacramento, CA 95838

12. Assignment of Contract. Neither the Contract, nor any part thereof, nor moneys due or to become due thereunder may be assigned by Contractor without the prior written approval of Owner.

13. Compliance with Specifications of Materials. Whenever in the Specifications, any material or process is indicated or specified by patent or proprietary name, or by name of manufacturer, such Specifications must be met by Contractor, unless Owner agrees in writing to some other material, process or article offered by Contractor which is equal in all respects to the one specified.

14. Contract Security. Contractor shall furnish a surety bond in an amount at least equal to one hundred percent (100%) of the contract price as security for the faithful performance of this Contract. Contractor shall also furnish a separate surety bond in an amount at least equal to one hundred percent (100%) of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Contract, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond. Bonds shall be issued by an admitted surety insurer authorized to operate in the state of California.

15. Insurance. The Owner requires that CONTRACTOR maintain insurance requirements on the Pacific Insurance Network System (PINS). CONTRACTOR shall procure and maintain, at its own expense during the life of this Agreement, policies of insurance as specified in Exhibit "C" attached and incorporated by reference and shall provide all certificates and/or endorsements as specified in Exhibit "C" through PINS for approval by the Owner Risk Manager prior to CONTRACTOR (or subcontractor) commencing any work under this Agreement.

16. Indemnification and Hold Harmless. Contractor agrees to defend, save, indemnify and hold harmless Owner and all its officers, employees, and agents, against any and all liability, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation arising through the active negligence or willful misconduct of Owner, or of Owner's officials, agents, employees, servants, or independent contractors who are directly responsible to Owner. Contractor shall make good and reimburse Owner for any expenditures, including reasonable attorneys' fees, Owner may make by reason of such claim or litigation, and, if requested by Owner, Contractor shall defend any such suits at the sole cost and expense of Contractor.

17. Hours of Work. Eight hours of labor during any one calendar day and forty hours of labor during any one calendar week shall constitute the maximum hours of service upon all work done hereunder, and it is expressly stipulated that no laborer, worker, or mechanic employed at any time by the Contractor or by

any subcontractor or subcontractors under this Contract, upon the work or upon any part of the work contemplated by this Contract, shall be required or permitted to work thereon more than eight hours during any one calendar day and forty hours during any one calendar week, except, as provided by Section 1815 of the Labor Code of the State of California, work performed by employees of contractors in excess of eight hours per day and forty hours during any one week shall be permitted upon public work upon compensation for all hours worked more than eight hours per day at not less than one and one-half times the basic rate of pay. It is further expressly stipulated that for each and every violation of Sections 1811-1815, inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein, Contractor shall forfeit, as a penalty to Owner, twenty-five dollars (\$25.00) for each laborer, worker, or mechanic employed in the execution of this Contract by Contractor, or by any subcontractor under this Contract, for each calendar day during which the laborer, worker, or mechanic is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of the Sections of the Labor Code.

Contractor, and each subcontractor, shall, in accordance with California Labor Code Section 1776 or as the same may be later amended, keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with work under this agreement. Each payroll record shall contain or be verified by a written declaration under penalty of perjury, in accordance with Labor Code Section 1776(a). Such payroll records shall be made available at all reasonable times at the Contractor's principal office to the persons authorized to inspect such records pursuant to Labor Code Section 1776. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations, as well as to the Owner's representative. In the event the Contractor or a Subcontractor fails to comply in a timely manner within ten (10) days to a written notice requesting the records, such contractor or subcontractor shall forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, in accordance with Labor Code Section 1776(h).

18. Wage Rates. Pursuant to the Labor Code of the State of California, or any applicable local law, Owner has ascertained the general prevailing rate per diem wages and rates for holidays, and overtime work in the city, for each craft, classification or type of laborer, worker, or mechanic needed to execute this Contract. Owner has adopted, by reference, the general prevailing rate of wages applicable to the work to be done under the Contract, as adopted, and published by the Division of Labor Standards Enforcement and Labor Statistics and Research of the State of California, Department of Industrial Relations, to which reference is hereby made for a full and detailed description. A copy of the prevailing wage rates may be reviewed in the office of the Director of Public Works, City of Sunnyvale, 456 West Olive Avenue, Sunnyvale, California. Wage rates can also be obtained through the California Department of Industrial Relations website at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Neither the notice inviting bids, nor this Contract, shall constitute a representation of fact as to the prevailing wage rates upon which the Contractor or any subcontractor may base any claim against Owner.

It shall be mandatory upon Contractor and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that Contractor shall, as a penalty to Owner, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Contract by Contractor or by any subcontractor; and Contractor agrees to comply with all provisions of Section 1775 of the Labor Code.

In case it becomes necessary for Contractor or any subcontractor to employ on the project under this Contract any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, Contractor shall immediately notify Owner who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial

employment of the person affected and during the continuance of such employment.

19. Accident Prevention. Precaution shall be always exercised for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Construction Safety Orders issued by the Industrial Accident Commission of the State of California.

20. Contractor's Guarantee. Owner shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work, or equipment or any part thereof, or in, on, or about the same during its construction and before acceptance. Contractor unqualifiedly guarantees the first-class quality of all workmanship and of all materials, apparatus, and equipment used or installed by Contractor or by any subcontractor or supplier in the project which is the subject of this Contract, unless a lesser quality is expressly authorized in the Plans and Specifications, in which event Contractor unqualifiedly guarantees such lesser quality; and that the work as performed by Contractor will conform with the Plans and Specifications or any written authorized deviations therefrom. In case of any defect in work, materials, apparatus, or equipment, whether latent or patent, revealed to Owner within one (1) year of the date of acceptance of completion of this Contract by Owner, Contractor will forthwith remedy such defect or defects without cost to Owner.

21. Liquidated Damages. Time shall be the essence of this Contract. If Contractor fails to complete, within the time fixed for such completion, the entire work mentioned and described and contracted to be done and performed, Contractor shall become liable to Owner for liquidated damages in the sum of five hundred dollars exactly (\$500.00), for every calendar day during which work shall remain uncompleted beyond such time fixed for completion or any lawful extension thereof. The amount specified as liquidated damages is presumed to be the amount of damage sustained by Owner since it would be impracticable or extremely difficult to fix the actual damage; and the amount of liquidated damages may be deducted by Owner from moneys due Contractor hereunder, or its assigns and successors at the time of completion, and Contractor, or its assigns and successors at the time of completion, and its sureties shall be liable to Owner for any excess.

22. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law or choice of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara and waive all venue objections.

23. Severability Clause. In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal, or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.

24. Entire Agreement; Amendment. This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

25. Execution and Counterparts. This Agreement may be executed in multiple counterparts and/or with the signatures of the Parties set forth on different signature sheets and all such counterparts, when taken together, shall be deemed one original.

IN WITNESS WHEREOF, two identical counterparts of this contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties.

CITY OF SUNNYVALE
a California chartered municipal corporation
of the State of California, Owner

PAVEMENT COATINGS CO.
Contractor

License No. 303609

By _____
City Manager Date

By _____

Title Date

Attest:
City Clerk

By _____

Title Date

By _____
City Clerk Date

(SEAL)

APPROVED AS TO FORM:

City Attorney Date

EXHIBIT A
BID SCHEDULE

No.	Description	QTY	Unit	Unit Cost
1	Mobilization (Recommend Not to Exceed 5% of Total Base Bid)	1	LS	\$32,000.00
2	Traffic Control	1	LS	\$60,000.00
3	Changeable Message Board (CMB) (Revocable)	6	EA	\$6,500.00
4	Install Slurry Seal (Type III) with 2½ % Latex	923,076	SF	\$0.42
5	Remove existing pavement striping, markings, legends and raised pavement markers	1	LS	\$70,000.00
6	Install thermoplastic pavement striping, markings, legends, and raised pavement markers	1	LS	\$215,000.00
7	AC Repair (Digouts) 3" depth	67,477	SF	\$6.34
8	AC Repair (Digouts) 6" depth	533	SF	\$15.00
9	Crack Sealing	1	LS	\$115,000.00
10	Adjust Utilities to Grade	5	EA	\$1,400.00
11	Traffic Signal Modification by City's contractor (Allowance)	1	LS	\$15,000.00

EXHIBIT B

Utilization of Local Workforce in Construction Projects – The Sunnyvale City Council has adopted a policy which encourages utilization of local workforces, including State-certified apprentices, as a means of supporting economic opportunities for all members of the community. Local workforce is defined as workers residing in Santa Clara County. The lowest responsive and responsible bidder must provide a projection of locally hired workers utilized for this contract.

Contractor	Projected Number of Locally Hired Workers_____ Projected Percent of Locally Hired Workers_____%
Subcontractor(s)	Projected Number of Locally Hired Workers_____ Projected Percent of Locally Hired Workers_____%

EXHIBIT C INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, their agents, representatives, or employees.

Minimum Scope and Limits of Insurance. Contractor shall maintain limits not less than:

1. **Commercial General Liability:** coverage written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$4,000,000 aggregate for bodily injury, personal injury, and property damage. ISO Occurrence Form shall be at least as broad as CG 0001.
2. **Automobile Liability:** coverage with a combined single limit of not less than \$2,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this contract for bodily injury and property damage. ISO Form shall be at least as broad as CA 0001.
3. **Workers' Compensation:** Statutory Limits and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.

Industry Specific Coverages. If checked below, the following insurance is also required:

- ☐ **Professional Liability / Errors and Omissions Liability coverage** with limits not less than \$2,000,000 per occurrence or claim.
- ☐ **Valuable Papers and Electronic Data Processing** with limits not less than \$10,000 each.
- ☐ **Pollution Liability coverage** with limits not less than \$2,000,000 per occurrence.
- ☐ **MCS-90 Endorsement** to Business Automobile insurance for transportation of hazardous materials and pollutants.
- ☐ **Builder's Risk / Course of Construction coverage** written on an "all risk" basis with limits equal to the completed value of the project and no coinsurance penalty provisions.
- ☐ **Installation Floater coverage** written on an "all risk" basis with limits equal to the completed value of the project and no coinsurance penalty provisions.

Deductibles, Self-Insured Retentions and Other Coverages:

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale, Risk Manager. The Contractor shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

The aforementioned insurance requirements can be met through any combination of self-insured, primary, and excess/umbrella policies that fulfill the stipulated coverage as cited above.

Other Insurance Provisions:

1. During the term of the contract, the City of Sunnyvale, its officers, officials, employees, agents, and volunteers are to be covered as an additional insured in the Contractor's commercial general liability policy (and if indicated above, valuable papers and electronic data processing, pollution liability, builder's risk, and installation floater policies) with respects to liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor. The coverage shall contain no special

limitations on the scope of protection afforded to the City of Sunnyvale, its officers, officials, employees, agents, or volunteers.

Additional Insured Endorsement for ongoing operations at least as broad as ISO CG 20 10 Scheduled, or automatic CG 20 38 and completed operations shall be at least as broad as ISO CG 20 37 scheduled or automatic ISO CG 20 40.

2. During the term of the contract, the Contractor's Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Sunnyvale.
3. For all Architects, Engineers, and Design Professionals - If Industry Specific Coverage box is checked above **and** if the Contractor's Professional Liability/Errors and Omissions coverage is written on a claims made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained, and evidence of insurance must be provided, *for at least three (3) years after completion of the contract of work.*
 - c. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of *three (3) years* after completion of contract work
4. If Industry Specific Coverage box is checked above, during the term of the contract, the Contractor's Builder's Risk / Course of Construction or Installation Floater policy shall provide coverage for any building, structures, machinery or equipment that is damaged, impaired, broken or destroyed during the performance of the Work, including during transit, installation and testing. The policy shall name the City of Sunnyvale as a Loss Payee with respect to any repairs or replacement of any damaged property or other amounts payable under the policy.
5. For any claims related to this project, the Contractor's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not contribute with it and shall be at least as broad as ISO CG 20 01 04 13.
6. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
7. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
8. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, 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 City of Sunnyvale.
9. Any umbrella or excess Insurance Liability policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this document, including the additional insured, SIR, and primary and non-contributory insurance requirements for the benefit of City (if agreed to in a written contract or agreement) until all coverage carried by or available to the Contractor's primary and excess liability policies are exhausted and before the City's own Insurance or self-insurance shall be called upon to contribute to a loss.

10. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the Contractor's policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, and who are admitted and authorized to do business and in good standing in California unless otherwise acceptable to the City of Sunnyvale's Risk Manager.

Verification of Coverage:

The City of Sunnyvale utilizes PINSAdvantage.com (PINS) to track and verify all insurance related documents. The City is no longer accepting Certificates of Insurance by mail and requires the use of PINS. The City will email the Contractor requesting proof of insurance for this Contract through the PINS platform (no-reply@pinsadvantage.com), which include instructions on how to upload insurance documents electronically. Contractor shall furnish the City of Sunnyvale with an original Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale, Risk Manager prior to commencement of work.

The Contractor shall provide certificate(s) evidencing renewals of all insurance required herein prior to the expiration date of any such insurance. Contractor shall submit insurance certificates reflecting the policy renewals through PINS. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Subcontractors:

Contractor shall require and verify that all subcontractors or other parties hired for this Work, purchase and maintain coverage for indemnity and insurance requirements as least as broad as specified in this Agreement herein, to the extent they apply to the scope of the subcontractor's work with the same Certificate of Insurance requirements and naming as additional insureds all parties to this Contract. Failure of Contractor to verify existence of subcontractor's insurance shall not relieve Contractor from any claim arising from subcontractors work on behalf of Contractor.

Contractor shall include the following language in their agreement with Subcontractors: "Subcontractors hired by Contractor agree to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under the Agreement Documents and provide a valid certificate of insurance and the required endorsements included in the Agreement as proof of compliance prior to commencement of any work and to include this same requirement for any subcontractors they hire for this work. A copy of the Owner Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request." Contractor shall provide proof of such Compliance and verification to the City upon request.

Project: 825290 - Pavement Rehabilitation

Category:	Infrastructure	Project Type:	Traffic and Transportation	Project Manager:	Marlon Quiambao Jr.
Year Identified:	2006	Project Phase:	Underway	Project Coordinator:	Jim Burch
Est. Completion Year:	Ongoing	Department:	250 - Public Works	Fund - Sub-Fund:	3201 - General Fund Assets

Project Description/Scope/Purpose:

This project provides for ongoing roadway infrastructure preservation and rehabilitation to maintain Sunnyvale's network in very good condition. Specific yearly projects will be based upon annual roadway condition surveys and pavement management system (PMS) analysis. Projects in past fiscal years included milling, wedge-grinding and overlay, cold in place roadway recycling, crack sealing, street patching and slurry sealing. This effort was supplemented by 828030 - Annual Slurry Seal of City Streets and the Operations budget for roadway maintenance and increased slurry sealed roadways from 3 million square feet (sf) in FY 2015/16, over 4 million sf in FY 2017/18, and 5.3 million scheduled in FY 2018/19, and over 5.3 million sf scheduled for FY 2020/21. This, as well as increasing the total footage chip sealed, will assist us in reaching and maintaining an average pavement condition index (PCI) of over 80.

This project will continue the shift from typical roadway replacement strategies to a balanced approach between pavement preservation and roadway replacement. These strategies may include: microsurfacing, slurry seals, crack sealing, patch repairs, mill, wedge-grind and overlay, cold in-place or full depth roadway recycling, and other strategies that may become applicable. This overall strategy shift will allow the City to improve a larger roadway area and reach a yearly slurry sealing goal of 5 million sf and 2.5 million sf of double chip seal annually starting in FY 2019/20. By reducing the cycle of resurfacing this will assist us in raising and maintain the average PCI above 80.

Design and Construction costs for Wolfe Road Rehabilitation from Evelyn Avenue to Homestead Road are being reserved in current funds and will immediately follow PG&E Rule 20A Undergrounding.

Project Evaluation and Analysis:

Maintaining Sunnyvale streets in very good condition is essential to maintain the economic vitality of the City and enhance the quality of life of City's residents. Historically, an average of approximately \$3 million was spent per year in FY 2012/13 through FY 2015/16 in addition to the Annual Slurry Seal project and the Operations maintenance budget. This effort sustained the PCI at 77. With the ability to charge overtime and materials, as well as contract work to this project and working on reducing the maintenance cycle, from the current 12-15 years to an 8-10 years will assist us in raising the average PCI to 80+. The alternative is to not increase funding and delay needed preservation, repairs, and replacement. If delayed, lower cost preservation effort and minor street rehabilitation measures will become major street replacement projects at a much higher cost. This will result in dropping the PCI by 1 to 2 points per year.

Fiscal Impact:

This project is funded by the SB83 VRF Road Improvement Program, Measure B, Gas Tax, Road Maintenance and Rehabilitation (SB1), and the General Fund. The project does not affect the operating budget; however, it will also provide for overtime needed for the warranted preparatory work prior to the application of either double chip seal or slurry seal roadways that will charge to this project.

Funding Sources:

Gas Tax Street Improvement Fund, Road Maintenance and Rehabilitation Account (SB1) Fund, 2016 Measure B - Santa Clara VTA Fund, VRF Local Road Improvement Program Fund, and General Fund

Plans and Goals:

CC - Community Character - CC-2: Attractive Street Environment

Project Financial Summary

	Project Costs	Revenues	Transfers In	Operating Costs
Prior Actual	24,774,947	5,500	21,650,585	-
2021 - 22	15,236,707	(5,500)	9,400,446	-
2022 - 23	6,464,120	-	-	-
2023 - 24	9,249,564	-	-	-
2024 - 25	5,996,901	-	-	-
2025 - 26	5,028,538	-	-	-
2026 - 27	7,247,538	-	-	-
2027 - 28	7,453,976	-	-	-
2028 - 29	8,485,729	-	-	-
2029 - 30	7,913,633	-	-	-
2030 - 31	9,006,536	-	-	-
2031 - 32	8,409,805	-	-	-
2032 - 33	9,200,454	-	-	-
2033 - 34	8,945,568	-	-	-
2034 - 35	9,257,945	-	-	-
2035 - 36	9,076,485	-	-	-
2036 - 37	9,830,822	-	-	-
2037 - 38	9,203,884	-	-	-
2038 - 39	10,381,069	-	-	-
2039 - 40	8,646,119	-	-	-
2040 - 41	10,583,621	-	-	-
2041 - 42	9,079,264	-	-	-
20 Year Total	169,461,570	-	-	-
Grand Total	209,473,224	-	31,051,031	-

Project: 828030 - Annual Slurry Seal of City Streets

Category:	Infrastructure	Project Type:	Traffic and Transportation	Project Manager:	Arely Trujillo
Year Identified:	2009	Project Phase:	Underway	Project Coordinator:	Jim Burch
Est. Completion Year:	Ongoing	Department:	250 - Public Works	Fund - Sub-Fund:	3201 - General Fund Assets

Project Description/Scope/Purpose:

Slurry seal is a maintenance treatment utilized by the City that extends the life of a road surface. Slurry seal cost effective to prolong the life of streets which have not degraded to the point of needing overlay or reconstruction. Slurry seal is most effective when used to extend the life of pavement that is already in good to very good condition.

This project covers staff overtime hours as well as contract construction costs of slurry sealing a portion of the City's streets each year. Corrective maintenance work, such as patching, chip seal or crack seal, as well as project administration and field management of the project, is generally completed by the City through contract or Street Operations. The pavement condition survey, as well as annual field inspections are used to determine which streets will most benefit from a slurry seal.

Slurry seal is most effective in protecting and extending the life of a pavement surface when applied on a regular cycle, normally every 7 to 10 years. The amount included in the budget will allow for approximately 5.0 million square feet of slurry seal annually.

Project Evaluation and Analysis:

Slurry seal is a maintenance treatment that extends the life of a road surface. Without slurry seal, streets will require expensive asphalt overlay on a more frequent basis, or streets will deteriorate.

Fiscal Impact:

This project was funded by General Fund and is funded by the Measure B Fund starting FY 2019/20 and going forward. All overages have been and will continue to be charged to Project 825290 - Pavement Rehabilitation.

Funding Sources:

General Fund, 2016 Measure B - Santa Clara VTA Fund

Plans and Goals:

CC - Community Character - CC-2: Attractive Street Environment

Project Financial Summary

	Project Costs	Revenues	Transfers In	Operating Costs
Prior Actual	4,333,181	7,500	2,151,198	-
2021 - 22	453,446	(7,500)	41,837	-
2022 - 23	635,867	-	-	-
2023 - 24	718,530	-	-	-
2024 - 25	632,978	-	-	-
2025 - 26	658,296	-	-	-
2026 - 27	684,629	-	-	-
2027 - 28	712,014	-	-	-
2028 - 29	740,494	-	-	-
2029 - 30	770,114	-	-	-
2030 - 31	800,918	-	-	-
2031 - 32	832,955	-	-	-
2032 - 33	866,274	-	-	-
2033 - 34	900,924	-	-	-
2034 - 35	936,961	-	-	-
2035 - 36	974,439	-	-	-
2036 - 37	1,013,417	-	-	-
2037 - 38	1,053,954	-	-	-
2038 - 39	1,096,112	-	-	-
2039 - 40	1,139,956	-	-	-
2040 - 41	1,185,555	-	-	-
2041 - 42	1,232,977	-	-	-
20 Year Total	17,587,364	-	-	-
Grand Total	22,373,990	-	2,193,034	-

Project: 831680 - Adjust Sewer Utilities In Support of Paving Projects

Category:	Infrastructure	Project Type:	Wastewater	Project Manager:	Marlon Quiambao Jr.
Year Identified:	2016	Project Phase:	Underway	Project Coordinator:	Mansour Nasser
Est. Completion Year:	Ongoing	Department:	270 - Environmental Services	Fund - Sub-Fund:	6085 - Wastewater Infrastructure Subfund

Project Description/Scope/Purpose:

This project provides for wastewater utility surface access adjustments in order to preserve consistent height with surfaces and roadways. Wastewater utility surface access features include manholes, clean out and inspection covers, drainage inlets, and other wastewater infrastructure surface access points. Wastewater utility surface access points can be impacted by street rehabilitation activities and other excavation projects.

Paving rehabilitation projects generally have an effect on the elevation of the surfaces of existing utility access assets. This project provides funding for the adjustment of utility access infrastructure with paving rehabilitation with both contracted and in-house projects. Additionally, the City performs utility access surface restoration as a result of public inquiry, unsafe condition, other misalignment, or in conjunction with other operational activities. This project will also provide for funding for the purchase of new wastewater utility surface access covers that are worn out, damaged, structurally compromised, or those that are not able to be reinstalled.

Project Evaluation and Analysis:

This project will ensure that wastewater utility surface access assets are maintained and restored in a manner that is consistent with City standards. The project will also ensure that wastewater utility surface access assets are able to be restored to a condition that allows for the smooth travel of vehicles and bicycles in roadways and other surfaces where utility access covers are not uniform.

Fiscal Impact:

This project is funded by the Wastewater Management Fund.

Funding Sources:

Wastewater Management Fund

Plans and Goals:

EM - Environmental Management - EM-6: Effective Wastewater Collection System

Project Financial Summary

	Project Costs	Revenues	Transfers In	Operating Costs
Prior Actual	125,160	-	-	-
2021 - 22	172,324	-	-	-
2022 - 23	101,739	-	-	-
2023 - 24	114,965	-	-	-
2024 - 25	101,277	-	-	-
2025 - 26	105,327	-	-	-
2026 - 27	109,541	-	-	-
2027 - 28	113,922	-	-	-
2028 - 29	118,479	-	-	-
2029 - 30	123,218	-	-	-
2030 - 31	128,147	-	-	-
2031 - 32	133,273	-	-	-
2032 - 33	138,604	-	-	-
2033 - 34	144,148	-	-	-
2034 - 35	149,914	-	-	-
2035 - 36	155,910	-	-	-
2036 - 37	162,147	-	-	-
2037 - 38	168,632	-	-	-
2038 - 39	175,377	-	-	-
2039 - 40	182,392	-	-	-
2040 - 41	189,688	-	-	-
2041 - 42	197,275	-	-	-
20 Year Total	2,813,974	-	-	-
Grand Total	3,111,458	-	-	-



City of Sunnyvale

Agenda Item

23-0326

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Accept Google LLC's Donation of Voluntary Midblock Crosswalk Improvements on Borregas Avenue with an Estimated Construction Cost of \$126,000 and Finding of an Exemption from the California Environmental Quality Act

BACKGROUND

Borregas Avenue is a north-south Commercial/Industrial Collector within the Moffett Park area north of State Route 237. It connects Caribbean Drive, Java Drive and Moffett Park Drive. Borregas Avenue has a speed limit of 35 mph. It consists of one travel lane and an on-street Class II bicycle lane in each direction, with existing on-street parking on the west side of the street and continuous sidewalk on both sides of the street. The land use along Borregas Avenue is mainly office, research and development, and industrial developments.

In 2020, Google LLC (Google) approached the City with a request to install voluntary improvements. The project includes a midblock pedestrian crosswalk on Borregas Avenue, two curb ramps compliant with the Americans with Disabilities Act (ADA), a 10-foot wide high-visibility crosswalk, and a solar-powered rectangular rapid-flashing beacon (RRFB) system which can be activated by hand waving motion or by a push button. In addition, it will also include the removal of 30 feet of on-street parking on the west side of the street and the installation of pavement markings, signages, and stripping to support the new midblock crosswalk. Google has retained the services of a professional engineering firm to prepare plans suitable for the design and construction of these voluntary improvements.

EXISTING POLICY

In performing the analysis and developing the conclusions identified in this report, the following policies were referenced and considered:

General Plan Chapter 3 Land Use and Transportation:

- **Policy LT-1.7:** Emphasize efforts to reduce regional vehicle miles traveled by supporting active modes of transportation including walking, biking, and public transit.
- **Goal LT-3:** An Effective Multimodal Transportation System - Offer the community a variety of transportation modes for local travel that are also integrated with the regional transportation system and land use pattern. Favor accommodation of alternative modes to the automobile as a means to enhance efficient transit use, bicycling, and walking and corresponding benefits to the environment, person-throughput, and qualitative improvements to the transportation system environment.

Resolution No. 793-16 Complete Streets Policy (and Resolution No. 896-18 amending Resolution No. 793-16): The City wishes to improve its commitment to Complete Streets and desires that its

streets form a comprehensive and integrated transportation network promoting safe, equitable, and convenient travel for all users while preserving flexibility, recognizing community context, and using the latest and best design guidelines and standards.

Vision Zero Plan

- Reduce fatalities and serious injuries by 50 percent by 2029 and to continue improving traffic safety towards zero fatal and serious injury collisions in the ten years that follow.

City Council Policy 7.1.5 Grants, Donations, Contributions and Sponsorships

3. For donations, contributions, or sponsorships with values of \$100,000 or more, as estimated by the donor, a Report to Council will be written outlining its purpose and the advantages and disadvantages prior to acceptance. Authority to accept any such donation, contribution or sponsorship shall rest with the City Council. For monetary donations, it will be stated in the Report to Council if the gift is a onetime contribution for a specific purpose or a contribution where the principal could be invested, and the interest used to support all or part of a special project or program for a number of years.

ENVIRONMENTAL REVIEW

The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c) for existing streets, sidewalks, bicycle lanes and facilities involving negligible or no expansion and that does not create additional automobile lanes. The CEQA document will be filed by the City of Sunnyvale at the County Recorder's Office prior to the start of construction activities.

DISCUSSION

Google has voluntarily committed to install a midblock, enhanced pedestrian crosswalk on Borregas Avenue (Attachment 1) in the City of Sunnyvale. This proposed crosswalk will be located in between the two existing crosswalks on Borregas Avenue, approximately 520 feet north of the crosswalk at Moffett Park Drive and approximately 800 feet south of the crosswalk at Humboldt Court. With the construction of new office buildings and parking garages along Borregas Avenue and more employees returning to the offices, it is anticipated that there will be an increase in pedestrian crossings at this location. The proposed crosswalk with RRFBs will increase driver awareness of potential pedestrian conflicts and enhance pedestrian safety when crossing Borregas Avenue at this location.

The proposed improvements (Attachment 2) include the demolition of approximately 48 linear feet of public sidewalks, curb, gutter and landscape strip; the removal of one non-heritage tree; and prohibition of 30 feet of on-street parking. Google will install two new ADA curb ramps, stripe a 10-foot wide white continental crosswalk, erect a solar-powered RRFB system which can be activated by the pedestrians with a hand-waving motion or by the push button, and install various pavement markings, signage, and striping to support the new crosswalk. All improvements are entirely within the existing right-of-way or existing City easements and are therefore under the City's jurisdiction.

The estimated value of these improvements based on the engineer's probable construction cost estimate is \$126,000. Pursuant to City Council Policy 7.1.5 - Grants, donations, Contributions and Sponsorships, authority to accept any contributions with values of more than \$100,000 rests with the

City Council.

If the City Council accepts this donation, Google estimates that construction may start as soon as spring/summer 2023 and be completed in summer/fall 2023.

FISCAL IMPACT

Installation of an enhanced midblock pedestrian crosswalk on Borregas Avenue will be fully funded by Google. Upon acceptance of improvements, the City will take ownership of the crosswalk and be responsible for on-going maintenance. The additional signage and striping improvements will be maintained under the operating budget of the Department of Public Works Street Lights, Signs and Debris Program. Roadways are typically slurry sealed every seven years; therefore, over the span of a 20-year budget cycle, Borregas Avenue will likely be slurry sealed two times. The additional maintenance costs related to the striping improvements include: \$4,500 to install thermoplastic striping after the roadway is resurfaced each time; and \$200 in material cost for paint every two years to maintain the additional striping improvements. It is anticipated that it would take a two-person crew working two hours every two years to apply the additional paint on the striping improvements as part of the regular maintenance process.

The two new ADA curb ramps will be maintained under the Department of Public Works Pavement and Concrete Maintenance Program. The new RRFB system will be maintained under Department of Public Works Transportation and Traffic Services Program: 13101-521174 Traffic Signal Operations and Maintenance program; the additional on-going annual maintenance cost necessary to operate and maintain the new RRFB system is approximately \$500 per year. The lifespan of the new RRFB system would be for a period of 20 years. Over the span of a 20-year budget cycle, the RRFB system will likely be replaced one time and the replacement cost is estimated to be \$75,000. The replacement costs will be included in Project 825730 - Pedestrian Lighted Crosswalk Maintenance and Replacement during the FY 2025/26 projects budget cycle.

The additional operating costs will be added during the FY 2024/25 operating budget cycle.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

RECOMMENDATION

Accept Google LLC's Donation of Voluntary Midblock Crosswalk Improvements on Borregas Avenue with an Estimated Construction Cost of \$126,000 and Finding of an Exemption from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c).

Based on Vision Zero principles, the City aims to incorporate the appropriate roadway design to reduce the severity risks of collisions. The proposed midblock crosswalk will encourage employees and others within the area to walk by providing an enhanced crossing to cross Borregas Avenue. The location of the proposed midblock crosswalk is advantageous because it will provide a connection between existing and new office developments and parking structures on both sides of Borregas Avenue. The proposed RRFB system is a safety improvement that has been proven to enhance

pedestrian safety at uncontrolled, midblock crosswalks. It will increase visibility and awareness of pedestrians who wish to cross the street. In addition, it will clearly communicate with approaching motorists that someone may be in the marked crosswalk when the beacons are flashing, reducing the threat of a rear-end collision for motorists who are yielding to a pedestrian in the crosswalk, and enhance pedestrian safety by reducing potential crashes between vehicles and pedestrians.

Prepared by: Thinh Le, Transportation Engineer

Reviewed by Dennis Ng, Transportation and Traffic Manager

Reviewed by: Chip Taylor, Director, Public Works

Reviewed by: Jaqui Guzmán, Deputy City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Project Vicinity Map
2. Proposed Improvements












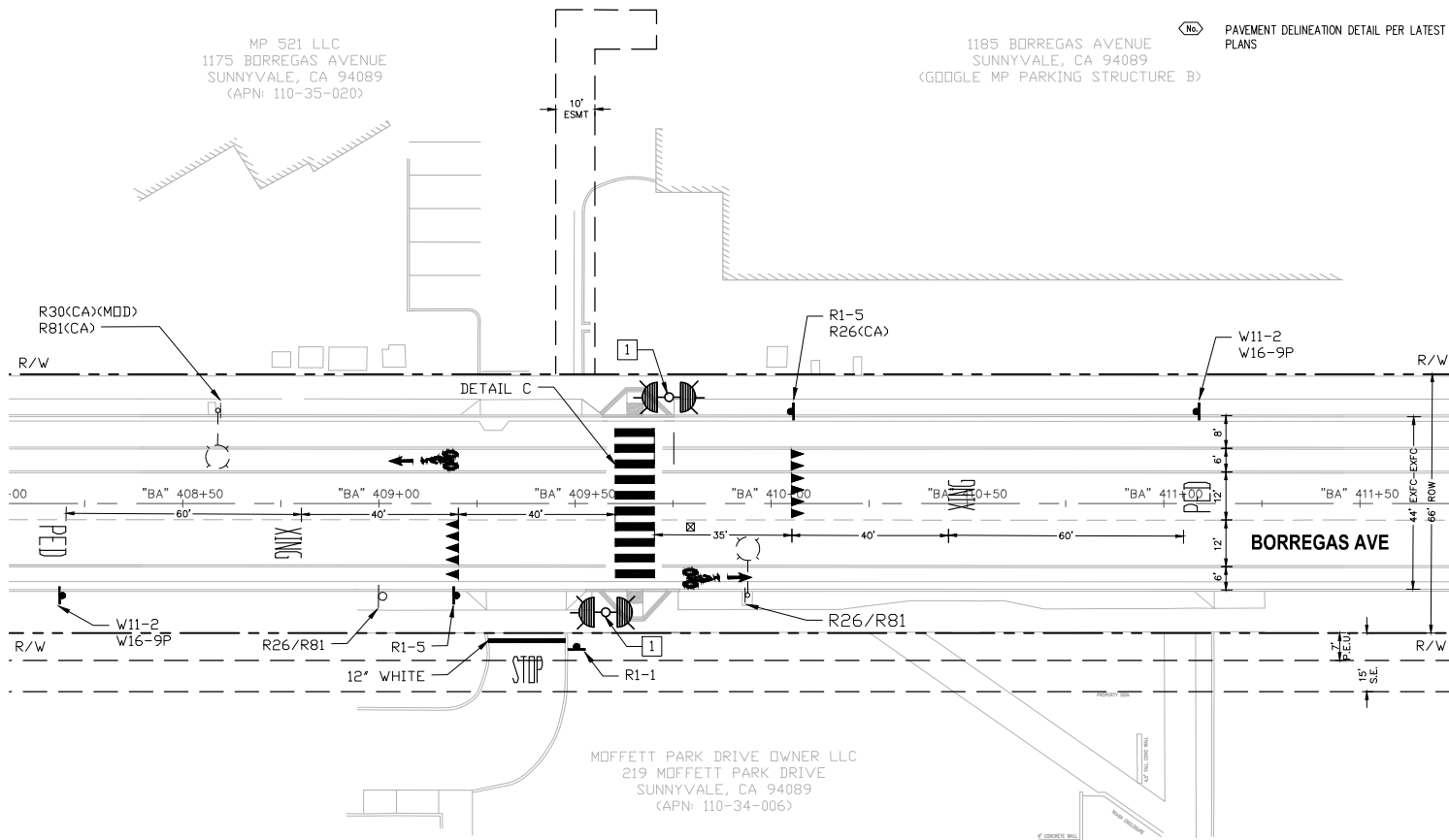
VICINITY MAP
NOT TO SCALE



BORREGAS AVE / MOFFETT PARK - CROSSWALK

LEGEND:

-  RECTANGULAR RAPID-FLASHING BEACON (RRFB)
-  NEW ROADSIDE SIGN TO BE INSTALLED ON NEW POLES
-  EXISTING ROADSIDE SIGN
-  EXISTING ROADSIDE SIGN ON EXISTING STREET LIGHT
-  YIELD LINE TRIANGLE PAVEMENT MARKING.
SEE LATEST CALTRANS STANDARD PLANS A24E FOR DETAILS.
-  PAVEMENT MARKING.
SEE LATEST CALTRANS STANDARD PLANS A24D FOR DETAILS.
-  BIKE LANE SYMBOL WITH PERSON AND BIKE LANE ARROW. SEE
LATEST CALTRANS STANDARD PLANS A24A AND A24C FOR DETAILS.
-  EXISTING BLUE MARKER
-  PAVEMENT DELINEATION DETAIL PER LATEST CALTRANS STANDARD
PLANS





City of Sunnyvale

Agenda Item

23-0169

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Public Hearing to Adopt a Resolution Confirming the Annual Report to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District (BID) for Fiscal Year 2023/24

BACKGROUND

On April 4, 2023, the City Council approved the Fiscal Year 2022/23 Annual Report and adopted a Resolution of Intention (ROI) to renew the Downtown Sunnyvale Business Improvement District (BID) (RTC No. 23-0168). By adopting the ROI, Council set May 2, 2023, as the public hearing date to allow BID businesses an opportunity to support or oppose the BID renewal. The purpose of the public hearing is for Council to hear and consider protests against the BID renewal and/or protests regarding proposed BID activities.

If after the public hearing, businesses paying 50% or more of the total BID assessments file a protest, no further proceedings to renew the BID can occur. If protests do not exceed 50% or more, Council can adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for Fiscal Year 2023/24 (Attachment 1).

Downtown Sunnyvale BID

There are about 230 businesses located in the BID area, which is divided into three zones: Zone A, Zone B, and Zone C. The BID boundaries are Sunnyvale, Iowa, Mathilda, and Evelyn Avenues (Attachment 1, page 12).

The current Board members are:

Dr. Gary Gold, Dr. Gold & Associates/Style Eyes Optique, Chair
Leigh Odum, Leigh's Favorite Books & Bookasauraus
Katie Voong, K Tea Café/Mayan Kitchen
Irene Murphy, Fibbar MaGee's
Amit Rajgarhia, Dishdash
Salvatore Foresta, Sweet Sicily

EXISTING POLICY

Sunnyvale Municipal Code Chapter 3.60 (Downtown Sunnyvale Business Improvement District) and specific sections:

- 3.60.050. Establishment of benefit assessments
- 3.60.060. Purpose and use of benefit assessments
- 3.60.090. Collection of benefit assessment

ENVIRONMENTAL REVIEW

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(4) in that it involves the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

DISCUSSION

Pursuant to Sunnyvale Municipal Code section 3.60.050, entitled "Establishment of benefit assessment," the formula for calculating the BID assessment amount is determined by the BID Board and enacted by the City Council. The BID Board included the budget in the Fiscal Year 2022/23 Annual Report approved by Council on April 4, 2023. The assessment amounts will remain unchanged for Fiscal Year 2022/23.

Public Hearing and Protest Process

Council must conduct a public hearing, which shall be conducted as provided in the Streets and Highway Code sections 36524 and 36525, regarding protests against the furnishing of specified types of activities and improvements. A protest may be made orally or in writing by owners of businesses located within BID boundaries. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity of defect to which the objection is made. If written protests from BID business owners paying 50% or more of the proposed assessments are received, then a majority protest exists and no further proceedings to levy the proposed assessment shall be taken for a period of one year from May 2, 2023.

The process for the public hearing is as follows:

- Mayor calls the BID's Executive Director to provide an overview of BID activities.
- Mayor opens the public hearing.
- City staff will review written protests. Protests can only be made by the registered Sunnyvale business owners as stated in the active business license. If a person is not shown on the official records of the City of Sunnyvale as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person protesting is the owner of the business.
- Staff will log confirmed protests at the beginning of the public hearing. If protests are tabulated before the end of the public hearing, staff will convey the outcome and Council can act.
- If protests are not tabulated before the end of the public hearing, Council may take a short break or continue the item and move on to the next agenda item. At the conclusion of the agenda item after tabulation is complete, the Mayor will reopen the public hearing and staff will report the results.
- If total protests do not exceed 50% or more of the BID's total proposed assessments, Council may adopt the Resolution Confirming the Annual Report and to Levy and Collect an Annual Assessment for the BID for Fiscal Year 2023/24.

If protests do not exceed 50%, staff recommends that the Council adopt the Resolution of the City of Sunnyvale Confirming the Annual Report and to Levy and Collect an Annual Assessment for the BID for Fiscal Year 2023/24.

FISCAL IMPACT

Staff time from the Department of Finance to process invoices for the BID assessment is estimated at an annual cost of \$4,500. Because these costs are reimbursed by the BID, there is no fiscal impact to the City for providing this service.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website. The SDA notified BID members via email.

A copy of the Resolution of Intention adopted on April 4, 2023 was mailed to all BID members and published in the legal ads section of the Sunnyvale Sun on April 14, 2023.

ALTERNATIVES

1. Adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2023/24.
2. Do Not Adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2023/24.

STAFF RECOMMENDATION

Alternative 1: Adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2023/24.

Prepared by: Maria Rodriguez, Administrative Analyst

Reviewed by: Connie Verceles, Deputy City Manager

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for Fiscal Year 2023/24

DRAFT 4/17/23

sqj

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE CONFIRMING THE DOWNTOWN
SUNNYVALE BUSINESS IMPROVEMENT DISTRICT
ANNUAL REPORT FOR FISCAL YEAR 2023/24 AND TO
LEVY AND COLLECT AN ANNUAL ASSESSMENT FOR
THE DOWNTOWN SUNNYVALE BUSINESS
IMPROVEMENT DISTRICT FOR FISCAL YEAR 2023/24**

WHEREAS, on April 4, 2023, the City Council of the City of Sunnyvale (the “City”) adopted Resolution of Intention to Levy and Collect an Assessment and to Reauthorize the Downtown Sunnyvale Business Improvement District (Resolution No. 1181-23) (the “District”), to levy and collect a benefit assessment on all businesses, trades, professions, and vendors within said District, the proceeds of which shall be used for the public purposes herein described in the Parking and Business Improvement Area Law of 1989, (commencing with Section 36500), of the California Streets and Highways Code (the “Act”) and Title 3, Chapter 3.60 of the Sunnyvale Municipal Code; and

WHEREAS, the City Council conducted a public hearing on the reauthorization of the assessment, having given due notice thereof as required by law, on May 2, 2023, beginning at 7:00 p.m. at City Hall, 456 West Olive Avenue, Sunnyvale, California, and every interested person was provided an opportunity to object to or protest the report, the proposed improvements and the activities to be funded from levy of the assessments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. Report. The City Council hereby confirms the Business Improvement District Annual Report for fiscal year 2023/24 (“Annual Report”) as set forth in Exhibit A, which is attached hereto.
2. Boundaries. The City Council hereby approves of the boundaries of the Business Improvement District and the benefit zones within the area as set forth in Exhibit A.
3. Assessment. The City Council finds that the amount of the assessments has fairly and properly apportioned the cost of the improvements to each business in the District in proportion to the estimated benefits to be received by each business. The City Council hereby confirms the assessment and levies each individual assessment, as provided for in the Annual Report, for fiscal year 2023/24.

4. Protest Hearing. The City Council conducted a hearing concerning the reauthorization of the business improvement district. At the conclusion of the public hearing, the City Council considered comments from the affected businesses, considered modifications in the report, and confirmed the report as originally filed or as changed by it, which constitute the levy of the assessment for the fiscal year 2023/24.

Method of Collection. The benefit assessment for Downtown Sunnyvale businesses shall be billed and collected by July 31, 2023. Payments will be considered late if not received on or before the due date listed on the invoice. The business will accrue late fees for every 30 days delinquent after the original due date. A 10% late penalty will be assessed in addition to the assessment amount for every 30 days payment is late. The penalty fees will be accrued for up to five months after the original due date. If payment is not received after five months, the City will forward delinquent accounts to a collection agency for further action. Once the business is assigned to the collection agency, additional fees will accrue.

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

DAVID CARNAHAN
City Clerk
(SEAL)

LARRY KLEIN
Mayor

APPROVED AS TO FORM:

JOHN A. NAGEL
City Attorney



February 16, 2023

TO: Mayor and City Councilmembers
City of Sunnyvale
456 W Olive Ave
Sunnyvale, CA 94086

From: Michael Johnson & The SDA/BID Board
Sunnyvale Downtown Association (SDA)

RE: Sunnyvale Downtown Association's 2023/2024 BID Renewal Request

To the Mayor and City Councilmembers of Sunnyvale,

First, I'd like to thank the City of Sunnyvale, the Mayor, and the City Council for your continued SDA BID support, and attendance of our events last season. The Sunnyvale Downtown Association is requesting the reauthorization of the Sunnyvale Downtown Business Improvement District for fiscal year 2023/2024. We look forward to another great year of exciting events for the community, our downtown businesses, and the City of Sunnyvale.

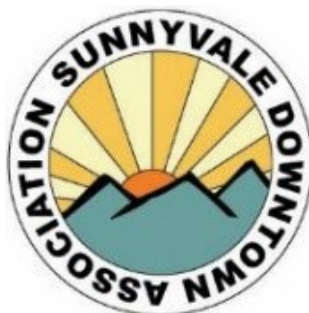
On February 2, 2023, the Board of Directors approved the 2023/24 BID Budget. Attached is a copy of the SDA's expense & revenue report for July 1, 2022, through June 30, 2023, actuals along with projections for the 2023/24 fiscal year.

