



REGULAR MEETING

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

TUESDAY, MAY 17, 2022

5:30 PM

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

Regular Meeting - Tuesday, May 17, 2022
5:30 PM

THIS MEETING WILL BE HELD VIRTUALLY AND IS COMPLIANT WITH ASSEMBLY BILL (“AB”) 361, SIGNED INTO LAW ON SEPTEMBER 16, 2021, WHICH AMENDS GOVERNMENT CODE SECTION 54953 TO PROVIDE AUTHORITY FOR PUBLIC AGENCIES TO HOLD VIRTUAL MEETINGS DURING A PROCLAIMED STATE OF EMERGENCY AND REMAIN IN COMPLIANCE WITH THE BROWN ACT (GOV. CODE §§ 54950 ET SEQ.).

TO PARTICIPATE IN THE ZOOM COUNCIL MEETING LIVE:

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

Meeting ID: 461 472 8829

To participate telephonically by calling the number below:

(669) 900-6833

Meeting ID: 461 472 8829#

If prompted to enter a participant ID, press #

How to submit written Public Comments:

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

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

Read Aloud During the Meeting: Email your comments to aaron@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.

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. INVOCATION**
- 4. ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, & 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 May 3, 2022 Sand City Council Meeting Minutes
[5.3.22 Minutes.pdf](#)

6B. Approval of City Donation/Contribution
1) Food Bank for Monterey County - \$500
[Donation.Contribution Memo.pdf](#)

7. CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

8. PUBLIC HEARING

8A. FIRST READING: Ordinance to Establish Standards, Procedures and Fees for the Short Term Rental of Property in Sand City (Short-Term Rental Ordinance)
[Staff Report.Short Term Rental Ordinance.pdf](#)
[Ordinance. Short Term Rental. Exhibit A.pdf](#)

9. NEW BUSINESS

9A. Consideration of City RESOLUTION Authorizing the City Manager to Execute a Professional Service Agreement with GHD in the amount of \$366,059 to provide Engineering and Related Services for the West End Stormwater Improvement Project on Contra Costa Street
[Staff Report. Professional Service Agreement with GHD for WE Stormwater Improvement Project on Contra Costa Street.pdf](#)
[Resolution. Professional Service Agreement for the WE Stormwater Improvement Project on Contra Costa Street.pdf](#)

9B. Consideration of City RESOLUTION Authorizing the City Manager to Execute a Professional Service Agreement with GHD in the amount of \$131,902 to provide Engineering and Related Services for the West End Stormwater Improvement Project on Catalina Street
[Staff Report. West End Stormwater Project for Catalina Street.pdf](#)
[Resolution. Authorizing the City Manager to Execute a Professional Service Agreement wih GHD for Catalina Street.pdf](#)

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

9D. Upcoming Events/Meetings

10. ADJOURNMENT

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

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

**AGENDA ITEM
6A.**

**Approval of May 3, 2022 Sand City Council
Meeting Minutes**

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

Regular Meeting - Tuesday, May 3, 2022

5:30 PM

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

Vice Mayor Blackwelder called the meeting to order at 5:30 p.m.

AGENDA ITEM 1, ROLL CALL

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

Staff: Vibeke Norgaard, Acting City Manager
Connie Horca, City Clerk
Brian Ferrante, Chief of Police

AGENDA ITEM 2, PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chief Ferrante.

AGENDA ITEM 3, INVOCATION

The invocation was led by Reverend Robert Hellam.

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

Vice Mayor Blackwelder announced that the Closed Session item will be pulled, and considered at a future meeting.

City Manager Norgaard reported that a 30% response to the Use Tax Initiative Survey was received, the 831 Night Market will be held on Friday with entrances available at both areas coming into the Art Park, the use of graduate students for an internship program, and meeting held with Mr. Fred Watson.

Ms. Norgaard responded to Vice Mayor Blackwelder's inquiry regarding production of the desal plant which is presently low due to cleaning of the facility, and reported on a request by Cal-Am for the construction of two production wells.

AGENDA ITEM 5, COMMUNICATIONS

5:37 P.M. Floor opened for Public Comment.

Todd Sheller of Lyles Diversified Inc., congratulated the City on the signing of the final map, reported on items submitted to CDFW that requires their review and approval, CDFW's denial of a performance bond, and signing of the lease with the Arts Council for the space at the Independent. He announced that if anyone knows of a restaurant or market that would like to open at the Independent to let him know.

Sand City resident Bobbie Joe Harr reported that she has gathered 50 signatures from people in the community regarding AirBnB's, urged the City Council to address the lack of housing, and consider limiting AirBnB's.

City Manager Norgaard announced that the Short-Term Rental Ordinance is scheduled for the May 17, 2022 Council meeting.

Sand City resident Steve Wilson spoke to the issue of AirBnB's in Sand City, the need to have the Water District approve AirBnB applications for water use, home inspections, and the lack of parking surrounding his residential area.

5:48 P.M. Floor closed to Public Comment.

AGENDA ITEM 6, CONSENT CALENDAR

- 6A. There was no discussion of the April 19, 2022 Sand City Council Meeting Minutes.
- 6B. There was no discussion of the City **Resolution** authorizing a Service Agreement for Auditor Services by Hayashi & Wayland for Fiscal Year 2021-2022 at a cost not to exceed \$65,500.
- 6C. There was no discussion of the City **Resolution** calling for November 8, 2022 General Municipal Election, Requesting the County Elections Department to Conduct the Election, and Requesting Consolidation of the Election.
- 6D. There was no discussion of the City **Resolution** authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commissions, and Committees for the Period of May 19, 2022 through June 18, 2022 pursuant to AB 361 and Ralph M. Brown Act Provisions.

5:44 P.M. Vice Mayor Blackwelder opened the floor for public comment and seeing none, closed the floor to public comment.

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

AGENDA ITEM 7, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

There were no items pulled from the Consent Calendar.

AGENDA ITEM 8, NEW BUSINESS

8A. Discussion of Cost-of-Living Adjustment for Miscellaneous Employees

City Manager Norgaard announced that the Miscellaneous Employees would like to present the item.

City Planner Pooler reported that the agenda packet contains a request for consideration of a 5% cost-of-living adjustment (COLA) for the upcoming 2022-2023 fiscal year. The cost to the City to provide a 5% COLA to eight employees would be \$44,086.98. The request seems reasonable based on the cost price index with substantial documentation included in the agenda packet. He described the differences between a merit-based raise, step increase, cost-of-living adjustment, devaluation of the dollar, summarized the history of the last COLA received of 2.5% that was incorporated into the budget, and approved by Council resolution. He mentioned Staff's appreciation for this opportunity to discuss this item at tonight's meeting, and the timing involved to consider the request while the next fiscal year budget is being put together.

Council Member Hawthorne commented on City expenses that are also increasing, and suggested that a research be conducted on salary comparisons with other cities.

Vice Mayor Blackwelder recalled that increases were approved a few months ago.

Finance Specialist Lazzarino explained that the approved increases were merit based for job performance and should not be considered as a cost-of-living adjustment.

There was discussion involving the process, why this was not considered by the Budget Committee first, conversations and a meeting with the City Manager, and the desire for the employees to bring to the Council to be heard.

In response to Council Member Cruz's inquiry regarding a history of the cost-of-living adjustments paid to employees in the past, Mr. Pooler mentioned that the report was contained in the agenda packet on page 58.

Council Member Sofer commented on her support of Staff, their efforts, and that this should have gone through the Budget/Personnel Committee.

Public Works Supervisor Parker reported that the miscellaneous employees are not represented through a union, other cities have contracts that allow for COLA's, Staff's desire to be heard, and spoke to the budget process.

Public Works Maintenance Employee Garza commented that he has worked for the City for 15 years, applauds the hard work and efforts by staff, and reported on the incident that occurred with Mr. Menezes when he was placed into a Maintenance III position which did not allow for the step increases, he should have been entitled too.

Police Department Records Coordinator Laura Morales commented that she respectfully asks the Council for a cost-of-living adjustment. She joined Sand City 3 years ago, breathing life into the City's social media presence to show the community the work the department has done, reinforced municipal code enforcement and punitive actions for unpaid fines that has brought in \$54,000 in revenue since January 2020. She has spearheaded the Red Cross blood drive, and the departments participation in the Special Olympics torch run to raise funds for athletes with intellectual disabilities and fears that she will be carrying the torch and flag alone. Ms. Morales reported that her insurance has tripled, does her own maintenance to save money, attends community college classes online, and that Staff is not requesting COLA's to fund 2nd homes or expensive vacations, but rather asking for recognition of the cost of LIVING.

Public Works Maintenance employee Fred Menezes commented that he has worked for the City for 16 years, appreciates Mr. Hawthorne's comments, is requesting the Council to look and see what is out there, and that the employees are here to be heard and recognized as individuals.

6:10 P.M. Vice Mayor Blackwelder opened the floor for public comment, and seeing none, closed the floor for public comment.

The Council directed the City Manager to bring back a salary survey and history of past cost of living adjustments.

8B. Discussion and Direction on Commercial Cannabis Ordinance

Interim City Attorney Adam Lindgren presented the draft Cannabis Ordinance. He invited Chief Ferrante to speak to the issue of on-site consumption.

Chief Ferrante commented on his concern regarding on-site consumption and related that the Ordinance is well written.

Anthony Amara with Meyers Nave reported on the draft ordinance components that includes the operation of cannabis businesses to operate in Zone C-4 (shopping center), the need for business and operating permits, that the City Council may cap the total number of cannabis businesses allowed in the City, security requirements, operational standards, and extensive location and separation requirements.

City Planner Pooler presented a map of the City and explained the areas of where a cannabis business may or may not operate under the current draft of the ordinance. City manger Norgaard requested that he look into the proximity of the northern edge of Edgewater shopping center to seaside school as state law limits cannabis retail within 600 feet of a school.

Mr. Lindgren requested that the Council discuss zoning/proximity requirements, types of cannabis businesses/limits, application procedure/community benefits, security requirements, on-site consumption. He also mentioned that the ordinance is not limited only to retail sales, and the Council should discuss what types of businesses they want.

City Manager Norgaard suggested that the Council address each topic and their thoughts moving forward.

Council Member Hawthorne commended Staff for a job well done. He reiterated that the shopping center was discussed at a previous meeting and suggested limiting it to 2 businesses, having retail only businesses, that security requirements are established by the business, and no on-site consumption.

Council Member Sofer added that the most appropriate decision would be to have it in a retail area, no on-site consumption or anywhere in the parking lot. One big danger would be to produce and manufacture in Sand City, as leases for cannabis uses are highly competitive. She visited a business in Seaside and found it surprisingly well managed, and cannot imagine having more than 2 businesses in Sand City.

Council Member Cruz commented that starting small would be wise, limiting it to 2 and concurs with the suggestions formerly presented.

Vice Mayor Blackwelder remarked that he does not advocate any kind of cannabis facility in the City.

Mr. Lindgren summarized the approval of 3-1 of Council members, that only retail businesses would be allowed; no on-site consumption would be allowed, limited to 2 licenses, and only allowed in the C4 portion of the City.

6:48 P.M. Floor opened for Public Comment.

Sand City resident Michele Adams expressed her disagreement with the idea, is appalled by what she has heard, finds that marijuana is a gateway to further drug use, and expressed that a lot of people do not want it here, as it will affect the City and residents.

Sand City resident Bobbie Joe Harr commented that there are at least 3 cannabis businesses on Broadway, that the retail center in Sand City is not a proper location as families with children shop at Target, take their pets to PetsMart, and prefers none in the area.

Long time Sand City resident Steve Wilson added that the businesses in the shopping center would not like this type of business near their location. This type of business is not for Sand City and foresees that this is not a good idea.

Monterey County resident Joey Espinoza mentioned that he would like the Council to consider delivery services if there is a lot of push back on open retail stores. This would be another form of tax revenue. He spoke to the saturation of the market with too many cultivators and not enough retail stores. The City of Seaside may consider on-site consumption, and that the shopping center in Sand City would be an ideal location. The ordinance looks to be well written and hopes to continue further dialog.

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

Council Member Sofer reiterated that the shopping center is private property and the owners of the shopping center decide who may lease retail space.

City Manager Norgaard clarified Council's discussion that retail would be limited to the shopping center only

Council Member Cruz mentioned that if the City were to look only at retail, then it should remain in the shopping center, and if other options are considered, then the permissible parts of the City should be looked at.

City Attorney Lindgren reported that several cities start with a limited use type, such as retail only, and then have conversations and possibly expand to other use types. Mr. Lindgren spoke to Council's concerns, the complexity of internal/external cannabis business operations, volatility of manufacturing, the City's cultivation ordinance, and the possibility of a workshop.

Council Member Hawthorne suggested that the ordinance concentrate on retail in order to keep it simple.

Chief Ferrante spoke to his past experience in another agency, reported that these businesses have a negative impact in residential areas, and is supportive of keeping it at the shopping center. He mentioned that businesses will also be impacted as well as residents, and that once you get one in, it will stay. He expressed his support of limiting it to retail as other uses would be too much too soon.

Council Member Sofer suggested keeping it to retail and at some point, in the future, research delivery, and requested that residents attend a future meeting so that the Council can hear their points of view.

Staff received Council direction regarding the draft cannabis ordinance.

{Council Member Cruz recused from the meeting due to a possible conflict of interest by residing within 500' of the subject property}

8C. Consideration of Naming of Park for the South of Tioga Project

City Manager Norgaard reported that the final map was approved at the last council meeting and Council is being presented with the consideration of naming the park easement for the South of Tioga project. She noted that Mr. Sheller had suggested the park be named after the late Don Orosco.

Mr. Sheller indicated that it is a City park, that the City not limit itself at looking for a name although Mr. Orosco was involved with the project.

City Manager Norgaard added that suggestions for names were made in the Staff report, but Council can certainly present other names for consideration.

Council Member Sofer reported that she is favorable to naming the park after Don Orosco for the hard work he put into the South of Tioga project as it seems fitting that he be recognized for efforts.

7:24 P.M. Floor opened for Public Comment.

Sand City resident Steve Wilson commented that the City should take the time to name the park. Although Mr. Orosco spent considerable time to get that project going, there are others in the City who have served and worked for the City.

Sand City resident Bobbie Joe Harr suggested having a theme name for the park that befits the area that we are in, and that Mr. Hawthorne could build a sculpture in honor of the late Mr. Orosco.

Council Member Hawthorne added that the late Mr. Orosco spent over 25 years on the project, that the City take the time to really think it out, and whatever it is called, it will be a fun park. He suggested tabling the item until several names are submitted.

Mr. Wilson remarked that Mayor Carbone has served the City for over 30 years and should be recognized as well.

City Manager Norgaard commented that she will gladly accept suggestions for naming the park and will present options to the Council at a future meeting.

{Council Member Cruz returned to the virtual/in person meeting}

8D. Comments by Council Members on Items of Interest to Sand City

Council Member Sofer reported on her attendance at the 113th Annual Awards dinner presented by the Monterey Peninsula Chamber, and the upcoming City Leaders Summit.

Council Member Cruz reported on her attendance at the TAMC rail meeting.

Vice Mayor Blackwelder explained the pipe installation of the sewer project on Contra Costa.

8E. Upcoming Meetings/Events

There was no report on upcoming meetings/events.

AGENDA ITEM 9, CLOSED SESSION

This item was pulled from the agenda. There was no closed session.

9A. City Council/Successor Agency Board to adjourn to Closed Session regarding Conference with labor negotiator pursuant to Cal.Gov. Code Section 54957.6

**1) Agency designated representative: Vibeke Norgaard, City Manager
Employee Organization: Sand City Police Officers Association (POA)**

**9B. Re-adjourn to Open Session to report any action taken at the conclusion of
Closed Session in accordance with Cal. Gov Code section 54957.1**

AGENDA ITEM 10, ADJOURNMENT

There was consensus of the Council to adjourn the meeting at 7:43 p.m. to the next regularly scheduled Council meeting on Tuesday, May 17, 2022 at 5:30 p.m.

Connie Horca, City Clerk

**AGENDA ITEM
6B.**

**Approval of City Donation/Contribution
1) Food Bank for Monterey County - \$500**

Memo

To: Mayor and City Council
From: Vibeke Norgaard, City Manager
Date: May 9, 2022 (for May 17, 2022 Council meeting)
Subject: Review of City Donation/Contribution

Attached is a request for support and contribution for fiscal year 2021-22. After reviewing this request, the following donation is recommended:

- Food Bank for Monterey County - \$500

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

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

TOGETHER, LET'S END SUMMER HUNGER.

