



REGULAR MEETING

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

TUESDAY, JANUARY 17, 2023

5:30 PM

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

Regular Meeting - Tuesday, January 17, 2023
5:30 PM

THIS MEETING WILL BE HELD VIRTUALLY AND IN PERSON, 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 #

TO PARTICIPATE IN PERSON:

City Hall Council Chambers

1 Pendergrass Way

Sand City, CA

How to submit written Public Comments:

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

Written: All comments received before 8:00 am the day of the meeting will be posted on the City's website as "Correspondence" under the relevant agenda item and provided to the City Council members at the meeting. Please email your comments to: 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. Please use the "raise your hand" option on Zoom, and the City Clerk will call on your name.

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

5. **COMMUNICATIONS**

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

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

6. **CONSENT CALENDAR**

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

- 6A. Approval of December 20, 2022 Council Meeting Minutes
[12.20.2022 REGULAR Meeting Minutes.pdf](#)
- 6B. Acceptance of City/Successor Agency Monthly Financial Report, November 2022
[November 2022 City.Successor Agency Financial Report.pdf](#)
- 6C. Approval of City RESOLUTION Confirming Members of the Sand City Arts Committee
[Staff Report.Confirming Members of the Arts Committee.pdf](#)
[Resolution. Confirming Members of the Art Committee.2023.pdf](#)
- 6D. Approval of City RESOLUTION Making Re-Appointment of Greg Hawthorne to the Sand City Design Review Committee until January 31st of 2025
[Staff Report and Resolution Making Re-Appointment of Greg Hawthorne to the Sand City Desgin Review Committee u.pdf](#)
- 6E. Approval of City RESOLUTION Updating Appointments to Various Local and Regional Agencies and Boards, effective January 18, 2023
[Staff Report.Appointments to Local and Regional Agencies and Boards 2023.pdf](#)
[Resolution.Updating the Appointments to Various Local and Regional Agencies and Boards.pdf](#)
- 6F. Approval of City RESOLUTION Authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commissions, and Committees for the Period of January 18, 2023 through February 16, 2023 pursuant to AB 361 and Ralph M. Brown Act Provisions
[Resolution. Authorizing the Extension of Remote Teleconference Meetings of the](#)

7. CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

8. PUBLIC HEARING

- 8A. Consideration of City RESOLUTION to Amend Conditional Use Permit 630 Authorizing Design Change of Exterior Wall and Removal of Upper-Level Deck at 1880 Park Avenue {***Council to consider continuing this Public Hearing to the next regularly scheduled Council meeting on February 7, 2023***}
[Staff Report. Amendment of Conditional Use Permit 630 \(Inclusive of Architectural & Site Plan Review\) for Architectural Change on 2-Story Single-Family House Development.pdf](#)

9. NEW BUSINESS

- 9A. Consideration and Approval of City RESOLUTION Authorizing the City Manager to Execute a Professional Services Agreement between the City of Sand City and Hinderliter, DeLlamas & Associates (HdL) for Transactions and Use Tax Audit & Information Services for Measure "L"
[Staff Report. Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Hinderliter de Llamas and Associates for Measure L.pdf](#)
[Resolution. Authorizing the City Manager to Execute a Professional Services Agreement between the City of Sand City and Hinderliter, de Llamas and Associates.pdf](#)
- 9B. Approval of Upcoming City Events for 2023
[Confirmation of Future Dates for SC Events for 2023.pdf](#)
- 9C. Comments by Council Members on Items of Interest to Sand City

10. CLOSED SESSION

- 10A. City Council/Successor Agency Board to adjourn to Closed Session regarding Conference with labor negotiator pursuant to California Government Code Section 54957.6
1) Agency designated representative: Vibeke Norgaard, City Manager; Adam Lindgren, Interim City Attorney
Employee Organization: Sand City Police Officers Association (POA)
- 10B. Re-adjourn to Open Session to report any action taken at the conclusion of Closed Session in accordance with California Government Code Section 54957.1

11. 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 December 20, 2022 Council
Meeting Minutes**

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

Regular Meeting - Tuesday, December 20, 2022

5:30 PM

As allowed per Assembly Bill (AB361), this meeting was conducted in person and by
teleconference

Mayor Carbone opened the meeting at 5:30 p.m.

AGENDA ITEM 1, ROLL CALL

Present: Mayor Mary Ann Carbone
Council Member Blackwelder
Councilmember Cruz {excused absence}
Councilmember Hawthorne
Councilmember Sofer

Staff: Vibeke Norgaard, City Manager
Adam Lindgren, Interim City Attorney (virtual attendance)
Connie Horca, City Clerk
Vito Graziano, Police Commander

AGENDA ITEM 2, PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commander Graziano.

AGENDA ITEM 3, INVOCATION

The invocation was led by Reverend Robert Hellam.

AGENDA ITEM 4, ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, AND CITY MANAGER

Mayor Carbone announced that her Mayor's report for November/December was distributed to the Council, and reported on her attendance at the 3CE meeting and their appointment of a new CEO.

City Manager Norgaard announced an upcoming Budget/Personnel Committee meeting to review the Fiscal Year 21-22 audit results, announced the retirement of Commander Graziano after 30 years with the City, and reported on the South of Tioga project that is currently installing curb and gutters along California Avenue. She also provided an update on the Habitat area signage, construction of Esselen Ohlone Park, contract for the West Bay Street repair project, and announced that City Hall will be closed between Christmas and New Year's Day.

Interim City Attorney Adam Lindgren expressed his congratulations on voter approval of Measure L, summarized Assembly Bill 2449 on remote meeting participation and differences with the existing AB 361 remote teleconferencing rules.

Mayor Carbone also announced plans for a ‘Gathering’ on May 6th, and explained a new ‘Feather Alert’ that is designed to alert the public of missing people of native decent, and mentioned legislation pertinent to law enforcement and highway patrol officers.

AGENDA ITEM 5, COMMUNICATIONS

5:41 P.M. Floor opened for Public Comment.

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

5:41 P.M. Floor closed to Public Comment.

AGENDA ITEM 6, SWEARING IN CEREMONY OF ELECTED OFFICIALS

6A. Approval of City RESOLUTION Declaring the Results of the November 8, 2022 General Municipal Election

City Attorney Norgaard presented the staff report and resolution that indicates the results of the November 8, 2022 General Municipal Elections and that the statement of votes cast is deemed to be an accurate. Staff recommends approval of the resolution declaring the results of the November 8, 2022 General Municipal Election.

5:43 P.M. Floor opened for Public Comment.

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

5:43 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** declaring the Results of the November 8, 2022 General Municipal Election was made by Council Member Hawthorne, seconded by Council Member Sofer. Roll call Vote AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: Council Member Cruz. ABSTAIN: None. Motion carried.

6B. Swearing in Ceremony of Elected Officials:

1) Mary Ann Carbone - Mayor

2) Jerry Blackwelder and Elizabeth Sofer - Council Members

City Clerk Horca performed the Swearing in Ceremony of Mayor Carbone, and Council Members Jerry Blackwelder and Elizabeth Sofer.

