REGULAR MEETING

JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY

TUESDAY, MARCH 15, 2022

5:30 PM

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

Regular Meeting - Tuesday, March 15, 2022
5:30 PM

THIS MEETING WILL BE HELD VIRTUALLY AND IS COMPLIANT WITH ASSEMBLY BILL ("AB") 361, SIGNED INTO LAW ON SEPTEMBER 16, 2021, WHICH AMENDS GOVERNMENT CODE SECTION 54953 TO PROVIDE AUTHORITY FOR PUBLIC AGENCIES TO HOLD VIRTUAL MEETINGS DURING A PROCLAIMED STATE OF EMERGENCY AND REMAIN IN COMPLIANCE WITH THE BROWN ACT (GOV. CODE §§ 54950 ET SEQ.).
TO PARTICIPATE IN THE ZOOM COUNCIL MEETING LIVE:
https://us02web.zoom.us/j/4614728829
Meeting ID: 461 472 8829
To participate telephonically by calling the number below:
(669) 900-6833
Meeting ID: 461 472 8829#
If prompted to enter a participant ID, press #

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

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

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

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

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1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **INVOCATION**
4. **ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, & CITY STAFF**

5. COMMUNICATIONS

Members of the public may address the City Council/Successor Agency on matters not appearing on the City Council/Successor Agency Agenda at this time for up to three minutes. In order that the City Clerk may later identify the speaker in the minutes of the meeting, it is helpful if speakers state their names. Public comments regarding items on the scheduled agenda will be heard at the time the item is being considered by the City Council/Successor Agency.
The City Council Chambers podium is equipped with a portable microphone for anyone unable to come to the podium. If you need assistance, please advise the City Clerk as to which item you would like to comment on and the microphone will be brought to you.

6. CONSENT CALENDAR

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

6A. Approval of March 1, 2022 Council Meeting Minutes
3.01.2022 Council Meeting Minutes.pdf

6B. Approval of City RESOLUTION Authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commission, and Committees for the Period of March 19, 2022 through April 18, 2022 pursuant to AB 361 and the Ralph M. Brown Act Provisions
Resolution. Authorizing the Extension of Remote Teleconference Meetings.pdf

6C. Approval of Letter of Support for Veterans Homes in Monterey County
Letter of Support for a Veteran's Home in Monterey County.pdf

6D. Approval of City Donation/Contribution
1) Casa de Noche Buena - $1,500
2) PORAC - $250
Donation.memo.pdf

7. CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

8. PRESENTATION

8A. Presentation and Annual Update by Central Coast Community Energy (**10 Minutes**)
3.15.2022 Sand City Annual Update. CCCE.pdf

9. NEW BUSINESS

9A. Consideration and Approval of City RESOLUTION Authorizing the City Attorney to Execute a Contract with Liebert Cassidy Whitmore (LCW) to Provide Employment Law and Human Resources Legal Services
Staff Report. Update the Contract with Liebert, Cassidy, Whitmore (LCW).pdf
Resolution. Contract with Liebert Cassidy Whitmore (LCW).EXHIBIT A.pdf

9B. Council Consideration and Discussion of Major Terms of Draft Short Term Rental Ordinance

Staff Report. Short Term Rentals.pdf
Short Term Rental DRAFT Ordinance.pdf

9C. Comments by Council Members on Items of Interest to Sand City

9D. Upcoming Meetings/Events

10. ADJOURNMENT

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

If you have a request for a disability-related modification or accommodation, including auxiliary aids or services, which will allow you to participate in a Sand City public meeting, please call the City Clerk at (831) 394-3054 extension 220, or give your written request to the City Clerk at 1 Pendergrass Way, Sand City, CA 93955 at least 48 hours prior to the scheduled meeting to allow the City Clerk time to arrange for the requested modification or accommodation.

AGENDA ITEM
6A.

Approval of March 1, 2022 Council Meeting Minutes

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

Regular Meeting - Tuesday, March 1, 2022
5:30 PM
As allowed per Assembly Bill (AB361), this meeting was conducted in person and by teleconference

Mayor Carbone opened the meeting 5:35 p.m.

AGENDA ITEM 1, **ROLL CALL**

Present: Mayor Mary Ann Carbone
Council Member Cruz (virtual attendance)
Council Member Sofer (virtual attendance)
Council Member Hawthorne (virtual attendance)
Council Member Blackwelder

Staff: Vibeke Norgaard, Acting City Manager/City Attorney
Connie Horca, City Clerk
Devon Lazzarino, Finance/HR Specialist (virtual attendance)
Charles Pooler, City Planner (virtual attendance)
Brian Ferrante, Chief of Police

AGENDA ITEM 2, **PLEDGE OF ALLEGIANCE**

Mayor Carbone announced that since the pledge of allegiance was conducted during Closed Session, that a moment of silence in honor of fallen Salinas Police Officer Jorge Alvarado Jr. be observed.

AGENDA ITEM 3, **INVOCATION**

There was no invocation conducted.

AGENDA ITEM 4, **ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, & CITY STAFF**

Acting City Manager Norgaard announced that Mayor Carbone was in the news for recovering someone's grave stone. She reported on the construction of the gas and sewer lines on Ortiz Avenue, Mancini Sleepworld's soft opening, and provided updates on the South of Tioga project.

Mayor Carbone received information regarding the status of the Habitat and its delay. She also reported on an invitation she received from the Salvation Army to provide a presentation on the South of Tioga project in late March. Acting City Manager Norgaard suggested that the City Planner and City Manager attend the presentation as well.

AGENDA ITEM 5, **COMMUNICATIONS**

5:45 P.M. Floor opened for Public Comment.

Sand City resident Bobbie Harr commented on the lack of housing in Sand City, inability to purchase a home at asking price, and homes that were purchased by investors and turned into Airbnb's. She inquired on what the City's position is regarding Airbnb's.

Acting City Manager Norgaard responded that a draft ordinance will be presented to the Council at a future meeting and that the ordinance would explain the details regarding short term rentals. She encouraged Ms. Harr to return to a Council meeting to express her views.

5:50 P.M. Floor closed to Public Comment.

AGENDA ITEM 6, **CONSENT CALENDAR**

6A. Approval of February 15, 2022 Sand City Council Meeting Minutes

Motion to approve the Consent Calendar was made by Council Member Blackwelder, seconded by Council Member Sofer. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

AGENDA ITEM 7, **CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR**

There were no items pulled from the Consent Calendar.

AGENDA ITEM 8, **PRESENTATION**

The Mayor pulled the presentation from the agenda due to unavailability of the presenter.

8A. Presentation by Amy Sheehan regarding Art Park (10 minutes)

AGENDA ITEM 9, **NEW BUSINESS**

9A. Consideration and Approval of City RESOLUTION Approving a Service Agreement with So-Gnar, Inc. (Pat Milbery) for the 2022 West End Mural Festival "WE" (WE) and Authorizing the City Manager to Enter into the West End Mural Festival Artist Procurement and Curation Service Agreement

Acting City Manager/City Attorney Norgaard presented the staff report and reported that the Council discussed the we.mural festival at their February 15, 2022 Council meeting and approved the we.mural festival event for the dates of August 18-25, 2022. The we.mural festival is budgeted for $80,000 and will be spread out during 2 fiscal years as outlined in the staff report. Staff recommends approval of the attached resolution.

Pat Milbery thanked the Council for consideration of the we.mural festival, and was open to any questions from the Council.

In response to Mayor Carbone's inquiry whether Mr. Milbery was in need of sponsorship letters from the City, Mr. Milbery indicated that he has been actively

seeking sponsorships for the event, and continues to work with individuals from past events.

Acting City Manger Norgaard responded affirmatively to Council Member Cruz's inquiry whether sponsorships defray the costs for the event.

6:01 P.M. Floor opened for Public Comment.

Sand City resident Bobbie Harr inquired whether building owners had a choice on what murals were placed on the walls.

Acting City Manager Norgaard responded to Ms. Harr's inquiry that by attending the public meetings at which the mural designs are considered, citizens have a voice on what can be placed on the walls.

Council Member Hawthorne added that participating artist are chosen from local, national, and international pool of artist, and further explained the process of how the art for the walls is chosen.

Mr. Milbery added that the property owners also have a voice on which art is chosen, level of art work that would be acceptable, reported on the process of submitting a request for proposal, and how artist are chosen.

Ms. Harr commented on the creativity and professionalism of the current artwork.

Mayor Carbone added that a good time to voice resident opinions would be during review of proposals at Arts Committee meetings.

6:10 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** approving a Service Agreement with So-Gnar, Inc. (Pat Milbery) for the 2022 West End Mural Festival "WE" (WE) and Authorizing the City Manager to Enter into the West End Mural Festival Artist Procurement and Curation Service Agreement was made by Council Member Sofer, seconded by Council Member Hawthorne. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

{Council Members Blackwelder and Hawthorne recused from the meeting due to a possible conflict of interest by residing within 500' of the subject property}

9B. Discussion and Consideration of Art Park Gate

Acting City Manager Norgaard reported that this item was previously discussed at the June 15, 2021 Council meeting and is coming back to the Council for discussion and consideration due to some miscommunication regarding the cost for construction of the gate which the applicant has indicated would now cost $25,000 to fully construct. The Council approved construction of the gate for a cost of $10,000 and awarded the project to Mr. Saunders, who is willing to build the gate for $10,000 without the decorative palettes which would cost another $15,000. Staff presented several recommendations in light of the increased cost to include, adding $15,000 to

the FY 2022-2023 budget, authorizing the City Manager to execute a contract for the entire amount of $25,000, issue a new request for proposal for an art park gate for $10,000, or authorize the City manager to enter into a contract for $10,000 without construction of the decorative palettes.

Acting City Manager Norgaard responded to Council Member Cruz's inquiry regarding the misunderstanding of the difference in the amount.

Council Member Sofer recalls that previous dialogue regarding the amount to fully construct the gate was discussed.

Council Member Cruz reiterated that the cost increase is not budgeted for this fiscal year.

6:15 P.M. Floor opened for Public Comment.

Mr. Fred Saunders reported on his initial conversation with the former City Manager Blair, that the cost to construct the design would be $25,000, and initial construction of the gate only would cost $10,000. He returned the unsigned contract back to City Hall due to the error in cost for construction. Mr. Saunders reported that cost for materials have gone up, and elaborated on the gate structure.

In response to Ms. Lazzarino's inquiry regarding the timeline for completion, Mr. Saunders indicate that it would take approximately 2-3 months.