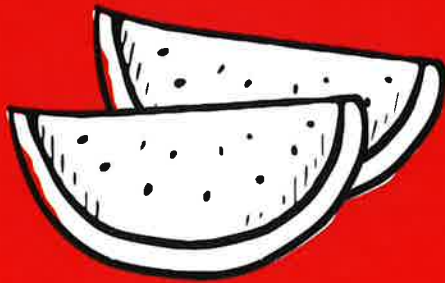


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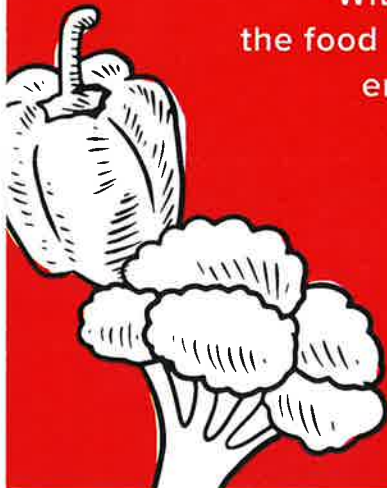


SADLY FOR
1 IN 4 CHILDREN IN MONTEREY COUNTY
THIS TIME OF YEAR
BEGINS A SEASON OF HUNGER



Let's Fix This

With your support we can supply
the food our children need and help a family
enjoy a vacation from hunger.



Melissa Hendrick
Executive Director



**AGENDA ITEM
8A.**

**FIRST READING: Ordinance to Establish
Standards, Procedures and Fees for the
Short Term Rental of Property in Sand City
(Short-Term Rental Ordinance)**



City of Sand City

Staff Report

**Agenda
Item**

8A

TO: Honorable Mayor and City Council Members
FROM: Vibeke Norgaard, City Manager;
Adam Lindgren, City Attorney
DATE: May 9, 2022 (Meeting date: May 17, 2022)
SUBJECT: Short-Term Rentals Ordinance

Background:

The Sand City Municipal Code contains no regulation governing the use of properties for Short-Term Rentals, rentals of residential property for 30 days or less ("STRs"). At its June 1, 2021 City Council meeting, having learned of approximately 11 such units in Sand City, the Council directed staff to draft an ordinance regulating the use of Short-Term Rentals in the City. The Council's expressed intent was to establish rules and regulations governing the operation standards of Short-Term Rentals in order to prevent the degradation of the residential character of the neighborhoods in which they operate, and address housing shortages.

At its March 15, 2022 council meeting, the Council discussed a draft Short-term Rental ordinance and directed staff to bring back an ordinance for its consideration. The revised ordinance is attached to this Staff Report as **EXHIBIT A** ("Ordinance").

The Proposed Ordinance:

The City Attorney explored many options for regulating Short-Term rentals and concluded the Ordinance achieves the goals of the Council as it presents a middle ground between the most stringent and most permissive regulations of other jurisdictions. The Ordinance as proposed, allows for a limited number of hosted and un-hosted rentals, but requires safeguards such as an on-call site manager to be available to respond to concerns within 30 minutes to alleviate any issues posed by STRs.

Existing Short-Term Rentals - Waitlist:

An issue the Ordinance addresses is how to allow Short-Term Rentals that are currently operating in the City to continue to operate, while bringing them into compliance with the new Ordinance. Some cities have simply grandfathered these uses in, others have prohibited their use entirely until they come into compliance with the City's regulations. Even others have established a lottery system for issuing permits whether or not a property owner was operating before the effective date of the ordinance.

After a consideration of these approaches, and given the uncertainty about the exact number of properties currently operating, the City Attorney's office is recommending all applications be put on a waitlist, which will be reviewed in the order received. To establish priority on the waitlist for property owners currently operating Short-Term Rentals, these owners shall have 60 days in which to submit their application, before the waitlist opens to the general public.

Cap on number of Rentals by separate resolution:

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

Additional provisions:

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

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

CEQA: The action to consider the Ordinance Amending the Sand City Municipal Code to Add Chapter 5.20 – Short-Term Rentals - is exempt from the California Environmental Quality Act ("CEQA") under the general rule under Guidelines Section 15061(b)(3) because CEQA only applies to projects that have the potential for causing a significant effect on the environment and the Ordinance does not involve a commitment to any specific project that may cause a potentially significant physical effect on the environment.

Fiscal Impact:

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

Recommendation:

Staff recommends Council:

1. Waive reading of the Ordinance in full and introduce by title only
2. Approve the proposed Ordinance for first reading

Exhibits/Attachment:

A: Ordinance

CHAPTER 5.20
TO ESTABLISH STANDARDS, PROCEDURES, AND FEES FOR SHORT TERM
RENTALS OF PROPERTIES IN SAND CITY

Sections:

- 5.20.010 Purpose and Intents**
- 5.20.020 Prohibition of Transient Use**
- 5.20.030 Definitions**
- 5.20.040 Short-Term Rental Regulations**
- 5.20.050 Short-Term Rental Permit Application Requirements**
- 5.20.060 Short-Term Rental Permit Selection Process**
- 5.20.070 Expiration and Renewal of Short-Term Rental Permits**
- 5.20.080 Revocation of Short-Term Rental Permit**
- 5.20.090 Enforcement**
- 5.20.100 Hearing and Appeal of Denial or Revocation**
- 5.20.110 No Property Rights Conferred**
- 5.20.120 Fees**
- 5.20.130 Administration**
- 5.20.140 Severability**

5.20.010 Purpose and Intent

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

5.20.020 Prohibition of Transient Use

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

5.20.030 Definitions

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

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

“City Manager” means the City Manager of the City of Sand City or his or her designee.

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

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

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

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

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

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

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

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

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

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

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

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

5.20.040 Short-Term Rental Regulations

- A. Short-Term Rentals shall not adversely affect the residential character of the neighborhood, nor shall the use generate noise, vibration, glare, odors, excessive foot traffic, excessive or illegal parking, or other effects that unreasonably interfere with any person’s reasonable enjoyment of his or her residence.
- B. It shall be unlawful for any person to advertise, undertake, maintain, authorize, book, or facilitate any renting to a transient Occupant on a Hosting Platform or otherwise, without first procuring and remaining in compliance with all conditions of a valid STR permit and any other requirement of this Chapter.
- C. No person shall advertise or rent any STR without a City issued STR Permit number depicted in a visible location on the advertisement, including any listing on a Hosting Platform. No advertising of the STR is permitted on site.
- D. STRs shall not be occupied by more than two (2) Occupants per bedroom plus a total of two (2) additional Occupants at one time. Except as otherwise prohibited by law, the maximum occupancy set forth in this section may be reduced in order to provide sufficient paved parking for Occupants. Sufficient paved parking means that there shall be one (1) paved parking space available at the property for every two (2) occupants sixteen (16) years of age or older.
- E. All STRs shall have bathroom facilities accessible to Occupants.
- F. Events, parties, or group gatherings in excess of the occupancy limit set in Section 5.20.040 D of the Sand City Municipal Code, including but not limited to weddings, banquets, and corporate events, are prohibited as part of any Short-Term Rental use.
- G. No signs shall be posted on the exterior of the dwelling or on the property advertising the Short-Term Rental use.
- H. No person shall offer or engage in a Short-Term Rental in any part of the property not approved for residential use, including but not limited to a vehicle parked on the property, a storage shed, shipping container, trailer, mobile home, garage, or temporary structure such as a tent or yurt.
- I. Affordable housing units and/or workforce housing units shall not be eligible for a STR Permit.
- J. Each Host must either act as or appoint a Short-Term Rental Site Manager who shall be on call 24/7, including holidays, when an occupant is renting the Short-Term Rental unit, to manage the Short-Term Rental unit and who shall respond to reported issues, contact the tenants

regarding complaints received, and/or be physically present at the Short-Term Rental unit to address reported concerns.

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

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

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

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

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

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

5.20.050 Short-Term Rental Permit Application Requirements

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

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

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

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

1. Address of the Short-Term Rental unit.
2. Name, address, phone, and email contact information of the Owner of the Short-Term Rental unit.
3. Name and phone number of the Site Manager whose contact information is to be placed on a placard to be posted within the Short-Term Rental under Section 5.20.040 M of this Chapter.
4. A floor plan and site plan which shows the proposed use of each room in each building and structure.
5. Maximum occupancy of the Short-Term Rental Unit.
6. Number of paved parking spaces on the property.
7. A declaration that any applicable covenants, conditions, and restrictions are consistent with and would not prohibit issuance of a Short-Term Rental Permit for the proposed property.
8. Proof that the City has verified smoke and carbon monoxide alarms are installed and fire extinguishers and inaccessible locations.

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

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

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

1. The application is incomplete or the full application fee has not been paid;
2. The application contains a false or misleading statement or omission of material fact;

3. The dwelling is subject to an enforcement action under any provision of the Sand City Municipal Code;
4. The applicant is delinquent on any payment to the City of any fees, penalties, taxes, or any other monies related to the property;
5. Within twenty-four (24) months of application, the applicant had a Short-Term Rental Permit revoked at the property subject to the application or any other property in the City;
6. The operation of a Short-Term Rental at the dwelling is a threat to the public health, safety, or welfare;
7. The number of Short-Term Rental Permits issued by the City has reached the Cap; and/or
8. Inspection of the Short-Term Rental property has shown that the proposed Short-Term Rental property does not conform with all plan area statements and building code standards that were in effect at time of construction of the Short-Term Rental property or that health and safety violations are present at the Short-Term Rental property that threaten the wellbeing of Occupants, neighbors or the community.

5.20.060 Short-Term Rental Permit Selection Process

- A. The Cap shall be set and amended by resolution of the City Council.
- B. All persons or entities interested in operating a STR may pay the application fee and apply for a STR Permit.
- C. The filing date of the Short-Term Rental Permit application shall be the date when the Director of Planning officially received the last submission of information, payment, or materials required by subsections C and D of Section 5.20.050 of the Sand City Municipal Code. If the Director of the Planning Department, or his or her designee, determines an application submittal is incomplete, a Short-Term Rental Permit applicant shall be notified of such incompleteness within thirty (30) calendar days of receipt of the Short-Term Rental Permit application by the Planning Department. If the Director of the Planning Department does not receive a complete application within an additional thirty (30) days after notification, the application shall be deemed abandoned and shall not be reviewed, and the applicant will not be placed on the Short-Term Rental Permit Waitlist.
- D. All Short-Term Rental Permit applications, which have been deemed complete by the Director of the Planning Department, shall be placed on the Short-Term Rental Waitlist in the order of the application's filing date. Short-Term Rental Permit applications shall only be

reviewed by the Development Services Director in the order of ranking as established by the Short-Term Rental Waitlist.

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

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

5.20.070 Expiration and Renewal of Short-Term Rental Permits

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

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

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

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

1. The timely filing of a renewal application;
2. payment of the renewal fee;
3. payment of the inspection fee;

4. payment of the business license tax as described more fully in Chapter 5.04 of the Sand City Municipal Code.
5. the Host is deemed to have substantially conformed with this Chapter for the preceding year;
6. the Host documents and provides any changes that have occurred to the information in the current STR Permit or application; and
7. completion of a rental inspection as described in this Chapter; and
8. remittance of TOTs due from the STR use of the property.

5.20.080 Revocation of Short-Term Rental Permit

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

1. The Host or property owner is not current on TOTs and has not paid all said taxes to the City in full by the date upon which said taxes became due.
2. There have been two (2) or more upheld citations for violations of the City Municipal Code which citations were issued during two (2) separate events and/or calls for service for violations of the City Municipal Code at the Short-Term Rental Unit, on two (2) different dates within any twenty-four (24) month period. For purposes of this Section, upheld citations means citations, which were neither overturned on appeal nor dismissed.
3. Any event occurs at a Short-Term Rental property in which charges for criminal activity are filed by the Monterey County District Attorney against an Occupant of the Short-Term Rental property.
4. The Host submitted a Short-Term Rental Permit Application containing a material misrepresentation or omission of a material fact.
5. There has been a transfer or attempt to transfer a STR Permit to another person, entity, or property.
6. A change occurs in any material fact upon which the STR Permit was issued where the change was not reported to the City within fourteen (14) days.
7. The Host failed to timely respond to two (2) complaints pertaining to any of the following: unreasonable use of the Short-Term Rental property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the Short-Term Rental unit, or any other requirement or limit in this Chapter.

8. The Host fails to post and maintain a City-issued placard in a location visible at the front entrance displaying the Short-Term Rental Host's contact information, the Short-Term Rental Permit number, and occupancy limits or advertises the Short-Term Rental without identifying the STR Permit number.

5.20.090 Enforcement

- A. Any use or condition caused or permitted to exist in violation of this article shall be and is declared a public nuisance and may be summarily abated by the City under Code of Civil Procedure Section 731, Sand City Municipal Code Section 1.16.010, or any other remedy available to the City.
- B. Any use or condition caused or permitted to exist in violation of any provision of this Chapter shall be charged as a misdemeanor pursuant to Section 1.16.020 of the Sand City Municipal Code.
- C. Where a Short-Term Rental Host or Site Manager of the Short-Term Rental alone reports a violation of any provision of this Article, which violation was caused or permitted to exist by the Short-Term Rental occupants, the City shall not issue a citation to said Short-Term Rental Host or Site Manager and shall only issue a citation, where warranted, to the occupants.
- D. Owners or their agents found operating a Short-Term Rental without a permit after October 31, 2022 shall be fined according to a schedule established by resolution of the City Council.

5.20.100 Hearing and Appeal of Denial or Revocation

- A. Any person denied a Short-Term Rental Permit, or any person whose Short-Term Rental Permit has been revoked may request a hearing from the City Attorney. The request for a hearing must be in writing and must be made within ten (10) calendar days from the decision denying or revoking the Short-Term Rental Permit. Upon receiving a written request for a hearing, the City Attorney or his/her delegate shall set the matter for a hearing within twenty-one (21) days thereafter and shall set forth in writing and send to the applicant or permittee by registered mail, certified mail, or hand delivery, notice of the date, time, and place of the hearing at least five (5) days before the hearing date. The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial or revocation of a Short-Term Rental Permit. The hearing shall be conducted by a hearing officer, appointed by the City Attorney. The applicant or permittee may have the assistance of counsel or may appear by counsel and may present evidence. If the applicant or permittee fails to appear at the hearing, the evidence or the existence of facts which constitute grounds for denial or revocation of the license or permit shall be considered un rebutted. A copy of the decision of the Hearing Officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. The Hearing Officer shall inform the Party against whom the decision is rendered of his or her right of appeal under Section 5.20.100.C of the Sand City Municipal Code.

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

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

5.20.110 No Property Rights Conferred

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

5.20.120 Fees

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

5.20.130 Administration

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

5.20.140 Severability

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

5105734.2

**AGENDA ITEM
9A.**

**Consideration of City RESOLUTION
Authorizing the City Manager to Execute a
Professional Service Agreement with GHD
in the amount of \$366,059 to provide
Engineering and Related Services for the
West End Stormwater Improvement
Project on Contra Costa Street**

STAFF REPORT

DATE: May 10, 2022 (for City Council Action on May 17, 2022)

TO: Honorable Mayor and City Council Members

FROM: Leon Gomez, City Engineer

SUBJECT: Adopt a resolution authorizing the City Manager to execute a Professional Service Agreement in with GHD in the amount of \$366,059 to provide engineering and related services for the West End Stormwater Improvement Project on Contra Costa Street

RECOMMENDATION

Staff recommends that the City Council consider and adopt a resolution authorizing the City Manager to execute a Professional Service Agreement with GHD in the amount of \$366,059 to provide engineering and related services for the West End Stormwater Improvement Project on Contra Costa Street.

BACKGROUND

Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Assembly Bill 1471) authorized \$7.545 billion in general obligation bonds for water projects including surface and groundwater storage, ecosystem and watershed protection and restoration, and drinking water protection.

In 2016, the California State Water Resources Control Board (SWRCB) awarded the Council for Watershed Health (CWH) a Proposition 1 Stormwater Technical Assistance (TA) Grant to provide technical assistance to underserved and disadvantaged communities (DAC) to develop, fund, and implement eligible drinking water, wastewater, stormwater, or groundwater projects to address their needs. A small community is defined as having a population less than 10,000 people and a DAC is defined as having a median household income (MHI) less than 80% of the statewide MHI. At the time of application for TA assistance, the City of Sand City (City) qualified as both a small community and a DAC.

In 2017, the SWRCB awarded the City a Proposition 1 TA Grant. The TA team included CWH staff, Darla Elswick Consulting (TA team lead), Urban Rain Design (landscape site layout), and Canon Corporation (civil engineering, landscaping and irrigation design). The TA team met with the City Engineer and City Planner to identify the City's objectives and needs which included:

- Alleviate flooding at low lying areas of the City and reduce pollutant loads entering the Monterey Bay National Marine Sanctuary,
- Where cost-effective, provide multiple community, economic, and environmental benefits such as flood control, aquifer recharge, community livability, urban greening, improved air quality, and improved mobility (pedestrian, bike, car),
- Provide stormwater treatment and infiltration with opportunities to integrate green infrastructure and Low Impact Development (LID) Best Management Practices (BMPs).

As a result of this effort, the City identified a project that would reconstruct two existing collector streets within the West End area of the City to incorporate LID strategies to meet the objectives and needs noted above. This became the West End Stormwater Improvement Project on Contra Costa Street and Catalina Street (Project). The Project limits on Contra Costa Street initially began at Olympia Avenue within a portion of the existing Transportation Agency for Monterey County (TAMC) railroad right-of-way (ROW) but after discussions with TAMC the limits were modified to begin at the city limits/TAMC railroad ROW (south of Orange Avenue) and extend north to Redwood Avenue. The Project limits on Catalina Street begin at approximately Olympia Avenue and extend north to Ortiz Avenue.