AGENDA ITEM 7, CONSENT CALENDAR

7A. There was no discussion of the December 6, 2022 Council Meeting Minutes.

7B. There was no discussion of the City/Successor Agency Monthly Financial Report, October 2022.

- 7C. There was no discussion of the City Resolution authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commission, and Committees for the Period of December 21, 2022 through January 20, 2023.
- 7D. There was no discussion of the Approval of Addition to 2022 Appointments List.
- 7E. There was no discussion of the approval of City Donation/Contribution to Jacob's Heart Children Cancer Support Services for \$250.

5:52 P.M. Floor opened for Public Comment.

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

5:52 P.M. Floor closed to Public Comment.

There was Consensus of the Council to approve the Consent Calendar items by a roll call Vote. AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: Council Member Cruz. ABSTAIN: None. Motion carried.

AGENDA ITEM 8, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

There were not items pulled from the Consent Calendar.

AGENDA ITEM 9, PUBLIC HEARING

Interim City Attorney Lindgren announced that Council Member Cruz is legally unable to participate in the meeting, and that a name draw will be held between Council Members Blackwelder, Hawthorne, and Sofer.

{Following the name draw, Council member Blackwelder stepped down from the dais due to a possible conflict of interest by residing within 500 feet of the subject property}

9A. Consideration and Approval of City RESOLUTION to Approve Coastal Development Permit 22-02 for Karma Circle U.S.A. Conducting Inventory Storage and Wholesale Distribution at 325 Elder Avenue, Unit 4

City Planner Charles Pooler presented the application submitted by Dee Shrestha of Karma Circle for a storage and wholesale distribution of clothing within a 3,000 square foot unit at 325 Elder Avenue. Mr. Pooler provided the site description of the building, project description of proposed storage of clothing items, and utilization of an accessory office. Staff recommends extended hours of operation be from 9:00 a.m. to 5:00 p.m. daily and 9:00 a.m. to 5:00 p.m. on weekends to allow flexibility and consistency with other commercial uses in the area. The property can accommodate adequate parking with minimal impact, as the applicant is the only employee. Shipments and deliveries are through UPS or similar shipping companies and no large semi-trucks are anticipated to cause traffic impacts. No

additional water allocation is required for the applicants use, and Staff recommends approval of the Coastal Development Permit.

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

Mr. Shrestha commented that Karma Circle used to be at the ATC, is located at the Cannery Row, has products that are manufactured in Nepal and Indonesia, and that the storage facility would provide the goods for the retail store and customers.

In response to Council Member Sofer's question regarding what kind of clothing is sold, Mr. Shrestha responded that ethnic clothing is sold. He also clarified where the retail store is located along Cannery Row.

Mr. Pooler interjected that the permit language does allow for occasional retail sales at the location.

The Mayor inquired whether the applicant was in agreement with conditions of the permit. The applicant responded that he was in agreement with permit conditions.

6:06 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** to Approve Coastal Development Permit 22-02 for Karma Circle U.S.A. Conducting Inventory Storage and Wholesale Distribution at 325 Elder Avenue, Unit 4 was made by Council Member Sofer, seconded by Council Member Hawthorne. Roll call Vote AYES: Council Members Carbone, Hawthorne, Sofer. NOES: None. ABSENT: Council Member Cruz. ABSTAIN: Council Member Blackwelder. Motion carried.

AGENDA ITEM 10, NEW BUSINESS

10A. Consideration and Approval of City RESOLUTION Approving Special Event Permit 23-01 for a Bicycle Criterium on July 23, 2023 in the West End District

City Planner Pooler presented the staff report for Special Event Permit 23-01 for a bicycle criterium on July 23, 2023. He reported that the first event was held on Sunday July 23, and the applicant would like to continue this event on an annual basis. Mr. Pooler reported on the street location, proposed parking location, planned residential notification and no-parking signs will be installed 72 hours prior to the event, and that a traffic control plan was submitted to the City. He further reported on the complaints submitted by residents regarding the restricted ingress and egress, and that notification of street closures was not received. Staff recommends the Applicant augment public outreach with notices left at doorstops to both residents and businesses throughout the entire West End District, and despite the complaints, the event occurred.

Mr. Pooler responded to Council Member Blackwelder's inquiry regarding the residents that complained about their towed vehicle.

City Manager Norgaard added that she informed the owner of the business that was impacted by the September event.

Event Co-Ordinator Tom McCullough provided a brief presentation on the Bicycle Criterium. He reported that he followed up with some of the concerns, how the event will be promoted, and to conduct an outreach to the artist community who may want to participate. Mr. McCullough thanked the Police Department and staff, and respectfully requested that the Council consider approval of the Special Event Permit.

Council Member Sofer commented on the parking, towed vehicle, and that adequate information be provided to residents impacted by the event.

Mr. McCullough remarked that 'no parking' signage is placed 3 days in advance, will be more explicit in the signage, and will be adding that the roads will be closed.

6:22 P.M. Floor opened for Public Comment.

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

6:22 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** approving Special Event Permit 23-01 for a Bicycle Criterium on July 23, 2023 in the West End District was made by Council Member Hawthorne, seconded by Council Member Blackwelder. Roll call Vote AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: Council Member Cruz. ABSTAIN: None. Motion carried.

10B. Discussion and Direction regarding the 2023 Mural Festival

City Manager Norgaard presented the staff report to the Council, and in February 2022, a contract was approved with So-Gnar Inc. for a third mural festival, and they were responsible to curate and manage the festival held on August 18-August 28, 2022. Ms. Norgaard reported on the proposed budget of \$80,000, an increase of \$15,000 because of an agreement with So-Gnar that it would take on the entire management and execution of the festival with minimal staff involvement. The entire amount allocated for the event had been spent, and approval of a 2023 we.mural festival would require that City fund the line item. Staff recommends the Council discuss whether it would like to continue the we.mural festival in 2023, if the Council desires a similar budget as it approved in 2022, or to follow recommendation by the Arts Committee to have staff prepare and RFP, and if so, would the RFP be similar to the one attached in the agenda packet.

The Council discussed the 2022 we.mural festival, the issue regarding the mural that ended up being painted on the street, a visual of what walls will be painted and where, art with no political overtones, fun, and lively, the lack of getting walls, a property owner who backed out, make sure that there are walls available, have other people bid on the RFP, and whether the City is over-saturated with murals.

Council Member Hawthorne suggested that the RFP be put out and tighten the loose ends.

Council Member Sofer mentioned her countless hours looking for a wall for the artist, and whether there are any walls left to paint.

Council Member Hawthorne remarked that current walls could be repainted, that the City has not yet reached the saturation point, and continuing the momentum. If no one wants to do it, then it is done.

City Manager Norgaard suggested that the Arts Committee conduct an informal request whether there are any walls that could be painted.

6:41 P.M. Floor opened for Public Comment.

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

6:41 P.M. Floor closed to Public Comment.

Mayor Carbone commented that the Arts Committee should find walls, and solidify those who express a concrete interest.

