



## **CITY COUNCIL REGULAR MEETING**

**Monday, March 07, 2022 at 4:30 PM**

94 N. Washington Street, Sonora, CA 95370

(209) 532-4541

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### **AGENDA**

**NOTICE IS HEREBY GIVEN** that the Sonora City Council will have their regular meeting on Monday, March 7, 2022 at 4:30 PM in the City of Sonora Council Chambers located at 94 N. Washington Street Sonora, CA 95370.

**NOTICE:** THIS MEETING WILL BE HELD IN ACCORDANCE WITH GOVERNMENT CODE SECTION 52953(E) AND THE CITY OF SONORA CITY COUNCIL RESOLUTION NO. 02-22-2022-B.

THIS MEETING IS PHYSICALLY OPEN TO THE PUBLIC AND MEMBERS OF THE PUBLIC MAY PARTICIPATE IN THE MEETING VIA VIDEO CONFERENCING AT:

**Zoom Meeting Link:**

<https://us06web.zoom.us/j/87460555933?pwd=UFBFZ0EyR3pjcxNXZWtXVIZLQTJoQT09>

**Dial: (253)215-8782**

**Meeting ID: 874 6055 5933**

**Passcode: 7dY809**

AND WILL BE GIVEN THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT.

THIS MEETING WILL BE OPEN TO THE PUBLIC AND WILL BE AVAILABLE VIA ZOOM. IT WILL ALSO BE LIVE STREAMED ON THE CITY'S WEBSITE AT [www.sonoraca.com](http://www.sonoraca.com).

Written comments can be submitted to be included as part of the administrative record, they will not be read during the meeting. All comments must be received by 3:00 pm on the day of the noticed meeting and can be submitted to the Deputy City Clerk at 94 N. Washington Street Sonora, CA 95370 or via email to [administration@sonoraca.org](mailto:administration@sonoraca.org).

**CLOSED SESSION** - 4:30 PM

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENTS**

**ADJOURN INTO CLOSED SESSION**

1. CONFERENCE WITH LEGAL COUNSEL - Liability Claims (Government Code Section 54956.95):  
2 Cases; Claimant: Gibson : Claimant: Koch

**RECONVENE INTO OPEN SESSION**

**OPEN SESSION** - 5:00 PM

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**CITY CLERK'S REPORT ON AGENDA POSTING**

**APPROVAL OF THE AGENDA**

**PRESENTATIONS**

- [2.](#) Receive a Tuolumne County update from District 1 Supervisor David Goldemberg.

**PUBLIC COMMENT (NON-AGENDA ITEMS)**

*The public may address the Council on any item of public interest not otherwise on the agenda that is within the jurisdiction of the City. No action may be taken. Matters to be addressed may be referred to City Staff or placed on a subsequent meeting Agenda. Speakers are limited to a three (3) minute presentation.*

*If participating via Zoom, please raise your hand using the Raise Your Hand feature or dial \*9 (\*6 to unmute).*

**CONSENT CALENDAR**

*Items on the Consent Calendar are considered routine and will be voted on in one motion unless a Council member or member of the public has a question or wishes to discuss an item. In that case, the item will be removed from the Consent Calendar and considered separately.*

- [3.](#) Approval of City Council Minutes for October 27, 2021, November 1, 2021, November 15, 2021, and December 6, 2021.
- [4.](#) Approval of disbursements in the amount of \$188,436.81 for payroll, inclusive of employee salaries, employer and employee taxes and retirement contributions, miscellaneous voluntary employee deductions, holiday pay and other adjustments, including retro-pay.

## UNFINISHED BUSINESS

5. Continuation of the discussion of the dissolution of the Social Equity Committee and, pending decision, consideration of the Committee's Draft Resolution and consideration of a mayoral appointment to the Committee with Council ratification.
6. Presentation and acceptance of the Fiscal Year 21-22 Mid-Year Budget Report and approval of related budget adjustments, capital assets and accompanied budget transfer; 4/5th vote required.
7. Adopt Resolution No. 03-07-2022-A Authorizing the City Council to enter into an agreement with the CalPERS via the California Employers' Pension Prefunding Trust (CEPPT), a Section 115 Irrevocable Trust, and delegating authority to the City Administrator and the Administrative Services Director to request disbursements.

## NEW BUSINESS

8. Consideration of award to the low bidder, United Pavement Maintenance, for the Red Church Pedestrian and Circulation Improvement Project in the amount of \$451,000 and authorize the Interim City Administrator to sign the construction agreement and all related project documents upon funding approval by the Tuolumne County Transportation Council in the amount of \$120,000 and approve the related budget transfer; 4/5th vote required.
9. Adopt Resolution No. 03-07-2022-B Calling and giving notice for the holding of a General Municipal Election to be held on Tuesday, June 7, 2022 for the election of certain officers, as required by provisions of the laws of the State of California related to general law cities; requesting the Board of Supervisors of Tuolumne County permit the County Registrar of Voters to render election services; and requesting the consolidation of said election with the statewide direct primary election held on the same date.
10. Waive reading, read by title only, and introduce for first reading Ordinance No. 882 of the City Council of the City of Sonora Amending Title 7, Integrated Waste Management, of the Sonora Municipal Code to regulate the disposal of recyclable and organic materials.

## COUNCIL MEMBER/DEPARTMENT HEAD REPORTS

## ADJOURNMENT

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator at City Hall (209) 532-4541, [meads@sonoraca.com](mailto:meads@sonoraca.com). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).*

*Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Administrator's Office at 94 N. Washington Street, Sonora, CA 95370 during normal business hours (8:00 am - 4:00 pm, Monday through Friday, excluding holidays). The agenda and supporting public documents are also available on our City website [www.sonoraca.com](http://www.sonoraca.com) listed under the agenda/minutes link on the Government page.*



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Melissa Eads, Interim City Administrator

**SUBJECT:** Supervisor David Goldemberg County Update

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### RECOMMENDATION

Receive a Tuolumne County update from District 1 Supervisor David Goldemberg.

### DISCUSSION

District 1 Supervisor Goldemberg will present an update of County-wide issues to the City Council the first meeting of each month.

### FISCAL IMPACT

None.



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Jackie Smith, Deputy City Clerk

**SUBJECT:** Meeting Minutes for October 27, 2021, November 1, 2021, November 15, 2021, and December 6, 2021.

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### RECOMMENDATION

Approval of City Council Minutes for October 27, 2021, November 1, 2021, November 15, 2021, and December 6, 2021.

### DISCUSSION

Staff recommends that the City Council approve meeting minutes for October 27, 2021, November 1, 2021, November 15, 2021, and December 6, 2021.

### FISCAL IMPACT

No fiscal impact to the General Fund.

### ATTACHMENTS

- 10-27-2021 Meeting Minutes
- 11-01-2021 Meeting Minutes
- 11-15-2021 Meeting Minutes
- 12-06-2021 Meeting Minutes



**CITY COUNCIL SPECIAL MEETING**  
**Wednesday, October 27, 2021 at 4:00 PM**  
94 N. Washington Street, Sonora, CA 95370  
(209) 532-4541

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**MINUTES**

**NOTICE IS HEREBY GIVEN** that the Sonora City Council will have a special meeting on Wednesday, October 27, 2021 at 4pm in the City of Sonora Council Chambers located at 94 N. Washington Street Sonora, CA 95370

**THIS MEETING WILL BE OPEN TO THE PUBLIC. IT WILL NOT BE AVAILABLE VIA ZOOM, HOWEVER IT WILL BE LIVE STREAMED ON THE CITY'S WEBSITE AT [www.sonoraca.com](http://www.sonoraca.com)**

**CALL TO ORDER -**

4:00 PM

Called to order at 4:00 pm.

**PLEDGE OF ALLEGIANCE**

**Mayor Pro Tem Plummer** led the Pledge of Allegiance.

**ROLL CALL**

**PRESENT**

**Councilmember Ann Segerstrom**

**Councilmember Colette Such**

**Mayor Matt Hawkins**

**Mayor Pro Tem Mark Plummer**

**ABSENT**

**Councilmember Jim Garaventa**

**PUBLIC COMMENT**

**Councilmember Garaventa** arrived late at 4:06 pm.

No public comments.

**ADJOURN INTO CLOSED SESSION**

Adjourned into Closed Session at 4:07 pm.

**1. CONFERENCE WITH LEGAL COUNSEL— ANTICIPATED LITIGATION:**

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (1 case)

**2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Title: City Attorney

**RECONVENE INTO OPEN SESSION**

Nothing to report.

**ADJOURNMENT**

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## CITY COUNCIL REGULAR MEETING

**Monday, November 01, 2021 at 4:00 PM**

94 N. Washington Street, Sonora, CA 95370

(209) 532-4541

### MINUTES

**NOTICE IS HEREBY GIVEN** that the Sonora City Council will have their regular meeting on Monday, November 1, 2021 at 4pm in the City of Sonora Council Chambers located at 94 N. Washington Street Sonora, CA 95370

**THIS MEETING WILL BE OPEN TO THE PUBLIC. IT WILL NOT BE AVAILABLE VIA ZOOM, HOWEVER IT WILL BE LIVE STREAMED ON THE CITY'S WEBSITE AT [www.sonoraca.com](http://www.sonoraca.com)**

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#### CALL TO ORDER

Called to order at 4:04 pm.

#### CLOSED SESSION -

4:00 PM

#### ROLL CALL

##### PRESENT

**Mayor Matt Hawkins**

**Council member Ann Segerstrom**

**Council member Colette Such**

**Council member Jim Garaventa**

##### ABSENT

**Mayor Pro Tem Mark Plummer**

#### PUBLIC COMMENTS

No public comments.

#### ADJOURN INTO CLOSED SESSION

Adjourned into Closed Session at 4:05 pm.

1. CONFERENCE WITH LEGAL COUNSEL - Liability Claims (Government Code Section 54956.95):  
1 Case; Claimant: Douds

The Claim was denied by unanimous vote.

2. CONFERENCE WITH LABOR NEGOTIATORS (Government Code 54957.6): Agency designated representatives: Mary Rose Rutikanga, City Administrator;

Employee Organization: Sonora Management Employees' Association.

Direction was given to staff.

## **RECONVENE INTO OPEN SESSION**

Item #1; the Claim was denied by unanimous vote.

Item #2; direction was given to staff.

## **OPEN SESSION -**

5:00 PM

Called to order at 5:02 pm.

## **PLEDGE OF ALLEGIANCE**

**Councilmember Garaventa** led the Pledge of Allegiance.

## **ROLL CALL**

### **PRESENT**

**Mayor Matt Hawkins**

**Council member Ann Segerstrom**

**Council member Colette Such**

**Council member Jim Garaventa**

### **ABSENT**

**Mayor Pro Tem Mark Plummer**

## **CITY CLERK'S REPORT ON AGENDA POSTING**

The agenda was posted on Friday, October 29, 2021, at 1:00 pm.

## **APPROVAL OF THE AGENDA**

The agenda was approved without change.

## **PRESENTATIONS**

3. Receive a Tuolumne County update from District 1 Supervisor David Goldemberg.

**Supervisor David Goldemberg** presented an update on COVID-19 statistic, the Resiliency Village, and encouraged collaboration between the City and County.

## PUBLIC COMMENT (NON-AGENDA ITEMS)

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A member of the public thanked the Council for multiple road and traffic changes and suggested another change.

A member of the public representing the Sonora Chamber of Commerce updated the Council on various Christmas Town events.

## CONSENT CALENDAR

*Items on the Consent Calendar are considered routine and will be voted on in one motion unless a Council member or member of the public has a question or wishes to discuss an item. In that case, the item will be removed from the Consent Calendar and considered separately.*

No public comment.

**Motion made by Council member Garaventa, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

4. Approval of disbursements in the amount of \$158,302.88 for payroll, inclusive of employee salaries, employer and employee taxes and retirement contributions, miscellaneous voluntary employee deductions, holiday pay and other adjustments.
5. Consideration to Adopt Resolution No.11-01-2021-C Rejecting the Finding of an Industrial Disability Retirement Pursuant to Government Code Section 21156.

## UNFINISHED BUSINESS

6. Consideration to ratify 2 members of the public to the Vision Sonora Committee.

Councilmembers discussed.

No public comments.

**Motion made by Council member Such, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

7. Consideration to accept the 2021 Rural Fire Capacity Grant Application in the amount of \$39,884.00 and approved Resolution 11-01-2021-A authorizing the City Administrator to sign and execute the agreement.

**Fire Chief Aimee New** presented this item to the Council and asked for its approval.

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

8. Consideration to waive second reading and adopt Ordinance No. 881, an ordinance of the City Council of the City of Sonora amending Chapter 8.30.030 "Emergency Services Director, Assistant, and Coordinator – Office Created"; Section 8.30.40 "Line of Succession"; Section 8.30.060 "Authority, Control and Management of Resources during State of Local Emergency"; and Section 8.30.080 "Responsibility for Emergency Services Program within the City."

**City Administrator Mary Rose Rutikanga** presented and detailed this item to the Council.

Councilmembers discussed.

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Such.  
Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

## NEW BUSINESS

9. Consideration to adopt Resolution 11-01-2021-B proclaiming and authorizing remote teleconferencing meetings of the City Council and its committees and commissions for 30 days pursuant to AB 361 Brown Act provisions.

**City Administrator Mary Rose Rutikanga** presented and detailed this item to the Council.

Councilmembers discussed.

**City Attorney Douglas White** provided legal counsel throughout discussion.

No public comments.

**Motion made by Council member Such, Seconded by Council member Garaventa.  
Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

10. Consideration to agendaize for discussion and possible action at a future date consideration to create a City of Sonora Energy Action Committee.

**City Administrator Mary Rose Rutikanga** presented and detailed this item.

**Councilmember Segerstrom** further detailed this item.

A member of the public spoke in support of the Energy Action Committee's efforts and encouraged synergy with the County.

**Motion made by Council member Segerstrom, Seconded by Council member Such. Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

## **COUNCIL MEMBER/DEPARTMENT HEAD REPORTS**

**Police Chief Turu VanderWiel** raised awareness for Breast Cancer, No-Shave November, and a K-9 fundraising project.

**Fire Chief Aimee New** informed those in attendance that the Washington DC Christmas Tree would pass through Sonora.

**Community Development Director Rachelle Kellogg** updated the Council on the Christmas Parade and its relevant permits.

**Councilmember Segerstrom** planned to attend a Visit Tuolumne event.

**Councilmember Garaventa** attended the TCTC and Transportation Agency Strategic Workshop, the Business Bureau Marketing meeting, and met with Supervisor Goldemberg.

**Councilmember Such** attended the TCTC and Transportation Agency Strategic Workshop, an IRWM meeting, and the Jamestown Lighting Project.

**Mayor Hawkins** noted the Washington DC Christmas Tree.

## **ADJOURNMENT**

Meeting adjourned at 6:10 pm.

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## CITY COUNCIL REGULAR MEETING

**Monday, November 15, 2021 at 4:00 PM**

94 N. Washington Street, Sonora, CA 95370

(209) 532-4541

### MINUTES

**NOTICE IS HEREBY GIVEN** that the Sonora City Council will have their regular meeting on Monday, November 15, 2021 at 4pm in the City of Sonora Council Chambers located at 94 N. Washington Street Sonora, CA 95370

**THIS MEETING WILL BE OPEN TO THE PUBLIC. IT WILL NOT BE AVAILABLE VIA ZOOM, HOWEVER IT WILL BE LIVE STREAMED ON THE CITY'S WEBSITE AT [www.sonoraca.com](http://www.sonoraca.com)**

Written comments can be submitted to be included as part of the administrative record, they will not be read during the meeting. All comments must be received by 3 p.m. on the day of the noticed meeting and can be submitted to the City Clerk at 94 N. Washington Street Sonora, CA 95370 or via email to [administration@sonoraca.org](mailto:administration@sonoraca.org)

#### **CLOSED SESSION -**

4:00 PM

#### **CALL TO ORDER**

Called to order at 4:00 pm.

#### **ROLL CALL**

##### **PRESENT**

**Mayor Pro Tem Mark Plummer**  
**Council member Ann Segerstrom**  
**Council member Colette Such**

##### **ABSENT**

**Mayor Matt Hawkins**  
**Council member Jim Garaventa**

#### **PUBLIC COMMENTS**

No public comments.

## ADJOURN INTO CLOSED SESSION

### 1. CONFERENCE WITH LEGAL COUNSEL— ANTICIPATED LITIGATION:

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (1 case)

### 2. CONFERENCE WITH LABOR NEGOTIATORS (Government Code 54957.6): Agency designated representatives: Mary Rose Rutikanga, City Administrator; Chris Gorsky, Administrative Services Director

Employee Organization: Sonora Fire Fighters' Association.

### 3. Public Employment (Government Code Section 54957)

Title: City Administrator

## RECONVENE INTO OPEN SESSION

The Council had conference with legal counsel, direction was given to staff, and the Council planned to reconvene into Closed Session after the Open Session.

## OPEN SESSION -

5:00 PM

## PLEDGE OF ALLEGIANCE

**Councilmember Segerstrom** led the Pledge of Allegiance.

## ROLL CALL

### PRESENT

**Mayor Pro Tem Mark Plummer**  
**Council member Ann Segerstrom**  
**Council member Colette Such**  
**Council member Jim Garaventa**

### ABSENT

**Mayor Matt Hawkins**

## CITY CLERK'S REPORT ON AGENDA POSTING

The agenda was posted on Friday, November 12, 2021, at 5:00 pm.

## APPROVAL OF THE AGENDA

Item #8 and Item #11 were pulled from the agenda for consideration at a future date.

The agenda was approved with adjustment.

**Motion made by Council member Segerstrom, Seconded by Council member Garaventa.  
Voting Yea: Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such,  
Council member Garaventa.**

## PUBLIC COMMENT (NON-AGENDA ITEMS)

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A member of the public commented in disapproval of the legalization of cannabis and read from a related book.

A member of the public representing the Sonora Chamber of Commerce updated those in attendance on the Christmas Town's plan.

## CONSENT CALENDAR

*Items on the Consent Calendar are considered routine and will be voted on in one motion unless a Council member or member of the public has a question or wishes to discuss an item. In that case, the item will be removed from the Consent Calendar and considered separately.*

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Such.  
Voting Yea: Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such,  
Council member Garaventa.**

4. Approval of disbursements in the amount of \$154,167.95 for payroll, inclusive of employee salaries, employer and employee taxes and retirement contributions, miscellaneous voluntary employee deductions, holiday pay and other adjustments.
5. Approve City Council Minutes for June 21, 2021; July 6, 2021; and September 20, 2021

## NEW BUSINESS

6. Approve an Intent to Enter into an Agreement for Fire Services between the Chicken Ranch Rancheria of Me-Wuk Indians and the City of Sonora.

**City Administrator Mary Rose Rutikanga** presented and detailed this item to the Council.

**Fire Chief Aimee New** further detailed this item.

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such,  
Council member Garaventa.**

7. Consideration to adopt Resolution No. 11-15-2021-A approving the Memorandum of Understanding for the Sonora Police Officers' Association (SPOA) effective July 1, 2021 through June 30, 2025 and authorize the Mayor to sign agreement.

**City Administrator Mary Rose Rutikanga** presented and detailed this item to the Council.

No public comment.

**Motion made by Council member Garaventa, Seconded by Council member Such.  
Voting Yea: Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such,  
Council member Garaventa.**

8. Consideration to adopt Resolution No.11-15-2021-B creating the new job descriptions for Corporal and Dispatcher / Records Specialist I/II in the Sonora Police Department.

This item was pulled from the agenda for future consideration.

9. Consideration to adopt Resolution 11-15-2021-C approving the employee salary schedules for the Sonora Police Officers' Association as part of the 2021 Memorandum of Understanding.

**City Administrator Mary Rose Rutikanga** presented this item to the Council.

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such,  
Council member Garaventa.**

10. Consideration to approve the Woods Creek Park Project to be funded by the City's allocation under the Parks and Water Bond Act of 2018 Per Capita Grant Program.

**Community Development Director Rachelle Kellogg** presented and detailed this item to the Council.

No public comments.

**Motion made by Council member Such, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such,  
Council member Garaventa.**

11. Approve the creation of a City of Sonora Climate Action Committee, as requested by Councilmember Segerstrom

This item was pulled from the agenda for future consideration.

12. Receive an informational report and provide staff direction regarding issues related to trash bins and dumpsters in the downtown area.

**Community Development Director Rachelle Kellogg** presented and detailed this item to the Council.

**City Administrator Mary Rose Rutikanga** further detailed this item.

**Fire Chief Aimee New** provided insight into relevant fire regulations.

No public comments.

Councilmembers discussed.

## MONTHLY REPORTS

13. Receive the Community Development Department Report for October 2021

**Community Development Director Rachelle Kellogg** updated those in attendance on the upcoming Christmas Parade.

14. Receive Fire Department Monthly Report – October 2021

Nothing to report.

15. Receive the Public Works Department Report for October 2021

Nothing to report.

16. Receive the Sonora Police Department monthly report for October 2021.

**Police Chief Turu VanderWiel** informed those in attendance on the success on a recent fundraising event along with the upcoming Coffee with a Cop event.

## COUNCIL MEMBER/DEPARTMENT HEAD REPORTS

**Councilmember Segerstrom** attended the National Christmas Tree Reception, the Energy Action Committee, and the YES Partnership.

**Councilmember Such** attended the Tuolumne County Commission on Homelessness, an ATCAA Board Meeting, the Social Equity Committee, a TCTC meeting, and met with Police Chief Turu VanderWiel.

**Councilmember Garaventa** attended a TCTC meeting, the Solid Waste Committee, and a LAFCO meeting.

## RECONVENE INTO OPEN SESSION

Reconvened into Closed Session at 6:10 pm.

Direction was given to staff regarding the City Administrator's departure from the City.

## ADJOURNMENT

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## **CITY COUNCIL REGULAR MEETING**

**Monday, December 06, 2021 at 4:00 PM**

94 N. Washington Street, Sonora, CA 95370

(209) 532-4541

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### **MINUTES**

NOTICE IS HEREBY GIVEN that the Sonora City Council will have their regular meeting on Monday, December 6, 2021 at 4pm in the City of Sonora Council Chambers located at 94 N. Washington Street Sonora, CA 95370

THIS MEETING WILL BE OPEN TO THE PUBLIC. IT WILL NOT BE AVAILABLE VIA ZOOM, HOWEVER IT WILL BE LIVE STREAMED ON THE CITY'S WEBSITE AT [www.sonoraca.com](http://www.sonoraca.com)

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#### **CLOSED SESSION -**

4:00 PM

#### **CALL TO ORDER**

Called to order at 4:01 pm.

#### **ROLL CALL**

##### **PRESENT**

**Mayor Matt Hawkins**

**Mayor Pro Tem Mark Plummer**

**Council member Ann Segerstrom**

**Council member Colette Such**

##### **ABSENT**

**Council member Jim Garaventa**

#### **PUBLIC COMMENTS**

**Councilmember Garaventa arrived late.**

No public comments.

## ADJOURN INTO CLOSED SESSION

Adjourned into closed session at 4:02 pm.

### 1. CONFERENCE WITH LEGAL COUNSEL— ANTICIPATED LITIGATION:

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (1 case)

### 2. Public Employment (Government Code Section 54957)

Title: City Administrator

## RECONVENE INTO OPEN SESSION

Direction was given to staff in items #1 and #2.

## OPEN SESSION -

5:00 PM

Called to order at 5:03 pm.