If you have any questions please do not hesitate to contact me at michael@sunnyvaledowntown.com or (408) 480-5437. Thank you for your continued support.

Sincerely,

Michael Johnson

Executive Director of the SDA



BID Renewal Request for 2022/2023 - 2023/2024

What is a BID?

A BID (Business Improvement District, authorized by State of California law) provides funding for promoting and improving a specific area. All business license holders inside the said district are self-assessed with an annual fee based on anticipated benefits they receive from the BID.

The BID is reauthorized yearly by the City Council at the request of the businesses' Board of Directors. A BID is used by over 200 business areas in California, including Mountain View, Palo Alto, Santa Clara, Morgan Hill, and San Jose. The BID has legal requirements to be reauthorized. Specifically, the City Council must approve the Annual Budget and adopt a Resolution of Intent (ROI) to reauthorize the BID for another year. Once the ROI is adopted, a public hearing must be held during a Council meeting.

Each year after the city has reauthorized the BID; businesses receive an invoice from the city finance department for BID fees. The city collects the fees annually, and businesses are invoiced at the beginning of June for the next fiscal year. Once received, funds can only be used for projects within the BID boundaries. The BID maintains complete control of all BID funds collected.

The formula for defining our BID assessment amount is as follows: the Sunnyvale Downtown Association (SDA) Board considers the businesses' type, size, and location. Then, it selects the most equitable formula for every business. Typically, BID assessments are included as a separate charge from the business license tax and are billed to every business within the BID boundaries.

Assessments are levied on businesses based on relative benefits from annual activities. All assessment funds collected by the City are returned to the BID through annual contract agreements. The city does collect a fee for administrative costs associated with this service. The price is reviewed and adjusted annually as needed.

By state law, we use the BID funds to support community business activities, promote public events, decorate public places, and provide entertainment within the BID. In addition, BID funds include advertising, marketing materials, digital guides, operational expenditures, websites, e-letters, street/holiday lighting, and events.

Our BID fees are a self-imposed tax on the downtown businesses, outside of paying their standard fees, taxes, and license fees associated with owning and operating a business in our downtown district.

The Mission of the Sunnyvale Downtown Association (SDA)

SDA is a non-profit membership-based organization whose mission is to promote, advocate and enhance the vitality of downtown Sunnyvale. The SDA is funded by BID fees, city grants, sponsorships, and revenue-producing events.

The current SDA Board of Directors includes Chair – Dr. Gary Gold of Dr. Gary Gold & Associates, Secretary – Leigh Odum of Leigh's Favorite Books, Treasurer - Amit Rajgarhia of Dish Dash, and Members At Large – Irene Murphy of Fibbar Magee's, Katie Voong of Mayan Kitchen/K'Tea Cafe, and Salvatore Foresta of Sweet Sicily.

The SDA also serves as the voice of downtown Sunnyvale by:

- Advocating for policies, programs, and events that support the economic growth of the downtown.
- Acting as the downtown marketing arm, voice, and ambassador for the City of Sunnyvale.
- Producing attractive events for the community.
- Promoting downtown as a premier venue for other groups to produce events.
- Working with other community-based organizations that share downtown Sunnyvale's growth and continued vitality.

Budget

2022/23 BID fees collected from the businesses totaled \$41,000 (approximately 15.2% of our Income), and the City of Sunnyvale's contribution with community grants of \$47,500 (18.3% of our Income) acts as SDA foundational funding. The rest of SDA revenue comes from a combination of developer support, corporate sponsorships, sales/concessions, and event participant fees.

However, as always stated, we can't guarantee that we will have this same level of developers, community sponsors, and corporate sponsorship support in any given year. So, we rely on all support channels to ensure fiscal accountability.

On January 27, 2023, the SDA Board of Directors unanimously approved the BID 2023/2024 budget via email.

Below we have included a brief overview of some significant expense areas:

Account	2022/2023 Actual	2023/2024 Forecast Projected
INCOME		
<i>BID Fees</i>	36,072	41,000
<i>City Contributions</i>	40,000	40,000
<i>Community Grants</i>	11,000	7,500
<i>Developer Support</i>	135,000	30,000
<i>Events Revenue (Sponsorship & Sales)</i>	111,184	140,500
TOTAL INCOME	333,256	259,000
EXPENSES		
<i>Personnel Related Expenses</i>	161,647	150,500
<i>Office/General Admin Exp</i>	40,370	35,950
<i>Event Expenses</i>	109,732	98,200
TOTAL EXPENSES	311,749	284,650
TOTAL PROFIT/LOSS	21,507	-25,650

Last fiscal year, we delivered half of the events we usually produce. This fiscal year, the SDA aims to increase the 2022/23 season to **thirty-seven events**, including partnering events in 2022. **Eighteen** of these seasons' events generated "No sales revenue" and supporting the community, the city, and downtown businesses.

Events for 2022/2023

- 16 Events: Music While Dining on Murphy - Every Wednesday & Thursday - May and June. **No sales revenue is generated at these events.**
- 1 Day Event: Taste of the World & Wine Stroll - May 13th.
- 2-Day Event: Art & Wine Festival - June 3rd & 4th (In partnership with the Sunnyvale Chamber of Commerce).
- 8 Events: Summer Music Series - Every Wednesday - July and August.
- 8 Events: Jazz & Beyond – Every Saturday – July and August.
- 1 Day Event: Technology Expo (TBD in partnership with the City of Sunnyvale). **No sales revenue is generated at this event.**
- 1-Day Event: Holiday Tree Lighting. **No sales revenue-generating event.**

These events attract new visitors from all over the Bay Area to our vibrant and growing downtown community.

Event Sponsorships & City Contribution

We are grateful for continued support from the city and sponsors who help keep our SDA events growing and serving the community in 2022/23. We thank the City of Sunnyvale, Cityline Sunnyvale, Minkoff Group, El Camino Health, Google, Meta, LinkedIn, Specialty Waste, Murphy Square, StarOne Credit Union, and City National Bank for continuing their support.

As we've always stated, more than ever, the SDA and our downtown businesses need the city and other sponsorship support for these events. Due to the current economic uncertainty ahead, supply cost increases, ongoing fixed costs, and annual wage increases, these events allow business owners to weather these challenges during this unprecedented period.

Each year in February, the SDA evaluates what sponsorship support we have coming in. We always plan months to ensure that we can deliver the events the SDA puts on annually. However, it is always hard to predict what our budget will look like six months before the coming fiscal year.

Event-Related Financial Breakdown

Our focus in 2022/2023 has continued to address our SDA businesses' needs amidst the transition from the COVID-19 pandemic that has impacted our downtown district. Businesses everywhere in Sunnyvale have struggled to keep their doors open and employees working. Unfortunately, there have been casualties of businesses due to overhead costs and staffing challenges.

We continued working through the many financial challenges despite corporate sponsorship reductions due to the lack of a complete annual event schedule. Over the last couple of years, we were fortunate to have received support from Community Grants, annual City support, developers' support, and critical local and corporate sponsorships to help.

Account	2022/2023 Actual Forecast	2023/2024 Projected
EVENT INCOME		
<i>Holiday Tree Lighting</i>	17,400	15,000
<i>Jazz & Beyond</i>	29,765	35,000
<i>Taste of the World & Wine Stroll</i>	31,000	39,000
<i>Music on Murphy</i>	-	5,000
<i>Stronger Together</i>	1,500	1,500
<i>Summer Series</i>	31,519	40,000
<i>Tech Expo</i>	-	5,000
TOTAL EVENT INCOME	111,184	140,500
EVENT EXPENSES		
<i>Holiday Tree Lighting</i>	2,418	3,000
<i>Jazz & Beyond</i>	44,115	40,000
<i>Taste of the World & Wine Stroll</i>	16,721	15,000
<i>Music on Murphy</i>	8,485	4,000
<i>Stronger Together</i>	225	1,200
<i>Summer Series</i>	37,768	30,000
<i>Tech Expo</i>	-	5,000
TOTAL EVENT EXPENSES	109,732	98,200

*** The event expenses only reflect general marketing and promotional material, day of staffing, Wine, Beer, performers, and some equipment. It does not include pre-event preparation costs for Staff labor to follow up with vendors, host locations coordination, design time for marketing products, booking bands, volunteer coordination, poster design, flyer design, Social Media outreach & Website, ticket sales, beverage sales, and various other tasks required to deliver the SDA events annually. Also, event expenses do not reflect our "Stronger Together" promotion, marketing, or payout to businesses for the "downtown certificates."*

Overview

The 2022/23 year proved successful despite the many challenges the SDA has experienced. We invested in better financial strategies, operational staffing, management tools, and marketing solutions early in the year. At the end of 2021, we moved into our new office on Historic Murphy Avenue and added new conference room technology to better prepare for the new way business will be conducted. The conference room and training room allow our SDA businesses to meet with vendors and customers and schedule training off-site.

Although we still had to deal with COVID-19 challenges, we delivered sixteen Music while Dining on Murphy events, the Taste of the World & Wine Stroll, eight Summer Music Series concerts, eight Jazz & Beyond shows, the Annual Holiday Tree Lighting Ceremony, and the potential Technology Expo.

The SDA continues to work with Cityline Sunnyvale and other developers, property managers, and the City of Sunnyvale to promote cohesion between the existing businesses in Sunnyvale and the expansion of Sunnyvale downtown.

We also want to thank all the Sunnyvale downtown businesses that make this possible with their continued participation and support. We appreciate the sacrifices our BID members have endured with the changes in our downtown's new developments. We are excited and optimistic about the future and its possibilities. Sunnyvale Downtown continues to expand with many new commercial businesses, retail businesses, and entertainment destinations.

Future

Keeping the BID fee assessment in conjunction with the city's contribution provides the foundational funding for our organization. The SDA's goal is to continue producing quality events and promoting downtown Sunnyvale as a great place to shop, dine, work, and live. In addition, these events attract new visitors to our vibrant, growing downtown and community pride.

This year the SDA will continue to focus on connecting more current and new businesses to our website to provide additional visibility with promotions, events, and job listings. We have also been reaching out to banking, financial planning, IT Services, social media experts, and other services based on business-specific requests. In addition, we offer a conference room and training room so our members can have an area to meet with clients and vendors and train their staff. The new construction is ongoing for the next few years; many new businesses are looking for direction and support in their new community; the SDA is here to assist them in navigating our city and downtown.

We appreciate the continued support of the SDA's BID, and we do not take the support for granted. The SDA continues to be good stewards of all funds, grants, and sponsorships we receive and considers this partnership with the common goals for a vibrant downtown.

Michael Johnson
Executive Director
Sunnyvale Downtown Association

Sunnyvale Downtown Association Statement of Activity

July 2023- June 2024

REVENUES

		Jul 2022-Jun 2023	Jul 2023-Jun 2024	Comments
Revenue		Actual	Projected	
BID Funds		36,071.50	41,000.00	
City Contributions		40,000.00	40,000.00	
Community Grants		11,000.00	7,500.00	
Total City Contributions		87,071.50	88,500.00	
Developer Support & Funding Income		135,000.00	30,000.00	
Stronger Together Sponsorships		1,500.00	1,500.00	
Holiday Tree Lighting				
	Sponsorships	17,400.00	15,000.00	
Total Holiday Tree Lighting		17,400.00	15,000.00	
Jazz & Beyond				
	Sales	12,365.03	15,000.00	*Price increase to \$10 per-drink
	Sponsorships	17,400.00	20,000.00	
Total Jazz & Beyond		29,765.03	35,000.00	
Taste of The World and Wine Stroll				
	*Sales	18,000.00	25,000.00	*Prices increase \$50-\$60 day of
	Sponsorships	13,000.00	14,000.00	
Total Taste of World and Wine Stroll		31,000.00	39,000.00	
Music on Murphy				
	Sponsorships	0.00	5,000.00	
Total Music on Murphy		0.00	5,000.00	
Summer Series				
	*Sales	11,244.00	15,000.00	*Price increase \$10 per-drink
	Sponsorships	19,100.00	25,000.00	
	Vendors	1,175.00	0.00	
Total Summer Series		31,519.00	40,000.00	
Tech Expo				
	Sponsorships	0.00	5,000.00	
Total Tech Expo Sales		0.00	5,000.00	
Total Revenue		333,255.53	259,000.00	

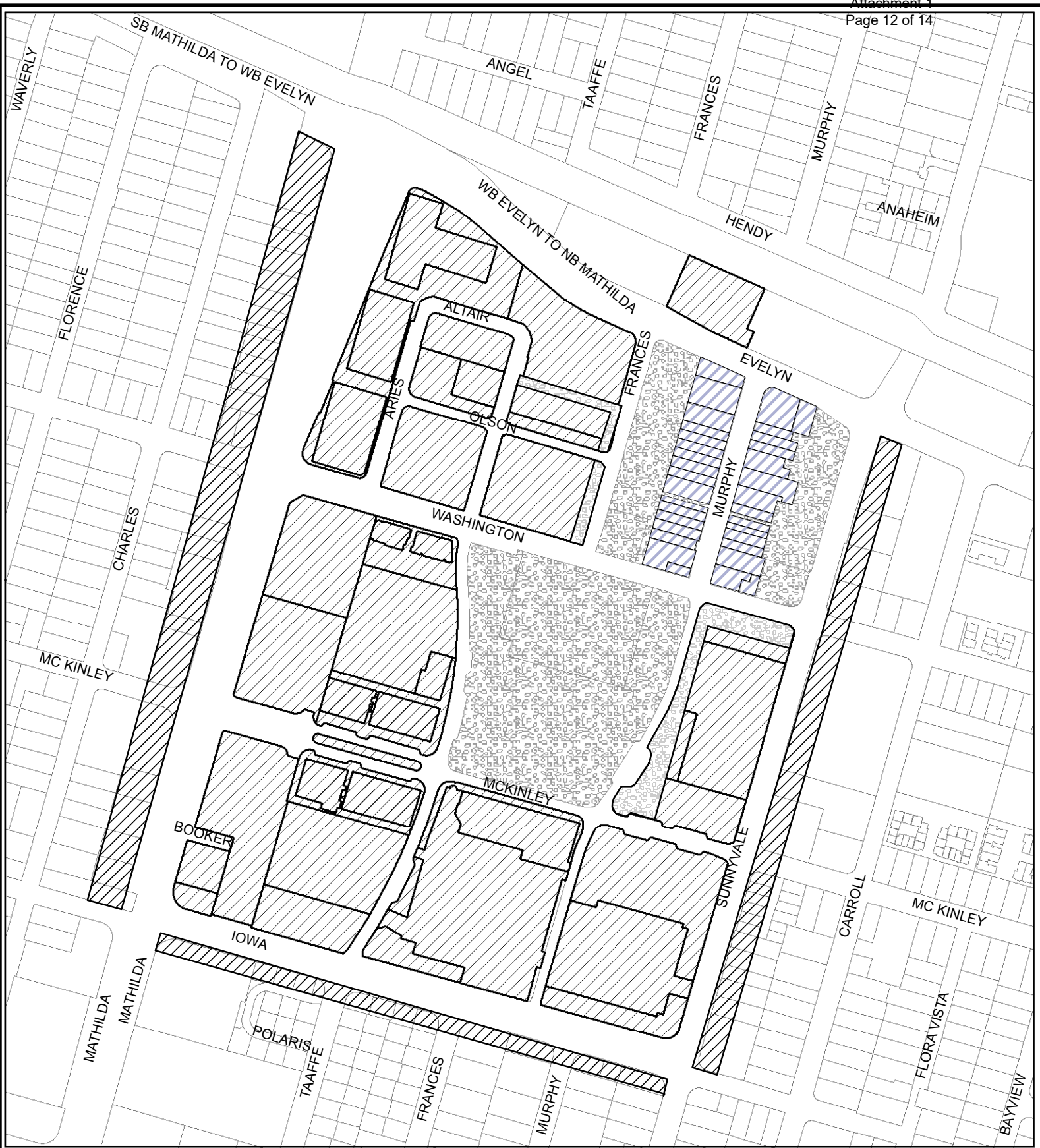
SUNNYVALE DOWNTOWN ASSOCIATION STATEMENT OF ACTIVITY

July 2023 - June 2024

EXPEDITURES

		Jul 2022-Jun 2023	Jul 2023-Jun 2024	
Expenditures		Actual	Projected	Comments
Administrative				
	Advertising/Promotional	2,828.82	500.00	
	Banking Fee	310.00	300.00	
	Insurance	413.00	500.00	
	Legal & Accounting	1,515.00	1,000.00	
	Operational Expenses	1,652.23	1,000.00	
	Rent	30,000.00	30,000.00	
	Utilities	751.98	750.00	
	Telephone/Internet/Website	2,898.51	1,900.00	
Total Administrative		40,369.54	35,950.00	
Staffing				
Payroll Expenses		160,581.00	150,000.00	
Consulting		1,066.25	500.00	
Total Staff & ED Compensations		161,647.25	150,500.00	
Event Expenses				
	Holiday Christmas Tree Lighting F	2,417.78	3,000.00	
	Jazz & Beyond Fees	44,115.00	40,000.00	
	Tast of the World & Wine Stroll	16,721.00	15,000.00	
	Music on Murphy Expenses	8,485.00	4,000.00	
	Stronger Together Fees	225.00	1,200.00	
	Summer Series Fees	37,768.00	30,000.00	
	Technology Expo Fees	0.00	5,000.00	
Total Event Expenses		109,731.78	98,200.00	
Total Expense		311,748.57	284,650.00	
Net Income		21,506.96	(25,650.00)	




Note: The SDA will continue outreach for additional event sponsorships for fiscal year 2023/2024.



DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ZONES

0 130 260 520 Feet

Legend

-  ZONE A
-  ZONE B
-  ZONE C



BID Zones & Fee Breakdown

	ZONE A	ZONE B	ZONE C
Retailers, Restaurants, Bars	\$500	\$300	\$150
Service Businesses	\$300	\$200	\$100
Lodging	\$10/rm.	\$10/rm.	\$10/rm
Professional Services Businesses	\$100	\$100	\$100
Financial Institutions	\$500	\$500	\$500

Business type definitions:

Retail and Restaurant: Businesses that buy and resell goods, examples are clothing stores, shoe stores, office supplies as well as businesses that sell prepared foods and drinks.

Service Businesses: Businesses that sell services. Examples are beauty and barber shops, repair shops, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Lodging: Includes renting rooms by the day or week to community visitors.

Professional Services Businesses: Includes Architects, Engineers, Attorneys, Dentists, Doctors, Accountants, Optometrists, Realtors, Insurance Offices, Mortgage Brokers and most other businesses that require advanced and/or specialized licenses and/or advanced academic degrees.

Financial Institutions: Includes banking and savings and loan institutions as well as credit unions, etc.

**Downtown Sunnyvale Business Improvement District
Proposed Improvements and Activities for Fiscal Year 2023/2024**

Income		
Zone A	34 Businesses paying an average annual benefit fee of \$466.	\$16,000
Zone B	44 Businesses paying an average of \$187.	\$8,300
Zone C	144 Businesses paying an average of \$145.	\$17,550
Total potential BID assessment collections		\$41,850
Projected assessment collections		\$40,000
Revenues from SDA special events and fund-raisers		\$75,000
Grants, event sponsorships and other misc. revenue		\$144,000
Total BID Program annual budget		\$259,000

Expenditures		
Program	Amount	Percent
1) Commercial Marketing Program	\$106,000	41%
a) Advertising and promotion (Ads, social media, etc.)		
b) Theme development		
c) Special events and activities		
d) Visitor attraction		
2) Civic Beautification and Signage Program	\$2,500	1%
a) Streetscape beautification, lighting		
3) Programs Administration and BID Management	\$150,500	58%
Totals	\$259,000	100%



City of Sunnyvale

Agenda Item

23-0552

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Consider Approval of Draft 2023 Housing and Urban Development (HUD) Action Plan

SUMMARY OF COMMISSION ACTION

The Housing and Human Services Commission considered this item on April 19, 2023.

The Housing and Human Services Commission voted to approve Alternative 1: Approve the HUD Action Plan as shown in Attachment 2 to the staff report. The vote was 5-0, with 2 Commissioners absent.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

ALTERNATIVES

1. Approve the 2023 HUD Action Plan as shown in Attachment 2 to the staff report.
2. Approve the 2023 HUD Action Plan as shown in Attachment 2 to the staff report, with modifications.

STAFF RECOMMENDATION

Alternative 1: Approve the 2023 HUD Action Plan as shown in Attachment 2 to the staff report.

Approval of the Action Plan will allow the City to receive the 2023 CDBG and HOME grants and use them to address local needs for affordable housing and related programs, consistent with the 2020-2025 Consolidated Plan. Most of these projects leverage additional funding from other sources. The Commission made its recommendations on the funding proposal at its March 22, 2023 meeting, as shown in Attachment 3. Once approved by the City Council on May 2, staff will forward the Action Plan to HUD no later than May 15, 2023.

Prepared by: Leif Christiansen, Housing Programs Analyst
Reviewed by: Jenny Carloni, Housing Officer
Reviewed by: Trudi Ryan, Director, Community Development
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Report to Housing and Human Services Commission [23-0225, April 19, 2023] (without attachments)
2. Draft 2023 Action Plan
3. Excerpt of Draft Minutes of the Housing and Human Services Commission Meeting of March 22, 2023
4. General Fund Human Services Proposals and HHSC Recommendations

Additional Attachments for Report to Council

5. Excerpt of Draft Minutes of the Housing and Human Services Commission Meeting of April 19, 2023



City of Sunnyvale

Agenda Item

23-0225

Agenda Date: 4/19/2023

REPORT TO HOUSING AND HUMAN SERVICES COMMISSION

SUBJECT

Consider Approval of Draft 2023 Housing and Urban Development (HUD) Action Plan

BACKGROUND

HUD requires entitlement grantees (i.e., cities, counties, and states) to submit an application, referred to as a Consolidated Plan, every five years, to maintain eligibility for CDBG and HOME Program grants. Sunnyvale's last Consolidated Plan was approved in 2020 and covers fiscal years 20/21 through 24/25. In addition, every year entitlement grantees must submit an annual "Action Plan" to HUD for its approval to obtain the grant for the coming fiscal year. Action Plans are required to describe the grantees' local needs and the projects and programs to be funded with the grant funds in the coming fiscal year. The Action Plan is comprised of all grants and loans recommended to fund for the upcoming fiscal year by the City through the competitive funding application cycle, reviewed by the Housing and Human Services Commission (Commission) during the March 22, 2023 meeting. During that meeting, the Commission recommended funding the grants shown in this Action Plan, and also reiterated the need to increase the General Fund Supplement for Human Service Grants with inflation due to grantee need and decreasing HOME and CDBG grant allocations. Upon HUD approval, the annual Action Plans are appended to the five-year Consolidated Plan.

CDBG and HOME Programs

The CDBG program was established by the Housing and Community Development Act of 1974, Public Law 93-383, and the HOME Program was established by the National Affordable Housing Act of 1990. These programs provide annual grants to jurisdictions to enable them to "develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for low and moderate-income persons." CDBG regulations define "low and moderate" as households earning not more than 80% of area median household income, or what the City and the State of California refer to as "lower-income households". The CDBG and HOME lower-income limits are established annually by HUD and is currently set at \$131,750 for a household of four in the Sunnyvale-San Jose metropolitan area, with adjustments for larger or smaller households. To be eligible for most types of CDBG or HOME assistance, the household's gross annual income cannot exceed that amount.

CDBG Eligible Uses	HOME Eligible Uses
Activities that "principally benefit" lower-income households, such as: housing rehabilitation, public facilities and infrastructure, public services, energy conservation, economic development and job creation/retention.	Activities that fund lower-income housing efforts, including construction, rehabilitation, and acquisition of affordable housing, first-time home buyer assistance, and tenant-based rental assistance.

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EXISTING POLICY

2020-2025 HUD Consolidated Plan:

- Goal A Assist in the creation, improvement, and preservation of affordable housing for lower-income and special needs households.
- Goal B Alleviation of Homelessness.
- Goal C Support provision of essential human services, particularly for special needs populations.
- Goal D Expanding Economic Opportunities.

Council Policy 5.1.3 Human Services *(from Purpose Statement)*

The City shall make its best efforts to provide supplemental human services, which include but are not limited to emergency services, senior services, disabled services, family services, and youth services.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15378 (b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment. The action is also exempt under the National Environmental Policy Act (“NEPA”) pursuant to 24 CFR 58.34 (a)(1) and (3) as it relates to the development of plans and strategies and is an administrative and managerial activity. Although site-specific projects may be identified in the Action Plan, approval of the Plan does not constitute a formal commitment for those projects.

DISCUSSION

Action Plan Development

When developing the draft Action Plan, staff analyzed the City’s ongoing programs eligible for CDBG and/or HOME funds, such as the Home Improvement Program, and sought proposals from the community for programs and projects to be funded with available CDBG funds in the coming fiscal year.

Funding requests for human services are considered on a competitive basis every two years with conditional funding awards made for a two-year term; capital project proposals are considered annually. The RFP for FY 2023/24 was released in December 2022 and the City received nine applications for CDBG funds.

HUD Spending Limits for Public Services and Administration

HUD regulations limit how much entitlement grantees can allocate for program administration and public (human) services activities. CDBG administration is limited to 20% of annual funds (plus 20% of any program income) and public services are limited to 15% of CDBG grant and 15% of prior year program income funds, if applicable. HOME regulations limit funding for administration to no more than 10% of the entitlement grant and 10% of program income received in prior years, if applicable.

Funding Availability

The City will receive a CDBG grant of \$1,054,691 and a HOME grant of \$454,952 for FY 2023/24, which is a 6.5% decrease in CDBG and 4.5% decrease in HOME grants issued to the City in 2022. In

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addition to the FY 2023/24 grants, staff estimates that approximately \$120,000 in HOME program income will be received by the end of the current fiscal year. Staff also estimates approximately \$50,000 in CDBG program income will be received by the end of the current fiscal year in which certain amounts of program income (PI) can go towards new grants and administration. For FY 2023/24, 20% of PI will be set aside for administration due to increased staffing costs and increased program management needs, but all other program income will go into the City's Revolving Loan Fund due to low fund balance.

Table 1: Total Funds Available in FY 2023/24

AVAILABLE FUNDS	CDBG	HOME
FY 2023-24 Entitlement Grants	\$1,054,691	\$454,952
HOME PA (Admin Reserves)	\$0	\$0
Projected FY 2022-23 Program Income (CDBG Admin only)	\$10,000 *	\$120,000 *
Projected Disencumbered/Fund Balance	\$300,000	\$305,000
TOTAL	\$1,364,691	\$879,952

* Estimate

Table 2: Recommended Allocations in 2023 Action Plan

Category	Activity	CDBG	HOME
Administration	Planning and Administration, and Fair Housing Services	\$ 220,938	\$ 57,495
Housing Rehabilitation	Home Access Program	\$ 140,000	N/A
Rental Housing	Tenant Based Rental Assistance	N/A	\$ 0
Economic Development	<u>Workfirst</u> Sunnyvale (CBDO)	\$ 355,550	\$0
Capital Project	Carroll St. Inn Rehab	\$ 490,000	\$ 0
Public Services	Human Services Grants	\$ 158,203	\$ 0
CHDO	Community Housing Development Org. Specific Project – <i>Required Set Aside</i>	N/A	\$ 68,243
	Total Recommendations	\$ 1,364,691	\$ 125,738
	FY 2023-24 Funding Available	\$1,364,691	\$ 879,952
	FY 2023-24 Funds Remaining	\$ 0	\$754,214

Proposed CDBG Activities

The projects and programs proposed to be funded in 2023 are shown in Table 2 above and in

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Attachment 2. These activities are eligible for the indicated funding type and amount recommended, based on federal regulations associated with these grants, and meet one or more priority needs as identified in the City's 2020-2025 Consolidated Plan.

- *Administration and Planning:*
 - Administration includes the City's expenses for staffing and implementing the CDBG and HOME programs, including public outreach, holding hearings, publishing notices, developing the RFPs, evaluating proposals, grant contract management, tracking of grant funds and program income, sub-grantee monitoring, reporting, and compliance with federal requirements such as environmental, labor, anti-discrimination, and fair housing regulations. Indirect costs (e.g., overhead for expenses incurred by internal service departments) and fair housing services are also included in program administration.
- *Housing Rehabilitation (Owner-Occupied)*
 - The Home Improvement Program provides grants and in-kind assistance to lower-income home owners, including mobile home owners, for minor home improvements (e.g., energy efficiency upgrades, exterior painting, emergency repairs and disabled access improvements). The Home Access Grant is also available to lower-income renters, with the landlord's consent. The RLF provides funding for larger loans to lower-income home owners and/or non-profit housing developers for major housing rehabilitation projects. The recommended allocation for home improvement grants for next year is \$140,000, based on the level of demand for this program in recent years and actual expenditures in the current fiscal year.
- *Capital Projects & Economic Development*
 - The "WorkFirst Sunnyvale" Program has been implemented for over 10 years by Sunnyvale Community Services, in partnership with Downtown Streets Team. The program provides homeless clients with job readiness training, job placement services, career counseling and supportive services while obtaining long-term employment. The program qualifies for CDBG funding as a Community-based Development Organization (CBDO) economic development activity.
 - The Carroll St. Inn Rehabilitation and Energy Efficiency project will assist an affordable supportive housing community in becoming more energy efficient by replacing its central gas hot water heaters with electric hot water heaters and replacing its hydronic heating system, powered by gas, with Packaged Terminal Air Conditioners, which will be powered by electricity. Carroll St. Inn is fully occupied serving households with special needs and this project supports the community by preserving/upgrading the building to ensure habitability for the long-term.
- *Public Services (Human Services):*
 - CDBG funds may be used for various public services, as long as a majority of the clients are lower income persons, and the services address the priority needs identified in the Consolidated Plan. Fiscal year 2023/24 is the first year of the City's two-year funding cycle so the competitive award process occurred this year. Recommended funding awards include assistance to seniors, disabled adults, homeless residents, lower-income households, and at-risk youth. The City uses general funds to

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supplement CDBG funding because public services are the most competitive component. The agencies that applied for CDBG funds (grants of \$25,000 or more) are listed in the Action Plan (Attachment 2); while the agencies that applied for General Funds (grants of less than \$24,999) are listed in Attachment 4 as General Fund awards are not a part of the Action Plan and are provided merely as reference to the Council; the final General Fund human services grants to be considered by Council will be included in the recommended budget in June 2023.

Proposed HOME Activities

During the 2022 HUD Action Plan process, the City allocated \$2 million in HOME funds for rental and security deposit assistance to its Tenant Based Rental Assistance (TBRA) program to increase its capacity, for a two-year funding contract. The City will continue, during this second year of the contract, to focus on growing its TBRA program with existing funding; therefore, there are no proposed HOME activities this cycle, except for Administration and the required Community Housing Development Organization set-aside. Any unallocated HOME funds from FY 2023/24 will be available during the FY 2024/25 competitive application process with a goal to again further expand the TBRA program.

FISCAL IMPACT

Approval of the Action Plan is necessary for the City to receive two federal grants (CDBG and HOME) next fiscal year. The recommended funding allocations in the Action Plan make use of these grant funds and related program income for various purposes consistent with the grant program regulations. Expenditure of these federal funds is necessary to meet timeliness requirements. The adoption of the Action Plan has no direct impact on the General Fund.

PUBLIC CONTACT

Public contact was made by posting the Housing and Human Services Commission's agenda on the City's official notice bulletin board and on the City's website. Notice of public hearings, including the 30-day public comment and review period, was posted at City Hall and published in the *Sunnyvale Sun* newspaper on March 31, 2023. A draft of the 2023 Action Plan was made available for public review, upon request, at the One Stop Counter at City Hall, and on the City's website for the required minimum 30-day review period prior to City Council action.

ALTERNATIVES

Recommend that the City Council:

1. Approve the 2023 HUD Action Plan as shown in Attachment 2 of the staff report.
2. Approve the 2023 HUD Action Plan as shown in Attachment 2 of the staff report, with modifications.

RECOMMENDATION

Alternative 1: Recommend that the City Council approve the 2023 HUD Action Plan as shown in Attachment 2 of the staff report.

Approval of the Action Plan will allow the City to receive the 2023 CDBG and HOME grants and use them to address local needs for affordable housing and related programs, consistent with the 2020-2025 Consolidated Plan. Most of these projects leverage additional funding from other sources. The Commission made its recommendations on the funding proposal at its March 22, 2023 meeting, as shown in Attachment 3. Once approved by the City Council on May 2, staff will forward the Action

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Plan to HUD no later than May 15, 2023.

Prepared by: Leif Christiansen, Housing Programs Analyst
Reviewed by: Jenny Carloni, Housing Officer
Reviewed by: Trudi Ryan, Director, Community Development
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Draft 2023 Action Plan
3. Excerpt Draft Minutes of Housing and Human Services Commission meeting of March 22, 2023
4. General Fund Human Services Proposals and HHSC Recommendations

2023-2024 Draft Action Plan City of Sunnyvale

Community Development Block Grant Program
Home Investment Partnership Program
April 2023



Sunnyvale

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AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b) Introduction

This FY2023/24 Action Plan serves as an application for funds under two formula grant programs administered by the U.S. Department of Housing and Urban Development (HUD). These grants provide the City of Sunnyvale (City) with an average of roughly \$1.1 million annually. For 2023, the City will receive an allocation of Community Development Block Grant (CDBG) in the amount of \$1,054,691 - and a HOME Investment Partnerships (HOME) Program grant of \$454,952. This Action Plan covers the fiscal year beginning July 1, 2023 and ending June 30, 2024, the third year of the City's 2020- 2025 Consolidated Plan (ConPlan) period. The Action Plan describes the eligible activities that the City intends to undertake in FY2023/24 to address the priority needs and implement the strategies identified in the Plan, using the City's CDBG and HOME grants. The activities described in this Action Plan are intended to primarily benefit the lower-income residents of Sunnyvale, affirmatively further fair housing choice, and meet priority needs. In addition to these grants, the City has a local Housing Mitigation Fund (HMF), which is used to support local affordable housing programs, including some that are not eligible for HUD funding. This fund is derived from fees received occasionally in varying amounts, and there is no guaranteed annual funding amount, therefore less emphasis is placed on these funds as a regular funding source in this Action Plan.

In addition to these grants, the City has a local Housing Mitigation Fund (HMF) which is used to support local affordable housing programs, including some that are not eligible for HUD funding. This fund is derived from fees received occasionally in varying amounts, and there is no guaranteed annual funding amount, therefore less emphasis is placed on these funds as a regular funding source in this Action Plan.

2. Summarize the objectives and outcomes identified in the Plan

The City has organized its priority needs based on the structure presented in HUD regulations (24 CFR 91.215): affordable housing, alleviation of homelessness, economic development, and nonhousing community development. Priority is assigned based on the level of need that is demonstrated by the data that has been collected during the preparation of the Plan, specifically in the Needs Assessment and Market Analysis; the information gathered during the consultation and citizen participation process; current City policy, federal laws and regulations related to the HUD grants, and the availability of resources to address these needs. Based on these components, housing needs are considered a high priority, as well as alleviation of homelessness, economic development, and non-housing community development needs. The City's goals and objectives are organized into four categories: A. Affordable Housing (including housing for special needs households) B. Alleviation of Homelessness C. Other Community Development Efforts (Public Services, Community Facilities and Infrastructure) Page 2 D. Expanding Economic Opportunities Table 2 on page 15 summarizes the objectives and outcomes that will be addressed in this Action Plan.

3. Evaluation of past performance

The City is responsible for ensuring compliance with all rules and regulations associated with the CDBG and HOME entitlement grant programs. The City's Annual Action Plans and CAPERs, posted on the City's website, provide details about the goals, projects and programs completed by the City. The City recognizes that the evaluation of past performance is critical to ensure the City and its sub-recipients are implementing activities effectively and that those activities align with the City's overall strategies and goals. The City evaluates the performance of subrecipients on a quarterly basis. Sub-recipients are required to submit quarterly progress reports, which include client data, performance objectives, as well as data on outcome measures. Before the start of the program year, program objectives are developed collaboratively by the sub-recipient and the City, ensuring that they are aligned with the City's overall goals and strategies. The City utilizes the quarterly reports to review progress toward annual goals. During the past year, the City successfully implemented its planned programs and projects. Some projects take several years to complete, so in some cases they may not be completed in the same year in which they were initially funded, such as the Persian Drive sidewalk project. This is not unusual for projects involving major construction work.

4. Summary of Citizen Participation Process and consultation process

The City, in collaboration with other local jurisdictions and the consultant team, launched a comprehensive outreach strategy to enhance and broaden citizen participation in the preparation of the Consolidated Plan. The team informed the public that it was in the process of creating the 2020-2025 Consolidated Plan, and encouraged public participation in the process by conducting a Regional Needs Survey and hosting regional forums in collaboration with other jurisdictions in the County, and conducting local hearings. In addition to the extensive consultation conducted for the ConPlan several years ago, the City solicited additional input on this draft Action Plan. The City provides multiple opportunities for public review and comment on the Action Plan and on any substantial amendments to it. Public hearings on this Plan were held (or will be held) on April 19, 2023 and May 2, 2023. A notice of public hearings and an announcement of the 30-day public comment period was published in the Sunnyvale Sun on March 31, 2023. An initial draft of the Action Plan was released on March 31, 2023, and comments were accepted through May 2, 2023. It is the policy of the City of Sunnyvale to encourage and engage residents to participate in planning, implementation, and evaluation of its housing and community development programs.

5. Summary of public comments

All comments were accepted. Please refer to Attachment: "Proof of Publication and Citizen Participation Comments."

6. Summary of comments or views not accepted and the reasons for not accepting them

N/A

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Table 1 – Responsible Agencies

Agency Role	Name	Department/Agency
CDBG Administrator	SUNNYVALE	Department of Community Development
HOME Administrator	SUNNYVALE	Department of Community Development

The City of Sunnyvale is the Lead and Responsible Agency for HUD entitlement programs in Sunnyvale. The Housing Division (HD), a division of the City's Community Development Department (CDD), is responsible for administering the City's HUD entitlement grants, including the Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) grant. In order to continue receiving these grants, the City must develop and submit to HUD a five-year Consolidated Plan (ConPlan) and Annual Action Plans listing priorities and strategies for the use of these federal funds. The ConPlan describes how the City plans to use its CDBG and HOME funds to meet the housing and community development needs of its residents in the next five years. To update its 2020-2025 ConPlan, the City collaborated with the County of Santa Clara (County) and other entitlement jurisdictions in the County to identify and prioritize housing and community development needs across the region, and to develop strategies to meet those needs. The 2023 Action Plan covers the third year of the 2020-2025 ConPlan period.

Consolidated Plan & Action Plan Public Contact Information

City of Sunnyvale Housing Division

Trudi Ryan, Director of Community Development
Jenny Carloni, Housing Officer
456 W. Olive Avenue / PO Box 3707
Sunnyvale, CA 94088
Tel: (408) 730-7250
Fax: (408) 737-4906
Email: Housing@Sunnyvale.ca.gov

Housing Division website: <https://sunnyvale.ca.gov/property/housing/default.htm>

AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

1. Introduction

Consolidated Plan Development

The City has a long history of coordination and partnership with the local public housing provider, which is the Santa Clara County Housing Authority (SCCHA), and various assisted housing providers, such as Charities Housing, MidPen Housing Corp., First Community Housing, and others. The City also has a long history of coordinating with and/or providing funding to various local private and public health, mental health, and human services agencies, such as the County Mental Health Department, the local Valley Medical Center, and a variety of service providers that serve seniors, disabled clients, homeless clients, and other lower-income and at-risk clients.

In addition, in preparing the ConPlan, the City collaborated with seven other entitlement grantee jurisdictions (Entitlement Jurisdictions), including the cities of Cupertino, Gilroy, Mountain View, Palo Alto, San Jose, Santa Clara, and the County of Santa Clara (Urban County).

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

Public participation played a central role in the development of the ConPlan. The Entitlement Jurisdictions launched an in-depth, collaborative regional effort to consult with community stakeholders, many of whom represented public or assisted housing providers, health and service agencies, as well as elected officials, City and County staff, and beneficiaries of entitlement programs, to inform and develop the priorities and strategies contained within the ConPlan. The City, in partnership with Michael Baker International and the other Entitlement Jurisdictions, facilitated a comprehensive outreach process to enhance coordination with these stakeholders and discuss new approaches to using the HUD entitlement grant funds for eligible activities, projects, and programs throughout the county and/or in specific cities. Multiple community meetings took place in late 2019, and early 2020 – and included participation from a variety of stakeholders.

Additionally, Michael Baker International, with direction from the Entitlement Jurisdictions, conducted a Regional Needs Survey to solicit input from residents, workers, and stakeholders in the region, which consisted of all of Santa Clara County. Survey respondents were informed that the purpose of this survey was to help the Entitlement Jurisdictions determine local priorities for use of their HUD entitlement funds, and that these funds must be used to fund projects or programs that primarily serve lower income residents or neighborhoods with a higher percentage of lower-income residents. The Survey polled respondents about the level of need in their respective neighborhoods for various types of improvements, projects or programs that could possibly be funded by the HUD entitlement funds.

Action Plan Development

In addition to the extensive consultation in 2019 and 2020 noted above, the City solicited additional input for the FY2023-24 Annual Action Plan from community members at public hearings and planning meetings held on October 22, 2022, March 22, April 19 and May 2, 2023. The City and other community development organizations in the County coordinate frequently on a variety of initiatives. City Housing staff participates in a collaborative of HUD entitlement grantees within the County.

Quarterly meetings are held to discuss activities, technical assistance issues, and identify future opportunities for coordination and cooperation. The City also coordinates with other regional agencies, such as the Housing Trust of Silicon Valley, SV@Home, Joint Venture Silicon Valley, NOVA, Page 5 the County-wide Fair Housing Task Force, and the Valley Transportation Authority, among others, to achieve the goals described within this Action Plan.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The City has coordinated with the Santa Clara County Continuum of Care (CoC) for many years on its efforts to end and prevent homelessness in the County. The CoC, a group of stakeholders from throughout the County, plans and implements many of these efforts. The CoC is governed by the CoC Board, which takes a systems-change approach to preventing and ending homelessness. The City's Housing Officer participated on the CoC's Review and Rank Panel in several recent years. This panel spends about a week reviewing and ranking local proposals for HUD funding through the federal CoC program.

Members of the CoC meet monthly to plan CoC programs, identify gaps in homeless services, establish funding priorities, and pursue a systematic approach to addressing homelessness. City staff, including the Housing Officer and Housing Analyst, as well as staff of other cities, meet and consult with the County's CoC staff during the quarterly county-wide "CDBG Coordinators Group" meetings, and communicate more frequently via email and/or phone on joint efforts. Destination:Home (D:H), a public-private partnership committed to ending chronic homelessness, is the governing organization for the CoC and implements by-laws and operational protocols for the CoC. D:H is also responsible for ensuring that the CoC complies with the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH).¹

In 2019, D:H released a draft "Community Plan to End Homelessness in Santa Clara County" (Community Plan), which outlines strategies for ending homelessness in the County by 2025. These strategies were informed by those who participated in a series of community summits conducted between April and

December 2019, including Sunnyvale HD staff and local stakeholders, among others. The Community Plan addresses the needs of homeless people in the County, including chronically homeless people, families with children, veterans, and youth, as well as those at risk of homelessness.

The City's current ConPlan and 2015-2023 Housing Element incorporate many policies and programs that are consistent with the Community Plan and "Housing First" policies in general.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The City is not an ESG entitlement jurisdiction.