City Manager Norgaard summarized Council direction to tentatively move forward with the mural festival dependent on the walls, with Council Member Hawthorne to come back with how many walls are available, and if walls are available, that an RFP/contract be brought before the Council in February.

10C. Consideration of City RESOLUTION Authorizing the City Manager to Execute a Professional Service Agreement with California Consulting at a cost not to Exceed \$20,000 to Perform Grant Related Services

City Manager Vibeke Norgaard presented the staff report for grant related services with California Consulting, a firm based in California that conducts grant research and identification, and will work with City Staff to identify grants for the City. Staff proposes an agreement with California Consulting to secure grants on a per grant basis plus out of pocket expenses. The contract would not exceed \$20,000 and is effective through June 30, 2023, and can be amended in June should the Council decide to retain their services.

Mr. Marquez of California Consulting commented that in terms of the billing, that would be addressed by the billing department. City Manager Norgaard clarified the billing process regarding meeting with staff, applying for grants, and grant administration.

Interim City Attorney mentioned that large cities get a stream of grants as they have adequate staff and that obtaining a grant writing team would seem feasible.

6:58 P.M. Floor opened for Public Comment.

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

6:58 P.M. Floor closed to Public Comment.

Council Member Sofer commented that she was able to run a fire department because of investing in two grant writers. If the City can find a grant writer who is sensitive to the needs of the City, it would make a world of difference.

Motion to approve the City **Resolution** authorizing the City Manager to Execute a Professional Service Agreement with California Consulting at a cost not to Exceed \$20,000 to Perform Grant Related Services was made by Council Member Hawthorne, seconded by Council Member Blackwelder. Roll call Vote AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: Council Member Cruz. ABSTAIN: None. Motion carried.

10D. Consideration and Approval of City RESOLUTIONS regarding Implementation of Local Transactions and Use Tax:

1) Adoption of City RESOLUTION Authorizing the City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax at a Rate of One and One-Half Percent

2) Adoption of City RESOLUTION Authorizing the Examination of Sales or Transaction and Use Taxes Records

City Manager Norgaard presented the staff report regarding the Implementation of Local Transactions and Use Tax (TUT), summarized the Ordinance adopted by the Council on July 5, 2022 and adopted by the Electorate on November 8, 2022. She reported that the California Department of Tax and Fee Administration (CDTFA) will be responsible to collect the transactions and use tax, and that the attached resolutions were sent to the City by the State, and is required for the CDTFA to collect, administer and implement the TUT. Collection of the tax will begin on April 1, 2023, and noted the not to exceed amount of the preparatory costs which may be much less for smaller cities. Sand City paid \$7,200 in 2015.

Interim City Attorney added that although the preparatory costs seem quite significant, it should not be of much concern.

7:07 P.M. Floor opened for Public Comment.

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

7:07 P.M. Floor closed to Public Comment.

1) Motion to approve the City **Resolution** authorizing the City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax at a Rate of One and One-Half

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

2) Motion to approve the City **Resolution** authorizing the Examination of Sales or Transaction and Use Taxes Records was made by Council Member Blackwelder, seconded by Council Member Hawthorne. Roll call Vote AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: Council Member Cruz. ABSTAIN: None. Motion carried.

10E. Consideration of Cancelling Future Council Meeting

PURPOSE: It is proposed that the City Council cancel the City Council meeting scheduled for January 3, 2023 to minimize conflict with the Christmas and New Year's Holiday closure of City Hall, December 23, 2022 – January 2, 2023

There was consensus of the Council who were present to cancel the January 3, 2023 Council meeting.

7:11 P.M. Floor opened for Public Comment.

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

7:11 P.M. Floor closed to Public Comment.

Mayor Carbone confirmed the unanimous vote

10F. Comments by Council Members on Items of Interest to Sand City

Council Member Hawthorne wished everyone a Merry Christmas.

10G. Upcoming Meetings/Events

City Clerk Horca announced the upcoming Monterey Peninsula Chamber of Commerce Luncheon to be held on January 25, 2023.

AGENDA ITEM 11, ADJOURNMENT

The Mayor closed the meeting with a moment of silence in memory of a well know Seaside resident, Mr. James Claypool.

There was consensus of the Council to adjourn the meeting at p.m. to the next regularly scheduled meeting on Tuesday, January 17, 2023 at 5:30 p.m.

Connie Horca, City Clerk

**AGENDA ITEM
6B.**

**Acceptance of City/Successor Agency
Monthly Financial Report, November 2022**

MEMORANDUM

OFFICE

To: City Council/Agency Board Members
From: Connie Horca, City Clerk
Subject: November 2022 Financial Reports
Date: December 14, 2022

Attached are the financial reports for both the City of Sand City and the Sand City Successor Agency for the former Redevelopment Agency for the month of November 2022.

A. City of Sand City Reports

1. Balance Sheet Report for November 2022
2. Revenue received in the month of November 2022-Total \$ 64,243.98
(This total includes transfers).
Month End Cash Register Activity Report for November 2022
3. Expenditures paid for in the month of November 2022-Total \$ 499,197.93
Month End October November Accounts Payable Report
4. Current City Balances as of November 30, 2022
Total \$ 13,984,043.84
Restricted & unrestricted
[Includes, Mechanics Bank, and Local Agency Investment Fund (LAIF), and City CDs
ranging from 6 months to 3 years]

B. Sand City Successor Agency for the former Redevelopment Agency Reports

1. Balance Sheet Report for November 2022
2. Revenue received in the month of November 2022 -Total \$ 269.67
Month End Cash Register Activity Report for November 2022.
3. Expenditures paid for in the month of November 2022 Total \$ 55,033.50
Month End Cash Disbursements Report for November 2022.
4. Current Successor Agency Balances as of November 30, 2022
Total \$ 1,364,535.38
Restricted and unrestricted
(Includes Mechanics Bank, Bond CDs, and Bond Reserves for the 2008 Taxable Bonds).

NOTES TO THE FINANCIAL REPORT

Special City Notes for November 2022

On the Month End Cash Register Activity Report - Special or Major Receipts for the Month of November 2022 are listed below:

<u>Date</u>	<u>Source</u>	<u>Amount</u>	<u>Description</u>
11/2/2022	10 Pendergrass Way	\$ 13,483.08	TOT Back Taxes
11/30/2022	County of Monterey	\$ 8,333.33	Sep. 2022 COPS Grant
11/30/2022	506 Bay Avenue	\$ 11,652.66	TOT Back Taxes

Transfers

(Transfers are shown on the cash register activity report; they are transfers from one bank account to another and should not be considered as a revenue or expenditure)

<u>Date</u>	<u>Source</u>	<u>Amount</u>	<u>Description</u>
There were no transfers in November 2022.			