The Project proposes to install bioretention facilities, permeable pavement in parking, sidewalk and at intersections, new storm drain infrastructure and routing, abandonment of existing storm drains at various locations, horizontal infiltration chambers, and landscaping. The Project will improve pedestrian and Americans with Disability Act (ADA) accessibility and urban greening through the installation of trees and landscaping throughout each street corridor. Under the Proposition 1 TA grant, the Contra Costa Street portion of the Project was taken to approximately 60% design while the Catalina Street portion was taken to approximately 30% design. Exhibits showing the 60% design of the Contra Costa Street portion of the Project are included in **Attachment A**.

In January 2019, the Catalina Street portion of the Project was separated out and submitted for Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation grant funding through the Monterey Peninsula Water Management District (MPWMD). On July 7, 2020, the Department of Water Resources (DWR) informed the MPWMD that it had approved a grant award of up to \$2,317,040 to fund four projects on the Monterey Peninsula. This award included the Catalina Street portion of the Project and the City was initially awarded \$972,400 to fund the remaining design and construction of the Catalina Street portion of the Project. However, after the award of funds one of the four projects dropped out of the program and the City requested, and was approved to receive, additional funds up to \$1,097,400.

In July 2020, the Contra Costa Street portion of the Project was submitted for Proposition 1 Round 2 Stormwater Implementation Grant funding. A budget summary was submitted with the application that listed the estimated Project costs as follows:

Table 1: Project Budget

Task	Requested Grant	Local Match	% Local Match
1. Direct Project Administrative Costs	\$82,000	\$0	
2. Planning / Design / Engineering / Environmental	\$294,000	\$0	
3. Construction / Implementation	\$2,320,822	\$304,000	
4. Monitoring / Performance	\$23,880	\$0	
5. Education / Outreach	\$14,500	\$0	
Total	\$2,735,202	\$304,000	10%

On February 16, 2021 the SWRCB notified the City that it was awarded the requested grant amount of \$2,735,202 to fund the remaining design and construction of the Project. A fully executed grant agreement between the City and the SWRCB will be required prior to receiving the full grant funds. City staff has been working with SWRCB staff to finalize the grant agreement and anticipates this to occur in May or June 2022.

In order to complete the design of the Contra Costa Street portion of the Project, the City requires

engineering and related services. The City Engineer, working with the City's technical assistance lead, Ms. Darla Elswick, contacted the original civil engineers and landscape designer that worked on the conceptual through 30% and 60% design of the Project so that their experience and knowledge of the Project's history could be leveraged to complete the final design. These design professionals previously worked for Canon Corporation during the TA phase and initial development of the Project, but have since joined GHD and RRM, respectively. As a result, the City Engineer requested a proposal from GHD to provide engineering and related services to support the final design of the Project. GHD prepared and submitted a proposal in the amount of \$366,059 that included sub consultants as noted below:

- Civil engineering design services – GHD
- Landscape, planting and irrigation design services – RRM
- Geotechnical engineering services – Earth Systems Pacific

GHD and the design team will provide the following services (abbreviated) to support the Project:

- Project administration
- Meetings: staff, city council, and design review
- Preparation of 90% and 100% Plans, Specifications, and Estimates (PS&E)
- Preparation of construction bid documents
- Bid phase support services
- Monitoring/performance support services
- Education/outreach support including mailers and information for the Project website (City to establish) and interpretive signing design.

A copy of this proposal is shown in **Attachment B**.

The City is able to "sole source" this effort rather than issue a Request for Proposals (RFP) to solicit proposals from various qualified firms. This approach is based on Sand City Municipal Code (SCMC) Chapter 12.18 Purchasing Procedures, section 12.18.050 Bidding – When Not Required, F. which states: *When entering into contracts for a professional service, such as that available from an accountant, architect, attorney, land surveyor, engineer or other specialized consultant, provided however that the selection of professional services is based on the contractor's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required.*

REVIEW AND ANALYSIS

The Project will realize significant improvements that will benefit water quality and the community within the West End neighborhood of the City. The City applied for and received Proposition 1 Stormwater Implementation Grant funding in the amount of \$2,735,202 to support completing the design and construction of the Project. In order to complete the design and release the Project for bidding and construction, the City requires engineering and related services.

As noted above, the civil engineering and landscape designer that worked on the conceptual through 30% and 60% design of the Project are now with GHD and RRM, respectively, and have the demonstrated competence and professional qualifications necessary to provide the services required. In addition, GHD is currently providing similar services for another stormwater improvement project in the City of Fortuna, California, and the City Engineer believes that this experience may be leveraged to support the Project.

ENVIRONMENTAL (CEQA) CLEARANCE

Implementation of street and stormwater infrastructure and improvements within the existing and developed Contra Costa Street public right-of-way and the implementation of agreements and funding for said Project, qualifies for a Categorical Exemption from CEQA (California Environmental Quality Act) per CEQA Guideline section 15301, for the repair, maintenance, and minor alteration of existing public facilities involving, but not limited to, streets, curbs, gutters, sidewalks and similar facilities. The City Planner prepared and filed a Notice of Exemption (NOE) with Monterey County on December 2, 2021.

FISCAL IMPACT

The City requested and has been awarded \$2,735,202 in Proposition 1 Stormwater Implementation Grant funds to support the completion of the Project design and construction. The City is required to provide a 10% match in the amount of \$304,000.

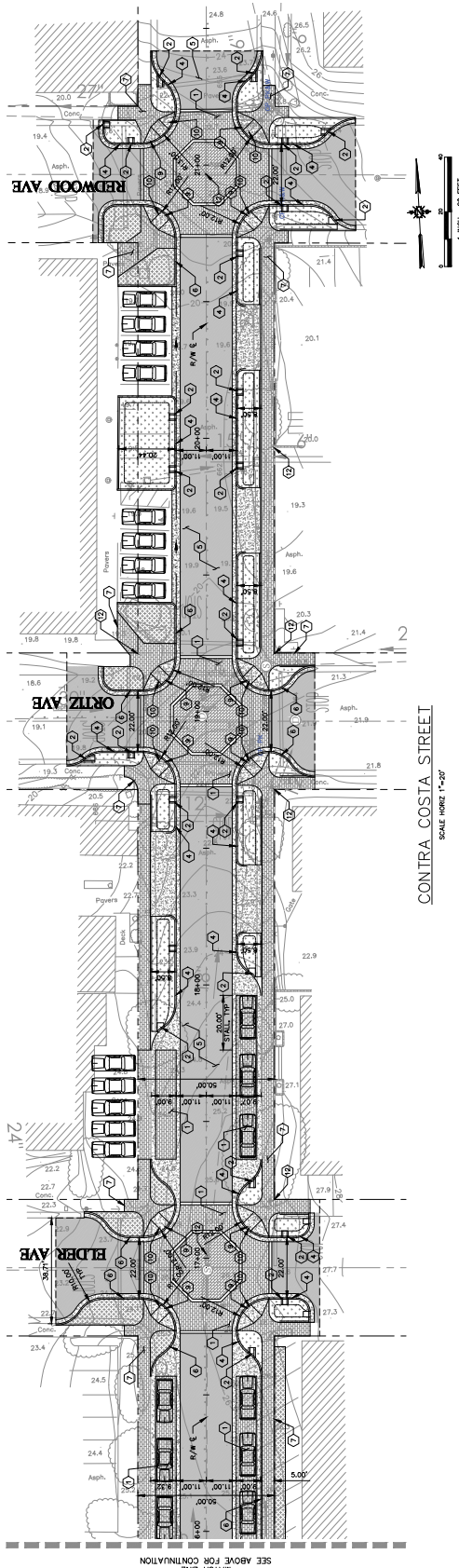
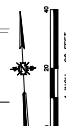
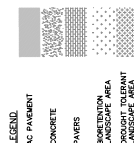
Due to escalating construction costs and other factors, it should be noted that the awarded grant funds and the City's match requirement may not fully cover all of the actual costs associated with the Project. If costs exceed the estimates shown in Table 1 and/or the City's match requirement, the City will be responsible for covering this difference.

Attachments:

- Attachment A – Contra Costa Street 60% Surface Improvement Plan and Landscape Plan
- Attachment B – GHD Proposal entitled, "Scope of Services for West End Stormwater Improvement Project on Contra Costa Street Project", revised April 13, 2022

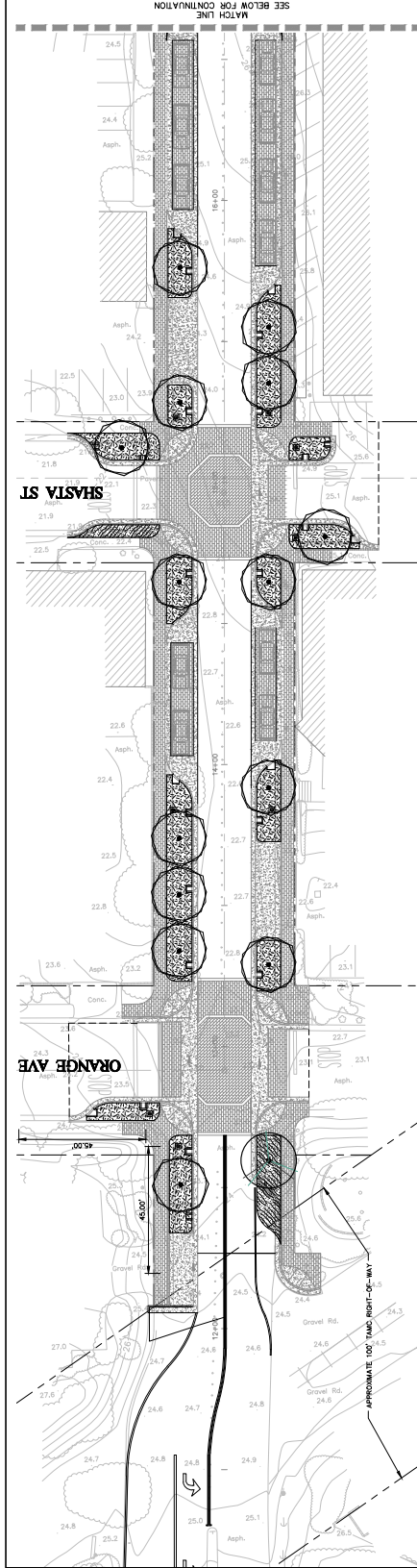
CONSTRUCTION NOTES

1. FINISHING CONCRETE PAVEMENT SECTION AND CROSS RESTRAINT.
 2. CURB CUT.
 3. ADJUST TO GRADE.
 4. BORDERTIZATION CURB AND GUTTER.
 5. ASPHALT PAVEMENT.
 6. 4" CURB AND GUTTER.
 7. PERMEABLE PAPER SIDEWALK SECTION.
 8. CROSS GUTTER.
 9. CURB RAMP.
 10. COLONIAL RED TRIANGULAR DOWNS.
 11. FUTURE IMPROVEMENT TO BE COORDINATED BY THE CT.
 12. REPLACE STREET MONUMENT.
 13. INSTALL COLORED CONCRETE CROSS GUTTER TO MATCH PAVEMENT COLOR.
 14. STOPPING PLOT CAL TRANS DETAIL 27B.
 15. STOPPING PLOT CAL TRANS DETAIL 38.
 16. STOPPING PLOT CAL TRANS DETAIL 22.
- CONTRACT 6021A, STREET ONLY-STREET PAVING.
SECTION 6-10. PAVING - STALLS

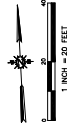


SAND CITY PROP 1 TA, TASK 6 CONTRA COSTA STREET SURFACE IMPROVEMENTS PLAN SAND CITY, CA		DATE	6/26/20	CA JOB NO	170830
DRAWN BY JWL DM	CHECKED BY LK	SCALE	1" = 20'	SHEET	3 OF 12

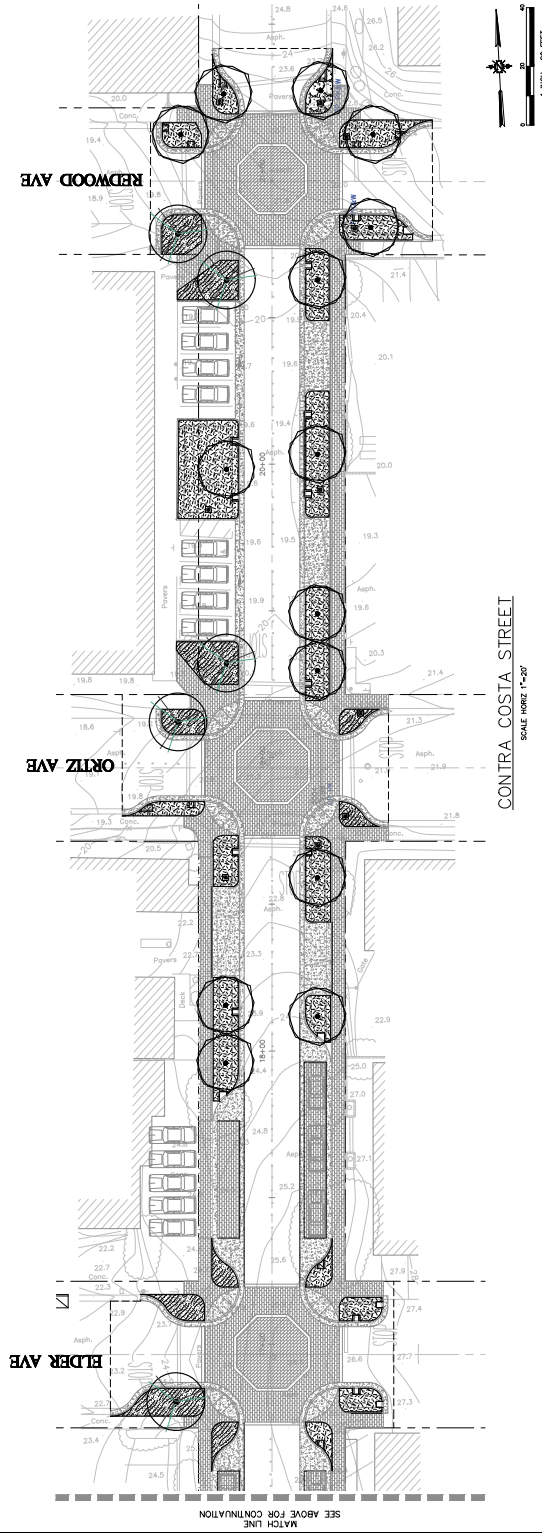
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CONTRA COSTA STREET
SCALE HORIZ 1"=20'



CONCEPT PLANT SCHEDULE CONTRA COSTA STREET		
	ROSEBENTLEY TREE PLATANUS RADAMIS / CALIFORNIA STOMARE	28 15 GAL.
	SHRUB TREE ARBITUS 'NANA' / ARBITUS STANDARD	6 15 GAL.
	ROSEBENTLEY PLANTER JUNCUS PASTORIS TUX BLUE / SPREADING RUSH	7,000 SF 1,400 PLUGS
	GROUND COVER ERIGON GALLIE / BEACH BLOT	1,320 SF 500 PLUGS
	GROUND COVER PENISTEMUS SPARTANUM / PEE PUFFS	1 GAL. 100 PLUGS
	GROUND COVER PENISTEMUS SPARTANUM / PEE PUFFS	1 GAL. 100 PLUGS
	GROUND COVER PENISTEMUS SPARTANUM / PEE PUFFS	1 GAL. 100 PLUGS
	GROUND COVER PENISTEMUS SPARTANUM / PEE PUFFS	1 GAL. 100 PLUGS



CONTRA COSTA STREET
SCALE HORIZ 1"=20'

[illegible]

Urban Rain | Design Inc.
The Office of Kevin Robert Perry, FASLA
231 G Street, Suite 29
Davis, California 95616
(503) 928-5522
www.urbanraindesign.com



SAND CITY
PROP 1 TA, TASK 6
CONTRA COSTA STREET
LANDSCAPE PLAN
SAND CITY, CA

DRAWN BY JW, DM	DATE 6/26/20	CA JOB NO. 170830
CHECKED BY LIV	SCALE 1" = 20'	SHEET 5 OF 12

1101 Monterey Street, Suite 120
San Luis Obispo, CA 93401
USA
T (805) 503-0500
www.ghd.com



Revised April 13, 2022

Leon Gomez, City Engineer
City of Sand City
1 Pendergrass Way
Sand City, CA 93955

RE: West End Stormwater Improvement Projects on Contra Costa Street and Catalina Street

Dear Mr. Gomez,

We understand the City has been successful in acquiring grant monies to reconstruct Contra Costa Street and Catalina Street and is requesting design for final bid documents for construction. We have assembled our team to include key personnel from GHD and RRM who originally developed concept plans for these grant applications on the City's behalf.