The CoC's HMIS is administered by the County Office of Supportive Services, using Clarity Human Services software. The project meets and exceeds HUD's requirements for HMIS and complies with HUD HMIS Standards. The County's HMIS is used by many service providers to record information and report outcomes.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

Table 2 – Agencies, groups, organizations who participated

1	Agency/Group/Organization	Abilities United
	Agency/Group/Organization Type	Services-Persons with Disabilities
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum(s) on Oct. 26, 2022 and April 19, 2023
2	Agency/Group/Organization	Bill Wilson Center
	Agency/Group/Organization Type	Counseling, Housing for Homeless Youth
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum(s) on Oct. 26, 2022 and April 19, 2023
3	Agency/Group/Organization	Catholic Charities of Santa Clara County
	Agency/Group/Organization Type	Services-Elderly Persons
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum(s) on Oct. 26, 2022 and April 19, 2023
4	Agency/Group/Organization	City of Sunnyvale
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum (s) on Oct. 26, 2022 and April 19, 2023
5	Agency/Group/Organization	LIVE OAK ADULT DAY SERVICES
	Agency/Group/Organization Type	Services-Elderly Persons
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum(s) on Oct. 22, 2022.
6	Agency/Group/Organization	Midpen Housing Corporation
	Agency/Group/Organization Type	Affordable Housing Developer
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum(s) on Oct. 22, 2022 and April 19, 2023
7	Agency/Group/Organization	PROJECT SENTINEL
	Agency/Group/Organization Type	Service-Fair Housing and Legal Services
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum (s) on Oct. 22, 2022 and April 19, 2023
8	Agency/Group/Organization	SENIOR ADULTS LEGAL ASSISTANCE
	Agency/Group/Organization Type	Service-Fair Housing and Legal Services
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum (s) on Oct. 22, 2022 and April 19, 2023
9	Agency/Group/Organization	SUNNYVALE COMMUNITY SERVICES
	Agency/Group/Organization Type	Community/Family Services and Organizations
	What section of the Plan was addressed by Consultation?	Needs Assessment and Strategic Plan

Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Agency attended Community Forum (s) on Oct. 22, 2022 and April 19, 2023
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Identify any Agency Types not consulted and provide rationale for not consulting

There were no agency types that were not consulted as part of the 2020-2025 Consolidated Plan process.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Table 3 – Other local / regional / federal planning efforts

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Destination:Home	The D:H plan provides strategies for ending homelessness and increasing affordable housing stock in the County. This effort aligns with the Strategic Plan's goals to increase/support Affordable Housing and Alleviate Homelessness.
City of Sunnyvale General Plan, 2015-2023 Housing	City of Sunnyvale	Two of the primary goals of each of these plans are essentially the same: Increase/Support Affordable Housing; and Addressing Homelessness. Both plans also have goals related to improving local housing stock and neighborhoods, and addressing priority needs (non-housing community development needs). About 80% of the content of the two plans are very similar.
Comprehensive HIV Prevention & Care Plan	Santa Clara County HIV Planning Council for Prevention and Care	This plan guides the Santa Clara County HIV Planning Council for Prevention and Care in its development of a compassionate system of HIV prevention and care for the County. This effort aligns with the Strategic Plan's goal to address Other Community Development Needs

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Regional Housing Need Plan for the San Francisco B	Association of Bay Area Governments	This plan quantifies the needs of the 9-county Bay Area, which includes Sunnyvale, primarily for new housing units to address population growth projected to occur in the next 8 years. The regional housing need is further divided into an allocation or RHNA for each county and city in the region. The plan indicates Sunnyvale needs nearly 5,500 new housing units during this period. This plan aligns with the Strategic Plan's goals to increase/support Affordable Housing and Alleviate Homelessness. Sunnyvale's Housing Element describes how the City can accommodate the new units through its zoning and General Plan, and provide some affordable units by using its special funds for affordable housing.

The City ensures that all Action Plan projects and programs are consistent with the City's General Plan and the ConPlan. Regional planning efforts include Plan Bay Area and related statewide planning efforts.

Stakeholder Participation and Consultations with Agencies

The City consulted with various groups and organizations as part of the 2020-2025 Consolidated Plan process. Those stakeholders are listed in the Appendices of the ConPlan. A number of the same stakeholders participated in one or more hearings or funding workshops related to the development of the 2023 Action Plan.

Identify any Agency Types not consulted and provide rationale for not consulting

Not applicable.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Please see Table 3 provided in the Appendix of the ConPlan. The City ensures that its Action Plan projects and programs are consistent with the City's General Plan and the ConPlan. Regional planning efforts include Plan Bay Area and related statewide planning efforts.

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

It is the policy of the City of Sunnyvale to encourage and engage residents to participate in planning, implementation, and evaluation of its housing and community development programs.

The City encourages low- and moderate-income residents, minorities, those with disabilities, and non-English-speaking residents to attend community meetings and/or provide written comments on its plans. The City provides a statement in the languages identified in its Language Access Plan on all public notices regarding HUD-funded activities, and sends public notices to organizations representing the groups listed above. In accordance with the Citizen Participation Plan, the City will provide translation services to any resident who requests such services in advance at such hearings and meetings. The City has translated its primary Housing Program brochures into Spanish, in accordance with the Language Access Plan.

Sunnyvale Request for Proposals

The City has a long-standing practice of issuing a request for proposals (RFP), annually for capital/housing projects and every second year for human services grants, to solicit applications for CDBG and HOME funds available to the City. This process aids in gathering community input on local needs and helps the City identify projects and programs that are eligible for and interested in HUD funding and have demonstrated capacity for successful implementation and compliance with HUD requirements. Staff issues the RFP, evaluates proposals for eligibility, scores the proposals according to criteria approved by the Housing and Human Services Commission, and provides its scores and funding recommendations to the Commission and Council for review. The Commission holds a public hearing before making its own recommendations on the proposed funding allocations, which are advisory to the Council, which approves the final funding awards as part of the annual Action Plan hearing. These programs and projects are also addressed in the ConPlan, as it is assumed that similar types of projects are likely to be implemented in additional years, depending on funding availability.

Public Notice and Availability of the Action Plan

As required by HUD, the City provides multiple opportunities for public review and comment on the Action Plan and on any substantial amendments to it. Community members had opportunities to attend public hearings on April 19 and May 2, 2023. A notice of public hearings and an announcement of the 30-day public comment period was published in the Sunnyvale Sun on March 31, 2023. An initial draft of the Action Plan was released on March 31, 2023, and comments were accepted through May 2, 2023. The proposed Plan was available for review at City Hall, and on the City's website.

Table 4 – Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted
1	Public Meeting	Non-targeted/ broad community	The HHSC met on October 22, 2022 for a Biennial Review of Priority Needs for Human Services for Recommendation to City Council.	Attachment - "Proof of Publication and Citizen Participation Comments." Fifteen members of the public, each representing human services agencies, spoke; four agencies submitted written correspondence.	All comments were accepted
2	Public Meeting	Non-targeted/ broad community	The City council held a public hearing on November 1, 2022 and approved the list of priority needs, excerpted from the 2020-2025 ConPlan.	Attachment - "Proof of Publication and Citizen Participation Comments."	All comments were accepted.
3	Public Meeting	Non-targeted/ broad community	The Housing and Human Services Commission (HHSC) met on February 22, 2023 to hear presentations from non-profit profit agencies, in response to the Request for Proposals for CDBG and HOME funding for FY 2023.	The presenters answered questions of the commissioners and urged them to support their project/funding request.	All comments were accepted.
4	Public Meeting	Non-targeted/ broad community	The HHSC met on Mar. 22, 2023 to discuss funding recommendations for FY 2023/24 CDBG/HOME grants. The HHSC recommended funding the HS proposals and capital project proposal in the amounts recommended by staff.	18 agencies representatives spoke during this meeting. See Attachment - "Proof of Publication and Citizen Participation Comments."	All comments were accepted.
6	Newspaper Ad	Non-targeted/ broad community	A display ad was published in the Sunnyvale Sun on March 31, 2023.	Attachment - "Proof of Publication and Citizen Participation Comments."	Not applicable
7	website	Non-targeted/ broad community	Draft Action Plan posted at: https://sunnyvale.ca.gov/property/housing/default.htm	Attachment - "Proof of Publication and Citizen Participation Comments."	Not applicable

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted
8	Public Meeting	Non-targeted/broad community	The HHSC held a public hearing on April 19, 2023 to recommend to the City Council to approve the 2023 Action Plan.	No public or written comments received.	Not applicable
9	Public Meeting	Non-targeted/broad community	The City council will hold a public hearing on May 2, 2023 to consider the Action Plan, consistent with the 2020-2025 Consolidated Plan.	Attachment - "Proof of Publication and Citizen Participation Comments."	Not applicable

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

As shown in Table A below, the City will receive \$1,054,691 in 2023 entitlement CDBG funds and \$454,952 in HOME funds. In addition, the City estimates that it will also receive approximately \$50,000 in CDBG program income in FY 2022, to be determined at end of fiscal year, and has approximately \$300,000 in disencumbered funds from prior years. The City will deposit all PI into the RLF with the exception of \$10,000 to support administrative functions. This brings the total CDBG funding for FY 2021 to \$1,364,691. This amount may increase slightly, as additional program income may be received before the end of this fiscal year. Total available HOME funding for FY 2023 will be \$879,952, which includes the new allocation, plus estimated program income administrative reserves and unencumbered funds from the prior program year.

Local (City) Resources

The City has a local Housing Mitigation Fund (HMF) and Below Market Rate (BMR) In-Lieu Funds for the development, rehabilitation and/or acquisition of affordable housing. In 2014, \$8.1 million in HMF was provided to the development of two new affordable rental projects, Parkside Studios and Onizuka Crossing, with a total of include 117 new affordable units. In 2017, \$7.43 million in HMF, plus \$600,000 in Home Funds, was committed to the 66-unit Benner Plaza project, completed in December 2018. Since December 2020, the City allocated about \$40 million to four developments (1178 Sonora Ct., 1171 Sonora Ct., Orchard Gardens and Block 15) through two separate competitive funding availabilities, which will increase the affordable housing stock by about 500-units. In addition, the City has funds available in its Housing Successor Agency Low-Mod Housing Fund, these funds are allocated outside of the Action Plan process, but with a similar goal of expanding and preserving the City's affordable housing stock.

Other Public Resources

Low-Income Housing Tax Credit Program (LIHTC)

The LIHTC program provides federal and state tax credits for developers and investors who agree to set aside all or a percentage of their rental units for low-income households for no less than 30 years. MidPen Housing applied for and received an award of federal low-income housing tax credits in 2016 for its Benner Plaza project, a new 66-unit affordable rental housing development. Most recently, Block 15 was awarded tax credits for their 90 unit development in 2021.

Homeless Emergency and Rapid Transition to Housing (HEARTH) and Emergency Shelter Grants (ESG)

Santa Clara County serves as lead agency for the County's Continuum of Care (CoC), which receives HEARTH Act, ESG, and similar federal grants to provide shelter, housing, and supportive services to homeless people residing anywhere in the County. The City has contributed some of its local funds to various county-wide projects and programs that often receive CoC support as well, such as shelter facilities, transitional and permanent supportive housing, tenant-based rental assistance, and supportive

services.

Private Resources

Most of the City's housing and human services programs leverage various sources of private financing. The City encourages the participation of local lenders in its housing and/or community development projects as needed. The City is a founding member of the Housing Trust of Santa Clara County, which raises voluntary contributions from the public and private sectors for affordable housing projects within the County. The City has contributed some of its local housing funds to the Trust, which then uses those seed funds to seek matching contributions from corporations and various other sources.

Table 6 - Resources – Priority Table

Program	Source of Funds	Uses of Funds	Amount Available Year 5				Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Estimate Program Income: \$	Prior Year Resource: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	1,054,681	\$10,000	\$300,000	1,364,691	\$0	Housing Rehabilitation; Public Infrastructure and Facilities; Public Services; Economic Development; Alleviation of Homelessness; Administration
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA	454,952	\$120,000	\$305,000	\$879,953	\$0	Administration and Planning Activities To be programmed for FY 2024

Funds Available and Activities Proposed for Funding in FY 2023/24

AVAILABLE FUNDS	CDBG	HOME
FY 2023-24 Entitlement Grants	\$ 1,054,691	\$ 454,952
HOME PA (Admin Reserves)	\$ 0	\$ 0
Projected FY 2022-23 Program Income (Admin only)	\$ 10,000	\$ 120,000
Projected Disencumbered/Fund Balance	\$ 300,000	\$ 305,000
TOTAL	\$ 1,364,691	\$ 879,952

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City pursues and encourages its partner agencies to seek all available public and private funding sources in order to achieve the goals of the Consolidated Plan. Most projects and activities secure funding from a variety of sources, including public and private sector donations, grants, loans, and in-kind materials and services.

Most of the City's housing and human services programs leverage various sources of private financing. The City encourages the participation of local lenders in its housing and/or community development projects as needed. Tax credit projects such as Block 15, Benner Plaza, and Onizuka Crossing, required millions of dollars in private equity and financing for construction and related costs. The City requires all applicants for CDBG and HOME funds for capital projects to provide a match of at least 25% to receive funding. For CDBG public services proposals, this match may consist of in-kind materials and services. Most applicants provide a match in excess of 25%.

Matching funds may include other available financing sources, such as tax credits, other public sector loans or grants, private capital or donations, rent proceeds, and/or the value of in-kind services (i.e., volunteer and staff services or pro-bono professional services used to implement the capital project). The City often provides more local funds than CDBG or HOME funds to assist major affordable housing projects, since those local funds are often available in larger amounts than federal funds.

Discussion

In recent years, the City has made several publicly owned properties available for affordable housing development, which is one of the needs identified in this plan. These projects included the Fair Oaks Plaza, Onizuka Crossing, Habitat Homes, and Parkside Studios. Another City-owned site known as Block 15 of the Downtown Specific Plan is currently under Planning Entitlement review for 90 units of affordable

housing. The City currently has another 175 unit affordable development pending tax credits on City owned land. The Public Works Department handles all City surplus property matters.

AP-20 Annual Goals and Objectives

Goals Summary Information

Table 7 – Goals Summary

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding 22/23	Goal Outcome Indicator
1	Affordable Housing	2023	2024	Affordable Housing	Citywide	Affordable Housing	CDBG: \$140,000 CDBG: \$490,000	Homeowner Housing Rehabilitated: 10 Affordable Rental Rehabilitation Multi-Family Rehabilitation of Carroll St Inn – and SRO property.
2	Alleviation of Homelessness	2023	2024	Homeless	Citywide	Homeless or at Imminent Risk of Homelessness	N/A	The City has a balance of funds from PY 2022, which it is using to continue expanding its TBRA program.
3	Other Community Development Efforts	2023	2024	Non-Homeless Special Needs Non-Housing Community Development	Citywide	Public Services or Facilities	CDBG: \$158,203	Public Service Grants
4	Expand Economic Opportunities	2023	2024	Expand Economic Opportunities	Citywide	Economic Opportunities for Lower Income People	CDBG: \$355,550	Jobs created/retained: 10 Jobs Other: 70 Other

Goal Descriptions

1	Goal Name	Affordable Housing
	Goal Description	<p>Goal A: Affordable Housing</p> <p>Needs Addressed</p> <p>Assist in the creation, improvement, and preservation of affordable housing for lower-income and special needs households by supporting affordable rental housing, providing the Home Improvement Program, and promoting fair housing choice.</p> <p>Geographic Area</p> <p>Affordable housing assistance is provided throughout the City, in order to avoid concentration of poverty, and to ensure fair access to affordable housing, rehabilitation assistance, and homeownership opportunities in all neighborhoods.</p> <p>Goal Outcome Indicator</p> <p>1. Home:</p> <ul style="list-style-type: none"> • CHDO Set-aside (statutory requirement, project site TBD) <p>2. CDBG:</p> <ul style="list-style-type: none"> • Home improvement program: 10 Units • Fair Housing Services: 25 Households

2	Goal Name	Alleviation of Homelessness
	Goal Description	<p>Goal B: Alleviation of Homelessness</p> <p>Needs Addressed</p> <p>Help people who are currently homeless or at imminent risk of homelessness to obtain housing, employment or other sources of income, and adequate support services/networks to achieve stability.</p> <p>Geographic Area</p> <p>City-wide</p> <p>Goal Outcome Indicator</p> <ul style="list-style-type: none"> • Assist 70 households with job training and assistance. • Assist 30 households through the Tenant Based Rental Assistance program
3	Goal Name	Other Community Development Efforts
	Goal Description	<p>Goal C: Other Community Development Efforts</p> <p>Needs Addressed</p> <p>1. The needs of very low, extremely low, and/or special needs households (seniors, disabled, homeless people, children, youth, victims of domestic violence, etc. for services and assistance to help them meet basic needs.</p> <p>Geographic Area</p> <p>City-wide</p> <p>Goal Outcome Indicator(s)</p> <ol style="list-style-type: none"> 1. Assist about 500 Households with human services. 2. Rehabilitation of Carroll St. Inn – assists 121 Households.

4	Goal Name	Expand Economic Opportunities
	Goal Description	<p>Goal D: Expand Economic Opportunities</p> <p>Support economic development activities that promote employment growth and help lower-income and/or homeless people secure and maintain jobs.</p> <p>Geographic Area</p> <p>City-wide</p> <p>Goal:</p> <p>70 Households assisted annually</p> <p>Job Placements: Assist 10 clients to obtain jobs.</p> <p>Job skills/classes: Assist 80 homeless clients with job training/skills and classes to enable them to obtain or improve their employment and housing opportunities.</p>

AP-35 Projects – 91.220(d)

Introduction

The activities that the City will undertake in FY 2023/24 using CDBG and HOME funds include: human services grants; rental housing rehabilitation and energy efficiency; employment development services for homeless and at-risk clients; access improvements, fair housing services, and program administration, as shown below. All of these activities are eligible for the indicated funding type based on federal regulations associated with these grants, and all of them meet one or more priority needs as identified through the City’s citizen participation process.

Projects

Table 8 - Project Information

#	Project Name
1	CDBG Administration and Monitoring
2	Minor Home Improvement Grants/Loans (Home Improvement Program)
3	WorkFirst Sunnyvale CBDO Activity
4	Public Services [5 projects]
5	Fair Housing Services
6	Carroll St. Inn Rehabilitation and Energy Efficiency
7	Home Administration and Monitoring
8	CHDO Set-Aside

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs:

Funding Priorities

The projects listed above were selected based on the needs identified in the Consolidated Plan, and in response to the proposals for funding received, and an evaluation of project feasibility.

Each year the City solicits proposals from local organizations for CDBG and HOME funding for eligible housing and community development programs or projects in Sunnyvale. The Request for Proposals sets forth the types of public services (human services) programs, capital and housing projects that are eligible for CDBG or HOME funding from the City, and explains the City’s process for evaluating and scoring proposals, determining award amounts, and approving awards. The City provides human services grants for public services which address identified priority needs and principally benefit lower-income people in Sunnyvale.

Applications for the human services grants are solicited every other year, following hearings held by the Housing and Human Services Commission (HHSC) and Council to determine the City’s current “priority human service needs.” The “Priority Needs” for the City of Sunnyvale's Community Development Block

Grant Program were determined through a series of community meetings held between April 2019 and January 2020 and were adopted as part of the 2020-2025 Consolidated Plan in accordance with regulations established by HUD.

FY 2023/24 is the first year of the two-year funding cycle for human services and the City confirmed in October 2022 that the list of Priority Needs in the 2020-2025 Consolidated Plan continues to be valid.

Obstacles to Meeting Underserved Needs

In the past several years, the primary obstacle to meeting underserved local needs in the near term has been the significant delays and continued uncertainty regarding federal appropriations for the CDBG and HOME programs, and other HUD programs, such as the Section 8 program and public housing funding, as well as changes to the LIHTC created by the recent federal tax reform bill. The region also continues to struggle finding a qualified CHDO to allocate funds toward.

AP-38 Project Summary

1	Project Name	CDBG Administration and Monitoring
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	
	Funding	CDBG: \$195,938
	Description	Program administration for CDBG Program activities.
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	N/A.
	Location Description	Citywide
2	Project Name	Minor Home Improvement Grants/Loans (Home Improvement Program)
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing
	Funding	CDBG: \$140,000
	Description	Minor Improvement Grants/Loans
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	Assist at least 10 households with minor home improvement grants or loans.
	Location Description	Citywide
3	Project Name	WorkFirst Sunnyvale CBDO Economic Development Activity
	Target Area	Citywide

	Goals Supported	Expand Economic Opportunities
	Needs Addressed	Economic Opportunities for Lower Income People
	Funding	CDBG: \$355,550
	Description	Economic Development/CDBO Activity
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	Assist 70 homeless clients with job training and job placement services, to enable them to obtain or improve their employment and housing opportunities.
	Location Description	Citywide
	Planned Activities	This program provides work-readiness training, job placement assistance, and supportive services for homeless and at-risk clients. This program is administered by a valid Community Based Development Organization, as determined by HUD.
4	Project Name	Public Services
	Target Area	Citywide
	Goals Supported	Other Community Development Efforts
	Needs Addressed	Public Services or Facilities
	Funding	CDBG: \$158,203
	Description	Human Services Grants to non-profit agencies
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	Assist approximately 500 individuals and/or households with human services through 5 separate non-profit programs.
	Location Description	Citywide
	Planned Activities	Assist clients with basic needs, such as food, shelter, transportation, health & mental health care, employment assistance/training, legal aid, etc.
5	Project Name	Fair Housing Services
	Target Area	Citywide
	Goals Supported	Other Community Development Efforts
	Needs Addressed	Public Services or Facilities

	Funding	CDBG: \$25,000
	Description	Provide fair housing services (utilizing administrative funds) to low-income residents of Sunnyvale.
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	25 low-income households of Sunnyvale will benefit from this proposed activity.
	Location Description	Citywide
	Planned Activities	Provide fair housing services to low-income households.
6	Project Name	Carroll St. Inn Rehabilitation and Energy Efficiency
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing
	Funding	CDBG: \$490,000
	Description	Assist a supportive housing community with property upgrades that support energy efficiency.
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	121 households (property is 122-units with one unit set-aside for property manager)
	Location Description	Citywide
	Planned Activities	Replacement of central gas hot water heaters with electric hot water heaters – and replacing the current hydronic heating system, powered by gas, with Packaged Terminal Air Conditioners, which will be powered by electricity.
7	Project Name	Home Administration and Monitoring
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing
	Funding	HOME: \$57,495

	Description	Administration of HOME Activities : Planning and Monitoring (Includes authorized program income (PA)
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	N/A
	Location Description	Citywide
	Planned Activities	Funds are used for administering the HOME program, includes costs of HOME capital project management, tracking grant funds and program income, subrecipient monitoring, reporting, and compliance with federal requirements such as environmental, labor, and anti-discrimination. Indirect costs (overhead) are also included in program administration.
8	Project Name	CHDO Set-Aside
	Target Area	Countywide
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing
	Funding	HOME: \$68,243
	Description	To provide funding to a qualified Sunnyvale CHDO with a project site
	Target Date	6/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	N/A. No CHDO application was received for 2023 funds.
	Location Description	TBD
	Planned Activities	Identify eligible Sunnyvale CHDO with a project site.

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed:

Investments will be allocated citywide for affordable housing services and related capital projects, homeless services, fair housing, and public services.

Geographic Distribution

Table 5 - Geographic Distribution

Target Area	Percentage of Funds
Citywide	100%

Rationale for the priorities for allocating investments geographically

Most of the CDBG and/or HOME-funded programs and services are provided on a city-wide basis to income-eligible and/or special needs households. Certain capital projects are assisted at a specific site, based on the location of the project, but projects may be proposed in any area of the City. Projects that qualify for CDBG funding based on the area benefit method are limited to areas with the required proportion of lower- and moderate-income residents as determined by HUD.

Human services are supported in a number of facilities and locations throughout the City, and in some cases just outside the City, as long as Sunnyvale residents are being served by the program. Affordable housing assistance is generally provided anywhere in the City, as opportunities arise, in order to avoid concentration of poverty, and to ensure fair access to affordable rental housing, rehabilitation assistance, and homeownership opportunities in all neighborhoods. The City does not have any blighted areas requiring major redevelopment, and private development is occurring throughout the City.

AP-55 Affordable Housing – 91.220(g)

Introduction

The City's housing programs are intended to prevent and/or end homelessness, improve the quality, affordability, and/or accessibility of housing, and preserve, maintain, and extend the useful life of existing affordable housing. The goals below include only the new CDBG and HOME activities to be funded in FY 2023/24. Other activities funded in prior years' Action Plans through non-HUD programs, will continue to be funded using carry-over funds, and will assist additional households.

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	10
Special-Needs	121
Total	131

Table 7 - One Year Goals for Affordable Housing by Support Type

One Year Goals for the Number of Households Supported	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	131
Acquisition of Existing Units	0
Total	131

AP-60 Public Housing – 91.220(h)

Actions planned during the next year to address the needs to public housing

Not applicable.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

Not applicable.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

Not applicable.

Discussion

Needs of Public Housing

This section is not applicable as there is currently no official public housing in Sunnyvale. The City collaborates with the SCCHA on its efforts to provide Section 8 vouchers, mortgage credit certificates, supportive services and other assistance to Sunnyvale residents. The City also supports the HACSC in its efforts to increase federal appropriations for Section 8 and other affordable housing programs in Sunnyvale and in the County.

The City has partnered with the Housing Authority on several efforts in recent years, including a joint TBRA program for clients on the Section 8 waiting list, and several Sunnyvale housing projects which were awarded project-based vouchers, including Block 15, the Fair Oaks Senior Housing project, two senior group homes, Parkside Studios, Onizuka Apartments, and Edwina Benner Plaza.

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

This Action Plan includes a planned allocation of \$355,550 for a program that helps homeless people obtain jobs (WorkFirst Sunnyvale). WorkFirst Sunnyvale is an economic development activity facilitated by a valid Community Based Development Organization (CBDO), Sunnyvale Community Services (SCS). In 2021, HUD officially confirmed that SCS is a valid CBDO. The WorkFirst Sunnyvale program specifically serves the City's unhoused population by recruiting them to become a "team-member" who will receive job training and placement services, coupled with wrap-around services, including intensive case-management. The WorkFirst Sunnyvale program has partnerships/agreements with local employers, where "team-members" are hired – and a close relationship with the local shelter and service-providers, which is another source to recruit "team-members." There is also a link between the WorkFirst Sunnyvale and Tenant Based Rental Assistance program.

Additionally, and as well as funding for various public services, several of which address homelessness. The City continues to participate in the county-wide efforts to end homelessness throughout the County. Since December 2020, the City approved about \$40 million in funds to assist the development of Block 15, 1178 and 1171 Sonora Ct., and Orchard Gardens, which will increase the affordable housing supply by about 500-units.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The WorkFirst Sunnyvale programs include outreach to unsheltered homeless clients and assessment of their needs. To assess the needs of each client – Downtown Streets Team (DST) and Sunnyvale Community Services (SCS) facilitate outreach at local encampments, and areas where the unhoused reside and/or congregate. If an individual is open to services and support – then DST and SCS will conduct the VI-SPDAT, which is the vulnerability assessment utilized by the County, and other jurisdictions. Once a client is assessed, then the team will create a plan of action based on the need of each individual.

Addressing the emergency shelter and transitional housing needs of homeless persons

Several of the public services sub-recipients (YWCA, Next Door and Bill Wilson Center), provide emergency shelter, transitional housing, and services to homeless clients and victims of domestic violence. In addition, the County operates a year round Shelter Program facility in Sunnyvale with 175 beds that takes referrals and receives supportive services from a number of the City's CDBG sub-

recipients.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Several of the activities funded help homeless clients and families transition to permanent housing, including: WorkFirst Sunnyvale, and the human services grants to YWCA and Next Door. The total CDBG funding planned for these activities is about \$515,258 in 2023.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

See discussion below.

Discussion

Several of the Human Services grants will support the provision of services intended to prevent homelessness of Sunnyvale residents including the grants to Sunnyvale Community Services, YWCA, and Bill Wilson Center. In addition, the fair housing services provided can also help tenants avoid eviction and/or homelessness by addressing discrimination practices. In addition to the activities funded with CDBG, the City also provides assistance to other programs that aim to prevent homelessness using local funds or previous year HOME funds. These include grants to Senior Adults Legal Services, funding for tenant-landlord mediation programs, and the Homelessness Prevention and Rapid Re-Housing Program funded with general funds and prior year HOME funds.

AP-75 Barriers to affordable housing – 91.220(j)

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The City does not impose any public policies that unreasonably constrain housing development. There are no growth limitations or rent control policies, and property tax policies are largely set by the State. The City's land use designations and zoning are supportive of development of a wide variety of housing types, including single- and multi-family housing, ownership and rental, mobile homes, manufactured/modular housing, and so on. The City follows the State building code, and its fees and charges are reasonable and consistent with prevailing prices in the region. Between 2006 and 2015, a total of 4,933 new housing units were issued building permits. Since 2018, 5,726 new housing units were issued building permits, with 750 of those affordable to very low, low, or moderate income households.

In 2014, the City updated the Constraints Analysis of its Housing Element, as required under California Housing Element law (Government Code 65580), to analyze city policies and land use regulations to determine if they had any negative effects on development. The State determined, with its certification in January 2015 of the City's 2015-2023 Housing Element, that the City does not currently implement policies that create barriers to affordable housing. The City is actively updating the 2023-2031 Housing Element, which will further analyze constraints. As noted above, thousands of new dwelling units of various types and price points have been developed and additional units renovated in recent years, in most cases without any direct assistance from the City. This demonstrates that the City's policies do not unduly constrain residential development. In addition, the City has successfully assisted a number of affordable housing developments in recent years, which demonstrates that City policies do not have negative effects on assisted housing production. Non-governmental barriers, primarily market factors such as high land costs, construction costs, and high prevailing market prices for housing, have been the primary challenges facing jurisdictions in the region, including Sunnyvale, in recent years, not city land use policies. These barriers are addressed, within the City's limited ability to address them, through the housing activities listed above and through the goals and policies listed in the Housing Element.

AP-85 Other Actions – 91.220(k)

Introduction:

This section discusses the City's efforts in addressing the underserved needs, expanding and preserving affordable housing, reducing lead-based paint hazards, and developing institutional structure for delivering housing and community development activities.

Actions planned to address obstacles to meeting underserved needs

The City has addressed obstacles to meeting underserved needs by adopting programs to generate local funds for affordable housing through impact fees or new development of affordable units (inclusionary zoning). The primary obstacle to meeting unmet needs is the continued decline in federal appropriations for affordable housing and community development programs. The City has established local policies to address needs to the extent possible with local resources.

Actions planned to foster and maintain affordable housing

Please see AP-35 (i.e., Affordable Housing Rehabilitation, Fair Housing Services, and Home Improvement Program).

Actions planned to reduce lead-based paint hazards

The City provides financial assistance to income-eligible homeowners to abate lead-based paint hazards through its Home Improvement Program. Paint grants and loans, as well as housing rehabilitation loans, are provided, as well as free lead-based paint testing and education services. Lead-based paint hazards in rental housing can also be addressed through housing rehabilitation loans.

Actions planned to reduce the number of poverty-level families

In 2014 the City adopted a new minimum wage ordinance increasing the local minimum wage, it is currently \$17.95/hour. It will be adjusted annually thereafter by the CPI. This action alone will help many local low-wage workers increase their household incomes to above the federal poverty levels.

The North Valley Workforce and Investment Board ("NOVA") helps prepare lower-income and unemployed residents of Sunnyvale for career growth and stable employment. NOVA provides employment and training services to low-income workers and dislocated professionals within Sunnyvale and the surrounding region under the federal Workforce Investment Act (WIA), with a goal of helping these clients obtain jobs and improve career prospects. In addition, many of the human services supported by the City help impoverished families meet their basic needs in the short term, or help them achieve living-wage employment.

The WorkFirst Sunnyvale Program is also a major anti-poverty program that helps Sunnyvale residents

who are currently homeless or at imminent risk of homelessness increase their incomes through job training and placement, and other employment-supportive services.

Actions planned to develop institutional structure

The institutional structure for carrying out the City's housing and community development activities consists of the City's cooperative relationships within its departments and other government agencies, local residents, non-profit organizations, and other institutions involved in the activities described herein.

Actions planned to enhance coordination between public and private housing and social service agencies

The City and other community development organizations in the County coordinate frequently on a variety of initiatives. The City Housing Division staff participates in a collaborative of HUD entitlement grantees within the County, which holds quarterly meetings to discuss activities, technical assistance issues, and identify future opportunities for coordination and cooperation between local governments, housing providers, social service agencies, and the Housing Authority.

The City also participates in the County's Continuum of Care (CoC), comprised of governmental agencies, homeless service and shelter providers, homeless persons, housing advocates, affordable housing developers, and various private parties, including businesses and foundations. The CoC prepares the Countywide Homelessness Continuum of Care Plan, which seeks to create a comprehensive and coordinated system of affordable housing and supportive services for the prevention, reduction, and eventual end of homelessness. The Plan provides a common guide for the County, cities, service providers, the faith community, the business sector, philanthropy, and the broader community to follow in addressing local housing and the goals and services needs for homeless people. The actions included in this Plan to address housing needs and homelessness are consistent with the CoC's plans and policies. The City's Housing Officer has served on the CoC's "Review and Rank" panel, evaluating and scoring applications for CoC funding, for the past three years.

Sunnyvale also coordinates with other regional agencies, such as the Housing Trust of Silicon Valley, Joint Venture Silicon Valley, NOVA, the County-wide Fair Housing Task Force, and the Valley Transportation Authority, and a number of other non-profit or public agencies, to achieve the goals described within this Action Plan.

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

Overall Benefit: FY 2023-2024

Community Development Block Grant Program (CDBG) Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total ESTIMATED amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	10,000
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	10,000

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income in FY 2023/24.	90.00%
Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	

HOME Investment Partnership Program (HOME) Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows: N/A
2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

Not applicable: The City has not allocated any HOME funds for homebuyer program activities since 2014. The City does not plan to fund any home buyer loans with HOME funds for the foreseeable

future, since market-rate home prices in the City are far too high for such a program to be feasible, and the City has enough local (non-federal) Housing funds to meet demand for down payment assistance loans related to its inclusionary housing program.

For several years prior to 2014, the City allocated HOME funds for a First-Time Home Buyer (FTHB) Program, but only a very small number of HOME loans were made, and those were used to buy price-restricted affordable homes through the City's inclusionary home buyer program. These homes are subject to a thirty-year resale restriction. Currently there are four outstanding FTHB loans made with HOME funds at that time. These four loans are subject to the "resale" restriction rather than the "recapture" provision, consistent with the City's First Time Home Buyer Program guidelines, and the inclusionary program's resale restrictions. These restrictions are also included in the HOME loan documents and affordability covenants recorded against the home. The FTHB Program Guidelines, available online, and the provisions of the City's HOME Promissory Note and Loan Agreement comply with the resale provisions and requirements set forth in 24 CFR 92.254, and were approved by HUD in 2011. For the four participants who purchased inclusionary homes, the "resale option" was used to meet HOME program requirements. Although the market-rate home purchase option was made available for the several years during which the HOME FTHB program operated, and during that time the City had loan documents and guidelines available to impose the "recapture" provisions, the City never made any HOME loans to assist with purchase of market-rate homes, as none ever progressed to an escrow closing. The City does not plan to allocate HOME funds to home buyer activities in the future because the unpredictability of such transactions occurring in any given year does not mesh well with the expenditure deadlines imposed by the HOME regulations, and because there is no inventory of market-rate homes affordable to lower-income buyers.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

Please see above. The City's FTHB program has not been funded with HOME funds since 2014 and the City does not intend to fund such activities in the future. The four outstanding HOME-funded FTHB loans made before 2014 used the resale method, which is a 30-year price restriction imposed through the City's inclusionary housing program (a.k.a. Below Market Rate Home Ownership Program, Sunnyvale Municipal Code 19.67) documents and is also included in the FTHB loan documents. For more information about the FTHB guidelines and the BMR Program, please see the information on the City's

website: <https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=22887> [note that Guidelines still reference HOME funds as a possible funding source, although the City is no longer

allocating HOME funds to this program.

Chapter 19.67 of Sunnyvale Municipal Code:

http://qcode.us/codes/sunnyvale/view.php?topic=19-5-19_67-19_67_070&frames=off

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

Not Applicable. The City has not and does not plan to use HOME funds to refinance existing debt on multi-family housing.

The City does not use any of the methods addressed in Questions 1-4 above in administering its HOME programs.

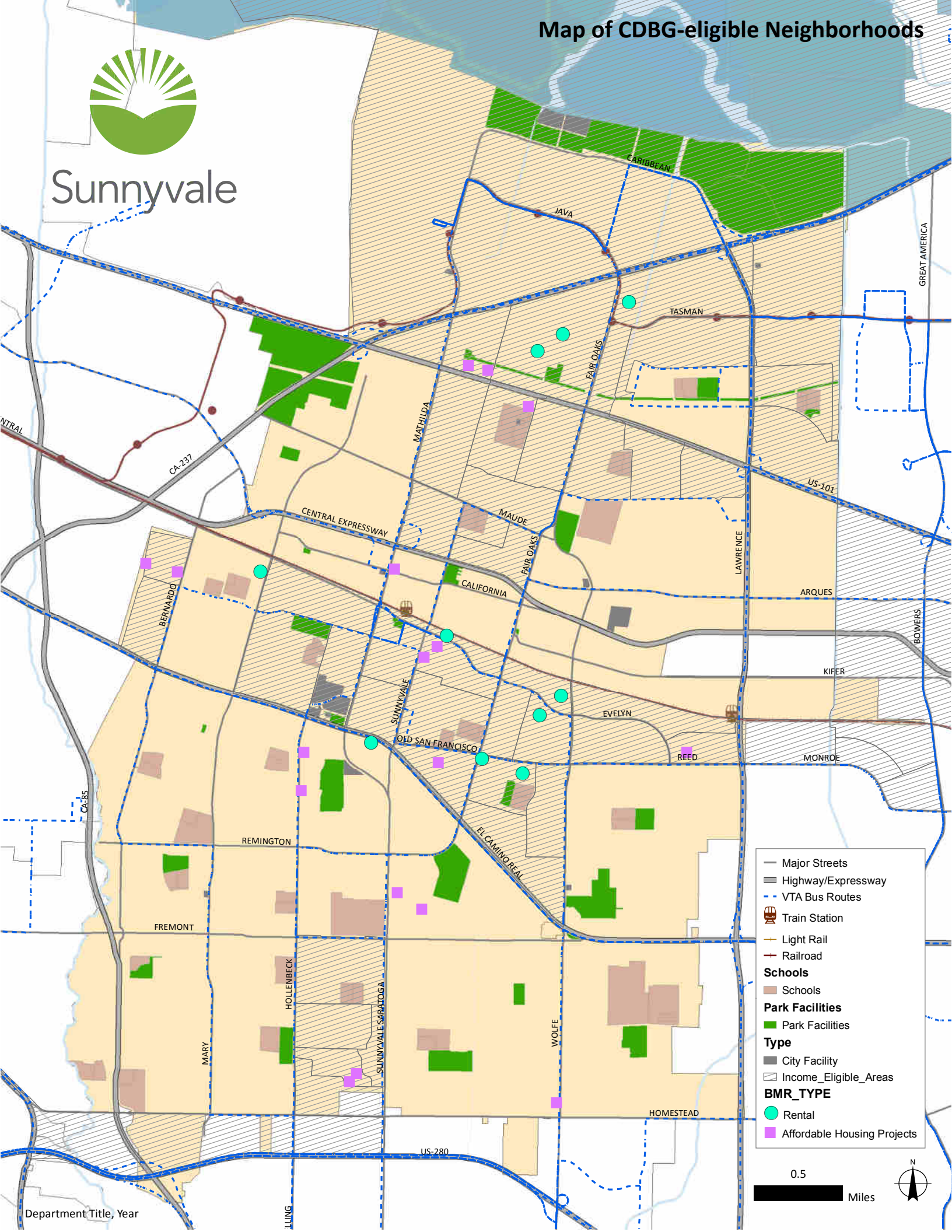
Attachments

Proof of Publication and Citizen Participation Comments

Map of CDBG-eligible Neighborhoods



Sunnyvale





City of Sunnyvale

Excerpt Meeting Minutes - Final Housing and Human Services Commission

Wednesday, March 22, 2023

7:00 PM

Online and Conference Room
Washington Community Swim Center,
255 S. Pastoria Ave.,
Sunnyvale, CA 94086

CALL TO ORDER

Chair Stetson called the meeting to order at 7 p.m.

SALUTE TO THE FLAG

Chair Stetson led the salute to the flag.

ROLL CALL

Present: 6 - Chair Elinor Stetson
Vice Chair Leesa Riviere
Commissioner Scott Duncan
Commissioner Sue Harrison
Commissioner Ken Hiremath
Commissioner Helen Lei

Absent: 1 - Commissioner Jim Davis

Commissioner Jim Davis (excused absence)
Council Liaison Larry Klein (present)

PUBLIC HEARINGS/GENERAL BUSINESS

2 [23-0450](#) Evaluations and Funding Recommendations for FY 2023/24 and FY 2024/25 Human Services Grants and FY 2023/24 CDBG and HOME Funding

Housing Programs Analyst Leif Christiansen gave the staff report and answered questions.

After a some questions of staff regarding funding amounts, Chair Stetson opened the public hearing at 7:40 p.m.

The following agency representatives spoke on behalf of their proposals:

- Alaina Purcell-Schroeder, Rebuilding Together, Low-Income Home Safety Modifications and Repairs Program
- Carole Conn, Project Sentinel Executive Director, Housing Discrimination and Tenant-Landlord Counseling Programs
- Cody Sampson, Sunnyvale Community Services Food Nutrition Program Manager, Year-Round Food Assistance Program
- Erika Laguna, Downtown Streets Team Director of Program Operations, Sunnyvale WorkFirst Program
- Georgia Bacil, Senior Adults Legal Assistance Directing Attorney, Legal Assistance to Elders Program
- Katherine Fuentes, WeeCare, Inc. Community Impact Senior Manager, BOOST Program
- Teresa Johnson, The Health Trust Director of Meals on Wheels Program

Chair Stetson closed the public hearing at 8:06 p.m.

After a short discussion and further clarifying questions of staff, Chair Stetson asked for a motion.

MOTION: Commissioner Harrison moved and Vice Chair Riviere seconded the motion to approve Alternative 1: Recommend funding the CDBG/HOME capital projects and human services proposals in the amounts shown in Attachments 2 to the report, and the General Fund human service proposals shown in Attachment 3 to the report, additionally including a cost of living, or inflationary annual increase to the General Fund Supplement.

The motion carried by the following vote:

Yes: 6 - Chair Stetson
Vice Chair Riviere
Commissioner Duncan
Commissioner Harrison
Commissioner Hiremath
Commissioner Lei

No: 0

Absent: 1 - Commissioner Davis

FY 2023/24 General Fund -- Draft Funding Recommendations

Agency Name	Program	Final Rank	Average Staff Rating	Funding Amount Requested	Staff Recommendation With Council Funded Dispute Resolution	Staff Recommendation WITHOUT Council Funded Dispute Resolution
Next Door	Domestic Violence Support and Counseling	1	98	\$ 10,000	\$ 11,005	\$ 10,000
The Health Trust	Meals On Wheels	2	97	\$ 24,500	\$ 24,999	\$ 22,001
Friends for Youth	Mentor Program	T-2	97	\$ 15,000	\$ 16,005	\$ 13,000
Catholic Charities	Older Adult Ombudsman Program	3	96	\$ 11,375	\$ 12,380	\$ 10,000
SALA	Legal Assistance for Older Adults	4	95	\$ 18,000	\$ 19,003	\$ 15,000
Silicon Valley Independent Living Center	Emergency Assistance and Housing	T-4	95	\$ 29,188	\$ 24,999	\$ 20,000
AbilityPath	Support for Adults w/ Developmental Disabilities	5	93	\$ 12,603	\$ 13,606	\$ 10,000
Live Oaks Adult Day Program	Adult Day Program Services (Dependent Seniors)	T-5	93	\$ 12,000	\$ 13,003	\$ 10,000
Project Sentinel	Dispute Resolution Services (Landlord/Tenant)	N/A	N/A	\$ 45,000	*	\$ 24,999
Rebuilding Together	Non Emergency Home Repairs	6	71	\$ 53,138	-	-
Total Funding Recommendations					\$ 135,000	\$ 135,000
Total Funds Available					\$ 135,000	\$ 135,000
Remaining Funds					\$ -	\$ -

*This project previously had a 5 year contract that expires in June 2023. Council approval of funding extension is pending, and will be considered with the budget in June 2023.



City of Sunnyvale

Excerpt Meeting Minutes - Draft

Housing and Human Services Commission

Wednesday, April 19, 2023

7:00 PM

Online and Bay Conference Room
(Room 145), City Hall,
456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting

CALL TO ORDER

Chair Stetson called the meeting to order at 7:03 p.m.

SALUTE TO THE FLAG

Chair Stetson led the salute to the flag.

ROLL CALL

Present: 5 - Chair Elinor Stetson
Vice Chair Leesa Riviere
Commissioner Jim Davis
Commissioner Scott Duncan
Commissioner Ken Hiremath

Absent: 2 - Commissioner Sue Harrison
Commissioner Helen Lei

Commissioner Sue Harrison (excused absence)

Commissioner Helen Lei (excused absence)

Council Liaison Murali Srinivasan (present) for Mayor Larry Klein

- 2** [23-0225](#) Consider Approval of Draft 2023 Housing and Urban
Development (HUD) Action Plan

Housing Programs Analyst Leif Christiansen gave the staff report and answered questions.

Chair Stetson open and closed the public hearing at 7:41 p.m. upon confirming that there were no members of the public, present or online, wishing to speak.

After a short discussion a clarifying questions of staff, Chair Stetson asked for a motion.

MOTION: Commissioner Hiremath moved and Commissioner Davis seconded the motion to approve Alternative 1: Recommend that the City Council approve the 2023 HUD Action Plan as shown in Attachment 2 of the staff report.