## PLEDGE OF ALLEGIANCE

**Mayor Pro Tem Plummer** led the Pledge of Allegiance.

## ROLL CALL

PRESENT

**Mayor Matt Hawkins**

**Mayor Pro Tem Mark Plummer**

**Council member Ann Segerstrom**

**Council member Colette Such**

**Council member Jim Garaventa**

## CITY CLERK'S REPORT ON AGENDA POSTING

The agenda was posted on Thursday, December 2, 2021, at 3:00 pm.

## APPROVAL OF THE AGENDA

Item #13 was moved to be the last item on the agenda.

Item #14 was moved to after Item #9.

The agenda was approved with adjustments.

## PRESENTATIONS

### 3. Receive a Tuolumne County update from District 1 Supervisor David Goldemberg

**Supervisor David Goldemberg** updated the Council on COVID-19 statistics, various economic projects and updates within the County, the County's Climate Action Plan, and the Fire Safety Advisory Committee.

Councilmembers discussed.

## PUBLIC COMMENT (NON-AGENDA ITEMS)

*The public may address the Council on any item of public interest not otherwise on the agenda that is within the jurisdiction of the City. No action may be taken. Matters to be addressed may be referred to City Staff or placed on a subsequent meeting Agenda. Speakers are limited to a five (5) minute presentation.*

A member of the public representing the Sonora Chamber of Commerce updated the Council on the Christmas Town project.

## CONSENT CALENDAR

*Items on the Consent Calendar are considered routine and will be voted on in one motion unless a Council member or member of the public has a question or wishes to discuss an item. In that case, the item will be removed from the Consent Calendar and considered separately.*

No public comments.

**Motion made by Mayor Pro Tem Plummer, Seconded by Council member Garaventa.**

**Voting Yea: Mayor Hawkins, Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such, Council member Garaventa.**

4. Approval of disbursements in the amount of \$166,101.60 and \$213,057.94 for payroll, inclusive of employee salaries, employer and employee taxes and retirement contributions, miscellaneous voluntary employee deductions, holiday pay and other adjustments, including retro-pay and uniform allowance.
5. Approve City Council Minutes for February 1, 2021; April 5, 2021; and April 19, 2021.
6. Receive the City of Sonora Housing Successor Annual Report for 2021.
7. Release for public review the City of Sonora's Traffic Impact Mitigation Fund Report as presented for the fiscal year ended June 30, 2021.
8. Authorize the Fire Department to submit an Assistance to Firefighter Grant (AFG) application, authorize the City Administrator to execute all documents relating to the grant application, and direct the Fire Chief to return to the City Council with the application results and to accept the award.

## NEW BUSINESS

9. Consideration to adopt Resolution No. 12-06-2021-A To Affirm an Exemption from the Requirements of Mandatory Organics Collection Services.

**Financial Director Chris Gorsky** presented this item to the Council.

**Tuolumne County Solid Waste Director Jim McHargue** further detailed this item.

Councilmembers discussed.

This item was then pushed to the following City Council meeting.

No public comment.

10. Consideration to adopt Resolution 12-06-2021-B proclaiming and authorizing remote teleconferencing meetings of the City Council and its committees and commissions for 30 days pursuant to AB 361 Brown Act provisions.

**City Administrator Mary Rose Rutikanga** presented this item to the Council.

Councilmembers discussed.

A member of the public representing the County of Tuolumne spoke in support of allowing the public to participate in City Council meetings via teleconferencing.

**Community Development Director Rachelle Kellogg** requested committees and commissions for the City determine their own guidelines based on staff capabilities.

The Council approved of and included Rachelle Kellogg's request within the movement to approve the Resolution.

**Motion made by Council member Garaventa, Seconded by Council member Such.  
Voting Yea: Mayor Hawkins, Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such, Council member Garaventa.**

11. Consideration to adopt Resolution No. 12-06-2021-C approving the Memorandum of Understanding for the Sonora Fire Fighters' Association (SFFA) effective July 1, 2021 through June 30, 2025 and authorize the Mayor to sign agreement.

**City Administrator Mary Rose Rutikanga** presented this item to the Council.

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Hawkins, Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such, Council member Garaventa.**

12. Consideration to adopt Resolution 12-06-2021-E approving the employee salary schedules for the Sonora Fire Fighters' Association as part of the 2021 Memorandum of Understanding.

**City Administrator Mary Rose Rutikanga** presented this item to the Council.

No public comments.

**Motion made by Council member Garaventa, Seconded by Council member Segerstrom.  
Voting Yea: Mayor Hawkins, Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such, Council member Garaventa.**

13. Consideration to adopt Resolution No.12-06-2021-D creating the new job descriptions for Corporal and Dispatcher / Records Specialist I/II in the Sonora Police Department.

**City Administrator Mary Rose Rutikanga** presented this item to the Council.

**President of the Sonora Police Officer's Association Thomas Brickley** further detailed this item.

No public comments.

**Motion made by Council member Such, Seconded by Council member Garaventa.**

**Voting Yea: Mayor Hawkins, Mayor Pro Tem Plummer, Council member Segerstrom, Council member Such, Council member Garaventa.**

14. Approve the creation of a City of Sonora Climate Action Committee, as requested by Councilmember Segerstrom

**City Administrator Mary Rose Rutikanga** presented this item to the Council.

**Councilmember Ann Segerstrom** detailed this item.

**Charles Segerstrom**, representing the Climate Action Committee, further detailed this item.

**Community Development Director Rachelle Kellogg** detailed the item from a staff perspective.

**City Attorney Douglas White** provided legal counsel throughout.

Councilmembers discussed.

A member of the public commented in disapproval of the County's Climate Action Plan.

A member of the public representing the County of Tuolumne gave the County's perspective on creating a Climate Action Plan.

The Council motioned to bring back the Item at a later date.

**Motion made by Council member Such, Seconded by Council member Garaventa.**

**Voting Yea: Mayor Hawkins, Council member Segerstrom, Council member Such, Council member Garaventa.**

**Voting Nay: Mayor Pro Tem Plummer.**

## **COUNCIL MEMBER/DEPARTMENT HEAD REPORTS**

**Community Development Director Rachelle Kellogg** updated the Council on the recent Christmas Parade and the Red Church project.

**Financial Director Chris Gorsky** updated the Council on electric vehicle charging stations.

**Fire Chief Aimee New** updated the Council on the recent Christmas Parade and City Holiday Luncheon.

**City Administrator Mary Rose Rutikanga** informed the Council that she would be giving a presentation on the AirBnb Ordinance and the City's shelter space for the County Homeless Taskforce.

**Councilmember Segerstrom** noted their support for the recent Christmas Parade and the staff involved and noted her assistance with the Sonora Chamber of Commerce.

**Councilmember Such** attended an IRWM meeting, the Tuolumne County Consortium of Care, the Tuolumne County Housing Committee, the Tuolumne County Commission on Homelessness, and the ATCAA meeting.

**Councilmember Garaventa** noted their recent trip to New York.

**Mayor Pro Tem Plummer** informed those in attendance that ATCAA is looking for volunteers.

## **ADJOURNMENT**

Meeting adjourned at 7:38 pm.

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator at City Hall (209) 532-4541, [mrutikanga@sonoraca.com](mailto:mrutikanga@sonoraca.com). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).*

*Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Administrator's Office at 94 N. Washington Street, Sonora, CA 95370 during normal business hours (8:00 am - 4:00 pm, Monday through Friday, excluding holidays). The agenda and supporting public documents are also available on our City website [www.sonoraca.com](http://www.sonoraca.com) listed under the agenda/minutes link on the Government page.*



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Chris Gorsky, Administrative Services Director

**SUBJECT:** Disbursements in the amount of \$188,436.81 for payroll

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### RECOMMENDATION

Approval of disbursements in the amount of \$188,436.81 for payroll, inclusive of employee salaries, employer and employee taxes and retirement contributions, miscellaneous voluntary employee deductions, holiday pay and other adjustments, including retro-pay.

### DISCUSSION

This payroll was the 2<sup>nd</sup> payroll of a month, which was an expected amount.

This payroll is the 17<sup>th</sup> payroll of 26 for FY21-22, we would have expected to expend 69.23% of the budgeted amount. In total, we have expended 71.02% of the Salaries and Wages for the FY 21/22 budget.

### FISCAL IMPACT

Disbursements are part of the approved FY21-22 Budget.



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Melissa Eads, Interim City Administrator  
Prepared by Jackie Smith

**SUBJECT:** Social Equity Committee Determinations

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### RECOMMENDATION

Continuation of the discussion of the dissolution of the Social Equity Committee and, pending decision, consideration of the Committee's Draft Resolution and consideration of a mayoral appointment to the Committee with Council ratification.

### BACKGROUND

After racially focused protests and events occurred and persisted throughout the nation, the City of Sonora City Council unanimously approved the formation of a committee with two Councilmembers serving on it on July 6, 2020. Mayor Hawkins appointed Councilmember Such and Mayor Pro-Tem Plummer to serve on the committee. The Council also established that the committee would consist of 7 members, each Councilmember selecting one.

On September 10, 2020, the goals of the Social Equity Committee were established. The desired outcomes for the Social Equity Committee were 1) the creation of a Social Equity Committee Mission and Vision Statement; 2) the creation of a Social Equity Resolution; 3) the reviewal and possible update of the City Values Statement; 3) the reviewal and possible update of the City Policies on racial sensitivity; 4) the reviewal of possible Racial Sensitivity Training for City Staff and City Council and; 5) community partner engagement to ensure proper circulation of racial and diversity sensitive material for the community at large. The continuation of the Committee was to be determined after completing these goals.

On September 10, 2020, the Council also unanimously ratified 5 members to the Social Equity Committee, each selected by a different Councilmember. The ratified members of the Social Equity Committee were Nikki Coleman, selected by Councilmember Segerstrom, Darren Duez, selected by Mayor Hawkins, Nathan Morales, selected by Mayor Pro Tem Plummer, Sylvia Roberts, selected by Councilmember Such, and Mercedes Tune, selected by Councilmember Garaventa.

In October 2020, Mark Plummer resigned from the Social Equity Committee and was replaced by Jim Garaventa.

On December 21, 2020, the Council approved the Social Equity Committee's "Purpose Statement" (specified as a separate item from their Mission and Vision Statement) as follows with a 4-1 vote:

*The purpose of the Social Equity Committee is to formalize the City of Sonora's active commitment to belonging, fairness, justice, and equity for all; to listen to diverse and marginalized voices; to provide a safe space for conversation, reflection and understanding; to recognize and acknowledge implicit bias. To explore systems and identify areas of opportunity to ensure they work on behalf of the common good for all. We intentionally invite everyone to build common ground and civility in our community.*

On January 19, 2021, the Council approved an increase to the Social Equity Committee outcomes to include a Community Workshop on communication strategies that promote inclusivity, listening, and social equity with a 4-1 vote.

On March 15, 2021, the Council approved the Committee's Mission Statement with a 4-1 vote and the Vision Statement unanimously as follows:

Mission Statement:

*To Strengthen the City's understanding and capacity to recognize biases and eliminate racial disparities, heal racial divisions, and build a more equitable town.*

Vision Statement:

*A City where all are equipped to effectively lead, serve, and flourish in an inclusive and healthy community. A City in which people from all racial, ethnic, and cultural backgrounds are safe, welcome, and able to thrive socially, economically academically and physically.*

On April 19, 2021, the Council unanimously approved the Committee's City Value Statement additions as follows:

- *We value our City's social and racial diversity and our commitment to protection, safety, prosperity, and sense of belonging for all.*
- *We recognize the diverse groups of people who lived on this land before us, and their continued contributions to our City's history.*
- *We value The Tuolumne and Chicken Ranch Bands of Me-Wuk Indians and respect their heritage, culture, and lasting impact in this community through the centuries.*

In January 2021, Committee-member Roberts submitted her resignation from the Committee. Then, on March 3, 2021, the Council gave staff direction to reopen applications for the Committee to be selected by Councilmember Such.

On June 7, 2021, the Council ratified a member of the Social Equity Committee, Alisa Mansfield, selected by Councilmember Such with a vote of 4-1.

On January 10, 2022, Councilmember Garaventa resigned from the Social Equity Committee.

On February 22, 2022, the Council began the discussion on the dissolution of the Social Equity Committee, public comment lasting approximately 3 hours. The discussion was set to be continued on March 7, 2022 at the Regular City Council Meeting.

## **DISCUSSION**

The Social Equity Committee has been meeting twice per month since September 28, 2020. Meetings are held on the 2nd and 4th Mondays of each month. Since the Social Equity Committee's formation, they have created a Mission and Value Statement, a Purpose Statement, and an update to the City Values Statement. Their recent work has been focused on the creation of a Resolution to be proposed to the Sonora City Council. This Resolution is currently an unfinished draft.

As the Committee approaches the completion of the resolution, the continuation of the Social Equity Committee is to be determined by the Council. The remaining goals of the Social Equity Committee are the completion of the current draft Resolution, the reviewal and possible update of the City Policies on racial sensitivity, and the reviewal of possible Racial Sensitivity Training for City Staff and City Council.

## **FISCAL IMPACT**

The continuation of the Social Equity Committee requires staff resources and time.

## ATTACHMENTS

*Item 5.*

- Social Equity Committee Draft Resolution

## Social Equity Committee

### RESOLUTION POSSIBILITIES - IN PROGRESS

2/14/22

8a. **Whereas**, the City of Sonora recognized this as an historic moment to be seized upon, and believes it cannot answer this time with silence.

*"If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse and you say that you are neutral, the mouse will not appreciate your neutrality." Desmond Tutu*

2a,c. **Whereas**, the Tuolumne Band of Me-Wuk Indians and the Chicken Ranch Band of Me-Wuk Indians were the original stewards of this land for 10,000 years, and continue to be strong leaders, important members and generous supporters of our community. (Need to confirm language and inclusion with Tribal Elders.)

1b. **Whereas**, the City of Sonora affirms its wish to be known not only for the beauty of its place in the Sierra Nevada foothills and its vibrant Gold Country history, the city wishes to also be known for being a champion of racial equity, justice and acceptance.

1c,e. **Whereas**, the City of Sonora is proud of its Gold Rush history, which created opportunities for many people, this period also demonstrated racial profiling, exclusion and mistreatment of Indigenous, Chinese, Mexican, Chilean, and other minorities. (Need to confirm language and inclusion with Tribal Elders.)

*\*1c,e. **Whereas**, the City of Sonora is proud of its Gold Rush history, which created opportunities for many people, this period also demonstrated violence, exclusion, unjust laws and mistreatment of Indigenous, Chinese, Mexican, Chilean, and other minorities.* (Need to confirm language and inclusion with Tribal Elders.)

2b. **Whereas**, the City of Sonora acknowledges the original inhabitants of this land were the Me-Wuk, who continue to contribute in a significant manner, in spite of the brutal violence perpetrated against them at a local and national level. (Need to confirm language and inclusion with Tribal Elders.)

3e,c. **Whereas**, the City of Sonora is committed to seeking a thoughtful way to heal the wounds of racism and inequities of the past, to reconcile the divide of the present, and taking steps to make sure that racial profiling and acts of aggression against Black, Indigenous and People of Color (BIPOC) will no longer have a place, in silence, in this community. (Need to confirm language and inclusion with Tribal Elders.)

*\*3e,c. **Whereas**, the City of Sonora is committed to seeking a thoughtful and inclusive way to heal the wounds of racism and inequities of the past, to reconcile the divide of the present, and taking steps to commit to making sure that racial profiling (in all forms) and acts of aggression against Black, Indigenous and People of Color (BIPOC) will not have a place in this community. (Need to confirm language and inclusion with Tribal Elders.)*

4a. **Whereas**, the City of Sonora condemns any form of racially motivated hate, intolerance and White Supremacy Culture.

*\*4a. **Whereas**, the City of Sonora condemns any form of racially motivated hate, intolerance and the system supporting a culture of supremacy*

4j. **Whereas**, the City of Sonora proclaims that it's committed to diversity and equity and an atmosphere of inclusiveness, and it respects the dignity of every person without regard to race, color, sex, religion, ancestry, national origin, immigration status, marital status, age, disability, sexual orientation and political affiliation. The city denounces all hate and discrimination in any form.

*\*4j. **Whereas**, the City of Sonora proclaims that it is committed to diversity and an atmosphere of inclusiveness, and respects the dignity of every person without regard to race, color, gender, class, economic status, religion, ancestry, national origin, immigration status, marital status, age, disability, sexual orientation and political affiliation. The city denounces discrimination in any form.*

5b,c. **Whereas**, the City of Sonora pledges to work towards engaging residents who are more impacted by social inequities and fostering a community where all ethnicities, cultural backgrounds, sexual orientation, and religion can feel safe to participate and feel represented and included within the community.

*\*5b,c. **Whereas**, the City of Sonora pledges to engage individuals more impacted by social inequities, fostering a community where all ethnicities, cultural backgrounds, sexual orientation, and religion can feel safe to participate and feel represented and included within our community.*

5f. **Whereas**, our city aspires to be welcoming and inclusive, with a commitment to engagement and ongoing dialogue.

5g. **Whereas**, Sonora's diversity will continue to change and our city will adapt to grow with it. We will treat one another with dignity and respect.

5j. **Whereas**, the City of Sonora acknowledges its responsibility to be a socially and racially equitable community. (See Therefore statement, 5k,l.)

5k. **Whereas**, the City of Sonora and its community welcomes and embraces cultural awareness and inclusivity. (See Therefore statement, 5k,l.)

8a. **Whereas**, the City of Sonora recognizes this as an historic moment to be seized upon, and believes to answer this time with silence is to be complicit. . *(See MLK, Jr.'s 1963 Letter from a Birmingham Jail.)*

*\*8a. **Whereas**, the City of Sonora recognizes this as an historic moment to be seized upon, and believes it cannot answer this time with silence.*

*"If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse and you say that you are neutral, the mouse will not appreciate your neutrality." Desmond Tutu.*

8d. **Whereas**, we understand that neither can we reconcile the divide of the present without a foundation of curiosity of those with whom we disagree, we also must bring a commitment to the development of educated opinions. *(Need to work on this language.)*

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5k,l. **Therefore**, the City of Sonora and its community welcomes and embraces cultural awareness and inclusivity and pledges to be a refuge, an ally, and provide a safe zone to people of all racial, ethnic and multicultural backgrounds.

4d. **Therefore**, the City of Sonora is committed to not using fear, a common tactic throughout history, to scapegoat *(POC, different classes, ethnicities, all?)* communities perceived to be "other" and setting a tone that will reject those tendencies.

*\*4d. **Therefore**, the City of Sonora is committed to setting a tone that will reject the tendency to use fear, a common tactic throughout history, to scapegoat anyone in our community perceived to be "other."*

4i. **Therefore**, the City of Sonora, to fulfill its obligation to protect public safety, and to promote human rights and racial justice, hereby proclaims to denounce all acts and forms of hate, racism, intolerance and violence.

4j. **Therefore**, the City of Sonora proclaims that it is committed to diversity and equity and an atmosphere of inclusiveness and it respects the dignity of every person without regard to race, color, sex, religion, ancestry, national origin, immigration status, marital status, age, disability, sexual orientation and political affiliation. The city denounces all hate and discrimination in any form.

*\*4i,j. **Therefore**, the City of Sonora, to fulfill its obligation to protect public safety and to promote human rights and racial justice, proclaims that it is committed to diversity, equity and an atmosphere of inclusion and it respects the dignity of every person without regard to race, color, sex, religion, ancestry, national origin, immigration status, marital status, age, disability, sexual orientation, economic status and political affiliation. The city denounces all hate and discrimination in any form.*

5e. **Therefore**, the City of Sonora calls to residents to treat their neighbors with kindness, tolerance, empathy, trust and respect so that we may live and thrive together in a community of acceptance and peace.

5h. **Therefore**, the City of Sonora will promote an atmosphere of inclusion, listening, and addressing disparities that may arise in its future, focused on our community's needs and values.

*\*5h. **Therefore**, the City of Sonora will promote an atmosphere of inclusion, education and curiosity, by listening carefully to disparities that may arise in its future, with focus on our community's needs and values.*

5l. **Therefore**, the City of Sonora and its community pledges to be a refuge, an ally, and provide a safe zone to people of all racial, ethnic and multicultural backgrounds.

*\*5k,l. **Therefore**, the City of Sonora and its community welcomes and embraces cultural awareness and inclusivity and pledges to be a refuge, an ally, and provide a safe zone to people of all racial, ethnic and multicultural backgrounds.*

*\*6a,b. **Therefore**, the City of Sonora, in consort with city staff and community partners, will work to identify existing disparities and systemic barriers, develop a plan to achieve intended outcomes and report measurable progress every six months and affirm annually as a part of the Council's goal setting exercise, while also celebrating existing efforts and processes that foster diversity, inclusion and acceptance. (Nikki and Colette were to work on this; ongoing)*

6f. **Therefore**, the City of Sonora understands that this cannot be the work of the city alone, that we must join as a community, with *(name community organizations, leaders, non-profits, etc.)* any group interested in and committed to creating a racially and socially equitable community.

*\*6f. **Therefore**, the City of Sonora understands that this cannot be the work of the city alone, that we must join as a community, with any group interested in and committed to creating a racially and socially equitable community.*

*6g. **Therefore**, the city will join in community, to keep this conversation alive, with a commitment to heal the wounds of past and present racial injustices as well as the current divide (with ongoing civil and honest discourse), understanding that all forms of discrimination are damaging, not only to individuals, but to the economic prosperity and emotional wellbeing of our community. (See 6a,b.)*

We cannot unify around a path forward without empathy, self-reflection, courage, honesty, respect, trust, and ongoing dialogue!



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Chris Gorsky, Administrative Services Director

**SUBJECT:** Fiscal Year 21-22 Mid-Year Budget Report

### RECOMMENDATION

Presentation and acceptance of the Fiscal Year 21-22 Mid-Year Budget Report and approval of related budget adjustments, capital assets and accompanied budget transfer; 4/5<sup>th</sup> vote required.

### BACKGROUND

City Council adopted the FY2021/22 Budget on June 7, 2021. The COVID-19 pandemic and the resulting health orders continued to have a significant impact on General Fund resources and concerns of revenue shortfalls directed development of the budget. The City did receive the first tranche of Coronavirus State and Local Fiscal Recovery Funds (SLFRF) in FY21-22 and with those funds we were able to keep the budget balanced. The first half of FY21-22 has seen revenues exceed budgeted estimates and has allowed for several budget adjustments. The proposed budget changes reflect the revised estimates to revenues and expenditures necessitating the budget changes detailed below and on page 13 of the mid-year report.