6:28 P.M. Floor closed to Public Comment.

Council Member Cruz suggested submitting a new request for proposal.

Council Member Sofer proposed that the cost could be split between two budgets, and that going out for another RFP may possibly be more costly than the allocated budget.

There was Council discussion regarding the budget, quality of work that can be expected for $10,000, possibility of raising money for the construction of the palettes for the gate, fairness factor, and contemplating another design.

Mayor Carbone repeated staff's recommendations and the options presented earlier.

Motion to continue to award the cost of $10,000 for construction of the gate only was made by Council Member Sofer, seconded by Council Member Cruz. Roll call Vote AYES: Council Members Carbone, Cruz, Sofer. NOES: None. ABSENT: None. ABSTAIN: Council Members Blackwelder, Hawthorne. Motion carried.

{Council Members Blackwelder and Hawthorne returned to the meeting}

9C. Consideration and Approval of City RESOLUTION Adopting the Proposed City Budget Amendment #1 for Fiscal Year 2021-2022

Acting City Manager Vibeke Norgaard provided a Powerpoint presentation to the Council on amendment #1 to the fiscal year 2021-2022 budget that included a report on future revenue loss of the desalination facility lease payments, potential future revenue sources from transient occupancy tax, increased sales and property tax, cannabis retail, and short-term rentals, and future potential private revenue sources from development projects. She also reported on major expenditures of current city projects that includes the West Bay Street repair, Calabrese Park and Pendergrass Way Improvements, and West End Stormwater Improvements on Contra Costa and Catalina Streets as wells non-construction expenditures. The amendments to the budget included facilities updates for the Police Lobby, Electrical upgrade, window replacement at City Hall, and police storage container, as well as a proposed amendment for the public safety department due to workers comp. wages, overtime, and employee cash outs. An update on the status of the city parking feasibility and other CIP projects were also presented. She pointed out that the surplus for FY21-22 is projected to be quite large and that City has been putting surplus funds into a LAIF account that earns very minimal interest. She recommended that in Council meet to update its CIP with its permanent City Manager in the near future.

Finance Specialist Devon Lazzarino agreed that it would be prudent to update the capital improvement plan (CIP). She also suggested the City finish current projects that have been approved, allocate funds for potential projects that need to occur such as undergrounding which the CIP does not have, and to continue to build surplus funds for expensive items.

Council Member Hawthorne commented on the high cost to improve Calabrese Park, expressed his agreement with the undergrounding of power lines, and the importance of concentrating on the lack of parking in the City. Acting City Manager Norgaard reported that the cost to improve Calabrese Park includes the addition of street improvements to the parking lots and Pendergrass Way.

The Mayor thanked Acting City Manager Norgaard for her presentation.

Acting City Manager Norgaard commended Finance Specialist Lazzarino for her work with the budget.

7:14 P.M. Floor opened for Public Comment.

There were no comments from the Public in person, via writing or through telecommunications.

7:14 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** adopting the Proposed City Budget Amendment #1 for Fiscal Year 2021- 2022 was made by Council Member Blackwelder, seconded by Council Member Sofer. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

9D. Comments by Council Members on Items of Interest to Sand City

Mayor Carbone reported on an email she received regarding the railroad carts and whether Sand City had any interest.

9E. Upcoming Meetings/Events

Sand City's 831 First Night event was announced and will be held on Friday, March 4, 2022 at the Art Park.

AGENDA ITEM 10, ADJOURNMENT

There was consensus of the Council to adjourn the meeting at 7:23 p.m. to the next regularly scheduled meeting on March 15, 2022 at 5:30 p.m.

_____

Connie Horca, City Clerk

AGENDA ITEM
6B.

Approval of City RESOLUTION Authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commission, and Committees for the Period of March 19, 2022 through April 18, 2022 pursuant to AB 361 and the Ralph M. Brown Act Provisions

CITY OF SAND CITY
RESOLUTION SC 22-__, 2022

RESOLUTION OF THE CITY COUNCIL OF SAND CITY AUTHORIZING THE EXTENSION OF REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL AND BOARDS, COMMISSIONS, AND COMMITTEES FOR THE PERIOD OF MARCH 19, 2022 THROUGH APRIL 18, 2022 PURSUANT TO AB 361 AND RALPH M. BROWN ACT PROVISIONS

WHEREAS, the City of Sand City ("the City") is committed to preserving and nurturing public access and participation in meetings of the City Council and boards, commissions, and committees (collectively, "legislative bodies"); and

WHEREAS, all meetings of the City's legislative bodies are open and public, as required by Government Code sections 54950-54963 (the "Ralph M. Brown Act") so that any member of the public may attend public meetings, watch the City's legislative bodies conduct their public business, and participate by directly addressing the legislative bodies; and

WHEREAS, pursuant to Governor Newsom's signing of Assembly Bill 361 ("AB 361") on September 16, 2021, Government Code section 54953(e) provides for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, AB 361 applies to meetings during a proclaimed state of emergency and when state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, a state of emergency exists in California as a result of the threat of COVID-19 as proclaimed by Governor Newsom on March 4, 2020, and the state of emergency has not been terminated pursuant to Government Code section 8629; and

WHEREAS, the California Department of Public Health ("CDPH") and the federal Centers for Disease Control and Prevention ("CDC") caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations; and

WHEREAS, other variants of COVID-19 exist, and it is unknown at this time whether other variants may result in a new surge in COVID-19 cases; and

WHEREAS, the CDC has established a "Community Transmission" metric with four tiers designed to reflect a community's COVID-19 case rate and percent positivity, and

community transmission in Monterey County, as of January 31, 2022, is ranked as "high" (the most serious level) based on data collected by the CDC; and

WHEREAS, due to the severity of the current pandemic situation, the CDPH has required that all unvaccinated persons wear facial coverings indoors, and the CDC and CDPH recommend that all persons, regardless of vaccination status, wear facial coverings indoors; and

WHEREAS, due to the severity of the current pandemic situation in the County of Monterey, the Monterey County Health Department issued, on September 22, 2021, a recommendation to local legislative bodies recommending physical and social distancing strategies, including the use of remotely attended public meetings; and

WHEREAS, the City Council has an important governmental interest in protecting the health, safety and welfare of those who participate in meetings of the City's legislative bodies subject to the Brown Act; and

WHEREAS, the City Council does hereby confirm the circumstances of the state of emergency and finds that meeting in person for meetings of the legislative bodies of the City would present imminent risks to the health or safety of attendees, and therefore that the legislative bodies of the City may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Section 54953; and

WHEREAS, in order to ensure that the public has full access to observe and participate in the public meetings of its legislative bodies, the City provides free internet-based public meeting attendance options, allowing members of the public to address the City's legislative bodies directly in real time; and

WHEREAS, the City determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (CEQA Guidelines), Article 20, Section 15378).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City as follows:

SECTION 1. The recitals set forth above are true and correct and are adopted by the City Council as findings in support of this Resolution.

SECTION 2. The City Manager, City Attorney, staff, and legislative bodies of the City are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

SECTION 3. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) March 18, 2022, or (ii) such time as the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of Monterey may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the City Council of Sand City on this ___, day of March 2022, by the following vote:

AYES: Council Members
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Mary Ann Carbone, Mayor

ATTEST:

_____
Connie Horca, City Clerk

AGENDA ITEM
6C.

Approval of Letter of Support for Veterans Homes in Monterey County

March 16, 2022

The Honorable Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Jimmy Panetta
406 Cannon House Office Building
Washington, DC 20515

The Honorable Alex Padilla
112 Hart Senate Office Building
Washington, DC 20510

The Honorable Anna Caballero
12th Senate District
1021 O Street, Rm 7620
Sacramento, CA 95814

The Honorable John Laird
17th Senate District
1021 O Street, Rm 8720
Sacramento, CA 95814

The Honorable Robert Rivas
30th Assembly District
1021 O Street, Rm 5110
Sacramento, CA 95814

The Honorable Mark Stone
29th Assembly District
1021 O Street, Rm 5740
Sacramento, CA 95814

Re: Support for a Veteran's Home in Monterey County

Dear Monterey Bay Region Federal and State Legislators:

On behalf of the City of Sand City we are writing to support Monterey County's request for authorizing legislation allowing a Veteran's Home to be built in the region.

Currently, there are extended wait times to access the established Veterans Homes in the State for much needed services. If Veterans are unable to access Veteran Home services timely, they will have to seek other options, potentially out of the State of California or even risk becoming homeless. For Veterans in need of Skilled Nursing and Memory Care must wait years before they get admitted. The construction of a new Veterans Home in Monterey County would help to alleviate the long wait times and keep our Veterans in the State. Current wait times for these services are:

- Yountville: 5 years wait time for admittance.
- West Los Angeles: 2 years wait time for admittance.
- Fresno: 4 years wait time for admittance.
- Redding: 5 years wait time for admittance.

California is losing veterans at an alarming rate – much faster than the next 2 largest veteran population states (Texas and Florida). We owe all we have to the veterans of this Nation, and it is our joint obligation to do all we can to care for those who have selflessly served for the freedoms we have today. Currently California Veterans receive more than 8 Billion in Federal VA Compensation and Pension Payments. In addition, many receive Post 9/11 GI Bill, Chapter 33 Education Benefits and DoD Retirements. If Veterans leave the state so will the need for Veteran Serving organizations that create high paying jobs with the

City Hall
1 Pendergrass Way
Sand City, CA
93955

Administration
(831) 394-3054

Planning
(831) 394-6700

FAX
(831) 394-2472

Police
(831) 394-1451

FAX
(831) 394-1038

Incorporated
May 31, 1960

Federal VA, State, Counties, Private Sector and Non-Profits that serve our Veterans. Veterans positively impact the California Ecosystem.

The construction of a new Veteran's Home will lower or eliminate wait times for admittance into the CalVET Veterans Homes for services including combined skilled nursing & memory care services. Adding an additional Veterans Home will increase the number of homes to 9 in the state. Homes are available to Disabled and Aged Veterans as well as spouses. This home will provide much needed care to our states heroes and decrease the risk of these veterans becoming homelessness. In addition, the location in Monterey County, will provide an attractive geographical location with a rich Military History and current Military presence. Residents of the Veterans Home would have easy access to the Major General William H. Gourley VA-DoD Outpatient Clinic, Commissary's, Post Exchanges, Military Gyms and other Military / Veteran accessible facilities. There are a large variety of beaches, walking / bike trails and County / State / National parks that will promote outdoor activity.