The motion carried by the following vote:

Yes: 5 - Chair Stetson
Vice Chair Riviere
Commissioner Davis
Commissioner Duncan
Commissioner Hiremath

No: 0

Absent: 2 - Commissioner Harrison
Commissioner Lei



City of Sunnyvale

Agenda Item

23-0438

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Public Safety Military Equipment Use Annual Report Pursuant to California Assembly Bill No. 481

BACKGROUND

On September 30, 2021, Governor Gavin Newsom signed into law California Assembly Bill No. 481 (AB 481), relating to the acquisition and use of military equipment by law enforcement agencies. AB 481 requires law enforcement agencies to obtain approval from the agency's governing body, in the form of an ordinance adopting a publicly released policy, prior to funding, acquiring, or using any military equipment. The term "military equipment" is broadly defined in the law (California Government Code section 7070) and includes various pieces of equipment that were already used by the Department of Public Safety (DPS) staff such as drones, the command vehicle, battering rams, tear gas, pepper balls, armored personnel carrier, and flash bangs. DPS does not possess any equipment acquired from military surplus programs (known as 1033 Programs) designed for military use.

AB 481 required all law enforcement agencies to develop a military use policy approved by its governing body by ordinance by May 1, 2022. At minimum, AB 481 required that the approved policy address the type, quantity, capabilities, purposes, and authorized uses of each type of military equipment; the cost associated with its acquisition and continued use; the legal limitations and procedural rules that govern its use; the training required; the mechanisms in place to ensure policy compliance; and the procedures by which members of the public may file complaints. The City Council was also required to make findings that the equipment was necessary, will safeguard the public's safety, is reasonably cost effective, and that prior uses complied with policy.

In compliance with AB 481, DPS staff brought its proposed policy to Council on April 5, 2022 (RTC No. 22-0354). Ordinance No. 3191-22 was adopted approving the policy and took effect on May 26, 2022.

On November 1, 2023 (RTC No. 22-0991) Ordinance, No. 3191-22 was amended to authorize the purchase and use of a third Unmanned Aerial System (UAS drone) which was added to the existing list of authorized military equipment.

Pursuant to California Government Code Section 7071 (e)(1) and 7071 (e)(2), DPS must now submit annually for City Council consideration its military use policy and report to consider renewing the ordinance and analyzing whether each type of military equipment identified in that report has complied with the standards set forth in Government Code Section 7071(d), to be heard at a regular meeting held pursuant to the Ralph M. Brown Act.

DPS now seeks Council to review and renew the Ordinance, receive the required Annual Report, re-

authorize previously approved equipment, and authorize the purchase of replacement items from the existing list of previously authorized military equipment.

In compliance with Government Code Section 7072(b), DPS is required to hold at least one well-publicized community meeting each year at least 30 days after publishing the annual report in order to receive questions about the report generally, or regarding the funding, acquisition, or use of military equipment. The community meeting has been scheduled for May 10, 2023.

EXISTING POLICY

General Plan Goal SN-3: Ensure a safe and secure environment for people and property in the community by providing effective public safety response and prevention and education services.

General Plan Police SN-3.2: Control conduct recognized as threatening to life and property.

ENVIRONMENTAL REVIEW

The action being considered does not require review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it may have an impact on the environment. (CEQA Guidelines Section 15061(b)(3)).

DISCUSSION

Report

DPS has attached its annual military equipment report to the Report to Council. The report contains all the required information as provided in Government Code Section 7072(a), including 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 regarding the equipment; 3) The results of any internal audits, violations of the policy, and actions taken in response; 4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, ongoing costs, and the funding source; 5) Quantities; and 6) Requests for additional equipment. There were no complaints received by DPS this calendar year involving its military equipment, and no findings of any use contrary to policy.

Policy

DPS seeks the City Council's review of Lexipol Policy 705, Military Equipment, which was adopted by Ordinance No 3191-22. The Policy was originally posted on the City website on February 22, 2022. The policy addresses all the required elements as outlined in AB 481, including the type, quantity, capabilities, purposes, and authorized uses of each type of military equipment; the cost associated with its acquisition and continued use; the legal limitations and procedural rules that govern its use; the training required; the mechanisms in place to ensure policy compliance; and the procedures by which members of the public may file complaints.

Additionally, Policy 705 permits DPS to replenish its existing stock once supply levels fall below 30%. This would ensure that DPS can maintain adequate supplies without first returning to Council for authorization.

Policy 705 provides two exceptions to the approved uses of military equipment in the event of exigent circumstances for a mutual aid call. DPS works closely with local, county, state, and federal partners. In exigent circumstances and with the approval of the Chief or his designee, the policy provides that

additional types or additional quantities beyond that which was approved in Policy 705 may be deployed from outside entities to promote the safety and security of community members.

Generally, a response may involve “exigent circumstances” if it involves an extraordinary and emergency situation requiring a swift response to prevent imminent danger to life, serious damage to property, imminent escape of a suspect, or destruction of evidence. If DPS acquires, borrows, or uses military equipment in exigent circumstances, it will provide written notification to the City Council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state, or federal law. Calls involving mutual aid resources have been noted in the report.

Findings

Government Code Section 7071(e) requires that the City Council annually review its policy adopted by ordinance and vote whether to renew the ordinance at an open and public meeting. The Council must make a finding that the Department has used each type of military equipment identified in the report in compliance with the standards set forth in the policy. If Council finds any military equipment use was not in conformance with the previously approved standards, it shall either disapprove the authorization for that equipment, or require new standards in the policy in order to resolve the lack of compliance. Based on the attached report, the Department believes this finding can be made as there are no documented instances of equipment use that were not within policy.

FISCAL IMPACT

The current inventory of military equipment has been acquired using appropriated operating budget funds and leveraging grant funds whenever possible. DPS does not anticipate acquiring any new military equipment in the upcoming budget cycle, except to restore expended stock to current levels. Non-consumable items are included in the department’s equipment replacement schedule. Other stock items are part of the calculated equipment and supplies funded in the existing operating budget.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

ALTERNATIVES

1. Adopt a Resolution Regarding the Presentation of the Annual Public Safety Military Equipment Use Report and Renewing the Military Equipment Use Policy Pursuant to California Assembly Bill No. 481 and Finding the Uses Conformed to Policy and Find that the Action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).
2. Adopt a Resolution Regarding the Presentation of the Annual Public Safety Military Equipment Use Report and Renewing the Military Equipment Use Police Pursuant to California Assembly Bill No. 481 with Modifications and Finding the Uses Conformed to Policy and Find that the Action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

3. Do not Adopt the Resolution and Provide Alternative Direction to Staff.

STAFF RECOMMENDATION

Alternative 1: Adopt a Resolution Regarding the Presentation of the Annual Public Safety Military Equipment Use Report and Renewing the Military Equipment Use Policy Pursuant to California Assembly Bill No. 481 and Finding the Uses Conformed to Policy and Find that the Action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061 (b)(3).

Prepared by: Fabian Monge, Captain

Reviewed by: Phan Ngo, Director, Public Safety

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. DPS Annual Military Equipment Report
2. Ordinance No. 3191-22
3. Resolution



SUNNYVALE DEPARTMENT OF PUBLIC SAFETY
ANNUAL MILITARY
EQUIPMENT REPORT
January – December, 2022

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INTRODUCTION

On September 30, 2021, the Governor of the State of California approved Assembly Bill 481 (codified as Chapter 12.8 of the California Government Code) requiring law enforcement agencies such as the Sunnyvale Department of Public Safety to have a military use policy approved by the City Council prior to requesting, seeking funding, acquiring or using military equipment. Assembly Bill 481 allows the governing body to approve the policy within its jurisdiction only if it determines that the military equipment meets specified standards.

On April 5, 2022, the City of Sunnyvale City Council approved Ordinance NO. 3191-22 approving Sunnyvale Department of Public Safety Policy #705: Military Equipment Funding, Acquisition, and Use. Annually, the Sunnyvale Department of Public Safety must prepare a report in compliance with Assembly Bill 481. Subsequently, the City Council must then review the Ordinance, Policy and Annual Report, and determine whether the Department's use of military equipment in the past year complied with the Policy, and whether to continue the Ordinance and Policy, take action (by ordinance) to modify the Policy or repeal the Ordinance.

As set forth in the Policy, the Sunnyvale Department of Public Safety retains and employs limited military equipment to safeguard its community. SDPS officers, certified instructional staff, and specialized units receive training throughout the year on the use of military equipment approved under the Policy.

This Annual Report outlines the Sunnyvale Department of Public Safety's military equipment inventory and usage, community complaints over use of military equipment, and internal audits from January 1, 2022 through December 31, 2022. The Department will submit its Military Equipment Annual Report to City Council after December 31st of every year in compliance with AB 481.



DEFINITIONS

Definitions of Military Equipment established by California Government Code §7070: (SDPS utilizes a limited number of the resources listed below)

Military equipment includes but is not limited to the following types of equipment:

- Unmanned, remotely piloted, powered aerial or ground vehicles
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached
- Tracked armored vehicles that provide ballistic protection to their occupants
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units
- Weaponized aircraft, vessels, or vehicles or any kind
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue weapons
- Any firearm or firearm accessory that is designed to launch explosive projectiles
- Noise-flash diversionary devices and explosive breaching tools
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray
- Taser Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs)
- Kinetic energy weapons and munitions
- Any other equipment as determined by a governing body or a state agency to require additional oversight



SUNNYVALE DPS – AB 481

Armored Personnel Vehicle ARV

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) Armored Personnel Rescue Vehicle is an armored vehicle that is used for special operations that pose a high safety risk to officers or the public. The vehicle provides ballistic protection for the officers during dangerous law enforcement operations. The vehicle is also used to assist with the rescue and protection of civilians in harm's way during terrorist threats, hostage incidents, active shooter events, or other life-threatening situations.

The vehicle is designed to provide protection from a variety of small arms fire. The vehicle was built on the 2007 Ford F-550 Super Duty truck frame. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The vehicle has an expected lifespan of approximately 20 years.

2. Purposes and Use

To be used in response to critical incidents to enhance officer and community safety and assist in resolving critical incidents. The use of the Armed Personnel Vehicle shall only be authorized by a supervisor. Sunnyvale DPS personnel are trained on the use of the Rescue Vehicle to help protect officers and civilians during a life-threatening emergency.

3. Fiscal Impact

The Sunnyvale Armed Personnel Vehicle was purchased in 2006 using grant funding. The vehicle cost approximately \$292,000. The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. The average cost to the City of Sunnyvale to maintain and repair the vehicle is \$4,000.

4. Rules

The Sunnyvale ARV is currently assigned to the Bureau of Police Services and is housed at Sunnyvale DPS headquarters. The vehicle is operated by trained Sunnyvale DPS personnel. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The Sunnyvale ARV is available to respond to any large-scale event in Sunnyvale or the greater Bay Area. The vehicle can be requested by any on-scene Incident Commander (supervisor) to help manage an event.

The following Sunnyvale DPS Lexipol Policies govern the deployment of the ARV:

SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

SUNNYVALE DPS LEXIPOL POLICY 308.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

5. Training

The Sunnyvale ARV is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct explosive breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual

:<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Energetic Breaching Program

1. Project Background and Description/Expected Lifespan

The primary use of energetic breaching program is used by the Sunnyvale DPS SWAT team to provide an immediate, efficient, an unexpected strategic entry during an emergency operation. This calculated and surprise entry is intended to catch the suspect(s) off guard, permit swift ingress, and allow SWAT personnel to quickly locate and assess potential threats concealed in enclosed structures. Effective breaching techniques allows Sunnyvale SWAT personnel immediate entry with minimal risk to themselves, the victims and the suspects.

Energetic breaching is a non-lethal force option. Sunnyvale SWAT personnel assigned as breachers are tasked with the objective to affect an entry shall consider the safety of innocent persons inside the stronghold, the safety of the suspect, and the safety of the tactical officers conducting the operation.

Energetic Breaching is used when there are no other reasonable alternatives to rapidly breach a location. Energetic Breaching is only used when time is of the essence in order to preserve life. Without these items, peace officers may not be able gain access to a location in a safe and timely manner to engage in necessary police operations.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The energetic breaching equipment utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

To safely make entry into a stronghold during an emergency situation. Energetic breaching will calculate the minimum amount of material needed to gain entry into a designated target without harming occupants inside the stronghold or the officers involved in the entry.

3. Fiscal Impact

The initial energetic breaching program was initiated in 2014. The startup costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Detonation Cord:	Price: \$1.00 a foot	Qty: 2000 feet	Total: \$ 2,000
Detonators:	Price: \$20.00	Qty: 319	Total: \$ 6,380
Training of Personnel: Approximately \$4,000 to train two officers			
Total approximate costs for the program: \$ 12,380			

The estimated annual costs to maintain, replenish, and service the energetic breaching program equipment is approximately:

Detonation Cord: Price: \$1.00 a foot Qty: 1000 feet Total: \$ 1,000

Detonators: Price: \$20.00 Qty: 100 Total: \$ 2,000

Training of Personnel: Approximately \$4,000 to train two officers

Total approximate annual costs for the program: \$ 7,000

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

The Sunnyvale DPS SWAT energetic breaching team will be composed of two energetic breachers. The team will have an energetic breaching team leader and a primary energetic breacher. In order to maintain proficiency and to ensure the minimum number of breachers are always available, two members of the SWAT team will be assigned as assistant breachers

An OSHA blaster's license is required for energetic breaching operations, both training and mission specific. A licensed blaster has to be present at all energetic breaching operations. It shall be the intent of the SDPS SWAT team to constantly have two personnel trained and licensed with an OSHA blaster's license.

A U.S. Department of Justice, Alcohol Tobacco Firearms (ATF) Energetic License or Limited Permit does not need to be applied for every year. As a government Law Enforcement agency, SDPS is exempt and does not need to possess an ATF permit to purchase or use energetics for breaching operations. All energetic purchases, materials used during training and operations, all need to be recorded and records kept for ATF inspection. A running total of energetic materials stored at SDPS needs to be logged and available for ATF audit at all times.

The Sunnyvale Fire Marshall needs to approve storage containers, storage site and approve energetic material inventory.

Storage

The U.S. DOJ Department of Alcohol, Tobacco, and Firearms (ATF) regulate and license the purchase, storage, and use of energetic materials. Energetic breaching personnel will store energetics in accordance with ATF-Energetics Law and Regulations (ATF P 5400.7, Subpart K-Storage).

The energetics will be stored in ATF approved magazines, at a specific site designated by the Sunnyvale Fire Marshall. Energetic breaching personnel will maintain a magazine log to record amounts of energetic materials received and stored, amounts used in training and missions,

along with running totals of each type of energetic material. The log will include specific dates and will be posted next to each storage magazine.

5. Training

Given the complex nature and variety of skills that must be mastered and maintained, the high level of performance required, and perishable nature of these skills, each energetic breacher must maintain a minimum standard of ten hours of energetic training every month to include:

1. Work with detonators and firing assemblies
2. Construction and detonation of breaching charges
3. Review of energetic composition theories and properties
4. Review of all related calculations and formulas needed for the development of breaching plans
5. Review of all processed objective data
6. Review and debrief of other unit operations and research information

There should also be at least ten additional hours every year devoted to full mission profile training. This should include all members of the SWAT team as required.

All energetic breachers will attend an accredited "Basic Explosive Breaching" course taught by the Los Angeles Sheriff's Office (LASD). The course consists of a minimum of 40 hours. The course of instruction must include all areas of energetic science, blast pressure, blasting regulations and compliance requirements, documentation and charge configurations as required of a contemporary energetic breaching program.

Prior to performing an operational breach of any kind, all energetic breachers will be required to participate in a minimum of 25 documented training "shots" with the unit and at least one training breach utilizing the entire SWAT team.

The energetic breaching unit will maintain a breaching log which documents every energetic breach, training or operational. The designated energetic breacher of each entry point shall be responsible for completing a breaching report in a timely manner whenever energetic breaching charges are used.

The energetic breaching team leader works directly with the other SWAT team leaders during critical incidents and training events. He/she is responsible for:

1. The readiness of energetic breaching equipment and personnel.
2. Maintaining all training records and operational documents.
3. Evaluating all tactical information and working with the SWAT team leader to develop, prepare, and execute the entry plan utilizing the energetic breaching team.
4. Maintaining data of operation methods and crisis site information for future reference and use.

5. Briefing command staff on the team's breaching capabilities
6. Continually evaluating the SWAT team's mission and assignments to ensure the energetic breaching team is in a constant state of readiness.

Energetic Breach After-Action Report

Following all tactical team operations and significant training events, a written after-action report shall be prepared by the energetic breaching team leader and submitted to the SWAT team leader.

The critique shall include:

- A description of crime scene information availability, accuracy, collection methods, and timing of dissemination.
- A description of the planning and preparation phase.
- A description of the execution of the operation.
- A description of the team's performance.
- Documentation of the objective layout and construction in writing, photographs, and video if possible.

This report should identify deficiencies and corrective actions as necessary for each phase and a recommendations section for actions needed to eliminate deficiencies in the future.

These reports shall be maintained indefinitely for future reference and historical data.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct energetic breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

Less-Lethal Launcher

1. Project Background and Description/Expected Lifespan

The less-lethal launcher is a launching platform that uses a 37mm or 40mm rubber "baton" generally at distances around 10-20 yards. It is designed to be used on extremities such as arms or legs, similar to a handheld wooden baton, and is effective in suppressing events or incidents where the use of lethal force is not an appropriate response. Public Safety currently deploys the less-lethal launcher in patrol vehicles and reserves the 40mm launcher for SWAT operations.

The less-lethal launcher expands the department's capability to responding to situations where officers face non-lethal situations where subjects are not complying with orders/directions. The less-lethal launcher can potentially prevent a deadly force encounter.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The less-lethal launchers utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

The less-lethal launcher is used as a non-lethal option to offer law enforcement officers to deliver a less than lethal projectile to a subject in a potentially violent encounter. The less-lethal launcher system is a de-escalation tool used to avoid further injuries or lethal options on a subject.

3. Fiscal Impact

The Sunnyvale Department of Public Safety currently has two models of the less-lethal launcher: the 37mm SAGE Deuce and the 40mm Penn Arms launcher.

SAGE Deuce 37mm Patrol Basic Launcher (Patrol Vehicles):

Price: \$ 3,390	Qty: 6	Total: \$20,340
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SAGE Deuce 37mm launcher munitions:	Price: \$ 3,980	Qty: 190
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Penn Arms 40mm Launcher (SWAT)	Price: \$ 2,348	Qty: 2	Total: \$ 4,696
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Penn Arms 40mm launcher munitions:	Price: \$ 1,466	Qty: 70
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Total approximate initial costs for one less-lethal system: \$ 11,184

The replacement cost for this program is \$25,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the less lethal launchers. These costs vary depending on needs.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Other available resources include de-escalation tools such as the SAGE launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of less-lethal launchers:

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

- a. Circumstances appropriate for deployment include, but are not limited to, situations in which:
- b. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- c. The suspect has made credible threats to harm him/herself or others.
- d. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- e. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

5. Training

Officers receive training on the proper use of the less-lethal launching systems by current manufacturer certified instructors. The training includes when the less-lethal launchers can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate

proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

6. Compliance

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

Mobile Emergency Operations Center (MEOC)

1. Project Background and Description/Expected Lifespan

In 2009, the Sunnyvale Department of Public Safety (DPS) received grant funding to design and procure a mobile platform to deliver interoperable command/control, communication and data management assets to an operational scene to support all-risk operations. This Mobile Emergency Operations Center (MEOC) is available for deployment to numerous jurisdictions within the Bay Area region. The vehicle helps strengthen information sharing, collaboration, and command and control, between numerous agencies during large scale emergencies. Additionally, the design of the vehicle complements mobile command centers and tactical assets being used by the Cities of Palo Alto and Santa Clara.

The MEOC is an unarmored vehicle similar to a large commercial recreational vehicle. The MEOC also serves as an emergency dispatch center in the event of a catastrophic failure of the dispatch center housed within the DPS building.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The MEOC utilized by the Sunnyvale Department of Public Safety has no offensive capabilities.

The Sunnyvale DPS MEOC has an expected lifespan of approximately 20 years.

2. Purposes and Use

The Sunnyvale Department of Public Safety (DPS) is a unique agency in the Bay Area. Sunnyvale DPS is the only fully integrated Police, Fire, and EMS provider in the region. The MEOC provides seamless interoperable communications, data management, and command/control abilities during an emergency.

3. Fiscal Impact

The initial cost of the MEOC in 2012 was \$315,694 (RTC 11-117) which was paid through grant funding. The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. These costs vary depending on needs.

4. Rules

The MEOC is currently assigned to the Bureau of Fire Services and is housed at Sunnyvale Fire Station 5. The vehicle requires a class C driver's license with a firefighter endorsement to operate. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

SUNNYVALE DPS LEXIPOL POLICY 308.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

5. Training

The MEOC is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

Our procedural guidelines for training are dictated in the Sunnyvale DPS Policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 501.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

The evaluation of individual and company training effectiveness shall be based on actual performance demonstration. This may be observed at routine drills, calls for service, and the ability to successfully complete Department of Public Safety Certifications. Officers, regardless of tenure, who are deficient in performing these standards will be required to demonstrate proficiency as a part of a mandatory improvement plan.

The Fire Training Program for fire-based personnel has been formulated to provide direction for training PSO's assigned to the Bureau of Fire Services for the first time and for those returning after a long absence.

SUNNYVALE DPS LEXIPOL POLICY 501.3 PROCEDURES

All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

The evaluation of individual and company training effectiveness shall be based on actual performance demonstration. This may be observed at routine drills, calls for service, and the ability to successfully complete Department of Public Safety Certifications. Officers, regardless of tenure, who are deficient in performing these standards will be required to demonstrate proficiency as a part of a mandatory improvement plan.

The Fire Training Program for fire-based personnel has been formulated to provide direction for training PSO's assigned to the Bureau of Fire Services for the first time and for those returning after a long absence.

SUNNYVALE DPS LEXIPOL POLICY 501.3 PROCEDURES

All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

Provide the DMV with proof of successful completion of either the Fire Apparatus Driver/Operator 1A course taught by an instructor registered with the Office of the State Fire Marshal or fire department driver training that meets all of the requirements in Vehicle Code § 12804.11. This proof should be in the form of a letter from the Director of Public Safety or the authorized designee.

Pass the appropriate written firefighter examination(s) that have been developed by the DMV with the cooperation of the Office of the State Fire Marshal.

Submit a report of medical examination on a form approved by the DMV.

A member is not required to obtain and maintain a firefighter endorsement if the member is operating the firefighting equipment for training purposes, during a non-emergency or while under the direct supervision of a member who is properly licensed to operate the equipment and is authorized by the Department to provide training (Vehicle Code § 12804.11).

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 501.4 TRAINING LIEUTENANT RESPONSIBILITIES

It shall be the responsibility of the Fire Training Lieutenant to ensure that any member required to drive fire apparatus as a part of his/her normal duties has received the mandated training. The Fire Training Lieutenant shall coordinate with the department member appointed to monitor driver license status to ensure members have valid driver licenses with the proper endorsements, in accordance with the Driver License Requirements Policy.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

Noise Flash Diversionary Device (NFDD)

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team has the ability to deploy a diversionary device known as a Noise Flash Diversionary Device (NFDD). A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. Only specially trained SWAT personnel are allowed to deploy NFDD devices. These devices are used during high-risk SWAT operations where the subject poses a significant threat to officers or the public.

The NFDD is considered a non-lethal use of force option. These devices can often lead to a safer resolution and allow officers to take a subject into custody without force.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The NFDDs utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. The NFDD is used as diversion/distraction device during dangerous situations involving potentially violent subjects. The NFDD is only used by specially trained SWAT team members.

3. Fiscal Impact/Inventory

CTS NFDD model 7290M	Quantity: 25	Total: \$2,447
CTS NFDD model 7290-2	Quantity: 2	Total: \$1,725
CTS NFDD model 7290-9	Quantity: 27	Total: \$4,022
CTS NFDD model 7290-50	Quantity: 18	Total: \$756
CTS NFDD model 7290-1	Quantity: 18	Total: \$756
CTS NFDD model 7290MT	Quantity: 35	Total: \$2,295

Total approximate costs for the program: \$ 12,000

The estimated annual costs to maintain and replenish supply used during operations or training is approximately: \$3,000

4. Rules

The Sunnyvale Fire Marshall needs to approve storage containers and storage sites used by SDPS.

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

SUNNYVALE DPS LEXIPOL POLICY 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

SUNNYVALE DPS LEXIPOL POLICY 300.3.1 USE OF FORCE TO AFFECT AN ARREST

Any peace officer may use reasonable force to affect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

5. Training

All Sunnyvale DPS SWAT team members are trained in the proper use of the NFDDs during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in yearly re-certification on the use of the NFDDs.

SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors should not be deployed until successful completion of the POST certified Basic SWAT Course or its equivalent.

- a. To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

SUNNYVALE DPS LEXIPOL POLICY 406.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST certified SWAT commander or tactical commander course, or its equivalent.

SUNNYVALE DPS LEXIPOL POLICY 406.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

The policy detailed above is based on the policies, procedures, and practices of police SWAT teams that continue to successfully utilize NFDDs in their operations. These police departments include the Los Angeles Sheriff's Office (SEB) Special Enforcement Bureau, the Santa Clara Police

Department SWAT Team, the San Jose Police Department MERGE Unit, and the Monterey County Sheriff's Office SWAT Team.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use NFDDs will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.



SUNNYVALE DPS – AB 481

Pepper Projectile Systems

1. Project Background and Description/Expected Lifespan

The Pepper Projectile System is not a firearm, but rather a non-lethal system that uses high pressure air to deliver PAVA (Pelargonic Acid Vanillylamide) powder projectiles from a safe distance. PAVA is based on one of the hottest of the six capsaicinoids found in pepper plants. The munitions contain only safe, pure, nonoil-based PAVA and are non-flammable. The system was based off paintball launcher systems. The Pepper Projectile System has an expected lifespan of 10 years.

The Pepper Projectile System munition (inert): is a 68-caliber plastic (breakable) sphere which encapsulates a scented powder that is not a chemical agent. The inert munition is used for training purposes and has an expected lifespan of 3 years.

The Pepper Projectile System munition: is a 68-caliber plastic (breakable) sphere which encapsulates a 2% chemical agent (PAVA) payload. The munition is used as a non-lethal weapon designed de-escalate a potentially violent encounter. The munition has an expected lifespan of 3 years.

2. Purposes and Use

The Pepper Projectile System and munitions are used as a non-lethal option to offer law enforcement officers the chance to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter. The proper use of the Pepper Projectile System is a de-escalation tool used to avoid further injuries or lethal options on a subject.

3. Fiscal Impact

The initial Pepper Projectile System program was initiated in 2005. The costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Pepper Projectile System FTC Basic Launcher (Patrol): Price: \$591 Qty: 6 Total: \$3,546

Pepper Projectile System Munitions (Inert): Price: \$375 per case Qty: 2,200 Total: \$1,938

Pepper Projectile System Munitions: Price: \$375 per case Qty: 2,600 Total: \$6,832

Miscellaneous (backpack, munition holder, air tanks, etc.) Total: \$6,000

Total approximate initial costs for the Pepper Projectile System: \$ 18,316

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Other available resources include de-escalation tools such as the Pepper Projectile System launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of Pepper Projectile launchers:

SUNNYVALE DPS LEXIPOL POLICY 302.7.2 Pepper Projectile Systems:

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Only Officers who have completed the Department Pepper Projectile System/ Impact Projectile Launcher training will be authorized to use the Non-Lethal weapon system.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 Treatment for OC Spray Exposure:

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

SUNNYVALE DPS LEXIPOL POLICY 302.8 Post Application Notice:

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b. The suspect has made credible threats to harm him/herself or others.
- c. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- d. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

5. Training

Officers receive training on the proper use of the Pepper Projectile System systems by current manufacturer certified instructors. The training includes when the Pepper Projectile System can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

6. Compliance

Per Sunnyvale DPS Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices (Pepper Projectile Systems) will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

DPS SWAT Rifles

1. Project Background and Description/Expected Lifespan

The Sunnyvale DPS SWAT Daniel Defense MK rifles are smaller more compact rifles that are only used by specially trained SWAT officers assigned to the Sunnyvale SWAT team. Each member of the Sunnyvale DPS SWAT team attends monthly training that requires the practice firing of their rifles. This monthly training ensures that the SWAT team will be ready to handle a variety of high-risk situations like hostage-rescue situations, active shooter scenarios, high-risk search warrants, and armed barricaded suspects.

The Daniel Defense MK rifles have a thicker barrel that can better endure the large amount of ammunition fired during years of training. The Daniel Defense MK rifle is tooled to accept 5.56 mm NATO ammunition and the .223 cal. standard issue rifle ammunition used by patrol officers. Because the rifle is manufactured to endure both types of ammunition, the rifle has a longer lifespan and provides a more cost-effective solution to the Sunnyvale SWAT team. The Daniel Defense MK rifles are more reliable and durable than the standard issue rifles assigned to the Patrol Division. The Sunnyvale SWAT team only uses the standard .223 cal. ammunition in the Daniel Defense MK rifles.

2. Purposes and Use

The Daniel Defense MK rifle is only used by specially trained Sunnyvale SWAT team personnel. The rifle is manufactured for SWAT teams and is extremely durable and reliable.

3. Fiscal Impact

The department firearms program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Daniel Defense MK:	Price: \$2,963	Qty: 21	Total: \$62,223
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*Note: .223 cal. ammunition is used as standard issued ammunition for patrol rifles.

Total approximate costs for the program: \$ 62,223

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 300.5 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose

an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.8 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 1. Type of force;
 2. Reason for the force;
 3. Extent of injury to the suspect and action taken to provide aid;
 4. Pertinent information deemed important by the officer.

- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 300.7 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only SWAT Officers who have completed the firearms training and meet the required qualification standards will be authorized to carry the weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- a. Each SWAT member shall pass a physical fitness test twice each year.
- b. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- c. Those members who are on PTO or are on a protected leave status, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed the test for that test period.
- d. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- e. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 1. Unauthorized range make-up
 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

Sunnyvale DPS SWAT Sniper Rifle

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is a highly trained unit formed to respond to violent tactical situations that pose a high-risk to civilian and officer safety. The SDPS SWAT sniper element deploys with the SDPS SWAT team with precision rifles and has the ability to engage and stop an armed violent subject at a safe distance.

Officers assigned to the Sunnyvale DPS SWAT Sniper team are required to pass rigorous testing and are required to attend a CA POST certified 40-hour Sniper School. These officers are in full uniform and shall carry all safety equipment on their person, including but not limited to less lethal and lethal weapon systems. To protect lives, the Sunnyvale SWAT team shall have a sniper team in place during pre-planned SWAT operations.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The rifles utilized by the Sunnyvale DPS SWAT team has an expected lifespan of approximately 10 years.

2. Purposes and Use

The purpose of the sniper rifle is to provide specially trained Sunnyvale DPS SWAT officers with the necessary capabilities of engaging threats from a safe distance. All Sunnyvale DPS SWAT officers utilizing these systems are specifically trained on proper use, functionality, maintenance, and shall qualify bi-yearly in accordance with Sunnyvale Lexipol policy.

3. Fiscal Impact

The department sniper team program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Accuracy International:	Price: \$10,000	Qty: 4	Total: \$40,000
JP Enterprise:	Price: \$6,500	Qty: 2	Total: \$13,000
Ammunition (.308 cal.)	Qty: Utilize approx. 4000 rounds per year		Total: \$5,200

Total approximate costs for the program: \$58,200

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 300.5 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.8 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 300.7 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only SWAT operators who have completed a CA POST certified 40 hours Sniper School and meet the Department's required qualification standards will be authorized to carry the sniper rifle weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- f. Each SWAT member shall pass a physical fitness test twice each year.
- g. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- h. Those members who are on PTO or are on a protected leave status, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed the test for that test period.
- i. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- j. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days.

Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 1. Unauthorized range make-up
 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

Reconnaissance Robots

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is tasked with solving a variety of critical incidents that are so hazardous, complex, or unusual that they exceed the capabilities of patrol officers. The critical incidents include, but are not limited to, hostage taking, barricaded subjects, terrorist attacks, warrant services, and other high-risk incidents.

Due to the threat level of such incidents, any tool the SWAT team can utilize to come to a peaceful resolution is vital to the overall safety of the public, suspects, and officers. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The two reconnaissance robots utilized by the Sunnyvale Department of Public Safety have no offensive capabilities. They are used for information gathering only. The robots have an expected lifespan of approximately 5 years.

2. Purposes and Use

In police tactical operations a robot can provide real-time reconnaissance during operations involving high-risk warrants, barricaded suspects and hostage rescues. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

3. Fiscal Impact

The costs of equipment have changed over the years due to the rapidly developing technology. All robots were purchased using grant funding.

The Sunnyvale Department of Public Safety currently has two reconnaissance robots:

- 1) 2014 Avatar III: This medium sized robot, weighing approximately 50 pounds, is utilized by the Sunnyvale SWAT team and the Sunnyvale Fire HAZMAT team to enter hazardous locations before humans to assess possible threats. The robot has several cameras and is remotely controlled.
- 2) Recon Scout Robot: The recon scout robot is a small robot designed to fit into an operative's pocket. It can be quickly and stealthily deployed by tossing it into a location

and using the remote to maneuver it around. It can visually clear small or large spaces prior to an operative clearing it.

2014 Avatar III: Price: \$25000 Qty: 1 Total: \$25,000

The 2014 Avatar III is on the equipment schedule for replacement in 2024. DPS is exploring the replacement of the Avatar III with two smaller more capable robots. If two smaller robots are authorized in 2024 the cost will be \$50,000.

RSK-TB-2A Throwbot 2	Price: \$13,145	Qty: 1	
	Price: \$13,920	Qty: 1	Total: \$27,065

The City of Sunnyvale currently pays for routine maintenance and repairs made to the robots. These costs vary depending on needs.

4. Rules

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

SUNNYVALE DPS LEXIPOL POLICY 406.2.2 OPERATIONAL PROCEDURES

Operational procedures should be generally patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to SWAT/CNT/TMT members and will outline tactical and officer safety issues, they are not included within this policy. Operational procedures should include, at minimum, the following:

1. Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
 - a. All SWAT team members should have an understanding of operational planning.
 - b. SWAT team training should consider planning for both spontaneous and planned events.
 - c. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
2. Designated personnel responsible for developing an operational / medical plan prior to, and/or during TMT operations (time permitting).
 - a. All TMT members should have an understanding of operational/medical planning.
 - b. TMT training should consider planning for both spontaneous and planned events.
3. Mission briefings conducted prior to an operation, unless circumstances require immediate deployment. On scene mission briefs should be conducted as soon as practical in immediate deployment situations.
 - a. When possible, briefings should include the specialized units and supporting resources.
4. Protocols for a sustained operation which may include relief, rotation of personnel and augmentation of resources.

5. A generic checklist, to be worked through during pre planned events, prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.
6. The appropriate role for a trained negotiator.
7. A standard method of determining whether a warrant should be regarded as high-risk.
8. A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
9. Post incident scene management including:
 - a. Documentation of the incident.
 - b. Transition to investigations and/or other units.
 - c. Debriefing after deployment of the SWAT team.
 1. After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
 2. When appropriate, debriefing should include specialized units and resources.
 3. In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
 4. Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
10. Standardization of equipment deployed.

SUNNYVALE DPS LEXIPOL POLICY 406.9.2 APPROPRIATE SITUATIONS FOR USE OF SWAT/CNT/TMT UNIT

The following are examples of incidents which may result in the activation of the SWAT/CNT/TMT Unit:

- a. Barricaded suspects who refuse an order to surrender.
- b. Incidents where hostages are taken.
- c. Cases of suicide threats.
- d. Arrests of dangerous persons.
- e. Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

SUNNYVALE DPS LEXIPOL POLICY 406.9.5 MOBILIZATION OF SWAT/CNT/TMT UNIT

The On-Scene supervisor shall make a request to a Lieutenant for the SWAT/CNT Unit. The Lieutenant shall then notify the SWAT/CNT Commander. If unavailable, a team supervisor shall be

notified. A current mobilization list shall be maintained by Communications Unit staff. The Lieutenant will then notify the Police Services Captain as soon as practical.

The Lieutenant or designee should provide the SWAT Commander with as much of the following information as available at the time:

- a. The number of suspects, known weapons and resources.
- b. If the suspect is in control of hostages.
- c. If the suspect is barricaded.
- d. The type of crime involved.
- e. If the suspect has threatened or attempted suicide.
- f. The location of the command post and a safe approach to it.
- g. The extent of any perimeter and the number of officers involved.
- h. Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The SWAT Commander, Captain or supervisor shall then initiate the SWAT call-out procedures. A current mobilization list shall be maintained by Communications Unit staff. An immediate need request for the SWAT team will trigger a call out of the SWAT/CNT/TMT Unit.

5. Training

All Sunnyvale DPS SWAT team members are trained on tactical operations and the use of robots for intelligence gathering during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in monthly SWAT scenario based training .

SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors should not be deployed until successful completion of the POST certified Basic SWAT Course or its equivalent.

- a. To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

SUNNYVALE DPS LEXIPOL POLICY 406.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST certified SWAT commander or tactical commander course, or its equivalent.

SUNNYVALE DPS LEXIPOL POLICY 406.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct explosive breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.



SUNNYVALE DPS – AB 481

Tear Gas

Overview

1. Project Background and Description/Expected Lifespan

Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Sunnyvale Department of Public Safety (SDPS) as a non-lethal tool to disperse unlawful groups and on barricaded suspects. SDPS uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). Both CS and OC are not actual gas but are micro-pulverized particles. These particles cause irritation and/or inflammation and are non-lethal.

CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS.

OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes). Decontamination for both CS and OC is fresh air and cool, clean water.

The chemical agent munitions are delivered by throwing a canister or launching a canister using a specially modified shotgun. The specially modified shotgun is capable of launching a gas canister into a second or third floor window. The specially modified shotgun is only used by trained SDPS SWAT personnel.

The multiple types of munitions listed below, which are possessed and used by SDPS, are different models of cannisters which each disperse different gram weights of chemical agent “tear gas” and allow for different deployment methods (different devices or tools) based upon the circumstances of the event requiring use. Having the choice of multiple munitions also allows officers to control the amount (in grams) of chemical agent used during a deployment.

Our inventory of chemical agent munitions is as follows:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 26
- 2) CTS 5230 (CS) (Expire 5-years) Inventory: 16
- 3) CTS 8230 (CS) (Expire 5-years) Inventory: 26
- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 10
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 11
- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 95
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10 (\$450)
- 10) Specially modified SWAT shotgun – Inventory 2 (\$2000)

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The chemical agents utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

Chemical agent “tear gas” munitions are used as a non-lethal option in a potentially violent encounter during rioting crowds or barricaded suspects. The proper use of chemical agents provides for a de-escalation tool used to avoid further injuries or to avoid using lethal options on a suspect.

3. Fiscal Impact

The Sunnyvale DPS SWAT team has three (3) personnel who are qualified by the California Association of Tactical Officer’s / CA-POST Chemical Agent Instructor program in San Diego, California. Based on the instruction received and best-practices learned from the San Diego County Sheriff’s Office, the Sunnyvale DPS SWAT team purchased the following equipment:

The list below are the approximate unit prices for the associated munitions in our inventory:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 26 (\$990)
- 2) CTS 5230 (CS) (Expires 5-years) Inventory: 16 (\$576)
- 3) CTS 8230 (CS) (Expires 5-years) Inventory: 26 (\$624)
- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 10 (\$260)
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 11 (\$387.86)
- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 95 (\$4,275)
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10 (\$450)
- 10) Specially modified SWAT shotgun – Inventory 2 (\$2,000)

The estimated annual costs to maintain and replenish the chemical agent “tear gas” inventory is approximately \$1,500. On an approximate five (5) year cycle, the munitions expire and require replacement. The approximate cost of replacing the entire inventory at expiration is \$6,488.

4. Rules

835a PC dictates that officers who use deadly force shall “... evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Other available resources include de-escalation tools such as chemical agents or “tear gas.”

Other legal guidelines involve the use of chemical agents such as Penal Code 13652. It discusses when and when not to use chemical agents during assemblies, protests, and/or demonstrations.

The Sunnyvale Department of Public Safety Special Weapons and Tactics Team (SWAT) is responsible for the storage, inventory, training, and use of chemical agents. The Sunnyvale SWAT utilizes the LCT50 formula (cu. ft. / grams of CS chemical agent x 0.71 constant variable = LCT50 in minutes) as a guideline only when determining the amount of CS chemical agent to introduce into a structure.

The following persons may authorize the deployment and use of chemical agents:

1. The Chief of Police, Deputy Chief, or Captain.
2. An Incident Commander.
3. The S.W.A.T. Team Captain.

The following Sunnyvale DPS Lexipol Policies govern the deployment of chemical agents:

SUNNYVALE DPS LEXIPOL POLICY 302.6 Tear Gas Guidelines:

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Lieutenant, Incident Commander or SWAT/CNT Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 Treatment for OC Spray Exposure:

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

SUNNYVALE DPS LEXIPOL POLICY 302.8 Post Application Notice:

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b. The suspect has made credible threats to harm him/herself or others.
- c. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- d. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

SUNNYVALE DPS LEXIPOL POLICY 302.9.3 SHOTGUN SAFETY PROCEDURES

Shotguns assigned to SWAT specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles as needed to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and secured in the SWAT armory. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

5. Training

Personnel assigned to the Sunnyvale DPS SWAT team receive training on the proper use of chemical agents by certified instructors. The training includes when chemical agents can be deployed, how to handle and deploy the munitions, air purifying respirator (APR) use, personnel and structure decontamination, and reporting requirements. Chemical Agent Training also includes a yearly exposure to the chemical agents. There are currently ten (10) Chemical Agent Instructors (CA POST-Certified) within the Sunnyvale DPS SWAT Team.

S.W.A.T. Team personnel who have completed a POST Certified Chemical Agent Instructor Course shall be responsible for providing training in the use of chemical agents to maintain the proficiency of Officers assigned to S.W.A.T. Assigned S.W.A.T. personnel should familiarize Command Staff with the use and deployment of Chemical Agents. S.W.A.T. personnel shall conduct Chemical Agent training annually.

- A. Training shall be documented, and records maintained of such trainings.
- B. Officers shall clean and inspect the Chemical Agent delivery system after each deployment.
- C. The Chemical Agent Cadre of the S.W.A.T. Team shall be responsible for maintaining control of all Chemical Agents and their respective delivery systems. The Cadre shall be responsible for inventorying and updating deployable Chemical Agent munitions.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy. The documentation shall include the following information.

1. Who authorized the use of Chemical Agents.
2. Facts surrounding their use.
3. Was a warning given prior to the Chemical Agent deployment (when applicable)?
4. The type of chemical agent and delivery system used.
5. Name of Officer who deployed the Chemical Agent.

6. Compliance

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified.

Additionally, the Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use chemical agents will be properly trained and certified.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



SUNNYVALE DPS – AB 481

Unmanned Aircraft Systems (UAS)

1. Project Background and Description/Expected Lifespan

Small Unmanned Aircraft Systems (UAS) are portable systems flown autonomously without a pilot onboard and controlled from an operator on the ground. They have shown to be a valuable resource to police and fire organizations by providing a bird's eye view of crime and/or disaster scenes that may not otherwise be seen. The UAS has the ability to launch quickly in dangerous situations, locate survivors, and send data about their whereabouts to responders on the ground.

Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. Safety, above all else, is the primary concern in every operation, regardless of the nature of the mission.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The UAS utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

The UAS utilized by the Sunnyvale Department of Public Safety are used to assist in search and rescue missions, fire investigations, HAZMAT response, barricaded suspects, hostage situations and other high-risk tactical operations to reduce risk to department personnel, suspects and community members.

3. Fiscal Impact

The Sunnyvale Department of Public Safety UAS program was initially funded by grant funding. The Sunnyvale Department of Public Safety currently utilizes two UAS platforms:

DJI Matrice 210: This UAS is a large platform outfitted with several high-resolution cameras and thermal imaging cameras. The DJI Matrice 210 has a longer flight time and is used for planned operations.

DJI Mavic 2 Enterprise: This UAS is a smaller, foldable, portable platform outfitted with limited cameras. The DJI Mavic 2 Enterprise is commonly used to gain access into smaller locations (i.e., indoors) or for unplanned rapid deployments.

Brinc Lemur: This UAS is a smaller, foldable, portable platform outfitted with limited cameras. The Lemur is commonly used to gain access into smaller locations (i.e., indoors) and operate in challenging interior environments.

DJI Matrice 210 UAS:	Price: \$ 35,000	Qty: 1	Total: \$ 35,000
DJI Mavic 2 Enterprise:	Price: \$ 5,000	Qty: 1	Total: \$ 5,000
Brinc Lemur UAS:	Price: \$19,241	Qty: 1	Total: \$19,241

The City of Sunnyvale currently pays for routine maintenance and repairs made to both UAS systems. These costs vary depending on needs.

4. Rules

The following Sunnyvale DPS Lexipol Policies govern the deployment of UASs:

SUNNYVALE DPS LEXIPOL POLICY 357.3 PRIVACY

The department recognizes that use of a UAS involves potential privacy considerations and is committed to using UAS in a manner that respects privacy rights. UAS operators and observers will consider citizens' civil rights and reasonable expectations of privacy as key components of any decision made to deploy the vehicle.