### DISCUSSION

**Budget Update:** There is considerable uncertainty about the duration and continued impacts of the pandemic on the local economy. Staff regularly monitors expenditures, cautiously forecasts revenues, and makes recommendations to address changes as quickly as possible in order to maintain a balanced budget. This budget report will help staff address expected budget variances in a timely manner.

| FUND                                               | DEPARTMENT | ACCOUNT | DESCRIPTION                                           | BUDGET CHANGE     |
|----------------------------------------------------|------------|---------|-------------------------------------------------------|-------------------|
| <b>Revenues:</b>                                   |            |         |                                                       |                   |
| 001                                                | -          | 4000    | - 40210 - Sales and Use Tax                           | \$ 260,000        |
| 001                                                | -          | 4000    | - 40220 - Transient Occupancy Tax                     | \$ 50,000         |
| 001                                                | -          | 4000    | - 41040 - Cannabis Public Benefit Fee                 | \$ 175,000        |
| 001                                                | -          | 5000    | - 49999 - Police Department (Measure I Transfer)      | \$ 74,000         |
| 001                                                | -          | 7000    | - 49999 - Public Works (Measure I Transfer)           | \$ 80,000         |
| 001                                                | -          | 4900    | - 47010 - Interest                                    | \$ (6,000)        |
| 001                                                | -          | 8000    | - 47510 - Opera Hall                                  | \$ (10,000)       |
| <b>TOTAL NET CHANGE TO REVENUES</b>                |            |         |                                                       | <b>\$ 623,000</b> |
| <b>Expenditures:</b>                               |            |         |                                                       |                   |
| 001                                                | -          | 2000    | - 500XX - Salaries and Benefits                       | \$ 8,200          |
| 001                                                | -          | 4000    | - 500XX - Salaries and Benefits                       | \$ 6,500          |
| 001                                                | -          | 5000    | - 500XX - Salaries and Benefits                       | \$ 214,000        |
| 001                                                | -          | 6000    | - 500XX - Salaries and Benefits                       | \$ 125,000        |
| 001                                                | -          | 5000    | - 53010 - Reimbursable Sexual Assault Exam Kits       | \$ 5,000          |
| 001                                                | -          | 5000    | - 53030 - Rims CIBRS Upgrade                          | \$ 25,000         |
| 001                                                | -          | 5000    | - 53040 - Background Investigation Services           | \$ 8,000          |
| 001                                                | -          | 5000    | - 55310 - Patrol Vehicle                              | \$ 74,000         |
| 001                                                | -          | 7000    | - 55310 - Dump Truck                                  | \$ 80,000         |
| <b>TOTAL NET CHANGE TO EXPENDITURES</b>            |            |         |                                                       | <b>\$ 545,700</b> |
| <b>NET CHANGE TO FY21/22 General Fund Budget</b>   |            |         |                                                       | <b>\$ 77,300</b>  |
|                                                    |            |         |                                                       |                   |
| 400                                                | -          | 5000    | - 59999 - Measure I: Transfer Out (Police Department) | \$ 74,000         |
| 400                                                | -          | 7000    | - 59999 - Measure I: Transfer Out (Public Works)      | \$ 80,000         |
| <b>NET CHANGE TO FY21/22 Measure I Fund Budget</b> |            |         |                                                       | <b>\$ 154,000</b> |

**CONCLUSION**

Trying to develop a revenue forecast during a pandemic is a complex, dynamic, and fluid endeavor. As the City approached the 2021-22 mid-year review, staff analyzed current economic trends and gathered data points to provide Council with the most up-to-date forecast possible.

**ATTACHMENTS**

- Budget Transfer Mid-Year 21-22
- Mid-Year Budget Report



## **Mid Year Budget Report FY 2021-2022**

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## Introduction

The mid-year financial report provides an analysis of the City's General and Special Revenue Funds revenues and expenditures for the first half of the FY2021/22, for the six months ending December 31, 2021.

The quarterly budget updates have two purposes. First, it provides regular updates to the City Council regarding revenue and expenditure trends to ensure the City Council has a strong understanding of the city's current financial condition so that it can proactively respond to unanticipated changes or emerging trends. Second, and equally important, these reports increase the transparency of city finances. The city is ultimately accountable to its residents to use the revenue it brings in efficiently and effectively to provide the highest quality services and quarterly public reporting provides taxpayers with the information they need to hold the city to this standard.

*With respect to revenues:* The city regularly monitors and adjusts its year-end revenue projections based on revenue performance and other developments that may affect city revenues in order to develop a more accurate picture of the city's anticipated year-end financial position.

*With respect to expenditures:* The expenditure information in this report is extracted directly from the city's financial management system, and adjustments are made to account for certain known payments, reimbursements, or transfers between city departments and funds that have not yet been processed in the system at the time of publication. It represents a snapshot of city expenditures at a certain point in time and does not reflect final FY2021/22 adjustments.

### **Timeframe and Limitations**

The information in this report is the most accurate and up-to-date information available at the time of publication. However, this report is not an audited financial statement and the numbers provided herein are preliminary and subject to change as the year progresses. No data on revenues and expenditures is final until the city has completed its annual financial audit, which is released each year for the prior year.

## **Executive Summary**

The total budget for FY21-22 is \$14.97 million. Salaries and Benefits account for 44% of this total and 77% of the general fund expenditures or discretionary city funds. General Fund expenditure totals for the first half are trending close to budget due to the pandemic and staff's cautious approach, including delays to projects as the City waits for improvement in the pandemics' outlook. With the signing of the Memorandum of Understanding's with the Sonora Firefighters' Association, Sonora Police Officers' Association and the Sonora Management Employees' Association personnel costs are expected to be higher and require a mid-year budget adjustment to fund operations for the balance of the fiscal year. Negotiated agreements will increase expenditures by \$353,700 for the current year. City staff continue to do a great job controlling operational expenditures with first half results at about 56% of budget.

In total, first half revenue trends are exceeding the pandemic affected FY20-21 levels by 13% for the general fund. Revenues are higher in the most economically sensitive revenues of Sales Tax and trending higher in Transient Occupancy Tax. Each have been affected by the continued pandemic. The cannabis public benefit fees have also been higher. The adjusted revenues for all three sources are a net projected increase of \$460,000 to general fund over originally budgeted.

With the noted budget adjustments and six months of data available the city appears to be on budget for the second half of the year, with only the rebounding revenues adjustments and the salaries and benefit adjustments, as noted. While projections remain strong the city has several obligations that is has not fully accounted for, such as: pension obligations, facilities maintenance, fleet replacement and the costs of labor negotiations. Council should move cautiously and consistently when prioritizing financial decisions. Consequently, staff are recommending the following budget adjustments to revenues and select expenditures.

## **FY2021/22 Recommended Budget Adjustments**

The recommended budget adjustments for the mid-year update appear on page 13.

## GENERAL FUND – KEY REVENUE ANALYSIS

The following discussion provides a status of significant General Fund revenue sources as of the second quarter, ending December 31, 2021. Staff monitors each revenue source closely and may recommend certain revenue adjustments based on revenue actuals or State and Federal budget actions.

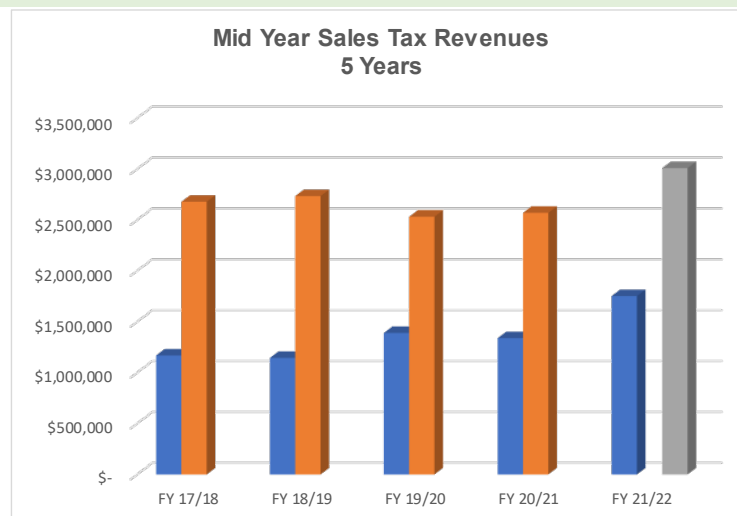
### Sales Tax

Sales tax is the largest revenue source for the City's General Fund, accounting for 35% of budgeted General Fund revenues for FY2021/22, a projected \$3,009,427. The City's general fund receives 0.87 cents for every 7.5 cents of sales tax paid per dollar on retail sales and taxable services transacted within Sonora.

South Dakota v. Wayfair decision established that the State collects sales tax from goods that are shipped into the State from out of State merchants. The city sales tax revenues are benefitting from this change.

**Analysis** – First Half receipts are trending higher than those in the same period in the past fiscal year. The COVID-19 pandemic, and its effects, saw more local travel which helped local businesses, in turn providing the highest sales tax revenues the city has seen. When and how the pandemic will finally resolve is still unknown and how this will affect future revenues is still difficult to determine. Staff will continue to monitor sales tax receipts and meet with the City's sales tax consultant to analyze trends. For the second half of FY21-22 sales tax estimates have increased requiring a budget adjustment in the amount of \$260,000, or 8%.

### SALES TAX

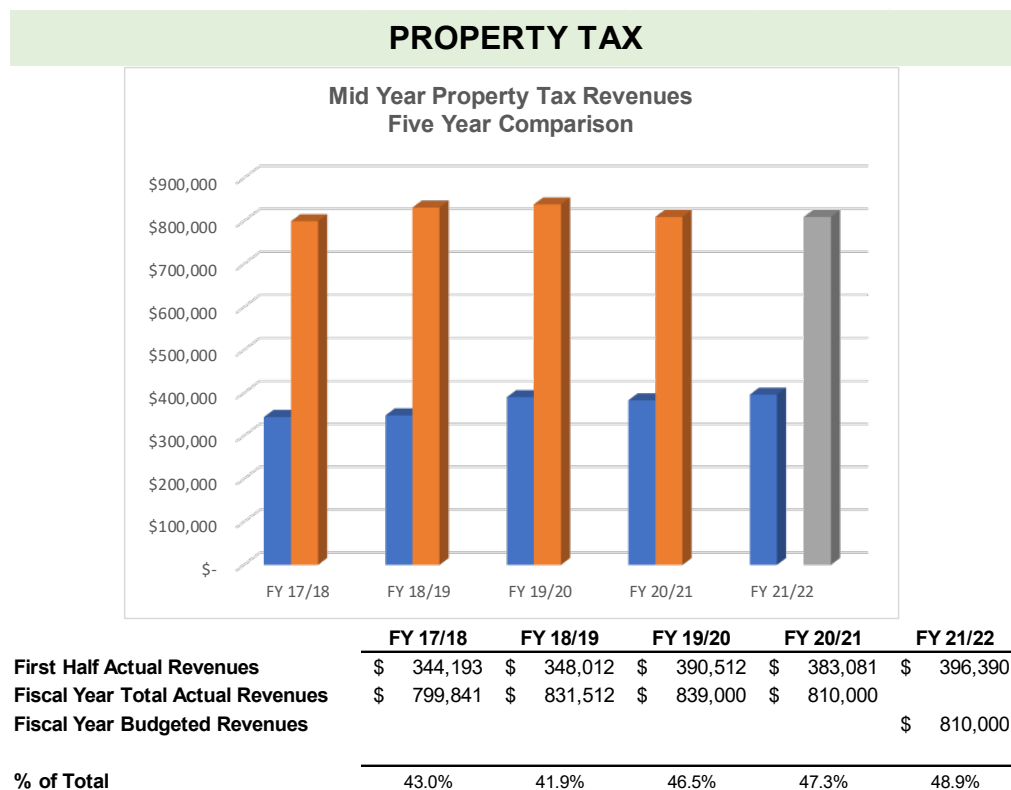


|                                   | FY 17/18     | FY 18/19     | FY 19/20     | FY 20/21     | FY 21/22     |
|-----------------------------------|--------------|--------------|--------------|--------------|--------------|
| First Half Actual Revenues        | \$ 1,168,960 | \$ 1,144,589 | \$ 1,389,665 | \$ 1,338,639 | \$ 1,752,041 |
| Fiscal Year Total Actual Revenues | \$ 2,678,336 | \$ 2,734,445 | \$ 2,532,000 | \$ 2,570,378 |              |
| Fiscal Year Budgeted Revenues     |              |              |              |              | \$ 3,009,427 |
| % of Total                        | 43.6%        | 41.9%        | 54.9%        | 52.1%        | 58.2%        |

## Property Tax

Property tax is the second largest revenue source for the City's General Fund, accounting for 9% of budgeted General Fund revenues in FY 2021/22. Property tax is levied by the Tuolumne County Assessor's Office at 1% of a property's assessed value, of which the City receives approximately 12.6 cents per dollar paid on property located within the municipal limits of Sonora.

**Analysis** – Property Tax distributions are largely received in the second and fourth quarters, however the chart below depicts the 1<sup>st</sup> half receipts for the past four years as compared to the current fiscal year. Mid-year receipts are trending consistent with prior years. Property tax revenue for FY2021/22 was budgeted for 1% growth over the previous year's actuals projecting relative flat real estate transactions.

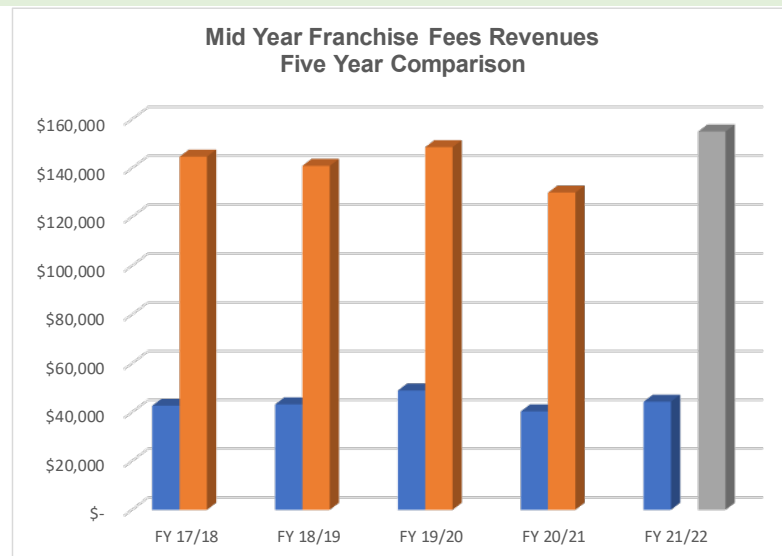


## Franchise Fees

Franchise fees are collected by the City for the privilege of operating a utility service within Sonora, and as a fee in lieu of a business license tax. Franchise fees are currently received from Comcast for cable television, PG&E for electric services, and Waste Management for solid waste collection services. Franchise fees represent 1.8% of budgeted General Fund revenues in FY2021/22.

**Analysis** – Historically, franchise payments are not remitted equally throughout the fiscal year; therefore, second quarter receipts are not necessarily predictive. Total franchise fee revenues to date are 29% of budgeted total receipts, reflecting a change in when franchise fees are remitted to the City and consistent with what was budgeted.

### FRANCHISE FEES

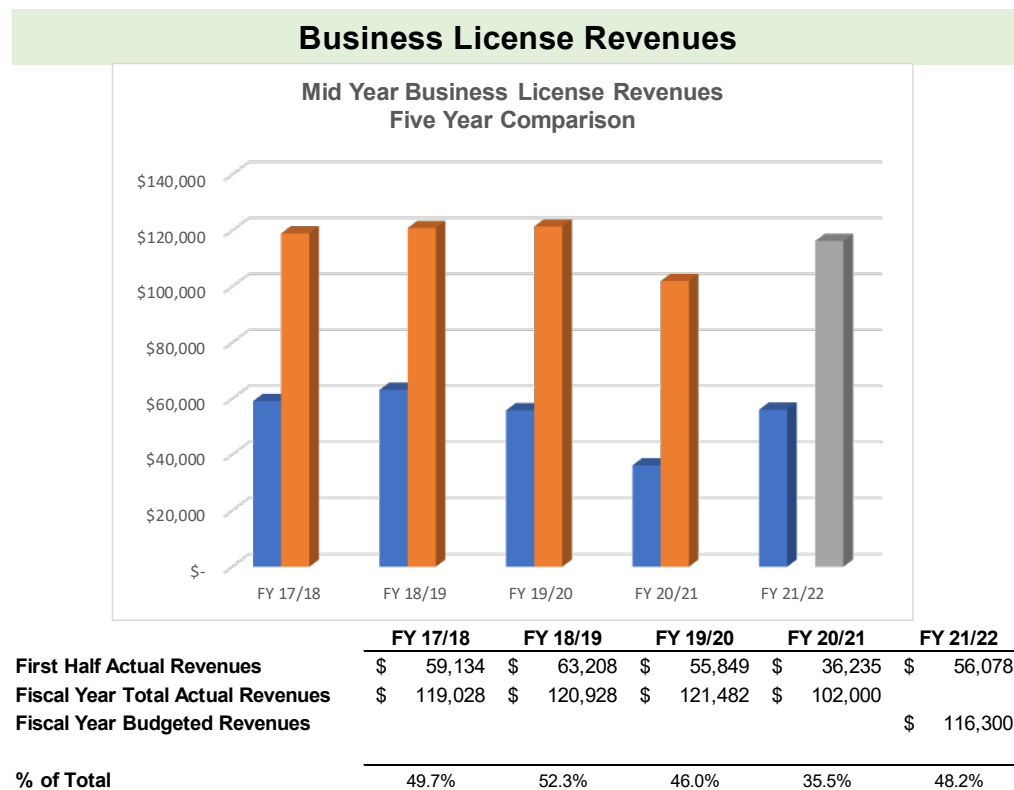


|                                   | FY 17/18   | FY 18/19   | FY 19/20   | FY 20/21   | FY 21/22   |
|-----------------------------------|------------|------------|------------|------------|------------|
| First Half Actual Revenues        | \$ 42,657  | \$ 43,210  | \$ 48,925  | \$ 40,333  | \$ 44,303  |
| Fiscal Year Total Actual Revenues | \$ 144,704 | \$ 140,968 | \$ 148,600 | \$ 130,000 |            |
| Fiscal Year Budgeted Revenues     |            |            |            |            | \$ 155,000 |
| % of Total                        | 29.5%      | 30.7%      | 32.9%      | 31.0%      | 28.6%      |

## **Business License Tax**

The city requires all businesses located within Sonora, or those that operate within Sonora, to obtain a business license. The amount of business license tax paid by each business is based on the type of business and designated zone the business is in, or operating in, and the number of business employees. These activities account for approximately 1.4% of annual general fund operating revenues. Annual renewal payments are due in January of each year. At mid-year the city has issued 842 business licenses and had 93 businesses close.

**Analysis** – Business license tax revenue has rebounded from the pandemic affected revenue of FY20-21. In FY20-21 many businesses were shuttered or closed permanently as the lockdown began. In FY21-22 revenues have seen a turnaround and the 1<sup>st</sup> half revenues are almost back to pre-pandemic lows. Staff will continue to monitor businesses license revenues.

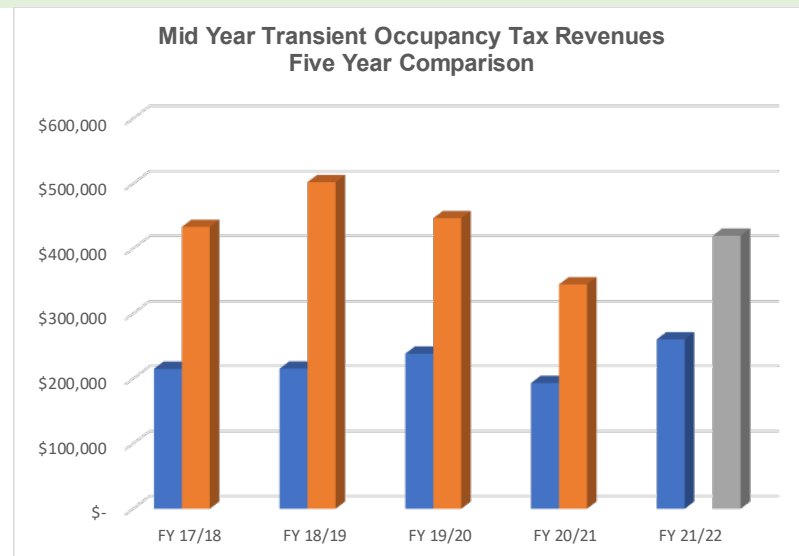


## Transient Occupancy Tax

The city levies a 12% transient occupancy tax (TOT) on all hotel and motel rooms and other transient rentals within the municipal limits of Sonora. This tax helps to fund City services provided to transitory visitors to Sonora and is shared with the Tuolumne County Visitors Bureau. The visitors bureau will receive approximately \$117,500 or 25% of city TOT.

**Analysis –** The total number of visitors have been affected by the continued pandemic. Total TOT revenues had been resilient during the pandemic, and it is hoped that as conditions improve going into FY2022/23 this trend will continue. The first half TOT revenues are higher than the prior year as the effects of the Governor's stay at home order were lifted and tourist revenues have improved. TOT revenue for the current year was budgeted at 5% of general fund revenues, higher than the prior year's estimated year-end actuals. For the second half of FY21-22 TOT estimates have increased requiring a budget adjustment in the amount of \$50,000, or 12%.

### Transient Occupancy Tax

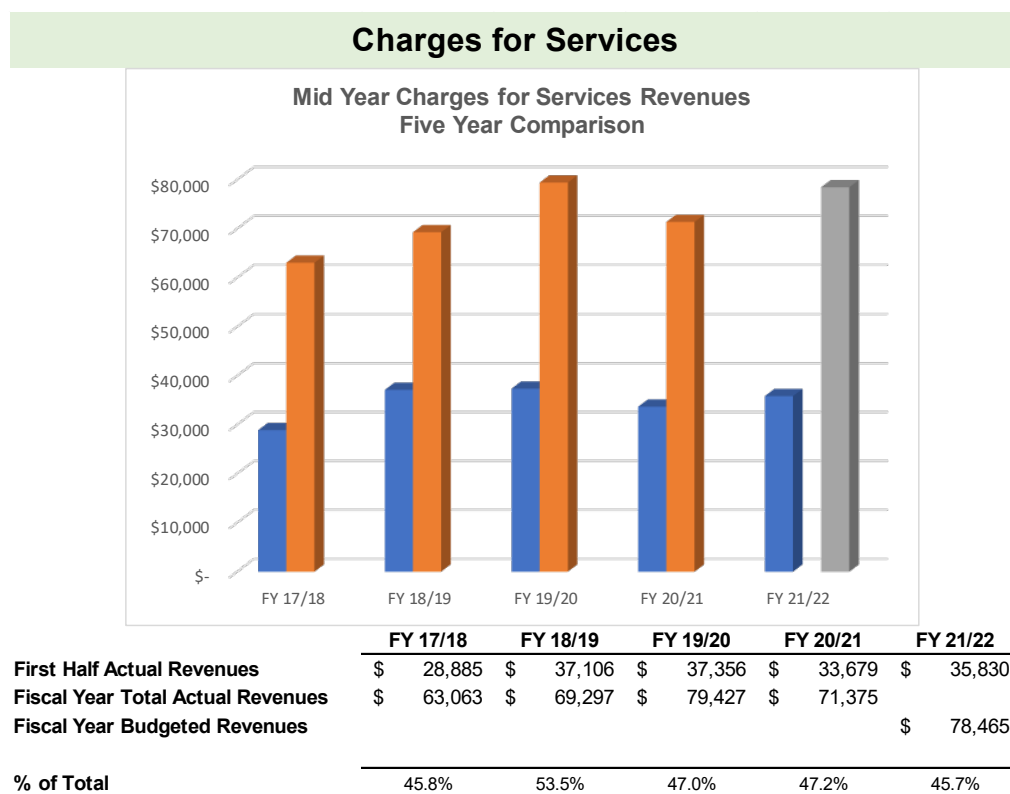


|                                          | FY 17/18   | FY 18/19   | FY 19/20   | FY 20/21   | FY 21/22   |
|------------------------------------------|------------|------------|------------|------------|------------|
| <b>First Half Actual Revenues</b>        | \$ 215,302 | \$ 215,611 | \$ 238,563 | \$ 193,495 | \$ 260,633 |
| <b>Fiscal Year Total Actual Revenues</b> | \$ 433,539 | \$ 502,339 | \$ 446,865 | \$ 345,000 |            |
| <b>Fiscal Year Budgeted Revenues</b>     |            |            |            |            | \$ 420,000 |
| <b>% of Total</b>                        | 49.7%      | 42.9%      | 53.4%      | 56.1%      | 62.1%      |

## Charges for Services

City Service revenue consist primarily of Zoning and Subdivision fees, police and fire department services, street cleaning, debris removal and banner installation fees. These fees and charges are assessed based on recovery formulas, which reflect approximate costs of providing these regulatory services.

