

REGULAR MEETING

JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY

TUESDAY, SEPTEMBER 7, 2021

5:30 PM

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

Regular Meeting - Tuesday, September 7, 2021
5:30 PM

THIS MEETING WILL BE HELD VIRTUALLY AND IS COMPLIANT WITH THE GOVERNOR'S EXECUTIVE ORDER N-29-20 ALLOWING FOR A DEVIATION OF TELECONFERENCE RULES REQUIRED BY THE BROWN ACT.
TO PARTICIPATE IN THE ZOOM COUNCIL MEETING LIVE:
https://us02web.zoom.us/j/4417277342
Meeting ID: 441 727 7342#
To participate telephonically by calling the number below:
(669) 900-6833
Meeting ID: 441 727 7342#
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.

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1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

3. ANNOUNCEMENTS BY MAYOR, CITY ATTORNEY, AND CITY STAFF

City Manager Memo
CityManagerMemo.pdf

4. 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 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.

5. 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. A Council member may request that any item be placed on the Regular Agenda for separate consideration.

5A. Approval of August 17, 2021 Sand City Council Meeting Minutes
8.17.21 Minutes.pdf

5B. Approval of City RESOLUTION Honoring Jacob's Heart Children's Cancer Support Services and Declaring September 2021 as Childhood Cancer Awareness Month in Sand City
Resolution. 2021 Jacobs Heart Childhood Cancer Awareness.pdf

5C. Acceptance of League of California Cities 2021 Annual Conference Resolutions
2021 League of California Cities Resolutions Packet.pdf

6. CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

7. PRESENTATION

7A. Presentation by Haley Brown of Jacobs Heart Cancer Support Services

8. PUBLIC HEARING

8A. Consideration of City RESOLUTION to Approve Coastal Development Permit 21-03 for Kelcon Construction for Storage Use of an Existing Commercial Building at 325 Elder Avenue (**this item continued from the August 3, 2021 Council meeting)**
Staff Report.Addendum 1 for Coastal Development Permit for Kelcon Construction.pdf
Attachment 1. July 13, 2021 Staff Report for CDP for Kelcon Contruction.pdf
Attachment 2 - Resolution. Approve CDP 21-03 for Kelcon Construction for Storage Use of an Existing Commercial Building at 325 Elder Avenue.pdf

8B. Consideration of City RESOLUTION Approving Conditional Use Permit 648 for Michael Worcester Authorizing a Glasswork Artist Studio at 769 Dias Avenue
Staff Report.Conditional Use Permit for Sand City Glassworks.pdf

Resolution. Approving CUP 648 for Michael Worcester Authorizing a Glasswork Artist Studio at 769 Dias Avenue.pdf

9. NEW BUSINESS

9A. Consideration of Successor Agency RESOLUTION Repealing Resolution No. SA 18-02 and Approving Reinstatement of a Loan Agreement between the City of Sand City and the Former Sand City Redevelopment Agency, Finding the Loan was made for Legitimate Redevelopment Purposes and Approving a Schedule for Repayment by the Successor Agency of the Amount of the Loan Used to Fund Payments under the Seaside Agreement

Staff Report. Successor Agency 1989 Loan Agreement Enforceable Obligation.pdf

Attachment 1 - Resolution. Approving Seaside Loan Repayment.pdf

Attachment 2 - Finding of Completion.pdf

Attachment 3 - Judgment Seaside Agreement.pdf

9B. Approval of Successor Agency RESOLUTION Approving the Amended Recognized Obligation Payment Schedule (ROPS 21-22B) for the Period January 1, 2022 through June 30, 2022 and Making Certain Findings in Connection Therewith

Staff Report. Successor Agency Amended ROPS 21-22B.pdf

Resolution. Approving the Successor Agency Amended ROPS 21-22B.pdf

9C. Discussion regarding COVID-19 vaccine mandates and whether to direct City staff to place on an upcoming City Council agenda an order requiring that City employees be either vaccinated against COVID-19 or submit to regular testing for COVID-19

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

City Manager Memo

MEMO

To: Honorable Mayor and City Council Members

From: Aaron Blair, City Manager

Date: August 30, 2021 (Meeting Date: September 7, 2021)

Re: City Manager Update

Committee Meetings:

1. There was an Art Committee meeting on 8/16.

City Capital Improvement Projects, Public Works:

1. Electrical Upgrades. Phase 2 of the upgrade project, server room, should begin in September.
2. Catalina Stormwater Grant. Grant awarded. Next steps including moving the design to a 60% completion.
3. Contra Costa Stormwater Grant. Grant awarded. Next steps including moving the design to a 90% completion.
4. West Bay Repairs. Design is complete. There is delay in materials.
5. Calabrese Park. We have two different projects in the works.
    a. CDBG funded ADA improvements (CDBG ADA matching Grant $90,000). The design is complete. We have added Pendergrass Way pavement improvements to this project. Look for it to go out to bid in September.
    b. Grant award for playground improvements: $177,952. Landscape designs are underway.
6. Cal Am/Sand City desal wells.
    a. This item is on hold for now.
7. Pavement Management Plan (PMP) –Several projects have been budgeted in the 5-year Capital Improvement Plan (CIP). Pendergrass Way has been budgeted in FY 21/22.

Sustainable Transportation Plan & Parking Plan

1. There was a sustainable transportation plan staff/EMC meeting on 9/2.

City Staff

1. Meetings:
    a. I attended the monthly Monterey Bay Area City Managers meeting on 8/20.
    b. Our monthly engineering and public works staff meeting to go over current projects was held on 8/19.
    c. I had a 3CE Board meeting on 8/11.
    d. John, Chuck, and I had a meeting with New Cities developers to discuss permitting and process on 8/4.
    e. We had our standing South of Tioga project meeting on 9/2.
    f. I had an MBASIA Board meeting on 8/4.
    g. Devon and I had an OPEB meeting on 8/16.
    h. I had meeting on 8/18 with TAMC to discuss the ROW through Sand City.
2. Website, Social Media, and Communications.
    a. City of Sand City Social Channels: @SandCityCA
        i. Facebook: 359 (+36) | Twitter: 117 (+2) | Instagram: 1262 (+100)
    b. The Sand City Art Committee (@SandCityArt)
        i. Facebook: 5 (new page) | Instagram: 1114 (+91)

Budget

1. First Quarter 2021 Sales Tax is up 16.3% above the first sales period in 2020.

Community Development

1. Building Services Department. Staff has been discussing a fee schedule update. The goal is to have something for Council to discuss in 2021.
2. Seaside Sanitation Upgrades. There is a planned sewer upsizing along Ortiz between Contra Costa and Holly. PGE has completed the relocation of a gas line along Ortiz to make way for the sewer upsizing. Sewer work will begin in September.
3. Public Art, Events, & Placemaking:
    a. we.murals
    b. 2021 West End Celebration.
4. South of Tioga.
    a. Demo began on 4/28.
5. Art Park – Implementation Phase.
6. McDonalds Remodel (Complete)
7. Ocean View Ave at Fell St. SFD (Under Construction)
8. 756 California Avenue (Complete)
9. 460 Elder Expansion (Permit Review)
10. Monterey Bay Shores (Site Work: On Hold)
11. 534 Shasta Commercial Building Expansion (Under Construction)
12. Monterey Bay Collection (Permit Review Coastal Commission)
13. Target Remodel (Under Construction)
14. Catalina Lofts (Under Construction)

15. Telsa Charging Stations (Edgewater – Complete)
16. Ashley Home Furniture (August 2021)
17. Total Wine and More (Permit Review - 2021)

TASK LIST (Quarter represents Fiscal Year)

Public Works/Engineering

- *CIP*-Calabrese Park Improvements A (1st & 2nd quarter FY 21/22)
- *CIP*-Pendergrass Way resurface (PMP -Pavement Management Program) (1st & 2nd quarter FY 21/22)
- *CIP*-West Bay Street Repair Project (1st and 2nd quarter FY 21/22)
- *CIP*-West End SW Improvement Projects (2021-2022)
    - Contra Costa St. (Grant Funding approved)
    - Catalina St. (Grant Funding approved)
- Sand City Water Supply Project (SCWSP) Phase 1 New Wells (2021)
- *CIP*-City Hall Electrical Service Updates (Phase 1 Complete)
- *CIP*-City Hall Improvements (1st quarter)
- *CIP*-Street sweeper replacement (Awaiting delivery)
- *CIP*-Dump Truck replacement (Awaiting delivery)
- *CIP*-TAMC Parcel Landscaping (1st and 2nd quarter FY 21/22)

Community Development/Planning

- *CIP*-Parking Strategy Plan (Implementation Phase)
- Sustainable Transportation Plan (Implementation Phase)
- Short-term rental ordinance (1st and 2nd quarter FY 21/22)
- Fee schedule Update: Fee Study (FY 21/22)
- Cannabis Ordinance (1st and 2nd quarter FY 21/22)