Month End Cash Disbursement Report - Special or Major Expenses for the Month of November 2022 is explained below:

<u>Check #</u>	<u>Paid To</u>	<u>Amount</u>	<u>Description</u>
037804	Hayashi & Wayland	\$ 48,328.00	FY 21-22 Audit Services
037807	Meyers Nave	\$ 12,075.50	Sep. 2022 Outside Attorney Services
037824	Meyers Nave	\$ 11,083.00	Oct. 2022 Outside Attorney Services
037830	So-Gnar, Inc.	\$ 25,000.00	2022 we.Mural Festival Coordinator Fee
037846	So-Gnar, Inc.	\$ 25,000.00	2022 we.Mural Reimbursable Expenses
037854	CalPERS	\$ 15,200.00	November 2022 PERS 457
037859	Harris & Associates	\$ 22,207.50	August 2022 Engineering Fees
37770A	CalPERS	\$ 29,808.77	November 2022 PERS Health Premiums
37770C	CalPERS	\$ 49,359.47	November 2022 PERS Retirement
37770D	ADP,Inc	\$ 45,259.32	November 2022 Payroll Taxes

Successor Agency Notes for November 2022

On the Month End Cash Register Activity Report - Special or Major Receipts for the Month of November 2022 is listed below.

<u>Date</u>	<u>Source</u>	<u>Amount</u>	<u>Description</u>
11/30/2022	Mechanics Bank	\$ 13.57	Nov.2022 Interest– 6 Month Tax Exempt Bond
11/30/2022	Mechanics Bank	\$ 13.43	Nov. 2022 Interest– 3 Month Tax Exempt Bond
11/30/2022	Mechanics Bank	\$ 242.67	Nov. 2022 Interest - Property Tax Increment

Month End Cash Disbursement Report-Special or Major Expenses for the Month of November 2022 is explained below.

<u>Check #</u>	<u>Paid To</u>	<u>Amount</u>	<u>Description</u>
002250	Meyer's Nave	\$ 13,948.50	September 2022 Outside Att. Services
002251A	Meyer's Nave	\$ 40,402.50	October 2022 Outside Attorney Services

**AGENDA ITEM
6C.**

**Approval of City RESOLUTION Confirming
Members of the Sand City Arts Committee**



City of Sand City

Staff Memo

TO: City Council
FROM: Connie Horca, City Clerk/Vibeke Norgaard, City Manager
DATE: January 9, 2023 (for January 17, 2023 Council meeting)
SUBJECT: Confirming Members of the Sand City Arts Committee

Background:

The Sand City Arts Committee was established in 1995 by Resolution SC 95-73 and is a body of 5 members that seek to bring a vision and commitment of the arts to Sand City. At the August 15, 2022 Council meeting, the City Council appointed Michelle Djokic as the fifth member to serve on the Arts Committee.

Arts Committee members are appointed by the Mayor, ratified by the City Council, and re-appointed annually prior to the expiration of their term ending on January 31, 2023.

CEQA:

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

Fiscal Impact:

There is no fiscal impact associated with the confirmation of members of the Sand City Arts Committee.

Recommendation:

It is recommended that the Council approve the attached resolution confirming members of the Sand City Arts Committee whose appointments will be through January 31, 2024.

**CITY OF SAND CITY
RESOLUTION SC 22-, 2023**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY CONFIRMING
MEMBERS OF THE SAND CITY ARTS COMMITTEE**

WHEREAS, Resolution SC 95-73 established the structure and organization of the Sand City Arts Committee; and

WHEREAS, the Sand City Arts Committee is a body of five (5) members; and

WHEREAS, the Arts Committee's function is as set forth in Resolution SC 95-73, including to establish, promote and enhance artistic endeavors within Sand City and to advise and make recommendations to City Council regarding same; and

WHEREAS, according to resolution SC 95-73, Art Committee members are appointed by the Mayor and ratified by the City Council; and

WHEREAS, Arts Committee appointments are considered on an annual basis and thereby require renewal by the City Council; and

WHEREAS, other volunteers who participate in Arts Committee events and meetings are considered "Friends of the Sand City Arts Committee" and not voting members.

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

1. Membership for the Sand City Art Committee will be through January 31, 2024 subject to annual appointment and/or reappointment thereafter;
2. The Sand City Arts Committee will follow the policy and recommendations as outlined in Resolution SC 95-73;
3. The following have been recognized as the official Sand City Arts Committee members: Chairperson Gregory Hawthorne, Dawn Peters, Shelby Hawthorne, Brian Clark, and Michelle Djokic.

PASSED AND ADOPTED by the Sand City Council on this 17th, day of January, 2023, by the following vote:

AYES: Council Members

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Connie Horca, City Clerk

**AGENDA ITEM
6D.**

**Approval of City RESOLUTION Making Re-
Appointment of Greg Hawthorne to the
Sand City Design Review Committee until
January 31st of 2025**

CITY OF SAND CITY

STAFF REPORT

JANUARY 9, 2023
(For City Council Review on January 17, 2023)

TO: Mayor and City Council

FROM: Charles Pooler, City Planner

SUBJECT: Re-Appointment to Design Review Committee (Greg Hawthorne)

BACKGROUND

Membership on the Sand City Design Review Committee (DRC) is for 2-year intervals. The term of service for Greg Hawthorne, one of the current DRC members, is about to expire on January 31, 2023. Mr. Hawthorne has diligently attended meetings and made positive contributions in his capacity as a DRC member in the review of projects during his multiple consecutive terms. Mr. Hawthorne's professional background positively contribute to the DRC and the City.

RECOMMENDATION

Staff recommends the approval of the attached resolution, reappointing Greg Hawthorne to the Design Review Committee for a 2-year term, to terminate on January 31, 2025.

Attachment:

1. Draft Resolution to reappoint Greg Hawthorne to the DRC

CITY OF SAND CITY

RESOLUTION SC _____, 2023

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY MAKING
RE-APPOINTMENT OF GREG HAWTHORNE TO THE
SAND CITY DESIGN REVIEW COMMITTEE UNTIL JANUARY 31st OF 2025
(Hawthorne)**

WHEREAS, the Design Review Committee (the "DRC") is a body of at least five (5) members that function to impart fair and balanced review of design applications submitted to the City of Sand City (the "City"); and

WHEREAS, the term of service on the DRC for Greg Hawthorne is approaching the expiration of January 31, 2023, and he wishes to continue his participation on, and contributions to, the DRC; and

WHEREAS, DRC member Greg Hawthorne has served effectively and conscientiously on the DRC during his term, and has been an effective and conscientious reviewer of development projects within the City; and

WHEREAS, Greg Hawthorne is a renowned artist and active member and resident of the City's community, as well as serving on the City Council of Sand City; and

WHEREAS, Greg Hawthorne has the capacity and experience to provide invaluable insight in the architectural and design review of development projects.

NOW, THEREFORE, BE IT RESOLVED by the Sand City Council that Greg Hawthorne be reappointed to the DRC, for a two (2) year term lasting until January 31, 2025.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Connie Horca, City Clerk

**AGENDA ITEM
6E.**

**Approval of City RESOLUTION Updating
Appointments to Various Local and
Regional Agencies and Boards, effective
January 18, 2023**



City of Sand City

Memorandum

TO: City Council
FROM: Mary Ann Carbone, Mayor
DATE: January 09, 2023 (for January 17, 2023 Council meeting)
SUBJECT: Approval of Local and Regional Agency Appointments for 2023

Background:

Each year, the City Council reviews the council and staff appointments to various local and regional agencies throughout Monterey County. The appointed representatives serve to represent the City of Sand City on various local and regional agency boards. On December 20, 2022 the Council updated the appointments to include Council Member Sofer to serve as an alternate to the Budget/Personnel Committee. The attached Exhibit A, lists the designated representative that will serve on those committees, and has been updated to reflect said appointments of council and staff.