Additionally, Monterey County is interested in contributing land for a new CalVET Veterans Home and Federal Grants are available for 65% of construction costs of the new Veteran Home.

For these reasons, we support the Monterey County's request for State authorization to build a Veteran's Home in the region. Should you have any questions, please feel free to contact Acting City Manager Vibeke Norgaard, email: citymanager@sandcityca.org.

Sincerely,

Mary Ann Carbone
Mayor, City of Sand City

City Hall
1 Pendergrass Way
Sand City, CA
93955

Administration
(831) 394-3054

Planning
(831) 394-6700

FAX
(831) 394-2472

Police
(831) 394-1451

FAX
(831) 394-1038

Incorporated
May 31, 1960

AGENDA ITEM
6D.

Approval of City Donation/Contribution
1) Casa de Noche Buena - $1,500 2) PORAC - $250

Memo

To: Mayor and City Council
From: Vibeke Norgaard, Acting City Manager
Date: March 9, 2022 (for March 15, 2022 Council meeting)
Subject: Review of City Donation/Contribution

Attached are requests for support and contribution for fiscal year 2021-22. After reviewing these requests, the following donation are recommended:

- Casa de Noche Buena - $1,500
- Police Officers Research Association of California (PORAC) on behalf of fallen Officer Jorge Alvarado - $250

If any Council member wants to discuss a request or to propose a different contribution, then this item should be pulled from the consent calendar for discussion with the full Council.

The following finding is specified in the annual City/Successor Agency Budget: *"The Sand City Council finds that it is a valid public purpose and in the best interest of this small city to support and participate in various community programs and activities of the larger Monterey Peninsula area. This support includes not only the City's financial contributions outlined in the attached pages but also the active involvement/participation by council members, city staff, Sand City businesses and citizens. This is Sand City's pledge and commitment of support for the larger regional community in which it is an active and dedicated member".*

CASA
DE NOCHE BUENA

1292 Olympia Ave., Seaside, CA 93955

RECEIVED
MAR 03 2022
CITY OF SAND CITY

February 28, 2022

City of Sand City
Mary Ann, Mayor
1 Pendergrass Way
Sand City, CA 93940

Dear Mary Ann,

January 19th marked Casa de Noche Buena's **one year anniversary** of serving unsheltered women and families. Thanks to the City's contribution and the support of the entire community, **here's what we accomplished** in 2021:

- 61 people received emergency shelter and case management
  - 26 single women were served
  - 11 families were served (14 parents and 21 children)
- 5,460 bed nights were provided
- 16,416 nutritious meals were served
- 30 people moved into permanent housing
- 4 people moved into transitional housing

We're asking the City to **please consider making a sustaining contribution of $1,500** to ensure that the shelter is there for women and families experiencing homelessness next fiscal year and for years to come. If you would like to schedule a brief shelter presentation to the Council, please contact ed@gatheringforwomen.org or rmccrae@chservices.org.

We'd also like to invite you and the Council to an **Open House** on Wednesday, March 2nd, from 3:00 to 5:30 p.m. There will be a brief program at 5:00 p.m. Face masks will be required. Please join us for a tour of the shelter and newly landscaped backyard. We'd love to see you and show you around!

Sincerely,

Ann Packer
President, Gathering for Women – Monterey

Kyle Samuels
Chair, Community Human Services

P.S. You can see photos of the shelter and backyard at Facebook.com/CasaDeNocheBuena.

Gathering for Women Monterey

community human services
hope. help. here.

CASA DE NOCHE BUENA

ONE YEAR ANNIVERSARY

January 2020

January 2021

January 2022

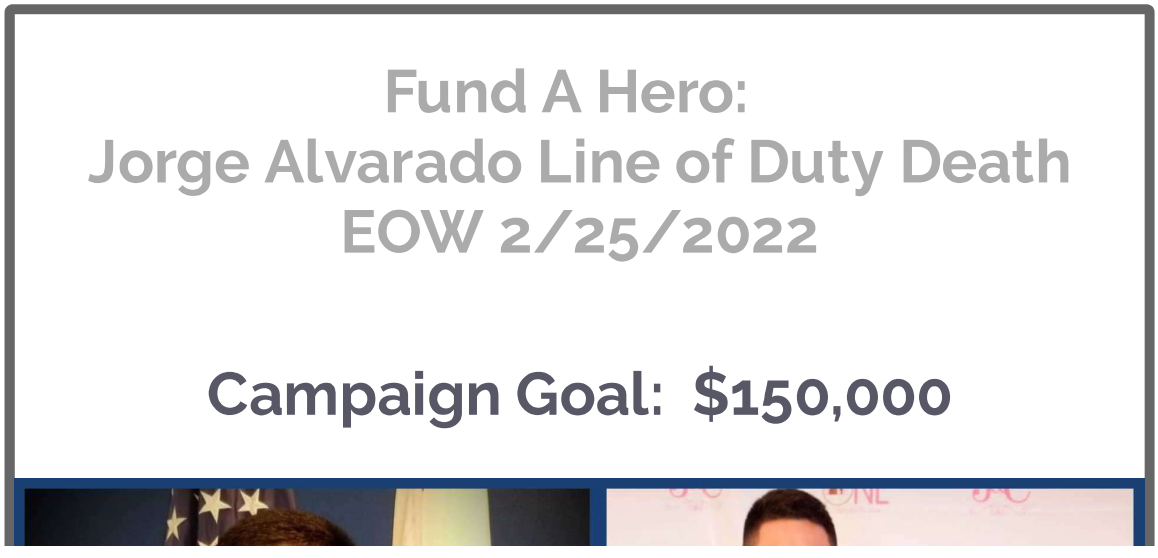
Moving to permanent housing, December 2021

(https://porac.org/)

(/?s=)

Line-of-Duty Death

Jorge Alvarado Line of Duty Death EOW 2/25/2022



Salinas Police Officer Jorge Alvarado was shot in the Line Of Duty on February 25th. At about 10:41 pm Officer Alvarado conducted a traffic stop on a vehicle. He was immediately confronted by the suspect who fired a gun at Officer Alvarado. Although critically injured Officer Alvarado returned fire. These heroic actions during the confrontation directly led to the arrest of the suspect, the suspect is in custody. Officer Alvarado was only 30 years old and a 5 year veteran of law enforcement.

Jorge David Alvarado or "JD" as he was known to his family and friends was born and raised in San Francisco California. After graduating from high school, he enlisted in the United States Army and served with the 101st Airborne Division. In 2011, he was deployed to Afghanistan with the Rakkasans of 3rd Battalion 187th Infantry Regiment during Operation Enduring Freedom where he served with distinction receiving the Army Commendation medal and two citations of the Army Achievement medal for his actions in combat during Operation Enduring Freedom, Afghanistan.

JD served as both a team Leader and a Squad leader while in the service, promoting to the rank of Sergeant before being honorably discharged. After leaving the United States Army, JD recognized his need for public service and enrolled at the Monterey Peninsula Police Academy. He was recruited and hired by the Colma Police Department and went to work for them in January of 2016. In August 2020, JD lateraled to the Salinas Police Department where his brother was already working. He was assigned to the Patrol Division. He loved his work as a Patrol Officer.

Jorge was engaged to be married later this year and had recently purchased a home for him and his fiancé to live in. The funds raised will be distributed between his fiancé and his family.

Share this page:

Donation Details

SECURITY STATEMENT - PORAC cannot see and does not store your credit card information. Your credit card information is transmitted directly to our processor Authorize.net – one of the largest processors in the world. Authorize.net is PCI compliant (follows all security policies required for credit cards). You can check the Authorize.net website if you have any questions about its security policies.

100% of donation proceeds will go to the organizing PORAC Association to distribute to the individual and/or their family.

Jorge Alvarado Line of Duty Death Fund Amount: *

$

May we thank you publicly? *

- ◯ Yes
- ◯ No, please keep my information anonymous

Would you like to add to your donation to help cover the processing fee? *

- ◯ Yes, I'd like cover the cost of processing
- ◯ No thank you

May we provide your information (name, email and address) to the sponsoring association, if requested? *

- ◯ Yes
- ◯ No

Salutation: *

First Name

Last Name

Your Email: *

AGENDA ITEM
8A.

Presentation and Annual Update by Central Coast Community Energy (10 Minutes)