Per our recent discussions with you and Ms. Darla Elswick, attached is our team's proposals for your review. We have prepared two separate proposals to outline the work in accordance with the approved grants. Please note we assume the design schedules for the projects will be concurrent to maximize efficiencies in combining design staff efforts, project meetings, and project coordination with the City. If this assumption is incorrect, we'd greatly appreciate the opportunity to discuss options with moving these designs forward on different timelines.

We are excited to work with you on this project and welcome any questions you have regarding our proposal.

Regards,

A handwritten signature in blue ink, appearing to read "Keone Kauo", is positioned above the printed name.

Keone Kauo, PE
Project Manager
805.503.0500
keone.kauo@ghd.com

Scope of Services

For

West End Stormwater Improvement Project on Contra Costa Street

Project

Project Understanding

Sand City was awarded design and construction funding for the West End Stormwater Improvement Project on Contra Costa Street through a California Proposition 1 Stormwater Grant. Contra Costa Street will be improved generally from the intersection of Orange Avenue to Redwood Avenue. Improvements will include low impact development facilities such as bioretention, permeable pavers, and underground storm chambers to capture, clean, and recharge the groundwater supply; a new storm drain system to route mainline pipes into public ROW; paving, curb and gutter, and sidewalk improvements; and beautification with drought tolerant landscaping. Concept and preliminary design packages have already been completed for the project. The scope of work as requested is to develop a final design bid package ready for bid for early summer.

Scope of Services

Based on the above understanding of the project intent, GHD's scope of services for design is defined by the following tasks.

Task 1 - Project Administration

The Project Administration task consists of attending a project kickoff meeting, attending meetings during the duration of the design, and project expenses such as plotting and travel. Grant agreement development and negotiations on the City's behalf is excluded from this task.

Sub-Task 1.2 - Project Administration

We will orchestrate and attend a project kickoff meeting with appropriate personnel from the City. This meeting agenda will focus on project understanding, team involvement, project constraints, and the anticipation of design development impediments. This meeting will also include a project introduction, review of background information and project scope, and defining the project schedule. This meeting represents a key opportunity for representatives from the City to steer the consultant team and further clarify critical elements of the project scope. We assume the kickoff meeting will include a field walkdown of the project site.

We will participate in three (3) in person meetings, one (1) virtual design review meeting after the 100% submittal package, and up to ten (10) bi-weekly virtual meetings during the duration of the design. The three in person meetings includes attendance at one City Council meeting, one community engagement activity, and one meeting with City staff to review and discuss the 90% design submittal package. The bi-weekly virtual meetings will convey the status of the design, coordinate utility provider relocations (if necessary), and to resolve questions and design issues.

All expenses for travel and plotting for the design proposal are included in this task.

Deliverables:

- Attendance at kickoff meeting

- Attendance at three (3) in person meetings.
- Attendance of virtual meetings including bi-weekly and 100% design review meetings.

Task 2 - Planning/Design/Engineering/Environmental

Sub-Task 2.1 - 90% Design Plans, Specs, Estimate

The project team will prepare 90% design plans, technical specifications, and engineer's cost estimate. The intent of the 90% plans is to utilize the existing 65% design plans to provide a complete construction set package for City review and comment.

This submittal package will include construction plans and details, technical specifications, bid item list, and an engineer's cost estimate for use in the public bidding process and in accordance with the City's bidding procedure.

The following plan sheets will be included as part of this submittal:

Sheet No.	Drawing Title
1	Cover Sheet
2	Survey Control
3-4	Utility Plan and Details
5	Demolition Plan
6	Typical Sections
7	Street Improvement Plans
8-11	Grading Plan (Including Profiles)
12-19	Civil Details
20	Signing and Striping Plan
21	Interpretive Signage
22-27	Landscape Plan and Details
28-34	Irrigation Plan and Details

As is standard practice, this task includes an in-house review of the plans by our QA/QC Engineer.

We will attend one in person meeting with City staff to review and discuss the 90% design submittal package as described under Sub-Task 1.2.

100% Design Plans, Specs, Estimate

Based on the feedback from the previous submittal package, we will prepare and submit a 100% design package. This submittal will contain complete construction documents and an updated engineer's cost estimate.

The plans will incorporate review comments from the 90% design package and will provide construction level design detail and technical specifications sufficient for final project approvals and bidding.

Stormwater Control Plan, Drainage Report, and Operation and Maintenance Plan

GHD will perform a hydrologic analysis to estimate runoff volumes and peak rates for the 85th and 95th percentile design storm events for each drainage management area associated with a proposed stormwater retention facility. We will also calculate the retention capacities of the proposed stormwater retention facilities. The effort will be summarized in a Draft Stormwater Control Plan that will be provided to the City for review. The Stormwater Control Plan will be prepared in accordance with the Central Coast Regional Water Quality Control Board's Post-Construction Requirements (Resolution No. R3-2013-0032) and the City's adopted Stormwater Technical Guide and templates. City review comments will be incorporated into a Final Stormwater Control Plan.

GHD will develop recommendations for inspecting and maintaining the proposed stormwater LID features. The recommendations will be included in a Draft Stormwater Facility Operation and Maintenance Plan that will be provided to the City for review. City comments will be incorporated into a Final Stormwater Facility Operation and Maintenance Plan.

The proposed project includes modifications to the City's existing stormwater collection and conveyance system. GHD will conduct an analysis to size the stormwater collection and conveyance facilities proposed as part of the project. The analysis will include a hydrologic analysis to estimate the design flow and hydraulic calculations to evaluate the capacities of the proposed facilities. A Draft Drainage Report will be developed to document the methods and results of the analysis and will be provided to the City for review. City review comments will be incorporated into a Final Drainage Report.

An in-house review of the plans will be conducted by our QA/QC Engineer.

Deliverables:

- Single 11x17 hard copy and electronic copy of 90% and 100% Complete Design Drawings, Technical Specifications, and Opinion of Probable Construction Cost.
- Draft and Final Stormwater Control Plan
- Draft and Final Stormwater Facility Operation and Maintenance Plan
- Draft and Final Drainage Report

Sub-Task 2.2 - Engineering (geotechnical/survey)

We will retain the services of Earth Systems Pacific (ESP) to investigate the subsurface conditions, conduct laboratory testing, and develop a geotechnical recommendations report for HMA pavement, permeable pavers, exterior pedestrian flatwork, utility trench backfill, and infiltration characteristics of the native soil for the bioretention and storm chamber improvements. ESP will drill six to nine borings approximately 4 to 8 feet in depth, with a few to 15 feet in depth, as conditions allow.

Infiltration testing will be performed in conformance with quick infiltration test methods developed by ESP in association with the Low Impact Development Initiative, and available on the Central Coast Regional Water Quality Control Board website:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/hydromod_lid_docs/infiltration_methodologies_12_19_13.pdf.

Survey is excluded from this task it was previously completed.

Deliverables:

- Geotechnical Engineering Report

Sub-Task 2.3 - *Permits*

GHD will assist the City in acquiring permits on the project as needed.

Deliverables:

- Permit assistance

Sub-Task 2.4 - *Construction Bid Documents*

Based on finalized project design issues resolved during the preceding tasks, we will prepare and submit the final construction bid documents. This submittal package will contain complete construction documents and final engineer's cost estimate.

Deliverables:

- Single 11x17 hard copy and electronic copy of Construction Bid Documents, Technical Specifications, and Opinion of Probable Construction Cost.

Task 3 - Construction/Implementation

Sub-Task 3.1 - *Bid Support*

We will assist the City during the bid period with issues such as answering contractor questions, interpreting bid documents for prospective bidders, and preparing any necessary addenda.

Deliverables:

- Prepare up to two (2) Addenda
- Respond to up to four (4) RFI's

Sub-Task 3.2 - *Construction Support Services*

We will provide the following construction support services:

- Review Contractor Submittals (12 total)
- Respond to RFIs (6 total)
- Respond to Requests for Change (2 total)
- Record Drawings

Deliverables:

- Respond to RFIs, submittal review, and requests for change
- Record Drawings

Task 4 - Monitoring/Performance

Sub-Task 4.2 - *PAEP Data Management and Reporting*

We will compile necessary PAEP data for reporting purposes. We gather data, develop into a report, and provide to the City for submittals.

Deliverables:

- Project Assessment and Evaluation Plan (PAEP) data management and reporting.

Task 5 - Education/Outreach**Sub-Task 5.1 - *Development of mailers, website Content***

A project website and project noticing/mailers are effective and efficient ways to provide access to project materials and information. RRM will provide informational text, mailers, and graphics to be posted on the existing project website. This task excludes coordination with mail service and printing and costs associated with sending via direct mail. Additional graphics, such as educational material beyond those prepared under Task 2, are excluded from this task and shall be provided by others

Deliverables:

- Website graphics, informational content, and mailers for the public outreach event

Sub-Task 5.2 - *Education and Outreach Activities*

We will participate in one (1) public outreach event to be coordinated and organized by others. Attendance and expenses for this task are included under Sub-Task 1.2. Additional graphics, such as educational material beyond those prepared under Task 2, are excluded from this task and shall be provided by others.

Deliverables:

- Attendance at one (1) public outreach meeting as included under Sub-Task 1.2.

Sub-Task 5.3 - *Interpretive Signage Design*

RRM will develop three (3) interpretive graphics with different content for three separate interpretive panels. It is assumed that the graphics will be mounted and displayed on prefabricated sign panels. This task excludes custom signage panels and support systems.

Deliverables:

- Final design for interpretive signage
- Final production-ready digital files

General Exclusions and Assumptions

This scope of services is based on the tasks described above which are anticipated for the project. This scope is based on the following assumptions:

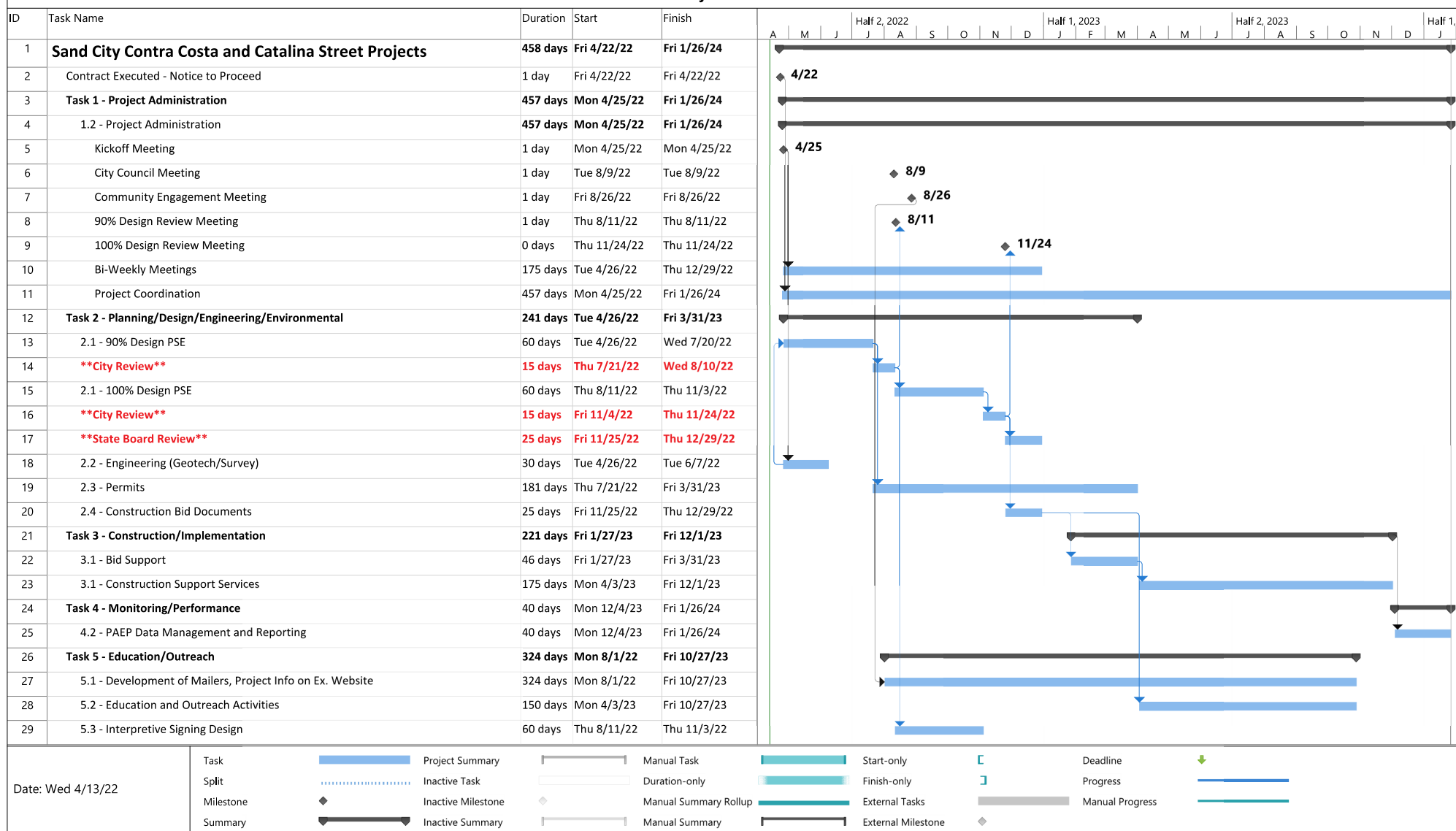
- This scope does not include anything not specifically described above.
- This scope of services does not include a traffic study or an analysis to determine the traffic index. It is assumed that the City will provide the design team with the traffic index required to design the roadways structural pavement section.
- The scope of services does not guarantee property owner cooperation for temporary and permanent easements. The City will be responsible for negotiating and securing any property if acquisition is required for the proposed improvements. The City will be responsible for valuations, paying of costs and fees, and recording of all site control (easement and acquisition) documents.
- The scope of services does not include any applications, permits, or related fees (i.e. utility, agency, regulatory, encroachment). The City shall be responsible for preparing and securing any necessary permits and for paying all deposits and fees required for the project.
- The scope of services does not include utility relocation assistance. It is assumed that the relocation of non-City owned utilities will be completed by utility owners.
- The City will complete their review of the plans and prepare any comments they have in a timely manner and will deliver one set of rectified comments to GHD following each review.

General Exclusions and Assumptions

This scope of services is based on the tasks described above which are anticipated for the project. This scope is based on the following assumptions:

- This scope does not include anything not specifically described above.
- This scope of services does not include a traffic study or an analysis to determine the traffic index. It is assumed that the City will provide the design team with the traffic index required to design the roadways structural pavement section.
- The scope of services does not guarantee property owner cooperation for temporary and permanent easements. The City will be responsible for negotiating and securing any property if acquisition is required for the proposed improvements. The City will be responsible for valuations, paying of costs and fees, and recording of all site control (easement and acquisition) documents.
- The scope of services does not include any applications, permits, or related fees (i.e. utility, agency, regulatory, encroachment). The City shall be responsible for preparing and securing any necessary permits and for paying all deposits and fees required for the project.
- The scope of services does not include utility relocation assistance. It is assumed that the relocation of non-City owned utilities will be completed by utility owners.
- The City will complete their review of the plans and prepare any comments they have in a timely manner and will deliver one set of rectified comments to GHD following each review.
- Education and outreach materials are excluded.
- Interpretive signage design and exhibits are excluded.