CEQA:

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

Fiscal Impact:

There is no fiscal impact associated with the approval of the appointments to local and regional agency boards.

Recommendation:

It is recommended that the Council approve the attached resolution updating the appointments to various local and regional agencies and boards effective January 18, 2023.

CITY OF SAND CITY
RESOLUTION SC 23 -, 2023

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY UPDATING THE
APPOINTMENTS TO VARIOUS LOCAL AND REGIONAL AGENCIES AND BOARDS
EFFECTIVE JANUARY 18, 2023**

WHEREAS, the Sand City Council has appointed representatives who have represented the City of Sand City well in the past on their respective board assignments; and

WHEREAS, the attached Sand City Representatives List also reflects Staff appointments to various agencies and organizations; and

WHEREAS, the Sand City Representatives List also includes the appointments of Sand City business owners, City Manager-Staff Members, and property owners to Advisory Committees as listed in the attached Exhibit A; and

WHEREAS, the attached Sand City Representatives List has been updated to reflect the changes to appointments of those who have expressed their desire to serve on various agencies.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Sand City hereby approves the appointments including changes as listed on Exhibit A, attached hereto and incorporated herein by this reference.

PASSED AND ADOPTED by the City Council this 17th, day of January, 2023 by the following vote:

AYES: Council Members
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, City Clerk

2023 SAND CITY
APPOINTMENTS LIST

<u>Agency</u>	<u>Staff Members</u>	<u>Agency Telephone</u>
AMBAG 2nd Wednesday each month @ 6:00 p.m.	Board: Mayor Mary Ann Carbone; Jerry Blackwelder Technical/Planning: City Manager; Charles Pooler	883-3750
Ambag: (RAC) Regional Advisory Committee	VACANT	883-3750
Airport Land Use Commission 4th Monday each month @ 3:00 p.m.	Mayor Mary Ann Carbone (Appt. by MCMA) Alternate: Jerry Blackwelder	755-5066
Chambers of Commerce: Sand City/Seaside	Board: Libby Sofer; Alternate: Mayor Mary Ann Carbone	394-6501
Community Human Services 3rd Thursday each month @ 11:00 a.m.	Board: Mayor Mary Ann Carbone Alternate: Kim Cruz Finance: Mary Ann Carbone	899-4131
League of Ca.Cities Legislative Liaison Team	Mayor Mary Ann Carbone Monterey Bay Division President: Mary Ann Carbone	915-8293
MBAIF/MBASIA Quarterly or as Needed	City Manager	438-0267
MC Convention & Visitors Bureau Quarterly or as Needed	Community Relations: Kim Cruz Alternate: Libby Sofer	831-657-6409
Monterey One Water (formerly: MRWPCA) last Monday of each month @ 6:00 p.m.	Chair: Mayor Mary Ann Carbone; Jerry Blackwelder Staff: City Manager	372-3367
Mosquito Abatement District 2nd Tuesday @ 12:00 Noon	Board: Mayor Mary Ann Carbone Alt: Kim Cruz	373-2483
Monterey County Business Council	Greg Hawthorne; Staff:City Manager Alternate: Kim Cruz	833-9443
Monterey County Commission on Disabilities last Monday of each month @ 2:00 pm	Commissoner: Libby Sofer Alternate: Jerry Blackwelder	755-5117
Monterey County Mayor's Association 1st Friday of each month @ 12:00 pm	Mayor Mary Ann Carbone Alternate: Jerry Blackwelder	429-6605
MoCo Integrated Waste Management	Charles Pooler	755-8909
Monterey Peninsula Chamber of Commerce	Board:Kim Cruz Alternate:Libby Sofer	648-5360
Monterey-Salinas Transit District (MST) 2nd Monday of each month @10:00 a.m.	Board Chair: Mayor Mary Ann Carbone Alternate: Jerry Blackwelder	1-888-678-8271
Monterey Regional Stormwater Mgt. Program 4th Wednesday of every month @10:a.m.	Board: Leon Gomez	646-3799
Monterey Regional Waste Management District (MRWMD) 3rd Friday each month @ 9:30 a.m.	Board: Jerry Blackwelder; Mary Ann Carbone Tech Comm: City Manager; Charles Pooler	384-5313/755-8923
Monterey Peninsula Water Management District (MPWMD) 3rd Monday of each month @ 7:00 p.m.	Policy Advisory: Mary Ann Carbone Technical Advisory: City Manager	658-5600

2023 SAND CITY
APPOINTMENTS LIST

Monterey County Oversight Board (SA)	Representatives: City Manager; Devon Lazzarino	394-3054
Sanctuary Scenic Trail	Board: Jerry Blackwelder; Charles Pooler	755-0903
Seaside County Sanitation District 2nd Tuesday of each month @ 9:30 a.m.	Board: Jerry Blackwelder/Alt: Mayor Carbone	899-6200
Transportation Agency of Monterey County (TAMC) 4th Wednesday of each month @ 9:00 a.m. TAC: 1st Thursday of each month	BOARD: Greg Hawthorne/Alt: Jerry Blackwelder 2nd Alt: Kim Cruz BIKE: Libby Sofer RAIL: Kim Cruz TAC: Leon Gomez/City Manager	755-0903
WaterMaster Board (Seaside Groundwater Basin) 1st Wednesday of each month @ 1:30 p.m.	Board: Mayor Mary Ann Carbone; City Manager TAC: Mary Ann Carbone/ Leon Gomez; City Manager Budget: City Manager	641-0113

Sub-Committees

Budget & Personnel	Chair: Mary Ann Carbone; Kim Cruz Alternate: Libby Sofer Staff: City Manager
Public Facilities	Mary Ann Carbone; Jerry Blackwelder
City Specials Events Advisory Committees	Mary Ann Carbone; Greg Hawthorne, Staff: Connie Horca
Coastal Issues & Development	Mary Ann Carbone; Greg Hawthorne STAFF: City Manager; Charles Pooler
Parking Study	Greg Hawthorne; Jerry Blackwelder Staff: City Manager; Charles Pooler; Leon Gomez
Parks & Open Space	Mary Ann Carbone; Jerry Blackwelder Staff: City Manager; Charles Pooler
Public Safety/Public Works	Jerry Blackwelder/ Libby Sofer Staff: City Manager; Brian Ferrante
Housing	Jerry Blackwelder; Staff: City Manager; Charles Pooler
HCP / Habitat Issues Comm.	Mary Ann Carbone; Jerry Blackwelder Staff: City Manager; Charles Pooler