Annual Member Agency Update

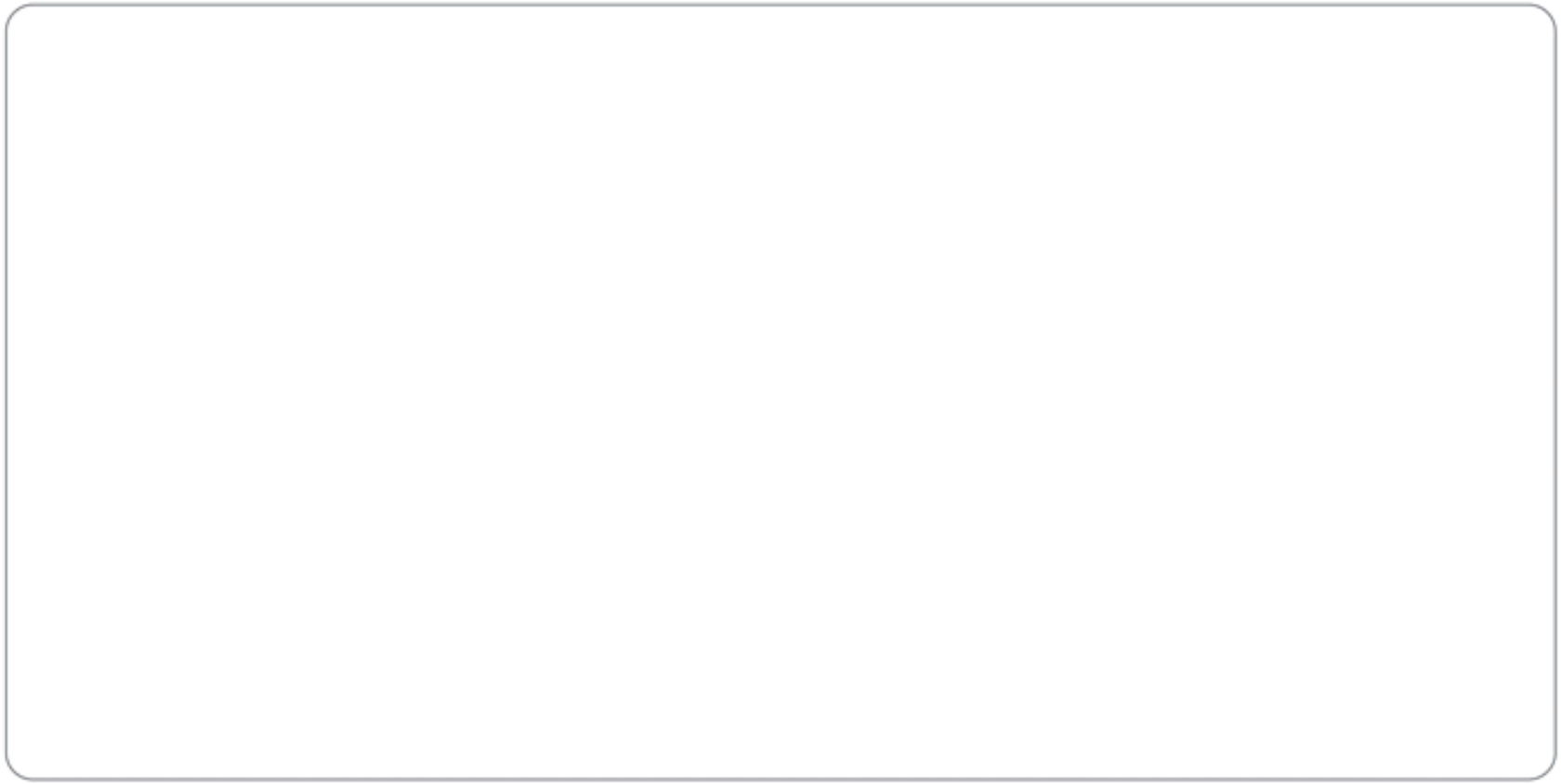
City of Sand City

March 08, 2022

Central Coast Community Energy

How Does CCA Work?

"A Partnership to support shared customers"



Central Coast Community Energy

Did You Know?

California's Community Choice Aggregation (CCA) Community

- **Serves 11 million electricity customers**
- **Supports equity, choice and renewable energy**
- **Is a positive force in 200+ communities**

Central Coast Community Energy
CLEAN ENERGY. LOCAL CONTROL.

CALCCA
ADVANCING LOCAL ENERGY CHOICE

WHO WE ARE?

Central Coast Community Energy

CCCE GOVERNANCE

Policy Board: Meets 4 Times Annually including Annual Meeting

Operations Board: Meets 10 Times Annually including Annual Meeting

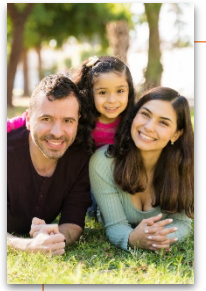
Community Advisory Council: Meets 7 Times Annually including Annual Meeting

County of Santa Cruz	City of Santa Cruz	City of Watsonville	County of Monterey	City of Salinas	County of San Benito	County of Santa Barbara	City of Santa Maria
Coastal Cities Marina Sand City* Seaside Del Rey Oaks	**Peninsula Cities** Carmel Monterey Pacific* Grove	**Salinas Cities** Greenfield Gonzales Soledad*	**San Benito Cities** Hollister* San Juan Bautista	**Santa Cruz Cities** Capitola* Scotts Valley	**San Luis Obispo Cities** San Luis Obispo* Morro Bay Paso Robles	**South County Cities** Arroyo Grande Grover Beach Pismo* Beach	**SB County Cities** Guadalupe Solvang* Buellton	**SB County Cities** Goleta Carpinteria*

*City representative currently serving in a shared seat.

Central Coast Community Energy

CCCE Accomplishments



Local Choice

- 3Cchoice-clean and renewable offering
- 94% enrollment
- Largest CCA service area

Economic Vitality

- $27 million – Energy programs
- Est. $50 million – Customer savings
- $25 million – Resiliency Fund

Local Support

- $1 million in Local Vendor Contracts
- 38 full time employees
- 2 offices – Monterey & San Luis Obispo

Clean Energy

- 889 MWs of Renewables – solar, wind, geothermal
- 261 MWs of battery storage
- Pathway to 100% clean and renewable

Financial Stability

- Received "A" Rating from S&P
- Over $140 Million in Rate Stabilization Fund
- Service and Loans Paid Off

Central Coast Community Energy

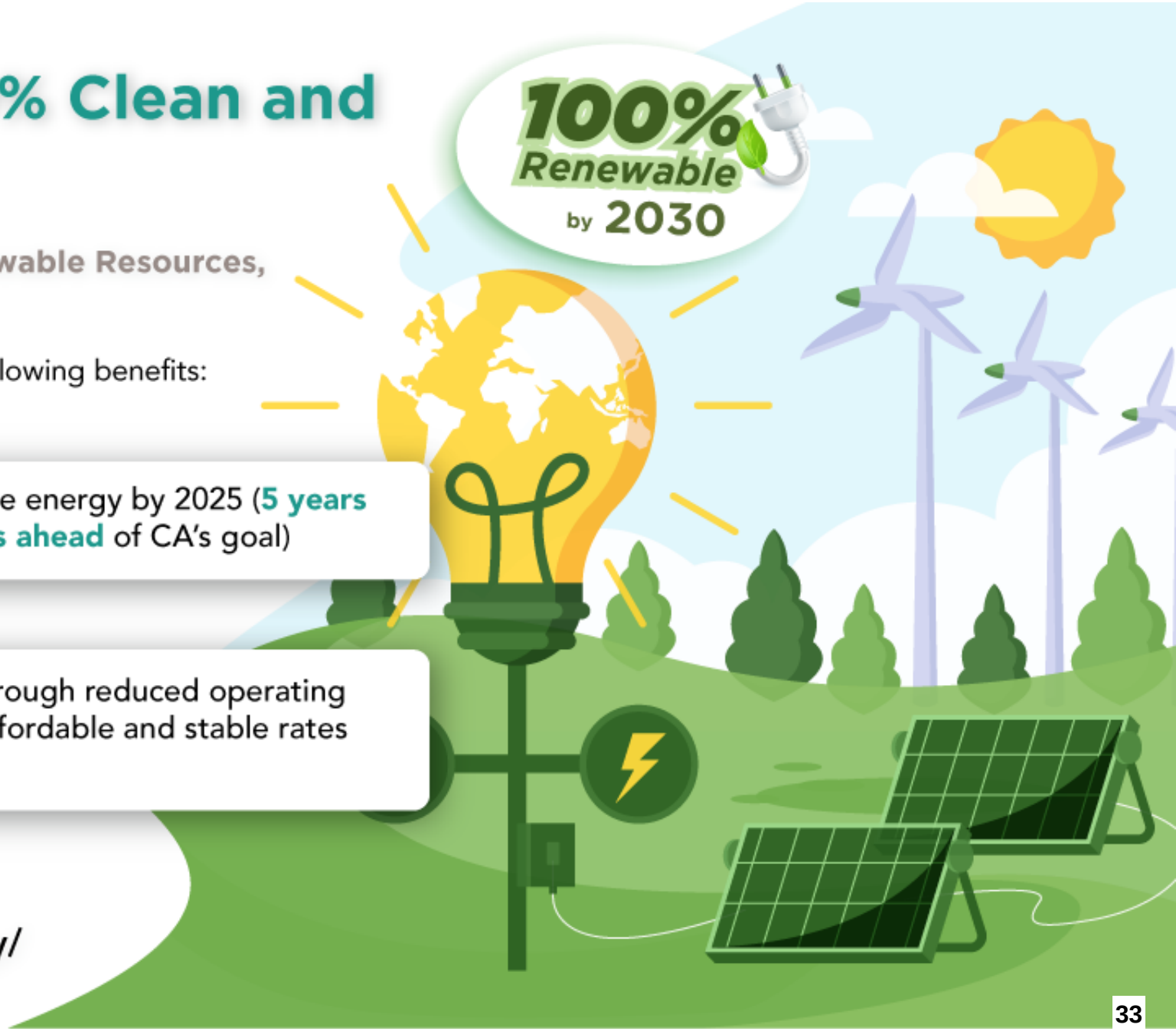
CCCE's Pathway to 100% Clean and Renewable by 2030

Supporting Affordable Rates, Increasing Renewable Resources, and Accelerating Greenhouse Gas Reduction

CCCE's new energy-supply strategy will provide the folllowing benefits:

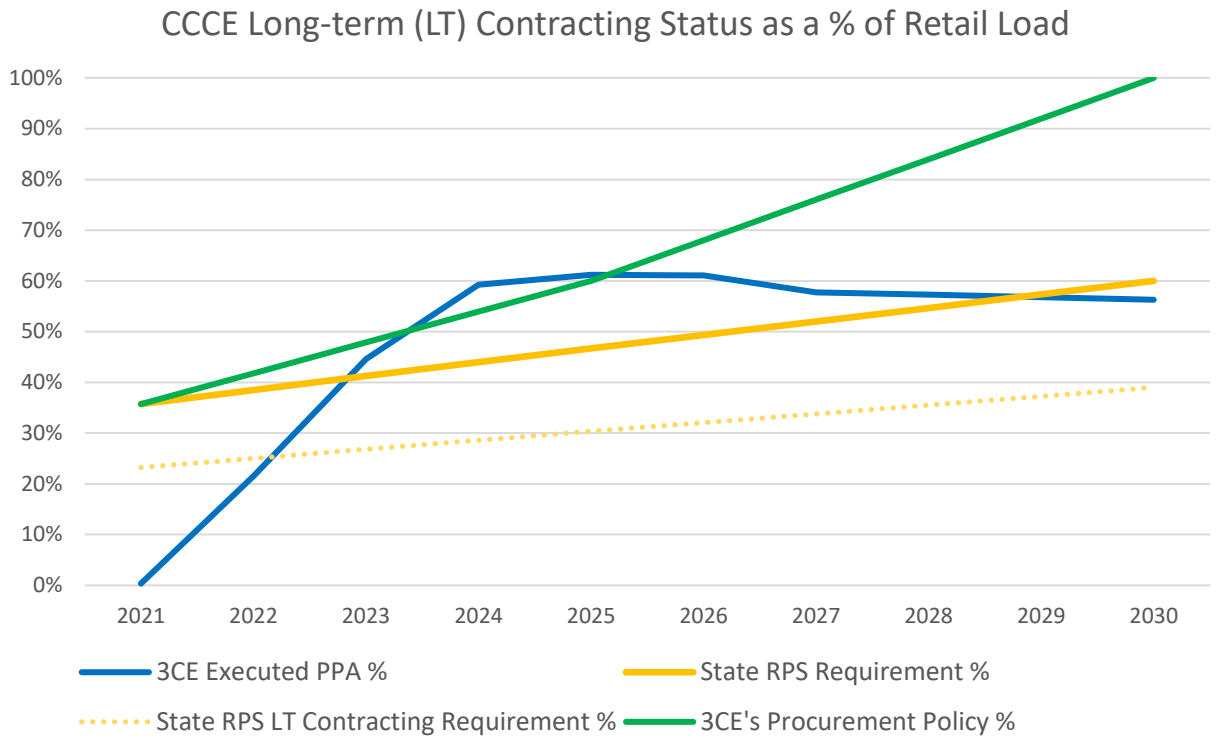
- CCCE's goal is to reach 60% clean and renewable energy by 2025 (**5 years ahead** of CA's goal) and 100% by 2030 (**15 years ahead** of CA's goal)