Sand City Contra Costa and Catalina Street Projects Project Schedule



Sand City
Contra Costa Street



GHD															Subconsultants										Project Subtotal	Task Subtotal	Percentage of Project Total			
Task No.		Task Description		Rate	Silva PIC \$283	Kaio PM \$243	Van Parys QA/QC \$243	Otto Design Manager \$202	Marsh Support Staff \$178	Various Staff Designer \$143	Bacciarini Environmental Lead \$202	Stevens Drainage/Stormwater Lead \$228	Various Staff Drainage Engineer \$163	Admin \$127	Supplies and Reimbursables	Total Hours	Total GHD \$	Wierschem Design Manager \$140	Dufour Landscape Architect \$160	Simoni Plan Check \$155	Mills LID Specialist \$170	Smith Assistant Designer \$100	Supplies and Reimbursables	Total RRM \$				Earth Systems Pacific \$	Subconsultant Sub Total	Sub Total with Markup 10%
Task 1 - Project Administration																												\$44,357	12%	
1.2	Project Administration		4	80				6						18	\$2,153	108	\$26,223	66		36			\$1,125	\$16,485		\$16,485	\$18,134	\$44,357		
Task 2 - Planning/Design/Engineering/Environmental																												\$274,387	75%	
2.1	Design																	54	23	18	27	135		\$32,120			\$116,568			
a.	90% PSE		42	12	71	105	240							6		476	\$81,236	36	18	9	14	90		\$20,695		\$32,120	\$35,332	\$81,465		
b.	100% PSE		30	6	50	75	180					36	144	6		347	\$58,700									\$22,765	\$33,900			
c.	Stormwater Control Plan/Drainage Report/O&M Plan		6													192	\$33,900											\$33,900		
2.2	Engineering																													
a.	Survey - N/A																													
b.	Geotech		3													3	\$729									\$14,587.50	\$14,588	\$16,046	\$16,775	
2.3	Permits		2					12								14	\$2,910											\$2,910		
2.4	Construction Bid Documents		12	6	18	30	45							6		117	\$20,547	8				9		\$2,020		\$2,020	\$2,222	\$22,769		
Task 3 - Construction/Implementation																												\$32,060	9%	
3.1	Bid Support and Construction Support Services																	4			4			\$1,240				\$6,540		
a.	Bid Support		8		16											24	\$5,176	16				4		\$4,520		\$1,240	\$1,364	\$25,520		
b.	Construction Support Services		16		40		60									116	\$20,548					16				\$4,972				
Task 4 - Monitoring/Performance																												\$6,236	2%	
4.2	PAEP Data Management and Reporting		4		16									16		36	\$6,236											\$6,236		
Task 5 - Education/Outreach																												\$9,020	2%	
5.1	Development of Material																	2			36			\$3,880		\$3,880	\$4,268	\$4,268		
5.2	Education and Outreach Activities																				39			\$4,320		\$4,320	\$4,752	\$4,752		
5.3	Interpretive Signage Design																													
Subtotal Hours			4	203	24	217	210	525	12	36	144	58			1433		189	41	27	85	325									
Subtotal Dollars			\$1,132	\$49,329	\$5,832	\$43,834	\$37,380	\$75,075	\$2,424	\$8,208	\$23,472	\$7,366	\$2,153		\$256,205	\$26,460	\$6,560	\$4,185	\$14,450	\$32,500	\$1,125		\$85,280		\$14,588	\$99,868	\$109,854	Total Cost	\$366,059	100%

→ The Power of Commitment

CITY OF SAND CITY

RESOLUTION SC_____, 2022

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY AUTHORIZING THE CITY
MANAGER TO EXECUTE A PROFESSIONAL SERVICE AGREEMENT WITH GHD IN THE
AMOUNT OF \$366,059 TO PROVIDE ENGINEERING AND RELATED SERVICES FOR
THE WEST END STORMWATER IMPROVEMENT PROJECT ON CONTRA COSTA
STREET**

WHEREAS, Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Assembly Bill 1471) authorized \$7.545 billion in general obligation bonds for water projects including surface and groundwater storage, ecosystem and watershed protection and restoration, and drinking water protection; and

WHEREAS, in 2016, the California State Water Resources Control Board (SWRCB) awarded the Council for Watershed Health (CWH) a Proposition 1 Stormwater Technical Assistance (TA) Grant to provide technical assistance to underserved and disadvantaged communities (DAC) to develop, fund, and implement eligible drinking water, wastewater, stormwater, or groundwater projects to address their needs; and

WHEREAS, in 2017, the SWRCB awarded the City a Proposition 1 TA Grant to identify a project that would meet the City's storm water management objectives and needs with assistance from a TA team composed of technical, engineering, and landscape professionals; and

WHEREAS, as a result of this effort, the City identified a project that would reconstruct two existing collector streets within the West End area of the City to meet the City's objectives and needs which became the West End Stormwater Improvement Project on Contra Costa Street and Catalina Street (Project); and

WHEREAS, the Project will retrofit existing collector streets to integrate Low Impact Development (LID) strategies including bioretention facilities, permeable pavement, new storm drain infrastructure and routing, abandonment of existing storm drains at various locations, horizontal infiltration chambers, landscaping, and pedestrian and Americans with Disability Act (ADA) improvements, to address flood control, improve water quality, increase urban greening, augment groundwater supply through infiltration of treated storm water, and meet several community objectives; and

WHEREAS, under the Proposition 1 TA grant, the Contra Costa Street portion of the Project was taken to approximately 60% design while the Catalina Street portion was taken to approximately 30% design; and

WHEREAS, in January 2019, the Catalina Street portion of the Project was separated out and submitted for Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation grant funding through the Monterey Peninsula Water Management District (MPWMD); and

WHEREAS, in July 2020, the City submitted an application to the California State Water Resources Control Board (the "SWRCB") for funding to support the final design and construction of the Contra Costa Street portion of the Project; and

WHEREAS, on February 16, 2021, the City received notification that it was awarded Proposition 1 Stormwater Implementation Grant funding in the amount of \$2,735,202 to fund the remaining design and construction of the Contra Costa Street portion of the Project; and

WHEREAS, in order to complete the design of the Project and prepare construction documents, the City requires engineering and related services; and

WHEREAS, Sand City Municipal Code Chapter 12.18 Purchasing Procedures, section 12.18.050, allows the City to enter into a contract for professional services such as engineering, provided that the selection of professional services is based on the contractor's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required; and

WHEREAS, the civil engineers and landscape designer who successfully completed the conceptual through 30% and 60% designs of the Project now work at GHD and RRM, respectively, and have the historical knowledge and demonstrated the competence and professional qualifications necessary for the satisfactory performance of the services required to complete the design; and

WHEREAS, GHD has submitted a proposal to the City in the amount of \$366,059 to provide engineering and related services to complete the Project design and prepare construction documents; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City, all of the following:

- 1) That the City Manager is hereby authorized to execute a Professional Service Agreement in substantially the same form as shown in Exhibit A with GHD to provide engineering and related services to complete the Project design and prepare construction documents; and

PASSED AND ADOPTED, by the City Council of the City of Sand City this 17th day of May, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Connie Horca, City Clerk

EXHIBIT A

CITY OF SAND CITY PROFESSIONAL SERVICE AGREEMENT

This PROFESSIONAL SERVICE AGREEMENT (PSA) FOR NON-CONSTRUCTION PROJECT ("AGREEMENT"), is made and effective as of [Month] [Day], 20XX, between the City of Sand City ("CITY"), a municipal corporation and _____ [a sole proprietorship, partnership, limited liability partnership, corporation] ("CONSULTANT"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

I. **TERM**

This AGREEMENT shall commence on _____ and shall remain and continue in effect until tasks described herein are completed, but in no event later than _____ unless sooner terminated pursuant to the provisions of this AGREEMENT.

II. **SERVICES**

CONSULTANT shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. CONSULTANT shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A. To the extent that Exhibit A is a proposal from CONSULTANT, such proposal is incorporated only for the description of the scope of services and no other terms and conditions from any such proposal shall apply to this AGREEMENT unless specifically agreed to in writing. Unless otherwise explicitly stated in Exhibit A, contractor shall at its sole cost and expense furnish all facilities and equipment which may be required for completing the tasks set forth in Exhibit A.

III. **PERFORMANCE**

CONSULTANT shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of CONSULTANT hereunder in meeting its obligations under this AGREEMENT.

IV. **CITY MANAGEMENT**

[City's Engineer] shall represent CITY in all matters pertaining to the administration of this AGREEMENT, review and approval of all products submitted by CONSULTANT, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to CONSULTANT. City's Engineer shall be authorized to act on CITY's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change CONSULTANT's compensation, subject to Section 5 hereof.

V. PAYMENT

- A. The CITY agrees to pay CONSULTANT [monthly], in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed _____ dollars (\$__.00) for the total term of the AGREEMENT unless additional payment is approved as provided in this AGREEMENT.
- B. CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. CONSULTANT shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and CONSULTANT at the time CITY's written authorization is given to CONSULTANT for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the AGREEMENT. Any additional work in excess of this amount shall be approved by the City Council of Sand City.
- C. CONSULTANT will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the CITY disputes any of CONSULTANT's fees it shall give written notice to CONSULTANT within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this AGREEMENT shall be made within forty-five (45) days of receipt of an invoice therefore.

VI. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

- A. The CITY may at any time, for any reason, with or without cause, suspend or terminate this AGREEMENT, or any portion hereof, by serving upon the CONSULTANT at least ten (10) days prior written notice. Upon receipt of said notice, the CONSULTANT shall immediately cease all work under this AGREEMENT, unless the notice provides otherwise. If the CITY suspends or terminates a portion of this AGREEMENT such suspension or termination shall not make void or invalidate the remainder of this AGREEMENT.
- B. In the event this AGREEMENT is terminated pursuant to this Section, the CITY shall pay to CONSULTANT the actual value of the work performed

up to the time of termination, provided that the work performed is of value to the CITY. Upon termination of the AGREEMENT pursuant to this Section, the CONSULTANT will submit an invoice to the CITY pursuant to Section 5.

VII. DEFAULT OF CONSULTANT

- A. The CONSULTANT's failure to comply with the provisions of this AGREEMENT shall constitute a default. In the event that CONSULTANT is in default for cause under the terms of this AGREEMENT, CITY shall have no obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and can terminate this AGREEMENT immediately by written notice to the CONSULTANT. If such failure by the CONSULTANT to make progress in the performance of work hereunder arises out of causes beyond the CONSULTANT's control, and without fault or negligence of the CONSULTANT, it shall not be considered a default.
- B. If the [City Engineer] or his/her designee determines that the CONSULTANT is in default in the performance of any of the terms or conditions of this AGREEMENT, he/she shall cause to be served upon the CONSULTANT a written notice of the default. The CONSULTANT shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the CONSULTANT fails to cure its default within such period of time or fails to present the CITY with a written plan for the cure of the default, the CITY shall have the right, notwithstanding any other provision of this AGREEMENT, to terminate this AGREEMENT without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this AGREEMENT.

VIII. OWNERSHIP OF DOCUMENTS

- A. CONSULTANT shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by CITY that relate to the performance of services under this AGREEMENT. CONSULTANT shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONSULTANT shall provide free access to the representatives of CITY or its designees at reasonable times to such books and records; shall give CITY the right to examine and audit said books and records; shall permit CITY to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this AGREEMENT. Such records, together with supporting

documents, shall be maintained for a period of three (3) years after receipt of final payment.

- B. Upon completion of, or in the event of termination or suspension of this AGREEMENT, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this AGREEMENT shall become the sole property of the CITY and may be used, reused, or otherwise disposed of by the CITY without the permission of the CONSULTANT. With respect to computer files, CONSULTANT shall make available to the CITY, at the CONSULTANT's office and upon reasonable written request by the CITY, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. CONSULTANT hereby grants to CITY all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by CONSULTANT in the course of providing the services under this AGREEMENT.

IX. INDEMNIFICATION AND DEFENSE

A. Indemnity

To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CITY and any and all of its officials, employees, consultants and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs, caused in whole or in part by the negligent or wrongful act, error or omission of CONSULTANT, its officers, agents, employees or subconsultants (or any agency or individual that CONSULTANT shall bear the legal liability thereof) in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify and hold harmless CITY shall not extend to the CITY's sole or active negligence.

B. Duty to defend

In the event the CITY, its officers, employees, agents and/or volunteers are made a party to any action, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this AGREEMENT, and upon demand by CITY, CONSULTANT shall defend the CITY at CONSULTANT's cost or at CITY's option, with counsel selected by CITY, to reimburse CITY for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters to the extent the matters arise from, relate to or are caused by CONSULTANT's negligent acts, errors or omissions. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and CITY, as to whether liability

arises from the sole or active negligence of the CITY or its officers, employees, or agents, CONSULTANT will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely or actively negligent. CONSULTANT will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

X. INSURANCE

CONSULTANT shall maintain prior to the beginning of and for the duration of this AGREEMENT insurance coverage as specified in Exhibit C attached to and part of this AGREEMENT.

XI. INDEPENDENT CONSULTANT

- A. CONSULTANT is and shall at all times remain as to the CITY a wholly independent consultant and/or independent contractor. The personnel performing the services under this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither CITY nor any of its officers, employees, or agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees, or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the CITY. CONSULTANT shall not incur or have the power to incur any debt, obligation, or liability whatever against CITY, or bind CITY in any manner.
- B. No employee benefits shall be available to CONSULTANT in connection with the performance of this AGREEMENT. Except for the fees paid to CONSULTANT as provided in the AGREEMENT, CITY shall not pay salaries, wages, or other compensation to CONSULTANT for performing services hereunder for CITY. CITY shall not be liable for compensation or indemnification to CONSULTANT for injury or sickness arising out of performing services hereunder.

XII. LEGAL RESPONSIBILITIES

The CONSULTANT shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this AGREEMENT. The CONSULTANT shall at all times observe and comply with all such laws and regulations. The CITY, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the CONSULTANT to comply with this Section.

XIII. UNDUE INFLUENCE

CONSULTANT declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the CITY in connection with the award, terms or implementation of this AGREEMENT, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the CITY has or will receive compensation, directly or indirectly, from CONSULTANT, or from any officer, employee or agent of CONSULTANT, in connection with the award of this AGREEMENT or any work to be conducted as a result of this AGREEMENT. Violation of this Section shall be a material breach of this AGREEMENT entitling the CITY to any and all remedies at law or in equity.

XIV. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of CITY, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this AGREEMENT.

XV. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

- A. All information gained by CONSULTANT in performance of this AGREEMENT shall be considered confidential and shall not be released by CONSULTANT without CITY's prior written authorization. CONSULTANT, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Engineer or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this AGREEMENT or relating to any project or property located within the CITY. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives CITY notice of such court order or subpoena.
- B. CONSULTANT shall promptly notify CITY should CONSULTANT, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this AGREEMENT and the work performed there under or with respect to any project or property located within the CITY, unless the CITY is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless CONSULTANT is prohibited by law from informing the CITY of such Discovery. CITY retains the right, but has no obligation, to represent CONSULTANT and/or be present at any

XVI. NOTICES

To CITY: City of Sand City
1 Pendergrass Way
Sand City, CA 93955
Attention: City Clerk

XVII. ASSIGNMENT

56

termination or as may be otherwise agreed to in writing between CITY and the CONSULTANT. Before retaining or contracting with any consultant for any services under this AGREEMENT, CONSULTANT shall provide CITY with the identity of the proposed sub-consultant, a copy of the proposed written contract between CONSULTANT and such sub-consultant which shall include and indemnity provision similar to the one provided herein and identifying CITY as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed sub-consultant carries insurance at least equal to that required by this AGREEMENT or obtain a written waiver from CITY for such insurance.

XVIII. LICENSES

At all times during the term of this AGREEMENT, CONSULTANT shall have in full force and effect, all licenses required of it by law for the performance of the services described in this AGREEMENT.

XIX. GOVERNING LAW

The CITY and CONSULTANT understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this AGREEMENT and also govern the interpretation of this Agreement. Any litigation concerning this AGREEMENT shall be brought and maintained in the Superior Court of the State of California in and for the County of Monterey.

XX. ENTIRE AGREEMENT

This AGREEMENT contains the entire understanding between the parties relating to the obligations of the parties described in this AGREEMENT. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this AGREEMENT or with respect to the terms and conditions of this AGREEMENT, are merged into this AGREEMENT and shall be of no further force or effect. Each party is entering into this AGREEMENT based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

XXI. WORK SCHEDULED/TIME OF COMPLETION

Note to Leon: This section is optional and should be included only when the project is particularly time-sensitive, otherwise erase section.

CITY and CONSULTANT agree that time is of the essence in this AGREEMENT. CITY and CONSULTANT further agree that CONSULTANT's failure to perform on or at the times set forth in this AGREEMENT will damage and injure CITY, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, CITY and CONSULTANT agree that any failure to perform by

CONSULTANT at or within the times set forth herein shall result in liquidated damages of [Insert amount] dollars (\$__.00) per day for each and every day such performance is late or delayed. CITY and CONSULTANT agree that such sum is reasonable and fair. Furthermore, CITY and CONSULTANT agree that this AGREEMENT is subject to Government Code Section 53069.85 and that each party hereto is familiar with and understands the obligations of said Section of the Government Code.

XXII. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

CONSULTANT is bound by the contents of CITY's Request for Proposal, Exhibit "D" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the CONSULTANT, Exhibit "E" hereto. In the event of conflict, the requirements of CITY's Request for Proposals and this AGREEMENT shall take precedence over those contained in the CONSULTANT's proposals. The incorporation of the CONSULTANT's proposal shall be for the scope of services to be provided only, and any other terms and conditions included in such proposal shall have no force and effect on this AGREEMENT or the relationship between CONSULTANT and/or CITY, unless expressly agreed to in writing.

XXIII. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this AGREEMENT on behalf of CONSULTANT warrants and represents that he/she has the authority to execute this AGREEMENT on behalf of the CONSULTANT and has the authority to bind CONSULTANT to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

CONSULTANT

By: _____
(Signature)

(Typed Name)

(Title)

CITY OF SAND CITY

Aaron Blair, City Manager

ATTEST:

Connie Horca, City Clerk

APPROVED AS TO FORM:
City Attorney

By: _____

Attachments:	Exhibit A	Tasks to Be Performed
	Exhibit B	Payment Schedule
	Exhibit C	Insurance Requirements
	Exhibit D	Request for Proposal
	Exhibit E	Consultant's Proposal

EXHIBIT A

TASKS TO BE PERFORMED

[insert tasks; schedule of performance; equipment and facilities City will provide if any]

EXHIBIT B
PAYMENT SCHEDULE

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting CONSULTANT's indemnification of CITY, and prior to commencement of Work, CONSULTANT shall obtain, provide and maintain at its own expense during the term of this AGREEMENT, policies of insurance of the type and amounts described below and in a form satisfactory to CITY.