Advisory Committees

Arts Committee	Chair: Greg Hawthorne, SC resident & business owner Michele Djokic Dawn Peters Shelby Hawthorne Brian Clark Mayor & City Representative Primary Staff: City Manager	exp: 1/2024 exp: 1/2024 exp: 1/2024 exp: 1/2024 exp: 1/2024
Design Review Committee 2 - year Appointment	Chair: Greg Hawthorne Chris Barlow, Architect Elizabeth Sofer, SC resident Paul Davis Jr., architect VACANT	exp: 01/2025 exp: 01/2024 exp: 01/2024 exp: 01/2024

2023 SAND CITY
APPOINTMENTS LIST

Staff: City Manager/Charles Pooler

West End Oversight Committee

Mayor Mary Ann Carbone
City Manager
Brian Ferrante, Police Chief
Steve Vagnini, Coordinator
Greg Hawthorne, Arts Committee

Update: 1/11/2023

**AGENDA ITEM
6F.**

**Approval of City RESOLUTION Authorizing
the Extension of Remote Teleconference
Meetings of the City Council and Boards,
Commissions, and Committees for the
Period of January 18, 2023 through
February 16, 2023 pursuant to AB 361 and
Ralph M. Brown Act Provisions**

**CITY OF SAND CITY
RESOLUTION SC _____, 2023**

**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 JANUARY 18, 2023 THROUGH FEBRUARY 16, 2023
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, 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) January 6, 2023, 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 Sand City 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 January 2023, by the following vote:

AYES: Council Members

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Connie Horca, City Clerk

**AGENDA ITEM
8A.**

**Consideration of City RESOLUTION to
Amend Conditional Use Permit 630
Authorizing Design Change of Exterior
Wall and Removal of Upper-Level Deck at
1880 Park Avenue {Council to consider
continuing this Public Hearing to the next
regularly scheduled Council meeting on
February 7, 2023}**

CITY OF SAND CITY

MEMORANDUM

JANUARY 11, 2022
(For City Council review on January 17, 2023)

TO: Mayor and City Council

FROM: Charles Pooler, City Planner

SUBJECT: Amendment of Conditional Use Permit 630 (Inclusive of Architectural & Site Plan Review) for Architectural Change on 2-Story Single-Family House Development

An application was submitted by Rick and Loretta Chaidez of Quasar LLC (the "Applicant") to amend Conditional Use Permit 630 for modification of the previously approved architectural design regarding the in-fill development of one 2-story residential single-family dwelling consisting of four bedrooms, two and a half bathrooms, and a two-car garage on a 3,750 square foot property (the "Project") fronting Park Avenue in Sand City (APN 011-131-019, Block 7, Lots 6 & 8) (the "Subject Property"). The Subject Property has a non-coastal zoning designation of R-3 (Multi-Family Residential).

In an attempt to work out a potential compromise on issues regarding the design change with the Applicant and his architect, staff is requesting the City Council continue the public hearing on this application to February 7, 2023. Staff requests that the date of continuation be announced at the public hearing to avoid the need to re-notice and enable anyone in attendance to know of the continuation. A continuation will require a motion, second, and Council vote. The next City Council meeting would be February 7, 2023.

**AGENDA ITEM
9A.**

**Consideration and Approval of City
RESOLUTION Authorizing the City
Manager to Execute a Professional
Services Agreement between the City of
Sand City and Hinderliter, DeLlamas &
Associates (HdL) for Transactions and Use
Tax Audit & Information Services for
Measure "L"**



City of Sand City

STAFF REPORT

TO: Mayor and City Council
FROM: Connie Horca, City Clerk; Vibeke Norgaard, City Manager
DATE: January 10, 2023
FOR: January 17, 2023 Council meeting
SUBJECT: Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Hinderliter de Llamas and Associates (HdL) for Measure "L"

Background:

On November 8, 2022, the voters of the City of Sand City voted in favor of Measure "L" which raises the existing general transactions and use tax to one and one-half percent. The tax is administered by the California Department of Tax and Fee Administration (CDTFA). Due to this new tax measure, it is necessary to amend the current agreement for transactions and use tax audit and information services, as required by CDTFA.

The City has an existing contract with Hinderliter de Llamas and Associates (HdL) for Measure "J" which was adopted on June 17, 2015. However, it is necessary to amend the current contract to apply it to the Measure "L" transactions and use tax.

HdL has the necessary programs and software, equipment, and personnel available to deliver the transactions and use tax-related services for the City. HdL is experienced in this field, and has over 600 government agency clients across the United States.

CEQA:

The approval of a service agreement does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

Fiscal Impact:

The attached professional services agreement has an approximately 2 1/2 year term with an end date of June 30, 2025. The contract allows for a sum not-to-exceed \$15,000 annually. Under the terms of the contract, the City will pay HdL \$200 per month for its Measure L services, adjusted for the CPI with 30 days' notice from HdL. The contract also allows for additional funds to be expended in the event that the City requires tax auditing services from HdL. In the event special audit and recovery work is required for Measure L taxes, HdL would receive 25% of recovered taxes. Further, the contract provides that the City may consult with HdL for some optional services at its hourly fees. Compared to the City's existing contract with HdL, this contract will increase the City's payment by \$100 a month. The audit/recovery fees at 25% remain the same.

Recommendation:

Staff recommends approval of the attached resolution amending the 2015 agreement and that Council authorize the City Manager to execute a Professional Services Agreement with HdL for transactions and use tax audit information services for Measure “L” in substantially the same form as that attached hereto as Exhibit A, subject to the City Attorney’s review and approval.

**CITY OF SAND CITY
RESOLUTION SC 23 - , 2023**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY AUTHORIZING
THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF SAND CITY AND HINDERLITER, DE LLAMAS &
ASSOCIATES (HdL) FOR TRANSACTIONS AND USE TAX AUDIT & INFORMATION
SERVICES FOR MEASURE “L”**

WHEREAS, on June 17, 2015, the City of Sand City entered into a contract with Hinderliter, de Llamas & Associates (HdL) for Tax and Audit information services related to the adoption of Measure “J”; and

WHEREAS, a new professional services agreement between the City of Sand City and Hinderliter, de Llamas & Associates (HdL) is desired for a combination of data entry, report preparation, and data analysis necessary to effectively manage its Measure “L” transactions and use tax audit & information services as required by the California Department of Tax and Fee Administration; and

WHEREAS, HdL is a recognized leader in the State of California auditing & reporting services, currently providing sales, transactions and use tax services to over 600 public agencies in California; and

WHEREAS, HdL has the programs, equipment and personnel available to deliver the transactions and use tax related service; and

WHEREAS, an effective program of transactions and use tax management can provide for more accurate budget forecasting and financial planning; and

WHEREAS, Section 7056 of the State of California Revenue and Taxation Code specifically limits the disclosure of confidential taxpayer information contained in the records of the California Department of Tax and Fee Administration. This section specifies the conditions under which Sand City may authorize persons other than Sand City officers and employees to examine State Sales, Transactions and Use Tax records.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Sand City does hereby:

1. Authorize the City Manager to execute a Professional Services Agreement with HdL on behalf of the City in substantially the same form as that attached hereto as Exhibit A, subject to final review and approval by the City Attorney.
2. HdL shall maintain a Sand City Business License for the duration of the agreement.