- Financially beneficial to customers and CCCE through reduced operating costs of **$8-15 million/year** allowing for more affordable and stable rates while supporting economic development



Learn more at
3cenergy.org/understanding-clean-energy/

FAST TRACKING NEW ENERGY DEVELOPMENT



CCCE's Executed Contract Summary			
Project Type	Count	Gen Capacity (MW)	Storage Capacity (MW)
Solar + Storage PPAs	9	633	201
Solar Only PPAs	1	150	
Wind PPAs	1	33	
Geothermal PPAs	2	73	
RA Only Agreement	1		60
	14	889	261

These projects will serve about 61% of CCCE's retail load when all are online, expected in 2025.

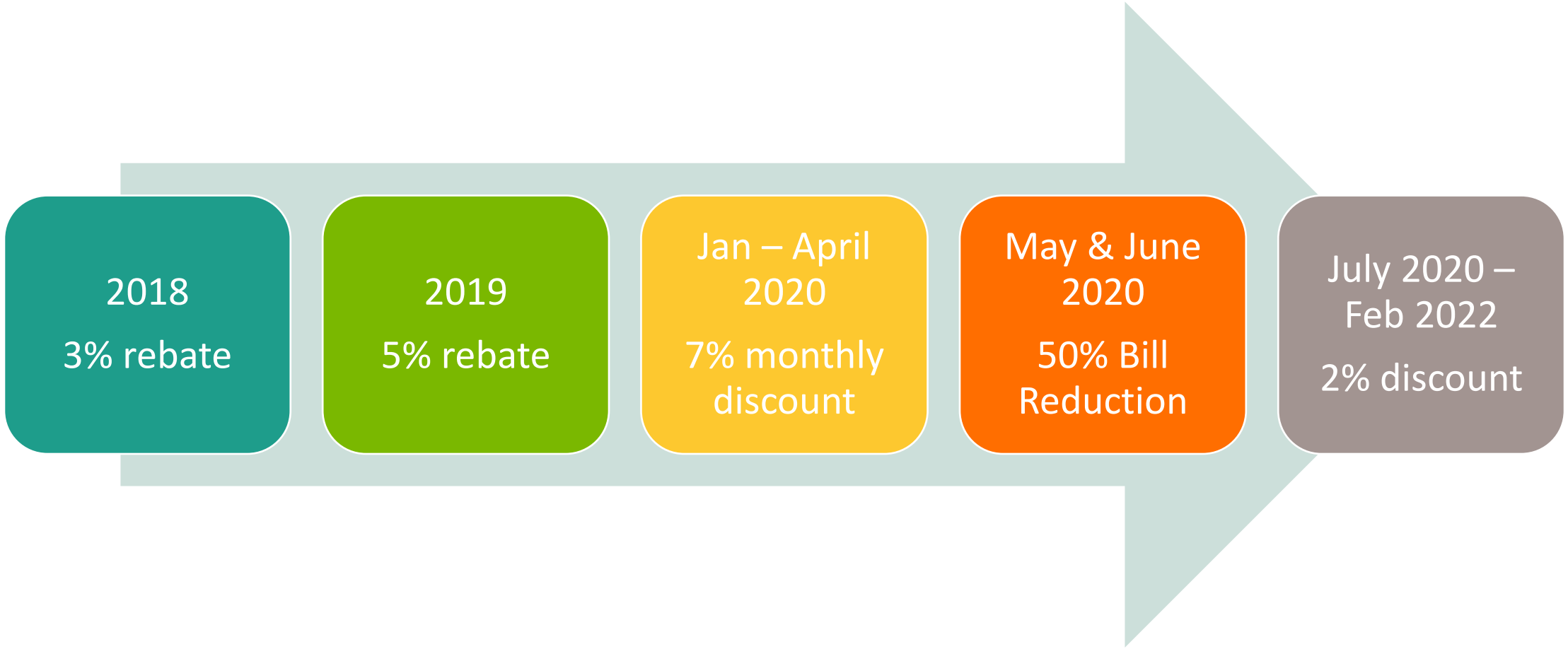
Central Coast Community Energy

CCCE Commitment to Renewable Procurement

- contracted for approximately $1 billion in long term solar plus storage contracts since 2018
- shortlisted 7 local projects through its local renewables RFP
- Joined other CCAs to advance long duration storage RFP to support grid reliability through existing and new technologies
- issued an RFQ for up to 100MW of front of the meter battery storage, with the potential to island projects for increased resiliency

Central Coast Community Energy

CCCE HISTORIC RATES & COVID-19 RESPONSE



Central Coast Community Energy

GOALS OF 2022 CCCE SERVICE OFFERINGS

Long-term rate adoption increases predictability and rate stability

Customer choices and transparency improve with simplified customer classes

New rates increase customer rate equity throughout customer segments

New rate structure maintains competitive rates across all customer segments

https://3cenergy.org/2022-energy-choices/

Central Coast Community Energy

APPROVED APPROACH TO RATE DESIGN

1. Estimate the total cost necessary to serve all 3CE customers
    - Power procurement
    - Energy Programs
    - Rate stabilization fund
    - Administrative costs
2. Create simple, easily understood customer classes based on size and usage profile
3. Allocate total cost across customer classes
4. Adjust allocations so each class will save a minimum of 1% relative to PG&E
5. Design rates for each customer class to recover costs allocated to that class
6. Rates will go live effective March 1, 2022 for customers within PG&E's service territory

Central Coast Community Energy

CCCE Energy Programs

Overview:

- $1.3 million in FY 18/19
- $5.4 million in FY 19/20
- $6.2 million in FY 20/21
- Estimated $14.1 million in FY 21/22
  - 4% of operating revenue in FY 21/22

Electrification in building and transportation sectors could result in $3 billion of untapped revenue market wide

FY 21/22 Energy Programs

- Electrify Your Ride - $2.8 million – NOVEMBER 2021
- School Bus Electrification - $1 million - OCTOBER 2021
- Agriculture Electrification - $600k - OCTOBER 2021
- Residential Electrification - $1.6 million
- New Construction Electrification - $1.5 million – OCYOBER 2021
- Reach Code - $60k
- Battery Energy Storage Pilot - $350k
- Summer Readiness - $400k
- Energy Education, Workforce Development and Innovation Grants - $1 million
- Greenhouse Gas Inventory - $64k

Electrification and Innovation Grant Program

Planning and Implementation

- Funding for planning and implementation projects related to electrification
- Intended for member agencies to electrify their vehicle fleets, municipal properties, and the community infrastructure that serves households and businesses.

Innovation

- Funding to deploy new and innovative electrification or other clean energy-related technology for municipal or community buildings and/or fleets.
- Intended to foster market transformation, demonstrate scalable and replicable solutions, and identify potential future CCCE energy program concepts.

Central Coast Community Energy

Locally Sited Front of the Meter Distributed Energy Storage Projects

Benefits

- **Rate Stability** *reduced energy cost & reduced RA cost*
- **Grid Stability** local power supply, critical period imports reduced => fewer outages
- **Grid services** balance power flows
- **Reduced GHGs** evening dispatch of day-time “solar” electrons
- **Local jobs** building and maintaining facilities
- **Potential “microgrid”** islanding => resiliency

Central Coast Community Energy

Medium and Heavy-Duty Vehicle Electrification Program

- Intended to support the electrification of Member Agency medium and heavy-duty fleet vehicles
- Potential applications include street sweepers, refuse trucks, dump trucks, and first response vehicles
- CCCE will reserve funds for qualifying projects and funds will be dispersed once purchases and/or projects are completed
- Intended to work in coordination with city/county purchasing schedules and policies
- Incentives likely to be tied to increased cost of electric models from standard internal combustion options

Central Coast Community Energy

Central Coast Community Energy

CLEAN ENERGY. LOCAL CONTROL.

ELECTRIFY YOUR RIDE

on Electric Vehicles and Chargers

REDUCE EMISSIONS

Reducing emissions, getting more electric vehicles (EVs) on the road and building more charging stations will increase local and regional adoption rates to meet state and regional climate action goals

EQUITABLE ACCESS

Providing extra funding for disadvantaged communities and low-income customers will tighten up gaps in equitable access to clean-energy resources

ELECTRIC VEHICLE REBATES

$2,000 - $4,000 in rebates available for purchase or lease of new or used electric vehicles, including motorcycles and e-bikes. Additional stackable funds available, including up to $15,000 for income-qualified customers

EV CHARGER REBATES

$2,400 - $10,000 available for Level 2 electric vehicle chargers at home or workplace. Includes the labor and material costs for installation, including electrical panel upgrades or replacments

Learn more and apply at 3cenergy.org/electrify-your-ride-program

City of Greenfield by The Numbers (95.09% Enrollment)

- 387 Total Enrolled Customers
- 108 Residential
- 278 Commercial
- 0 Agricultural