Note: Verify minimum limit for each coverage with City Manager.

General liability insurance. CONSULTANT shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. CONSULTANT shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this AGREEMENT, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Professional liability (errors & omissions) insurance. CONSULTANT shall maintain professional liability insurance that covers the Services to be performed in connection with this AGREEMENT, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this AGREEMENT and CONSULTANT agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this AGREEMENT.

Note: May need to delete workers' compensation and employer's liability insurance requirements for certain sole proprietorships, partnerships, or corporations without employees.

Workers' compensation insurance. CONSULTANT shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

CONSULTANT shall submit to CITY, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of CITY, its officers, agents, employees and volunteers.

Note: If the required limits for general liability, auto and employer's liability are \$1 million or less, the following paragraph may be omitted.

Umbrella or excess liability insurance. [Optional depending on limits required].

CONSULTANT shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrence of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Other provisions or requirements

Proof of insurance. CONSULTANT shall provide certificates of insurance to CITY as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with CITY at all times during the term of this contract. CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by CONSULTANT, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by CONSULTANT shall be primary and any insurance or self-insurance procured or maintained by CITY shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of CITY before the CITY's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this AGREEMENT does not comply with these specifications or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary

and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments. In the alternative, CITY may cancel this AGREEMENT.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against CITY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow CONSULTANT or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONSULTANT hereby waives its own right of recovery against CITY, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). CONSULTANT acknowledges and agrees that any actual or alleged failure on the part of the CITY to inform CONSULTANT of non-compliance with any requirement imposes no additional obligations on the CITY nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the CITY requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to CITY with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that CITY and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to CITY and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. CONSULTANT agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by CONSULTANT, provide the same minimum insurance coverage and endorsements required of CONSULTANT. CONSULTANT agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. CONSULTANT agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to CITY for review.

City's right to revise specifications. The CITY reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the CONSULTANT ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the CONSULTANT, the CITY and CONSULTANT may renegotiate CONSULTANT's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by CITY. CITY reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by CITY.

Timely notice of claims. CONSULTANT shall give CITY prompt and timely notice of claims made or suits instituted that arise out of or result from CONSULTANT's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. CONSULTANT shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

EXHIBIT D
REQUEST FOR PROPOSAL

EXHIBIT E
CONSULTANT'S PROPOSAL

**AGENDA ITEM
9B.**

**Consideration of City RESOLUTION
Authorizing the City Manager to Execute a
Professional Service Agreement with GHD
in the amount of \$131,902 to provide
Engineering and Related Services for the
West End Stormwater Improvement
Project on Catalina Street**

STAFF REPORT

DATE: May 10, 2022 (for City Council Action on May 17, 2022)

TO: Honorable Mayor and City Council Members

FROM: Leon Gomez, City Engineer

SUBJECT: Adopt a resolution authorizing the City Manager to execute a Professional Service Agreement in with GHD in the amount of \$131,902 to provide engineering and related services for the West End Stormwater Improvement Project on Catalina Street

RECOMMENDATION

Staff recommends that the City Council consider and adopt a resolution authorizing the City Manager to execute a Professional Service Agreement with GHD in the amount of \$131,902 to provide engineering and related services for the West End Stormwater Improvement Project on Catalina Street.

BACKGROUND

Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Assembly Bill 1471) authorized \$7.545 billion in general obligation bonds for water projects including surface and groundwater storage, ecosystem and watershed protection and restoration, and drinking water protection.

In 2016, the California State Water Resources Control Board (SWRCB) awarded the Council for Watershed Health (CWH) a Proposition 1 Stormwater Technical Assistance (TA) Grant to provide technical assistance to underserved and disadvantaged communities (DAC) to develop, fund, and implement eligible drinking water, wastewater, stormwater, or groundwater projects to address their needs. A small community is defined as having a population less than 10,000 people and a DAC is defined as having a median household income (MHI) less than 80% of the statewide MHI. At the time of application for TA assistance, the City of Sand City (City) qualified as both a small community and a DAC.

In 2017, the SWRCB awarded the City a Proposition 1 TA Grant. The TA team included CWH staff, Darla Elswick Consulting (TA team lead), Urban Rain Design (landscape site layout), and Canon Corporation (civil engineering, landscaping and irrigation design). The TA team met with the City Engineer and City Planner to identify the City's objectives and needs which included:

- Alleviate flooding at low lying areas of the City and reduce pollutant loads entering the Monterey Bay National Marine Sanctuary,
- Where cost-effective, provide multiple community, economic, and environmental benefits such as flood control, aquifer recharge, community livability, urban greening, improved air quality, and improved mobility (pedestrian, bike, car),
- Provide stormwater treatment and infiltration with opportunities to integrate green infrastructure and Low Impact Development (LID) Best Management Practices (BMPs).

As a result of this effort, the City identified a project that would reconstruct two existing collector

streets within the West End area of the City to incorporate LID strategies to meet the objectives and needs noted above. This became the West End Stormwater Improvement Project on Contra Costa Street and Catalina Street (Project). The Project limits on Contra Costa Street initially began at Olympia Avenue within a portion of the existing Transportation Agency for Monterey County (TAMC) railroad right-of-way (ROW) but after discussions with TAMC the limits were modified to begin at the city limits/TAMC railroad ROW (south of Orange Avenue) and extend north to Redwood Avenue. The Project limits on Catalina Street begin at approximately Olympia Avenue and extend north to Ortiz Avenue.

The Project proposes to install bioretention facilities, permeable pavement in parking, sidewalk and at intersections, new storm drain infrastructure and routing, abandonment of existing storm drains at various locations, horizontal infiltration chambers, and landscaping. The Project will improve pedestrian and Americans with Disability Act (ADA) accessibility and urban greening through the installation of trees and landscaping throughout each street corridor. Under the Proposition 1 TA grant, the Contra Costa Street portion of the Project was taken to approximately 60% design while the Catalina Street portion was taken to approximately 30% design. Exhibits showing the 30% design of the Catalina Street portion of the Project are included in **Attachment A**.

In January 2019, the Catalina Street portion of the Project was separated out and submitted for Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation grant funding through the Monterey Peninsula Water Management District (MPWMD). Proposition 1, or the Water Quality, Supply, and Infrastructure Improvement Act of 2014, was established to assist in financing projects which are included in an adopted IRWM Plan. IRWM is a collaborative effort to manage all aspects of water resources in a region. An IRWM Plan is a comprehensive guide for developing, prioritizing, and implementing coordinated water resource plans and projects to meet a planning region's changing needs and priorities, incorporate new developments in water resource management, and to respond to project solicitations from state and federal funding agencies.

On July 7, 2020, the Department of Water Resources (DWR) informed the MPWMD that it had approved a grant award of up to \$2,317,040 to fund four projects on the Monterey Peninsula. This award included the Catalina Street portion of the Project and the City was initially awarded \$972,400 to fund the remaining design and construction of the Catalina Street portion of the Project. However, after the award of funds one of the four projects dropped out of the program and the City requested, and was approved to receive, additional funds up to \$1,097,400.

In April 2021, the DWR and MPWMD entered into a Grant Agreement for the Proposition 1 Round 1 IRWM Implementation Grant. The Grant Agreement contains all of the grant funding requirements and Project information such as the work plan, budget, and schedule, and other provisions. The Grant Agreement was thoroughly reviewed by the City Engineer and City Attorney prior to its execution. Under this agreement, the DWR will distribute grant funds to the MPWMD and then the MPWMD will distribute funds to each Local Project Sponsor (LPS), such as Sand City, under a Subgrantee Agreement.

In November 2021, a Subgrantee Agreement was executed between the MPWMD and City for distribution of these funds. Below is a copy of the budget table from the grant agreement:

PROJECT 3: West End Stormwater Improvement Project

Implementing Agency: City of Sand City

Project directly serves a need of a Disadvantaged Community: Yes

BUDGET CATEGORY		Grant Amount	Required Cost Share: Non-State Fund Source*	Other Cost Share	Total Cost
a	Project Administration	\$44,000	\$0	\$0	\$44,000
b	Land Purchase / Easement	\$0	\$0	\$0	\$0
c	Planning / Design / Engineering / Environmental Documentation	\$70,000	\$0	\$0	\$70,000
d	Construction / Implementation	\$983,400	\$0	\$0	\$983,400
TOTAL COSTS		\$1,097,400	\$0	\$0	\$1,097,400

NOTES:

Eligible costs for each Budget Category will only be approved for reimbursement and Cost Share for the work completed within the date ranges listed in Exhibit C.

*Project received a 100% cost share waiver.

As noted above, the City received a 100% cost share waiver for the Project.

In order to complete the design of the Catalina Street portion of the Project, the City requires engineering and related services. The City Engineer, working with the City's technical assistance lead, Ms. Darla Elswick, contacted the original civil engineers and landscape designer that worked on the conceptual through 30% and 60% design of the Project so that their experience and knowledge of the Project's history could be leveraged to complete the final design. These design professionals previously worked for Canon Corporation during the TA phase and initial development of the Project, but have since joined GHD and RRM, respectively. As a result, the City Engineer requested a proposal from GHD to provide engineering and related services to support the final design of the Project. GHD prepared and submitted a proposal in the amount of \$131,902 that included sub consultants as noted below:

- Civil engineering design services – GHD
- Landscape, planting and irrigation design services – RRM
- Geotechnical engineering services – Earth Systems Pacific

GHD and the design team will provide the following services (abbreviated) to support the Project:

- Project management
- Meetings: staff, city council, and design review
- Preparation of 90% and 100% Plans, Specifications, and Estimates (PS&E)
- Preparation of construction bid documents
- Bid phase support services
- Construction phase support services
- Project Assessment and Evaluation Plan (PAEP) support services
- Education/outreach support including mailers and information for the Project website (City to establish).

A copy of this proposal is shown in **Attachment B**.

The City is able to “sole source” this effort rather than issue a Request for Proposals (RFP) to solicit proposals from various qualified firms. This approach is based on Sand City Municipal Code (SCMC) Chapter 12.18 Purchasing Procedures, section 12.18.050 Bidding – When Not Required, F. which states: *When entering into contracts for a professional service, such as that available from an accountant, architect, attorney, land surveyor, engineer or other specialized consultant, provided however that the selection of professional services is based on the contractor's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required.*

REVIEW AND ANALYSIS

The Project will realize significant improvements that will benefit water quality and the community within the West End neighborhood of the City. The City applied for and received Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation grant funding in the amount of \$1,097,400 to support completing the design and construction of the Project. In order to complete the design and release the Project for bidding and construction, the City requires engineering and related services.

As noted above, the civil engineering and landscape designers that worked on the conceptual through 30% and 60% design of the Project are now with GHD and RRM, respectively, and have the demonstrated competence and professional qualifications necessary to provide the services required. In addition, GHD is currently providing similar services for another stormwater improvement project in the City of Fortuna, California, and the City Engineer believes that this experience may be leveraged to support the Project.

ENVIRONMENTAL (CEQA) CLEARANCE

Implementation of street and stormwater infrastructure and improvements within the existing and developed Catalina Street public right-of-way and the implementation of agreements and funding for said Project, qualifies for a Categorical Exemption from CEQA (California Environmental Quality Act) per CEQA Guideline section 15301, for the repair, maintenance, and minor alteration of existing public facilities involving, but not limited to, streets, curbs, gutters, sidewalks and similar facilities. The City Planner prepared and filed a Notice of Exemption (NOE) with Monterey County on December 2, 2021.

FISCAL IMPACT

The City requested and has been awarded \$1,097,400 in Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation grant funding to support the completion of the Project design and construction. The City received a 100% cost share waiver and no matching funds are required.

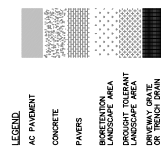
Due to escalating construction costs and other factors, it should be noted that the awarded grant funds may not fully cover all of the actual costs associated with the Project. If costs exceed the estimates shown in the budget table above, the City will be responsible for covering this difference.

Attachments:

- Attachment A – Catalina Street 30% Surface Improvement Plan and Landscape Plans
- Attachment B – GHD Proposal entitled, “Scope of Services for West End Stormwater Improvement Project on Catalina Street Project”, revised April 13, 2022

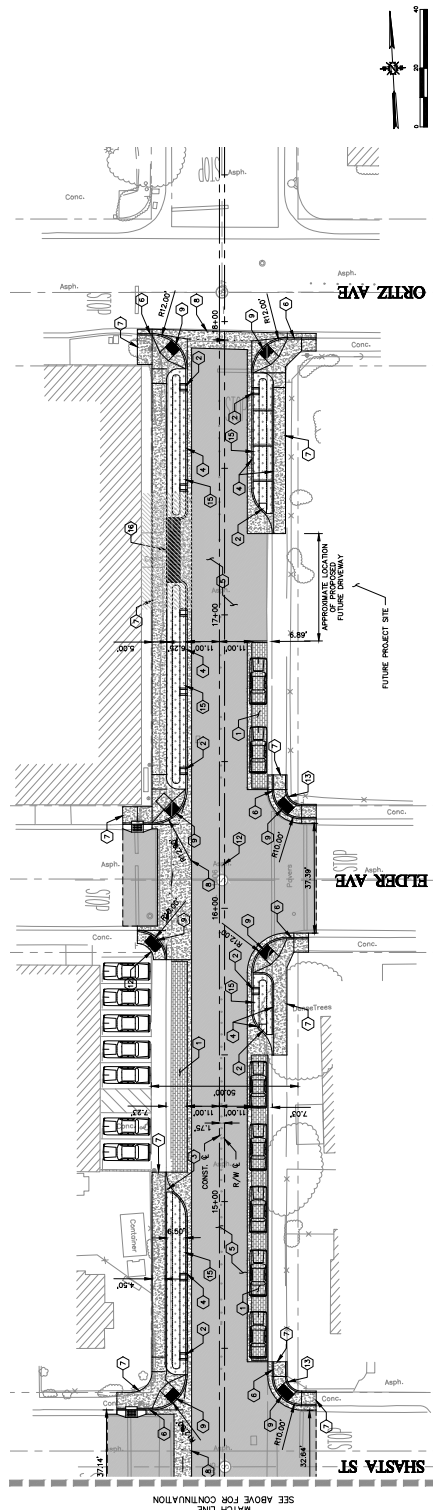
1. PERMANENT CONCRETE PAVEMENT SECTION AND CURE RESTRAINT.
2. CURB OUT.
3. ADJUST TO GRADE.
4. IDENTIFICATION CURB AND GUTTER.
5. ASPHALT PAVEMENT
6. 4" CURB AND GUTTER.
7. SIDEWALK.
8. CROSS GUTTER.
9. CURB RAMP.
10. TRUNCATED DOWNS.
11. NOT USED.
12. REPLACE STREET MONUMENT
13. CONCRETE RETAINING CURB, NOSE DOWN CURB OVER 6" LENGTH TO FLUSH WERE APPLICABLE.
14. NOSE DOWN CURB OVER 6" TO FLUSH.
15. CURB, GUTTER, SIDEWALK AND BIOWALK SECTION
16. RIVERWAY GRAVE
17. RIVERWAY TRENCH DRAIN