PASSED AND ADOPTED by the City Council of the City of Sand City this 17th day of January, 2023 by the following vote:

Resolution SC ____, 2023

AYES: Council Members

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, City Clerk

**SHORT FORM PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF SAND CITY AND Hinderliter de Llamas and Associates**

THIS AGREEMENT for consulting services is made by and between the City of Sand City, a California municipal corporation ("City"), and Hinderliter de Llamas and Associates, a California Corporation ("Professional") as of _____, 2023.

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

Section 2. **TERM.** The term of this Agreement shall begin on the date first noted above and shall end on June 30, 2025. Professional shall complete the work described in Schedule A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 10. The time provided to Professional to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 11.

Section 3. **STANDARD OF PERFORMANCE.**

3.1 **Standard of Performance.** Professional shall perform all services and prepare all work products required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Professional is engaged in the geographical area in which Professional practices its profession.

3.2 **Assignment of Personnel.** Professional shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Professional shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

Section 4. **COMPENSATION.** City hereby agrees to pay Professional a sum not to exceed fifteen thousand dollars (\$15,000) annually, notwithstanding any contrary indications that may be contained in Professional's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Professional's proposal, attached as an Exhibit to this Agreement, regarding the amount of compensation, the Agreement shall prevail.

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

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

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

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

Section 7. **INDEMNIFICATION.**

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

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

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

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

Section 8. STATUS OF PROFESSIONAL.

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

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

and/or employee contributions for PERS benefits. Professional shall not allow any employee, agent or subcontractor to become eligible for a claim for PERS benefits.

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

Section 9. LEGAL REQUIREMENTS.

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

Section 10. TERMINATION AND MODIFICATION.

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

- 10.6.4 Charge Professional the difference between the cost to complete the work described in Schedule A that is unfinished at the time of breach and the amount that City would have paid Professional pursuant to Section 4 if Professional had completed the work.

Section 11. KEEPING AND STATUS OF RECORDS.

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

Section 12 MISCELLANEOUS PROVISIONS.

- 12.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 12.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Sacramento or in the United States District Court for the Eastern District of California.

- 12.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 12.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 12.6 Conflict of Interest.** Professional may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Professional in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Professional shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- Professional hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Professional was an employee, agent, appointee, or official of the City in the previous twelve months, Professional warrants that it did not participate in any manner in the forming of this Agreement. Professional understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Professional will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Professional will be required to reimburse the City for any sums paid to the Professional. Professional understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code §1090 and, if applicable, will be disqualified from holding public office in the State of California.
- 12.7 Solicitation.** Professional agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 12.8 Contract Administration.** This Agreement shall be administered by the Sand City City Manager ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 12.9 Notices.** Any written notice to Professional shall be sent to:
120 S. State College Blvd. #200, Brea CA, 92821

Any written notice to City shall be sent to:
1 Pendergrass Way, Sand City, CA 93955

- 12.10 Professional Seal.** Where applicable in the determination of the contract administrator or when required by law, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 12.11 Integration.** This Agreement, including the scope of work and compensation schedule attached hereto and incorporated herein as Schedule A, and the insurance requirements attached hereto and incorporated herein as Exhibit B represents the entire and integrated agreement between City and Professional and supersedes all prior negotiations, representations, or agreements, either written or oral.
- 12.12 IRS Form W-9.** Professional shall complete and submit Internal Revenue Service Form W-9 to the City before execution of this Agreement. The City's Finance Director shall have authority to waive this requirement.

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

CITY OF SAND CITY

PROFESSIONAL

Vibeke Norgaard, City Manager

Andrew Nickerson, President

Date: _____

Date: _____

Attest:

Connie Horca, City Clerk

Date: _____

Approved as to Form:

Adam Lindgren, City Attorney

Date: _____

Last Revised November 16, 2021

SCHEDULE A
SCOPE OF SERVICES

DRAFT

SCHEDULE A
Transactions Tax Audit Services
Economic Analysis/Forecasting and Related Services

SERVICES

1. Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 1.1. Consultant shall establish a database containing all applicable Department of Tax and Fee Administration (CDTFA) registration data for each business within the Measure “L” District boundaries holding a seller’s permit account. Said database shall also identify the quarterly transactions and use tax allocations under each account for the most current and previous quarters where available.
- 1.2. Consultant shall provide updated reports each quarter identifying changes in allocation totals by individual businesses, business groups and by categories. Quarterly aberrations due to State audits, fund transfers, and receivables, along with late or double payments, will also be identified. Quarterly reconciliation worksheets to assist finance officer with budget forecasting will be included.
- 1.3. Consultant shall advise and work with CITY Staff on planning and economic questions related to maximizing revenues, preparation of revenue projections and general information on transactions and use tax questions.
- 1.4. Consultant shall make available to CITY the HdL proprietary software program and Measure “L” database containing all applicable registration and quarterly allocation information for CITY business outlets registered with the Department of Tax and Fee Administration. The database will be updated quarterly.

2. Deficiency/Allocation Reviews and Recovery

- 2.1. Consultant shall conduct on-going reviews to identify and correct unreported transactions and tax payments and distribution errors thereby generating previously unrealized revenue for the City. Reviews shall include:
 - 2.1.(a) Comparison of county-wide local tax allocations to transactions tax for brick and mortar stores and other cash register-based businesses, where clearly all transactions are conducted on-site within the Measure “L” City boundaries, and therefore subject to transactions tax.
 - 2.1.(b) Review of any significant one-time use tax allocations to ensure that there is corresponding transaction tax payments for taxpayers with nexus within the City boundaries.
 - 2.1.(c) Review of state-wide transactions tax allocations and patterns to identify any obvious errors and omissions.
 - 2.1.(d) Identification and follow-up with any potentially large purchasers of supplies and equipment (e.g. hospitals, universities, manufacturing plants, agricultural operations, refineries) to ensure that their major vendors are properly reporting corresponding transactions tax payments to the Measure “L” and Measure “J” Transactions Tax District.
- 2.2. Consultant will initiate, where the probability of an error exists, contacts with the appropriate taxpayer management and accounting officials to verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner so as to enhance CITY’s relations with the business community.

SCHEDULE A
Transactions Tax Audit Services
Economic Analysis/Forecasting and Related Services

2.2. Consultant shall prepare and submit to the Department of Tax and Fee Administration all information necessary to correct any allocation errors and deficiencies that are identified and shall follow-up with the individual businesses and the California Department of Tax and Fee Administration to ensure that all back quarter payments due the CITY are recovered.

3. Consulting and Other Optional Services

City staff may from time to time in its sole discretion, consult with Consultant, including without limitation, regarding (i) technical questions and other issues related to sales, use and transactions tax, (ii) utilization of reports to enhance business license collection efforts, (iii) sales tax projections for proposed annexations, economic development projects and budget planning, (iv) negotiating/review of tax sharing agreements, (v) establishing purchasing corporations, (vi) meeting with taxpayers to encourage self-assessment of tax obligations, and (vii) other sales, use or transactions tax revenue-related matters.