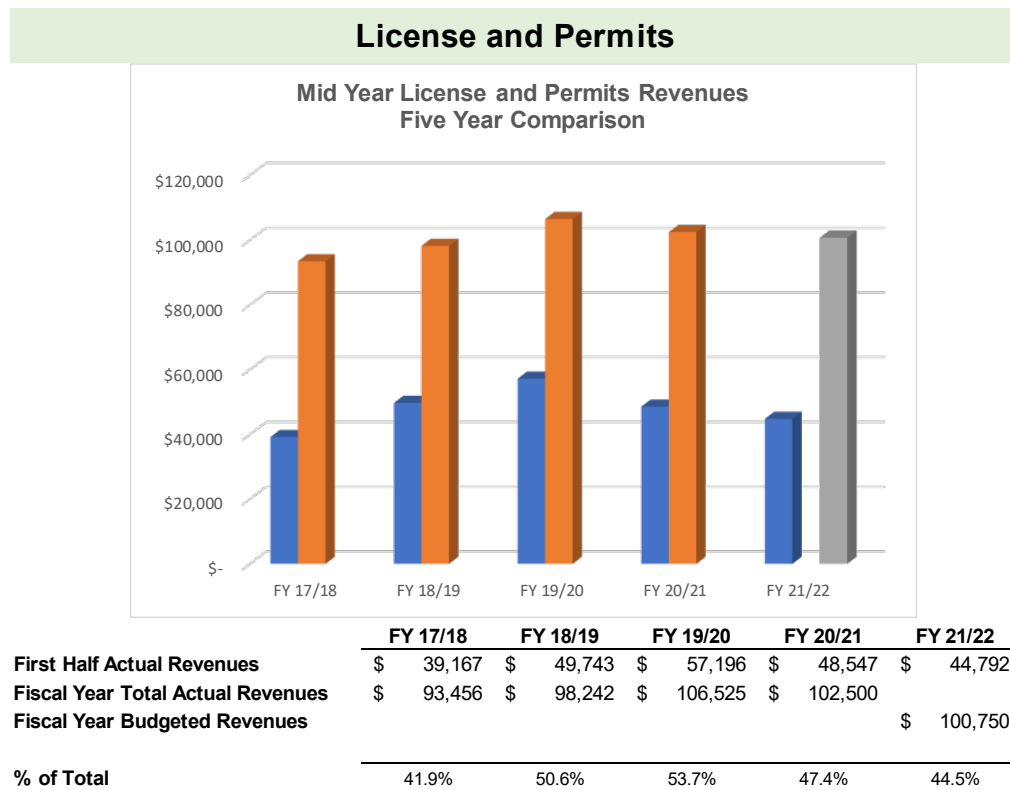
**Analysis** – First half receipts are trending on budget and similar to those in the same period in the prior fiscal years. Total budgeted revenues for Services were budgeted slightly higher for FY2021/22 with the anticipation of improvement of the COVID-19 pandemic. No budget changes are needed at this time.



## Licenses and Permits

Licenses and permits consist mainly of Building permits and encroachment permits which are collected by the City to offset administrative costs associated with overseeing the proper permitting aspects of development and City activities.

**Analysis** – First half licenses and permit revenue are comparable to first half results from the previous fiscal year. Staff will continue to monitor this revenue source to assess the need for budget adjustments, however no budget revisions are recommended at this time.



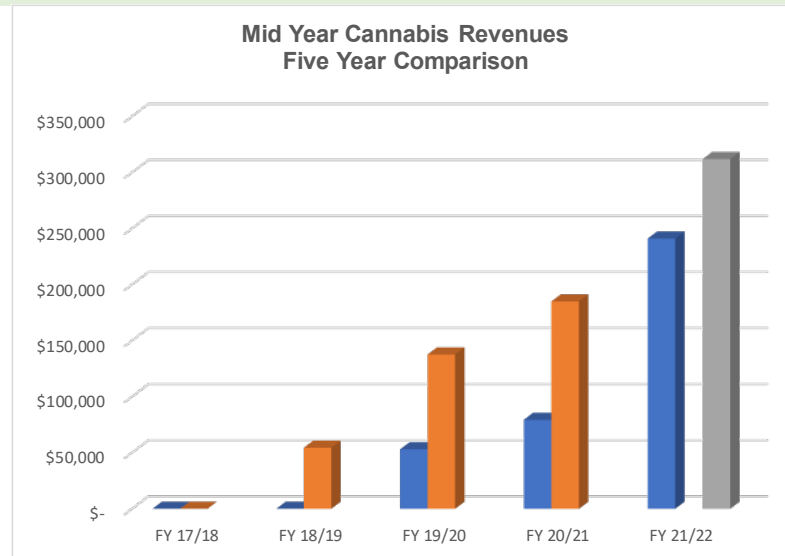
## **Cannabis Dispensary Revenues**

This program was created after voters approved Proposition 64, entitled the 'Control, Regulate and Tax Adult Use Marijuana Act' (AUMA), legalizing the adult use and possession of cannabis by persons 21 years of age and older. On January 16, 2018, the Sonora City Council adopted Ordinance 18-848 to regulate the operation of commercial cannabis business within the City of Sonora. Currently the city has one operating dispensary, with a second beginning operations later in the fiscal year. The current ordinance allows for up to three dispensaries.

**Analysis** – First half revenues have exceeded expectations. With the anticipation of a second recreational dispensary operating by fiscal year end there is a recommendation for an increase in budgeted revenues in the amount of \$175,000, a 56% increase, for a total budgeted amount of \$487,000. This brings this Public Benefit Fee to 5% of total general fund revenues, approximately the same as Transient Occupancy Tax and exceeding the total for Charges for Services and Licenses fees. The city also receives sales tax on recreational cannabis sales or approximately \$45,000.

### **Cannabis Revenues**

**Mid Year Cannabis Revenues  
Five Year Comparison**



|                                          | FY 17/18 | FY 18/19  | FY 19/20   | FY 20/21   | FY 21/22   |
|------------------------------------------|----------|-----------|------------|------------|------------|
| <b>First Half Actual Revenues</b>        | \$ -     | \$ -      | \$ 53,079  | \$ 79,438  | \$ 241,064 |
| <b>Fiscal Year Total Actual Revenues</b> | \$ -     | \$ 54,444 | \$ 137,687 | \$ 185,000 |            |
| <b>Fiscal Year Budgeted Revenues</b>     |          |           |            |            | \$ 312,000 |
| <b>% of Total</b>                        | 0.0%     | 0.0%      | 38.6%      | 42.9%      | 77.3%      |

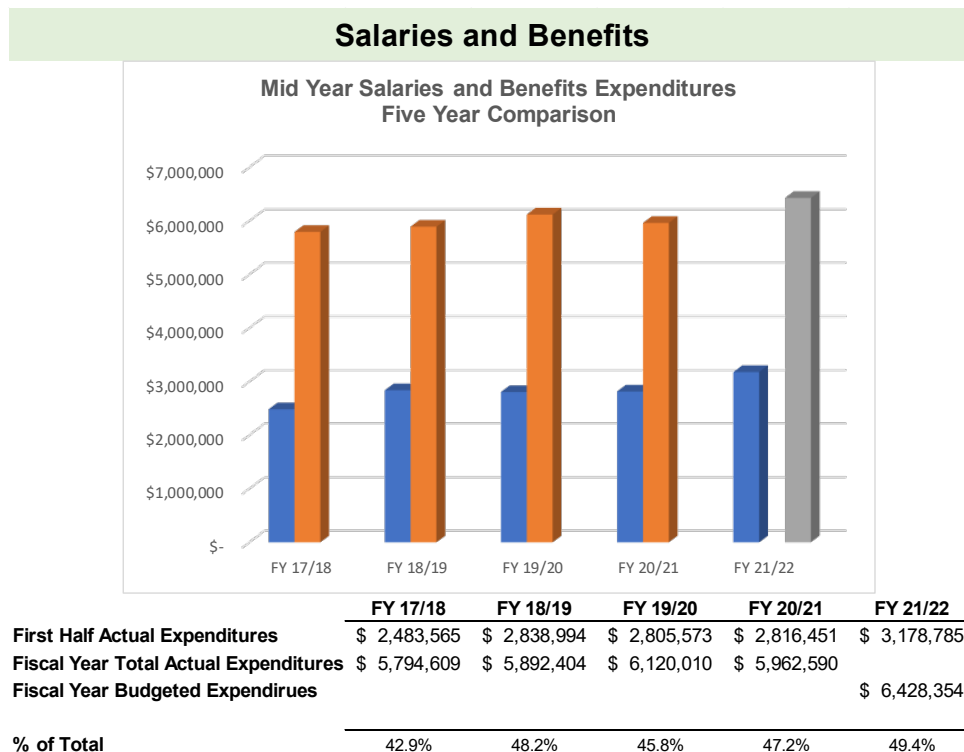
## GENERAL FUND – KEY EXPENDITURE ANALYSIS

The following discussion provides a status of significant General Fund expenditures as of the second quarter, ending December 31, 2021. Staff monitors each revenue source closely and may recommend certain expenditure adjustments based on actual revenues or state budget actions.

### Salaries and Benefits

The total budgeted expenditures for the fiscal year are \$14.9 million and actual mid-year expenditures are \$5.9 million. General Fund expenditures are budgeted at \$8.8 million and mid-year expenditures are \$4.4 million. Salaries and Benefits are 77% of the General Fund budget. Salaries and Benefits include full-time employee salaries, elected official and volunteer stipends, temporary/relief employees, overtime, other salaries and benefits. Under typical circumstances, it would be expected that Salaries and Benefits would be at approximately 50% of total budget at the end of the second quarter.

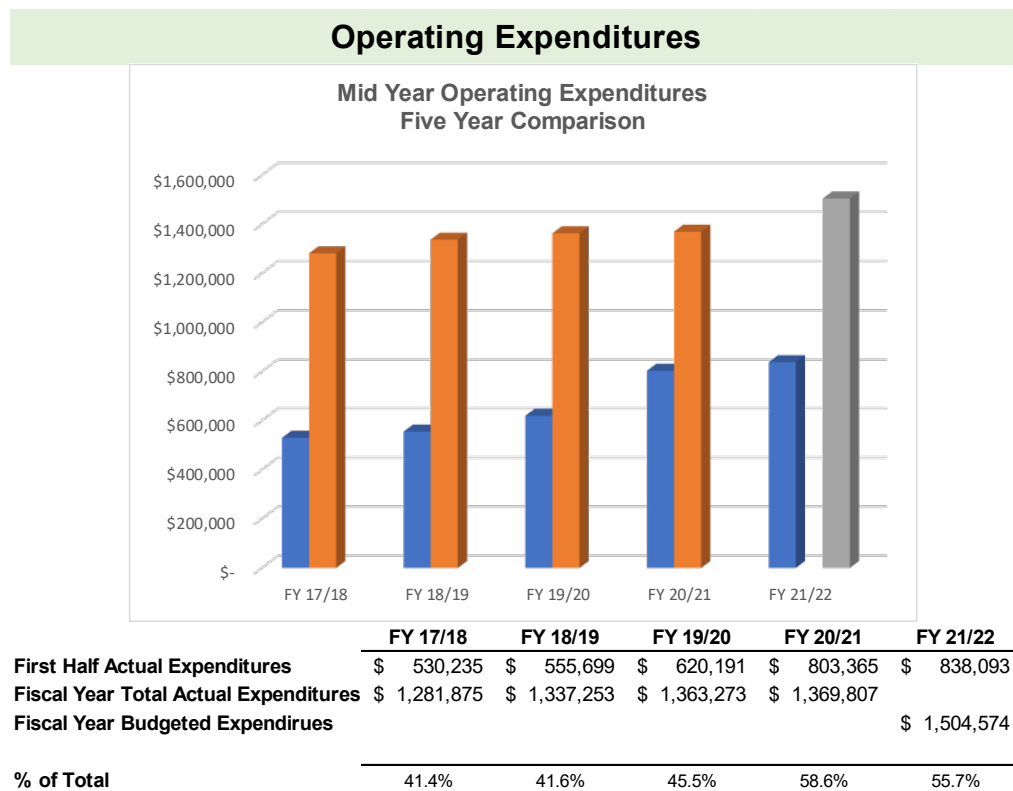
**Analysis** – First Half results are trending in line with those in similar periods in prior years, at approximately 49% of budgeted totals. Further analysis of these expenditure details indicates that benefits are trending at approximately 49% of budgeted totals in line with total personnel costs. While a budget adjustment, in the amount of \$353,700, is necessary to fund the updated salary tables after successful negotiations with three of the four employee associations. It is expected that benefit expenditures will be lower for the City going forward as three of the employee association's will be contributing 5% of the costs of health insurance starting in FY21-22 and 20% by FY24-25. The cost of health insurance increased 6.5% in January 2022. This increase was anticipated and built into the current budget.



## Operating Expenditures

Operating expenditures consist of all general fund costs to provide services, including supplies, materials and utilities, and are budgeted at \$1.5 million for the fiscal year. The categories of supplies and materials, the most controllable expenditure category, will trend above 50% of budget because there are many annually contracted services that are expended early in the fiscal year.

**Analysis** – First half results are trending similar to the same period in prior years, at approximately 56% of budgeted totals. Further analysis of these expenditure details indicates that several expenditure items are expended in the 1<sup>st</sup> half of the year. Utilities are trending within range at 49%. Staff remains very cognizant of budgeted expenditure authority and will monitor costs to mitigate exposure to the extent possible. There is a recommendation for a budget adjustment in the amount of \$38,000 or 2.5%.



## FY2021/22 RECOMMENDED FIRST HALF BUDGET ADJUSTMENTS

| FUND                                               | DEPARTMENT | ACCOUNT | DESCRIPTION                                           | BUDGET CHANGE     |
|----------------------------------------------------|------------|---------|-------------------------------------------------------|-------------------|
| <b>Revenues:</b>                                   |            |         |                                                       |                   |
| 001                                                | -          | 4000    | - 40210 - Sales and Use Tax                           | \$ 260,000        |
| 001                                                | -          | 4000    | - 40220 - Transient Occupancy Tax                     | \$ 50,000         |
| 001                                                | -          | 4000    | - 41040 - Cannabis Public Benefit Fee                 | \$ 175,000        |
| 001                                                | -          | 5000    | - 49999 - Police Department (Measure I Transfer)      | \$ 74,000         |
| 001                                                | -          | 7000    | - 49999 - Public Works (Measure I Transfer)           | \$ 80,000         |
| 001                                                | -          | 4900    | - 47010 - Interest                                    | \$ (6,000)        |
| 001                                                | -          | 8000    | - 47510 - Opera Hall                                  | \$ (10,000)       |
| <b>TOTAL NET CHANGE TO REVENUES</b>                |            |         |                                                       | <b>\$ 623,000</b> |
| <b>Expenditures:</b>                               |            |         |                                                       |                   |
| 001                                                | -          | 2000    | - 500XX - Salaries and Benefits                       | \$ 8,200          |
| 001                                                | -          | 4000    | - 500XX - Salaries and Benefits                       | \$ 6,500          |
| 001                                                | -          | 5000    | - 500XX - Salaries and Benefits                       | \$ 214,000        |
| 001                                                | -          | 6000    | - 500XX - Salaries and Benefits                       | \$ 125,000        |
| 001                                                | -          | 5000    | - 53010 - Reimbursable Sexual Assault Exam Kits       | \$ 5,000          |
| 001                                                | -          | 5000    | - 53030 - Rims CIBRS Upgrade                          | \$ 25,000         |
| 001                                                | -          | 5000    | - 53040 - Background Investigation Services           | \$ 8,000          |
| 001                                                | -          | 5000    | - 55310 - Patrol Vehicle                              | \$ 74,000         |
| 001                                                | -          | 7000    | - 55310 - Dump Truck                                  | \$ 80,000         |
| <b>TOTAL NET CHANGE TO EXPENDITURES</b>            |            |         |                                                       | <b>\$ 545,700</b> |
| <b>NET CHANGE TO FY21/22 General Fund Budget</b>   |            |         |                                                       | <b>\$ 77,300</b>  |
| <hr/>                                              |            |         |                                                       |                   |
| 400                                                | -          | 5000    | - 59999 - Measure I: Transfer Out (Police Department) | \$ 74,000         |
| 400                                                | -          | 7000    | - 59999 - Measure I: Transfer Out (Public Works)      | \$ 80,000         |
| <b>NET CHANGE TO FY21/22 Measure I Fund Budget</b> |            |         |                                                       | <b>\$ 154,000</b> |

### Summary of Recommended Budget Adjustments

- **Revenues:**
  - Increase Sales and Use Tax and TOT revenues by \$310,000 exceeding our pandemic lowered expectations.
  - Cannabis Dispensary Revenues exceeded expectations and will be higher as 2<sup>nd</sup> dispensary comes online.
  - Restriction on gatherings during COVID-19 have impacted Opera Hall revenues.
  - Transfer from Police Measure I Fund Balance for New Police Vehicle.
  - Transfer from Public Works Measure I Fund Balance for a New Dump Truck.
- **Expenditures:**
  - Increase salaries and benefits by \$353,700 as a result of SMEA, SPOA and SFFA Memorandums of Understanding changes.
  - Increase one-time cost for the state and federally mandated California Incident Based Reporting (CIBRS) upgrade.
  - Increase expenditures for reimbursable Sexual Assault Exam Kits (Now paid up-front by the city).
  - Increase expenditures for additional background services.
  - A new Patrol Vehicle (See page 15 for an explanation of need).
  - A new Dump Truck (See page 15 for an explanation of need).

## FINANCIAL SUMMARIES, PROJECTIONS AND RECOMMENDATIONS

### General Fund

The following table is the *Schedule of General Fund Operating Revenues. Vs. Operating Expenditures* for the first half of FY2021/22, which includes comparison information from the prior year's first half, as the budget adjustments on page 13 reflect, revenues are exceeding budget estimates with this trend continuing into the 2<sup>nd</sup> half of the fiscal year.

**City of Sonora**  
**General Fund**  
**Operating Revenues vs Operating Expenditures**  
**For the Period of December 31, 2021**

|                                            | FY20/21<br>Adopted<br>Budget | FY20/21<br>Mid-Year | FY20/21<br>% YTD | FY21/22<br>Adopted<br>Budget | FY21/22<br>Mid-Year | FY21/22<br>% YTD |
|--------------------------------------------|------------------------------|---------------------|------------------|------------------------------|---------------------|------------------|
| <b>Revenues</b>                            |                              |                     |                  |                              |                     |                  |
| Sales and Use Tax                          | 2,570,378                    | 1,338,639           | 52.1%            | 3,009,427                    | 1,752,041           | 58.2%            |
| Property Tax                               | 810,000                      | 383,081             | 47.3%            | 810,000                      | 396,390             | 48.9%            |
| VLFF Backfill Property Tax                 | 430,000                      | 218,881             | 50.9%            | 435,000                      | 224,233             | 51.5%            |
| Franchise Fees                             | 130,000                      | 26,696              | 20.5%            | 155,000                      | 44,303              | 28.6%            |
| Business Licenses                          | 103,100                      | 36,495              | 35.4%            | 116,300                      | 56,078              | 48.2%            |
| Transient Occupancy Tax                    | 345,000                      | 193,494             | 56.1%            | 420,000                      | 260,633             | 62.1%            |
| Licenses and Permits                       | 98,300                       | 57,919              | 58.9%            | 100,750                      | 44,792              | 44.5%            |
| Cannabis Public Benefit Fees               | 185,000                      | 79,438              | 42.9%            | 312,000                      | 241,064             | 77.3%            |
| Intergovernmental                          | 77,450                       | 22,802              | 29.4%            | 16,000                       | 14,482              | 90.5%            |
| American Rescue Plan (SLEFRP)              |                              |                     |                  | 581,786                      | 581,786             | 100.0%           |
| Charges for Services                       | 60,500                       | 22,360              | 37.0%            | 78,465                       | 35,830              | 45.7%            |
| Fines and Forfeitures                      | 27,000                       | 11,999              | 44.4%            | 45,200                       | 6,234               | 13.8%            |
| Interest                                   | 26,000                       | 5,314               | 20.4%            | 12,000                       | 2,430               | 20.3%            |
| Other Sources                              | 179,442                      | 85,742              | 47.8%            | 77,360                       | 60,752              | 78.5%            |
| <b>Total Revenues</b>                      | <b>5,042,170</b>             | <b>2,482,860</b>    | <b>49.2%</b>     | <b>6,169,288</b>             | <b>3,721,048</b>    | <b>60.3%</b>     |
| <b>Transfers In</b>                        |                              |                     |                  |                              |                     |                  |
| Transfers In                               | 1,953,450                    | 901,800             | 46.2%            | 2,390,550                    | 1,134,300           | 47.4%            |
| G/F Reserves                               | 444,111                      | 259,434             | 58.4%            | -                            | -                   | 0.0%             |
| <b>Total Transfer and Reserves</b>         | <b>2,397,561</b>             | <b>1,161,234</b>    | <b>48.4%</b>     | <b>2,390,550</b>             | <b>1,134,300</b>    | <b>47.4%</b>     |
| <b>Total Revenues (including Reserves)</b> | <b>7,439,731</b>             | <b>3,644,094</b>    | <b>49.0%</b>     | <b>8,559,838</b>             | <b>4,855,348</b>    | <b>56.7%</b>     |
| <b>Expenditures</b>                        |                              |                     |                  |                              |                     |                  |
| Salaries and Benefits                      | 5,962,590                    | 2,816,451           | 47.2%            | 6,428,354                    | 3,178,785           | 49.4%            |
| Supplies and Materials                     | 1,139,926                    | 686,926             | 60.3%            | 1,632,574                    | 965,880             | 59.2%            |
| Utilities                                  | 204,665                      | 101,439             | 49.6%            | 273,725                      | 148,792             | 54.4%            |
| <b>Total Expenditures</b>                  | <b>7,307,181</b>             | <b>3,604,816</b>    | <b>49.3%</b>     | <b>8,334,653</b>             | <b>4,293,457</b>    | <b>51.5%</b>     |
| <b>Transfers Out</b>                       |                              |                     |                  |                              |                     |                  |
| Transfers Out                              | 132,550                      | 16,307              | 12.3%            | 44,000                       | 28,997              | 65.9%            |
| <b>Total Transfers</b>                     | <b>132,550</b>               | <b>16,307</b>       | <b>12.3%</b>     | <b>44,000</b>                | <b>28,997</b>       | <b>65.9%</b>     |
| <b>Total Expenditures</b>                  | <b>7,439,731</b>             | <b>3,621,123</b>    | <b>48.7%</b>     | <b>8,378,653</b>             | <b>4,322,454</b>    | <b>51.6%</b>     |

The groups of financial summaries on the following pages present data by governmental fund type: For purposes of this first half report, we have focused on the Measure I Special Revenue Fund. The fund information starts with a beginning fund balance, adds current year revenues, and subtracts current year expenditures, resulting in an ending fund balance. Adopted budget amounts are provided as a basis for comparison of actuals to date.