Economic Development

- Art Park (FY 2021/22)
- McDonalds Remodel (Complete)
- Ocean View Ave at Fell St. SFD (Under Construction)
- 756 California Avenue (Complete)
- 460 Elder Expansion (Permit Review)
- Monterey Bay Shores (Site Work: On Hold)
- 534 Shasta Commercial Building Expansion (Under Construction)
- Monterey Bay Collection (Permit Review Coastal Commission)
- Target Remodel (Under Construction)
- Catalina Lofts (Under Construction)
- Telsa Charging Stations (Edgewater – Complete)
- Ashley Home Furniture (August 2021)
- Total Wine and More (Permit Review - 2021)
- South of Tioga

- Community Finance District (Pending)
- Development Agreement (Executed)
- Sliver properties (Executed)
- Lot line Adjustment (Executed)
- Subdivision Improvement Agreement (pending)
- Final Map (pending)

AGENDA ITEM
5A.

Approval of August 17, 2021 Sand City Council Meeting Minutes

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

Regular Meeting - Tuesday, August 17, 2021
5:30 PM
As allowed per the State of California Governor's Executive Order N-29-20, this meeting was conducted in person and by teleconference

Mayor Carbone opened the meeting at 5:31 p.m.

The invocation was led by Reverend Robert Hellam.

AGENDA ITEM 1, **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Chief Brian Ferrante.

AGENDA ITEM 2, **ROLL CALL**

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

Staff: Aaron Blair, City Manager
Vibeke Norgaard, City Attorney
Connie Horca, City Clerk (virtual attendance)
Police Chief Brian Ferrante

AGENDA ITEM 3, **CLOSED SESSION**

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

5:34 p.m.

3A. City Council/Successor Agency Board to adjourn to Closed Session regarding:
1) Conference with legal counsel - anticipated litigation (Gov. Code section 54956.9(d)(2); (e)(1))

6:00 p.m.

3B. Re-adjourned to Open Session to report any action taken at the conclusion of Closed Session in accordance with Cal. Gov. Code section 54957.1

The Council received confidential legal advice from legal counsel. No action was taken.

{Council Member Cruz rejoined the virtual meeting.}

AGENDA ITEM 4, **ANNOUNCEMENTS BY MAYOR, CITY ATTORNEY, AND CITY STAFF**

City Attorney Norgaard announced that the Governor's orders regarding virtual meetings is due to expire on September 30, 2021 and provided updates on how meetings will be held following that time.

City Manager Blair provided information on the Ashley Store opening and expected timeline. He thanked everyone who attended the City Sparks event on Sunday.

Council Member Hawthorne reported on this attendance at the cornhole tournament.

Mayor Carbone thanked Shelby Gorman and City Manager Blair for their hard work.

AGENDA ITEM 5, **COMMUNICATIONS**

6:06 P.M. Floor opened for Public Comment.

There were no comments from the Public in person, via writing or through telecommunications on items not appearing on the agenda.

6:07 P.M. Floor closed for Public Comment.

AGENDA ITEM 6, **CONSENT CALENDAR**

6A. There was no discussion of the August 3, 2021 Council Meeting Minutes.

6B. There was no discussion of the City **Resolution** authorizing the City Manager to Enter into a Joint Exercise of Powers Agreement and Cooperation Agreement to Undertake or to Assist in the Undertaking of Essential Activities Pursuant to Title I of The Housing and Community Development Act of 1974, as Amended for the Period of July 1, 2022 to June 30, 2025.

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

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

There were no items pulled from the Consent Calendar.

AGENDA ITEM 8, **PRESENTATION**

8A. Presentation by Chris Cook, Director of Operations of California America Water Company on Water Supply Forecast

California-America Water Director of Operations Chris Cook presented a PowerPoint regarding the Water Supply & Drought Update. He provided historic information of water sources from the Seaside Basin and Carmel River, the Carmel River authorized diversions, Seaside basin water reduction, availability of other water supplies, and current California drought conditions. He reported on the reservoir levels from the Seaside Basin and Los Padres Dam, water shortage contingency plan, Carmel river pumping limits imposed, future supply and demand, and proposed water supply projects. He noted that water conservation is critical due to drought conditions.

Mr. Cook responded to Council Member Hawthorne's inquiry regarding Board positions and the need to support desalination projects.

Council Member Sofer thanked Mr. Cook for the presentation.

6:25 P.M. Floor opened for Public Comment.