FEES

4. Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 4.1. Fees shall be paid \$200 monthly billed quarterly for the transaction district tax reports that we include with the quarterly sales tax analyses. The monthly fee shall be invoiced quarterly in arrears and shall be paid by City no later than 30 days after the invoice date.
- 4.2. Consultant may change the non-hourly Fees established above upon at least 30 days' prior written notice to City (but not more than once a year) in an amount not to exceed the CPI referenced below. Any such change must be with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), as reported by the U.S. Bureau of Labor Statistics (the "CPI Change").

5. Allocation and Audit Recovery Services

- 4.1 Fees shall be paid 25% of the initial amount of new transactions or use tax revenue received by the City because of audit and recovery work performed by Consultant, (hereafter referred to as "audit fees"). New revenue shall not include any amounts determined and verified by City or Consultant to be increment attributable to causes other than Consultant's work pursuant to this agreement. In the event, Consultant is responsible for an increase in the tax reported by businesses already properly making tax payments to the City, it shall be Consultant's responsibility to separate and support the incremental amount attributable to its efforts prior to the application of the audit fee. Said audit fees will apply to state fund transfers received for those specific quarters identified as being missing and/or deficient following completion of the audit by Consultant and confirmation of corrections by the California Department of Tax and Fee Administration but shall not apply prospectively to any future quarter. Consultant shall provide City with an itemized quarterly invoice showing all formula calculations and amounts due for audit fees.

6. Consulting and Other Optional Services

- 6.1. Fees for performing the consulting and other optional Services described above shall be based on the following initial hourly rates: (i) Principal - \$325; (ii) Programmer - \$295; (iii) Senior Analyst - \$245; and (iv) Analyst - \$195.
- 6.2. Consultant may change the rates for its hourly Fees for consulting and other optional services from time to time. A 30 days' prior written notice to City will be given.

7. General Provisions Relating to Fees

SCHEDULE A
Transactions Tax Audit Services
Economic Analysis/Forecasting and Related Services

- 7.1. Fees for travel and lodging expenses will be invoiced at cost and applied to all meetings (including implementation, training, operations, and support). Travel and lodging expenses only apply to out-of-scope travel and must therefore be pre-approved by the City Manager.
- 7.2. Fees will be invoiced monthly to City for Services performed during the prior month. To the extent that Consultant has commercially reasonable means to do so, Fees will be netted out of City's monthly revenue disbursement.

7. Confidentiality Information

Section 7056 of the State of California Revenue and Taxation Code ("R&T Code") specifically limits the disclosure of confidential taxpayer information contained in the records of the CDTFA. Section 7056 specifies the conditions under which a city, county or district may authorize persons other than such city, county or district's officers and employees to examine state sales and use tax records.

The following conditions specified in Section 7056-(b)(1) of the State of California R&T Code are hereby made part of this Agreement:

- 7.1. Consultant is authorized by this Agreement to examine sales, use or transactions and use tax records of the CDTFA provided to City pursuant to contract under the Bradley-Burns Uniform Local Sales and Use Tax Law R&T Code Section 7200 et.seq.
- 7.2. Consultant is required to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of City who is authorized by City resolution provided to the CDTFA to examine the information.
- 7.3. Consultant is prohibited from performing consulting services for a retailer (as defined in R&T Code Section 6015), during the term of this agreement.
- 7.4. Consultant is prohibited from retaining the information contained in or derived from those sales, use or transactions and use tax records after this agreement has expired. Information obtained by examination of the CDTFA records shall be used only for purposes related to collection of local sales and use tax or for other governmental functions of the City as set forth by resolution adopted pursuant to Section 7056 (b) of the Revenue and Taxation Code. The resolution shall designate the Consultant as a person authorized to examine sales and use tax records and certify that this agreement meets the requirements set forth above and in Section 7056 (b), (1) of the Revenue and Taxation Code.

8. Software Use and Proprietary Information

Software Use. Consultant hereby provides authorization to City to access Consultant's Sales Tax website if City chooses to subscribe to the software and reports option. The website shall only be used by authorized City staff. No access will be granted to any third party without explicit written authorization by Consultant. City shall not sublet, duplicate, modify, decompile, reverse engineer, disassemble, or attempt to derive the source code of said software. The software use granted hereunder shall not imply ownership by City of said software, or any right of City to sell said software or the use of same, or any right to use said software for the benefit of others. This software use authorization is not transferable. Upon termination or expiration of this Agreement, the software use authorization shall expire, and all City staff website logins shall be de-activated.

Proprietary Information. As used herein, the term "proprietary information" means all information or material that has or could have commercial value or other utility in Consultant's business, including

SCHEDULE A

Transactions Tax Audit Services Economic Analysis/Forecasting and Related Services

without limitation: Consultant's (i) computer or data processing programs; (ii) data processing applications, routines, subroutines, techniques or systems; desktop or web-based software; (iii) business processes; (iv) marketing plans, analysis and strategies; and (v) materials and techniques used; as well as the terms and conditions of this Agreement. Except as otherwise required by law, City shall hold in confidence and shall not use (except as expressly authorized by this Agreement) or disclose to any other party any proprietary information provided, learned of or obtained by City in connection with this Agreement. The obligations imposed by this Section shall survive any expiration or termination of this Agreement or otherwise. The terms of this Section shall not apply to any information that is public information.

EXHIBIT B

Insurance Requirements

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

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

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

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

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

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

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

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

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

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

fourteen (14) days of notification from Professional's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

3. **Professional Liability Insurance.** Professional, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

3.3 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Professional must provide extended reporting coverage for a minimum of five (5) years after completion of the Agreement or the work. The City shall have the right to exercise, at the Professional's sole cost and expense, any extended reporting provisions of the policy, if the Professional cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4. **All Policies Requirements.**

4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Professional shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized

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

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

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

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

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

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

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

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

- Terminate this Agreement.

**AGENDA ITEM
9B.**

**Approval of Upcoming City Events for
2023**

CONFIRMATION OF FUTURE DATES FOR 2023 SAND CITY EVENTS

Annual City Barbeque
Saturday, May 20, 2023

West End Celebration
August 26-27, 2023

Tree Lighting Ceremony
Friday, December 8, 2023

Annual Awards Banquet
Friday, December 15, 2023

**AGENDA ITEM
9C.**

**Comments by Council Members on Items
of Interest to Sand City**

**AGENDA ITEM
10A.**

**City Council/Successor Agency Board to
adjourn to Closed Session regarding
Conference with labor negotiator
pursuant to California Government Code
Section 54957.6 1) Agency designated
representative: Vibeke Norgaard, City
Manager; Adam Lindgren, Interim City
AttorneyEmployee Organization: Sand City
Police Officers Association (POA)**

**AGENDA ITEM
10B.**

**Re-adjourn to Open Session to report any
action taken at the conclusion of Closed
Session in accordance with California
Government Code Section 54957.1**