## **Special Revenue Fund**

Special Revenue Funds account for the proceeds derived from specific revenue sources that are legally restricted or assigned to special purposes. The City's Special Revenue Funds include the Measure I fund which is the focus of the information provided in this 1<sup>st</sup> half report. The Measure I fund was established as a result of a 2004 voter approved ½% increase to sales tax within the City limits. With approval of the ballot measure, the sales tax increase took effect January 1, 2005. The purpose of the initiative was to improve city services for residents, businesses, and visitors to the City of Sonora. Measure I revenues for the first half are trending at 53% of total budgeted revenues and across the three Departments expenditures are programmed to be at 50% of budget.

| <b>Measure I</b>                 |           |       |         |       |              |       |
|----------------------------------|-----------|-------|---------|-------|--------------|-------|
|                                  | Police    | %     | Fire    | %     | Public Works | %     |
| Beginning Fund Balance           | 910,415   |       | 269,479 |       | 503,057      |       |
| Budgeted Revenues                | 1,276,500 |       | 531,875 |       | 319,125      |       |
| Actual Revenues - First Half     | 680,934   | 53.3% | 283,723 | 53.3% | 170,234      | 53.3% |
| Budgeted Expenditures            | 1,300,000 |       | 500,000 |       | 315,000      |       |
| Actual Expenditures - First Half | 650,000   | 50.0% | 250,000 | 50.0% | 157,500      | 50.0% |
| Ending Fund Balance              | 941,349   |       | 303,202 |       | 515,791      |       |

- Measure I fund balance for the Police Department is projected to be \$941,349 at year end. A budget adjustment in the amount of \$74,000 is recommended to purchase a new patrol vehicle replacing vehicles that are close to or have reached their end of life.
  - The Police Department needs to maintain fourteen patrol vehicles.
  - Six of these are 2003 to 2005 Crown Victoria's with an average of 100,377 miles logged.
  - Of the three 2010 Dodge Chargers two have required major repairs in the past two years.
  - At FY22-23 budget a fleet replacement strategy will be proposed.
- Measure I fund balance for Public Works is projected to be \$515,791 at year end. A budget adjustment in the amount of \$80,000 is recommended to purchase a new dump truck replacing a 2008 Ford F550. The California Air Resources Board (CARB) has regulations that restrict what can be operated in California to reduce exhaust emissions from diesel trucks with a GVWR greater than 14,000 pounds. The City has several vehicles that will need replacement in the next fiscal year because of these restrictions.

The Police Department receives 60% of this revenue for the support of the Sonora Police Department for personnel, updating safety equipment providing educational funding, replacing expired vehicles, and expanding facilities. FY2021/22 1<sup>st</sup> half results are trending consistent with the same period in prior years as illustrated in the chart below. There is a request to use fund balance to purchase a patrol vehicle in the amount of \$74,000 for the Sonora Police Department.

### **Measure I: Police Department**

| <b>Police Measure I</b>                 |           |           |           |           |           |
|-----------------------------------------|-----------|-----------|-----------|-----------|-----------|
|                                         | FY17/18   | FY18/19   | FY19/20   | FY20/21   | FY21/22   |
| 1st Half Actual Revenues                | 478,927   | 476,118   | 497,037   | 486,677   | 680,934   |
| Fiscal Year Total Actual Revenues       | 1,099,908 | 1,144,325 | 1,164,639 | 973,830   |           |
| Fiscal Year Total Budgeted Revenues     |           |           |           |           | 1,276,500 |
| First Half - Percent of Total           | 43.5%     | 41.6%     | 42.7%     | 50.0%     | 53.3%     |
| 1st Half Actual Expenditures            | 422,863   | 493,545   | 515,516   | 550,000   | 650,000   |
| Fiscal Year Total Actual Expenditures   | 866,275   | 1,058,491 | 1,041,437 | 1,100,000 |           |
| Fiscal Year Total Budgeted Expenditures |           |           |           |           | 1,300,000 |
| First Half - Percent of Total           | 48.8%     | 46.6%     | 49.5%     | 50.0%     | 50.0%     |

The Fire Department receives 25% of the Measure I revenue which provides funding for the Sonora Fire Department. FY21/22 1<sup>st</sup> half revenues are trending consistent with the same period in prior years as illustrated in the chart below. There are no budget recommendations at this time.

### **Measure I: Fire Department**

| <b>Fire Measure I</b>                   |         |         |         |         |         |
|-----------------------------------------|---------|---------|---------|---------|---------|
|                                         | FY17/18 | FY18/19 | FY19/20 | FY20/21 | FY21/22 |
| 1st Half Actual Revenues                | 199,347 | 197,397 | 199,604 | 202,358 | 283,723 |
| Fiscal Year Total Actual Revenues       | 457,505 | 474,030 | 469,959 | 405,631 |         |
| Fiscal Year Total Budgeted Revenues     |         |         |         |         | 531,875 |
| First Half - Percent of Total           | 43.6%   | 41.6%   | 42.5%   | 49.9%   | 53.3%   |
| 1st Half Actual Expenditures            | 250,794 | 263,693 | 270,547 | 175,000 | 250,000 |
| Fiscal Year Total Actual Expenditures   | 520,257 | 503,750 | 512,469 | 350,000 |         |
| Fiscal Year Total Budgeted Expenditures |         |         |         |         | 500,000 |
| First Half - Percent of Total           | 48.2%   | 52.3%   | 52.8%   | 50.0%   | 50.0%   |

The Public Works Department receives 15% of the Measure I generated revenue for the purpose of hiring and retaining personnel, equipment and facility enhancements and infrastructure improvements. FY 21/22 1<sup>st</sup> half revenues are trending consistent with the same period in prior years as illustrated in the chart below. There is a request to use fund balance to fund a new dump truck for Public Works in the amount of \$80,000, replacing a truck nearing its end of life.

### **Measure I: Public Works**

| <b>Public Works Measure I</b>           |         |         |         |         |         |
|-----------------------------------------|---------|---------|---------|---------|---------|
|                                         | FY17/18 | FY18/19 | FY19/20 | FY20/21 | FY21/22 |
| 1st Half Actual Revenues                | 120,205 | 120,179 | 124,390 | 126,104 | 170,234 |
| Fiscal Year Total Actual Revenues       | 278,460 | 292,689 | 290,275 | 253,259 |         |
| Fiscal Year Total Budgeted Revenues     |         |         |         |         | 319,125 |
| First Half - Percent of Total           | 43.2%   | 41.1%   | 42.9%   | 49.8%   | 53.3%   |
| 1st Half Actual Expenditures            | 80,669  | 144,673 | 130,299 | 162,500 | 157,500 |
| Fiscal Year Total Actual Expenditures   | 208,451 | 254,188 | 239,023 | 325,000 |         |
| Fiscal Year Total Budgeted Expenditures |         |         |         |         | 315,000 |
| First Half - Percent of Total           | 38.7%   | 56.9%   | 54.5%   | 50.0%   | 50.0%   |

## CONCLUSION

The financial results for the first half of Fiscal Year 2021-22 are based on the most current financial information and economic assumptions available. Revenues have been better than anticipated, as the original budget was developed as COVID-19 was having a significant effect on the local economy. There is always a concern as how the ongoing pandemic will continue to impact the city and its revenues. The financial results from the prior fiscal year, coupled with the FY2021/22 first half data, confirms the City's continued conservative fiscal planning and efforts to sustain its economically sensitive revenues, while looking to new revenues for the City, all while containing costs.

The attached budget adjustments are needed for the city to complete the fiscal year and to continue to navigate the COVID-19 pandemic.

As the fiscal year progresses, staff will continue to closely monitor revenue and expenditure activity and work to identify opportunities to enhance revenue to support current and future operating capital needs.





## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Chris Gorsky, Administrative Services Director

**SUBJECT:** Adopt Resolution No. 03-07-2022-A Authorizing the City Council to enter into an agreement with the CalPERS via the California Employers' Pension Prefunding Trust (CEPPT), a Section 115 Irrevocable Trust, and delegating authority to the City Administrator and the Administrative Services Director to request disbursements

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### RECOMMENDATION

Adopt Resolution No. 03-07-2022-A Authorizing the City Council to enter into an agreement with the CalPERS via the California Employers' Pension Prefunding Trust (CEPPT), a Section 115 Irrevocable Trust, and delegating authority to the City Administrator and the Administrative Services Director to request disbursements.

### BACKGROUND

The City of Sonora, like all cities and municipal agencies, manages unfunded benefit liabilities as a part of its financial planning efforts. Unfunded liabilities are defined as identifiable obligations of an organization, for which the organization does not have 100 percent of the funding (cash or other assets) set aside to cover the cost, should all obligations become immediately and simultaneously due. The City of Sonora's largest benefit liabilities are for its Defined Benefit Pension Plan. It is imperative the City plans for this Unfunded CalPERS liability.

### DISCUSSION

A Section 115 Irrevocable Trust allows the City to invest assets to fund future pension contributions over shorter time horizons than the CalPERS pension fund and with potentially better yields than other short-term instruments such as the Local Agency Investment Fund (LAIF).

CalPERS' Section 115 Irrevocable Trust Program, CEPPT, does not have a minimum initial contribution or any required annual contribution amount. The City will have the ability to make deposits into the CEPPT as funds become available via the budget process. The attached resolution authorizes the City Administrator to enter into an agreement to establish a Section 115 Trust through CalPERS and authorizes the City Administrator and Administrative Services Director to withdraw funds from the CEPPT to make payments toward pension liabilities.

Any contributions or disbursements will be authorized during the City's annual budget process and will be part of the Fund Balance Reserve Policy.

**FISCAL IMPACT**

The long-term impact of this pension related action is difficult to quantify. It is fair to assume, however, that reserving funds for pension costs now and into the future will bring significant budgetary benefits over time. Over the past several years, CalPERS has lowered its discount rate by 50 basis points in FY20-21 and an additional 20 basis points in FY21-22 in recognition of the likelihood that the fund will not achieve projected investment returns. It is not unlikely that CalPERS will continue to reduce its discount rate. By fully funding its pension liabilities, using a more conservative rate of projected return, the City would be setting aside enough money to ensure that increasing pension related costs will not crowd out spending on other essential City projects and functions. The City's current unfunded liability is approximated \$12 million. This is a fiscally prudent step and Staff believes that the policy is fiscally sound and fully recommends its implementation.

**ATTACHMENTS**

- Resolution 03-07-2022-A

**RESOLUTION No. 03-07-2022-A**

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM'S (CalPERS) CALIFORNIA EMPLOYERS' PENSION PREFUNDING TRUST (CEPPT) PROGRAM TO ESTABLISH A SECTION 115 TRUST AND DELEGATING AUTHORITY TO THE CITY ADMINISTRATOR AND THE ADMINISTRATIVE SERVICES DIRECTOR TO REQUEST DISBURSEMENTS FROM THE SECTION 115 TRUST.**

**WHEREAS**, it is determined to be in the best interest of the City to set aside funds for the pre-funding of its CalPERS pension obligation to be held in trust for the exclusive purpose of making future contributions of the City's required pension contributions and any employer contributions in excess of such required contributions at the discretion of the City; and,

**WHEREAS**, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code (as amended) and the Regulations issued thereunder, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and,

**WHEREAS**, the City's establishment of the Section 115 trust does not require a minimum initial or annual contribution: and,

**WHEREAS**, Staff evaluated several firms with significant experience establishing and maintaining Section 115 Trusts; and,

**WHEREAS**, the CEPPT program offered by CalPERS was determined to offer the best combination of member agencies, assets under management, fee schedule, and annualized returns; and,

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Sonora does hereby authorize and direct the City Administrator to execute an agreement with CalPERS to establish a Section 115 Trust Fund, to include administrative, trustee/custodian, and investment advisory services.

**BE IT FURTHER RESOLVED** that the City Administrator and the Administrative Services Director are hereby authorized and/or their successors in office are authorized to order the deposit or withdrawal of money in the City of Sonora's Section 115 Trust Fund for pre-funding or pre-payment of CalPERS defined benefit contributions.

**PASSED, APPROVED AND ADOPTED as a Resolution by the Sonora City Council at a meeting held by the City Council on the 7<sup>th</sup> day of March 2022, by the following vote:**

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Matt Hawkins, Mayor

ATTEST: \_\_\_\_\_  
Deputy City Clerk, City of Sonora

# CALIFORNIA EMPLOYERS' PENSION PREFUNDING TRUST PROGRAM

## AGREEMENT AND ELECTION OF

City of Sonora

(NAME OF EMPLOYER)

### to Prefund Employer Contributions to a Defined Benefit Pension Plan

WHEREAS (1) Government Code (GC) Section 21711(a) establishes in the State Treasury the California Employers' Pension Prefunding Trust Fund (CEPPT), a special trust fund for the purpose of allowing eligible employers to prefund their required pension contributions to a defined benefit pension plan (each an Employer Pension Plan) by receiving and holding in the CEPPT amounts that are intended to be contributed to an Employer Pension Plan at a later date; and

WHEREAS (2) GC Section 21711(b) provides that the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) has sole and exclusive control of the administration and investment of the CEPPT, the purposes of which include, but are not limited to (i) receiving contributions from participating employers; (ii) investing contributed amounts and income thereon, if any, in order to receive yield on the funds; and (iii) disbursing contributed amounts and income thereon, if any, to pay for costs of administration of the CEPPT and to deposit employer contributions into Employer Pension Plans in accordance with their terms; and

WHEREAS (3) City of Sonora

(NAME OF EMPLOYER)

(Employer) desires to participate in the CEPPT upon the terms and conditions set by the Board and as set forth herein; and

WHEREAS (4) Employer may participate in the CEPPT upon (i) approval by the Board and (ii) filing a duly adopted and executed Agreement and Election to Prefund Employer Contributions to a Defined Benefit Pension Plan (Agreement) as provided in the terms and conditions of the Agreement; and

WHEREAS (5) The CEPPT is a trust fund that is intended to perform an essential governmental function (that is, the investment of funds by a State, political subdivision or 115 entity) within the meaning of Internal Revenue Code (Code) Section 115 and Internal Revenue Service Revenue Ruling 77-261, and as an Investment Trust Fund, as defined in Governmental Accounting Standards Board (GASB) Statement No. 84, Paragraph 16, for accounting and financial reporting of fiduciary activities from the

external portion of investment pools and individual investment accounts that are held in a trust that meets the criteria in Paragraph 11c(1).

WHEREAS (6) The CEPPT is not a Code Section 401(a) qualified trust and the assets held in the CEPPT are not assets of any Employer Pension Plan or any plan qualified under Code Section 401(a).

NOW, THEREFORE, BE IT RESOLVED THAT EMPLOYER HEREBY MAKES THE FOLLOWING REPRESENTATION AND WARRANTY AND THAT THE BOARD AND EMPLOYER AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

A. Employer Representation and Warranty

Employer hereby represents and warrants that it is the State of California or a political subdivision thereof, or an entity whose income is excluded from gross income under Code Section 115(1).

B. Adoption and Approval of the Agreement; Effective Date; Amendment

(1) Employer's governing body shall elect to participate in the CEPPT by adopting this Agreement and filing with the Board a true and correct original or certified copy of this Agreement as follows:

Filing by mail, send to: CalPERS  
CEPPT  
P.O. Box 1494  
Sacramento, CA 95812-1494

Filing in person, deliver to: CalPERS Mailroom  
CEPPT  
400 Q Street  
Sacramento, CA 95811

(2) Upon receipt of the executed Agreement, and after approval by the Board, the Board shall fix an effective date and shall promptly notify Employer of the effective date of the Agreement. Employer shall provide the Board such other documents as the Board may request, including, but not limited to a certified copy of the resolution(s) of the governing body of Employer authorizing the adoption of the Agreement and documentation naming Employer's successor entity in the event that Employer ceases to exist prior to termination of this Agreement.

(3) The terms of this Agreement may be amended only in writing upon the agreement of both the Board and Employer, except as otherwise provided herein. Any such amendment or modification to this Agreement shall be adopted and executed in the same manner as required for the Agreement. Upon receipt of the executed amendment or modification, the Board shall fix the effective date of the amendment or modification.

(4) The Board shall institute such procedures and processes as it deems necessary to administer the CEPPT, to carry out the purposes of this Agreement, and to maintain the tax-exempt status of the CEPPT. Employer agrees to follow such procedures and processes.

#### C. Employer Reports Provided for the Board's Use in Trust Administration and Financial Reporting and Employer Contributions

(1) Employer shall provide to the Board a defined benefit pension plan cost report on the basis of the actuarial assumptions and methods prescribed by Actuarial Standards of Practice (ASOP) or prescribed by GASB. Such report shall be for the Board's use in trust administration and financial reporting and shall be prepared at least as often as the minimum frequency required by applicable GASB Standards. This defined benefit pension plan cost report may be prepared as an actuarial valuation report or as a GASB compliant financial report. Such report shall be:

- 1) prepared and signed by a Fellow or Associate of the Society of Actuaries who is also a Member of the American Academy of Actuaries or a person with equivalent qualifications acceptable to the Board;
- 2) prepared in accordance with ASOP or with GASB; and
- 3) provided to the Board prior to the Board's acceptance of contributions for the reporting period or as otherwise required by the Board.

(2) In the event that the Board determines, in its sole discretion, that Employer's cost report is not suitable for the Board's purposes and use or if Employer fails to provide a required report, the Board may obtain, at Employer's expense, a report that meets the Board's trust administration and financial reporting needs. At the Board's option, the Board may recover the costs of obtaining the report either by billing and collecting such amount from Employer or through a deduction from Employer's Prefunding Account (as defined in Paragraph D(2) below).

(3) Employer shall notify the Board in writing of the amount and timing of contributions to the CEPPT, which contributions shall be made in the manner established by the Board and in accordance with the terms of this Agreement and any procedures adopted by the Board.

(4) The Board may limit Employer's contributions to the CEPPT to the amount necessary to fully fund the actuarial present value of total projected benefit payments not otherwise prefunded through the applicable Employer Pension Plan (Unfunded PVFB), as set forth in Employer's cost report for the applicable period. If Employer's contribution would cause the assets in Employer's Prefunding Account to exceed the Unfunded PVFB, the Board may refuse to accept the contribution. If Employer's cost report for the applicable period does not set forth the Unfunded PVFB, the Board may

refuse to accept a contribution from Employer if the contribution would cause the assets in Employer's Prefunding Account to exceed Employer's total pension liability, as set forth in Employer's cost report.

(5) No contributions are required. Contributions can be made at any time following the effective date of this Agreement if Employer has first complied with the requirements of this Agreement, including Paragraph C.

(6) Employer acknowledges and agrees that assets held in the CEPPT are not assets of any Employer Pension Plan or any plan qualified under Code Section 401(a), and will not become assets of such a plan unless and until such time as they are distributed from the CEPPT and deposited into an Employer Pension Plan.

#### D. Administration of Accounts; Investments; Allocation of Income

(1) The Board has established the CEPPT as a trust fund consisting of an aggregation of separate single-employer accounts, with pooled administrative and investment functions.

(2) All Employer contributions and assets attributable to Employer contributions shall be separately accounted for in the CEPPT (Employer's Prefunding Account). Assets in Employer's Prefunding Account will be held for the exclusive purpose of funding Employer's contributions to its Employer Pension Plan(s) and defraying the administrative expenses of the CEPPT.

(3) The assets in Employer's Prefunding Account may be aggregated with the assets of other participating employers and may be co-invested by the Board in any asset classes appropriate for a Code Section 115 trust, subject to any additional requirements set forth in applicable law, including, but not limited to, subdivision (d) of GC Section 21711. Employer shall select between available investment strategies in accordance with applicable Board procedures.

(4) The Board may deduct the costs of administration of the CEPPT from the investment income of the CEPPT or from Employer's Prefunding Account in a manner determined by the Board.

(5) Investment income earned shall be allocated among participating employers and posted to Employer's Prefunding Account daily Monday through Friday, except on holidays, when the allocation will be posted the following business day.

(6) If, at the Board's sole discretion and in compliance with accounting and legal requirements applicable to an Investment Trust Fund and to a Code Section 115 compliant trust, the Board determines to its satisfaction that all obligations to pay defined benefit pension plan benefits in accordance with the applicable Employer Pension Plan terms have been satisfied by payment or by defeasance with no remaining risk regarding the amounts to be paid or the value of assets held in the

CEPPT, then the residual Employer assets held in Employer's Prefunding Account may be returned to Employer.

#### E. Reports and Statements

- (1) Employer shall submit with each contribution a contribution report in the form and containing the information prescribed by the Board.
- (2) The Board, at its discretion but at least annually, shall prepare and provide a statement of Employer's Prefunding Account reflecting the balance in Employer's Prefunding Account, contributions made during the period covered by the statement, investment income allocated during such period, and such other information as the Board may determine.

#### F. Disbursements

- (1) Employer may receive disbursements from the CEPPT not to exceed, on an annual basis, the amount of the total annual Employer contributions to Employer's Pension Plan for such year.
- (2) Employer shall notify the Board in writing in the manner specified by the Board of the persons authorized to request disbursements from the CEPPT on behalf of Employer.
- (3) Employer's request for disbursement shall be in writing signed by Employer's authorized representative, in accordance with procedures established by the Board, and the Board may rely conclusively upon such writing. The Board may, but is not required to, require that Employer certify or otherwise demonstrate that amounts disbursed from Employer's Prefunding Account will be used solely for the purposes of the CEPPT. However, in no event shall the Board have any responsibility regarding the application of distributions from Employer's Prefunding Account.
- (4) No disbursement shall be made from the CEPPT which exceeds the balance in Employer's Prefunding Account.
- (5) Requests for disbursements that satisfy the above requirements will be processed on at least a monthly basis.
- (6) The Board shall not be liable for amounts disbursed in error if it has acted upon the written instruction of an individual authorized by Employer to request disbursements, and is under no duty to make any investigation or inquiry about the correctness of such instruction. In the event of any other erroneous disbursement, the extent of the Board's liability shall be the actual dollar amount of the disbursement, plus interest at the actual earnings rate but not less than zero.

## G. Costs of Administration

Employer shall pay its share of the costs of administration of the CEPPT, as determined by the Board and in accordance with Paragraph D.

## H. Termination of Employer's Participation in the CEPPT

(1) The Board may terminate Employer's participation in the CEPPT if:

- (a) Employer's governing body gives written notice to the Board of its election to terminate; or
- (b) The Board determines, in its sole discretion, that Employer has failed to satisfy the terms and conditions of applicable law, this Agreement or the Board's rules, regulations or procedures.

(2) If Employer's participation in the CEPPT terminates for either of the foregoing reasons, all assets in Employer's Prefunding Account shall remain in the CEPPT, except as otherwise provided below, and shall continue to be invested and accrue income as provided in Paragraph D, and Employer shall remain subject to the terms of this Agreement with respect to such assets.

(3) After Employer's participation in the CEPPT terminates, Employer may not make further contributions to the CEPPT.

(4) After Employer's participation in the CEPPT terminates, disbursements from Employer's Prefunding Account may continue upon Employer's instruction or otherwise in accordance with the terms of this Agreement.

(5) After Employer's participation in the CEPPT terminates, the governing body of Employer may request either:

- (a) A trustee to trustee transfer of the assets in Employer's Prefunding Account to a trust dedicated to prefunding Employer's required pension contributions; provided that the Board shall have no obligation to make such transfer unless the Board determines that the transfer will satisfy applicable requirements of the Code, other law and accounting standards, and the Board's fiduciary duties. If the Board determines that the transfer will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the transfer. The amount to be transferred shall be the amount in Employer's Prefunding Account as of the date of the transfer (the "transfer date") and shall include investment earnings up to an investment earnings allocation date preceding the transfer date. In no event shall the investment earnings allocation date precede the transfer date by more than 150 days.