Public Member Peter Monteer thanked the Council for allowing the presentation and spoke to the need for a long-term water supply.

Public Member Marc Kelly commented on the Pure Water Monterey expansion, need for desalination, and water supply issues.

Public Member John Tilley addressed the management issues of the Water Board and the timeliness of the Water District to consider a water supply project for the community.

6:33 P.M. Floor closed to Public Comment.

Mayor Carbone thanked Mr. Cook for the presentation and update, and mentioned that he is always welcome to make future presentations.

8B. Presentation and Update by Steve Vagnini on the 2021 West End Celebration

West End coordinator Steve Vagnini thanked the Council, City and Public Works Staff for all the work they have done in supporting the West End Celebration. He reported that there are 150 vendors spaced 6 feet apart, 30 city businesses participating, and 20 non-profits. There will be 4 stages, and a new footprint with 3 points of entry to address safety issues. He reported on the parking locations, availability of transportation to the event, safety protocols, and media coverage. He thanked the Mayor for gathering a team of volunteers, and that the event will kick off with the we.murals next week.

Council Member Cruz reiterated that this is an event the public is looking forward too with enthusiasm.

Council Member Hawthorne thanked Mr. Vagnini for a job well done and expects this to be a tremendous event benefitting the community.

Mayor Carbone added that the theme of “Art is Healing” is appropriate due to current events. She requested that Council Members consider serving at the City booth.

6:44 P.M. Floor opened for Public Comment.

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

6:44 P.M. Floor closed for Public Comment.

Mayor Carbone announced that the City Spark event will take place the 3rd Sunday of each month. She thanked Mr. Vagnini for the presentation and update.

AGENDA ITEM 9, **NEW BUSINESS**

9A. Discussion and Approval of mock-ups as part of the we. murals 2021

City Manager Blair reported that the public art policy, and as outlined in the in the we.murals 2021 property owner and artist agreements, mock-ups are to be brought to the Council for their consideration and approval. He conveyed that the international artists were unable to attend, and presented a few updated and modified murals previously approved, as well as visual mock-ups for murals located at 673 Ortiz Avenue and 1674 Catalina. The muralist will be priming and painting the walls beginning tomorrow. Staff recommends the approval of the new murals presented.

Council Member Hawthorne encouraged the Council and audience to observe the muralist at work.

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

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

6:59 P.M. Floor closed for Public Comment.

Motion to approve the mock-ups as recommended at the above locations was made by Council Member Sofer, seconded by Council Member Carbone. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

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

9B. Consideration of City RESOLUTION Approving a Subdivision Improvement Agreement for the South of Tioga Project and Rescinding prior Resolution SC 21-53

City Attorney Norgaard provided a brief history of the adoption of the Development Agreement (DA), and noted that the DA also required that Developer enter into a Subdivision Improvement Agreement (SIA). The Council adopted a Subdivision Improvement Agreement on July 6, 2021 by Resolution SC 21-53 for the Phase I Improvements which contained various provisions governing securities, public improvements, and the process for final inspection and acceptance by City. The Developer requested an amendment to the SIA prior to its execution due to Developer's internal business entity challenges. Lyles Diversified Inc. has represented to the City that it has agreed to enter into a separate guarantee to step into the shoes of DBO LLC if the revised SIA is found not to be enforceable, which will be executed at the same time as the SIA. Staff recommends approval to rescind the prior resolution and authorize the City Manager to execute the revised Subdivision Improvement Agreement.

Council Member Hawthorne commented that the agreement looks to cover the bases for the City, and inquired about the streets and public improvements.

Public Member Todd Sheller, Lyles Diversified Inc. Vice President of Investment commented on the progress of the development, the need to continue to move forward, and responded to Mr. Hawthorne’s inquiry regarding public improvements, streets, and landscaping.

7:10 P.M. Floor opened for Public Comment.

The Mayor requested City Manager Blair to read the public correspondence received.

Correspondence received from Mr. Blake Peters, Principal of New Cities Investment Partners included the good working relationship with the Lyles Team, their involvement in the efforts to help the City meet its RHNA goals and provide much needed affordable housing for current and future Sand City residents, and how vital it is to keep the project moving forward on schedule. He is supportive of Staff’s recommendation.

Correspondence received from Ebrahim K. Nakhjavani, President and CEO of EKN Development Inc., included comments regarding the investment of time and money to advance the project entitlements and construction plans. The demonstration of progress, transparency, and ramped up efforts for the preparation of architectural and engineering construction drawings following Lyles direct involvement. The SIA is a critical step to ensure the project moves forward expeditiously and encourages the Council to approve the amendment to the SIA.