CATALINA STREET ON-STREET PARKING:
EXISTING: 35 PARKING STALLS
PROPOSED: 18 PARKING STALLS



SEE BELOW FOR CONTINUATION

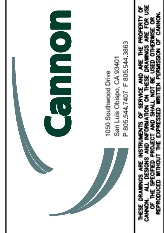
CATALINA STREET



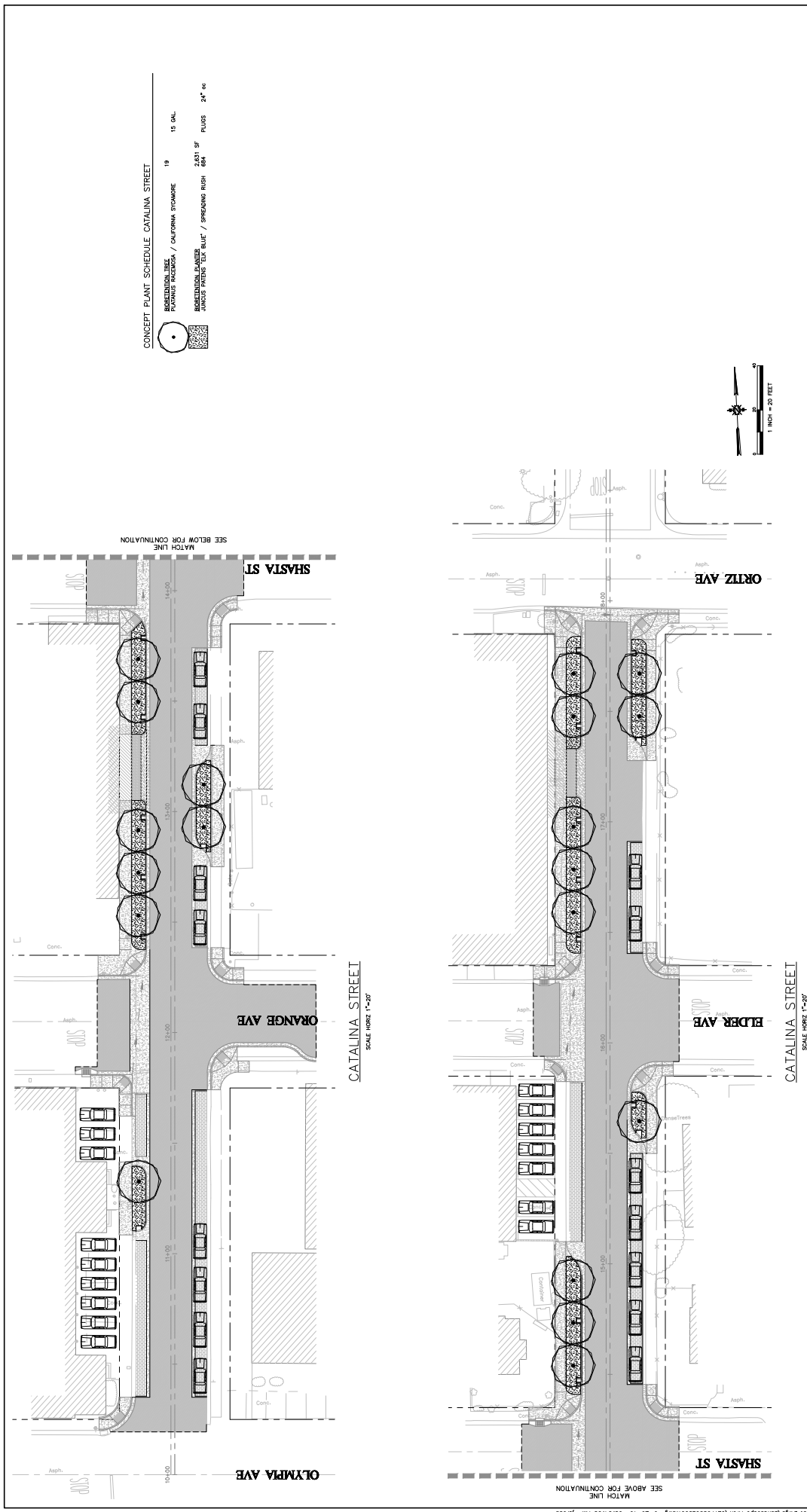
CATALINA STREET
SCALE HORIZ 1"=20'

[illegible]

Urban Rain | Design Inc.
The Office of Kevin Robert Perry, FASIA
231 G Street, Suite 29
Davis, California 95616
(503) 928-5522
www.urbanraindesign.com



SAND CITY PROP 1 TA, TASK 6 CATALINA STREET SURFACE IMPROVEMENTS PLAN SAND CITY, CA		CA JOB NO. 17098-30
DRAWN BY JD	DATE 6/26/19	
CHECKED BY LK	SCALE 1" = 20'	SHEET 2 OF 18

[illegible]

1101 Monterey Street, Suite 120
San Luis Obispo, CA 93401
USA
T (805) 503-0500
www.ghd.com



Revised April 13, 2022

Leon Gomez, City Engineer
City of Sand City
1 Pendergrass Way
Sand City, CA 93955

RE: West End Stormwater Improvement Projects on Contra Costa Street and Catalina Street

Dear Mr. Gomez,

We understand the City has been successful in acquiring grant monies to reconstruct Contra Costa Street and Catalina Street and is requesting design for final bid documents for construction. We have assembled our team to include key personnel from GHD and RRM who originally developed concept plans for these grant applications on the City's behalf.

Per our recent discussions with you and Ms. Darla Elswick, attached is our team's proposals for your review. We have prepared two separate proposals to outline the work in accordance with the approved grants. Please note we assume the design schedules for the projects will be concurrent to maximize efficiencies in combining design staff efforts, project meetings, and project coordination with the City. If this assumption is incorrect, we'd greatly appreciate the opportunity to discuss options with moving these designs forward on different timelines.

We are excited to work with you on this project and welcome any questions you have regarding our proposal.

Regards,

A handwritten signature in blue ink, appearing to read "Keone Kauo", is positioned above the printed name.

Keone Kauo, PE
Project Manager
805.503.0500
keone.kauo@ghd.com

Scope of Services

For

West End Stormwater Improvement Project on Catalina Street Project

Project Understanding

Sand City was awarded design and construction funding for the West End Stormwater Improvement Project on Catalina Street through an Integrated Regional Water Management Proposition 1 Stormwater Grant. Catalina Street will be improved generally from the intersection of Olympia Avenue to Ortiz Avenue. Improvements will include low impact development facilities such as bioretention, permeable pavers, and underground storm chambers to capture, clean, and recharge the groundwater supply; paving, curb and gutter, and sidewalk improvements; and beautification with drought tolerant landscaping. Concept and preliminary design packages have already been completed for the project. The scope of work as requested is to develop a final design bid package ready for bid for early summer.

Scope of Services

Based on the above understanding of the project intent, GHD's scope of services for design is defined by the following tasks.

Task 1 - Project Management

The Project Management task consists of attending a project kick-off meeting, attending meetings during the duration of the design, and project expenses such as plotting.

We will orchestrate and attend a project kick-off meeting with appropriate personnel from the City. This meeting agenda will focus on project understanding, team involvement, project constraints, and the anticipation of design development impediments. This meeting will also include a project introduction, review of background information and project scope, and defining the project schedule. This meeting represents a key opportunity for representatives from the City to steer the consultant team and further clarify critical elements of the project scope. We assume the kick-off meeting will include a field walkdown of the project site.

We will participate in one (1) in person meeting, one (1) virtual design review meeting after the 100% submittal package, and bi-weekly virtual meetings during the duration of the design. The in-person meeting includes attendance at one meeting with City staff to review and discuss the 90% design submittal package. The bi-weekly virtual meetings will convey the status of the design, coordinate utility provider relocations (if necessary), and to resolve questions and design issues.

Grant agreement development and negotiations on the City's behalf is excluded from this task. All expenses for plotting are included in this task.

Deliverables:

- Attendance at in person kickoff meeting shared in combination with Contra Costa meeting
- Attendance at one (1) in person meeting shared in combination with Contra Costa meeting
- Attendance of virtual meetings including bi-weekly and 100% design review meetings for up to 10 meetings.

Task 6 - Permitting

GHD will assist the City in acquiring permits on the project as needed.

Deliverables:

- Permit Assistance

Task 7 - Design***90% Design Plans, Specs, Estimate***

The project team will prepare 90% design plans, technical specifications, and engineer's cost estimate. The intent of the 90% plans is to utilize the existing 30% design plans to provide a complete construction set package for City review and comment.

This submittal package will include construction plans and details, technical specifications, bid item list, and an engineer's cost estimate for use in the public bidding process and in accordance with the City's bidding procedure.

The following plan sheets will be included as part of this submittal:

Sheet No.	Drawing Title
1	Cover Sheet
2	Survey Control
3-4	Utility Plan and Details
5	Demolition Plan
6	Typical Sections
7	Street Improvement Plans
8-10	Grading Plan (Including Profiles)
11-17	Civil Details
18	Signing and Striping Plan
19-23	Landscape Plan and Details
24-29	Irrigation Plan and Details

As is standard practice, this task includes an in-house review of the plans by our QA/QC Engineer.

100% Design Plans, Specs, Estimate

Based on the feedback from the previous submittal package, we will prepare and submit a 100% design package. This submittal will contain complete construction documents and an updated engineer's cost estimate.

The plans will incorporate review comments from the 90% design package and will provide construction level design detail and technical specifications sufficient for final project approvals and bidding.

Stormwater Control Plan and Operation and Maintenance Plan

GHD will perform a hydrologic analysis to estimate runoff volumes and peak rates for the 85th and 95th percentile design storm events for each drainage management area associated with a proposed

stormwater retention facility. We will also calculate the retention capacities of the proposed stormwater retention facilities. The effort will be summarized in a Draft Stormwater Control Plan that will be provided to the City for review. The Stormwater Control Plan will be prepared in accordance with the Central Coast Regional Water Quality Control Board's Post-Construction Requirements (Resolution No. R3-2013-0032) and the City's adopted Stormwater Technical Guide and templates. City review comments will be incorporated into a Final Stormwater Control Plan.

GHD will develop recommendations for inspecting and maintaining the proposed stormwater LID features. The recommendations will be included in a Draft Stormwater Facility Operation and Maintenance Plan that will be provided to the City for review. City comments will be incorporated into a Final Stormwater Facility Operation and Maintenance Plan.

The proposed project does not include modifications to the City's existing stormwater collection and conveyance system, so a Drainage Report is not included as part of this project.

An in-house review of the plans will be conducted by our QA/QC Engineer.

Geotechnical Report

We will retain the services of Earth Systems Pacific (ESP) to investigate the subsurface conditions, conduct laboratory testing, and develop a geotechnical recommendations report for HMA pavement, permeable pavers, exterior pedestrian flatwork, utility trench backfill, and infiltration characteristics of the native soil for the bioretention and storm chamber improvements. ESP will drill six to nine borings approximately 4 to 8 feet in depth, with a few to 15 feet in depth, as conditions allow.

Infiltration testing will be performed in conformance with quick infiltration test methods developed by ESP in association with the Low Impact Development Initiative, and available on the Central Coast Regional Water Quality Control Board website:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/hydrmod_lid_docs/infiltration_methodologies_12_19_13.pdf.

Deliverables:

- Single 11x17 hard copy and electronic copy of 90% and 100% Complete Design Drawings, Technical Specifications, and Opinion of Probable Construction Cost.
- Draft and Final Stormwater Control Plan
- Draft and Final Stormwater Facility Operation and Maintenance Plan
- Geotechnical Engineering Report

Task 9 - Contract Services

Bid Documents

Based on finalized project design issues resolved during the preceding tasks, we will prepare and submit the final construction bid documents. This submittal package will contain complete construction documents and final engineer's cost estimate.

Bid Support

We will assist the City during the bid period with issues such as answering contractor questions, interpreting bid documents for prospective bidders, and preparing any necessary addenda.

Deliverables:

- Single 11x17 hard copy and electronic copy of Construction Bid Documents, Technical Specifications, and Opinion of Probable Construction Cost.
- Prepare up to two (2) Addenda
- Respond to up to four (4) RFI's

Task 10 - Construction Administration

We will provide the following construction support services:

- Review Contractor Submittals (12 total)
- Respond to RFIs (6 total)
- Respond to Requests for Change (2 total)
- Record Drawings

Deliverables:

- Respond to RFIs, submittal review, and requests for change
- Record Drawings

Task 11 - Construction

We will compile necessary PAEP data for reporting purposes. We gather data, develop into a report, and provide to the City for submittals.

Deliverables:

- Project Assessment and Evaluation Plan (PAEP) data management and reporting.

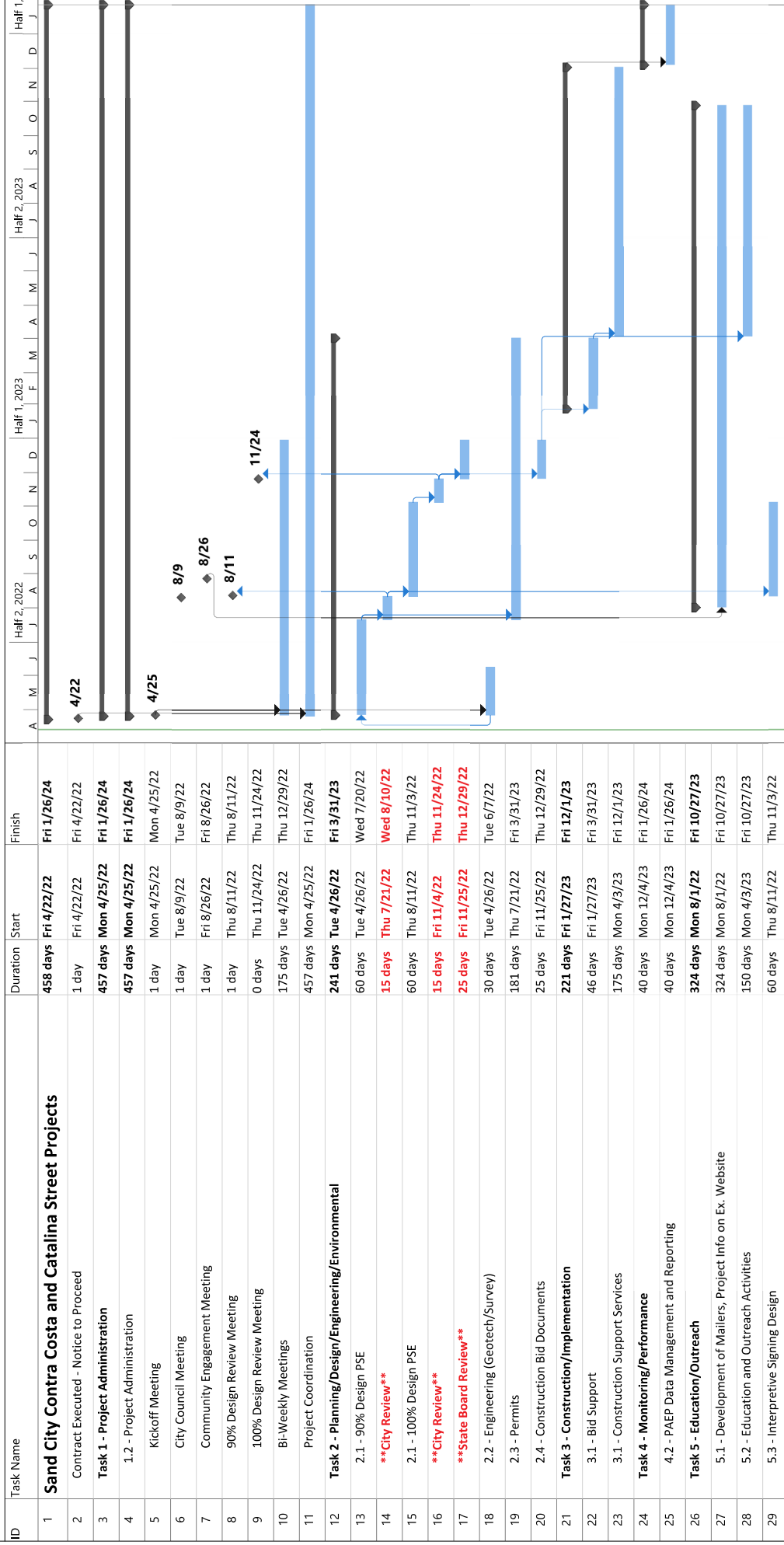
General Exclusions and Assumptions

This scope of services is based on the tasks described above which are anticipated for the project. This scope is based on the following assumptions:

- This scope does not include anything not specifically described above.
- This scope of services does not include a traffic study or an analysis to determine the traffic index. It is assumed that the City will provide the design team with the traffic index required to design the roadways structural pavement section.
- The scope of services does not guarantee property owner cooperation for temporary and permanent easements. The City will be responsible for negotiating and securing any property if acquisition is required for the proposed improvements. The City will be responsible for valuations, paying of costs and fees, and recording of all site control (easement and acquisition) documents.
- The scope of services does not include any applications, permits, or related fees (i.e. utility, agency, regulatory, encroachment). The City shall be responsible for preparing and securing any necessary permits and for paying all deposits and fees required for the project.
- The scope of services does not include utility relocation assistance. It is assumed that the relocation of non-City owned utilities will be completed by utility owners.
- The City will complete their review of the plans and prepare any comments they have in a timely manner and will deliver one set of rectified comments to GHD following each review.
- Education and outreach materials are excluded.
- Interpretive signage design and exhibits are excluded.