Central Coast Community Energy

FIELD PROMOTION 2021

Provided lunch & PPE to almost 500 workers and counting

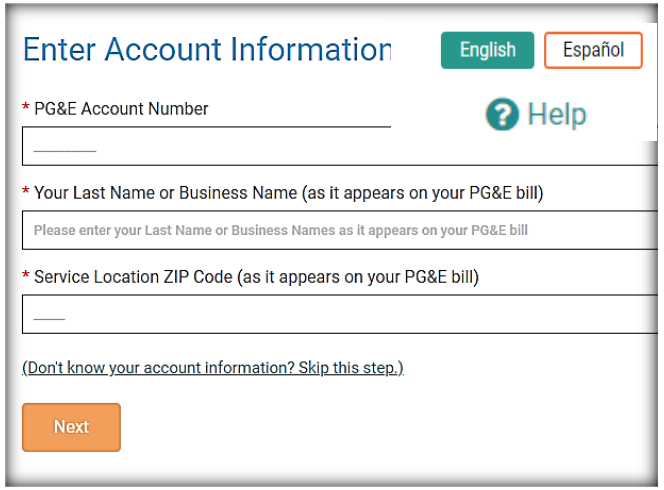
Salinas & San Luis Obispo

Central Coast Community Energy

Customer Resources & Tools

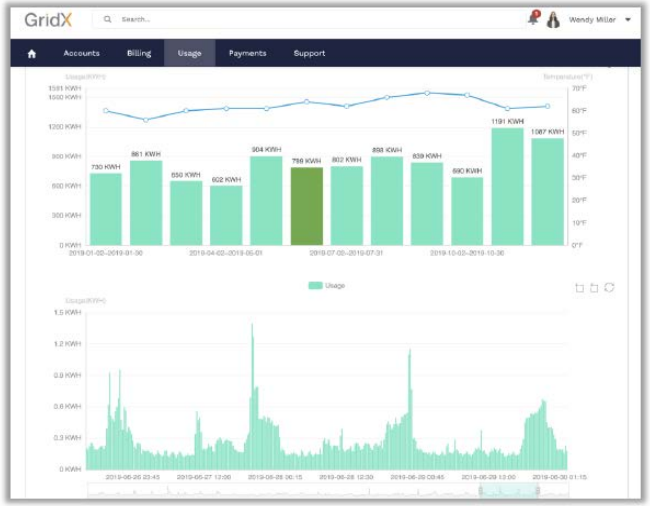
Phase 1

- Creating resources to help customers get access to data and make informed rate decisions
  - Customer Energy Portal
  - Rate Comparison Tool for Cost of Service



Phase 2

- Harnessing customer data to integrate energy programs and opportunities for electrification



Central Coast Community Energy

Vendor Registry

DON'T MISS OUT!

IF YOU'RE A BUSINESS IN THE CENTRAL COAST, SIGN UP FOR CENTRAL COAST COMMUNITY ENERGY'S VENDOR REGISTRY

This Vendor Registry allows CCCE to know what organizations and services are available. Vendors registered with CCCE will be contacted directly with business specific Requests for Proposals as they are applicable.

VISIT BIT.LY/CCCE-VENDOR-REGISTRY

Central Coast Community Energy
CLEAN ENERGY. LOCAL CONTROL.

Central Coast Community Energy

A Unified Central Coast CCA

Key Updates:

- Adopted Cost of Service rate structure to achieve agency goals
- Working with CCCE member agencies on regulatory and legislative matters that ensure customer fairness and equal access to resources
- Pathway to achieve 100% clean and renewable energy by 2030
- Leveraging Community Advisory Council for outreach and non-voting seat participation on Operations & Policy Boards
- Engaging with the community around development of future programs
- Enrollment of over 140k customers in 2021 & 2022 across 12 communities

Central Coast Community Energy

Stay Connected with CCCE

www.3Cenergy.org

info@3CE.org

1.888.909.6227

@3CEnergy

@3CEnergy

@3CEnergyEnEspanol

Follow us online, join our newsletter and board agenda notification list, and check our extensive FAQ section on the website.

Central Coast Community Energy

AGENDA ITEM
9A.

Consideration and Approval of City RESOLUTION Authorizing the City Attorney to Execute a Contract with Liebert Cassidy Whitmore (LCW) to Provide Employment Law and Human Resources Legal Services

City of Sand City

Agenda Item

9A

Staff Memo

TO: Honorable Mayor and City Council
FROM: Vibeke Norgaard, City Attorney/Acting City Manager
DATE: March 9, 2022 (for March 18, 2022 meeting)
SUBJECT: Update Contract with LCW

Background/Discussion:

The City has on occasion sought the advice of the law firm Liebert Cassidy and Whitmore (LCW) to perform certain employment law related legal services for the City when specialized expertise was required to address human resource questions. Since 2016, the City has entered into contracts with LCW for this purpose. However, the City does not have a current contract with LCW and is therefore requesting that the Council approve the attached contract (Attachment 1 to Exhibit A).

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

Fiscal Impact:
The hourly rates for services are attached as Schedule I. They range from $210-$380 an hour. The Adopted Budget FY 21-22 had $40,000 allocated for outside council/HR, which was not amended in the budget amendment #1.

Recommendation:
Staff recommends Council adopt the resolution attached as Exhibit A approving a contract for legal services with Liebert Cassidy Whitmore.

EXHIBIT A

CITY OF SAND CITY
RESOLUTION SC ___, 2022

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY AUTHORIZING THE CITY ATTORNEY TO EXECUTE A CONTRACT WITH LIEBERT CASSIDY WHITMORE (LCW) TO PROVIDE EMPLOYMENT LAW AND HUMAN RESOURCES LEGAL SERVICES

WHEREAS, the City on occasion requires specialized legal services in human resources and employment law; and

WHEREAS, having assisted hundreds of local agencies throughout California, Liebert Cassidy Whitmore (LCW) has extensive experience and specializes in assisting public entities in all reviewing and revising of their personnel policies and procedures; and

WHEREAS, LCW has advised the City in human resource and employment matters since 2016.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Sand City as follows:

1) the City Attorney is hereby authorized to execute the attached contract with LCW, attached hereto and incorporated herein as Attachment 1.
2) LCW will maintain a current Sand City Business License for the duration of this contract.

PASSED AND ADOPTED by the City Council of the City of Sand City on this ___day of March, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Mary Ann Carbone, Mayor

ATTEST:

_____
Connie Horca, City Clerk

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation ("Attorney"), and the CITY OF SAND CITY, A Municipal Corporation ("City").

1. Conditions

This Agreement will not take effect, and Attorney will have no obligation to provide services, until City returns a properly signed and executed copy of this Agreement.

2. Attorney's Services

Attorney agrees to provide City with consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by City or otherwise required by law.

3. Fees, Costs, Expenses

City agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including reasonable travel time.

The current range of hourly rates for Attorney time is from Two Hundred Ten to Three Hundred Eighty Dollars ($210.00 - $380.00). See Schedule I for a full Fee Schedule. Attorney reviews its hourly rates on an annual basis and, if appropriate, adjusts them effective July 1. Attorney will provide the City with written notification of any adjustment in the range of rates. Attorney bills its time in minimum units of one-tenth of an hour.

For Litigation Matters

See Schedule II attached for a description of Attorney's Litigation and E-Discovery Management.

Other Expenses

City agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of City. Attorney bills photocopying charges at Fifteen Cents ($0.15) per page. See Schedule I attached.

Payment by City against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

4. Professional Liability Insurance

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

5. Arbitration of Professional Liability or Other Claims

Disputes. If a dispute between City and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

6. File Retention

After our services conclude, Attorney will, upon City's request, deliver the file for the matter to City, along with any funds or property of City's in our possession. If City requests the file for the matter, Attorney will retain a copy of the file at the City's expense. If City does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If City does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to City. At any point during the seven (7) year period, City may request delivery of the file.

7. Assignment

This Agreement is not assignable without the written consent of City.

8. Independent Contractor

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of City.

9. Authority

The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

10. Term

This Agreement is effective January 6, 2022, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE, A Professional Corporation	CITY OF SAND CITY, A Municipal Corporation
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

SCHEDULE I – FEES & COSTS

1. Hourly Rates (As of Agreement Effective Date)

Partners	$380.00
Senior Counsel	$325.00
Associates	$210.00 - $305.00
Labor Relations/HR Consultant	$240.00
Paralegals	$135.00
E- Discovery Specialists	$135.00
Law Clerks	$135.00 - $175.00

2. COSTS

1. Photocopies	$0.15 per copy

SCHEDULE II

LCW LITIGATION and E-DISCOVERY MANAGEMENT

LCW is committed to using state-of-the-art technology to efficiently manage and harness electronically-stored information ("ESI") in compliance with Federal and State law requirements. LCW partners with an outside managed services provider to provide Relativity, the industry leading e-discovery software, for this purpose. The cost for each matter will depend on the volume and format of the data. For non-complex data up to 50 gigabytes, LCW charges a monthly fee of $375 on all active litigation matters for data management, including data validation and security, ingestion, de-duplication, culling and streamlining, and creation of Relativity fields for expedited review. For data of 50 gigabytes and over and for complex data requiring specialized services (e.g., payroll data, spreadsheets with underlying formulas, video, advanced searches, etc.), additional charges are incurred and are passed through to the client. For such charges, we will provide an itemized bill from our managed services provider and obtain client approval prior to incurring the charges.

Litigation Case Staffing

LCW has organized its litigation practice to meet the challenges of today's complex litigation cases. We employ a dedicated Litigation Manager – a non-billing attorney litigator – whose responsibility is to monitor all litigation cases to ensure quality, efficiency, and adherence to client and firm litigation guidelines. Each litigation case is staffed with a Partner, an Associate (or Associates, as required and as approved by the Client), a Paralegal and an E-Discovery Specialist. Our E-Discovery Specialists have extensive experience in the efficient management of electronic data through every stage of the e-discovery life cycle, and they strategize with attorneys and clients on effective ESI protocols. This makes the document review process more efficient and enables our attorneys to target the most relevant data to meet litigation objectives. Working with our e-discovery managed services provider, we are able to provide state-of-the-art data processing and hosting services at below-market rates.

AGENDA ITEM
9B.

Council Consideration and Discussion of Major Terms of Draft Short Term Rental Ordinance

City of Sand City

Staff Report

Agenda Item

9B

TO: Honorable Mayor and City Council Members
FROM: Vibeke Norgaard, Acting City Manager /City Attorney
DATE: March 8, 2022 (Meeting date: March 18, 2022)
SUBJECT: **Short-Term Rentals**

Background:
As the City Council is aware, an unknown number of residential properties in Sand City are currently operating as Short-Term Rental units (rentals of units for 30 days or less) ("STR"). Such properties are advertised on online hosting platforms such as Airbnb and VRBO. The Municipal Code contains no regulation governing the use of properties for Short-Term Rentals.

At the June 1, 2021 City Council meeting, Council directed staff to draft an ordinance regulating the use of properties operating as Short-Term Rentals. Some of the key directions of City Council included the desire to collect Transient Occupancy Tax ("TOT") from Short-Term Rentals, the desire to establish a maximum number of Short-Term Rental units permitted to operate in the City, and the intent to establish rules and regulations governing the operation standards of Short-Term Rentals to prevent the degradation of the residential character of the neighborhoods in which they operate.