- (b) A disbursement of the assets in Employer's Prefunding Account; provided that the Board shall have no obligation to make such disbursement unless the Board determines that, in compliance with the Code, other law and accounting standards, and the Board's fiduciary duties, all of Employer's obligations for payment of defined benefit pension plan benefits and reasonable administrative costs of the Board have been satisfied. If the Board determines that the disbursement will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the disbursement. The amount to be disbursed shall be the amount in Employer's Prefunding Account as of the date of the disbursement (the "disbursement date") and shall include investment earnings up to an investment earnings allocation date preceding the disbursement date. In no event shall the investment earnings allocation date precede the disbursement date by more than 150 days.

(6) After Employer's participation in the CEPPT terminates and at such time that no assets remain in Employer's Prefunding Account, this Agreement shall terminate. To the extent that assets remain in Employer's Prefunding Account, this Agreement shall remain in full force and effect.

(7) If, for any reason, the Board terminates the CEPPT, the assets in Employer's Prefunding Account shall be paid to Employer to the extent permitted by law and Code Section 115 after retention of (i) an amount sufficient to pay the Unfunded PVFB as set forth in a current defined benefit pension plan(s) cost report prepared in compliance with ASOP and the requirements of Paragraph C(1), and (ii) amounts sufficient to pay reasonable administrative costs of the Board. Amounts retained by the Board to pay the Unfunded PVFB shall be transferred to (i) another Code Section 115 trust dedicated to prefunding Employer's required pension contributions, subject to the Board's determination that such transfer will satisfy applicable requirements of the Code, other law and accounting standards, and the Board's fiduciary duties or (ii) Employer's Pension Plan, subject to acceptance by Employer's Pension Plan.

(8) If Employer ceases to exist but Employer's Prefunding Account continues to exist, and if no provision has been made to the Board's satisfaction by Employer with respect to Employer's Prefunding Account, the Board shall be permitted to identify and appoint a successor to Employer under this Agreement, provided that the Board first determines, in its sole discretion, that there is a reasonable basis upon which to identify and appoint such a successor and provided further that such successor agrees in writing to be bound by the terms of this Agreement. If the Board is unable to identify or appoint a successor as provided in the preceding sentence, then the Board is authorized to appoint a third-party administrator or other successor to act on behalf of Employer under this Agreement and to otherwise carry out the intent of this Agreement with respect to Employer's Prefunding Account. Any and all costs associated with such appointment shall be paid from the assets attributable to Employer's Prefunding Account. At the Board's option, and subject to acceptance by Employer's Pension Plan,

the Board may instead transfer the assets in Employer's Prefunding Account to Employer's Pension Plan and terminate this Agreement.

(9) If the Board determines, in its sole discretion, that Employer has breached the representation and warranty set forth in Paragraph A., the Board shall take whatever action it deems necessary to preserve the tax-exempt status of the CEPPT.

#### I. Indemnification

Employer shall indemnify, defend, and hold harmless CalPERS, the Board, the CEPPT, and all of the officers, trustees, agents and employees of the foregoing from and against any loss, liability, claims, causes of action, suits, or expense (including reasonable attorneys' fees and defense costs, lien fees, judgments, fines, penalties, expert witness fees, appeals, and claims for damages of any nature whatsoever) not charged to the CEPPT and imposed as a result of, arising out of, related to or in connection with (1) the performance of the Board's duties or responsibilities under this Agreement, except to the extent that such loss, liability, suit or expense results or arises from the Board's own gross negligence, willful misconduct or material breach of this Agreement, or (2) without limiting the scope of Paragraph F(6) of this Agreement, any acts taken or transactions effected in accordance with written directions from Employer or any of its authorized representatives or any failure of the Board to act in the absence of such written directions to the extent the Board is authorized to act only at the direction of Employer.

#### J. General Provisions

##### (1) Books and Records

Employer shall keep accurate books and records connected with the performance of this Agreement. Such books and records shall be kept in a secure location at Employer's office(s) and shall be available for inspection and copying by the Board and its representatives.

##### (2) Notice

(a) Any notice or other written communication pursuant to this Agreement will be deemed effective immediately upon personal delivery, or if mailed, three (3) days after the date of mailing, or if delivered by express mail or e-mail, immediately upon the date of confirmed delivery, to the following:

For the Board:

Filing by mail, send to:  
CalPERS  
CEPPT  
P.O. Box 1494  
Sacramento, CA 95812-1494

Filing in person, deliver to:  
CalPERS Mailroom  
CEPPT  
400 Q Street  
Sacramento, CA 95811

For Employer:

(b) Either party to this Agreement may, from time to time by notice in writing served upon the other, designate a different mailing address to which, or a different person to whom, all such notices thereafter are to be addressed.

### (3) Survival

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to be a part of this Agreement shall survive the termination of this Agreement.

### (4) Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

### (5) Necessary Acts; Further Assurances

The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

### (6) Incorporation of Amendments to Applicable Laws and Accounting Standards

Any references to sections of federal or state statutes or regulations or accounting standards shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

## (7) Days

Wherever in this Agreement a set number of days is stated or allowed for a particular event to occur, the days are understood to include all calendar days, including weekends and holidays, unless otherwise stated.

## (8) No Third Party Beneficiaries

Except as expressly provided herein, this Agreement is for the sole benefit of the parties hereto and their permitted successors and assignees, and nothing herein, expressed or implied, will give or be construed to give any other person any legal or equitable rights hereunder. Notwithstanding the foregoing, CalPERS, the CEPPT, and all of the officers, trustees, agents and employees of CalPERS, the CEPPT and the Board shall be considered third party beneficiaries of this Agreement with respect to Paragraph I above.

## (9) Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

A majority vote of Employer's Governing Body at a public meeting held on the 7th day of the month of March in the year 2022, authorized entering into this Agreement.

Signature of the Presiding Officer: \_\_\_\_\_

Printed Name of the Presiding Officer: Matt Hawkins, Mayor

Name of Governing Body: City of Sonora City Council

Name of Employer: City of Sonora

Date: March 7, 2022

BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
ARNITA PAIGE  
DIVISION CHIEF, PENSION CONTRACT AND PREFUNDING PROGRAMS  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

To be completed by CalPERS

The effective date of this Agreement is: \_\_\_\_\_



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Rachelle Kellogg, Community Development Director

**SUBJECT:** Red Church Pedestrian & Circulation Improvement Project – Bid Award

### RECOMMENDATION

Consideration of award to the low bidder, United Pavement Maintenance, for the Red Church Pedestrian and Circulation Improvement Project in the amount of \$451,000 and authorize the Interim City Administrator to sign the construction agreement and all related project documents upon funding approval by the Tuolumne County Transportation Council in the amount of \$120,000 and approve the related budget transfer; 4/5th vote required.

### DISCUSSION

The Red Church Pedestrian and Circulation Improvement Project, as designed, will improve pedestrian safety and address Americans with Disabilities Act (ADA) deficiencies within the project area. The project will replace the existing sidewalks, curbs, and gutters. It will add new, or reconstruct existing curb ramps, shorten high visibility crosswalks, and add additional striping to help slow down vehicular traffic. During the Engineering and Design Phase, the project's scope of work was revised to eliminate the proposed reconfiguration of the intersection at Snell and N. Washington/Hwy 49 and pedestrian hardscape areas due to site constraints and public concerns.

Caltrans has approved the final project plans and issued the required Encroachment Permit. Based on the Caltrans approved plans and scope, the revised Engineer's Estimate for the project, prepared by Willdan Engineering, totaled \$316,766.12. This included a 10% contingency and Construction Engineering costs. The Red Church Pedestrian & Circulation Project is funded under the Caltrans Active Transportation Program (ATP). The original allocation for construction funding under the ATP grant was \$646,000 however this was reduced by Caltrans to \$331,000 based on this revised estimate.

The project went out to bid on November 12, 2021, with bids due on December 10, 2021. The City received the following 3 bids:

- |                                       |           |
|---------------------------------------|-----------|
| 1) United Pavement Maintenance        | \$370,899 |
| 2) Ray's Electric                     | \$506,460 |
| 3) Sierra Mountain Construction, Inc. | \$371,200 |

Based on the low bidder, the estimated total project cost, including a 10% contingency and Construction Engineering cost of \$43,012, is \$451,000. Thus, the ATP construction funding allocation for the project is short by \$120,000. The City requested the additional funding from Caltrans but was informed that under Active Transportation Program requirements any additional costs above the allocation would not be provided under the Program. The City could not move forward with awarding the project until the additional funding was identified. The City has requested an additional \$120,000 in Local Transportation Fund (LTF) – Bike & Pedestrian funding from the Tuolumne County

Transportation Council (TCTC) which will be considered for approval on March 9, 2022. The contractor would like to begin construction during the last week of March, so staff is recommending moving forward with the award with authorizations to sign the contract once the TCTC funding is approved. The project includes 45 working days.

**FISCAL IMPACT**

\$331,000 in costs for this project are included in the Fiscal Year 2021-2022 City Council approved budget, the additional \$120,000 is included within the attached Budget Transfer Request Form.

**ATTACHMENTS**

- 1) Bid Certification
- 2) Budget Transfer Request Form



## City of Sonora

Community Development Department  
 94 N. Washington Street  
 Sonora, CA 95370  
 (209) 532-3508  
 (209) 532-3511 fax  
[www.sonoraca.com](http://www.sonoraca.com)

### CERTIFICATION OF BID OPENING BY CITY CLERK

I hereby certify that the following bids for the Red Church Pedestrian and Circulation Improvement Project were submitted to the City Clerk of the City of Sonora, 94 N. Washington Street, Sonora, CA, and received in said offices by 2:00 p.m. on Friday, December 10, 2021, the advertised time and date for the receipt and opening of said bid(s):

Name of Bidder

Total Bid Amount

United Pavement Maintenance

\$ 370,899

Ray's Electric

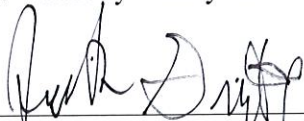
\$ 506,460

Sierra Mountain Const. Inc.

\$ 371,200

ATTEST: I hereby certify the foregoing information to be true and correct.

By:

  
 Jacqueline Smith, Deputy City Clerk

12/13/2021  
 Date





## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Douglas L. White, City Attorney

**SUBJECT:** Resolution No. 03-07-2022-B of the City Council of the City of Sonora calling and giving notice for the holding of a general municipal election to be held on Tuesday, June 7, 2022 for the election of the certain officers, as required by provisions of the laws of the State of California relating to general law cities; requesting the Board of Supervisors of Tuolumne County permit the County registrar of voters to render election services; and requesting the consolidation of said election with the statewide direct primary election held on the same date.

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### RECOMMENDATION

Adopt Resolution No. 03-07-2022-B Calling and giving notice for the holding of a General Municipal Election to be held on Tuesday, June 7, 2022 for the election of certain officers, as required by provisions of the laws of the State of California related to general law cities; requesting the Board of Supervisors of Tuolumne County permit the County Registrar of Voters to render election services; and requesting the consolidation of said election with the statewide direct primary election held on the same date.

### BACKGROUND

The City of Sonora (the "City") is holding a general municipal election (the "Election") on June 7, 2022, the date of the statewide direct primary election. The Elections Code authorizes the Sonora City Council (the "City Council") to adopt a resolution to consolidate the Election with the statewide direct primary election. Consolidation of the Election distributes the cost among several entities throughout the County of Tuolumne (the "County"), thereby reducing the City's final cost.

The attached resolution proposes to consolidate the Election for the offices of two (2) Councilmembers to serve a four-(4) year term (the "Resolution"). If consolidated, the County will conduct the Election on the City's behalf and invoice the City for the related costs.

### DISCUSSION

The City Council consists of five (5) members that are elected at-large by its voters during its general municipal elections. General municipal elections occur in staggered, even years and coincide with the statewide direct primary elections. The City's voters elect two (2) Councilmembers at one even-year election and elect the Mayor and two (2) Councilmembers for at the following even-year election.

The Tuolumne County Clerk's office has historically served as the City's Elections Official responsible for meeting the legal requirements in conducting elections and assists candidates in meeting their legal responsibilities in running for office. The nomination period this election year, during which candidates may obtain and file papers to run for office, opened on February 14, 2022 and closes at 5:00 p.m. on March 11, 2022. If an incumbent does not file by the March 11, 2022 deadline, the nomination period is extended until March 16, 2022 at 5:00 p.m. Candidates for City Council in the June 7, 2022 Election must reside in within the City and meet other statutory requirements to qualify as a candidate for office.

The County Clerk's office published a Notice of Election on January 28, 2022. All nomination papers shall be obtained and filed with the County Clerk during the County's regular business hours.

**FISCAL IMPACT**

All costs for the Election have been anticipated and budgeted for by the City, as state law legally requires the Election for City Councilmembers.

**OPTIONS**

1. Adopt the Resolution.
2. Reject the Resolution.
3. The City Council may continue the item and request additional information and analysis from staff. Since the City must adopt the resolution eighty-eight (88) days prior to the Election, this option may delay the City from submitting the proposed Measure to the County and prevent the consolidation of the Election with the statewide direct primary election. The deadline to request consolidation with the statewide direct primary election is March 11, 2022.

**ATTACHMENTS**

- Resolution No. 03-07-2022-B

**RESOLUTION NO. 03-07-2022-B**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONORA  
CALLING AND GIVING NOTICE FOR THE HOLDING OF A GENERAL MUNICIPAL  
ELECTION TO BE HELD ON TUESDAY, JUNE 7, 2022, FOR THE ELECTION OF  
CERTAIN OFFICERS, AS REQUIRED BY PROVISIONS OF THE LAWS OF THE STATE  
OF CALIFORNIA RELATING TO GENERAL LAW CITIES; REQUESTING THE BOARD OF  
SUPERVISORS OF TUOLUMNE COUNTY PERMIT THE COUNTY REGISTRAR OF  
VOTERS TO RENDER ELECTION SERVICES; AND REQUESTING THE  
CONSOLIDATION OF SAID ELECTION WITH THE STATEWIDE DIRECT PRIMARY  
ELECTION HELD ON THE SAME DATE.**

**WHEREAS**, under the provisions of the laws relating to general law cities in the State of California, a general municipal election shall be held on Tuesday, June 7, 2022, for the election of municipal officers (the "Election"); and

**WHEREAS**, in the course of conduct of the Election, it is necessary that the City of Sonora (the "City") request election services be rendered by the County of Tuolumne (the "County") Registrar of Voters (the "Registrar"), as they are the entity equipped to conduct, canvass, and declare the results of an election in the manner provided by law; and

**WHEREAS**, pursuant to Elections Code section 10002, the City is authorized to request the Board of Supervisors of Tuolumne County (the "County Board of Supervisors") to permit the Registrar to render election services to the City relating to conducting the Election; and

**WHEREAS**, pursuant to Elections Code section 10400 et seq., the City Council is authorized to request the County Board of Supervisors to consolidate the Election with other elections to be held on the same day and in the same territory; and

**WHEREAS**, the Election is held on the same day as the statewide direct primary election and

**WHEREAS**, the City Council desires to call the Election and, pursuant to Elections Code section 10403 and 10002, desires that the Election be consolidated with the statewide direct primary election and have the Registrar perform specified election services for the City; and

**WHEREAS**, the City recognizes additional costs may be incurred by the County by reason of this consolidation and agrees to reimburse the County for such costs.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council for the City of Sonora finds and declares as follows:

Section 1. Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Sonora, California, on Tuesday, June 7, 2022, a general municipal election for the purpose of submitting to the

qualified voters a ballot for the election of two (2) Councilmembers for the full term of four (4) years.

Section 2. Pursuant to Elections Code section 10400 et seq., the Board of Supervisors of the County is hereby requested to consent and agree to the consolidation of the City's general municipal election with the statewide direct primary election to be held on Tuesday, June 7, 2022.

Section 3. The City acknowledges that the consolidated Election shall be held and conducted in the manner prescribed by Elections Code section 10418.

Section 4. Pursuant to the requirements of Elections Code section 10002, the City Council, as the governing body of the City, is requesting by this Resolution that the County Board of Supervisors permit the Registrar to render specified services to the City relating to the conduct of the Election.

Section 5. The specified services requested by the City Council are applicable procedural requirements, connected with the conduct of the Election and performed by the Registrar in accordance with the provisions of law, to properly and lawfully conduct, canvass, and certify the results of the Election.

Section 6. Pursuant to Elections Code section 10002, the City Council recognizes that consolidation of the Election with the statewide direct primary election, conducted by the County, provides the City an opportunity to share costs of conducting the election with other jurisdictions and, therefore, shall reimburse the County, upon completion of the work performed, for the City's share of costs incurred and upon presentation of an invoice to the City.

Section 7. The polls for the Election shall open at seven o'clock a.m. (7:00 a.m.) of the day of the Election and shall remain open continuously from that time until eight o'clock p.m. (8:00 p.m.), except as provided in Elections Code sections 4005 and 14401.

Section 8. Pursuant to Elections Code section 13307, candidates shall be required to pay a deposit in an amount as reasonably estimated by the Deputy City Clerk for his or her pro rata share of the actual cost of printing, handling, translating, and mailing of the candidate statement in the voter pamphlet at the time of filing the nomination papers. Candidates who demonstrate that he or she is unable to pay the deposit pursuant to Elections Code section 13309 shall be exempt from paying the deposit. Depending on the actual cost, the Deputy City Clerk is directed to bill candidates for any additional expenses incurred in excess of any deposit paid to the City or refund any overage paid to the City. The candidate statement will be limited to no more than two hundred (200) words and shall be provided to the City Elections Official with the candidate's nomination papers.

Section 9. The Registrar is authorized to canvass the returns of the Election.

Section 10. The Deputy City Clerk shall receive the canvass of the Election, and shall certify the results to the City Council, as required by law.

Section 11. In the event of a tie vote, with any two or more persons receiving equal and the highest number of votes for a City Council office, as certified by the County, the City Council,

in accordance with Elections Code section 15651, subdivision (a), shall set a date, time, and place and summon the candidates who have received the tie votes to appear and will determine the tie by lot.

Section 12. In all particulars not recited in this Resolution, the Election shall be held and conducted as provided by law for holding municipal elections.

Section 13. Notice of the time and place of holding the Election is given and the Deputy City Clerk is authorized, instructed, and directed to give further or additional notice of the Election, in time, form, and manner as required by law.

Section 14. The Deputy City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

Section 15. The Deputy City Clerk is hereby directed to file a certified copy of this Resolution with the County Board of Supervisors and with the Registrar. The Deputy City Clerk shall file a certified copy of this Resolution with the County Board of Supervisors by March 11, 2022.

**PASSED AND ADOPTED as a Resolution by the Sonora City Council at a meeting held by the City Council on the 7<sup>th</sup> day of March 2022, by the following vote:**

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Matt Hawkins  
Mayor of the City of Sonora

ATTEST:

\_\_\_\_\_  
Deputy City Clerk  
Jackie Smith

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas L. White  
Sonora City Attorney



## CITY COUNCIL AGENDA REPORT

**MEETING DATE:** March 7, 2022

**TO:** City Council Members

**FROM:** Douglas L. White, City Attorney

**SUBJECT:** Ordinance No. 882 of the City Council of the City of Sonora Amending Title 7, Integrated Waste Management, of the Sonora Municipal Code to Regulate the Disposal of Recyclable and Organic Materials.

### RECOMMENDATION

Waive reading, read by title only, and introduce for first reading Ordinance No. 882 of the City Council of the City of Sonora Amending Title 7, Integrated Waste Management, of the Sonora Municipal Code to regulate the disposal of recyclable and organic materials.

### DISCUSSION

In September 2016, Governor Brown signed into law Senate Bill 1383 ("SB 1383") establishing methane emissions reduction targets in a state-wide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy. Methane emissions result from the decomposition of organic waste in landfills and are a source of greenhouse gas (GHG) emissions. SB 1383 directs the Department of Resources Recycling & Recovery ("CalRecycle") to adopt regulations and requirements to achieve state-wide goals. These goals include achieving a 75% reduction in statewide disposal of organic waste by 2025, and a recovery of 20% or more of currently disposed edible food, directing it toward human consumption.

To meet the state-wide goals of SB 1383 and its January 1, 2022 compliance implementation deadline, CalRecycle has established numerous organic waste disposal program requirements impacting municipal jurisdictions, generators, processors, and haulers of organic waste. Compliance with SB 1383 requires the City of Sonora (the "City") to update its solid waste disposal regulations to set protocols and enforcement for self-hauling, requirements for waivers, an inspection and enforcement protocol for organic waste collection service and enforcement of edible food recovery program requirements. Ordinance No. 882 will update the City's solid waste disposal regulations to comply with SB 1383 (the "Ordinance"). SB 1383 imposes a significant change to State and local policy. In order to meet State goals and mandates, the City is required to adopt the proposed Ordinance.

### FISCAL IMPACT

No fiscal impact to the General Fund.

### ENVIRONMENTAL

The Ordinance is not a "project" under the California Environmental Quality Control Act.<sup>1</sup>

## OPTIONS

1. Introduce the Ordinance for first reading;
2. Continue the item for later consideration of the City Council with direction to City staff for additional analysis; or
3. Reject the proposed Ordinance.

## ATTACHMENTS

- Ordinance No. 882

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<sup>1</sup> Pub. Resources Code, § 21065.

**THE CITY COUNCIL  
OF THE CITY OF SONORA**

**ORDINANCE NO. 882**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA AMENDING TITLE 7,  
INTEGRATED WASTE MANAGEMENT, OF THE SONORA MUNICIPAL CODE TO  
REGULATE THE DISPOSAL OF RECYCLABLE AND ORGANIC MATERIALS**

**WHEREAS**, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

**WHEREAS**, State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011), which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires jurisdictions to implement a Mandatory Commercial Recycling program; and

**WHEREAS**, State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires jurisdictions to implement a Mandatory Commercial Organics Recycling program; and

**WHEREAS**, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets; and

**WHEREAS**, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations.

**NOW, THEREFORE, THE CITY OF SONORA CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1. AMENDMENT.** Title 7, Integrated Waste Management, of the Sonora Municipal Code shall be repealed in its entirety and replaced with a new Title 7 that shall read as follows:

**Title 7  
Integrated Waste Management**

**7.04  
General Provisions**

**7.04.010 Title And Citation**

This title shall be known and may be cited as the "City of Sonora Integrated Waste Management Ordinance."

**7.04.020 Findings**

Between 1989 and 1994 the county of Tuolumne has experienced insufficient revenues to adequately fund solid waste management, increased costs to meet state and federal mandates for environmental compliance and waste diversion, and illegal storage and disposal of solid waste. The County also faces the prospect of having no landfill for its residents to dispose of their solid waste. The Sonora city council finds, in order to preserve the environment and protect the health and safety and quality of life of the residents of the city, there is a need to provide for a stable, regular, efficient and adequately funded solid waste management system. The city also finds that it is necessary to regulate certain solid waste management issues to provide adequate solid waste management and recycling services as mandated by federal and state law, and to insure that those services are provided at affordable rates to the ratepayers.

**7.04.030 Purpose**

Pursuant to Division 30 of the Public Resources Code (sections 40000 et seq.), this title is adopted to provide for an integrated solid waste management system which shall preserve the public health, safety, welfare, convenience and necessity and provide for a stable revenue source with which the city and authorized service provider(s) may furnish adequate management of solid waste.