Sand City Contra Costa and Catalina Street Projects

Project Schedule



Date: Wed 4/13/22

Task

Split

Milestone

Summary

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress



Sand City
Catalina Street

[illegible]

↑ The Power of Commitment

CITY OF SAND CITY

RESOLUTION SC _____, 2022

RESOLUTION OF THE CITY COUNCIL OF SAND CITY AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICE AGREEMENT WITH GHD IN THE AMOUNT OF \$131,902 TO PROVIDE ENGINEERING AND RELATED SERVICES FOR THE WEST END STORMWATER IMPROVEMENT PROJECT ON CATALINA STREET

WHEREAS, Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Assembly Bill 1471) authorized \$7.545 billion in general obligation bonds for water projects including surface and groundwater storage, ecosystem and watershed protection and restoration, and drinking water protection; and

WHEREAS, in 2016, the California State Water Resources Control Board (SWRCB) awarded the Council for Watershed Health (CWH) a Proposition 1 Stormwater Technical Assistance (TA) Grant to provide technical assistance to underserved and disadvantaged communities (DAC) to develop, fund, and implement eligible drinking water, wastewater, stormwater, or groundwater projects to address their needs; and

WHEREAS, in 2017, the SWRCB awarded the City a Proposition 1 TA Grant to identify a project that would meet the City's storm water management objectives and needs with assistance from a TA team composed of technical, engineering, and landscape professionals; and

WHEREAS, as a result of this effort, the City identified a project that would reconstruct two existing collector streets within the West End area of the City to meet the City's objectives and needs which became the West End Stormwater Improvement Project on Contra Costa Street and Catalina Street (Project); and

WHEREAS, the Project will retrofit existing collector streets to integrate Low Impact Development (LID) strategies including bioretention facilities, permeable pavement, new storm drain infrastructure and routing, abandonment of existing storm drains at various locations, horizontal infiltration chambers, landscaping, and pedestrian and Americans with Disability Act (ADA) improvements, to address flood control, improve water quality, increase urban greening, augment groundwater supply through infiltration of treated storm water, and meet several community objectives; and

WHEREAS, under the Proposition 1 TA grant, the Contra Costa Street portion of the Project was taken to approximately 60% design while the Catalina Street portion was taken to approximately 30% design; and

WHEREAS, in January 2019, the Catalina Street portion of the Project was separated out and submitted for Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation grant funding through the Monterey Peninsula Water Management District (MPWMD); and

WHEREAS, Proposition 1, or the Water Quality, Supply, and Infrastructure Improvement Act of 2014, was established to assist in financing projects which are included in an adopted IRWM Plan which is a comprehensive guide for developing, prioritizing, and implementing coordinated water resource plans and projects to meet a planning region's changing needs and priorities, incorporate new developments in water resource management, and to respond to project solicitations from state and federal funding agencies; and

WHEREAS, on July 7, 2020, the Department of Water Resources (DWR) informed the MPWMD that it had approved a grant award of up to \$2,317,040 to fund four projects on the Monterey Peninsula, however, after the award of funds one of the four projects dropped out of the program and the City requested, and was approved to receive, additional funds up to \$1,097,400; and

WHEREAS, in order to complete the design of the Project and prepare construction documents, the City requires engineering and related services; and

WHEREAS, Sand City Municipal Code Chapter 12.18 Purchasing Procedures, section 12.18.050, allows the City to enter into a contract for professional services such as engineering, provided that the selection of professional services is based on the contractor's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required; and

WHEREAS, the civil engineers and landscape designer who successfully completed the conceptual through 30% design of the Project now work at GHD and RRM, respectively, and have the historical knowledge and demonstrated the competence and professional qualifications necessary for the satisfactory performance of the services required to complete the design; and

WHEREAS, GHD has submitted a proposal to the City in the amount of \$131,902 to provide engineering and related services to complete the Project design and prepare construction documents; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City, all of the following:

- 1) That the City Manager is hereby authorized to execute a Professional Service Agreement in substantially the same form as shown in Exhibit A with GHD to provide engineering and related services to complete the Project design and prepare construction documents; and

PASSED AND ADOPTED, by the City Council of the City of Sand City this 17th day of May, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST

Connie Horca, City Clerk

**CITY OF SAND CITY
PROFESSIONAL SERVICE AGREEMENT**

This PROFESSIONAL SERVICE AGREEMENT (PSA) FOR NON-CONSTRUCTION PROJECT ("AGREEMENT"), is made and effective as of [Month] [Day], 20XX, between the City of Sand City ("CITY"), a municipal corporation and _____ [a sole proprietorship, partnership, limited liability partnership, corporation] ("CONSULTANT"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

I. TERM

This AGREEMENT shall commence on _____ and shall remain and continue in effect until tasks described herein are completed, but in no event later than _____ unless sooner terminated pursuant to the provisions of this AGREEMENT.

II. SERVICES

CONSULTANT shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. CONSULTANT shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A. To the extent that Exhibit A is a proposal from CONSULTANT, such proposal is incorporated only for the description of the scope of services and no other terms and conditions from any such proposal shall apply to this AGREEMENT unless specifically agreed to in writing. Unless otherwise explicitly stated in Exhibit A, contractor shall at its sole cost and expense furnish all facilities and equipment which may be required for completing the tasks set forth in Exhibit A.

III. PERFORMANCE

CONSULTANT shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of CONSULTANT hereunder in meeting its obligations under this AGREEMENT.

IV. CITY MANAGEMENT

[City's Engineer] shall represent CITY in all matters pertaining to the administration of this AGREEMENT, review and approval of all products submitted by CONSULTANT, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to CONSULTANT. City's Engineer shall be authorized to act on CITY's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change CONSULTANT's compensation, subject to Section 5 hereof.

V. PAYMENT

- A. The CITY agrees to pay CONSULTANT [monthly], in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed _____ dollars (\$__.00) for the total term of the AGREEMENT unless additional payment is approved as provided in this AGREEMENT.
- B. CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. CONSULTANT shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and CONSULTANT at the time CITY's written authorization is given to CONSULTANT for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the AGREEMENT. Any additional work in excess of this amount shall be approved by the City Council of Sand City.
- C. CONSULTANT will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the CITY disputes any of CONSULTANT's fees it shall give written notice to CONSULTANT within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this AGREEMENT shall be made within forty-five (45) days of receipt of an invoice therefore.

VI. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

- A. The CITY may at any time, for any reason, with or without cause, suspend or terminate this AGREEMENT, or any portion hereof, by serving upon the CONSULTANT at least ten (10) days prior written notice. Upon receipt of said notice, the CONSULTANT shall immediately cease all work under this AGREEMENT, unless the notice provides otherwise. If the CITY suspends or terminates a portion of this AGREEMENT such suspension or termination shall not make void or invalidate the remainder of this AGREEMENT.
- B. In the event this AGREEMENT is terminated pursuant to this Section, the CITY shall pay to CONSULTANT the actual value of the work performed

up to the time of termination, provided that the work performed is of value to the CITY. Upon termination of the AGREEMENT pursuant to this Section, the CONSULTANT will submit an invoice to the CITY pursuant to Section 5.

VII. DEFAULT OF CONSULTANT

- A. The CONSULTANT's failure to comply with the provisions of this AGREEMENT shall constitute a default. In the event that CONSULTANT is in default for cause under the terms of this AGREEMENT, CITY shall have no obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and can terminate this AGREEMENT immediately by written notice to the CONSULTANT. If such failure by the CONSULTANT to make progress in the performance of work hereunder arises out of causes beyond the CONSULTANT's control, and without fault or negligence of the CONSULTANT, it shall not be considered a default.
- B. If the [City Engineer] or his/her designee determines that the CONSULTANT is in default in the performance of any of the terms or conditions of this AGREEMENT, he/she shall cause to be served upon the CONSULTANT a written notice of the default. The CONSULTANT shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the CONSULTANT fails to cure its default within such period of time or fails to present the CITY with a written plan for the cure of the default, the CITY shall have the right, notwithstanding any other provision of this AGREEMENT, to terminate this AGREEMENT without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this AGREEMENT.

VIII. OWNERSHIP OF DOCUMENTS

- A. CONSULTANT shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by CITY that relate to the performance of services under this AGREEMENT. CONSULTANT shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONSULTANT shall provide free access to the representatives of CITY or its designees at reasonable times to such books and records; shall give CITY the right to examine and audit said books and records; shall permit CITY to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this AGREEMENT. Such records, together with supporting

documents, shall be maintained for a period of three (3) years after receipt of final payment.

- B. Upon completion of, or in the event of termination or suspension of this AGREEMENT, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this AGREEMENT shall become the sole property of the CITY and may be used, reused, or otherwise disposed of by the CITY without the permission of the CONSULTANT. With respect to computer files, CONSULTANT shall make available to the CITY, at the CONSULTANT's office and upon reasonable written request by the CITY, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. CONSULTANT hereby grants to CITY all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by CONSULTANT in the course of providing the services under this AGREEMENT.

IX. INDEMNIFICATION AND DEFENSE

A. Indemnity

To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CITY and any and all of its officials, employees, consultants and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs, caused in whole or in part by the negligent or wrongful act, error or omission of CONSULTANT, its officers, agents, employees or subconsultants (or any agency or individual that CONSULTANT shall bear the legal liability thereof) in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify and hold harmless CITY shall not extend to the CITY's sole or active negligence.

B. Duty to defend

In the event the CITY, its officers, employees, agents and/or volunteers are made a party to any action, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this AGREEMENT, and upon demand by CITY, CONSULTANT shall defend the CITY at CONSULTANT's cost or at CITY's option, with counsel selected by CITY, to reimburse CITY for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters to the extent the matters arise from, relate to or are caused by CONSULTANT's negligent acts, errors or omissions. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and CITY, as to whether liability

arises from the sole or active negligence of the CITY or its officers, employees, or agents, CONSULTANT will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely or actively negligent. CONSULTANT will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

X. INSURANCE

CONSULTANT shall maintain prior to the beginning of and for the duration of this AGREEMENT insurance coverage as specified in Exhibit C attached to and part of this AGREEMENT.

XI. INDEPENDENT CONSULTANT

- A. CONSULTANT is and shall at all times remain as to the CITY a wholly independent consultant and/or independent contractor. The personnel performing the services under this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither CITY nor any of its officers, employees, or agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees, or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the CITY. CONSULTANT shall not incur or have the power to incur any debt, obligation, or liability whatever against CITY, or bind CITY in any manner.
- B. No employee benefits shall be available to CONSULTANT in connection with the performance of this AGREEMENT. Except for the fees paid to CONSULTANT as provided in the AGREEMENT, CITY shall not pay salaries, wages, or other compensation to CONSULTANT for performing services hereunder for CITY. CITY shall not be liable for compensation or indemnification to CONSULTANT for injury or sickness arising out of performing services hereunder.

XII. LEGAL RESPONSIBILITIES

The CONSULTANT shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this AGREEMENT. The CONSULTANT shall at all times observe and comply with all such laws and regulations. The CITY, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the CONSULTANT to comply with this Section.

XIII. UNDUE INFLUENCE

CONSULTANT declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the CITY in connection with the award, terms or implementation of this AGREEMENT, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the CITY has or will receive compensation, directly or indirectly, from CONSULTANT, or from any officer, employee or agent of CONSULTANT, in connection with the award of this AGREEMENT or any work to be conducted as a result of this AGREEMENT. Violation of this Section shall be a material breach of this AGREEMENT entitling the CITY to any and all remedies at law or in equity.

XIV. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of CITY, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this AGREEMENT.

XV. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

- A. All information gained by CONSULTANT in performance of this AGREEMENT shall be considered confidential and shall not be released by CONSULTANT without CITY's prior written authorization. CONSULTANT, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Engineer or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this AGREEMENT or relating to any project or property located within the CITY. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives CITY notice of such court order or subpoena.
- B. CONSULTANT shall promptly notify CITY should CONSULTANT, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this AGREEMENT and the work performed there under or with respect to any project or property located within the CITY, unless the CITY is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless CONSULTANT is prohibited by law from informing the CITY of such Discovery. CITY retains the right, but has no obligation, to represent CONSULTANT and/or be present at any

XVI. NOTICES

To CITY: City of Sand City
1 Pendergrass Way
Sand City, CA 93955
Attention: City Clerk

XVII. ASSIGNMENT

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termination or as may be otherwise agreed to in writing between CITY and the CONSULTANT. Before retaining or contracting with any consultant for any services under this AGREEMENT, CONSULTANT shall provide CITY with the identity of the proposed sub-consultant, a copy of the proposed written contract between CONSULTANT and such sub-consultant which shall include and indemnity provision similar to the one provided herein and identifying CITY as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed sub-consultant carries insurance at least equal to that required by this AGREEMENT or obtain a written waiver from CITY for such insurance.

XVIII. LICENSES

At all times during the term of this AGREEMENT, CONSULTANT shall have in full force and effect, all licenses required of it by law for the performance of the services described in this AGREEMENT.

XIX. GOVERNING LAW

The CITY and CONSULTANT understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this AGREEMENT and also govern the interpretation of this Agreement. Any litigation concerning this AGREEMENT shall be brought and maintained in the Superior Court of the State of California in and for the County of Monterey.

XX. ENTIRE AGREEMENT

This AGREEMENT contains the entire understanding between the parties relating to the obligations of the parties described in this AGREEMENT. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this AGREEMENT or with respect to the terms and conditions of this AGREEMENT, are merged into this AGREEMENT and shall be of no further force or effect. Each party is entering into this AGREEMENT based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

XXI. WORK SCHEDULED/TIME OF COMPLETION

Note to Leon: This section is optional and should be included only when the project is particularly time-sensitive, otherwise erase section.

CITY and CONSULTANT agree that time is of the essence in this AGREEMENT. CITY and CONSULTANT further agree that CONSULTANT's failure to perform on or at the times set forth in this AGREEMENT will damage and injure CITY, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, CITY and CONSULTANT agree that any failure to perform by

CONSULTANT at or within the times set forth herein shall result in liquidated damages of [Insert amount] dollars (\$__.00) per day for each and every day such performance is late or delayed. CITY and CONSULTANT agree that such sum is reasonable and fair. Furthermore, CITY and CONSULTANT agree that this AGREEMENT is subject to Government Code Section 53069.85 and that each party hereto is familiar with and understands the obligations of said Section of the Government Code.

XXII. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

CONSULTANT is bound by the contents of CITY's Request for Proposal, Exhibit "D" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the CONSULTANT, Exhibit "E" hereto. In the event of conflict, the requirements of CITY's Request for Proposals and this AGREEMENT shall take precedence over those contained in the CONSULTANT's proposals. The incorporation of the CONSULTANT's proposal shall be for the scope of services to be provided only, and any other terms and conditions included in such proposal shall have no force and effect on this AGREEMENT or the relationship between CONSULTANT and/or CITY, unless expressly agreed to in writing.

XXIII. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this AGREEMENT on behalf of CONSULTANT warrants and represents that he/she has the authority to execute this AGREEMENT on behalf of the CONSULTANT and has the authority to bind CONSULTANT to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

CONSULTANT

By: _____
(Signature)

(Typed Name)

(Title)

CITY OF SAND CITY

Aaron Blair, City Manager

ATTEST:

Connie Horca, City Clerk

APPROVED AS TO FORM:
City Attorney

By: _____

Attachments:	Exhibit A	Tasks to Be Performed
	Exhibit B	Payment Schedule
	Exhibit C	Insurance Requirements
	Exhibit D	Request for Proposal
	Exhibit E	Consultant's Proposal

EXHIBIT A

TASKS TO BE PERFORMED

[insert tasks; schedule of performance; equipment and facilities City will provide if any]

EXHIBIT B
PAYMENT SCHEDULE

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting CONSULTANT's indemnification of CITY, and prior to commencement of Work, CONSULTANT shall obtain, provide and maintain at its own expense during the term of this AGREEMENT, policies of insurance of the type and amounts described below and in a form satisfactory to CITY.

Note: Verify minimum limit for each coverage with City Manager.

General liability insurance. CONSULTANT shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. CONSULTANT shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this AGREEMENT, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Professional liability (errors & omissions) insurance. CONSULTANT shall maintain professional liability insurance that covers the Services to be performed in connection with this AGREEMENT, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this AGREEMENT and CONSULTANT agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this AGREEMENT.

Note: May need to delete workers' compensation and employer's liability insurance requirements for certain sole proprietorships, partnerships, or corporations without employees.

Workers' compensation insurance. CONSULTANT shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

CONSULTANT shall submit to CITY, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of CITY, its officers, agents, employees and volunteers.

Note: If the required limits for general liability, auto and employer's liability are \$1 million or less, the following paragraph may be omitted.

Umbrella or excess liability insurance. [Optional depending on limits required].

CONSULTANT shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrence of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Other provisions or requirements

Proof of insurance. CONSULTANT shall provide certificates of insurance to CITY as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with CITY at all times during the term of this contract. CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by CONSULTANT, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by CONSULTANT shall be primary and any insurance or self-insurance procured or maintained by CITY shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of CITY before the CITY's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this AGREEMENT does not comply with these specifications or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary

and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments. In the alternative, CITY may cancel this AGREEMENT.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against CITY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow CONSULTANT or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONSULTANT hereby waives its own right of recovery against CITY, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). CONSULTANT acknowledges and agrees that any actual or alleged failure on the part of the CITY to inform CONSULTANT of non-compliance with any requirement imposes no additional obligations on the CITY nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the CITY requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to CITY with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that CITY and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to CITY and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. CONSULTANT agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by CONSULTANT, provide the same minimum insurance coverage and endorsements required of CONSULTANT. CONSULTANT agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. CONSULTANT agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to CITY for review.

City's right to revise specifications. The CITY reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the CONSULTANT ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the CONSULTANT, the CITY and CONSULTANT may renegotiate CONSULTANT's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by CITY. CITY reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by CITY.

Timely notice of claims. CONSULTANT shall give CITY prompt and timely notice of claims made or suits instituted that arise out of or result from CONSULTANT's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. CONSULTANT shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

EXHIBIT D
REQUEST FOR PROPOSAL

EXHIBIT E
CONSULTANT'S PROPOSAL

**AGENDA ITEM
9C.**

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

**AGENDA ITEM
9D.**

Upcoming Events/Meetings