UAS operators and observers will ensure, and will be held accountable for ensuring, that operations of the UAS appropriately balance operational needs with maintaining public privacy and freedom from intrusion. To ensure that legitimate privacy considerations are observed, UAS operators and observers will:

- a. Absent a warrant or exigent circumstances, adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure).
- b. Take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
- c. During flight, direct onboard cameras so as to face away from occupied structures not related to the mission, to minimize the inadvertent capture of video or still images of uninvolved persons.
- d. Maintain all video and still images in strict compliance with State law and Sunnyvale DPS policies and procedures.
- e. Operate strictly within the law and regulations pertaining to UAS. Whenever required by policy or law, operators will ensure that warrants are obtained prior to deploying the UAS.

SUNNYVALE DPS LEXIPOL POLICY 357.10 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS. All use shall be authorized by the Program Coordinator.

The authorized missions for UAS use are:

- a. Search and Rescue Missions
- b. Response to Fires or Post-Fire Investigations
- c. HAZMAT response
- d. Barricaded Suspects, Hostage Situations and other high-risk Tactical Operations to reduce risk to department personnel, suspects and community members.
- e. Disaster Response (i.e. flood, earthquake)
- f. Video/Photograph documentation of Crime Scenes
- g. Training Flights as required to meet FAA and Department certification standards
- h. Used in accordance with a court order or search warrant

SUNNYVALE DPS LEXIPOL POLICY 357.11 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

SUNNYVALE DPS LEXIPOL POLICY 357.18 UAS DEPLOYMENT PROCEDURES

- a. Initial requests to use the UAS will be screened by a Patrol Lieutenant. If unavailable, a Team Captain or B/C shall be notified. The approving supervisor will have Dispatch contact the Program Coordinator or Manager to request deployment of the UAS. The request will be screened based on the following:
 1. Is the proposed use of the UAS within the capabilities of the UAS equipment and personnel?
 2. Does the proposed use of the UAS fall within FAA and Department policies and regulations for UAS deployment?
 3. Can the UAS be deployed safely given current weather conditions?
 4. If the UAS deployment requires a warrant, has one been requested and approved?
 5. Are sufficient trained and qualified personnel available to safely operate the UAS?
- b. The UAS Program Coordinator or Manager will either accept or decline the request for UAS support. If the request is denied, a reason will be provided for declining the request to Dispatch, who will provide the requestor this information along with the reason for declining. If the Coordinator or Manager accepts the support request, a UAS pilot will be assigned who will be provided all available mission information.

- c. The UAS pilot will contact a certified observer from the list of available trained observers and arrange for the observer to meet the pilot at the scene. The UAS pilot is responsible for transporting the UAS and all required equipment.
- d. Upon arriving at the requested location, the UAS pilot will contact the on-scene Incident Commander, check in, and receive a briefing on the mission requested. The UAS operators will make an on-scene determination of the ability of the UAS to perform the requested mission safely and within department and FAA policies and procedures.
- e. If the UAS operators determine that the use of the UAS would violate department policy or directives, they will inform the Incident Commander of the potential conflict along with recommendations for modifying the requested mission to conform with department policies and procedures. As this is a change from the original approved mission, the UAS pilot will contact the UAS unit chain of command for direction on how to proceed. As soon as possible after the completion of the mission, the UAS pilot will make a full report of the circumstances and their concern through the chain of command.
- f. UAS operators will have discretion for declaring safety or violation of FAA rules. If UAS operators determine that a requested mission would violate FAA rules or endanger civilians, the UAS pilot will respectfully inform the Incident Commander of the reason(s) for refusing to operate the UAS and contact the UAS chain of command immediately. The UAS will not be flown in this circumstance, and the authority of the UAS pilot is absolute.
- g. If the UAS pilot determines that the requested mission will potentially damage the UAS or its associated equipment, the UAS pilot will inform the Incident Commander of their concern and suggest mission parameter changes. The UAS pilot is the final authority regarding UAS operations.

SUNNYVALE DPS LEXIPOL POLICY 357.19 DOCUMENTATION AND EVIDENCE

- a. Prior to every flight, a flight log shall be initiated for documentation.
- b. Inspection and weather will be documented prior to flight within the log book.
- c. After each flight, the operator will complete a statement documenting the UAS operations.
- d. After each deployment, video obtained by the UAS Operation will be submitted to evidence in accordance with Department policies and procedures.
- e. Aerial photography (still or video) shall be stored with digital evidence in accordance with Department policy and procedure.
- f. The pilot of the UAS is responsible for evidence handling as well as writing any supporting documentation for the incident.

5. Training

SUNNYVALE DPS LEXIPOL POLICY 357.6 TRAINING NEEDS ASSESSMENT

The UAS Program Manager and Program Coordinator shall conduct an annual needs assessment to ensure that training is conducted within unit capabilities, department policy, and training guidelines as established by the FAA.

SUNNYVALE DPS LEXIPOL POLICY 357.7 INITIAL TRAINING

- a. Upon selection to the collateral assignment of UAS Operator, new members shall acquire an FAA Remote Pilot Certificate, or higher.
- b. Observers must have completed sufficient training to communicate to the pilot any instructions required to remain clear of conflicting traffic. This training, at a minimum, shall include knowledge of the rules and responsibilities described in 14 CFR 91.111, Operating Near Other Aircraft; 14 CFR 91.113, Right-of-Way Rules: Except Water Operations; and 14 CFR 91.155, Basic VFR Weather Minimums; knowledge of air traffic and radio communications, including the use of approved ATC/pilot phraseology; and knowledge of appropriate sections of the Aeronautical Information Manual.
- c. Before a member can be authorized to conduct flight operations as a UAS pilot, they must complete at least eight hours of flight training with UAS instructors to show proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.

SUNNYVALE DPS LEXIPOL POLICY 357.8 RECURRENT TRAINING

- a. To maintain a level of proficiency with the UAS, operators shall be required to attend regular training. Training will be coordinated through the Program Coordinator.
- b. All members in the assignment shall maintain proficiency in their pilot/observer abilities. Members who do not have any documented training or flight time within a span of 6 months will need to demonstrate proficiency before being a pilot/observer during a deployment or exercise.
- c. Recurrent training is not limited to actual piloting/observer skills but includes knowledge of all pertinent UAS/aviation matters.
- d. Failure to demonstrate proficiency can result in removal from UAS responsibilities.

SUNNYVALE DPS LEXIPOL POLICY 357.9 TRAINING RECORDS

- a. All members will have a training file on record that details training history. This training file will be held in conjunction with the member's normal training file per Department policy.
- b. All deployments or exercises will be documented and count towards a member's training.
- c. It is the member's responsibility to verify their training file contains all pertinent information.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 357.4 PROGRAM MANAGER

The Chief will appoint a Program Manager who will be responsible for the overall direction and management of the UAS program. The Program Manager will have the following responsibilities:

- Ensuring that policies and procedures conform to current laws, regulations and best practices.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief.

SUNNYVALE DPS LEXIPOL POLICY 357.5 PROGRAM COORDINATOR

The Director of Public Safety will appoint a Program Coordinator who will be responsible for direct supervision of the UAS Program and its personnel. The Program Coordinator will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Maintaining contact with the FAA and familiarity with pertinent FAA regulations.
- Ensuring that all authorized operators and required observers have completed all required FAA and Department approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that all training, flight and maintenance records for each operator and airframe are maintained.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

Section 1: Military Equipment Purchase

On November 1, 2022, Sunnyvale City Council approved an ordinance to amend, approve, and adopt the revised public safety military equipment use policy pursuant to the California Assembly Bill No. 481, to increase the authorized quantity of unmanned aerial systems, commonly referred to as drones from two to three devices (RTC 22-0991).

Sunnyvale Department of Public Safety later purchased a Brinc Lemur (UAS) indoor drone and took receipt of the equipment in March 2023.

FY 2022/23 Military Equipment Purchases

Military Equipment	Qty	Cost	Date of Purchase	Funding Source	Purchase Type
RSK-TB2-A Throwbot 2	1	\$ 13,145	9/21/2022	Justice Assistant Grant	Replacement-Like for like
RSK-TB2-A Throwbot 2	1	\$ 13,920	12/29/2022	Justice Assistance Grant	Replacement-Like for like
Avexure drone (UAS)	1	\$ 1,885	12/8/2022	Supplemental Law Enforcement Services (SLES) Funds	Replacement-Like for like
Brinc Lemur (UAS)	1	\$ 19,241	1/27/2023	Supplemental Law Enforcement Services (SLES) Funds	New – approved by Council RTC 22-091

Section 2: Community Concerns and Complaints

In some instances, the possession and use of military equipment may cause questions and/or concerns for members of the community. It is vitally important that community members' questions and/or complaints regarding Sunnyvale Department of Public Safety's possession and use of military equipment are addressed.

The Sunnyvale Department of Public Safety is committed to full and fair investigations of community complaints. As such, the Department has sound internal procedures for thorough and impartial investigations of community complaints. Resolving complaints in a fair, impartial, and expeditious manner will ensure the consistent high level of integrity and efficiency maintained by the Department.

In March of 2022, the Sunnyvale Department of Public Safety published its Military Equipment Funding, Use and Acquisition policy on its website.

Community concerns and complaints can be received via the Department's website, in-person at the police department or in the field during police contacts, telephone, emails and social media. The Department did not receive any community concerns or complaints related to military equipment use in 2022.

Community Concerns	Community Complaints	SDPS Internal Investigations
0	0	0

Section 3: Internal Inventory & Audit

Per Sunnyvale Department of Public Safety Policy 705.3 (c), the Department's military equipment coordinator, Chief's designee, is required to complete an internal inventory audit of all military equipment within the possession of the Department at least once annually.

During the past year 2022/2023, two (2) internal inventories of the Department's military equipment were completed. The first inventory was completed in Spring 2022, which identified all of the Department's military equipment in preparation to fulfill the obligations set by Assembly Bill 481.

The Department added one Brinc drone to its inventory in January 2023 (see Equipment Purchases, above). Two (2) Throwbots were purchased in September 2022 and December 2022 replacing pocket robots previously held in inventory. A like for like replacement was completed for a damaged drone. The second inventory was completed in Winter 2023. Staff focused on current military equipment inventory and projected the military equipment needs for 2023 (see Projected Military Equipment Acquisition for further information).

An audit of the use of military equipment was completed by the SWAT Captain. This audit focused on the use of military equipment during critical incidents involving Department personnel. The audit confirmed that Department personnel were found to be in compliance with Policy #705 in the use of military equipment.

Section 4: Relinquished Military Equipment (2022)

Name	Caliber / Ammo	Quantity	Date
HK MP7 Specialized Firearms	4.6 cal	5 total firearms	Calendar year 2022
Pocket Robot	n/a	2	September 2022 and December 2022

Sunnyvale Department of Public Safety relinquished previously approved military defined firearms, Heckler & Koch MP7, as it was determined to be obsolete due to the availability of replacement parts and maintenance costs. Two pocket robots were used as trade-ins for the purchase of two Throwbots (replace like for like).

Section 5: Projected Military Equipment Acquisition (2023)

For 2023 (January- December), the Sunnyvale Department of Public Safety projects the purchase of ammunition and flashbang diversionary devices to replenish inventory due to training and critical incident use. The estimated purchase price of this equipment is approximately \$4,439.16. The operating costs of this equipment, which includes acquisition, personnel time, training facilities, transportation/storage of equipment, equipment upgrades and other ongoing costs is budgeted within the Department's approved operating budget for FY22/23 and FY23/24.

Ammunition, projectiles, cartridges, batteries, and other expendable and maintenance supplies are ordered and replaced on an as needed basis throughout the year in order to maintain an adequate supply for training and actual deployment.

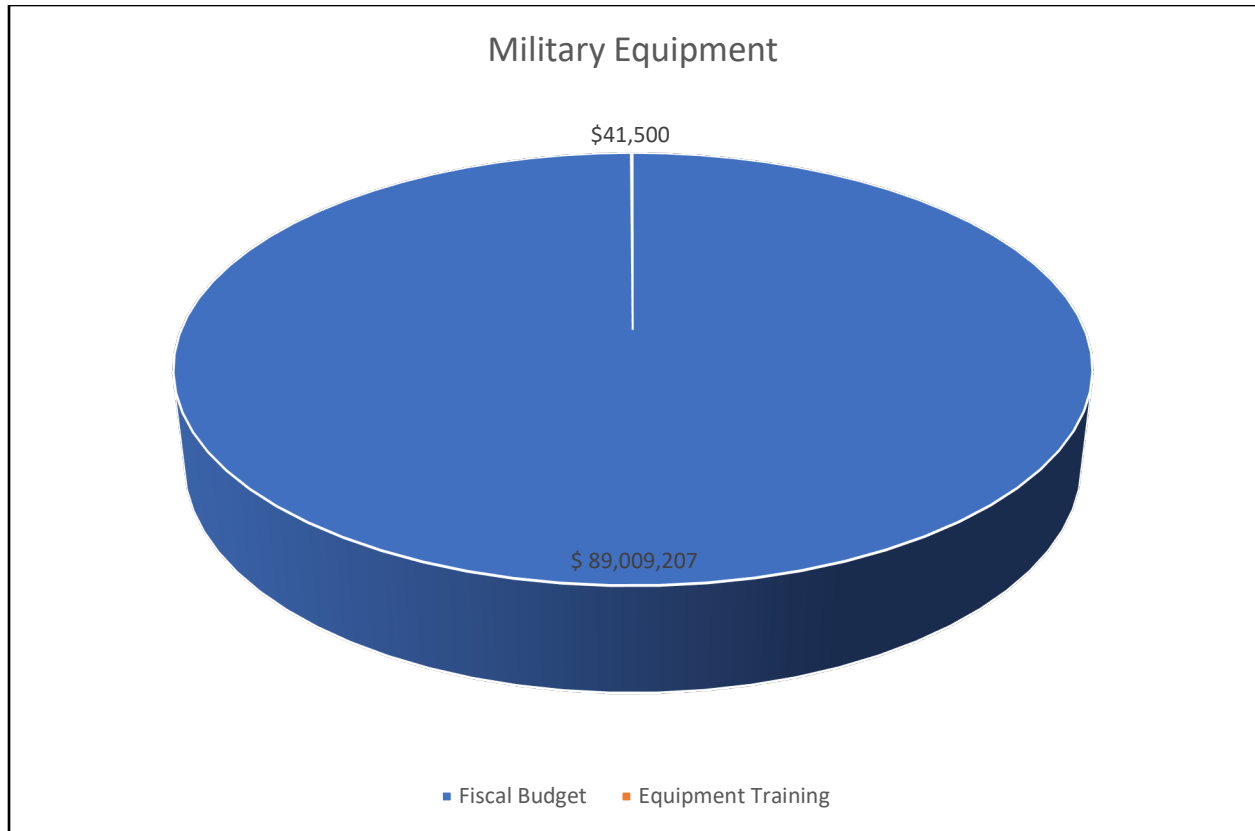
Military Equipment	Projected Purchase Amount	Projected Purchase Price
Noise Flash Diversionary Device (NFDD)	111 Devices	\$4,439.16

Section 6: Fiscal Impact for 2022

Sunnyvale Department of Public Safety is budgeted for 201 sworn officers, 7 Community Service Officers (CSOs), 20 dispatchers, and 61 professional staff. The operating budget for the department for the 2022-2023 fiscal year is \$89,009,207.

The City of Sunnyvale adopts an operating budget on fiscal year basis (beginning July 1). The equipment owned and possessed by the department was approved in April of 2022 by the City of Sunnyvale City Council. The cost of equipment and expenditures is reflected in this report for January 2022 to December 2022 pursuant to Assembly Bill 481.

During this reporting period, Sunnyvale Department of Public Safety spent approximately \$41,500 for equipment training specified in AB481. The total expenditures represent 0.046% of Sunnyvale Department of Public Safety's operational budget.



2022 Armored Personnel Vehicle Utilized

Case / EV#	Date	Equipment Used	Reason
SV22-0220115	01/22/22	Armored Personnel Vehicle	872 West Knickerbocker Drive – call of a shooting.
SV22-08100123	03/22/22	Armored Personnel Vehicle	1150 Pecos Way – Assault with Deadly Weapon (AR15-Shotgun)
SV22—1620158	06/11/22	Armored Personnel Vehicle	872 San Aleso Ave- Weapons Call
SV22-1950121	07/14/22	Armored Personnel Vehicle	Mutal Aid Request Campbell PD
SV22-1970004	07/16/22	Armored Personnel Vehicle	Mutal Aid Request Mountain View PD
SV22-3240089	11/20/22	Armored Personnel Vehicle	Armed Person in Vehicle
SV22-3420216	12/08/22	Armored Personnel Vehicle	Barricaded Felon in Vehicle

2022 Unmanned Aircraft Systems (UAS) Utilized

Date	Time	Location	Purpose
12/25/2022	3:30pm	Malabar/Kiely, Santa Clara	Barricaded subject
12/24/2022	1200pm	Moffet Park Dr/Orleans Dr	Search for aggravated assault suspect
12/19/2022	4:31pm	655 W Olive Ave	Search for subject on roof
12/18/2022	12:26am	802 Carolina Ave.	Air Support/Barricaded Suspect
12/8/2022	10:25pm	926 Poplar Av	Air Support/occupied stolen vehicle
11/18/2022	8:00am	23000 block McKean Rd, San Jose	Training flight/scenario training
11/15/2022	7:00pm	550 E. Remington Dr.	Training Flights
11/14/2022	1:00pm	969 E. Caribbean Dr.	Training Flights
10/31/22	7:15am	425 Costa Mesa Terr	Search for suspects fleeing from enforcement stop
10/29/22	3:15pm	1327 Orleans Dr	Search rooftop for burglary suspects
10/28/22	11:00am	Fair Oaks/Olive	Aerial imagery for collision investigation
10/11/22	12:15pm	El Camino Real/Highway 9	Aerial imagery for collision investigation
10/11/22	11:35am	Mathilda/Washington	Aerial imagery for collision investigation
10/11/22	3:00am	Quetta/Blair	Search for wanted suspect
9/27/22	7:00pm	Wolfe/Inverness	Aerial imagery for collision investigation

9/9/22	8:30am	Wolfe/Inverness	Aerial imagery for collision investigation
7/15/2022	2:30am	Higdon Av/Villa St, Mountain View	Mutual Aid Request. Search of wanted suspect
6/11/2022	8:00pm	800 Blk San Aleso	Search for wanted suspect
6/8/22	9:03pm	Oakmead/Lakeway	Search for wanted suspect
6/8/22	8:15am	Miramar/Suntree	Search for evidence
5/28/2022	11:50pm	526 Almanor Ave	Search for wanted suspect
5/10/2022	1:00pm	Hermosa / Pastoria	Search for wanted suspect
5/9/2022	5:15pm	Fresno / Alpine, Santa Clara	Assistance with armed/barricaded suspect
5/2/2022	9:30pm	1280 / 85, Sunnyvale	Mutual aid request. Search for Hit and Run subject
4/19/2022	10:00pm	1680 Martin, Santa Clara	Mutual aid request. Search for burglary suspect
3/4/2022	11:30pm	644-654 Lakehaven Dr	Search for wanted suspect
2/16/2022	12:05pm	540 N. Fair Oaks	Search for wanted suspect



SUNNYVALE DPS – AB 481

Military Equipment List

Name of Equipment	Number of Equipment	Description	Ammunition (approx. count)
Pepper Ball Launcher	6	Pepperball SA200 Launcher	N/A
SAGE	6	Sage Deuce 37 mm Launcher	N/A
SWAT SAGE	2	Penn Arms "CL1-40-C" 40 mm Launcher	N/A
FlashBangs	125	CTS Models – 7290 Series	125
CS Gas	184	CTS Models - 5230, 5230B, 8230, 4330, 4331, 4233	184
Explosive Breaching Equipment	3000 ft. detonation cord, 200 detonators, 50 blasting caps	3000 ft. detonation cord, 200 detonators, 50 blasting caps	N/A
SWAT Robots	3	(1) Avatar III, (2) RSK-TBA-2 Throwbot 2	N/A
Armored Personnel Vehicle	1	2007 Ford F-550 4WD	N/A
Mobile Command Vehicle (MEOC)	1	2011 Freightliner Truck	N/A
SWAT Rifles	21	Daniel Defense Rifle	General Issue
SWAT Sniper Rifles	6	Surgeon Bolt/JP Enterprise Rifle	4,000 / yr
HK MP7	(All Relinquished)	Heckler-Koch MP7 Rifle	N/A
UAS	2	DJI Mavic 2/DJI Matrice 210 drone	N/A
UAS	1	Lemur UAS	N/A

Conclusion

This Annual Military Equipment Report reaffirms the Sunnyvale Department of Public Safety's commitment to providing transparency and information to our communities and elected officials in addition to ensuring compliance with California State law. The equipment, resources, and training outlined in this report allow Sunnyvale Department of Public Safety Officers to better serve and protect Sunnyvale, enhance the safety of officers and community and bring critical incidents to a safe resolution.

ORDINANCE NO. 3191-22**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE APPROVING AND ADOPTING A
POLICY REGARDING MILITARY EQUIPMENT USE FOR
THE DEPARTMENT OF PUBLIC SAFETY**

WHEREAS, the Legislature of the State of California adopted Government Code Sections 7070 et seq. (the Military Equipment Use Statute) which requires municipalities to seek prior authorization from its governing body for acquiring and using military weapons; and

WHEREAS, the Legislature of the State of California found that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern; and

WHEREAS, the Sunnyvale Department of Public Safety currently has in its possession several pieces of equipment that are now classified as “military equipment” pursuant to Government Code Section 7070(c); and

WHEREAS, pursuant to Government Code Section 7071(a)(1) and 7071(c), the Department of Public Safety must obtain approval of the governing body by an ordinance adopting a military equipment use policy at a regular, open meeting of the governing body held pursuant to the Ralph M. Brown Act and provide for public comment prior to seeking funds for military equipment; acquiring military equipment; collaborating with another law enforcement agency in the deployment of military equipment; using new or existing military equipment for a purpose, manner, or by a person not previously approved; or seeking funds for, applying, or receiving military equipment; and

WHEREAS, pursuant to Government Code section 7071(a)(2) and 7071(b), any law enforcement agency seeking to continue to use any military equipment that was acquired prior to January 1, 2022 shall commence a governing body approval process no later than May 1, 2022, and post its proposed military equipment use policy on a publicly available internet website at least 30 days prior to any public hearing; and

WHEREAS, the Department of Public Safety posted its proposed military equipment use policy on the City website on February 22, 2022; and

WHEREAS, pursuant to Government Code Section 7071(d)(2), the Department of Public Safety intends to post the final military equipment use policy on a publicly available internet website as long as the military equipment is available for use; and

WHEREAS, pursuant to Government Code Section 7071(e)(1) and 7071(e)(2), the Department of Public Safety shall submit annually for City Council consideration its military use policy and report to consider renewing the ordinance and analyzing whether each type of military equipment identified in that report has complied with the standards set forth in Government Code Section 7071(d), to be heard at a regular meeting held pursuant to the Ralph M. Brown Act; and

WHEREAS, pursuant to Government Code Section 7072, the Department of Public Safety intends to provide its annual military equipment report 30 days prior to the City Council meeting for consideration at a well-publicized and conveniently located community meeting; and

WHEREAS, a copy of the proposed Military Use Policy is attached hereto and incorporated herein as Exhibit “A” to this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The City Council hereby finds and declares that the above recitals are true and correct. The City Council finds that the provisions of the Military Equipment Use Policy are consistent with the requirements stated in Government Code Section 7070 et seq. The City Council finds that the military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The City Council finds that the policy will safeguard the public’s welfare, safety, civil rights, and civil liberties. The City Council finds that prior military equipment use complied with the military equipment use policy that was in effect at the time.

SECTION 2. MILITARY EQUIPMENT USE POLICY ADOPTED. The Military Equipment Use Policy, as set forth in Exhibit “A”, is hereby adopted, including all exhibits and attachments thereto. The Director of Public Safety is authorized to execute and implement the Military Equipment Use Policy on behalf of the City of Sunnyvale.

SECTION 3. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on April 5, 2022, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on April 26, 2022, by the following vote:

AYES: KLEIN, HENDRICKS, LARSSON, MELTON, CISNEROS, DIN, SPITALERI
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

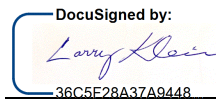
DocuSigned by:

663E57B921394E1...

DAVID CARNAHAN
City Clerk

Date of Attestation: 04/26/2022

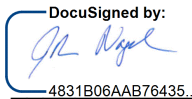
APPROVED:

DocuSigned by:

36C5E28A37A9448

LARRY KLEIN
Mayor

(SEAL)

APPROVED AS TO FORM:

DocuSigned by:

4831B06AAB76435...

JOHN A. NAGEL
City Attorney

Military Equipment

705.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

705.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

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

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue weapons.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

Military Equipment

705.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

705.3 MILITARY EQUIPMENT COORDINATOR

The Chief should designate a member of this department 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.
- (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 City of Sunnyvale Department of Public Safety (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 and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

705.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

[Sunnyvale DPS AB 481 Military Equipment List \(2022\)](#)

705.5 APPROVAL

The Chief or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military

Military Equipment

equipment policy must be approved by the governing body 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.
- (h) Using military equipment and/or collaborating with another law enforcement agency in the deployment or use of their military equipment not authorized by this policy which may be justified in the event of exigent circumstances. The Chief will provide justification to the governing body within 30 days after the incident.
- (i) Using military equipment and/or collaborating with another law enforcement agency in the deployment or use of additional quantities of similar authorized military equipment for pre-planned events. The Chief will provide justification to the governing body within 30 days after the deployment.

705.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

705.7 MAINTENANCE OF MILITARY USE SUPPLY LEVELS

When stocks of military equipment have reached significantly low levels or have been exhausted, the Department may order up to 30% of stock in a calendar year without city council approval to maintain essential availability for the Department's needs.

705.8 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

Military Equipment

The Chief or the authorized designee should also make each annual military equipment report 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 in department inventory.

705.9 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 Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

Attachments

Attachment

Department Policies

AB 481 Military Equipment List.pdf



SUNNYVALE DPS – AB 481

Armored Personnel Vehicle ARV

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) Armored Rescue Vehicle (ARV) is an armored vehicle that is used for special operations that pose a high safety risk to officers or the public. The vehicle provides ballistic protection for the officers during dangerous law enforcement operations. The vehicle is also used to assist with the rescue and protection of civilians in harm's way during terrorist threats, hostage incidents, active shooter events, or other life-threatening situations.

The vehicle is designed to provide protection from a variety of small arms fire. The vehicle was built on the 2007 Ford F-550 Super Duty truck frame.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The vehicle has an expected lifespan of approximately 20 years.

2. Purposes and Use

To be used in response to critical incidents to enhance officer and community safety and assist in resolving critical incidents. The use of the ARV shall only be authorized by a supervisor. Sunnyvale DPS personnel are trained on the use of the ARV to help protect officers and civilians during a life-threatening emergency.

3. Fiscal Impact

The Sunnyvale ARV was purchased in 2006 using grant funding. The vehicle costs approximately \$292,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. The average annual cost to the City of Sunnyvale to maintain and repair the vehicle is \$4,000.

4. Rules

The Sunnyvale ARV is currently assigned to the Bureau of Police Services and is housed at Sunnyvale DPS headquarters. The vehicle is operated by trained Sunnyvale DPS personnel. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The Sunnyvale ARV is available to respond to any large-scale event in Sunnyvale or the greater Bay Area. The vehicle can be requested by any on-scene Incident Commander (supervisor) to help manage an event.

The following Sunnyvale DPS Lexipol Policies govern the use of the ARV:

SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

SUNNYVALE DPS LEXIPOL POLICY 308.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red

lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

5. Training

The Sunnyvale ARV is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to operate the ARV will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn.

Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Energetic Breaching Program

1. Project Background and Description/Expected Lifespan

The primary use of energetic breaching program is used by the Sunnyvale DPS SWAT team to provide an immediate, efficient, an unexpected strategic entry during an emergency operation. This calculated and surprise entry is intended to catch the suspect(s) off guard, permit swift ingress, and allow SWAT personnel to quickly locate and assess potential threats concealed in enclosed structures. Effective breaching techniques allows Sunnyvale SWAT personnel immediate entry with minimal risk to themselves, the victims and the suspects.

Energetic breaching is a non-lethal force option. Sunnyvale SWAT personnel assigned as breachers are tasked with the objective to affect an entry shall consider the safety of innocent persons inside the stronghold, the safety of the suspect, and the safety of the tactical officers conducting the operation.

Energetic Breaching is used when there are no other reasonable alternatives to rapidly breach a location. Energetic Breaching is only used when time is of the essence in order to preserve life. Without these items, peace officers may not be able gain access to a location in a safe and timely manner to engage in necessary police operations.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The energetic breaching equipment utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

To safely make entry into a stronghold during an emergency situation. Energetic breaching will calculate the minimum amount of material needed to gain entry into a designated target without harming occupants inside the stronghold or the officers involved in the entry.

3. Fiscal Impact

The initial energetic breaching program was initiated several years ago. The startup costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Detonation Cord:	Price: \$1.00 a foot	Qty: 2000 feet	Total: \$ 2,000
Detonators:	Price: \$20.00	Qty: 319	Total: \$ 6,380
Training of Personnel: Approximately \$4,000 to train two officers			
Total approximate costs for the program: \$ 12,380			

The estimated annual costs to maintain, replenish, and service the energetic breaching program equipment is approximately:

Detonation Cord:	Price: \$1.00 a foot	Qty: 1000 feet	Total: \$ 1,000
Detonators:	Price: \$20.00	Qty: 100	Total: \$ 2,000
Training of Personnel: Approximately \$4,000 to train two officers			
Total approximate annual costs for the program: \$ 7,000			

ATF energetic purchase coupons are not needed because DPS is a government agency.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

The Sunnyvale DPS SWAT energetic breaching team will be composed of two energetic breachers. The team will have an energetic breaching team leader and a primary energetic breacher. In order to maintain proficiency and to ensure the minimum number of breachers are always available, two members of the SWAT team will be assigned as assistant breachers

An OSHA blaster's license is required for energetic breaching operations, both training and mission specific. A licensed blaster has to be present at all energetic breaching operations. It shall be the intent of the SDPS SWAT team to constantly have two personnel trained and licensed with an OSHA blaster's license.

A U.S. Department of Justice, ATF Energetic License or Limited Permit does not need to be applied for every year. As a government Law Enforcement agency, SDPS is exempt and does

not need to possess an ATF permit to purchase or use energetics for breaching operations. All energetic purchases, materials used during training and operations, all need to be recorded and records kept for ATF inspection. A running total of energetic materials stored at SDPS needs to be logged and available for ATF audit at all times.

The Sunnyvale Fire Marshall needs to approve storage containers, storage site and approve energetic material inventory.

The policy detailed above is based on the policies, procedures, and practices of police SWAT teams that continue to successfully utilize energetic breaching techniques in their operations. These police departments include the Los Angeles Sheriff's Office (SEB) Special Enforcement Bureau, the Santa Clara Police Department SWAT Team, the San Jose Police Department MERGE Unit, and the Monterey County Sheriff's Office SWAT Team.

Storage

The U.S. DOJ Department of Alcohol, Tobacco, and Firearms regulate and license the purchase, storage, and use of energetic materials. Energetic breaching personnel will store energetics in accordance with ATF-Energetics Law and Regulations (ATF P 5400.7, Subpart K- Storage).

The energetics will be stored in ATF approved magazines, at a specific site designated by the Sunnyvale Fire Marshall. Energetic breaching personnel will maintain a magazine log to record amounts of energetic materials received and stored, amounts used in training and missions, along with running totals of each type of energetic material. The log will include specific dates and will be posted next to each storage magazine.

In the event of a magazine break in and theft of energetic material, an accurate inventory will be reported to the ATF within 24 hours by calling the Stolen Energetics Hotline at 888-283-2662 (after hours, weekends call 888-ATF-BOMB).

ATF approved Type 2 storage magazines will be the primary source of storage for the energetic material. An ATF type 3 magazine (day box) may be used for attended and temporary storage of energetic material for such activities as SWAT operations/callouts, and training.

ATF storage requirements can be found at the following link:

<https://www.atf.gov/energetics/energetic-storage-requirements>

ATF inventory requirements for annual inspections can be found at the following link:

<https://www.atf.gov/energetics/energetic-storage-requirements-recordkeeping-storage-variances>

5. Training

Given the complex nature and variety of skills that must be mastered and maintained, the high level of performance required, and perishable nature of these skills, each energetic breacher must maintain a minimum standard of ten hours of energetic training every month to include:

1. Work with detonators and firing assemblies
2. Construction and detonation of breaching charges
3. Review of energetic composition theories and properties
4. Review of all related calculations and formulas needed for the development of breaching plans
5. Review of all processed objective data
6. Review and debrief of other unit operations and research information

There should also be at least ten additional hours every year devoted to full mission profile training. This should include all members of the SWAT team as required.

All energetic breachers will attend an accredited "Basic Explosive Breaching" course taught by the Los Angeles Sheriff's Office (LASD). The course consists of a minimum of 40 hours. The course of instruction must include all areas of energetic science, blast pressure, blasting regulations and compliance requirements, documentation and charge configurations as required of a contemporary energetic breaching program.

Prior to performing an operational breach of any kind, all energetic breachers will be required to participate in a minimum of 25 documented training "shots" with the unit and at least one training breach utilizing the entire SWAT team.

The energetic breaching unit will maintain a breaching log which documents every energetic breach, training or operational. The designated energetic breacher of each entry point shall be responsible for completing a breaching report in a timely manner whenever energetic breaching charges are used.

The energetic breaching team leader works directly with the other SWAT team leaders during critical incidents and training events. He/she is responsible for:

1. The readiness of energetic breaching equipment and personnel.
2. Maintaining all training records and operational documents.
3. Evaluating all tactical information and working with the SWAT team leader to develop, prepare, and execute the entry plan utilizing the energetic breaching team.

4. Maintaining data of operation methods and crisis site information for future reference and use.
5. Briefing command staff on the team's breaching capabilities
6. Continually evaluating the SWAT team's mission and assignments to ensure the energetic breaching team is in a constant state of readiness.

Energetic Breach After-Action Report

Following all tactical team operations and significant training events, a written after-action report shall be prepared by the energetic breaching team leader and submitted to the SWAT team leader.

The critique shall include:

A description of crime scene information availability, accuracy, collection methods, and timing of dissemination.

A description of the planning and preparation phase.

A description of the execution of the operation.

A description of the team's performance.

Documentation of the objective layout and construction in writing, photographs, and video if possible.

This report should identify deficiencies and corrective actions as necessary for each phase and a recommendations section for actions needed to eliminate deficiencies in the future.

These reports shall be maintained indefinitely for future reference and historical data.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct energetic breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously

striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Less-Lethal Launcher

1. Project Background and Description/Expected Lifespan

The less-lethal launcher is a launching platform that uses a 37mm or 40mm rubber "baton" generally at distances around 10-20 yards. It is designed to be used on extremities such as arms or legs, similar to a handheld wooden baton, and is effective in suppressing events or incidents where the use of lethal force is not an appropriate response. Public Safety currently deploys the less-lethal launcher in patrol vehicles and reserves the more versatile 40mm launcher for SWAT operations.

The less-lethal launcher expands the department's capability to responding to situations where officers face non-lethal situations where subjects are not complying with orders/directions. The less-lethal launcher can potentially prevent a deadly force encounter.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The less-lethal launchers utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

The less-lethal launcher is used as a non-lethal option to offer law enforcement officers to deliver a less than lethal projectile to a subject in a potentially violent encounter. The less-lethal launcher system is a de-escalation tool used to avoid further injuries or lethal options on a subject.

3. Fiscal Impact

The Sunnyvale Department of Public Safety currently has two models of the less-lethal launcher: the 37mm SAGE Deuce and the 40mm Penn Arms launcher.

SAGE Deuce 37mm Patrol Basic Launcher (Patrol Vehicles): Price: \$ 3,390 Qty: 6
Total: \$ 20,340

SAGE Deuce 37mm launcher munitions: Price: \$ 3,980 Qty: 190

Penn Arms 40mm Launcher (SWAT) Price: \$ 2,348 Qty: 2 Total: \$ 4,696

Penn Arms 40mm launcher munitions: Price: \$1,466 Qty: 70

Total approximate initial costs for the less-lethal system: \$11,184

The replacement cost for this program is \$25,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the less-lethal launchers. These costs vary depending on needs.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Other available resources include de-escalation tools such as the SAGE launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of less-lethal launchers:

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

- a. Circumstances appropriate for deployment include, but are not limited to, situations in which:
- b. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- c. The suspect has made credible threats to harm him/herself or others.
- d. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according

to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

5. Training

Officers receive training on the proper use of the less-lethal launching systems by current manufacturer certified instructors. The training includes when the less-lethal launchers can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

6. Compliance

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified. The

training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn.

Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Mobile Emergency Operations Center (MEOC)

1. Project Background and Description/Expected Lifespan

In 2009, the Sunnyvale Department of Public Safety (DPS) received grant funding to design and procure a mobile platform to deliver interoperable command/control, communication and data management assets to an operational scene to support all-risk operations. This Mobile Emergency Operations Center (MEOC) is available for deployment to numerous jurisdictions within the Bay Area region. The vehicle helps strengthen information sharing, collaboration, and command and control, between numerous agencies during large scale emergencies. Additionally, the design of the vehicle complements mobile command centers and tactical assets being used by the Cities of Palo Alto and Santa Clara.

The MEOC is an unarmored vehicle similar to a large commercial recreational vehicle. The MEOC also serves as an emergency dispatch center in the event of a catastrophic failure of the dispatch center housed within the DPS building.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The MEOC utilized by the Sunnyvale Department of Public Safety has no offensive capabilities.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The Sunnyvale DPS MEOC has an expected lifespan of approximately 20 years.

2. Purposes and Use

The Sunnyvale Department of Public Safety (DPS) is a unique agency in the Bay Area. Sunnyvale DPS is the only fully integrated Police, Fire, and EMS provider in the region. The MEOC provides

seamless interoperable communications, data management, and command/control abilities during an emergency.

3. Fiscal Impact

The initial cost of the MEOC in 2012 was \$400,000 dollars which was paid through grant funding. The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. The average annual cost to the City of Sunnyvale to maintain and repair the vehicle is \$5,200.

4. Rules

The MEOC is currently assigned to the Bureau of Fire Services and is housed at Sunnyvale Fire Station 5. The vehicle requires a class C driver's license with a firefighter endorsement to operate. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The following Sunnyvale DPS Lexipol Policies govern the use of the MEOC:

SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

SUNNYVALE DPS LEXIPOL POLICY 308.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

5. Training

The MEOC is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

Our procedural guidelines for training are dictated in the Sunnyvale DPS Policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 501.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

The evaluation of individual and company training effectiveness shall be based on actual performance demonstration. This may be observed at routine drills, calls for service, and the ability to successfully complete Department of Public Safety Certifications. Officers, regardless of tenure, who are deficient in performing these standards will be required to demonstrate proficiency as a part of a mandatory improvement plan.

The Fire Training Program for fire-based personnel has been formulated to provide direction for training PSO's assigned to the Bureau of Fire Services for the first time and for those returning after a long absence.

SUNNYVALE DPS LEXIPOL POLICY 501.3 PROCEDURES

All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

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All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

Provide the DMV with proof of successful completion of either the Fire Apparatus Driver/Operator 1A course taught by an instructor registered with the Office of the State Fire Marshal or fire department driver training that meets all of the requirements in Vehicle Code §

12804.11. This proof should be in the form of a letter from the Director of Public Safety or the authorized designee.

Pass the appropriate written firefighter examination(s) that have been developed by the DMV with the cooperation of the Office of the State Fire Marshal.

Submit a report of medical examination on a form approved by the DMV.

A member is not required to obtain and maintain a firefighter endorsement if the member is operating the firefighting equipment for training purposes, during a non-emergency or while under the direct supervision of a member who is properly licensed to operate the equipment and is authorized by the Department to provide training (Vehicle Code § 12804.11).

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 501.4 TRAINING LIEUTENANT RESPONSIBILITIES

It shall be the responsibility of the Fire Training Lieutenant to ensure that any member required to drive fire apparatus as a part of his/her normal duties has received the mandated training. The Fire Training Lieutenant shall coordinate with the department member appointed to monitor driver license status to ensure members have valid driver licenses with the proper endorsements, in accordance with the Driver License Requirements Policy.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481 MP7 Specialized Firearms

1. Project Background and Description/Expected Lifespan

The Heckler & Koch MP7 rifles are smaller more compact firearms that can fit in confined spaces. Officers assigned to the Sunnyvale Traffic Unit ride motorcycles during their daily shifts. These officers are in full uniform and shall carry all safety equipment on their motorcycles. Due to the maneuverability and speed of the Sunnyvale DPS Traffic Officers are dispatched to in-progress calls for service where the subject could be armed. During these dangerous events, Traffic Unit Officers need to have access to a rifle should the event require that level of firearm (ie. active shooters).

The MP7 weapon system is mounted inside the side compartment or to the side of their motorcycle. These officers cannot carry an AR15 rifle on their person while driving and cannot conceal an AR15 rifle anywhere on a motorcycle, thereby compromising their safety and duties.

The primary use of a MP7 provides an officer assigned to a motorcycle with the ability to engage a threat from a safer distance if needed. The weapon system can also be used with two hands for better accuracy and is collapsible to maintain concealment while operating a motorcycle.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The Hecker & Kock MP7 have an expected lifespan of approximately 10 years.

2. Purposes and Use

The purpose and use of short barreled, collapsible weapon systems such as the Heckler & Koch MP7 provide officers with the necessary concealment and protection needed during undercover and traffic enforcement assignments. All officers utilizing these systems are specifically trained on proper use, functionality and maintenance.

3. Fiscal Impact

The department firearms program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Heckler & Koch MP7:	Price: \$1,500	Qty: 5	Total: \$7,500
Ammunition (4.6 cal.)		Qty: 1500	Total: \$1,200
Total approximate costs for the program: \$ \$8,700			

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used,

unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.7 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 300.6 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only Officers who have completed the SDPS MP5 and MP7 firearms training and meet the required qualification standards will be authorized to carry the weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 1. Unauthorized range make-up
 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

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This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481

Noise Flash Diversionary Device (NFDD)

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team has the ability to deploy a diversionary device known as a Noise Flash Diversionary Device (NFDD). A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. Only specially trained SWAT personnel are allowed to deploy a NFDD devices. These devices are used during high-risk SWAT operations where the subject poses a significant threat to officers or the public.

The NFDD is considered a non-lethal use of force option. These devices can often lead to a safer resolution and allow officers to take a subject into custody without force.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The NFDDs utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. The NFDD is used as diversion/distraction device during dangerous situations involving potentially violent subjects. The NFDD is only used by specially trained SWAT team members.

3. Fiscal Impact/Inventory

CTS NFDD model 7290M	Quantity: 65	Total: \$2,447
CTS NFDD model 7290-2	Quantity: 32	Total: \$1,725
CTS NFDD model 7290-9	Quantity: 29	Total: \$4,022
CTS NFDD model 7290-50	Quantity: 20	Total: \$756
CTS NFDD model 7290-1	Quantity: 45	Total: \$756
CTS NFDD model 7290MT	Quantity: 45	Total: \$2,295

Total approximate costs for the program: \$ 12,000

The estimated annual costs to maintain and replenish supply used during operations or training is approximately: \$3,000

4. Rules

As a law enforcement agency, SDPS is exempt and does not need to possess an ATF permit to purchase or use explosives for breaching operations. All explosive purchases and materials used during training and operations need to be recorded and a detailed record kept for ATF inspection.

The Sunnyvale Fire Marshall needs to approve storage containers and storage sites used by SDPS.

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

SUNNYVALE DPS LEXIPOL POLICY 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

SUNNYVALE DPS LEXIPOL POLICY 300.3.1 USE OF FORCE TO AFFECT AN ARREST

Any peace officer may use reasonable force to affect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

5. Training

All Sunnyvale DPS SWAT team members are trained on the proper use of the NFDDs during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in yearly re-certification on the use of the NFDDs.

SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors should not be deployed until successful completion of the POST certified Basic SWAT Course or its equivalent.

- a. To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

SUNNYVALE DPS LEXIPOL POLICY 406.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST certified SWAT commander or tactical commander course, or its equivalent.

SUNNYVALE DPS LEXIPOL POLICY 406.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

The policy detailed above is based on the policies, procedures, and practices of police SWAT teams that continue to successfully utilize NFDDs in their operations. These police departments include the Los Angeles Sheriff's Office (SEB) Special Enforcement Bureau, the Santa Clara Police Department SWAT Team, the San Jose Police Department MERGE Unit, and the Monterey County Sheriff's Office SWAT Team.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use NFDDs will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Pepper Projectile Systems

1. Project Background and Description/Expected Lifespan

The Pepper Projectile System is not a firearm, but rather a non-lethal system that uses high pressure air to deliver PAVA powder projectiles from a safe distance. PAVA is based on one of the hottest of the six capsaicinoids found in pepper plants. The munitions contain only safe, pure, non-oil based PAVA and are non-flammable. The system was based off paintball launcher systems. The Pepper Projectile System has an expected lifespan of 10 years.