**7.04.040 Inspections and Investigations.**

A. The city administrator, or his or her designee, are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this title, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any collection container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this title, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting commercial collection containers for compliance, the city administrator or his or her designee, may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial businesses shall accommodate and cooperate with the remote monitoring.

B. A person subject to the requirements of this title shall provide or arrange for access during all inspections (with the exception of a private residential dwelling unit) and shall cooperate with the city administrator, or his or her designee, during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this title. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this title and may result in penalties.

C. Any records obtained by the city administrator, or his or her designee, during inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code section 6250 et seq.

D. The City, contractor or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this title.

#### **7.04.050 Enforcement; Penalties**

A. Any person violating any of the provisions of this title shall be guilty of a misdemeanor and subject to a fine of up to one thousand dollars, imprisonment of up to six months or both. Each day a violation is committed or permitted to continue shall constitute a separate offense.

B. As an alternative to criminal enforcement, both the city and franchisee or permittee have the independent authority to civilly enforce any provision of this title. The city administrator may invoke these remedies, or any of them, whenever deemed appropriate.

C. A franchisee or permittee authorized to provide collection and transport of recyclables shall have authority to seek treble damages, to the same extent as a recycling agent, pursuant to California Public Resources Code section 41953.

D. A violation of any provisions of this title shall constitute grounds for issuance of a notice of violation. The city administrator, or his or her designee, may issue a notice of violation requiring compliance within sixty (60) days or sooner of issuance of the notice.

E. Absent compliance within the deadline set forth in the notice of violation, the city administrator his or her designee, shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the City's standard procedures or the standard procedures of its designated enforcement agency.

Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources

D. Authority for the enforcement of this title shall be vested in the city administrator.

#### **7.04.060 Appeals To The Council**

A decision of the city administrator, expressly made subject to review under this section, shall be set for a hearing only upon a written request made to the city clerk, by an aggrieved person, not more than fifteen calendar days following the date of the decision being reviewed. The city clerk

shall set the matter for hearing not more than sixty days following receipt of the written request and shall give written notice of the time, date and place of hearing to the appellant, applicant, permittee or franchisee as applicable and the city administrator. The entire matter shall be reviewed by the council relying solely upon evidence presented at the hearing. At the hearing the appellant shall have the burden of proof, unless provided otherwise. The council shall issue its decision within fifteen days after the close of the hearing on the appeal. The council may uphold, conditionally uphold, or revise the decision of the city administrator and shall return the matter to the city administrator for action in conformance with the council's decision.

## **7.08 Definitions**

### **7.08.010 General Rules For Interpretation**

Unless the context otherwise requires, the following definitions set out in this chapter shall be used in the interpretation and construction of this title.

### **7.08.020 Act**

"Act" means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.

### **7.08.030 Buy-Back Recycling Center**

"Buy-back recycling center" means a facility that pays a fee for the delivery and transfer of ownership to the facility of source separated materials, for the purpose of recycling or composting.

### **7.08.040 CCR**

"CCR" means the California Code of Regulations. CCR references in this title are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

### **7.08.050 City Administrator**

"City administrator" means the city administrator of the City of Sonora, or his or her designee, which may include city employees.

### **7.08.060 Collection**

"Collection" means to take physical possession of solid waste at, and remove from, the place of generation for transport to a solid waste facility or other recovery activity.

### **7.08.070 Collection Area**

"Collection area" means all those portions of the incorporated area in the city.

### **7.08.080 Commercial Business or Commercial**

"Commercial business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling, or as otherwise defined in 14 (CCR) Section 18982, subdivision (a)(6).

A multi-family dwelling that consists of fewer than five (5) or more dwelling units is not "Commercial", for the purposes of this title.

#### **7.08.090 Commercial Customer**

"Commercial customer" means any person who has established a commercial service account with a franchisee or permittee.

#### **7.08.100 Commercial Edible Food Generator**

Commercial edible food generator" means a tier one or a tier two commercial edible food generator as defined in 14 CCR section 18982, subdivisions (a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.

#### **7.08.110 Commercial Solid Waste**

"Commercial solid waste" means municipal solid waste originating from stores, business offices, commercial warehouses, hospitals, schools, health care facilities, military installations, correctional institutions, nonprofit organizations, campgrounds, government offices or complexes of apartments, condominiums, townhomes or mobilehome parks which complex or park contains five or more units.

#### **7.08.120 Commercial Service**

"Commercial service" means commercial solid waste collection service or recyclables collection service provided by a franchisee or a permittee under this title to a commercial customer.

#### **7.08.130 Community Composting**

"Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR section 17855, subdivision (a)(4); or, as otherwise defined by 14 CCR section 18982, subdivision (a)(8).

#### **7.08.140 Composting**

"Composting" means the process of controlled biological decomposition of organic waste.

#### **7.08.150 Construction and Demolitions Debris or C&D**

"Construction and demolition debris" or "C&D" means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.

#### **7.08.160 Container or Collection Container**

"Container" or "collection container" means, for the purpose of this title, any bin, box or cart used for the purpose of holding solid waste for collection.

#### **7.08.170 Customer**

"Customer" means any person requesting services and paying rates regulated by this title.

#### **7.08.180 Curb Service**

"Curb service" means collection of waste containers placed by the residential customer adjacent to a street.

#### **7.08.190 Debris Box**

"Debris box" means any ten (10) to forty (40) cubic yard container, or any compactor provided by a solid waste generator, placed in the public right-of-way, on city property, private property, or elsewhere in the service area, which is procured by a solid waste generator for their use in the collection of their solid waste. Debris boxes are serviced by means of lifting the entire container, including all contents, onto a designated collection vehicle.

#### **7.08.200 Disposal**

"Disposal" means the management of solid waste through transformation at a permitted solid waste facility or through landfill disposal.

#### **7.08.210 Drop-Off Recycling Center**

"Drop-off recycling center" means a location or facility which accepts delivery or transfer of ownership of source separated materials for the purpose of recycling or composting, without a monetary transaction.

#### **7.08.220 Dwelling Unit**

"Dwelling unit" means one (1) or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one (1) family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.

#### **7.08.230 Edible Food**

"Edible food" means food intended for human consumption, or as otherwise defined in 14 CCR section 18982, subdivision (a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR section 18982, subdivision (a)(18), "Edible Food" is not solid waste if it is recovered and not discarded. Nothing in this title or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

#### **7.08.240 Enforcement Action**

"Enforcement Action" means an action of the city to address non-compliance with this ordinance including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.

#### **7.08.250 Enforcement Agency**

"Enforcement Agency" means an entity with the authority to enforce part or all of this title as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this title. Nothing in this title authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the City. The City is an enforcement agency for all Sections of this title. The City may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including the County of Tuolumne.

#### **7.08.260 Exempt Waste**

“Exempt waste” means biohazardous or biomedical waste, hazardous waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.

#### **7.08.270 Food Recovery Organization**

“Food recovery organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR section 18982, subdivision (a)(25), including, but not limited to: A food bank as defined in Section 113783 of the Health and Safety Code; A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

#### **7.08.280 Food Recovery Service**

“Food recovery service” means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, or as otherwise defined in 14 CCR section 18982, subdivision (a)(26). A food recovery service is not a commercial edible food generator for the purposes of this Title and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR section 18982, subdivision (a)(7).

#### **7.08.290 Food Waste**

“Food waste” means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food Waste includes but is not limited to meat, fish and dairy waste, fruit and vegetable waste and grain waste. Food waste does not include exempt waste.

#### **7.08.300 Franchise**

"Franchise" means the authority and obligation to provide services specified in a valid franchise agreement entered into under this title.

#### **7.08.310 Franchisee**

"Franchisee" means a person who operates under a franchise agreement with this city entered into pursuant to this title.

#### **7.08.320 Garbage**

“Garbage” means all non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic materials, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

#### **7.08.330 Generators**

“Generators,” for the purpose of this title, means a person or entity, including commercial generators and residential generators, that is responsible for the initial creation of organic  
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materials, or as otherwise defined as “organic waste generator” in 14 CCR section 18982, subdivision (a)(48).

#### **7.08.340 Gross Receipts**

"Gross receipts" means all gross operating revenues received from the collection and transport of solid waste or recyclables within the city.

#### **7.08.350 Hauler**

“Hauler” means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

#### **7.08.360 Hazardous Waste**

"Hazardous waste" means the same as described in section 25117 of the California Health and Safety Code which at this time provides:

A. "Hazardous waste" means either of the following:

1. A waste, or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may either:
  - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;
  - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of, or otherwise managed.
2. A waste which meets any of the criteria for the identification of a hazardous waste adopted pursuant to section 25141 of the Health and Safety Code.

B. "Hazardous waste" includes, but is not limited to, RCRA hazardous waste.

C. Unless expressly provided otherwise, the term "hazardous waste" shall be understood to also include extremely hazardous waste and acutely hazardous waste as defined in sections 25115 and 25110.02 of the Health and Safety Code.

#### **7.08.370 Industrial Solid Waste**

"Industrial solid waste" means solid waste:

- A. As a by-product of the business of processing or manufacturing agricultural, animal or other products or materials;
- B. As a by-product of the business of building construction or demolition; or
- C. As ash from industrial boilers, furnaces and incinerators.

#### **7.08.380 Inspection**

“Inspection” means a site visit where a jurisdiction or its designee or designated entity, reviews records, containers, and an entity’s collection, handling, recycling, or disposal of solid waste or

edible food handling to determine if the entity is complying with requirements set forth in this title, or as otherwise defined in 14 CCR section 18982, subdivision (a)(35).

#### **7.08.390 Landfill**

"Landfill" means a disposal site as defined by section 40122 of the Public Resources Code.

#### **7.08.400 Local Enforcement Agency Or LEA**

"Local enforcement agency" or "LEA" means the county agency designated pursuant to Article 1, Chapter 2, Part 4 (commencing with section 43200) of the Public Resources Code as responsible for enforcement of state solid waste management minimum standards in the city.

#### **7.08.410 Municipal Solid Waste Or MSW**

"Municipal solid waste" or "MSW" means all solid waste generated at residences, commercial establishments, and institutions, including construction and demolition debris.

#### **7.08.420 Notice of Violation**

"Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties.

#### **7.08.430 Organic Material or Organic Waste**

"Organic material" or "organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR section 18982, subdivision (a)(46).

#### **7.08.440 Other Service**

"Other service" means collection of solid waste at any location mutually agreed to by the customer and franchisee or permittee, other than curb, yard and commercial service.

#### **7.08.450 Person**

"Person" means any person or persons, firm, association, corporation or other entity acting as principal, agent or officer, servant or employee, for themselves or for any other person, firm or corporation.

#### **7.08.460 Permit**

"Permit" means the authority granted under this title for the activities described in Section 7.12.060.

#### **7.08.470 Permittee**

"Permittee" means a person holding a valid permit pursuant to this title.

#### **7.08.480 Premises**

"Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures. (14 CCR section 17225.50) For purposes of this title the word premises includes residential and commercial uses of the land, whether owned, leased, rented or subrented, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer

or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the city.

#### **7.08.490 Prohibited Container Contaminants**

"Prohibited container contaminants" means (1) discarded materials placed in the designated recyclables container that are not identified as acceptable source separated recyclables for the City's designated recyclables collection container; (2) discarded materials placed in the designated organic materials collection container that are not identified as acceptable source separated organic materials for the City's designated organic materials collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic materials to be placed in City's designated organic materials collection container and/or designated recyclables collection container, and (4) exempt waste placed in any container.

#### **7.08.500 Recyclable (source separated) materials**

Recyclable (source separated) materials" means any material designated to be separated from the waste stream for purposes of recycling. (adapted from Pub. Resources Code, § 41951). This designation shall be made by the city and the authorized collector based on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable materials are currently limited to paper, glass, cardboard, plastics, ferrous metal, and aluminum.

#### **7.08.510 Recycle/Recycling**

"Recycle/recycling" means the process of collecting, sorting, cleansing, treating or reconstituting materials that would otherwise be solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in section 40201 of the Public Resource Code.

#### **7.08.520 Recyclables**

"Recyclables" means those materials that are normally part of the solid waste stream which have market value and can be segregated from other waste materials and recycled and/or composted.

#### **7.08.530 Recycling Container**

"Recycling container" means a container which is provided by, or acceptable to, the service providing franchisee or permittee for the sole purpose of containing recyclables that are source separated from the nonrecyclable portion of solid waste.

#### **7.08.540 Residential**

"Residential" means, for the purposes of this title, any premise consisting of between one (1) and four (4) dwelling units, and onsite domestic uses accessory to these dwelling units. A multi-family dwelling that consists of fewer than five (5) dwelling units is "Residential", for the purposes of this title.

#### **7.08.550 Residential Customer**

"Residential customer" means any person who has established a residential service account with a franchisee or permittee.

### **7.08.560 Residential Service**

"Residential service" means municipal solid waste collection service or recyclables collection service for single-family residences, two-family residences (duplexes), three-family residences (triplexes), four-family residences (quadraplexes), mobile homes, trailers or other residential units as provided by a franchisee or permittee under this title to a residential customer.

### **7.08.570 Segregated From Other Waste Materials**

"Segregated from other waste materials" means any of the following:

- A. The placement of recyclable materials in separate containers;
- B. The binding of recyclable material separately from the other waste material;
- C. The physical separation of recyclable material from other waste material.

### **7.08.580 Self Haul**

"Self-haul" means a person who hauls solid waste, organic waste or recovered material they have generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR section 18982, subdivision (a)(66). "Back-haul" means generating and transporting organic materials to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR section 189881, subdivision (a)(66)(A).

### **7.08.590 Solid Waste**

"Solid waste" has the same meaning as defined in Public Resources Code section 40191, which defines solid waste as all putrescible and non putrescible solid and semisolid wastes, including garbage, recyclable materials, organic materials, demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes with the exception that Solid Waste does not include any of the following wastes: (1) Hazardous waste, as defined in the Public Resources Code section 40141, (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code) and (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable materials and organic materials are a part of solid waste.

### **7.08.600 Solid Waste Collection Service**

"Solid waste collection service" means collection of solid waste originating in the City, by a persons, firms or corporations, and doing so under a contract or franchise agreement with the City.

### **7.08.610 Solid Waste Facility**

"Solid waste facility" or "facility" means a solid waste transfer or processing station including material recovery facilities, a recycling facility, a composting facility, a gasification facility, a

transformation facility, an engineered municipal solid waste conversion facility, and a disposal facility. Solid waste facility additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.

#### **7.08.620 Solid Waste Manager Or City Administrator**

"Solid waste manager" or "city administrator" means the city official or employee authorized by the council to provide specified administrative responsibility under this title.

#### **7.08.630 Source Separate**

"Source separate" means the process of removing recyclable materials and organic materials from solid waste at the place of generation, prior to collection, and placing such materials into separate containers designated for recyclable materials and organic materials, or as otherwise defined in 14 CCR section 17402.5, subdivision (b)(4).

#### **7.08.640 Solid Waste Transfer Or Processing**

"Solid waste transfer or processing" means receiving solid wastes, temporarily storing, separating, converting or otherwise processing the materials in the solid wastes, or transferring the solid wastes directly from smaller to larger vehicles for transport. "Solid waste transfer or processing" does not include any of the following:

- A. Where the principal function is to receive, store, separate, convert or otherwise process in accordance with state minimum standards, manure.
- B. Where the principal function is to receive, store, convert or otherwise process wastes which have already been separated for reuse and are not intended for disposal.

#### **7.08.650 Tier One Commercial Edible Food Generator.**

"Tier one commercial edible food generator" means a commercial edible food generator that is one of the following as defined in 14 CCR section 18982, subdivision (a):

- A. Supermarkets. with gross annual sales of \$2,000,000 or more
- B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
- C. Food service provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
- D. Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.
- E. Food distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

#### **7.08.660 Tier Two Commercial Edible Food Generator**

"Tier two commercial edible food generator" means a commercial edible food generator that is one of the following as defined in 14 CCR section 18982, subdivision (a):

A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

B. Hotel with an on-site food facility and 200 or more rooms.

C. Health facility with an on-site food facility and 100 or more beds.

D. Large venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue.

E. Large event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

F. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

G. A local education agency facility with an on-site food facility. Local education agency means a school district, charter school, or county office of education that is not subject to the control of City or county regulations related to Solid Waste, or as otherwise defined in 14 CCR section 18982, subdivision (a)(40).

#### **7.08.670 Waste Container**

"Waste container" means a container that conforms to specifications as otherwise provided in this code, in which solid waste is deposited. This does not include a recycling container in which recyclables are placed.

#### **7.08.680 Yard Service**

"Yard service" means collection of waste containers placed at a location mutually agreed to by the residential customer and franchisee or permittee which is not more than one hundred feet from a street.

### **7.12 Necessary Franchises And Permits**

#### **7.12.010 Collection Area Assignment**

The council declares that the incorporated area of the city is the assigned collection area. The established collection area, once known as permit collection area, shall now be known as collection area. The boundaries of the collection area are the established city limits.

#### **7.12.020 Franchise Or Permit; Required**

Unless exempt as provided in Section 7.12.050, no person shall, in the incorporated area of the city, engage in any of the following activities:

- A. Collection or transportation of solid waste in a collection area without a franchise or permit;
- B Collection or transportation of industrial solid waste inside a collection area without a permit;
- C. Collection or transportation of municipal solid waste inside the collection area without a franchise;
- D. Collection or transportation of recyclables without a permit.

#### **7.12.030 Franchise; Right And Obligation Of Franchisee In Collection Area**

A. Except for activities authorized by permit issued pursuant to Section 7.12.060 or exempt pursuant to Section 7.12.050:

1. Within its collection area, a franchisee shall have the exclusive right and obligation to collect or transport all solid waste and recyclables generated within that area and for which service is requested by a customer, and the right to collect source separated recyclables placed by any person who is not a customer for collection by the franchisee. A franchisee, upon request of an applicant for a permit may waive its exclusive right hereunder, and the franchisee's obligation to provide the permitted service is deferred upon issuance of such permit; provided, however, the obligation is deferred only so long as a valid, unsuspended permit is outstanding and the permittee is actually providing the service.
2. As long as there is in force a franchise agreement for the collection of solid waste in the collection area, no further applications for franchises in that area will be accepted by the city; provided, however, applications will be accepted for a collection area if the existing franchise is suspended, or within one hundred eighty days prior to the expiration of the franchise agreement unless the franchisee has exercised any automatic renewal procedure contained within the franchise agreement, and further provided if an application is received, any competing applications must be submitted within forty-five days thereafter.

B. A franchisee providing solid waste collection service to generators within the city shall meet the following requirements and standards for collection of organic materials.

1. Through written notice to the City annually identify the facilities to which they will transport organic materials including facilities for source separated recyclable materials and source separated organic materials.
2. Transport source separated recyclable materials to a facility that recycles those materials and transport source separated organic materials to a facility, operation, activity,

or property that recovers organic materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.

3. Obtain approval from the City to haul organic materials, unless it is transporting source separated organic materials to a community composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR section 18989.1.

### **7.12.050 Exemptions**

A. Persons hauling solid wastes or recyclables from their residences, or solid wastes or recyclables produced in the course of their own business (including building contractors), or persons performing occasional hauling for others without compensation in excess of that which may be generated by such recyclable materials, shall not be required to obtain a franchise or permit but are required to use equipment and methods meeting the standards set forth in this title and other applicable codes, for collection and transport of such materials and are required to deliver solid wastes only to facilities identified and authorized by city.

B Persons collecting and transporting source separated recyclables for charitable purposes shall not be required to obtain a franchise or permit, but are required to use equipment and methods meeting the standards set forth in this title and other applicable codes, for collection and transport of such materials. However, the types and amounts of recyclables delivered to and from the city shall be reported by franchise operator annually.

C. Nothing in this title shall inhibit, regulate or restrict any drop-off or buy-back recycling center from activities, including output from those centers, permitted by Public Resources Code section 40000 et seq., as amended, and the "California Beverage Container Recycling and Litter Reduction Act of 1986."

D. A franchise that provides solid waste collection services shall not be required to obtain a permit to collect recyclables within their collection areas.

### **7.12.060 Permit; Issuance**

A. The city administrator is authorized to issue permits as described in Section 7.12.020 pursuant to the procedure described in Section 7.12.020.

With respect to a permit under subsection A of Section 7.12.020, the city administrator is authorized to issue a permit to a person for providing collection and transportation of solid wastes for special circumstances, if the franchisee waives its exclusive right to the activity for which the permit is sought and a permit application is submitted pursuant to Chapter 7.20. The waiver must be in writing to the city administrator, with a copy to the council, and must describe the service being waived and whether the waiver is limited to any particular person or persons.

## **7.16 Franchise Requirements**

### **7.16.010 Franchise; Application Contents**

A. Applications for a new franchise or modification of an existing franchise shall be made to the city administrator which shall include all the following information:

1. Name and description of the applicant;
2. Permanent home and business address and full local address of applicant;
3. Facts showing that the applicant is able to render efficient service;
4. Such other applicable facts or information as needed by the city administrator.

B. The city administrator may, at his/her option, require photographing and fingerprinting of the persons making application.

C. If an application is received for a new franchise, any competing applications must be submitted within forty-five days thereafter.

#### **7.16.020 Franchise; Operating Plan**

Upon application for a franchise as provided for in this title, each applicant shall provide to the city administrator a franchise operating plan. An application for modification shall include only revisions to appropriate sections of the plan.

#### **7.16.030 Franchise; Operating Plan Contents**

The components of the operating plan, as specified in other parts of this title, may include any or all of the following:

A detailed description of the manner in which the proposed service will be conducted, including an estimate of the various numbers of units of measure which describe the size and effect of the proposed service. Units of measure may include the number of households serviced by collection, number of users seeking service at a proposed facility, number of yards and density or tonnage of solid waste or recyclables as input and output for a proposed service. The detailed description must also contain the applicant's proposed arrangements for disposal of all solid waste collected or transported either to him/her or by him/her, or as a result of processing or handling, including solid wastes resulting from the collection and transport of recyclables, at an approved disposal site or his/her arrangements for other authorized disposal;

B.A complete description of all trucks and equipment that the applicant owns or has under its control which it proposes to use for providing services under the requested franchise and the address or location and the zoning designations of the parcel or parcels where the trucks and operating equipment will be kept. This description of trucks and equipment must be augmented by evidence showing that the applicant owns or has under his control, in good mechanical condition, sufficient trucks and equipment to adequately conduct the business being proposed. The evidence may be provided in a manner such as an inventory of trucks and equipment which lists the year, make and model, license number, VIN or serial number, registered owner and working condition;

C. A detailed cost projection for operating the applicable service, the profit margin estimated for that service and the cost and revenue basis for the profit margin. The plan shall be based on the projected services to all customers, at the current or anticipated service levels, on a monthly or annual basis. The cost and revenue estimates shall be based entirely on the services for which the application is made, and shall not include cost or revenues from any other services, except cost allocations for assets or labor shared with any other service or business may be included using generally accepted accounting principles. The revenue estimate shall include the proposed rates which will be applicable to all customers of the proposed service;

D. A description of the recordkeeping systems to be used by the applicant to account for the types and quantities of materials to be included in the proposed service recorded separately from the types and quantities of materials included in other services which are not a part of the application;

E. If the applicant is proposing or is obligated to provide residential or commercial recyclables collection services, the following shall additionally pertain to the plan:

1. For residential services the plan must include a description of the means for source separation and collection and the estimated quantities to be collected annually of, at a minimum, the following recyclables:

- a. Newspaper,
- b. Cardboard,
- c. Aluminum cans and containers,
- d. Other metal containers including tin/steel cans,
- e. Glass, and
- f. Plastic.