The Proposed Ordinance:
The City Attorney has explored many options for regulating Short-Term rentals and concluded the proposed Ordinance, a draft of which is attached to this staff report as **Exhibit A** ("Ordinance"), is best suited to achieve the goals of the Council while allowing significant flexibility for homeowners to operate Short-Term Rentals. Based on the ordinances reviewed from other jurisdictions, the proposed Ordinance achieves a middle ground between the most stringent and most permissive regulations. For instance, some cities ban Short-Term Rentals entirely, others do not permit the use of un-hosted rentals. The Ordinance as proposed, allows for hosted and un-hosted rentals, but requires safeguards such as an on-call site manager to be available to respond to concerns within 30 minutes to alleviate any issues posed by an un-hosted rental.

Other cities prohibit Short-Term Rentals in certain portions of the city. Given the size of Sand City, this type of restriction was not considered.

Existing Short-Term Rentals - Waitlist:
Another issue is whether or not and how to allow Short-Term Rentals currently operating to continue to operate, while bringing them into compliance with the new Ordinance. Some cities have simply grandfathered these uses in, others have prohibited their use entirely until they

come into compliance with the ordinance. Even others have established a lottery system for issuing permits whether or not a property owner was operating before the effective date of the ordinance. After a consideration of these approaches, and given the uncertainty about the number of properties currently operating, the City Attorney's office is recommending all applications be put on a waitlist, which will be reviewed in the order received. To establish priority on the waitlist for property owners currently operating Short-Term Rentals, these owners shall have 60 days in which to submit their application, before the waitlist opens to the general public.

Cap on number of Rentals by separate resolution:
The City Attorney also advises that a Cap on Short-Term Rental Permits be established by resolution prior to the effective date of the Ordinance. While it may be beneficial for the City to assess the number of applicants prior to establishing the Cap, this may draw criticism of bias in the process, especially for applicant's whose applications on the waitlist fall outside the Cap limit. While the City would be able to defend any such challenge, setting the Cap before applications are received would eliminate any prospect of challenge or appearance of bias.

Additional provisions:
In addition to the above, other main provisions in the draft Ordinance are:

- Prohibits large gatherings -- no occupants above two guests per bedroom plus two additional are allowed.
- Excludes affordable housing units from being used as short-term rentals.
- Requires building inspection prior to obtaining or renewing a permit to ensure up to code.

CEQA: The action to discuss, consider the Ordinance Amending the Sand City Municipal Code to Add Chapter 5.19 – Short-Term Rentals - is exempt from the California Environmental Quality Act ("CEQA") under the general rule under Guidelines Section 15061(b)(3) because CEQA only applies to projects that have the potential for causing a significant effect on the environment and the Ordinance does not involve a commitment to any specific project that may cause a potentially significant physical effect on the environment.

Fiscal Impact:
None, other than the time necessary for staff to prepare this report, and the administrative costs associated with processing of Short-Term Rental Permit applications, and performing inspections. The collection of TOT, application fees, renewal fees, and inspection fees are intended to offset these costs.

Recommendation:
Staff recommends Council review the proposed Ordinance and provide additional direction so staff may revise the ordinance before bringing it back to Council for its consideration for adoption.

Exhibits/Attachment:

A: Draft Ordinance

5.20.010 Purpose and Intent

This Chapter authorizes short-term rental use of a dwelling unit for remuneration for less than thirty (30) consecutive days and establishes short-term rental permit requirements and limitations. This Chapter also sets regulations to enforce these requirements and limitations, and collection and payment of fees and transient occupancy tax ("TOT"). For purposes of this Chapter, a short-term rental is intended to meet the definition of "Hotel" found in Section 3.24.020 of the Sand City Municipal Code.

5.20.020 Prohibition of Transient Use

The transient use or short-term rental of residential property by any owner, representative, responsible tenant, person acting as an agent, real estate broker, real estate sales agent, property manager, reservation service, or anyone who otherwise uses, arranges, or negotiates for the use of residential property for remuneration is prohibited, except as otherwise expressly permitted by this Chapter, and for which a short-term license is issued under this Chapter. The short-term rental of residential property without a license is a violation of this Chapter and enforced under Chapter 1.18 of the Sand City Municipal Code.

5.20.030 Definitions

"Advertising" means signs, circulars, cards, telephone books, newspapers, magazines, posters, email, mobile applications, television, radio, internet websites, and social media, or any other representation implying or stating that a property is available for short-term rental use.

"Affordable Housing unit" means any property qualifying for affordable housing cost under Health & Safety Code § 50052.5.

"City Manager" means the City Manager of the City of Sand City or his or her designee.

"Host" means an owner or entity that rents out a residence to third parties for short-term rental use.

"Hosted rental" means a home-sharing activity whereby a portion of a primary residence is rented.

"Hosting platform" means a marketplace in whatever form or format that facilitates the short-term rental activity through advertising, match-making, or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

"Occupant" means any person who is on or in a short-term rental property other than service providers or the Owner, whether or not the person stays overnight.

"Owner" means the person(s) or entity(ies) that hold legal or equitable title to a dwelling.

"Short-term rental" or "STR" means a privately owned residential dwelling, such, as, but not limited to, a single-family detached or multiple family attached dwelling, apartment house, condominium, cooperative apartment, duplex, mobile home on permanent foundation, or a manufactured home on permanent foundation, or any portion of such dwellings, rented for occupancy for dwelling, lodging or sleeping purposes for any period of thirty (30) consecutive days or less. Short-term rentals include Hosted and Un-hosted rentals.

"Short-term rental use" or "short-term occupancy" means the use, by any person, of residential property for transient lodging where the term of occupancy, possession, or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is less than thirty (30) consecutive calendar days.

"Short-term Rental Permit" or "STR Permit" shall authorize the short-term rental use of an entire dwelling unit.

"Short-term Rental Permit Cap" or "Cap" means the maximum number of Short-Term Rental Permits allowed to be issued under this Chapter.

"Short-Term Rental Permit Waitlist" or "Waitlist" means the list on which applications will be placed by the Planning Department when the number of permits issued by the City exceeds the Cap, and which will be used when permits for issuance become available.

"Short-term rental site manager" or "Site Manager" means the representative of the person or entity that owns a Short-term rental.

"Un-hosted rental" means a home-sharing activity whereby the Host remains off-site during the Occupant's stay.

5.20.040 Short-Term Rental Regulations

A. Short-Term Rentals shall not adversely affect the residential character of the neighborhood, nor shall the use generate noise, vibration, glare, odors, excessive foot traffic, excessive or illegal parking, or other effects that unreasonably interfere with any person's reasonable enjoyment of his or her residence.

B. It shall be unlawful for any person to advertise, undertake, maintain, authorize, book, or facilitate any renting to transient Occupant on a Hosting Platform or otherwise, without first procuring and remaining in compliance with all conditions of a valid STR permit and any other requirement of this Chapter.

C. No person shall advertise or rent any STR without a City issued STR Permit number depicted in a visible location on the advertisement, including any listing on a Hosting Platform. No advertising of the STR is permitted on site.

D. STR's shall not be occupied by more than two (2) Occupants per bedroom plus a total of two (2) additional Occupants at one time. Except as otherwise prohibited by law, the maximum

occupancy set forth in this section may be reduced in order to provide sufficient paved parking for Occupants. Sufficient paved parking means that there shall be one (1) paved parking space available at the property for every two (2) occupants sixteen (16) years of age or older.

E. All STR's shall have bathroom facilities accessible to Occupants.

F. Events, parties, or group gatherings in excess of the occupancy limit set in Section 5.20.040 D of the Sand City Municipal Code, including but not limited to weddings, banquets, and corporate events, are prohibited as part of any Short-Term Rental use.

G. No signs shall be posted on the exterior of the dwelling or on the property advertising the Short-Term Rental use.

H. No person shall offer or engage in a Short-Term Rental in any part of the property not approved for residential use, including but not limited to a vehicle parked on the property, a storage shed, trailer, mobile home, garage, or temporary structure such as a tent or yurt.

I. Affordable housing units shall not be eligible for a STR Permit.

J. Each STR Host must appoint a Short-Term Rental Site Manager who shall be on call 24/7 including holidays to manage the Short-Term Rental unit and who shall respond to reported issues, contact the tenants regarding complaints received, and/or be physically present at the Short-Term Rental unit to address reported concerns.

K. Each STR Site Manager shall respond within thirty (30) minutes from the time of notification of any issue to address concerns or complaints pertaining to, but not limited to: unreasonable use of the STR property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the STR unit, or any other requirement or limit in this Chapter or in the City's administrative policies and procedures.

L. Each STR Host or Site Manager must inform at least (1) responsible Short-Term Rental occupant regarding occupancy, parking, noise, trash collection schedules, and any other requirements or limits in this Chapter or in the City's administrative policies and procedures.

M. Each STR Host shall post a City-issued placard in a location visible at the front entrance. The placard shall prominently display the STR Host's or Site Manager's contact information, the STR Permit number, and occupancy limits. It shall be the responsibility of the STR Host and Site Manager to immediately notify the City and obtain an updated placard whenever there is a change in contact information or a change in any material fact upon which the STR Permit was issued.

N. Each STR Host or Site Manager shall maintain a valid STR Permit at all times and shall agree to collect and remit TOT (as described by Chapter 3.24 of the Sand City Municipal Code) on all gross receipts from Short-Term Rental use of the property.

O. Each STR shall sign an indemnification and hold harmless agreement in a form approved by the City Attorney, agreeing to indemnify, save, protect, hold harmless, and defend the City of Sand City, the City Council of City of Sand City, individually and collectively, and the City of Sand City representatives, officers, officials, employees, agents, and volunteers from any claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs received, incurred, or accrued as a result of, or arising out of the STR Host's actions or inaction in the operation, occupancy, use, and/or maintenance of the STR.

P. Transient Occupancy Tax (TOT) shall be assessed for Short-Term Rentals under Chapter 3.24 of the Sand City Municipal Code.

5.20.050 Short-Term Rental Permit Application Requirements

To obtain a STR Permit, the STR Owner shall apply on forms provided by the City. Short-Term Rental Permit applications shall comply with all the terms, conditions, and requirements of this Chapter, including:

A. A STR permit application shall be in the name of the Owner of the real property proposed to be rented under this Chapter.