The Pepper Projectile System munition (inert): is a 68 caliber plastic (breakable) sphere which encapsulates a scented powder that is not a chemical agent. The inert munition is used for training purposes and has an expected lifespan of 3 years.

The Pepper Projectile System munition: is a 68 caliber plastic (breakable) sphere which encapsulates a 2% chemical agent (PAVA) payload. The munition is used as a non-lethal weapon designed de-escalate a potentially violent encounter. The munition has an expected lifespan of 3 years.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

2. Purposes and Use

The Pepper Projectile System and munitions are used as a non-lethal option to offer law enforcement officers to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter. The proper use of the Pepper Projectile System is a de-escalation tool used to avoid further injuries or lethal options on a subject.

3. Fiscal Impact

The initial Pepper Projectile System program was initiated several years ago. The costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Pepper Projectile System FTC Basic Launcher (Patrol):	Price: \$591	Qty: 6
Total: \$3,546		

Pepper Projectile System Munitions (Inert):	Price: 375 per case	Qty: 2,200	Total:
\$1,938			

Pepper Projectile System Munitions: Price: 375 per case Qty: 2,600 Total: \$6,832

Miscellaneous (backpack, munition holder, air tanks, etc.)	Total: \$6000
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Total approximate initial costs for the Pepper Projectile System: \$ 18,316

4. Rules

835a PC dictates that officers who use deadly force shall “... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Other available resources include de-escalation tools such as the Pepper Projectile System launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of Pepper Projectile launchers:

SUNNYVALE DPS LEXIPOL POLICY 302.7.2 Pepper Projectile Systems:

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Only Officers who have completed the Department Pepper Projectile System/ Impact Projectile Launcher training will be authorized to use the Non-Lethal weapon system.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 Treatment for OC Spray Exposure:

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

SUNNYVALE DPS LEXIPOL POLICY 302.8 Post Application Notice:

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean-up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done

safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

- a. Circumstances appropriate for deployment include, but are not limited to, situations in which:
- b. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- c. The suspect has made credible threats to harm him/herself or others.
- d. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

5. Training

Officers receive training on the proper use of the Pepper Projectile System systems by current manufacturer certified instructors. The training includes when the Pepper Projectile System can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

6. Compliance

Per Sunnyvale DPS Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices (Pepper Projectile Systems) will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481

Sunnyvale DPS SWAT Sniper Rifle

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is a highly trained unit formed to respond to violent tactical situations that pose a high-risk to civilian and officer safety. The SDPS SWAT sniper element deploys with the SDPS SWAT team with precision rifles and has the ability to engage and stop an armed violent subject at a safe distance.

Officers assigned to the Sunnyvale DPS SWAT Sniper team are required to pass rigorous testing and are required to attend a CA POST certified 40-hour Sniper School. These officers are in full uniform and shall carry all safety equipment on their person, including but not limited to less-lethal and lethal weapon systems. To protect lives, the Sunnyvale SWAT team may utilize a sniper team during pre-planned or spontaneous SWAT operations.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The rifles utilized by the Sunnyvale DPS SWAT team has an expected lifespan of approximately 10 years.

2. Purposes and Use

The purpose of the sniper rifle is to provide specially trained Sunnyvale DPS SWAT officers with the necessary capabilities of engaging threats from a safe distance. All Sunnyvale DPS SWAT officers utilizing these systems are specifically trained on proper use, functionality, maintenance, and shall qualify bi-yearly in accordance with Sunnyvale Lexipol policy.

3. Fiscal Impact

The department sniper team program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Accuracy International:	Price: \$10,000	Qty: 4	Total: \$40,000
JP Enterprise:	Price: \$6,500	Qty: 2	Total: \$13,000
Ammunition (.308 cal.)	Qty: 4000 rounds		Total: \$5,200

Total approximate costs for the program: \$58,200

The annual replacement cost for this program is approximately \$5,200.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her

supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.7 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.

- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 300.6 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization

of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only SWAT operators who have completed a CA POST certified 40 hours Sniper School and meet the Department's required qualification standards will be authorized to carry the sniper rifle weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- a. Each SWAT member shall pass a physical fitness test twice each year.
- b. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- c. Those members who are on PTO or are on a protected leave status, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed the test for that test period.

- d. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- e. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 1. Unauthorized range make-up
 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more

detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn.

Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481

DPS SWAT Rifles

1. Project Background and Description/Expected Lifespan

The Sunnyvale DPS SWAT Daniel Defense MK rifles are smaller more compact rifles that are only used by specially trained SWAT officers assigned to the Sunnyvale SWAT team. Each member of the Sunnyvale DPS SWAT team attends monthly training that includes the practice firing of their rifles. This monthly training ensures that the SWAT team will be ready to handle a variety of high-risk situations like hostage-rescue situations, active shooter scenarios, high-risk search warrants, and armed barricaded suspects.

The Daniel Defense MK rifles have a thicker barrel that can better endure the large amount of ammunition fired during years of training. The Daniel Defense MK rifle is tooled to accept 5.56 mm NATO ammunition and the .223 cal. standard issue rifle ammunition used by patrol officers. Because the rifle is manufactured to endure both types of ammunition, the rifle has a longer lifespan and provides a more cost-effective solution to the Sunnyvale SWAT team. The Daniel Defense MK rifles are more reliable and durable than the standard issue rifles assigned to the Patrol Division. The Sunnyvale SWAT team only uses the standard .223 cal. ammunition in the Daniel Defense MK rifles.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The Daniel Defense MK rifle has an expected lifespan of approximately 10 years.

2. Purposes and Use

The Daniel Defense MK rifle is only used by specially trained Sunnyvale SWAT team personnel. The rifle is manufactured for SWAT teams and is extremely durable and reliable.

3. Fiscal Impact

The department firearms program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Daniel Defense MK:	Price: \$2,963	Qty: 22	Total: \$65,201
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*Note: .223 cal. ammunition is used as standard issued ammunition for patrol rifles.

Total approximate costs for the program: \$ 65,201

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her

supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.7 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.

- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 300.6 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization

of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only SWAT Officers who have completed the firearms training and meet the required qualification standards will be authorized to carry the weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- a. Each SWAT member shall pass a physical fitness test twice each year.
- b. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- c. Those members who are on PTO or are on a protected leave status, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed the test for that test period.
- d. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a

team range master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

- e. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481

Reconnaissance Robots

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is tasked with solving a variety of critical incidents that are so hazardous, complex, or unusual that they exceed the capabilities of patrol officers. The critical incidents include, but are not limited to, hostage taking, barricaded subjects, terrorist attacks, warrant services, and other high-risk incidents.

Due to the threat level of such incidents, any tool the SWAT team can utilize to come to a peaceful resolution is vital to the overall safety of the public, suspects, and officers. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The two reconnaissance robots utilized by the Sunnyvale Department of Public Safety have no offensive capabilities. They are used for information gathering only. The robots have an expected lifespan of approximately 5 years.

2. Purposes and Use

In police tactical operations a robot can provide real-time reconnaissance during operations involving high-risk warrants, barricaded suspects and hostage rescues. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

3. Fiscal Impact

The costs of equipment have changed over the years due to the rapidly developing technology. All robots were purchased using grant funding.

The Sunnyvale Department of Public Safety currently has two reconnaissance robots:

- 1) 2014 Avatar III: This medium sized robot, weighing approximately 50 pounds, is utilized by the Sunnyvale SWAT team and the Sunnyvale Fire HAZMAT team to enter hazardous locations before humans to assess possible threats. The robot has several cameras and is remotely controlled.
- 2) Recon Scout Robot: The recon scout robot is a small robot designed to fit into an operative's pocket. It can be quickly and stealthily deployed by tossing it into a location and using the remote to maneuver it around. It can visually clear small or large spaces prior to an operative clearing it.

2014 Avatar III: Price: \$25000 Qty: 1 Total: \$25,000

The 2014 Avatar III is on the equipment schedule for replacement in 2024. DPS is exploring the replacement of the Avatar III with two smaller more capable robots. If two smaller robots are authorized in 2024 the cost will be \$50,000.

Recon Scout Robot Price: \$10,000 Qty: 2 Total: \$20,000

The replacement cost for this program is approximately \$70,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the robots. These costs vary depending on needs.

4. Rules

The following Sunnyvale DPS Lexipol Policies govern the deployment of SWAT/CNT/TMT:

SUNNYVALE DPS LEXIPOL POLICY 406.2.2 OPERATIONAL PROCEDURES

Operational procedures should be generally patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to SWAT/CNT/TMT members and will outline tactical and officer safety issues, they are not included within this policy. Operational procedures should include, at minimum, the following:

1. Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
 - a. All SWAT team members should have an understanding of operational planning.

- b. SWAT team training should consider planning for both spontaneous and planned events.
 - c. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
 2. Designated personnel responsible for developing an operational / medical plan prior to, and/or during TMT operations (time permitting).
 - a. All TMT members should have an understanding of operational/medical planning.
 - b. TMT training should consider planning for both spontaneous and planned events.
 3. Mission briefings conducted prior to an operation, unless circumstances require immediate deployment. On scene mission briefs should be conducted as soon as practical in immediate deployment situations.
 - a. When possible, briefings should include the specialized units and supporting resources.
 4. Protocols for a sustained operation which may include relief, rotation of personnel and augmentation of resources.
 5. A generic checklist, to be worked through during pre planned events, prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.
 6. The appropriate role for a trained negotiator.
 7. A standard method of determining whether a warrant should be regarded as high-risk.
 8. A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
 9. Post incident scene management including:
 - a. Documentation of the incident.
 - b. Transition to investigations and/or other units.
 - c. Debriefing after deployment of the SWAT team.
 1. After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
 2. When appropriate, debriefing should include specialized units and resources.
 3. In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
 4. Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
 10. Standardization of equipment deployed.

The following are examples of incidents which may result in the activation of the SWAT/CNT/TMT Unit:

- a. Barricaded suspects who refuse an order to surrender.
- b. Incidents where hostages are taken.
- c. Cases of suicide threats.
- d. Arrests of dangerous persons.
- e. Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

SUNNYVALE DPS LEXIPOL POLICY 406.9.5 MOBILIZATION OF SWAT/CNT/TMT UNIT

The On-Scene supervisor shall make a request to a Lieutenant for the SWAT/CNT Unit. The Lieutenant shall then notify the SWAT/CNT Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained by Communications Unit staff. The Lieutenant will then notify the Police Services Captain as soon as practical.

The Lieutenant or designee should provide the SWAT Commander with as much of the following information as available at the time:

- a. The number of suspects, known weapons and resources.
- b. If the suspect is in control of hostages.
- c. If the suspect is barricaded.
- d. The type of crime involved.
- e. If the suspect has threatened or attempted suicide.
- f. The location of the command post and a safe approach to it.
- g. The extent of any perimeter and the number of officers involved.
- h. Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The SWAT Commander, Captain or supervisor shall then initiate the SWAT call-out procedures. A current mobilization list shall be maintained by Communications Unit staff. An immediate need request for the SWAT team will trigger a call out of the SWAT/CNT/TMT Unit.

5. Training

All Sunnyvale DPS SWAT team members are trained on tactical operations and the use of robots for intelligence gathering during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in monthly SWAT scenario based training .

SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors should not be deployed until successful completion of the POST certified Basic SWAT Course or its equivalent.

- a. To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

SUNNYVALE DPS LEXIPOL POLICY 406.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST certified SWAT commander or tactical commander course, or its equivalent.

SUNNYVALE DPS LEXIPOL POLICY 406.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct explosive breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

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SUNNYVALE DPS – AB 481

Tear Gas

Overview

1. Project Background and Description/Expected Lifespan

Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Sunnyvale Department of Public Safety (SDPS) as a non-lethal tool to disperse unlawful groups and on barricaded suspects. SDPS uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). Both CS and OC are not actual gas but are micro-pulverized particles. These particles cause irritation and/or inflammation and are non-lethal.

CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS.

OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

Decontamination for both CS and OC is fresh air and cool, clean water.

The chemical agent munitions are delivered by throwing a canister or launching a canister using a specially modified shotgun. The specially modified shotgun is capable of launching a gas canister into a second or third floor window. The specially modified shotgun is only used by trained SDPS SWAT personnel.

The multiple types of munitions listed below, which are possessed and used by SDPS, are different models of cannisters which each disperse different gram weights of chemical agent “tear gas” and allow for different deployment methods (different devices or tools) based upon the circumstances of the event requiring use. Having the choice of multiple munitions also allows officers to control the amount (in grams) of chemical agent used during a deployment.

Our inventory of chemical agent munitions is as follows:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 33
- 2) CTS 5230 (CS) (Expire 5-years) Inventory: 16
- 3) CTS 8230 (CS) (Expire 5-years) Inventory: 28

- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 12
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 13
- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 90
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10
- 10) Specially modified SWAT shotgun – Inventory 2

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The chemical agents utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

Chemical agent "tear gas" munitions are used as a non-lethal option in a potentially violent encounter during rioting crowds or barricaded suspects. The proper use of chemical agents provides for a de-escalation tool used to avoid further injuries or to avoid using lethal options on a suspect.

3. Fiscal Impact

The Sunnyvale DPS SWAT team has three (3) personnel who are qualified by the California Association of Tactical Officer's / CA-POST Chemical Agent Instructor program in San Diego, California. Based on the instruction received and best-practices learned from the San Diego County Sheriff's Office, the Sunnyvale DPS SWAT team purchased the following equipment:

The list below are the approximate unit prices for the associated munitions in our inventory:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 33 (\$1257)
- 2) CTS 5230 (CS) (Expire 5-years) Inventory: 16 (\$576)
- 3) CTS 8230 (CS) (Expire 5-years) Inventory: 28 (\$672)
- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 12 (\$312)
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 13 (\$468)

- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 90 (\$2097)
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10 (\$450)
- 10) Specially modified SWAT shotgun – Inventory 2 (\$2000)

The estimated annual costs to maintain and replenish the chemical agent “tear gas” inventory is approximately \$1,500. On an approximate five (5) year cycle, the munitions expire and require replacement. The approximate cost of replacing the entire inventory at expiration is \$7,832.

4. Rules

835a PC dictates that officers who use deadly force shall “... evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Other available resources include de-escalation tools such as chemical agents or “tear gas.”

Other legal guidelines involve the use of chemical agents such as Penal Code 13652. It discusses when and when not to use chemical agents during assemblies, protests, and/or demonstrations.

The Sunnyvale Department of Public Safety Special Weapons and Tactics Team (SWAT) is responsible for the storage, inventory, training, and use of chemical agents. The Sunnyvale SWAT utilizes the LCT50 formula (cu. ft. / grams of CS chemical agent x 0.71 constant variable = LCT50 in minutes) as a guideline only when determining the amount of CS chemical agent to introduce into a structure.

The following persons may authorize the deployment and use of chemical agents:

1. The Chief of Police, Deputy Chief, or Captain.
2. An Incident Commander.
3. The S.W.A.T. Team Captain.

The following Sunnyvale DPS Lexipol Policies govern the deployment of chemical agents:

SUNNYVALE DPS LEXIPOL POLICY 302.6 Tear Gas Guidelines:

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Lieutenant, Incident Commander or SWAT/CNT Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 Treatment for OC Spray Exposure:

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

SUNNYVALE DPS LEXIPOL POLICY 302.8 Post Application Notice:

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b. The suspect has made credible threats to harm him/herself or others.

- c. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- d. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

SUNNYVALE DPS LEXIPOL POLICY 302.9.3 SHOTGUN SAFETY PROCEDURES

Shotguns assigned to SWAT specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles as needed to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and secured in the SWAT armory. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

5. Training

Personnel assigned to the Sunnyvale DPS SWAT team receive training on the proper use of chemical agents by certified instructors. The training includes when chemical agents can be deployed, how to handle and deploy the munitions, air purifying respirator (APR) use, personnel and structure decontamination, and reporting requirements. Chemical Agent Training also includes a yearly exposure to the chemical agents. There are currently ten (10) Chemical Agent Instructors (CA POST-Certified) within the Sunnyvale DPS SWAT Team.

S.W.A.T. Team personnel who have completed a POST Certified Chemical Agent Instructor Course shall be responsible for providing training in the use of chemical agents to maintain the proficiency of Officers assigned to S.W.A.T. Assigned S.W.A.T. personnel should familiarize Command Staff with the use and deployment of Chemical Agents. S.W.A.T. personnel shall conduct Chemical Agent training annually.

- A. Training shall be documented, and records maintained of such trainings.
- B. Officers shall clean and inspect the Chemical Agent delivery system after each deployment.
- C. The Chemical Agent Cadre of the S.W.A.T. Team shall be responsible for maintaining control of all Chemical Agents and their respective delivery systems. The Cadre shall be responsible for inventorying and updating deployable Chemical Agent munitions.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy. The documentation shall include the following information

1. Who authorized the use of Chemical Agents.
2. Facts surrounding their use.
3. Was a warning given prior to the Chemical Agent deployment (when applicable)?
4. The type of chemical agent and delivery system used.
5. Name of Officer who deployed the Chemical Agent.

6. Compliance

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified.

Additionally, the Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use chemical agents will be properly trained and certified.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of

effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Unmanned Aircraft Systems (UAS)

1. Project Background and Description/Expected Lifespan

Small Unmanned Aircraft Systems (UAS) are portable systems flown autonomously without a pilot onboard and controlled from an operator on the ground. They have shown to be a valuable resource to police and fire organizations by providing a bird's eye view of crime and/or disaster scenes that may not otherwise be seen. The UAS has the ability to launch quickly in dangerous situations, locate survivors, and send data about their whereabouts to responders on the ground.

Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. Safety, above all else, is the primary concern in every operation, regardless of the nature of the mission.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The UAS utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

The UAS utilized by the Sunnyvale Department of Public Safety are used to assist in search and rescue missions, fire investigations, HAZMAT response, barricaded suspects, hostage situations and other high-risk tactical operations to reduce risk to department personnel, suspects and community members.

3. Fiscal Impact

The Sunnyvale Department of Public Safety UAS program was initially funded by a grant funding. The Sunnyvale Department of Public Safety currently utilizes two UAS platforms:

DJI Matrice 210: This UAS is a large platform outfitted with several high-resolution cameras and thermal imaging cameras. The DJI Matrice 210 has a longer flight time and is used for planned operations.

DJI Mavic 2 Enterprise: This UAS is a smaller, foldable, portable platform outfitted with limited cameras. The DJI Mavic 2 Enterprise is commonly used to gain access into smaller locations (i.e. indoors) or for unplanned rapid deployments.

DJI Matrice 210 UAS:	Price: \$ 35,000	Qty: 1	Total: \$ 35,000
DJI Mavic 2 Enterprise:	Price: \$ 5,000	Qty: 1	Total: \$ 5,000

The replacement cost for this program is \$40,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to both UAS systems. These costs vary depending on needs.

4. Rules

The following Sunnyvale DPS Lexipol Policies govern the deployment of UAS systems:

SUNNYVALE DPS LEXIPOL POLICY 357.3 PRIVACY

The department recognizes that use of a UAS involves potential privacy considerations and is committed to using UAS in a manner that respects privacy rights. UAS operators and observers will consider citizens' civil rights and reasonable expectations of privacy as key components of any decision made to deploy the vehicle.

UAS operators and observers will ensure, and will be held accountable for ensuring, that operations of the UAS appropriately balance operational needs with maintaining public privacy and freedom from intrusion. To ensure that legitimate privacy considerations are observed, UAS operators and observers will:

- a. Absent a warrant or exigent circumstances, adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure).
- b. Take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
- c. During flight, direct onboard cameras so as to face away from occupied structures not related to the mission, to minimize the inadvertent capture of video or still images of uninvolved persons.
- d. Maintain all video and still images in strict compliance with State law and Sunnyvale DPS policies and procedures.
- e. Operate strictly within the law and regulations pertaining to UAS. Whenever required by policy or law, operators will ensure that warrants are obtained prior to deploying the UAS.
- f.

SUNNYVALE DPS LEXIPOL POLICY 357.10 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS. All use shall be authorized by the Program Coordinator.

The authorized missions for UAS use are:

- a. Search and Rescue Missions
- b. Response to Fires or Post-Fire Investigations
- c. HAZMAT response
- d. Barricaded Suspects, Hostage Situations and other high-risk Tactical Operations to reduce risk to department personnel, suspects and community members.
- e. Disaster Response (i.e. flood, earthquake)
- f. Video/Photograph documentation of Crime Scenes
- g. Training Flights as required to meet FAA and Department certification standards
- h. Used in accordance with a court order or search warrant

SUNNYVALE DPS LEXIPOL POLICY 357.11 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

SUNNYVALE DPS LEXIPOL POLICY 357.18 UAS DEPLOYMENT PROCEDURES

- a. Initial requests to use the UAS will be screened by a Patrol Lieutenant. If unavailable, a Team Captain or B/C shall be notified. The approving supervisor will have Dispatch contact the Program Coordinator or Manager to request deployment of the UAS. The request will be screened based on the following:
 1. Is the proposed use of the UAS within the capabilities of the UAS equipment and personnel?
 2. Does the proposed use of the UAS fall within FAA and Department policies and regulations for UAS deployment?
 3. Can the UAS be deployed safely given current weather conditions?
 4. If the UAS deployment requires a warrant, has one been requested and approved?

5. Are sufficient trained and qualified personnel available to safely operate the UAS?
 - b. The UAS Program Coordinator or Manager will either accept or decline the request for UAS support. If the request is denied, a reason will be provided for declining the request to Dispatch, who will provide the requestor this information along with the reason for declining. If the Coordinator or Manager accepts the support request, a UAS pilot will be assigned who will be provided all available mission information.
 - c. The UAS pilot will contact a certified observer from the list of available trained observers and arrange for the observer to meet the pilot at the scene. The UAS pilot is responsible for transporting the UAS and all required equipment.
 - d. Upon arriving at the requested location, the UAS pilot will contact the on-scene Incident Commander, check in, and receive a briefing on the mission requested. The UAS operators will make an on-scene determination of the ability of the UAS to perform the requested mission safely and within department and FAA policies and procedures.
 - e. If the UAS operators determine that the use of the UAS would violate department policy or directives, they will inform the Incident Commander of the potential conflict along with recommendations for modifying the requested mission to conform with department policies and procedures. As this is a change from the original approved mission, the UAS pilot will contact the UAS unit chain of command for direction on how to proceed. As soon as possible after the completion of the mission, the UAS pilot will make a full report of the circumstances and their concern through the chain of command.
 - f. UAS operators will have discretion for declaring safety or violation of FAA rules. If UAS operators determine that a requested mission would violate FAA rules or endanger civilians, the UAS pilot will respectfully inform the Incident Commander of the reason(s) for refusing to operate the UAS and contact the UAS chain of command immediately. The UAS will not be flown in this circumstance, and the authority of the UAS pilot is absolute.
 - g. If the UAS pilot determines that the requested mission will potentially damage the UAS or its associated equipment, the UAS pilot will inform the Incident Commander of their concern and suggest mission parameter changes. The UAS pilot is the final authority regarding UAS operations.

SUNNYVALE DPS LEXIPOL POLICY 357.19 DOCUMENTATION AND EVIDENCE

- a. Prior to every flight, a flight log shall be initiated for documentation.
- b. Inspection and weather will be documented prior to flight within the log book.
- c. After each flight, the operator will complete a statement documenting the UAS operations.
- d. After each deployment, video obtained by the UAS Operation will be submitted to evidence in accordance with Department policies and procedures.
- e. Aerial photography (still or video) shall be stored with digital evidence in accordance with Department policy and procedure.

- f. The pilot of the UAS is responsible for evidence handling as well as writing any supporting documentation for the incident.

5. Training

SUNNYVALE DPS LEXIPOL POLICY 357.6 TRAINING NEEDS ASSESSMENT

The UAS Program Manager and Program Coordinator shall conduct an annual needs assessment to ensure that training is conducted within unit capabilities, department policy, and training guidelines as established by the FAA.

SUNNYVALE DPS LEXIPOL POLICY 357.7 INITIAL TRAINING

- a. Upon selection to the collateral assignment of UAS Operator, new members shall acquire an FAA Remote Pilot Certificate, or higher.
- b. Observers must have completed sufficient training to communicate to the pilot any instructions required to remain clear of conflicting traffic. This training, at a minimum, shall include knowledge of the rules and responsibilities described in 14 CFR 91.111, Operating Near Other Aircraft; 14 CFR 91.113, Right-of-Way Rules: Except Water Operations; and 14 CFR 91.155, Basic VFR Weather Minimums; knowledge of air traffic and radio communications, including the use of approved ATC/pilot phraseology; and knowledge of appropriate sections of the Aeronautical Information Manual.
- c. Before a member can be authorized to conduct flight operations as a UAS pilot, they must complete at least eight hours of flight training with UAS instructors to show proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.

SUNNYVALE DPS LEXIPOL POLICY 357.8 RECURRENT TRAINING

- a. To maintain a level of proficiency with the UAS, operators shall be required to attend regular training. Training will be coordinated through the Program Coordinator.
- b. All members in the assignment shall maintain proficiency in their pilot/observer abilities. Members who do not have any documented training or flight time within a span of 6 months will need to demonstrate proficiency before being a pilot/observer during a deployment or exercise.
- c. Recurrent training is not limited to actual piloting/observer skills but includes knowledge of all pertinent UAS/aviation matters.
- d. Failure to demonstrate proficiency can result in removal from UAS responsibilities.

SUNNYVALE DPS LEXIPOL POLICY 357.9 TRAINING RECORDS

- a. All members will have a training file on record that details training history. This training file will be held in conjunction with the member's normal training file per Department policy.

- b. All deployments or exercises will be documented and count towards a member's training.
- c. It is the member's responsibility to verify their training file contains all pertinent information.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 357.4 PROGRAM MANAGER

The Chief will appoint a Program Manager who will be responsible for the overall direction and management of the UAS program. The Program Manager will have the following responsibilities:

- Ensuring that policies and procedures conform to current laws, regulations and best practices.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief.

SUNNYVALE DPS LEXIPOL POLICY 357.5 PROGRAM COORDINATOR

The Director of Public Safety will appoint a Program Coordinator who will be responsible for direct supervision of the UAS Program and its personnel. The Program Coordinator will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Maintaining contact with the FAA and familiarity with pertinent FAA regulations.
- Ensuring that all authorized operators and required observers have completed all required FAA and Department approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that all training, flight and maintenance records for each operator and airframe are maintained.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>

DRAFT 4/17/23 AMA

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE REGARDING THE PRESENTATION OF
THE ANNUAL PUBLIC SAFETY MILITARY EQUIPMENT
USE REPORT AND RENEWAL OF MILITARY
EQUIPMENT USE POLICY PURSUANT TO ASSEMBLY
BILL NO. 481**

WHEREAS, the Legislature of the State of California adopted Government Code Section 7070 et seq. (the Military Equipment Use Statute) which required municipalities to seek prior authorization from its governing body for acquiring and using military equipment; and

WHEREAS, the Legislature of the State of California found that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern; and

WHEREAS, the Sunnyvale Department of Public Safety, having in its possession certain pieces of equipment classified by the Military Equipment Use Statute as military equipment, brought its policy before the Sunnyvale City Council, which was introduced on April 5, 2022, adopted on April 26, 2022 and modified on November 29, 2022; and

WHEREAS, pursuant to the Military Equipment Use Statute, the Department of Public Safety posted and maintained its policy on the City website, and publicly posted its annual report on its uses of military equipment on April 27, 2023, with a community meeting on the report scheduled for May 10, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

SECTION 1. FINDINGS. The City Council hereby finds and declares that the above recitals are true and correct. The City Council has engaged in its annual review of Lexipol Policy 705, Military Equipment and finds that it meets all the required elements outlined in AB 481. The City Council re-authorizes the previously approved equipment list. The City Council further authorizes the purchase of replacement items identified in the annual report. The City Council further finds that each type of military equipment has complied with the standards set forth in the policy.

SECTION 2. MILITARY EQUIPMENT USE POLICY RENEWED. The Military Equipment Use Policy is hereby renewed, including all exhibits and attachments thereto. The Director of Public Safety is authorized to execute and implement the Military Equipment Use Policy on behalf of the City of Sunnyvale.

SECTION 3. CEQA—EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this resolution is exempt from the

requirements of the California Environmental Quality Act (CEQA) in that it can be seen with certainty that there is no possibility that it may have an impact on the environment.

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

DAVID CARNAHAN
City Clerk
(SEAL)

LARRY KLEIN
Mayor

APPROVED AS TO FORM:

JOHN A. NAGEL
City Attorney



City of Sunnyvale

Agenda Item

23-0478

Agenda Date: 5/2/2023

REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to Repeal and Re-Adopt Sunnyvale Municipal Code Chapter 12.60 (Stormwater Management) and Find That the Action is Categorically Exempt From the California Environmental Quality Act (CEQA) Pursuant to Section 15308 of the CEQA Guidelines

BACKGROUND

The Clean Water Act requires that all operators of municipal separate storm sewer systems be regulated for discharge of stormwater to local waterways via a National Pollutant Discharge Elimination System (NPDES) Permit. In the Bay Area, this permit is called the Municipal Regional Stormwater Permit (Stormwater Permit) issued by the San Francisco Bay Regional Water Quality Control Board. The Stormwater Permit was last issued in May 2022 (Order R2-2022-0018); it became effective July 1, 2022. This Permit is shared by 79 permittees, so all Bay Area communities face the same requirements. The entire text of the permit can be found in Attachment 2.

In 2003, Council adopted Sunnyvale Municipal Code (SMC) Chapter 12.60 (Stormwater Management) and has adopted amendments periodically as new Stormwater Permits have been promulgated. The last major revision to SMC Chapter 12.60 was in 2010 (RTC No. 10-303).

The new Stormwater Permit continues many previous requirements and adds new ones, including expanded implementation of stormwater treatment integrated into new and redevelopment projects. Such treatment is generally required by the Permit to be landscaped based features that absorb and filter water before being discharged in the storm system. This technique is also called Green Stormwater Infrastructure (GSI). The proposed changes to SMC Chapter 12.60 will provide the City with the legal authority to implement the new requirements of the Permit, and the City is specifically required by the Permit to have that authority.

As part of this update, SMC Chapter 12.60 has also been renumbered and cleaned up. A table reconciling the old and new chapter sections is included as Attachment 3.

EXISTING POLICY

General Plan Policy EM-8.3 Ensure that stormwater control measures and best management practices (BMPs) are implemented to reduce the discharge of pollutants in stormwater to the maximum extent practicable.

General Plan Goal EM-10 Minimize the quantity of runoff and discharge of pollutants to the maximum extent practicable by integrating surface runoff controls into new development and redevelopment land use decisions.

ENVIRONMENTAL REVIEW

Adoption of this Ordinance does not approve any specific construction activities. All construction projects will be reviewed in accordance with the California Environmental Quality Act (CEQA) prior to approval. As such, the adoption of the Ordinance is exempt from environmental review because it is a regulatory action for the protection of the environment where the regulatory process involves procedures for the protection of the environment (CEQA Guidelines Section 15308).

DISCUSSION

The changes proposed to SMC Chapter 12.60 are aimed to address expanded requirements for new and redevelopment projects to manage stormwater runoff from their site. Specific criteria are included in the Stormwater Permit to designate which projects are “regulated projects,” which are required to provide stormwater treatment, integrate design features that minimize impervious area and pollutants, and in some cases reduce or eliminate runoff from the site to absorb into the ground and minimize creek erosion from higher flows. The requirements apply to both private development and the City’s own projects.

The new criteria are required to be applied for projects whose permits are not approved by June 30, 2023. Some exceptions occur where certain permitting actions are taken that preclude the City from adding additional requirements to a project. A summary of key changes to the criteria for regulated projects is shown below.

SMC Section Reference	Previous NPDES Permit	Current/New NPDES Permit
12.60.121	<i>Impervious Area thresholds:</i> 10,000 square feet created and/or replaced for most projects; 5,000 square feet for “special land use” projects.	5,000 square feet for all projects except single-family homes.
12.60.121	<i>Single family homes:</i> Not regulated if detached and not part of a larger plan of development.	Regulated at threshold of 10,000 square feet of impervious area created and/or replaced.
12.60.124	<i>Special Projects Category C:</i> Transit-oriented projects eligible for treatment reduction credits under this category.	Only affordable housing projects are eligible for treatment reduction credits under this category.
12.60.122 and 12.60.123	<i>Public Roads Projects:</i> Required to treat only if creating a new road or adding travel lanes to existing roads.	Required for new and widened roadway areas (including sidewalks and bicycle lanes) for projects of 5,000 square feet or more of contiguous area. Also required for road reconstruction projects greater than one acre.

Separate from and in addition to integrating treatment on new and redevelopment projects, the City is also required by the Stormwater Permit to implement additional GSI beyond regulated projects. The

target for implementation of additional GSI for Sunnyvale is the proactive treatment of five (5) acres of impervious area. Such projects involve retrofitting an area (such as a street or parking lot) that are not already part of a regulated project and including treatment for those areas. Another example would be expanding the scope of a planned project to treat adjacent roadway runoff; the treatment features in the Caribbean Drive project are an example of this approach. No municipal code changes are proposed at this time to advance implementation of GSI beyond regulated projects, though additional changes may be beneficial in the future.

FISCAL IMPACT

The cost of implementing the requirements on additional private development “regulated projects” will be integrated into the City’s Operating Budget process. These costs would be funded by the Development Enterprise Fund. The Community Development Department is evaluating whether changes to permit fees are needed to address the ongoing cost of stormwater review during permit processing.

The cost of implementing the requirements for additional public “regulated projects” constructed by the City will be integrated into the Projects Budget for those projects as part of the budget process. These costs would be funded by the same fund supporting the capital project.

PUBLIC CONTACT

The Community Development Department has been providing information to permit applicants regarding the new requirements and the July 1, 2023 effective date since December 2022, and outreach information has been posted to the City’s website since February 2023.

Public contact was made by posting the Council meeting agenda on the City’s official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City’s website.

ALTERNATIVES

1. Introduce the Ordinance in Attachment 1 to repeal and re-adopt Chapter 12.60 (Stormwater Management) of Title 12 (Waters and Sewers) of the Sunnyvale Municipal Code and find that this action is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines.
2. Do not introduce the Ordinance and provide direction to staff if modifications are desired.

STAFF RECOMMENDATION

Alternative 1: Introduce the Ordinance in Attachment 1 to repeal and re-adopt Chapter 12.60 (Stormwater Management) of Title 12 (Waters and Sewers) of the Sunnyvale Municipal Code and find that this action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines.

The Stormwater Permit provides compliance dates for each of the various requirements, Adopting the Ordinance now will ensure that the compliance dates for these requirements are met and that the Sunnyvale Municipal Code is aligned with the Stormwater Permit requirements.

Prepared by: Melody Tovar, Regulatory Programs Division Manager
Reviewed by: Ramana Chinnakotla, Director, Environmental Services Department
Reviewed by: Trudi Ryan, Director, Community Development Department
Reviewed by: Chip Taylor, Director, Public Works Department
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Draft Ordinance
2. Municipal Regional Stormwater Permit
3. Chapter 12.60 Comparison Table

DRAFT 4/21/23 RLM

ORDINANCE NO. ____-23

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE REPEALING AND RE-ADOPTING CHAPTER 12.60
(STORMWATER MANAGEMENT) OF TITLE 12 (WATER AND
SEWERS) OF THE SUNNYVALE MUNICIPAL CODE.**

WHEREAS, the City of Sunnyvale desires to amend Sunnyvale Municipal Code Chapter 12.60 (Stormwater Management) of Title 12 (Water and Sewers) for consistency with the Municipal Regional Stormwater Permit (Stormwater Permit) issued by the San Francisco Bay Regional Water Quality Control Board;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 12.60 REPEALED AND RE-ADOPTED. Chapter 12.60 (Stormwater Management) of Title 12 (Water and Sewers) of the Sunnyvale Municipal Code is hereby repealed and re-adopted to read as shown in Exhibit “A” attached hereto and incorporated by reference.

SECTION 2. CEQA. The adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines because it is an action taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after adoption.

SECTION 4. PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on ____, 2023, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on ____, 2023, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

John A. Nagel
City Attorney

EXHIBIT A

SUNNYVALE MUNICIPAL CODE CHAPTER 12.60 STORMWATER MANAGEMENT

- 12.60.010. Purpose and intent.
- 12.60.020. Scope and limits of chapter.
- 12.60.030. Administration.
- 12.60.040. Definitions.
- 12.60.050. Ultimate responsibility of discharger.
- 12.60.060. Fees.
- 12.60.070. Discharge Prohibitions.
- 12.60.080. Wastewater discharges containing copper or copper-based chemicals.
- 12.60.090. Prohibition of illegal connection.
- 12.60.100. False statements.
- 12.60.110. Compliance with NPDES stormwater permit.
- 12.60.120. Stormwater pollution reduction.
- 12.60.130. Stormwater treatment requirements—Applicability.
- 12.60.140. Development and redevelopment projects—Regulated projects.
- 12.60.150. New or widening road projects—Regulated projects.
- 12.60.160. Road reconstruction—Regulated projects.
- 12.60.170. Special Projects—Regulated Project which may qualify for use of non-LID treatment measures.
- 12.60.180. Required site design measures for small projects and smaller single-family home.
- 12.60.190. Site design measures for nonregulated project.
- 12.60.200. Trash load reductions to storm drain collection system.
- 12.60.210. Stormwater management plan required.
- 12.60.220. Numeric sizing criteria for treatment systems.
- 12.60.230. Low impact development (LID) requirements.
- 12.60.240. Hydromodification management (HM) requirements—Applicability.
- 12.60.250. Design standards concerning flooding.
- 12.60.260. Alternative certification of adherence to numeric sizing criteria for stormwater treatment systems.
- 12.60.270. Infiltration treatment measures.
- 12.60.280. Agreement to maintain best management practices.
- 12.60.290. Submission of revised stormwater management plan.
- 12.60.300. Best management practices and CASQA Stormwater Best Management Practice Handbook incorporated.
- 12.60.310. Minimum best management practices and source control measures for all dischargers.
- 12.60.320. Authority to inspect.
- 12.60.330. Requirement to remediate.
- 12.60.340. Failure to properly operate and maintain stormwater treatment and hydromodification management facilities.
- 12.60.350. Alternative compliance.
- 12.60.360. Public nuisance.

- 12.60.370. Manner of notification of a violation.
- 12.60.380. Administrative process and civil penalties.
- 12.60.390. Administrative hearing and appeals process.
- 12.60.400. Emergency corrections.
- 12.60.410. Judicial civil penalties.
- 12.60.420. Remedies cumulative.

12.60.010. Purpose and intent.

The purpose of this chapter is to provide regulations and give legal effect to certain requirements of the National Pollutant Discharge Elimination System (NPDES) permit (the "Permit") issued to the city of Sunnyvale, among other municipal permittees, on July 1, 2022, and thereafter revised and reissued on cycles of approximately five years, regarding municipal stormwater and urban runoff requirements. This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the city. This chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and any applicable implementing regulations, as they exist at the time of enactment or as later amended.

12.60.020 Scope and limits of chapter.

This chapter shall apply to:

- (a) Ministerial as well as discretionary approvals of development located on applicable sites and regulated projects for new development or significant redevelopment projects, as those terms are defined in this chapter;
- (b) Dischargers at applicable sites which have been found to, or may be reasonably considered to, cause or contribute to pollution of stormwater runoff associated with commercial or industrial activity or illegal connections and other illicit discharges. Nothing in this chapter shall be interpreted to:
 - (1) Infringe any right or power guaranteed by the California Constitution, including any vested property right; or
 - (2) Require any action inconsistent with any applicable and lawfully adopted general plan, specific plan, vesting tentative map or building code that conforms to the laws of California and the requirements of this chapter.

12.60.030 Administration.

This chapter shall be administered jointly by the director of community development, the director of public works, and the director of environmental services. Any powers granted to or duties imposed upon these individuals to administer, implement and enforce the provisions of this chapter may be delegated to other city personnel.

12.60.040 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings given to them in this section. Words and phrases not defined in this chapter shall have the definitions set forth in the permit or by the regulations implementing the National Pollutant Discharge Elimination System, Clean Water Act Section 402, and Division 7 of the California Water Code, as they currently exist or may be amended.

(a) "A"

(1) "Applicable site" means any site that could reasonably be considered to cause or contribute to pollution of stormwater runoff. This definition includes, but is not limited to, pollutant sources associated with outdoor process and manufacturing areas, outdoor material storage areas, outdoor waste storage and disposal areas, outdoor vehicle and equipment storage and maintenance areas, outdoor parking areas and access roads, outdoor wash areas, outdoor drainage from indoor areas, rooftop equipment, contaminated and erodible surface areas, and other sources determined to have a reasonable potential to contribute to pollution of stormwater runoff.

(2) "Authorized enforcement official" means the director of public works, the director of community development, or the director of environmental services and their designees.

(b) "B"

(1) "Best management practices (BMP)" means a structural device, measure, facility, or activity that helps to achieve stormwater management control objectives at a regulated project or applicable site.

(A) "Maintenance of a best management practice or stormwater treatment system" means periodic action taken to maintain the as-designed performance of best management practice or stormwater treatment system, and includes, but is not limited to, repairs as necessary and replacement of the best management practice or stormwater treatment system by an equally effective or more effective best management practice or stormwater treatment system.

(B) "Source control best management practice" means any schedule of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent stormwater pollution by reducing the potential for contamination at the source of pollution.

(C) "Treatment best management practice" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

(2) “Base course” means a layer of constructed material within a pavement section (typically aggregate base), located above the subbase course and/or subgrade course and below the surface layer, which supports the surface layer and distributes load.

(3) “Bio-retention area” means landscaping features adapted to treat stormwater runoff on a development site. Surface runoff is directed into shallow, landscaped depressions. These depressions are designed with soil mixtures and vegetation that incorporate many of the pollutant removal systems that operate in a natural ecosystem. If the subsurface soils will not allow for natural infiltration (e.g., heavy clay soil), the filtered runoff may be collected in a perforated underdrain in the area and returned to the storm drain collection system.

(4) “BMP Guidance Manual” as revised means the manual approved by the city of Sunnyvale directors of the public works, community development, and environmental services departments, as amended from time to time, that sets forth guidance, design standards and best management practices for stormwater treatment measures, which shall be utilized by developers and property owners to comply with this chapter. A copy of the BMP Guidance Manual may be obtained from the city’s planning division.

(c) “C”

(1) “CASQA” means California Stormwater Quality Association.

(2) “CASQA Stormwater Best Management Practice Handbook” means the four-volume set of handbooks for New and Redevelopment, Construction, Industrial and Commercial, and Municipal operations produced by CASQA and available at www.casqa.org.

(3) “Construction” means constructing, clearing, grading, or excavation that results in soil disturbance. Construction also includes structure demolition. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility, nor does it include emergency construction activities required to immediately protect public health and safety, interior remodeling with no outside exposure of construction material or construction waste to stormwater or mechanical permit work.

(d) “D”

(1) “Detached single-family home project” means the building of one single new house or addition and/or replacement of impervious surface to one single existing house, which is not part of a larger plan of development.

(2) “Detention” means the temporary storage of storm runoff in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(3) “Development” means any construction, rehabilitation, redevelopment or reconstruction of any public or private project, or mass grading for anticipated construction. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity or original purpose of a facility, nor does it include emergency construction activities required to protect immediately public health and safety.

(4) “Director” means either the director of public works, community development, or environmental services department.

(5) “Discharge” when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or non-stormwater to directly or indirectly enter the storm drain system from an activity or operation. When used as a noun, “discharge” means the pollutants, stormwater or non-stormwater that is discharged.

(6) “Discharger” means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering stormwater or the storm drain system. Discharger also means the owners of real property on which such activities, operations or facilities are located; provided, however, that a local government or public authority is not a discharger as to activities conducted by others in public rights-of-way.

(e) “E”

(1) “Enforcement response plan” established by the director contains criteria and various guidelines for implementing consistent enforcement. These enforcement guidelines shall be maintained by the director and shall be available to the public. Additions to or deletions from the guidelines may be made by the director.

(f) “F”

(1) “Full trash capture” or a “full capture system or device” means any single device or series of devices that traps all particles retained by a five millimeters mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area and as approved by the San Francisco Bay Regional Water Quality Control Board, Region 2.

(g) “G”

(1) “General permit” means an NPDES permit issued under Code of Federal Regulations Section 122.28 (40 CFR 122.28) authorizing a category of discharges under the Clean Water Act within a geographical area.

(h) “H”

(1) “Hydromodification management (HM)” means the requirements for regulated projects that create or replace one acre or more of impervious surface and are not specifically excluded in the requirements of Provision C.3.g.ii, as adopted in the NPDES stormwater permit. A project that does not increase impervious surface area over the pre-project condition does not qualify as an HM project. The HM is designed to manage increases in the magnitude, volume and duration of runoff from new development and significant redevelopment projects in order to protect streams from increased potential for erosion or other adverse impacts. The HM contains management standards and performance criteria for subject development which are incorporated into this chapter. A copy of the HM requirements in the city’s permit listed above may be obtained from the city’s planning division.