2. For commercial services the plan must include a description of the proposed means for source separation and collection and the estimated quantities to be collected annually, at minimum, of the following recyclables:

- a. Newspaper,
- b. Cardboard,
- c. Office paper,
- d. Construction and demolition debris and wood wastes.

3. For commercial or residential recyclables collection services, a description of any and all actions to be taken in the event markets for each recyclables designated for collection become unavailable;

F. Identification of the collection area or modification of the collection area in which the applicant is requesting to operate. Such identification shall be in the form of a map depicting existing and proposed boundaries, accompanied by a written description;

G. Presentation of all facts which the applicant believes will show that the public health, safety, welfare, convenience and necessity require the authorization of the requested activity;

H. Any additional components required by the city administrator.

#### **7.16.040 Franchise; Evaluation And Approval; Hearing**

A. Upon receipt of a completed application, including a franchise operating plan, the city administrator shall determine if the application and plan and proposed service conform to the requirements of this title. The city administrator shall determine whether the applicant has the necessary equipment and facilities to adequately provide the service applied for and if the applicant meets all the other requirements of this title. The city administrator shall forward the application and plan to the LEA for review and comment. Upon completion of the investigation, the city administrator shall recommend to the council that the application and plan be approved or denied for the requested franchise. If the recommendation is to approve the application or modification, a proposed franchise agreement also will be forwarded to the council for consideration during the public hearing provided for in subsection B of this section.

If the council overturns the recommendation of denial, it may approve, or approve with modifications, the application and plan and return the matter to the city administrator for negotiation of a proposed franchise agreement which will include the modifications determined by the council. A franchise shall be approved by the council only if it determines the public health, safety, welfare, convenience and necessity so require.

B. The council shall hold a public hearing, after having given notice as provided in Government Code sections 66016 and 66018. Following the hearing the council may establish charges if it will further the purposes of this title.

#### **7.16.050 Franchise; Contents Of Agreement**

A franchise shall contain at least the following components:

- A. An identification of the collection area, if any, covered by the agreement;
- B. A description of the rights granted and the obligations assumed under the agreement;
- C. A requirement that the franchisee comply with the terms of the approved franchise operating plan;
- D. Adequate insurance to protect the city's interests;
- E. Adequate security to protect the city against financial losses if there is any failure or deficiency in performance by the franchisee;
- F. Provisions for the term of the agreement, renewal and termination;
- G. Hold harmless and indemnification provisions;
- H. A prohibition against assignment or transfer without the consent of the council;
- I. Provisions directing the delivery of waste by collection franchises;

J. Provisions allowing disposers and arrangers to select a disposal site, but if a less expensive (total cost) alternative exists, a customer rate reduction will be implemented unless consent for use of the more expensive site is granted;

K. Franchise fees;

L. Customer rates;

M. Liquidated damages and other remedies for fee delinquencies and performance deficiencies;

N. Dispute resolution and remedies;

O. Provisions requiring operations to be consistent with the source reduction and recycling element;

P. Provisions for buy-out.

#### **7.16.060 Franchise; Recordkeeping, Inspection And Reporting**

A. The franchise operator shall maintain detailed books and records of all receipts and expenditures received or incurred in the operation of such business, including all fees collected for services rendered. The records shall include cost accounting components using generally accepted accounting principles reflecting the cost allocation of any assets or labor shared with services or businesses other than the service authorized by the franchise. Upon reasonable notice during normal business hours, the city, its officers and employees, authorized by the city administrator, shall be entitled to inspect, audit and copy such books and records including books and records of any business or service which shares assets or labor with the franchise operator. Items requested by franchisee to be considered confidential are subject to the public records act as it may be amended.

B. The franchise operator providing recyclables collection services shall submit the annual recycling report described in Section 7.20.070. In addition, the report shall contain the following:

1. An estimate of the percentage of services (%P) participating in the recycling collection program and the basis for the estimate, defined as shown:

$$\%P = (\text{Services participating} / \text{total services}) \times 100;$$

2. An estimate of the total percentage (%T) of the waste stream being diverted through the recycling collection program and the basis for the estimate, defined as shown:

$$\%T = (\text{Recyclables collected} / \text{total wastes collected}) \times 100;$$

3. A summarized accounting of operational costs incurred in the performance of collection, processing and marketing of recyclables including the cost of recycling containers, collection methods, etc.;

4. A summarized accounting of revenues received from the sale of recyclables;

5. Statement of net operating profits or losses (Net) from the recycling operations, defined as follows:

Net = Revenue from sales - operational costs.

#### **7.16.070 Franchise; Annual Financial Report**

A. A franchisee, at its expense, shall annually provide the city administrator, at his/her option, with a copy of a reviewed financial statement or an unqualified audit within one hundred twenty days after the close of its fiscal year. The reviewed financial statement or unqualified audit shall be prepared by a certified public accountant or licensed public accountant. The accountant shall be independent of the franchisee and shall have no financial interest whatsoever in the business of the franchisee. The city finance director or designee shall specify the form and detail of either the annual reviewed financial statement or unqualified audit. In the event of failure to provide any such report, the administrator may employ a qualified accountant to prepare the report and the franchisee, in such case, shall be liable for and pay the costs and expenses incurred.

B. The city administrator shall review the financial information and if it appears a rate modification may be in the public interest, a recommendation may be forwarded to the city pursuant to Chapter 7.28. Additionally, the city administrator may recommend any modification to the franchise agreement as provided therein.

#### **7.16.080 Franchise; Notification Of Enforcement**

A. If the franchisee is found to in violation of any of the provisions of this title, the city administrator shall notify the franchisee of such violation in writing. The franchisee shall respond in writing to the city administrator within five working days of receipt of the complaint and shall address the complaint to the satisfaction of the administrator. The city administrator may, from time to time, extend to the franchisee additional time necessary to rectify the complaint. This remedy shall be in addition to any other enforcement provisions contained in the franchise agreement or this title.

B. Upon written notification by the city administrator that its obligation to provide services under Section 7.12.030(A) is no longer deferred, the franchisee shall, within seven days, commence providing the service.

#### **7.16.090 Franchise; Fee**

The franchisee shall pay an annual fee on or before July 1st of each year in an amount set forth by city resolution. In addition to the annual fee, the franchisee shall pay a franchise fee as provided in the franchise agreement. The franchise fee may be reviewed and modified by the council from time to time upon recommendation of the city administrator after a public hearing thereon pursuant to Section 7.16.040(B).

#### **7.16.100 Franchise; Transfer**

A franchise is considered to be in the nature of personal services contract on behalf of the citizens of the city, and cannot be transferred or assigned without the written consent of the council.

### **7.20 Permit Requirements**

### **7.20.010 Permit; Application Contents**

Applications for a new permit or modification of an existing permit shall be in the same manner as provided in Section 7.16.010. Applications for permits within the collection area will only be considered after the city administrator receives the waiver as per Section 7.12.060(A).

## **7.24 Solid Waste Collection Regulations**

### **7.24.010 Collection Requirements**

Franchisee and permittees shall conform with the approved franchise or permit operating plan, including the following conditions:

A. Except as provided in subsection B of this section, the franchisee and permittee providing MSW collection shall provide not less than one regular weekly collection of solid wastes to all residential customers and, unless otherwise ordered by the health officer (LEA), not less than one regular weekly collection of solid wastes to all commercial customers.

B. Recyclables which have been source separated and properly stored or contained may be collected less frequently than weekly, as agreed to by the franchisee or permittee and the residential or commercial customers.

C. No franchisee or permittee shall collect solid wastes or recyclables within the residential areas earlier than six a.m. nor later than seven p.m. or on Sundays, except in emergencies or with the approval of the city administrator, which may be given under unusual circumstances and subject to appropriate conditions on a temporary or permanent basis.

D. At a minimum, MAW collection services provided by franchisee shall be as follows:

1. Curb service;
2. Yard service;
3. Commercial service; and
4. Other service.

E. Any service for the collection or transportation of solid wastes within a collection area must have a rate established pursuant to Chapter 7.28.

### **7.24.020 Collection Equipment Standards**

All equipment used for the collection or transportation of solid wastes or recyclables, including wet or liquid-producing materials or materials composed of fine particles, by any person, shall be nonabsorbent, leak-resistant, durable, easily cleaned and designed for safe handling, and constructed to prevent loss of wastes or recyclables from the equipment during collection and transportation. All solid waste collections shall be made as quietly as possible and noise abatement shall be a consideration of vehicle and equipment inspections and approval. All equipment shall be maintained in good condition and cleaned in a frequency and in a manner so as to prevent the propagation or attraction of flies, rodents or other vectors and the creation of nuisances.

### **7.24.030 Vehicle Identification**

All equipment shall be clean, sanitary and clearly marked on each side with the truck number, name and telephone number of the franchisee or permittee.

#### **7.24.050 Privacy Act**

Other than as necessary to accomplish authorized load checking, franchisees and permittee collecting MSW or recyclable from residential or commercial customers shall not invade the privacy of the disposer by exploring the discarded material. Neither shall the franchisee or permittee harass or embarrass the disposer by publicly displaying items found by the franchisee or permittee in the disposer's discarded material.

#### **7.24.090 Maintenance Of Storage Containers**

Where the franchisee furnishes reusable storage containers for solid wastes or recyclables, the franchisee is responsible for maintaining the containers in good condition, ordinary wear and tear excepted, unless the containers were furnished under other terms, conditions or agreements in which event the person so obligated shall provide the required maintenance.

#### **7.24.100 Headquarters And Telephone Listing Requirements**

Franchisee shall maintain a fixed headquarters and telephone listed in the franchisee's or permittee's business name. The franchisee shall, during usual business hours of each day, except weekends and holidays, have a competent adult person available to answer inquiries and receive complaints from the public. The telephone shall be on an exchange so as to be toll free to residents of the area served by the franchisee, and shall be listed in the telephone book of the area served. The franchisee shall notify the city administrator in writing within seven days after any change in business name, address or telephone number.

#### **7.24.110 Customer Complaints**

The franchisee shall establish a process for receiving and acting upon customer complaints. The franchisee or permittee shall inform customers of the procedure for filing a complaint and shall provide forms for such purpose. The franchisee shall maintain, at their headquarters, a record of all customer complaints filed, including the date and time of complaint; the name, address, telephone number and nature of such complaint; date of action and disposition of the complaint so that they will be available for review by the city administrator and/or health officer at all reasonable times. All inquiries and complaints shall be promptly answered and dealt with to the satisfaction of the city administrator and/or health officer.

#### **7.24.120 Firm Name And Telephone Number Required On All Commercial Containers**

Every franchisee shall place and maintain on the outside of all owned commercial containers of one cubic yard capacity or larger, in legible letters and numerals, not less than two inches in height, the franchisee's or permittee's firm name and telephone number. Every franchisee shall at all times keep such containers and lids in good repair, painted so as to be uniform in appearance and maintained in a clean and sanitary condition.

#### **7.24.130 Service To Be Provided When Requested**

Unless deferred pursuant to Section 7.12.030(A), a franchisee shall provide solid waste collection and transport service to any customer located within the collection area if such service is requested. Upon request of any person seeking services within a collection area, the franchisee shall promptly submit an application for modification pursuant to Chapter 7.16 to establish a new service and rate.

#### **7.24.140 Denial Of Service For Failure To Pay Bill Or Noncompliance**

A. The franchisee may deny service to any customer by reason of the failure of the customer to pay his/her charges as authorized by this title. After giving fifteen days' written notice to the customer to comply, the franchisee shall notify the customer, in writing, of any service refusal with written notification to the customer, the LEA and the city administrator.

B. A franchisee may deny collection of some solid waste or recyclable if:

1. The solid waste contains hazardous wastes;
2. The solid waste deposited in containers or the placement of the containers does not comply with specifications as otherwise provided in the code;
3. The waste containers are loaded in excess of the approved weight as provided in specifications otherwise provided in the code;
4. The recyclable contains solid waste or other nonrecyclable material;
5. The recyclables are not deposited in recycling container, or the placement of the container does not comply with specifications as otherwise provided in the code;
6. The recycling or waste containers are not loaded properly, or are not placed for safe handling and pickup;
7. The solid waste is not properly containerized as provided in specifications otherwise provided in the code;
8. Any material placed for collection is not acceptable at a facility to which the material is destined.

C. In such cases where the franchisee denies collection of solid waste or recyclable, the franchisee must leave a note, card, label or tag in a conspicuous location that describes the reasons the container could not be collected.

#### **7.24.150 Billing; Required Information; Method Of Collection**

- A. The franchisee shall send out a detailed notice on all solid waste collection rates to all customers within the applicable collection areas at least once each year.
- B. The franchisee shall send out a detailed notice on all proposed rate changes made pursuant to Chapter 7.28 to all customers within the applicable collection areas.
- C. The residential and commercial solid waste charges established by resolution of the council shall be billed and collected by the franchisee.

#### **7.24.160 Collection by Franchisee**

- A. It is mandatory for every person in the City to subscribe to the solid waste collection service provided by the franchisee.
- B. All solid waste, except as otherwise provided, shall be placed within collection containers provided by the franchisee. A mandatory obligation is imposed on every person in the City to source separate all recyclable material and organic materials from the garbage generated on the premise. Generators shall place source separated organic materials, including food waste, in the franchisee provided organic materials collection

container; place source separated recyclable materials in the contractor provided recyclable material collection container; and place garbage in the contractor provided approved garbage collection container. Generators shall not place prohibited container contaminants into the garbage collection container, organic materials collection container or recyclable material collection container.

C. Generators shall arrange for a size, quantity and collection frequency of collection containers to adequately store all solid waste generated in connection with the residence or business between the times designated for collection service. The City shall have the right to review the number and size of such collection containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation and containment of materials. Generators shall adjust service levels for their collection services as requested by the City in order to meet the standards set forth in this title.

D. Nothing in this title shall prohibit a generator from self-hauling solid waste as described in Section 7.24.200.

E. Generators may manage their organic materials by preventing or source reducing their organic materials, managing organic materials on site, and/or using a community composting site pursuant to 14 CCR section 18984.9, subdivision (c), to the extent permitted by other applicable laws.

F. Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate with the City contractor during such inspections and investigations as described in Section 7.04.040.

#### **7.24.170 Residential Generator Requirements.**

Each residential generator shall subscribe to a level of solid waste collection service with the franchisee that is sufficient to handle the volume garbage, recyclable material, and organic materials generated or accumulated on the premises and comply with requirements of those collection services.

#### **7.24.180 Commercial Generator Requirements.**

Commercial generators shall comply with the following requirements.

A. Each commercial generator, including all multi-family dwellings that consist of five dwelling units or more, large events and large venues shall be responsible for compliance with the requirements of this Section.

B. Each commercial generator shall subscribe to a level of service with an authorized collector that is sufficient to handle the volume of garbage, recyclable materials and organic materials generated or accumulated on the premises. Additionally, each commercial generator shall ensure the proper separation of solid waste, as established by the authorized collector, by placing each type of material in designated collection containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper source separation of solid waste.

C. Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors, conforming with requirements of this section, for employees, contractors, tenants, and customers, consistent with the solid waste collection service.

D. Annually provide information to employees, contractors, tenants, and customers about organic materials recovery requirements and about proper sorting of solid waste.

E. Provide educational information before, or within, fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic materials and source separated recyclable materials separate from garbage (when applicable) and the location of collection containers and the rules governing their use at each property.

F. Accommodate and cooperate with the authorized collector's monitoring program for inspection of the contents of containers for prohibited container contaminants, to evaluate generator's compliance.

G. If a commercial generator self-hauls, the commercial generator shall meet the self-haul requirements in Section 7.24.200.

Commercial generators, excluding multi-family dwellings consisting of five or more dwelling units, shall comply with the following requirements.

H. Excluding multi-family dwellings consisting of five or more dwelling units, provide containers for the collection of source separated organic materials and source separated recyclable materials in all indoor and outdoor areas where garbage collection containers are provided for customers, for materials generated onsite. Such containers do not need to be provided in restrooms. If a commercial generator does not generate any of the materials that would be collected in one type of collection container, then it is not required to provide that type of collection container in all areas where garbage collection containers are provided for customers. Pursuant to 14 CCR section 18984.9, subdivision (b), the collection containers shall have either:

1. A body or lid that is gray or black for collection of garbage, blue for collection of recyclable materials, and green for collection of organic materials. A commercial generator is not required to replace functional collection containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those collection containers, or prior to January 1, 2036, whichever comes first.

2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

I. Excluding multi-family dwellings consisting of five or more dwelling units, to the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the solid waste collection service.

J. Excluding multi-family dwellings consisting of five or more dwelling units, Periodically inspect collection containers for prohibited container contaminants and inform employees if containers are contaminated and of the requirements to keep prohibited container contaminants out of such containers pursuant to 14 CCR section 18984.9, subdivision (b)(3).

K. Commercial generators that are commercial edible food generators, as defined in Chapter 7.08, shall comply with food recovery requirements, pursuant to Section 7.24.220.

#### **7.24.190 Waiver for Collection Services.**

A. Pursuant to 14 CCR section 18984.11, the city may grant waivers to commercial businesses. The city administrator may either approve or deny the following waiver requests.

1. De Minimis Waivers: The city administrator may waive a commercial business' obligation to comply with some or all the mandatory collection service requirements of Section 7.24.180 for organic materials collection service if the commercial business' meets the following requirements:

a. Submit an application specifying the type of waiver requested and provide documentation as described below.

b. Provide documentation that either:

i. The commercial business receives two or more cubic yards of weekly solid waste collection service (as measured in conformance with subsection iii) and disposed organic materials comprises less than 20 gallons per week of the business' total weekly solid waste volume; or

ii. The commercial business receives less than two cubic yards of weekly solid waste collection service (as measured in conformance with subsection iii) and disposed organic materials comprises less than 10 gallons per week of the business' total weekly solid waste volume.

iii. For the purposes of subsections (i) and (ii) above, weekly solid waste collection shall be the sum of weekly garbage container volume, recyclable material container volume and organic materials container volume, measured in cubic yards.

c. Notify the City within thirty (30) days if circumstances change such that volume of commercial business' disposed organic materials placed in collection containers exceeds threshold required for waiver, in which case waiver will be rescinded.

d. Provide written verification of eligibility for de minimis waiver every five years if the City has approved de minimis waiver.

2. Physical Space Waivers: The City may waive a commercial business' obligations to comply with some or all of the recyclable materials and/or organic materials collection service requirements if the City has evidence from its own staff, a hauler, licensed

architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with collection service requirements. A commercial business or property owner may request a physical space waiver through the following process:

- a. Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
- b. Provide documentation that the premises lacks adequate space for the recyclable materials collection containers and/or organic materials collection containers including documentation from its authorized collector, licensed architect, or licensed engineer.
- c. Provide written verification to the City that it is still eligible for physical space waiver every five years if the City has approved application for a physical space waiver.

#### **7.24.200 Self-haul requirements.**

A. Self-Haulers shall haul their source separated recyclable materials and organic materials to a facility that recovers those materials; and haul their source separated organic materials to a solid waste facility, operation, activity, or property that processes or recovers source separated organic materials.

B. Self-haulers that are commercial businesses shall keep a record of the amount of organic materials delivered to each solid waste facility, operation, activity, or property that processes or recovers organic materials. Receipts and records shall be subject to inspection by request of the city administrator. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic materials.
2. The amount of material in cubic yards or tons transported by the generator to each entity.

#### **7.24.210 Solid waste facility and community compost requirements.**

A. Owners of facilities, operations, and activities that recover organic materials, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

B. Community composting operators, upon the City's request, shall provide information to the City to support organic materials capacity planning, including, but not limited to, an estimate of the amount of organic materials anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

#### **7.24.220 Commercial Edible Food Generator Requirements.**

A. Tier one commercial edible food generators must comply with the requirements of this section commencing on January 1, 2022, and tier two commercial food generators must comply commencing January 1, 2024, pursuant to 14 CCR section 18991.3.

B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.

C. Commercial edible food generators shall comply with the following requirements:

1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.

2. Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (a) the collection of edible food for food recovery; or (b) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.

3. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.

4. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR section 18991.4.

5. Keep records that include the following information, or as otherwise specified in 14 CCR section 18991.4:

- a. A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under 14 CCR section 18991.3, subdivision (b).

- b. A copy of all contracts or written agreements established under 14 CCR section 18991.3, subdivision (b).

- c. A record of the following information for each of those food recovery services or food recovery organizations:

- i. The name, address and contact information of the food recovery service or food recovery organization.

- ii. The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.

- iii. The established frequency that food will be collected or self-hauled.

- iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.

D. Nothing in this title shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education

Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

#### **7.24.230 Food recovery organization and food recovery service requirements.**

A. Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR section 18991.3, subdivision (b), shall maintain the following records, or as otherwise specified by 14 CCR section 18991.5, subdivision (a)(1):

1. The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
2. The quantity in pounds of edible food collected from each commercial edible food generator per month.
3. The quantity in pounds of edible food transported to each food recovery organization per month.
4. The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.

B. Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR section 18991.3, subdivision (b), shall maintain the following records, or as otherwise specified by 14 CCR section 18991.5, subdivision (a)(2):

1. The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.
2. The quantity in pounds of edible food received from each commercial edible food generator per month.
3. The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.

C. Food recovery organizations and food recovery services that have their primary address physically located in the City and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR section 18991.3, subdivision (b) shall annually report to the City it is located in the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR section 18991.3, subdivision (b) no later than April 1 of each year.

D. In order to support edible food recovery capacity planning assessments or other studies conducted by the county, city, special district that provides solid waste collection services, or its designated entity, food recovery services and food recovery organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the City and its commercial edible food generators. A food recovery service or food recovery organization contacted by the City shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the City.

## 7.28 Customer Rates

### 7.28.010 Franchise; Charges To Customers

The franchise operator may charge rates for services that do not exceed those approved by the council pursuant to Chapter 7.16, or as modified pursuant to Section 7.28.020.

### 7.28.020 Franchise And Permits; Rate Modification

Rates may be modified as provided below:

A. If any charges are modified by the council for solid waste services necessarily used by a franchisee in providing services, the city administrator may approve, in writing, an appropriate rate modification. If the proposed modification will result in an increase, each franchisee must make application in writing to the council and include updated information as provided by Section 7.16.030(C). The city administrator shall (within thirty days of receipt of all information necessary to evaluate the request) refer the matter to the council for consideration after a hearing pursuant to Section 7.16.040(B).

B. Any franchisee may petition the council for, or the council on its own motion may initiate, a modification of the rates. A petition may not be submitted more than twice in the first year of the franchise, or the first year in which charges are established for services provided under a permit, and once per year during subsequent years, unless the modification request is based on waste disposal costs over which the franchisee or permittee has no control and that were or will be incurred as a result of some action of a public entity. The council shall hold a hearing pursuant to Section 7.16.040(B). After considering all of the evidence at the hearing, the council may modify the rates.

**SECTION 2. SEVERABILITY.** If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3. PUBLICATION AND EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least within fifteen (15) days after its passage or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least within fifteen (15) days after its passage.

**SECTION 4. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL.** This Ordinance was introduced at a regular meeting of the City Council held on the 7th of March, 2022, and passed and adopted as Ordinance No. 882 at a regular meeting of City Council held on the 21<sup>st</sup> of March, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

APPROVED:

ATTEST:

\_\_\_\_\_  
Jackie Smith  
Deputy City Clerk of the City of Sonora

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas L. White  
City Attorney of the City of Sonora

\_\_\_\_\_  
Matt Hawkins  
Mayor of the City of Sonora