B. A STR shall be non-transferable, shall not run with the land, and shall be valid only at the site described in the application.

C. Each STR Permit application shall be signed by the Owner and include the following information:

1. Address of the Short-Term Rental unit.

2. Name, address, phone, and email contact information of the Owner of the Short-Term Rental unit.

3. Name and phone number of the Site whose contact information is to be placed on a placard to be posted within the Short-Term Rental under Section 5.20.040 M of this Chapter.

4. A floor plan and site plan which shows the proposed use of each room in each building and structure.

5. Maximum occupancy of the Short-Term Rental Unit.

6. Number of paved parking spaces on the property.

7. A declaration that any applicable covenants, conditions, and restrictions are consistent with and would not prohibit issuance of a Short-Term Rental Permit for the proposed property.

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8. For Un-hosted rentals, proof that the City has verified smoke and carbon monoxide alarms are installed and fire extinguishers and in accessible locations.

D. Every application for a STR Permit shall be accompanied by the STR Permit Application Fee and Inspection Fee in the amounts established by resolution of the City Council.

E. The Director of the Planning Department, or his or her designee, shall inspect all properties in all STR Permit applications, including renewal applications. STR Permit applicants may have to make improvements or changes to the proposed STR property to ensure that the proposed STR property conforms with all plan area statements and building code standards that were in effect at the time of construction of the STR property, and that no health and safety violations that threaten the well-being of Occupants, neighbors, or the community are present at the STR property.

F. The City Manager may deny an application for a STR Permit for any of the following reasons:

1. The application is incomplete;

2. The application contains a false or misleading statement or omission of material fact;

3. The dwelling is subject to an enforcement action under any provision of the Sand City Municipal Code;

4. The applicant is delinquent on any payment to the City of any fees, penalties, taxes, or any other monies related to the property;

5. Within twenty-four (24) months of application, the applicant had a Short-Term Rental Permit revoked at the property subject to the application or any other property in the City;

6. The operation of a Short-Term Rental at the dwelling is a threat to the public health, safety, or welfare;

7. The number of Short-Term Rental Permits issued by the City has reached the Cap; and/or

8. Inspection of the Short-Term Rental property has shown that the proposed Short-Term Rental property does not conform with all plan area statements and building code standards that were in effect at time of construction of the Short-Term Rental property or that health and safety violations are present at the Short-Term Rental property that threaten the wellbeing of Occupants, neighbors or the community.

5.20.060 Short-Term Rental Permit Selection Process

A. The Cap shall be set and amended by resolution of the City Council.

B. All persons or entities interested in operating a STR may apply for a STR Permit along with the application fee.

C. The filing date of the Short-Term Rental Permit application shall be the date when the Director of Development Services officially received the last submission of information or materials required by subsections C and D of Section 5.20.050 of the Sand City Municipal Code. If the Director of the Planning Department, or his or her designee, determines an application submittal is incomplete, a Short-Term Rental Permit applicant shall be notified of such incompleteness within thirty (30) calendar days of receipt of the Short-Term Rental Permit application by the Planning Department. If the Director of the Planning Department does not receive a complete application within an additional thirty (30) days after notification, the application shall be deemed abandoned and shall not be reviewed, and applicant will not be placed on the Short-Term Rental Permit Waitlist.

D. All Short-Term Rental Permit applications, which have been deemed complete by the Director of the Planning Department, shall be placed on the Short-Term Rental Waitlist in the order of the application's filing date. Short-Term Rental Permit applications shall only be reviewed by the Development Services Director in the order of ranking as established by the Short-Term Rental Waitlist.

E. Upon the effective date of the Ordinance codified in this Section, any person or entity operating a Short-Term Rental before March 1, 2022 shall have sixty (60) days from the effective date of the ordinance to submit a Short-Term Rental Permit application in conformance with Section 5.20.050 of the Sand City Municipal Code to establish priority on the Short-Term Rental Waitlist. Short-Term Rental Permit applications submitted within sixty (60) days of the effective date of the Ordinance shall be deemed incomplete unless accompanied by all TOT required to be remitted to the City by the applicant from the prior six (6) months. Upon the expiration of this sixty (60) day period, all other persons or entities may submit a Short-Term Rental Permit application.

F. The Director of the Planning Department shall review Short-Term Rental Permit applications and inspect Short-Term Rental properties in the order received until all applications on the Short-Term Rental Permit Waitlist have been reviewed or until the City determines the Cap has been reached.

5.20.070 Expiration and Renewal of Short-Term Rental Permits

A. A STR Permit shall expire one (1) year from issuance.

B. STR Permits must be renewed annually before expiration by filing a renewal application accompanied by the renewal fee (as established by resolution of the City Council) and the Inspection fee with the Director of the Planning Department.

C. If a timely renewal application is filed, the STR Permit shall not expire until the date that the Director of the Planning Department approves or denies the renewal application. If a timely renewal application is not filed, the STR Permit shall expire and shall be considered null and void.

D. A STR may not be renewed if the STR Host does not meet the renewal requirements, including:

1. The timely filing of a renewal application;

2. payment of the renewal fee;

3. payment of the inspection fee;

4. payment of the business license tax as described more fully in Chapter 5.04 of the Sand City Municipal Code.

5. the STR Host is deemed to have substantially conformed with this Chapter for the preceding year;

6. the STR Host documents and provides any changes that have occurred to the information in the current STR Permit or application; and

7. completion of a rental inspection as described in this Chapter.

5.20.080 Revocation of Short-Term Rental Permit

A. A STR Permit issued under the terms of this Chapter may be revoked by the Director of the Planning Department at any time if he or she concludes any of the following:

1. The STR Host or property owner is not current on TOTs and has not paid all said taxes to the City in full by the date upon which said taxes became due.

2. There have been two (2) or more upheld citations for violations of the City Municipal Code which citations were issued during two (2) separate events and/or calls for service for violations of the City Municipal Code at the Short-Term Rental Unit, on two (2) different dates within any twelve (12) month period. For purposes of this Section, upheld citations means citations which were neither overturned on appeal nor dismissed.

3. Any event occurs at a Short-Term Rental property in which charges for criminal activity are filed by the Monterey County District Attorney against an Occupant of the Short-Term Rental property.

4. The STR Host submitted a Short-Term Rental Permit Application containing a material misrepresentation or omission of a material fact.

5. There has been a transfer or attempt to transfer a STR Permit to another person, entity, or property.

6. A change occurs in any material fact upon which the STR Permit was issued where the change was not reported to the City within fourteen (14) days.

7. The STR Host or Site Manager failed to timely respond to two (2) complaints pertaining to any of the following: unreasonable use of the Short-Term Rental property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the Short-Term Rental unit, or any other requirement or limit in this Chapter.

8. The STR Host fails to post and maintain a City-issued placard in a location visible at the front entrance displaying the Short-Term Rental Host's or Site Manager's contact information, the Short-Term Rental Permit number, and occupancy limits.

5.20.090 Enforcement

A. Any use or condition caused or permitted to exist in violation of this article shall be and is declared a public nuisance and may be summarily abated by the City under Code of Civil Procedure Section 731, Sand City Municipal Code Section 1.16.010, or any other remedy available to the City.

B. Any use or condition caused or permitted to exist in violation of any provision of this Chapter shall be charged as a misdemeanor pursuant to Section 1.16.020 of the Sand City Municipal Code.

C. Where a Short-Term Rental Host or Site Manager of the Short-Term Rental reports a violation of any provision of this Article, which violation was caused or permitted to exist by the Short-Term Rental occupants, the City shall not issue a citation to said Short-Term Rental Host or Site Manager and shall only issue a citation, where warranted, to the occupants.

D. Owners or their agents found operating a Short-Term Rental without a permit after [INSERT DATE], shall be fined according to a schedule established by resolution of the City Council.

5.20.100 Hearing and Appeal of Denial or Revocation

A. Any person denied a Short-Term Rental Permit, or any person whose Short-Term Rental Permit has been revoked, may request a hearing from the City Attorney. The request for a hearing must be in writing and must be made within ten (10) calendar days from the decision denying or revoking the Short-Term Rental Permit. Upon receiving a written request for a hearing, the City Attorney or his/her delegate shall call a hearing within twenty-one (21) days

thereafter and shall set forth in writing and send to the applicant or permittee by registered mail, certified mail, or hand delivery, notice of the date, time, and place of the hearing at least five (5) days before the hearing date. The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial or revocation of a Short-Term Rental Permit. The hearing shall be conducted by a hearing officer, appointed by the City Attorney. The applicant or permittee may have the assistance of counsel or may appear by counsel and may present evidence. If the applicant or permittee fails to appear at the hearing, the evidence or the existence of facts which constitute grounds for denial or revocation of the license or permit shall be considered unrebutted. A copy of the decision of the Hearing Officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. The Hearing Officer shall inform the Party against whom the decision is rendered of his or her right of appeal under Section 5.20.100 C of the Sand City Municipal Code.

B. The effect of a decision by the Hearing Officer shall be stayed while an appeal to the City Council is pending or until the time for filing such appeal has expired. If an appeal is not timely filed, the decision of the Hearing Officer shall be final.

C. Within ten (10) days after receipt of the decision of the Hearing Officer, any Party affected by the decision may file with the City Clerk a written request for a public hearing before the City Council. Upon filing such a request, the City Clerk shall within twenty-one (21) days thereafter set the matter for a hearing and shall notify the applicant of the date, time, and place of such hearing at least five (5) days before the hearing date. At the hearing, any person may present evidence opposing, or in support of, appellant's case. At the conclusion of the hearing, the City Council shall either grant or deny the appeal. The decision of the City Council shall be final.

5.20.110 No Property Rights Conferred

Short-Term Rental Permits shall not be construed as providing property rights or vested interests and entitlements in continued operation of a Short-Term Rental. Short-Term Rental Permits are revocable licenses which expire annually.

5.20.120 Fees

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

5.20.130 Administration

The City Manager, or designee, shall have the authority to establish administrative rules and regulations consistent with this Chapter for interpreting, clarifying, carrying out, furthering, and enforcing the requirements and provisions of this Chapter.

5.20.140 Severability

If any provision or clause of this Chapter or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other section provisions or clauses or applications, and to this end the provisions, sections and clauses of this ordinance are declared to be severable.

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AGENDA ITEM
9C.

Comments by Council Members on Items of Interest to Sand City

AGENDA ITEM
9D.

Upcoming Meetings/Events