(i) “I”

(1) “Illegal connection” means any device or artifice, excluding roof drains and other similar connections, connecting into the storm drain system without a permit, through or by which an illicit discharge may be discharged.

(2) “Illicit discharge” means any discharge to a storm drain system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit, including categorically allowed discharges and conditionally exempted discharges permitted under Section 12.60.070(f) and (g).

(3) “Impervious surface” means constructed or modified surface that cannot effectively infiltrate rainfall. Impervious surface includes, but is not limited to, building rooftops, pavement, sidewalks, and driveways where such surfaces are not constructed with pervious materials. “Impervious surface area” means the ground area covered or sheltered by an impervious surface, measured as if from directly above.

(4) “Infiltration” means the process of percolating stormwater or non-stormwater into the subsoil.

(5) “Infiltration device” means any structure that is deeper than wide, with no underdrain and is designed primarily to infiltrate (percolate) water into the subsurface and bypass the natural groundwater protection afforded by surface soil. The definition of stormwater infiltration device does not include any septic system or other waste water disposal system, any infiltration of water other than stormwater, Santa Clara Valley Water District percolation ponds, lined sumps and basins, or any naturally occurring body of surface water.

(A) Examples of best management practices that are stormwater infiltration devices include, but are not limited to:

- (i) Infiltration basins and trenches (including French drains);
- (ii) Infiltration and exfiltration trenches;
- (iii) Unlined retention basins (i.e., basins with no outlets);
- (iv) Unlined or open-bottomed vaults or boxes installed below grade that store stormwater allowing infiltration into subsurface soils;
- (v) Dry wells; and
- (vi) Injection wells.

(B) The definition of infiltration device does not apply to the following best management practices that treat stormwater and then release it into a storm drain system:

- (i) Media filtration devices;
- (ii) Underground detention system;
- (iii) Hydrodynamic device;
- (iv) Water quality inlet filters;
- (v) Contained and flow-through planter boxes;
- (vi) Roof gardens;
- (vii) Extended detention basin;
- (viii) Any device with an impermeable liner and underdrain/outfall to the storm drain.

(6) “In-lieu fees” mean the monetary amount necessary to provide both hydraulically-sized treatment in accordance with numeric sizing (Section 12.60.220) and LID treatment measures (Section 12.60.230) of an equivalent quantity of stormwater runoff and pollutant loading and a proportional share of the operation and maintenance costs of the regulated project.

- (j) “J” – Reserved
- (k) “K” – Reserved

(l) “L”

(1) “Land disturbance activity” means any activity that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land including, but not limited to, grading, digging, cutting scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including, but not limited to, removal by clearing or grubbing or any activity which bares soil or rock or involves streambed alterations or diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.

(2) “Land owner” means the holder of legal title to the land, and other persons or entities who exercise control over a land development project pursuant to rights granted in a purchase agreement, joint venture agreement, development agreement, or long-term lease.

(3) “Low impact development” (“LID”) is an approach to new and redevelopment designs to reduce stormwater runoff and mimic a site’s predevelopment hydrology by minimizing the amount of disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. LID principles treat stormwater as a resource, rather than a waste product that must be removed from the site.

(m) “M”

(1) “Maximum extent practicable” means a standard for implementation of stormwater management programs to reduce pollutants in stormwater to the maximum extent possible, taking into account equitable considerations and competing facts including, but not limited to, the seriousness of the problem, public health risks, environmental benefits, pollutant removal effectiveness, regulatory compliance, cost and technical feasibility.

(n) “N”

(1) “Non-stormwater” means any discharge that is not composed entirely of stormwater.

(2) “Notice of violation (NV)” means an official written notice of noncompliance, issued to a discharger from the director, which provides notification that a significant violation of this chapter has occurred, consistent with an enforcement response plan.

(3) “NPDES stormwater permit” means the California Regional Water Quality Control Board San Francisco Bay Regional Stormwater NPDES Permit Order R2-2022-

0018, NPDES Permit No. CAS612008, adopted May 11, 2022, effective July 1, 2022 or as subsequently amended.

(o) "O" – Reserved

(p) "P"

(1) "Permeable surfaces" mean pervious concrete, porous asphalt, unit pavers, and/or other materials that allow water to infiltrate into subsurface soil.

(q) "Q" – Reserved

(r) "R"

(1) "Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of impervious surface area on an already developed site. Redevelopment includes, but is not limited to, the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces.

(2) "Regional project" means a regional or municipal project with sufficient capacity or credit to protect or enhance water quality and/or beneficial uses in a manner equivalent to or greater than the stormwater benefits that would have been provided from the installation of the required treatment measures at the subject project site. A regional project must discharge to or address the same receiving waters as the subject project site.

(3) "Regulated projects" are new development projects, redevelopment projects and/or road projects that create and/or replace five thousand square feet or more of impervious surface, and detached single-family home projects that create and/or replace ten thousand square feet or more of impervious surface, including portions of the public right of way, such as the street frontage, that are constructed or reconstructed as part of the development.

(4) "Riparian areas" means an ecosystem that is the interface between dry land and a water body such as a creek, stream, river, lake, or marsh. Vegetation in riparian areas is characterized by a predominance of hydrophilic plants.

(s) "S"

(1) "Self-retaining" area means an area of a development site designed to retain the first one inch of rainfall (by ponding and infiltration and/or evapotranspiration) on itself and on adjacent areas without producing stormwater runoff. Self-retaining areas may include graded depressions with landscaping or pervious pavement. "Areas draining to self-retaining areas" are adjacent impervious areas that drain to self-retaining areas.

- (2) “Self-treating” areas means an area of a development site in which infiltration, evapotranspiration, and other natural processes remove pollutants from stormwater. Self-treating areas may include conserved natural open areas, areas of landscaping, green roofs, and pervious pavement. A self-treating area only treats the rain falling on itself and does not receive stormwater runoff from other areas.
- (3) Special Projects are certain types of smart growth, high density and affordable housing projects that are allowed, under the Permit, to treat some stormwater runoff from the site with non-LID treatment measures.
- (4) “Storm drain system” means the conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains owned or operated by the city and used for the purpose of collecting, storing, transporting, or disposing of runoff.
- (5) “Stormwater” means surface runoff and drainage associated with storm events.
- (6) “Stormwater management plan” means a plan identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity and/or during and after construction of any development or significant redevelopment project subject to the provisions of this chapter.
- (t) “T”
- (1) “Treatment” means the use of designed and/or engineered systems, which use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and ultraviolet (UV) radiation.
- (u) “U” – Reserved
- (v) “W”
- (1) “Warning notice (WN)” means an official notice of noncompliance, either written or verbal, issued to a discharger from the director, which provides notification that a violation of this chapter has occurred. Warning notices are typically given in instances of minor violations and/or if the corrective actions taken are immediate, consistent with an enforcement response plan.

12.60.050 Ultimate responsibility of discharger.

The standards established by this chapter are minimum standards, and do not imply that compliance by any discharger will ensure that there will not be contamination, pollution, nor unauthorized discharge of pollutants. This chapter shall not create liability on the part of the city or any city employee for any damages that result from any discharger’s reliance on this chapter or any lawful administrative decision.

12.60.060. Fees.

The amount of the fees for services and certifications provided under this chapter shall be established periodically by resolution of the city council.

12.60.070. Discharge Prohibitions.

(a) General Prohibition. Any discharge to the storm drain system not composed entirely of stormwater is prohibited, except as set forth in this chapter.

(b) It is unlawful to throw, deposit, leave, abandon, maintain or keep materials or wastes on public or private lands in a manner and place where they may result in an illicit discharge.

(c) Separately Permitted Discharges. Discharges regulated under a valid facility-specific NPDES permit or facility-specific Regional Water Quality Control Board waste discharge requirements permit not including a state general permit, shall be regulated exclusively by the Regional Water Quality Control Board and are exempt from discharge prohibitions established by this chapter, provided compliance with all relevant permit conditions is maintained to the satisfaction of the Board. Stormwater discharges at a facility with a facility specific permit which only addresses process discharges or non-stormwater discharges are not exempted.

(d) State General Permit Discharges. Stormwater discharges regulated under the state general industrial storm water permit or state general construction stormwater permit are exempt from discharge prohibitions established by this chapter, provided compliance with all relevant general permit conditions is maintained to the satisfaction of the Regional Water]

(e) Categorically Allowed Discharges. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this chapter:

- (1) Flows from riparian habitats or wetlands;
- (2) Diverted stream flows;
- (3) Flows from natural springs;
- (4) Rising ground waters;
- (5) Uncontaminated groundwater infiltration;
- (6) Pumped groundwater from drinking water aquifers; and
- (7) NPDES permitted discharges (individual or general permits).

(f) Conditionally Exempted Discharges. The following categories of non-stormwater discharges are conditionally exempt from discharge prohibitions established by this chapter. Dischargers must install, implement and maintain any specifically applicable minimum best

management practices, as set out in the NPDES Stormwater Permit (Provision C.15.b, Conditionally Exempted Non-Stormwater Discharges), so as to prevent or eliminate adverse impacts of such discharges:

- (1) Uncontaminated pumped groundwater;
- (2) Pumped groundwater from non-drinking water aquifers;
- (3) Foundation drains;
- (4) Water from crawl space pumps;
- (5) Footing drains;
- (6) Air condition condensate;
- (7) Irrigation water;
- (8) Landscape irrigation;
- (9) Lawn or garden watering;
- (10) Individual residential car washing;
- (11) Swimming pool, hot tub, spa and fountain water; and
- (12) Emergency discharges of water and foam that are the result of firefighting, unauthorized hydrant openings, natural or man-made disasters (e.g., earthquakes, floods, wildfires, accidents, terrorist actions).

(g) On-Site Wastewater Systems. Discharges to the subsurface from permitted properly functioning on-site wastewater systems are not prohibited by this chapter.

(h) Exemptions Not Absolute. Any discharge category described above that is a significant source of pollutant to waters of the United States shall be prohibited from entering the storm drain system, or shall be subjected to a requirement to implement additional best management practices to reduce pollutants in the discharge to the maximum extent practicable. Such prohibitions shall be effective on a schedule specified by an authorized enforcement official in a written notice to the discharger. The schedule may take into account the nature and severity of any effects caused by the discharge; and the time required to design, engineer, fund, procure, construct and make appropriate best management practices operational.

(i) Non-Stormwater Discharge. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the state of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all

requirements of the permit, waiver, or order and other applicable laws and regulations. The authorized enforcement official may exempt in writing other non-stormwater discharges which are not a source of pollutants to the storm drain system upon approval by the executive officer of the San Francisco Bay Regional Water Quality Control Board.

12.60.080. Wastewater discharges containing copper or copper-based chemicals.

Discharges to the storm drain collection system from the following activities are prohibited. Discharges to landscaping or to the sanitary sewer system (with approvals from the Sunnyvale Water Pollution Control Plant) are allowed.

- (a) Discharges of wastewater generated during the installation, cleaning, treating, and washing of copper architectural features, including copper roofs.
- (b) Discharges of water from pools (including connection for filter backwash), spas, fountains and water features that contain copper-based chemicals.

12.60.090. Prohibition of illegal connection.

- (a) The construction, use, maintenance, or continued existence of illegal connections to the storm drain system is prohibited.
- (b) The authorized enforcement official may, by written notice, require a person responsible for an illegal connection to the storm drain system to eliminate or to secure approval for the connection within a specified time.

12.60.100. False statements.

It is unlawful knowingly to make or present to the city any false statement, representation, record, report, plan or other document, with regard to any requirements of this chapter.

12.60.110. Compliance with NPDES stormwater permit.

Any person subject to an industrial or construction activity general NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance may be required in a form acceptable to the authorized enforcement official prior to or as a condition of the approval of a subdivision map, site plan, building permit, development or improvement plan; upon inspection of the facility and/or during any enforcement action.

12.60.120. Stormwater pollution reduction.

All applicants for permits pertaining to the planning, design, and construction of all projects subject to this chapter shall design and implement stormwater best management practices so as to reduce stormwater pollution to the maximum extent practicable. Such projects shall utilize standards and guidelines set forth in the BMP Guidance Manual, as revised, and shall incorporate the numeric sizing criteria for best management practices set forth in this chapter.

12.60.130. Stormwater treatment requirements—Applicability.

Specific stormwater treatment requirements or source control measures, as set forth in this chapter, are mandated for certain categories of new and redevelopment projects based upon the amount of impervious area created, added, or replaced by a project. Stormwater treatment requirements shall apply to the following types of projects: development and redevelopment projects, including large single family homes (Section 12.60.140); road projects (Section 12.60.150); road reconstruction projects (Section 12.60.160) and required site design measures for small projects and single-family homes (Section 12.60.180).

12.60.140. Development and redevelopment projects—Regulated projects.

(a) Development Projects. All new development projects that create five thousand square feet or more of impervious surface collectively over the entire project site, including commercial, industrial, residential housing subdivisions (e.g., detached single-family home subdivisions, multifamily attached subdivisions such as townhomes, condominiums and apartments), mixed-use, and public projects, including sidewalks and any other portions of the public right of way that are developed or redeveloped as part of the project. This category includes development projects on public or private land that fall under the planning and building authority of the city. This category also includes detached single-family homes that create ten thousand square feet or more of impervious surface collectively over the entire project site, including sidewalks and any other portions of the public right of way that are developed or redeveloped as part of the project. Construction of a detached single-family home project that creates less than ten thousand square feet of impervious surface and that is not part of a larger plan of development, with the incorporation of appropriate pollutant source control and design measures and using landscaping to treat runoff from roof and house associated impervious surfaces, is specifically excluded from the requirements of this section.

(b) Redevelopment Projects.

(1) Redevelopment projects that create and/or replace five thousand square feet or more of impervious surface collectively over the entire project site, including commercial, industrial, residential housing subdivisions (e.g., detached single-family home subdivisions, multifamily attached subdivisions such as townhomes, condominiums and apartments), mixed-use, and public projects, (other than public road and trail projects), including sidewalks and any other portions of the public right of way that are developed or redeveloped as part of the project. Redevelopment is any land-disturbing activity that results in the creation, addition, or replacement of exterior impervious surface areas on a site on which some past development has occurred. This category includes redevelopment projects on public or private land that falls under the planning and building authority of the city. This category also includes detached single-family homes that create and/or replace ten thousand square feet or more of impervious surface collectively over the entire project site, including sidewalks and any other portions of the public right of way that are developed or redeveloped as part of the project. Redevelopment of a detached single-family home project that is not part of a

larger plan of development and that creates and/or replaces less than ten thousand square feet of impervious surface, with the incorporation of appropriate pollutant source control and design measures and using landscaping to treat runoff from roof and house associated impervious surfaces, is specifically excluded from the requirements of this section..

(2) Alterations Exceeding Fifty Percent. Where a redevelopment project results in an alteration of more than fifty percent of the impervious surface of a previously existing development that was not previously subject to the requirements of Chapter 12.60, the entire project consisting of all existing, new and/or replace impervious surfaces must be included in the treatment system design so that the stormwater treatment systems are designed and sized to treat stormwater from the entire redevelopment project.

(3) Alterations Less than Fifty Percent. Where a redevelopment project results in an alteration of less than fifty percent of the impervious surface of a previously existing development that was not subject to the requirements of Chapter 12.60, only the new and/or replaced impervious surface of the project must be included in the treatment design system so that the stormwater treatment systems are designed and sized to treat stormwater runoff from the new and/or replaced impervious surface of the project.

(4) Pavement Maintenance. The requirements for redevelopment projects include the following pavement maintenance activities on a property, either separate from or included within a development or redevelopment project:

(A) Removing and replacing an asphalt or concrete pavement to the top of the base course or lower, or repairing the pavement base (including repair of the pavement base in preparation for bituminous surface treatment, such as chip seal), as these are considered replaced impervious surfaces;

(B) Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders, as these are considered new impervious surfaces; and

(C) Resurfacing by upgrading from dirt to gravel, to a bituminous surface treatment (e.g., chip seal), to asphalt, or to concrete; or upgrading from gravel to a bituminous surface treatment, to asphalt, or to concrete, as these are considered new impervious surfaces.

(c) Specific Exclusions. The following practices are excluded from the requirements of Section 12.60.140.

(1) Interior remodels.

(2) Routine maintenance or repair such as roof or exterior wall surface replacement.

(3) The following pavement maintenance practices:

- (A) Pothole and square cut patching;
 - (B) Overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage;
 - (C) Shoulder grading;
 - (D) Reshaping/regrading drainage systems;
 - (E) Crack sealing;
 - (F) Pavement preservation activities that do not expand the road prism;
 - (G) Upgrading from a bituminous surface treatment (e.g., chip seal) with an overlay of asphalt or concrete, without expanding the area of coverage;
 - (H) Applying a bituminous surface treatment to existing asphalt or concrete pavement, without expanding the area of coverage;
 - (I) Vegetation maintenance;
 - (J) Layering gravel over an existing gravel road, without expanding the area of coverage.
- (4) Public works projects, including sidewalk gap closures, sidewalk section replacement, and ADA curb ramps, that create and/or replace less than five thousand contiguous square feet of impervious surface.

(d) Applicability. Any pending Regulated Project that has not yet been approved as of June 30, 2023, and for which a Permittee has no legal authority to require new requirements under Government Code sections 66474.2 or 65589.5., subd. (o), is subject to the requirements in NPDES Permit Order R2 2009-0074, NPDES Permit No. CAS612008, October 14, 2009, effective December 1, 2009.

12.60.150. New or widening road projects—Regulated projects.

Any of the following types of road projects that create five thousand square feet or more of newly constructed contiguous impervious surface and that fall under the building and planning authority for the city:

- (a) Construction of new streets or roads, including sidewalks and bicycle lanes built as part of the new streets or roads;
- (b) Widening of existing streets or roads with additional traffic lanes.
 - (1) Where the addition of traffic lanes results in an alteration of less than fifty percent of the existing street or road that was not subject to Chapter 12.60, only the

new and/or replaced impervious surface of the project must be included in the treatment system design so that the stormwater treatment systems are designed and sized to treat stormwater from only the new traffic lanes. However, if the stormwater runoff from the existing traffic lanes and the added traffic lanes cannot be separated, any onsite treatment system must be designed and sized to treat stormwater runoff from the entire street;

- (2) Where the addition of traffic lanes results in an alteration of more than fifty percent of the existing street or road that was not subject to Chapter 12.60, the entire project, consisting of all existing, new, and/or replaced impervious surface of the project must be included in the treatment system design.
- (c) Construction of impervious trails that are greater than or equal to ten feet wide or are creekside (within fifty feet of the top of bank);
- (d) Specific exclusions to subsections (a) through (c) are:
 - (1) Sidewalks built as part of new streets or roads and built to direct stormwater to adjacent vegetated areas,
 - (2) Bicycle lanes that are built as part of new streets or roads, but are not hydraulically connected to new streets or roads and that direct stormwater to adjacent vegetated areas,
 - (3) Impervious trails built to direct stormwater runoff to adjacent vegetated areas, or non-erodible permeable areas, preferably away from creeks or toward the outboard sides of levees, where those areas are at least half as large as the contributing impervious surface area,
 - (4) Sidewalks, bicycle lanes, or trails constructed with permeable surfaces such as pervious concrete, porous asphalt, unit pavers, and granular materials (excluding gravel surfaces, since they are considered impervious).
 - (5) CalTrans highway projects and associated facilities.

12.60.160. Road reconstruction—Regulated projects.

Road projects that involve the reconstruction of existing streets or roads (including roads built on levees), which create and/or replace one contiguous acre or more of impervious surface and that are public road projects and/or fall under the building and planning authority of the City, including sidewalks and bicycle lanes that are built or rebuilt as part of the existing streets or roads. This Regulated Project category includes utility trenching projects which are - on average, over the entire length of the project - greater than or equal to 8 feet wide. Pavement maintenance practices listed in Section 12.60.140 are included if they create and/or replace one contiguous acre or more of impervious surface.

(a) Where the reconstruction project results in an alteration of less than fifty percent of the existing street or road that was not subject to Chapter 12.60, only the new and/or replaced impervious surface of the project must be included in the treatment system design so that the stormwater treatment systems are designed and sized to treat stormwater from only the new and/or replaced impervious areas. However, if the stormwater runoff from the existing and replaced impervious areas cannot be separated, any onsite treatment system must be designed and sized to treat stormwater runoff from the entire street or road;

(b) Where the reconstruction project results in an alteration of more than fifty percent of the existing street or road that was not subject to Chapter 12.60, the entire project, consisting of all existing, new, and/or replaced impervious surface of the project must be included in the treatment system design.

(c) Road reconstruction projects that cannot comply with the numeric sizing requirements in Section 12.60.220 due to area or cost constraints, may use the alternate sizing criteria included in the Guidance for Sizing Green Infrastructure Facilities in Street Projects approved by the Water Board on June 21, 2019, and included in the City's BMP Guidance Manual.

12.60.170. Special Projects—Regulated Project which may qualify for use of non-LID treatment measures.

(a) Special Projects – Certain Regulated Projects that are smart growth, high density, and affordable housing projects that may be allowed to use specific types of non-LID treatment, if the use of LID treatment is first evaluated and determined to be infeasible by the City. The project applicant shall submit documentation to show where and why the use of LID treatment is infeasible and the non-LID treatment measures proposed for use based on the characteristics of the project.

(b) Special Projects may use the following two types of non-LID treatment systems:

- (1) Tree-box-type high flowrate biofilters
- (2) Vault-based high flowrate media filters.

(c) The three categories of Special Projects are:

- (1) Category A: Small Infill Projects (projects that create less than or equal to one-half acre of impervious surface)
- (2) Category B: High Density Projects (projects that create less than or equal to two acres of impervious surface)
- (3) Category C: Affordable Housing Projects

(d) Specific criteria for each of the three categories of Special Projects that dictate the amount of runoff on the site that can be treated with non-LID treatment measures are provided in the City's BMP Guidance Manual.

12.60.180. Required site design measures for small projects and smaller single-family home.

All development projects subject to approvals and/or permits issued by the planning or building divisions which create or replace two thousand five hundred square feet or more and less than five thousand square feet of impervious surface and smaller detached single-family home projects that create and/or replace two thousand five hundred square feet or more of impervious surface and less than ten thousand square feet of impervious surface will install one or more of the following site design measures:

- (a) Direct roof runoff into cisterns or rain barrels for reuse;
- (b) Direct roof runoff onto vegetated areas;
- (c) Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- (d) Direct runoff from driveways or uncovered parking areas/lots onto vegetated areas;
- (e) Construct sidewalks, driveways, and/or patios with permeable surfaces;
- (f) Construct bike lanes, driveways, and/or uncovered parking lots or areas with permeable surfaces.

12.60.190. Site design measures for nonregulated project.

All new development and redevelopment projects subject to planning, building, development, or other comparable reviews by the city, but not meeting the definition of regulated project are encouraged to include adequate site design measures that include minimizing land disturbance and impervious surfaces. These may include clustering of structures and pavement; directing roof runoff to vegetated areas, use of micro-detention, including distributed landscape-based detention of stormwater, preservation of open space and/or restoration of riparian areas or wetland as project amenities.

12.60.200. Trash load reductions to storm drain collection system.

All regulated projects will install full trash capture devices to collect litter and debris from their project site, prior to connecting to the city's storm drain collection system.

- (a) Full trash capture devices that have been approved as meeting the standards set by the San Francisco Bay Regional Water Quality Control Board will be deemed as satisfactory for meeting this requirement. A list of approved devices and their manufacturers is available from the community development department or the city's BMP Guidance Manual.

(b) Installed full capture trash devices will be maintained by the property owner for the life of the project, following the manufacturer's recommendations for maintenance.

12.60.210. Stormwater management plan required.

(a) All applications for any city permit or approval required for land disturbance activities, construction, development or significant redevelopment for any regulated project subject to this chapter, including, but not limited to, use permits, specials development permits, grading permits, variances, landscape plans, design review, parcel maps or tentative maps, applicable building permits, or applicable encroachment permits, must include a stormwater management plan.

(b) The stormwater management plan shall be accompanied by plans and related documentation demonstrating how the requirements of this chapter will be met, and the permit or approval shall not be granted unless the authorized enforcement official determines that the plan complies with the requirements of this chapter.

(c) At the discretion of the authorized enforcement official, the stormwater management plan shall include, but is not limited to, the following:

- (1) Name and address of regulated project;
- (2) Responsible operator(s) of each treatment system and hydromodification (HM) control (if any);
- (3) A description of activities and pollutant sources;
- (4) Specific descriptions of the locations (or a map showing locations) of the installed stormwater treatment system(s) and HM controls (if any);
- (5) Description of the type and size of the installed stormwater treatment systems and HM controls, if applicable;
- (6) Description of applicable operation and maintenance procedures, including recommended inspections, for all structural best management practices/installed stormwater treatment systems, as recommended by the manufacturer or as referenced in the city's Stormwater BMP Guidance Manual;
- (7) Description of record keeping and internal procedures to ensure documentation and verification of applicable operational maintenance procedures. These records shall remain available for a period of at least three years;
- (8) A completed stormwater management plan data form;
- (9) A copy of the required third party certification for the regulated projects adherence to the numeric sizing criteria for stormwater treatment systems; and

(10) Property owners shall ensure that onsite, joint, or offsite stormwater treatment system(s) and HM controls installed to meet the requirements for regulated projects are properly operated and maintained for the life of the project pursuant to Section 12.60.280 agreement to maintain best management practices.

(A) In cases where the property owner for a stormwater treatment system or HM control has worked diligently and in good faith with the appropriate state and federal agencies to obtain approvals necessary to complete maintenance activities for the treatment system or HM control, but the approvals are not granted, the property owner will be considered to be in compliance with subsection (c)(10).

(B) Constructed wetlands installed by regulated projects for urban runoff treatment shall abide by the San Francisco Bay Regional Water Quality Control Board's Resolution No. 94-102: Policy on the Use of Constructed Wetlands for Urban Runoff Pollution Control and the operations and maintenance requirements contained therein.

12.60.220. Numeric sizing criteria for treatment systems.

(a) Treatment best management practices for regulated projects shall incorporate the following hydraulic sizing design criteria to treat stormwater runoff.

(1) Volume Hydraulic Design Basis. Treatment best management practices whose primary mode of action depends on volume capacity shall be designed to treat stormwater runoff equal to:

(A) The maximized stormwater quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998), pages 175 through 178 (e.g., approximately the eighty-fifth percentile twenty-four hour storm runoff event); or

(B) The volume of annual runoff required to achieve eighty percent or more capture, determined in accordance with the methodology set forth in Section 5 of the CASQA Stormwater Best Management Practices Handbook, New and Redevelopment (2003), or most recent edition, using local rainfall data.

(2) Flow Hydraulic Design Basis. Treatment best management practices whose primary mode of action depends on flow capacity shall be sized to treat:

(A) Ten percent of the fifty-year peak flow rate; or

(B) The flow of runoff produced by rain equal to at least two times the eighty-fifth percentile hourly rainfall intensity for the applicable area, based on

historical records of hourly rainfall depths (for Sunnyvale this is equivalent to 0.17 inches per hour); or

(C) The flow of runoff resulting from rain equal to at least two-tenths of an inch per hour intensity.

(3) Combination Flow and Volume Design Basis. Treatment systems that use a combination of flow and volume capacity shall be sized to treat at least eighty percent of the total runoff over the life of the project, using local rainfall data.

12.60.230. Low impact development (LID) requirements.

The goal of LID is to reduce runoff and mimic a site's predevelopment hydrology by implementing specific practices to control sources of potential pollution and site design strategies to treat stormwater. All regulated projects shall implement the following LID requirements:

(a) All regulated projects shall implement source control measures onsite that at a minimum, shall include the following:

(1) Implement source control measures on site to address the following potential discharges and minimize stormwater pollutants of concern. These control measures may include plumbing the following discharges to sanitary sewer lines, pending approval by the city;

(A) Discharges from floor mat, equipment, hood filter wash racks or covered outdoor wash racks for restaurants,

(B) Drips from covered trash dumpsters, food waste containers, and compactor enclosures,

(C) Discharges from covered outdoor wash areas for vehicles, equipment, and accessories,

(D) Swimming pool, spa, hot tub, or water feature discharges if discharge on site to vegetated areas is not a feasible option,

(E) Fire sprinkler test water, if on site discharge to vegetated areas is not a feasible option;

(2) Include properly designed covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair or maintenance bays and fueling areas;

(3) Include properly designed trash storage areas that are covered with any drains in the area connected to the sanitary sewer lines, pending approval by the city;

- (4) Include landscaping that minimizes irrigation and runoff, promotes surface infiltration, minimizes the use of pesticides and fertilizers and incorporates sustainable landscaping practices;
 - (5) Include efficient irrigation systems; and
 - (6) Include storm drain stenciling or signage that includes the message “No Dumping, Flows to Bay” or equivalent.
- (b) Each regulated project shall, at a minimum, implement the following site design strategies on-site:
- (1) Limit disturbance of natural water bodies and drainage systems; minimize compaction of highly permeable soils, protect slopes and channels, minimize impacts from stormwater and urban runoff on the biological integrity of natural drainage systems and water bodies;
 - (2) Conserve natural areas, including existing trees, other vegetation, and soils;
 - (3) Minimize impervious surfaces;
 - (4) Minimize disturbances to natural drainages; and
 - (5) Minimize stormwater runoff by implementing one or more of the following site design measures:
 - (A) Direct roof runoff into cisterns or rain barrels for reuse,
 - (B) Direct roof runoff into vegetated areas,
 - (C) Direct roof runoff from sidewalks, walkways and/or patios onto vegetated areas,
 - (D) Direct runoff from driveways and/or uncovered parking lots onto vegetated areas,
 - (E) Construct sidewalks, walkways and/or patios with permeable surfaces,
 - (F) Construct driveways, bike lanes, and/or uncovered parking lots with permeable surfaces.
- (c) Effective December 1, 2011, all regulated projects are required to treat one hundred percent of the amount of runoff using the criteria identified in Section 12.60.220 for the regulated project’s drainage area with LID treatment measures onsite or with LID treatment measures at a joint stormwater treatment facility.

- (1) LID treatment measures are defined as stormwater harvesting and re-use, infiltration, evapotranspiration, or biotreatment;
- (2) Biotreatment systems shall be designed to have a surface area no smaller than what is required to accommodate a five inches per hour stormwater runoff surface loading rate. The planting and soil media for biotreatment systems shall be designed to sustain plant growth and maximize stormwater runoff retention and pollutant removal. Biotreatment systems shall use biotreatment soil media that meets the minimum specifications set forth in the Revised Model Biotreatment Soil Media Specifications approved by the Regional Water Quality Control Board on April 18, 2016 (and any subsequent revisions). These specifications are incorporated into the city's Stormwater BMP Guidance Manual.;
- (3) Green roofs installed at Regulated Projects may be considered biotreatment systems if they meet the following minimum specifications:
 - (A) The green roof system planting media shall be sufficiently deep to provide capacity within the pore space of the media for the required runoff volume specified in Section 12.60.220.
 - (B) The green roof system planting media shall be sufficiently deep to support the long-term health of the vegetation selected for the green roof, as specified by a landscape architect or other knowledgeable professional.

12.60.240. Hydromodification management (HM) requirements—Applicability.

- (a) Requirement. Stormwater discharges from any HM project shall be designed and maintained so they shall not cause an increase (over the pre-project existing condition) in the erosion potential of the stream into which they flow. Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks, silt pollutant generation, or other adverse impacts on beneficial uses due to increased erosive force. All applicants are required to comply with the standards and performance criteria and requirements set forth in the key elements (e.g., Range of Flows to Control, Goodness of Fit Criteria, Precipitation Data, and Calculations for Post-Project Runoff) of the HM requirements for Santa Clara County as described in Provision C.3.g Hydromodification Management and Attachment F as adopted in the NPDES Stormwater Permit. A copy of the HM requirements may be obtained from the city's planning division and is available in the city's Stormwater BMP Guidance Manual.
- (b) Applicability. All new and redevelopment project that create or replace one acre or more of impervious surface shall implement the hydromodification controls and standards as described in subsection (a). The following projects are exempt from HM compliance:

- (1) Projects that do not create an increase in impervious surface over pre-project conditions;
- (2) Projects located within areas that drain to stream channels within the tidally influenced area. Such areas are shown in the HM zone map included in the city's BMP Guidance Manual;
- (3) Projects located within areas that drain to non-earthened stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area. Such areas are depicted in the city's BMP Guidance Manual HM maps;
- (4) Projects draining to Sunnyvale East or West Channels. Such areas are depicted in the city's BMP Guidance Manual HM maps;
- (5) Projects draining to an underground storm drain that discharges directly to San Francisco Bay;
- (6) Projects that demonstrate, upon completion of stream-specific and modeling studies that are consistent with the method identified in the HM requirements in provision C.3.g and Attachment F of the NPDES stormwater permit and its supporting technical documents, that there will be no increase in potential for erosion or other adverse impact to beneficial uses to any state waters;
- (7) Projects less than one acre and that are located in the HM applicable areas as depicted in the city's HM maps in the BMP Guidance Manual are encouraged, but not required, to implement HM requirements.

12.60.250. Design standards concerning flooding.

Except as this chapter may specifically exempt, every best management practice required to be implemented in new development or redevelopment shall not, by its construction, operation, maintenance, or lack thereof, lead to or cause flooding.

12.60.260. Alternative certification of adherence to numeric sizing criteria for stormwater treatment systems.

The authorized enforcement official may accept or require a signed certification from a civil engineer or a licensed architect or landscape architect registered in the state of California that the numeric sizing for stormwater treatment systems and/or hydromodification management (HM) facilities meets the hydraulic sizing design requirements of this chapter and the established criteria of the NPDES Stormwater Permit. Each certifying person shall establish to city's satisfaction that such person has been trained on best management practice design for water quality not more than three years prior to the signature date, and that each certifying person understands the groundwater protection principles applicable to the project site. Any consultant hired to design and/or construct a stormwater treatment system for a regulated project shall not be the certifying person for the project. Training conducted by an organization

with stormwater treatment best management design expertise such as a university, the American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, California Water Environment Association, Bay Area Stormwater Management Agencies, National Association of Flood and Stormwater Management Agencies, California Stormwater Quality Association, or the equivalent, may be considered qualifying.

12.60.270. Infiltration treatment measures.

In order to protect groundwater from pollutants that may be present in urban runoff, treatment best management practices that function primarily as stormwater infiltration devices, with no underdrain, must meet, at a minimum, the following conditions:

- (a) Pollution prevention and source control best management practices shall be implemented at a level appropriate to protect groundwater quality at sites where infiltration devices are to be used. This includes a minimum of two feet of suitable soil to achieve a maximum of five inches per hour infiltration rate for the infiltration system.
- (b) Infiltration devices shall not be placed in the vicinity of known contamination sites unless it has been demonstrated that increased infiltration will not increase leaching of contaminants from soil, alter groundwater flow conditions affecting contaminant migration in groundwater or adversely affect remedial activities.
- (c) Use of infiltration devices shall not cause or contribute to degradation of groundwater quality at applicable sites or of groundwater quality objectives.
- (d) Infiltration devices shall be adequately maintained to maximize pollutant removal capabilities.
- (e) The vertical distance from the base of any infiltration device to the seasonal high groundwater mark shall be at least ten feet. A greater separation from the high groundwater mark may be required. In locations which are characterized by highly porous soils and/or a high groundwater table, for such areas best management practices approvals will be subject to a higher level of analysis (e.g., considering the potential for pollutants such as on-site chemical use, the level of pretreatment to be achieved, and similar factors in the overall analysis of groundwater safety).
- (f) Unless stormwater is first treated by a means other than infiltration, infiltration devices shall not be employed for areas of industrial or light industrial activity; are as subject to high vehicular traffic (twenty-five thousand or greater average daily traffic on main roadway or fifteen thousand or more average daily traffic on any intersecting roadway); automotive repair shops, car washes; fleet storage areas (e.g., bus, truck); nurseries; and other high threat to water quality land uses and activities as designated by city.
- (g) Infiltration devices shall be located a minimum of two hundred fifty feet horizontally from any water supply wells and one hundred feet from any septic systems or underground

storage tanks with hazardous materials. A greater separation may be required in locations which are characterized by highly porous soils and/or a high groundwater table. For such areas, best management practice approvals will be subject to a higher level of analysis that considers the potential for pollutants such as on-site chemical use, the level of pretreatment to be achieved, and similar factors in the overall analysis of groundwater safety.

12.60.280. Agreement to maintain best management practices.

(a) Every person applying for a city planning or building permit to construct any new development or redevelopment project subject to this chapter, shall agree in writing to properly maintain any HM control, stormwater structural control, treatment system, and/or best management practices to be implemented at the project. Such agreement shall be through means such as a covenant running with the land, enforceable conditions of approval, or other legal agreement. The agreement shall provide access to the extent allowable by law for representatives of city, the local vector control district, and the Regional Water Quality Control Board, strictly for the purposes of performing operation and maintenance inspections of the installed stormwater treatment systems, best management practices, and/or HM controls (if any). The agreement shall be recorded in the office of the county recorder, shall remain in force, and upon transfer, shall be binding on the new owner(s).

(b) Any land owner of a property which has been required by this chapter to construct or install and maintain such best management practices shall, upon transferring ownership of such property, provide the new owners with a current copy of this chapter, and shall inform the new owners in writing of their obligation to properly operate and maintain such stormwater treatment and/or source control best management practice.

12.60.290. Submission of revised stormwater management plan.

(a) An authorized enforcement official may require a discharger who has previously received approval of a stormwater management plan, to prepare and submit a revised stormwater management plan for approval if any of the following occurs:

- (1) the project was not constructed according to the approved plans; or
- (2) the plan as constructed is not adequate for the site; or
- (3) the site is not adequately maintained; or
- (4) is a significant source of contaminants to the storm drain system.

(b) The revised stormwater management plan shall identify the stormwater treatment controls, best management practices, and/or HM controls that will be used by the discharger to prevent or control pollution of stormwater to the maximum extent practicable.

(c) If the activity at issue is a construction or land disturbance activity, the revised plan submitted to the city shall at a minimum meet the requirements of the Statewide NPDES Construction General Permit Order 2009-0009 DWQ or as subsequently amended.

(d) Whenever submission of a stormwater management plan or a revised stormwater management plan is required pursuant to this chapter, any authorized enforcement staff may use the City of Sunnyvale Stormwater Quality BMP Guidance Manual and/or the CASQA Stormwater BMP Handbooks to assess the adequacy of the proposed plan.

12.60.300. Best management practices and CASQA Stormwater Best Management Practice Handbook incorporated.

The BMP Guidance Manual and CASQA Stormwater Best Management Practice Handbook are incorporated by reference into this chapter. The authorized enforcement official may from time to time revise or add to such manual to comply with NPDES requirements and stay current with technology and best management practices.

12.60.310. Minimum best management practices and source control measures for all dischargers.

The director may require submission of information to evaluate the implementation and/or require the implementation of best management practices (BMPs), including, but not limited to, the following:

(a) Minimum Best Management Practices. All dischargers must implement and maintain at least the following minimum best management practices:

Appropriate BMPs will be implemented to prevent pollutant sources from entering the city's storm drain collection system that are associated with outdoor process and manufacturing areas, outdoor material storage areas, outdoor waste storage and disposal areas, outdoor vehicle and equipment storage and maintenance areas, outdoor parking and access roads, outdoor wash areas, outdoor drainage from indoor areas, rooftop equipment, contaminated and erodible surfaces, or other sources determined by the director to have a reasonable potential to contribute to pollution of stormwater runoff.

(b) Inspection, Maintenance, Repair and Upgrading of Best Management Practices. Best management practices at staffed and unstaffed facilities must be inspected and maintained by the discharger according to manufacturer specifications, the City of Sunnyvale Stormwater Quality BMP Guidance Manual, and/or the CASQA Stormwater BMP Handbooks. These best management practices must be maintained so that they continue to function as designed. Best management practices which fail must be repaired as soon as it is safe to do so. If the failure of a best management practice indicates that the best management practices in use are inappropriate or inadequate to the circumstances, the practices must be modified or upgraded to prevent any further failure in the same or similar circumstances.

(c) Construction Site Stormwater Pollution Controls. All construction sites will implement effective erosion control, run-on and runoff control, sediment control, active treatment systems (as appropriate), good site management, and non-stormwater management through all phases of construction (including, but not limited to, site grading, building and finishing of lots) until the site is fully stabilized by landscaping or the installation of permanent erosion control measures.

(d) All applicable sites are encouraged to include adequate source control measures to limit pollutant generation, discharge and runoff. These source control measures are identified in Section 12.60.230.

12.60.320. Authority to inspect.

(a) Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever the authorized enforcement official has cause to believe that there exists, or potentially exists, in or upon any applicable site any condition which constitutes a violation of this chapter, the official may enter such premises at all reasonable times to inspect the premises, to inspect and copy records related to stormwater compliance, and to collect samples and take measurements. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the city is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(b) Whenever necessary to perform operations and maintenance verification inspections of installed full trash capture systems, stormwater treatment system(s) and HM control(s) (if any), all regulated projects shall grant site access to all representatives of the authorized enforcement official, local mosquito and vector control agency staff, and water board staff.

12.60.330. Requirement to remediate.

Whenever the authorized enforcement official finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollutants discharged to stormwater or the storm drain system, the official may require by written notice to the owner or responsible person that the pollution be remediated and the affected property restored within a specified time.

12.60.340. Failure to properly operate and maintain stormwater treatment and hydromodification management facilities.

(a) It is a violation of this code for any land owner to fail to properly operate and maintain any approved stormwater treatment facilities, hydromodification management facilities and/or source control best management practices on the owner's property.

(b) It is a further violation for any land owner to fail to follow any stormwater management plan submitted and approved by city unless a modification to the plan is later approved in

writing by the authorized enforcement official and such modification is thereafter recorded in the same manner as the original agreement.

12.60.350. Alternative compliance.

A regulated project may be allowed to provide alternative or in-lieu compliance in accordance with one of the following two options.

(a) A portion of the amount of runoff from a regulated project's drainage area required to be treated per Section 12.60.220 may be treated with LID measures on site or with LID treatment measures at a joint stormwater treatment facility, and any remaining portion of the stormwater runoff treated with LID treatment measures at an off-site project in the same watershed. The offsite LID treatment measures must provide hydraulically sized treatment in accordance with Section 12.60.220 of an equivalent quantity of both stormwater runoff and pollutant loading and achieve a net environmental benefit.

(b) A portion of the amount of runoff from a regulated project's drainage area required to be treated per Section 12.60.220 may be treated with LID treatment measures on site or with LID treatment measures at a joint stormwater treatment facility, and an equivalent amount of in-lieu fees paid to treat the remaining portion of the runoff with LID treatment measures at an off-site project. The off-site project must achieve a net environmental benefit.

(c) Off-site or regional projects must be completed within three years after the end of construction of the regulated project. The timeline for completion of an off-site or regional project may be extended for up to five years after completion of the regulated project with prior approval of the Executive Officer of the San Francisco Bay Regional Water Quality Control Board.

12.60.360. Public nuisance.

Illicit discharge, threatened illicit discharge, or any condition or act in violation of any provision of this chapter or of any order or directive of the director authorized by the provisions of said chapter is hereby declared to be a public nuisance. Such nuisance may be abated, removed or enjoined, and damages assessed therefor, in any manner provided by law.

12.60.370. Manner of notification of a violation.

(a) Warning Notice or Notice of Violation. When the director finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, or any other stormwater standard or requirement, the director may serve upon that user a verbal or written warning notice or notice of violation. The director will require corrections to occur within a reasonably short and expedient time frame commensurate with the threat to water quality. Violations that are observed by the director shall be corrected prior to the next rain event or within ten business days after the violation is first noted. If more than ten business days are required for a correction, a rationale must be provided. A rapid, temporary repair shall be

required and a longer time for implementation of more permanent solutions may be allowed if significant capital expenditures or construction is required to resolve the discharge problem.

(b) Explanation of Violation and Plan for Correction/Prevention. The director may require the submission of an explanation of the violation and a plan for the satisfactory correction and prevention thereof, within the time specified in the notice, to include specific required actions. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(c) Notice to Comply.

(1) When the director finds that a discharge or threatened discharge of non-stormwater is taking place, has been taking place, or threatens to take place, in violation of prohibitions or limitations prescribed in this chapter, the director may, at the director's discretion, also require the user to submit for approval, with such modifications as the director deems necessary, a detailed compliance time schedule of specific actions which the user shall take in order to prevent or correct a violation of code provisions or of any permit, and to take such action in accordance with such schedule.

(2) Nothing provided in this section shall limit or prohibit the city from pursuing any other remedy, legal or equitable, otherwise available to city, or from seeking sanctions in any criminal or civil action related to such discharge or potential discharge.

(d) Issuance of Cease and Desist Orders. When the authorized enforcement official finds that a discharge of stormwater has taken place or is likely to take place in violation of this chapter, the authorized enforcement official may include in the notice, an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct those persons not complying with such prohibitions, limits, requirements, or provisions to comply forthwith; comply in accordance with a time schedule set forth by the city; or take appropriate remedial or preventive action.

12.60.380. Administrative process and civil penalties.

(a) Complaint. The director may serve an administrative complaint on any person who has violated any applicable code provision. The complaint shall state:

- (1) The act or failure that constitutes the violation;
- (2) The provisions of law authorizing the civil liability to be imposed; and
- (3) The proposed civil penalty. The complaint shall be served by personal delivery or certified mail on the person subject to requirements that the director alleges were violated, and shall inform the person served that a hearing on the complaint shall be

conducted within thirty days after service, unless the person charged with the violation waives his or her right to a hearing.

(b) Civil Penalties. Civil penalties that may be imposed pursuant to Government Code Section 54740.5 are as follows:

- (1) An amount not to exceed two thousand dollars for each day for failing or refusing to furnish technical or monitoring reports;
- (2) An amount not to exceed three thousand dollars for each day for failing or refusing to timely comply with any compliance schedule established by the city;
- (3) An amount not to exceed five thousand dollars per violation for each day of violation for illicit discharges in violation of any waste discharge limitation, permit condition or requirement issued, reissued or adopted by the city; and
- (4) An amount not to exceed ten thousand dollars per gallon for discharges in violation of any suspension, cease and desist order, or other orders, or prohibition issued, reissued or adopted by the city.

(c) Lien. The amount of any civil penalties imposed under this section which have remained delinquent for a period of sixty days shall constitute a lien against the real property of the discharger from which the violation occurred resulting in imposition of the penalty. The director shall cause the amount of uncollected penalty to be recorded with the county recorder, in accordance with Section 54740.5 of the California Government Code.

12.60.390. Administrative hearing and appeals process.

(a) Hearing. Unless the person charged with the violation(s) waives his or her right to a hearing, the director or designee ("hearing officer") shall conduct a hearing within thirty days. If the hearing officer finds that the person has violated any reporting or discharge requirement of Chapters 12.04 through 12.18 herein, he or she may assess administrative penalties against the person. In determining the amount of the civil penalty, the hearing officer may take into consideration all relevant circumstances, including but not limited to the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.

(b) Appeal. Any person against whom penalties are assessed by the hearing officer may appeal the decision of the hearing officer within fifteen days of notice of the decision to the city manager. The city manager may hear the appeal or deny review of the case. If the city manager decides to hear the appeal, it shall conduct the appeal in accordance with procedures established by the council. The decision of the city manager shall be in writing and shall be final. All civil penalties imposed in accordance with this section shall be payable within thirty days of

the decision of the hearing officer; provided, that if the decision is appealed, all penalties shall be payable within thirty days after the city manager's decision on the appeal.

12.60.400. Emergency corrections.

In the event cleanup, repairs, construction, or other work is performed on any applicable site pursuant to any provision of law relating to an emergency or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, or has caused, a violation of any provision of this chapter, the person responsible for the occurrence or condition giving rise to such work, the occupant and the owner of the premises shall be liable, jointly and severally, to the city for public expenditures.

12.60.410. Judicial civil penalties.

Any person who intentionally or negligently violates any provision of this chapter shall be civilly liable to the city. The city may petition the Superior Court to impose, assess, and recover such sums.

12.60.420. Remedies cumulative.

The remedies provided for in this chapter shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the city.

Municipal Regional Stormwater Permit Link

https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0018.pdf

TABLE COMPARING EXISTING TO NEW CHAPTER 12.60

Existing Chapter 12.60	New Chapter 12.60	Comment
12.60.010. Purpose and intent	12.60.010. Purpose and intent	Updated to reflect current permit information
12.60.020. Scope and limits of chapter	12.60.020. Scope and limits of chapter	No changes
12.60.030. Administration	12.60.030. Administration	Minor revision
12.60.040. Definitions	12.60.040. Definitions	Substantially reorganized
–	(d) “Base course”	Added
(m) “Diligently pursuing”	–	Deleted
(t) “Hydromodification management (HM)”	(s) “Hydromodification management (HM)”	Minor revision
(cc) “Micro-detention”	–	Deleted
(hh) “NPDES stormwater permit”	(n)(3) “NPDES stormwater permit”	Updated references/dates
(ii) “Permeable surfaces”	(p)(1) “Permeable surfaces”	Minor revision
(kk) “Regulated projects”	(r)(3) “Regulated projects”	Redefined impervious surface thresholds: 5,000 s.f. for redevelopment and road projects; 10,000 s.f. for detached single-family home projects; including reconstruction of right-of-way or street frontage that are constructed or reconstructed as part of the development.
–	(s)(1) “Self-retaining” (s)(2) “Self-treating” (s)(3) “Special project”	Added definitions
(mm) “Special land use categories”	–	Deleted
(nn) “Storm drain system”	(s)(4) “Storm drain system”	Deleted BMP definitions
12.60.050. Ultimate responsibility of discharger.	2.60.050. Ultimate responsibility of discharger.	No changes
12.60.060. Fees	12.60.060. Fees	No changes
12.60.070. Discharge prohibitions	12.60.070. Discharge prohibitions	Revisions to conditionally exempted discharges: Delete discharges of potable water and water line and hydrant flushing, including firefighting water and foam
12.60.075. Wastewater discharges containing copper or copper-based chemicals	12.60.080. Wastewater discharges containing copper or copper-based chemicals	No changes
12.60.080. Prohibition of illegal connection.	12.60.090. Prohibition of illegal connection.	No changes

Existing Chapter 12.60	New Chapter 12.60	Comment
12.60.090. False statements.	12.60.100. False statements.	No changes
12.60.100. Compliance with NPDES stormwater permit.	12.60.110. Compliance with NPDES stormwater permit.	No changes
12.60.110. Stormwater pollution reduction.	12.60.120. Stormwater pollution reduction.	No changes
12.60.120. Stormwater treatment requirements—Applicability.	12.60.130. Stormwater treatment requirements—Applicability.	Adds large single family homes as defined in 12.60.140; delete special land use categories
12.60.121. Development and redevelopment projects—Regulated projects.	12.60.140. Development and redevelopment projects—Regulated projects.	Reduces threshold for most project types to 5,000 or more s.f. impervious area; adds sidewalks and right-of-way; adds detached single family homes that create 10,000 or more s.f. impervious surface; adds pavement maintenance if impervious area is increased; adds specific exclusions.
12.60.122. Special land use categories—Regulated projects.	—	Deleted
12.60.123. Road Projects—Regulated projects.	12.60.150. New or widening road projects—Regulated projects.	Adds addition of traffic lanes that alters more than 50% of the existing street or road; amends exclusion for impervious trails; deletes obsolete exclusions.
—	12.60.160. Road construction—Regulated projects.	New section.
—	12.60.170. Special Projects—Regulated Project which may qualify for use of non-LID treatment measures	New section.
12.60.124. Required site design measures for small projects and single-family homes.	12.60.180. Required site design measures for small projects and smaller single-family home.	Amends definitions of “smaller” projects: create/replace at least 2,500 s.f. impervious surface, but less than 10,000 s.f. for a detached s.f. home or less than 5,000 s.f. for other projects.
12.60.125. Site design measures for nonregulated project.	12.60.190. Site design measures for nonregulated project.	No changes
12.60.130. Trash load reductions to storm drain collection system.	12.60.200. Trash load reductions to storm drain collection system.	No changes
12.60.140. Stormwater management plan required.	12.60.210. Stormwater management plan required.	Minor revision

Existing Chapter 12.60	New Chapter 12.60	Comment
12.60.150. Numeric sizing criteria for treatment systems.	12.60.220. Numeric sizing criteria for treatment systems.	No changes
12.60.155. Low impact development (LID) requirements.	12.60.230. Low impact development (LID) requirements.	Amends regulations stormwater harvesting and re-use, infiltration, evapotranspiration, or biotreatment; deletes obsolete exclusions.
12.60.160. Hydromodification management (HM) requirements—Applicability.	12.60.240. Hydromodification management (HM) requirements—Applicability.	No changes
12.60.170. Design standards concerning flooding.	12.60.250. Design standards concerning flooding.	No changes
12.60.180. Alternative certification of adherence to numeric sizing criteria for stormwater treatment systems.	12.60.260. Alternative certification of adherence to numeric sizing criteria for stormwater treatment systems.	Minor revision
12.60.190. Infiltration treatment measures.	12.60.270. Infiltration treatment measures.	Minor revision
12.60.200. Agreement to maintain best management practices.	12.60.280. Agreement to maintain best management practices.	No changes
12.60.210. Submission of revised stormwater management plan.	12.60.290. Submission of revised stormwater management plan.	Minor revision
12.60.220. Best management practices and CASQA Stormwater Best Management Practice Handbook incorporated.	12.60.300. Best management practices and CASQA Stormwater Best Management Practice Handbook incorporated.	No changes
12.60.230. Minimum best management practices and source control measures for all dischargers.	12.60.310. Minimum best management practices and source control measures for all dischargers.	Adds reference to Stormwater BMP Guidance Manual.
12.60.240. Authority to inspect.	12.60.320. Authority to inspect.	Minor revision
12.60.250. Requirement to remediate.	12.60.330. Requirement to remediate.	No changes
12.60.260. Failure to properly operate and maintain stormwater treatment and hydromodification management facilities.	12.60.340. Failure to properly operate and maintain stormwater treatment and hydromodification management facilities.	No changes
12.60.300. Alternative compliance.	12.60.350. Alternative compliance.	No changes
12.60.305. Public nuisance.	12.60.360. Public nuisance.	No changes
12.60.310. Manner of notification of a violation.	12.60.370. Manner of notification of a violation.	No changes

Existing Chapter 12.60	New Chapter 12.60	Comment
12.60.315. Administrative process and civil penalties.	12.60.380. Administrative process and civil penalties.	No changes
12.60.320. Administrative hearing and appeals process.	12.60.390. Administrative hearing and appeals process.	No changes
12.60.330. Emergency corrections.	12.60.400. Emergency corrections.	No changes
12.60.350. Judicial civil penalties.	12.60.410. Judicial civil penalties.	No changes
12.60.360. Remedies cumulative.	12.60.420. Remedies cumulative.	No changes



City of Sunnyvale

Agenda Item

23-0051

Agenda Date: 5/2/2023

Tentative Council Meeting Agenda Calendar



City of Sunnyvale Tentative Council Meeting Agenda Calendar

Monday, May 8, 2023 - City Council

Study Session

23-0045 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Board and Commission Interviews

Tuesday, May 9, 2023 - City Council

Study Session

23-0046 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Board and Commission Interviews (as needed)

Tuesday, May 16, 2023 - City Council

Study Session

23-0313 5:30 P.M. SPECIAL COUNCIL MEETING (Study Session)
Review Federal Government Programs that Direct Libraries to Provide
Filtering for Internet Access

Special Order of the Day

23-0375 6:30 P.M. SPECIAL COUNCIL MEETING (Special Order of the Day)
Department of Public Safety Special Awards

23-0376 SPECIAL ORDER OF THE DAY - Lesbian, Gay, Bisexual, Transgender, and
Queer Pride Month

23-0434 SPECIAL ORDER OF THE DAY - Jewish Heritage Month

Public Hearings/General Business

23-0359 Adopt a Resolution Pursuant to California Streets and Highways Code
Section 11311 to Establish a Pedestrian Mall on the 100 Block of South
Murphy Avenue, Accept an Addendum to the 2020 Downtown Specific Plan
Environmental Impact Report for the Historic Murphy Avenue Pedestrian Mall
Project in Accordance with the California Environmental Quality Act, and
Approve Budget Modification No. 20XX in the amount of \$8700,000.

23-0224 Moffett Park Specific Plan and Final Environmental Impact Report

Thursday, May 18, 2023 - City Council

Workshop

23-0048 8:30 A.M. SPECIAL COUNCIL MEETING
Budget Workshop

Tuesday, May 23, 2023 - City Council

Public Hearings/General Business

23-0031 Selection of the Preferred Alignment of the Bernardo Avenue Undercrossing Project to be Defined as the Proposed Project for the Project for Environmental Review

23-0409 Provide Direction to the Department of Public Safety Regarding Proposed Changes to the Crossing Guard Program Budget

23-0047 Board and Commission Appointments

23-0067 Accept the Findings of the Poplar Avenue Sidewalk Study (DPW 21-04), Install a 6-foot Wide Sidewalk and 4-foot Wide Park Strip Along the East Side of Poplar Avenue Between El Camino Real and Peterson Middle School, and Install a Minimum 6-foot Wide Sidewalk on the North and South Sides of Bryant Way East of Poplar Avenue

Tuesday, June 6, 2023 - City Council

Closed Session

23-0231 5 P.M. SPECIAL COUNCIL MEETING (Closed Session)
Closed Session Held Pursuant to California Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATORS
Agency designated representatives: Tina Murphy, Director of Human Resources
Employee organization: Sunnyvale Managers Association (SMA)

Study Session

23-0457 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Village Centers Master Plan

Special Order of the Day

23-0074 SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Board and Commission Members

Public Hearings/General Business

23-0424 Utility Art Box Phase II

-
- 23-0425** Sunnyvale Public Art Icon Project
- 23-0452** Annual City Council Public Hearing on FY 2023/24 Budget and Resource Allocation Plan and Establishment of Appropriations Limit and Sunnyvale Financing Authority Public Hearing on FY 2023/24 Budget
- 23-0455** Annual Review of Proposed Fees and Charges for Fiscal Year 2023/24

Tuesday, June 20, 2023 - City Council

Closed Session

- 23-0503** 5 P.M. Closed Session held pursuant to California Government Code Section 54957:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager
- 23-0504** 5:30 P.M. Closed Session held pursuant to California Government Code Section 54957:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Attorney
- 23-0232** 6 P.M. SPECIAL COUNCIL MEETING (Closed Session)
Closed Session Held Pursuant to California Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATORS
Agency designated representatives: Tina Murphy, Director of Human Resources
Employee organization: Sunnyvale Managers Association (SMA)

Public Hearings/General Business

- 23-0454** City Council Adoption of the FY 2023/24 Budget, Fee Schedule and Appropriations Limit, and Sunnyvale Financing Authority Adoption of the FY 2023/24 Budget

Tuesday, June 27, 2023 - City Council

Closed Session

- 23-0505** 6:30 P.M. Closed Session Held Pursuant to California Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATORS
Agency designated representatives: Ad Hoc Committee on City Attorney Compensation
Council Members: Klein, Cisneros, Din
Unrepresented employee: City Attorney

Special Order of the Day

23-0377 SPECIAL ORDER OF THE DAY - Parks and Recreation Month

Public Hearings/General Business

23-0453 Proposed Utility Rate Increases for FY 2023/24 Rates for Water, Wastewater, and Solid Waste Utilities for Service Provided to Customers Within and Outside City Boundaries; Finding of California Environmental Quality Act (CEQA) Exemption Pursuant to Public Resource Code Section 21080(b)(8) and CEQA Guidelines Section 15273

23-0532 Citywide Objective Design Standards for Multi-family Residential and Mixed-Use Developments

Tuesday, July 11, 2023 - City Council

Special Order of the Day

23-0475 SPECIAL ORDER OF THE DAY - Disability Pride Month

Public Hearings/General Business

23-0422 Consider Converting All Part-Time Bike Lanes on Homestead Road Into Full-Time Bike Lanes

23-0442 Consider the Fourth Substantial Amendment to the 2019 Annual Action Plan to Allocate Remaining CDBG-CV Funds for Administrative Activities and Contract Management

23-0507 Consider Amending the Employment Agreement between the City of Sunnyvale and City Attorney John A. Nagel to Modify the City Attorney Salary [and/or Benefits, and Adopt a Resolution Amending the Salary Resolution Schedule of Pay to Adjust the City Attorney Salary Range]

Tuesday, July 25, 2023 - City Council

Public Hearings/General Business

23-0049 Forward a Recommendation to the Council to Adopt a Resolution Amending Chapter 1: Introduction (Environmental Justice); Chapter 6: Safety and Noise, and Chapter 7: Environmental Management (Air Quality) of the Sunnyvale General Plan

23-0513 Adopt a Resolution to Approve the Final Engineer's Report, Confirm the Assessment, and Levy and Collect an Annual Assessment for The Downtown Parking Maintenance District for Fiscal Year 2023/24

Tuesday, August 8, 2023 - City Council

Public Hearings/General Business

23-0161 2023-2031 Housing Element Adoption

23-0242 Second Quarter General Plan Initiation Requests

Tuesday, August 15, 2023 - City Council

Study Session

23-0055 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Board and Commission Interviews (as needed)

Tuesday, August 29, 2023 - City Council

Special Order of the Day

23-0378 SPECIAL ORDER OF THE DAY - National Library Card Sign-up Month

23-0379 SPECIAL ORDER OF THE DAY - POW/MIA Recognition Day

Public Hearings/General Business

23-0056 Board and Commission Appointments

Tuesday, September 12, 2023 - City Council

Special Order of the Day

23-0075 SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Board and
Commission Members

23-0380 SPECIAL ORDER OF THE DAY - Workforce Development Month

23-0381 SPECIAL ORDER OF THE DAY - Hispanic Heritage Month

Public Hearings/General Business

23-0057 Agenda Items Pending - to be scheduled

Tuesday, September 26, 2023 - City Council

Special Order of the Day

23-0383 SPECIAL ORDER OF THE DAY - Active Aging Week

23-0384 SPECIAL ORDER OF THE DAY - Arts and Humanities Month

23-0385 SPECIAL ORDER OF THE DAY - Domestic Violence Awareness Month

Public Hearings/General Business

23-0058 Agenda Items Pending - to be scheduled

Tuesday, October 10, 2023 - City Council

Special Order of the Day

23-0382 SPECIAL ORDER OF THE DAY - Breast Cancer Awareness Month

23-0386 SPECIAL ORDER OF THE DAY - Freedom from Workplace Bullies Week

23-0387 SPECIAL ORDER OF THE DAY - Cybersecurity Awareness Month

23-0388 SPECIAL ORDER OF THE DAY - National Friends of the Library Week

Public Hearings/General Business

23-0059 Agenda Items Pending - to be scheduled

Tuesday, October 24, 2023 - City Council

Special Order of the Day

23-0389 SPECIAL ORDER OF THE DAY - Picture Book Month

Public Hearings/General Business

23-0060 Agenda Items Pending - to be scheduled

Monday, November 6, 2023 - City Council

Study Session

23-0061 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Board and Commission Interviews (as needed)

Tuesday, November 14, 2023 - City Council

Study Session

23-0066 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Joint Meeting of City Council with Board and Commission Chairs and Vice
Chairs to Review and Improve Overall Effectiveness of Commission Meetings

Special Order of the Day

23-0390 SPECIAL ORDER OF THE DAY - Sunnyvale Stands United Against Hate
Week

23-0391 SPECIAL ORDER OF THE DAY - Small Business Saturday

Public Hearings/General Business

23-0062 Board and Commission Appointments

23-0243 Third Quarter General Plan Initiation Requests

Tuesday, November 28, 2023 - City Council

Special Order of the Day

23-0076 SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Board and
Commission Members

Public Hearings/General Business

23-0063 Agenda Items Pending - to be scheduled

Tuesday, December 5, 2023 - City Council

Study Session

23-0173 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Discussion of Upcoming Selection of Vice Mayor

23-0174 Discussion of 2024 Council Intergovernmental Assignments

Public Hearings/General Business

23-0064 Agenda Items Pending - to be scheduled

Tuesday, December 12, 2023 - City Council

Public Hearings/General Business

23-0065 Agenda Items Pending - to be scheduled

Tuesday, January 9, 2024 - City Council

Public Hearings/General Business

23-0175 Selection of Vice Mayor for a One-Year Term Effective January 9, 2024

23-0176 Appoint Councilmembers to Intergovernmental Assignments; Ratify
Appointments of Councilmembers made by Outside Agencies; Take Action
to Modify, Create, or Terminate Council Subcommittees

23-0178 Determine the 2024 Seating Arrangements for City Council

Tuesday, January 23, 2024 - City Council

Special Order of the Day

23-0179 SPECIAL ORDER OF THE DAY - Recognition of Outgoing Vice Mayor

23-0180 SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Vice Mayor

Public Hearings/General Business

23-0318 Annual Public Hearing-Discussion of Potential Council Study Issues and Budget Proposals for Calendar Year 2024

23-0319 Approve the Proposed 2024 Priority Advocacy Issues and Review Long-term Legislative Advocacy Positions (LAPs)

24-0001 Review the Council Policy 7.3.19 (Council Meetings) Process for City Council Colleague Memorandums to Propose new Agenda Items and Consider Amendments to the Process and/or an Extension of the Process Beyond January 31, 2024

Thursday, January 25, 2024 - City Council

Workshop

23-0068 8:30 A.M. SPECIAL COUNCIL MEETING
Strategic Planning Workshop

Tuesday, February 6, 2024 - City Council

Public Hearings/General Business

23-0244 Fourth Quarter General Plan Initiation Requests

Tuesday, February 13, 2024 - City Council

Study Session

23-0070 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Board and Commission Interviews (as needed)

Thursday, February 15, 2024 - City Council

Workshop

23-0071 8:30 A.M. SPECIAL COUNCIL MEETING
Study Issues/Budget Proposals Workshop

Tuesday, February 27, 2024 - City Council

Public Hearings/General Business

23-0072 Board and Commission Appointments

Date to be Determined - City Council

Public Hearings/General Business

23-0081 Accept Google Inc.'s Donation of Voluntary Deployment of an Innovative Pilot Traffic Signal Management System with an Estimated Construction Cost of \$3,388,214.00 and Finding of Exemption from the California Environmental Quality Act

23-0159 Adopt a Resolution Confirming the Report and Assessment List for Unpaid Administrative Citations to be Placed on the FY 2022/23 County of Santa Clara Property Tax Roll, and Find That This Action is Exempt From the California Environmental Quality Act

23-0160 Approval of Grant Funding Agreements between: 1) the City and Jay Paul for Supplemental Staff in the Community Development; and, 2) the City and Google for Supplemental Staff in the Public Works Department and authorize the City Manager to execute the agreements



City of Sunnyvale

Agenda Item

23-0052

Agenda Date: 5/2/2023

Board/Commission Meeting Minutes



City of Sunnyvale

Meeting Minutes

Planning Commission

Monday, April 10, 2023

5:30 PM

Online and Bay Conference Room
(Room 145), City Hall,
456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting: Study Session - 5:30 PM | Public Hearing - 7:00 PM

5:30 P.M. STUDY SESSION

Call to Order

Vice Chair Iglesias called the meeting to order at 5:30 PM.

Roll Call

Present: 7 - Chair Martin Pyne
Vice Chair Nathan Iglesias
Commissioner Daniel Howard
Commissioner John Howe
Commissioner Michael Serrone
Commissioner Neela Shukla
Commissioner Carol Weiss

Study Session

- A.** [23-0469](#) **Proposed Project:** Related applications on a 0.40-acre site:
 SPECIAL DEVELOPMENT PERMIT: to demolish an existing
 single-family home and construct eight condominium units within a
 three-story building.
 TENTATIVE MAP: to create eight condominiums.
Location: 444 Old San Francisco Road (APN: 211-01-031)
File #: 2020-7112
Zoning: R-4/PD (High Density Residential/Planned Development)
Applicant/Owner: S V Wzredwood Capital LLC (applicant and owner)
Environmental Review: A Class 32 Exemption relieves this project
from California Environmental Quality Act provisions.
Project Planner: Aastha Vashist, (408) 730-7458,
avashist@sunnyvale.ca.gov
- B.** [23-0497](#) **Proposed Project:** Related applications on a 0.85-acre site:
 SPECIAL DEVELOPMENT PERMIT: for the construction of 18

three-story condominium units and the retention of one single-family house (156 Crescent Avenue);

RESOURCE ALTERATION PERMIT: for the demolition of one single-family house (148 Crescent Avenue) designated as a Heritage Resource; and

TENTATIVE PARCEL MAP: to create one lot and 19 condominium units.

Location: 148 and 156 Crescent Avenue (APNs: 211-35-008 and 211-35-009)

File #: 2021-7265 and 2021-7826

Zoning: R-3/PD (Medium Density Residential / Planned Development)

Applicant / Owner: Samir Sharma (applicant) / Crescent Avenue LLC (owner)

Environmental Review: Class 32 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Momo Ishijima, (408) 730-7532, mishijima@sunnyvale.ca.gov

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Pyne called the meeting to order at 7:40 PM.

SALUTE TO THE FLAG

Chair Pyne led the salute to the flag.

ROLL CALL

Present: 7 - Chair Martin Pyne
Vice Chair Nathan Iglesias
Commissioner Daniel Howard
Commissioner John Howe
Commissioner Michael Serrone
Commissioner Neela Shukla
Commissioner Carol Weiss

ORAL COMMUNICATIONS

Andrea Wald spoke of the detrimental effects that artificial turf has on the environment and our health due to the large amount of water required to produce them and the toxic chemicals that they leach. She shared her hope that the City may ban the use of this material in residential developments and on sports fields.

Chris Martinez, union carpenter for Local 405, asked that consideration be given to labor standards for construction workers. These standards include higher wages, local hiring, apprenticeship programs, and healthcare benefits.

CONSENT CALENDAR

There were no public speakers for this agenda item.

Commissioner Howard confirmed with Administrative Aide Guia Sharma that the minutes for the Planning Commission meeting of March 27, 2023 are considered final upon approval by the Planning Commission as a Consent Calendar item.

MOTION: Commissioner Howe moved and Commissioner Howard seconded the motion to approve the Consent Calendar.

The motion carried by the following vote:

Yes: 6 - Chair Pyne
Commissioner Howard
Commissioner Howe
Commissioner Serrone
Commissioner Shukla
Commissioner Weiss

No: 0

Abstained: 1 - Vice Chair Iglesias

1. [23-0495](#) Approve Planning Commission Meeting Minutes of March 27, 2023
Approve Planning Commission Meeting Minutes of March 27, 2023 as submitted.

PUBLIC HEARINGS/GENERAL BUSINESS

2. [23-0485](#) Forward a Recommendation to the City Council to Introduce an Ordinance to Add Chapter 19.71 of Title 19 of the Sunnyvale Municipal Code Creating a Residential Tenant Protections Programs (Study Issue)

Affordable Housing Manager Ernie Defrenchi presented the staff report.

Commissioner Weiss confirmed with Affordable Housing Manager Defrenchi and Senior Assistant City Attorney Rebecca Moon that the proposed ordinance will go into effect by early to mid-June 2023 if it is approved by City Council.

Commissioner Weiss suggested that relocation expenses for no-fault evictions should be dependent on the length of a tenant's residency. She also voiced her opinion that perhaps these expenses should apply only to larger companies rather than smaller units, or duplexes, triplexes, and fourplexes in which the landlord also resides. Affordable Housing Manager Defrenchi responded that according to state law, landlords are exempt from providing tenant protections in the form of relocation if the tenant they are evicting is within the first twelve months of their lease. He added that this requirement does not apply to duplexes, including owner-occupied duplexes, or Accessory Dwelling Units (ADU).

Commissioner Serrone confirmed with Affordable Housing Manager Defrenchi that the proposed ordinance will apply to all developments regardless of how long they have had their certificate of occupancy.

Commissioner Serrone discussed with Affordable Housing Manager Defrenchi the amount of time in which a landlord must return a tenant's deposit in the event of a no-fault just cause eviction.

Commissioner Serrone asked whether notices pertaining to the proposed ordinance will be offered in languages other than English. Affordable Housing Manager Defrenchi answered that such notices will include verbiage in languages other than English which will advise the reader that the notice is important and will require interpretation by a translator.

Commissioner Serrone inquired about how many days' notice a landlord must provide a tenant they are evicting under the proposed ordinance.

Commissioner Serrone confirmed with Affordable Housing Manager Defrenchi that tenants may hire a lawyer and sue their landlord if they do not receive relocation assistance equal to two months of rent.

Commissioner Serrone and Affordable Housing Manager Defrenchi discussed feedback from the stakeholders' outreach meeting regarding the consideration of relocation assistance in the form of moving costs in the event a landlord or property owner can provide a "like unit" within a reasonable distance of the current property.

Commissioner Serrone and Commissioner Howard received clarification from Affordable Housing Manager Defrenchi regarding the applicability of tenant protections as stipulated by state law.

Vice Chair Iglesias shared his concerns regarding the negative impacts that the requirement to provide tenant protections would have upon homeowners who are not profiting significantly from their tenants' rent. Affordable Housing Manager Defrenchi responded that the Planning Commission may recommend that the relocation assistance required of applicable landlords and property owners may be equivalent to one month of rent rather than two. He added that the staff recommendation is in alignment with the requirements of neighboring jurisdictions.

Vice Chair Iglesias confirmed with Affordable Housing Manager Defrenchi that the event in which a tenant is displaced because of a landlord or property owner moving a relative into the property would be considered a no-fault just cause eviction. Affordable Housing Manager Defrenchi explained that protections for this type of eviction would apply regardless of how long a development has had a certificate of occupancy.

Commissioner Shukla proposed that the City should offer a web page or website that includes information on the proposed ordinance and lease documents that landlords may use containing verbiage associated with the proposed ordinance. Affordable Housing Manager Defrenchi stated that there is a plan in place to accommodate such a request, and he noted that community outreach meetings have been held to educate tenants, property owners, and residents about the proposed ordinance and what it entails.

Chair Pyne advocated for the comprehensibility of the proposed ordinance so that tenants may understand their rights. He asked whether the lease addendum containing information on the proposed ordinance will be made available in languages other than English. Affordable Housing Manager Defrenchi answered that while this may not be the case, the addendum will include verbiage in languages other than English which will advise the reader that the addendum is important and will require interpretation by a translator.

Vice Chair Iglesias confirmed with Affordable Housing Manager Defrenchi that the proposed ordinance would not affect tenants or landlords already in a lease.

Vice Chair Iglesias asked whether landlords might be incentivized to evict tenants prior to the completion of their twelve-month lease to avoid providing relocation assistance. Affordable Housing Manager Defrenchi answered that this is not a concern.

Chair Pyne opened the Public Hearing.

Janet Murdock, Sunnyvale resident and landlord, shared her concerns regarding the proposed ordinance and its requirement that twelve-month leases must be renewed indefinitely. She also detailed the negative impacts that this would have upon mom-and-pop fourplex owners such as herself.

Agnes Veith, Sunnyvale resident and Livable Sunnyvale Board member, emphasized the importance of providing tenant protections, commended staff on their efforts on the proposed ordinance, and urged the Planning Commission to authorize landlords to pay relocation assistance equal to two months of rent in the event of no-fault just cause evictions.

Chair Pyne closed the public hearing.

Commissioner Howard responded to earlier comments made by Vice Chair Iglesias. He also suggested that the lease addendum be made available in Spanish, if feasible. Lastly, he noted that the costs associated with relocation assistance would be proportional to the rent charged by landlords.

Commissioner Serrone asked whether a tenant and their landlord may agree to temporary relocation provisions that may contradict the relocation assistance required by the proposed ordinance. Affordable Housing Manager Defrenchi responded that this may be agreed upon as long as it is amenable to both parties.

Commissioner Serrone commented that it is worth considering different requirements depending on different property types or property owners. Affordable Housing Manager Defrenchi stated that the Planning Commission may make this recommendation if desired.

Commissioner Weiss proposed that the recommendations made by the Planning Commission exempt owner-occupied duplexes, triplexes, and fourplexes.

Vice Chair Iglesias spoke in agreement with comments made by Commissioner Serrone and Commissioner Weiss. He added that the proposed ordinance must consider the wide range of income levels across City residents.

Commissioner Shukla voiced her support of staff recommendations.

MOTION: Commissioner Howard moved and Commissioner Howe seconded the motion to approve Alternative 2 – Recommend that City Council: Introduce an Ordinance to add Chapter 19.71 (Residential Tenant Protections Ordinance) to Title 19 (“Zoning”) of the Sunnyvale Municipal Code creating a Residential Tenant Protections Programs with a modification.

The modification is stated below:

1.) If feasible, the lease addendum containing applicable information on the proposed ordinance must be made available to tenants in Spanish.

Commissioner Howard acknowledged that state law is what is informing the proposed ordinance and reiterated the importance of tenant protections when considering the better financial position that a property owner is in.

Affordable Housing Manager Defrenchi advised that the City may not require landlords to provide leases and lease addendums to their tenants in Spanish. Commissioner Howard responded that this modification be accommodated only if feasible.

Commissioner Howe noted that the proposed ordinance may negatively impact operators of smaller rental properties and inhibit others from becoming landlords.

FRIENDLY AMENDMENT: Commissioner Howe proposed a friendly amendment to specify that a tenant can agree to waive their right to relocation assistance, equal to two months of rent, in exchange for other accommodations provided by the property owner (e.g., storage for their household items, differential rental payment for temporary lodging, guarantee that the tenant may return to their unit under the same lease terms, etc.), and any such arrangement must be memorialized in a written agreement signed by the tenant and their property owner.

FORMAL AMENDMENT: Commissioner Weiss moved and Commissioner Serrone seconded the motion to exempt owner-occupied duplexes, triplexes, and fourplexes from the tenant protections requirements posed by the proposed ordinance.

Commissioner Weiss stated that there is a difference between property owners who live in the properties they rent out and large real estate investors. For this reason, she emphasized the importance of distinct requirements for tenant protections

offered by different property owners of various property types.

Commissioner Serrone spoke in agreement with comments made by Commissioner Weiss. He added that neighboring cities have a similar exemption in place already.

Commissioner Howard shared his concerns that such an exemption might further complicate the comprehensibility of the proposed ordinance especially among populations that do not speak English as a first language, if at all.

Chair Pyne voiced his agreement with concerns expressed by Commissioner Howard and stated he is not entirely in agreement with the categorization of neighboring cities.

The motion for the formal amendment failed by the following vote:

Yes: 2 - Commissioner Serrone
Commissioner Weiss

No: 5 - Chair Pyne
Vice Chair Iglesias
Commissioner Howard
Commissioner Howe
Commissioner Shukla

Chair Pyne summarized the original motion which is as follows:

MOTION: Commissioner Howard moved and Commissioner Howe seconded the motion to approve Alternative 2 – Recommend that City Council: Introduce an Ordinance to add Chapter 19.71 (Residential Tenant Protections Ordinance) to Title 19 (“Zoning”) of the Sunnyvale Municipal Code creating a Residential Tenant Protections Programs with modifications.

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two months of rent, in exchange for other accommodations provided by the property owner (e.g., storage for their household items, differential rental payment for temporary lodging, guarantee that the tenant may return to their unit under the same lease terms, etc.), and any such arrangement must be memorialized in a written agreement signed by the tenant and their property owner.

Chair Pyne spoke in support of the motion and thanked staff for the hard work they invested in the proposed ordinance which provides both tenant protections and property owner rights.

The motion carried by the following vote:

Yes: 6 - Chair Pyne
Commissioner Howard
Commissioner Howe
Commissioner Serrone
Commissioner Shukla
Commissioner Weiss

No: 1 - Vice Chair Iglesias

This recommendation will be forwarded to the City Council for consideration at the April 25, 2023 meeting.

3. [23-0357](#) **Proposed Project:** Related applications on a 3,920 square-foot site:
 DESIGN REVIEW: To allow construction of a 957 square-foot first and second-floor addition to an existing single-family home, resulting in 2,282 square feet living area (no covered parking) and 58.5% Floor Area Ratio (FAR), and
 VARIANCE: To allow 28% rear yard encroachment, where 25% maximum is permitted.
Location: 404 S. Murphy Ave. (APN: 209-26-023)
File #: 2021-7829
Zoning: DSP-10 (Downtown Specific Plan Area Block 10)
Applicant / Owner: Bay Area Project Pro / Devang and Vina Bhuv
Environmental Review: A Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.
Project Planner: Mary Jeyaprakash, (408) 730-7449, mjeyaprakash@sunnyvale.ca.gov

Senior Planner Mary Jeyaprakash presented the staff report.

Commissioner Weiss confirmed with Senior Planner Jeyaprakash that while this house is part of the Downtown Specific Plan, it does not have any historic designation.

Chair Pyne opened the Public Hearing.

Vina and Devang Bhuva (property owners) and Thanh Nguyen (Designer) presented information about the proposed project.

At Commissioner Serrone's request, Mr. Nguyen provided additional details on plans for the proposed project's basement.

Commissioner Serrone confirmed with Mr. Nguyen that, because of the proposed project's expansion of the existing property, the shed on the property will be removed.

Vice Chair Iglesias received clarification from Senior Planner Jeyaprakash about how the proposed project's side bay windows will not be removed since they are behind the required setback line.

Vice Chair Iglesias commented on the beautiful design of the proposed project and stated that he is in overall support of the proposed project.

There were no public speakers for this agenda item.

Mr. and Ms. Bhuva and Mr. Nguyen presented additional information about the proposed project.

Chair Pyne closed the Public Hearing.

MOTION: Commissioner Weiss moved and Vice Chair Iglesias seconded the motion to approve Alternative 1 – Approve the Design Review and Variance with the Recommended Conditions of Approval in Attachment 4.

Commissioner Weiss stated that findings for the Single-Family Home Design Techniques have been met and that the proposed project is aesthetically pleasing, will add to the neighborhood, and keeps the feel of the current house. She shared her hope that her fellow Commissioners will approve the motion.

Vice Chair Iglesias revealed that he is happy to support the proposed project, expressed his gratitude to staff for their explanations on the proposed project, and commented that Sunnyvale is fortunate to have Mr. and Ms. Bhuva as residents.

Commissioner Howard spoke in overall support of the proposed project due to staff's recommendations and since it has not received any objections from surrounding neighbors.

Commissioner Shukla agreed with comments made by Commissioners who spoke before her about the house being a good addition to the downtown area. She also thanked staff for their collaboration on the proposed project's great design.

Chair Pyne voiced his support of the motion, agreed that the proposed project will make a great addition to neighborhood, stated that he can make the findings to support the variance, and revealed that he looks forward to the proposed project's completion.

The motion carried by the following vote:

Yes: 7 - Chair Pyne
Vice Chair Iglesias
Commissioner Howard
Commissioner Howe
Commissioner Serrone
Commissioner Shukla
Commissioner Weiss

No: 0

This decision is final unless appealed or called up for review by the City Council by 5:00 PM on Tuesday, April 25, 2023.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

4. [23-0488](#) Proposed Study Issue for 2024: Dark Sky Ordinance for Private Residences

Commissioner Weiss presented information about the proposed study issue.

Commissioner Shukla agreed that while the study issue should be considered within the context of single-family homes, it should also be expanded to include multi-family

homes.

Commissioner Howard spoke in support of the proposed study issue and inquired about the possibility of expanding the study so that it might encompass the City in its entirety.

Planning Officer Mendrin clarified that if the proposed study issue focuses specifically on private development as opposed to City streetlights, it may be incorporated into the Single-Family Home Design Techniques and Objective Design Standards. He added that they may also explore the Dark Sky Ordinance in the context of private development. Commissioner Weiss confirmed that this was her intention when she proposed the study issue.

Commissioner Serrone confirmed with Planning Officer Mendrin that a separate study issue will need to be proposed to and processed by the City's Department of Public Works for lighting in the public right-of-way.

Commissioner Shukla confirmed with Planning Officer Mendrin that the intent of the Objective Design Standards is to inhibit subjectivity and improve clarity of the standards for developers.

Chair Pyne advised that members of the Commission may make a proposition to a Councilmember to alter the scope of the study issue at a study issue workshop.

Chair Pyne opened the Public Hearing.

Dashiell Leeds, Conservation Organizer for the Sierra Club Loma Prieta Chapter, spoke in support of the proposed study issue. He also offered recommendations pertaining to the scope of the study issue and appropriate lighting temperature and types of lighting. Lastly, Mr. Leeds provided details on the detrimental effects that artificial light has upon all species in existence.

Rani Fischer, Sunnyvale resident and volunteer with the Environmental Action Committee at the Santa Clara Valley Audubon Society, voiced her support for the proposed study issue and its expansion to include all private developments within the City. She also proposed recommendations for permissible types of lighting and lighting temperature to protect public and environmental health, safeguard the aesthetic of darkness at night, and save energy.

Chair Pyne closed the Public Hearing.

MOTION: Commissioner Howard moved and Commissioner Howe seconded the motion to sponsor the study issue to expand the Dark Sky Ordinance so that it is applicable to all private property and to include design standards in the Citywide Objective Design Standards and the Single-Family Design Standards.

Commissioner Howard spoke in favor of the proposed study issue and stated that the City Council may consider expanding its scope to include all City lighting.

Chair Pyne voiced his support of the motion and a darker sky in general since it is so impactful to public and environmental health.

Commissioner Howard shared his hope that future generations may experience a darker sky due in part to the Planning Commission's efforts.

Commissioner Shukla spoke of her support for the proposed study issue.

Commissioner Serrone stated that he is in support of the proposed study issue as it will conserve energy and preserve the health of humans and animals alike.

The motion carried by the following vote:

Yes: 7 - Chair Pyne
Vice Chair Iglesias
Commissioner Howard
Commissioner Howe
Commissioner Serrone
Commissioner Shukla
Commissioner Weiss

No: 0

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

Commissioner Howard thanked participants for their patience with the technical difficulties that occurred during the meeting. He also thanked staff for working hard to resolve the issues.

Vice Chair Iglesias commented that it was nice to meet nondigital versions of all in

attendance.

-Staff Comments

Planning Officer Mendrin echoed Commissioner Howard's remarks about staff's efforts to resolve technical difficulties that arose during the meeting.

Planning Officer Mendrin announced that the Moffett Park Specific Plan (MPSP) will be reviewed by the Planning Commission on April 24, 2023.

ADJOURNMENT

Chair Pyne adjourned the meeting at 10:04 PM.



City of Sunnyvale

Agenda Item

23-0235

Agenda Date: 5/2/2023

Information/Action Items

Date Requested	Directive/Action Required	Dept	Due Date	Completed
9/14/21	Provide to Council a copy of final encroachment permit for the Intuitive Surgical bridge over Kifer.	DPW	Sep 2023	
4/5/22	Review no right on red at the intersection of Bernardo and Fremont Ave.	DPW	Apr 2023	
5/3/22	Provide a breakdown of what the various fees are for comparable cities and for an average project what percentage of the total fees of those projects fall into each of those categories. Also, would like to get a sense of how time factors into it.	CDD	Apr 2023	
6/7/22	Work with the Mayor to prepare advocacy letters in support of the efforts of the Amah Mutsun Tribal Band to preserve Sargent Ranch/Juristac as open space.	CDD	May 2023	
12/13/22	Provide UUT audit findings with the Annual Budget Report/Workshop.	FIN	May 2023	
12/13/22	Identify and review the "unfunded" list with Council during the Budget Workshop.	FIN	May 2023	
1/10/23	Provide information on metering at the Community Center and identify if there is a way to separate water usage per facility at this location.	DPW	Jun 2023	
1/10/23	Incorporate and address Council comments when the final Community Center grounds renovation project design is presented to Council for adoption.	DPW	Nov 2023	
2/7/23	Murphy Ave. pedestrian mall items for follow up: *Evaluate the crosswalk treatments at Murphy and Evelyn. *Look for more opportunities for bike racks on or near Murphy Ave *Identify options available to make Murphy Ave. more bike friendly *Look for ways to mark the clear pedestrian zone in the center of Murphy Ave. *Provide an update on the plan for Washington when Murphy Ave. is closed to vehicles	DPW	Oct 2023	
2/7/23	Provide information on the number of accidents before and after the closure of Tasman, and a graph with the number of pedestrians and bicyclists on Tasman.	DPW	May 2023	
3/14/23	Bring back an item to consider financial support for Sunnyvale Community Services	OCM	May 2023	
4/4/23	Provide Opioid settlement information to include the process to appropriate the funds and identify what the City spent funds on.	FIN	Jun 2023	
4/25/23	Confirm if the City has a policy on facial recognition software and any use of such software.	DPS	Apr 2023	4/27/23

Date Requested	Directive/Action Required	Dept	Due Date	Completed
4/25/23	Prepare a report to Council that authorizes the City Manager to move forward with Wi-Fi in parks when below a specific dollar amount threshold.	DPW		

New Study Issues and Budget Proposals Sponsored by Council

Initial Sponsor in **Bold**.

Following approval by the City Manager, study issues papers and budget proposals are posted to:

<https://www.sunnyvale.ca.gov/your-government/governance/city-council/study-issues-and-budget-proposals/proposed-study-issues-and-budget-proposals>

Date Requested	RTC #	Study Issue/Budget Proposal Topic	Requested By	Dept	Approved by City Manager
3/14/23	23-0301	Evaluate Feasibility of an Art Crosswalks Program or Policy	Mehlinger , Klein, Din, Melton, Cisneros, Srinivasan, Sell	DPW	
4/4/23	23-0536	Determine Cost and Feasibility of Requiring Structural Retrofitting of Existing Seismically-Vulnerable Buildings within a Specific Time Frame	Cisneros , Mehlinger, Melton, Klein, Din, Sell, Srinivasan	CDD	
4/25/23		Establishment of a sanctioned encampment for unhoused individuals in Sunnyvale.	Srinivasan, Klein, Cisneros, Sell, Din	CDD	