Dan Silveri of Silveri Construction and Properties commented on his involvement with the project, working with Don Orosco many years ago, the necessity to keep

the project moving forward, protection of the habitat property, competitively priced units, and the efforts made by great people.

Council Member Hawthorne commented that Don Orosco was at the forefront of the project, that this project is his legacy, and would like the momentum to continue.

Patrick Orosco of DBO Development reiterated that the project was his father's legacy, and commented on the responsibility to ensure that it gets developed, and pleasure to see the Lyles organization making advancements on the site work.

Mayor Carbone commented that in past conversations with Don, he did mention that this was his legacy and desired to see it come to fruition.

Council Member Sofer expressed her appreciation to Patrick and Don, and that it would be wonderful to see this happen.

7:31 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** approving a Subdivision Improvement Agreement for the South of Tioga Project and Rescinding prior Resolution SC 21-53 was made by Council Member Hawthorne, seconded by Council Member Sofer. Roll call Vote AYES: Agency Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: Council Member Cruz. Motion carried.

AGENDA ITEM 10, **ADJOURNMENT**

Motion to adjourn the meeting was made by Council Member Hawthorne, seconded by Council Member Sofer. There was consensus of the City Council to adjourn the meeting at 7:35 p.m. to the next regularly scheduled council meeting on September 7, 2021 at 5:30 p.m.

_____

Connie Horca, City Clerk

AGENDA ITEM
5B.

Approval of City RESOLUTION Honoring Jacob's Heart Children's Cancer Support Services and Declaring September 2021 as Childhood Cancer Awareness Month in Sand City

CITY OF SAND CITY
RESOLUTION SC ____, 2021

HONORING JACOB'S HEART CHILDREN'S CANCER SUPPORT SERVICES AND DECLARING SEPTEMBER 2021 AS CHILDHOOD CANCER AWARENESS MONTH IN SAND CITY

WHEREAS, the character of our community is revealed in how we treat our most vulnerable; and

WHEREAS, each year, one in every 190 children in our community will be diagnosed with cancer; and

WHEREAS, cancer remains the leading cause of death by disease among children— more than asthma, diabetes, cystic fibrosis, congenital anomalies, and AIDS combined; and

WHEREAS, during the ongoing COVID-19 crisis Jacob's Heart has been keeping medically fragile children and families housed, fed and emotionally supported by steadfastly adhering to the following commitments: 1) Parents of children with cancer and other serious illnesses will be relieved of financial fears and able to focus attention on their children: 2) No child undergoing intensive treatment in our community will be homeless; 3) Families of seriously ill children will not experience food insecurity during and after the pandemic; and 4) No child seriously ill child in our community will ever miss a medical appointment because of a lack of transportation; and

WHEREAS, Jacob's Heart holds the memories and honors legacies of hundreds of children from our local community who have been lost to cancer, ensuring that their memories will never be forgotten; and

WHEREAS, the oncology department at Lucile Packard Children's Hospital at Stanford has worked closely with Jacob's Heart for the past 23 years as a trusted community partner in providing family-centered care that addresses the emotional, practical and financial struggles of families of children with cancer in Sand City; and

WHEREAS, it is important for all Sand City residents to recognize the impact of pediatric cancer on families within our community and honor the children in our community whose lives have been cut short by cancer.

NOW, THEREFORE, BE IT RESOLVED that the City declares September 2021, as Childhood Cancer Awareness Month in Sand City, and does hereby honor Jacob's Heart Children's Cancer Support Services for outstanding support to our community and acknowledge the organization's contributions to Childhood Cancer Awareness Month.

PASSED AND ADOPTED by the Sand City Council this ___, day of September, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

_____
Mary Ann Carbone, Mayor

_____
Connie Horca, City Clerk

AGENDA ITEM
5C.

Acceptance of League of California Cities 2021 Annual Conference Resolutions

LEAGUE OF CALIFORNIA CITIES

Annual Conference Resolutions Packet

2021 Annual Conference Resolutions



September 22 - 24, 2021

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League of California Cities (Cal Cities) bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to Cal Cities policy committees.

POLICY COMMITTEES: Three policy committees will meet virtually one week prior to the Annual Conference to consider and take action on the resolutions. The sponsors of the resolutions have been notified of the time and location of the meetings.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 23, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of Cal Cities regional divisions, functional departments, and standing policy committees, as well as other individuals appointed by the Cal Cities president. Please check in at the registration desk for room location.

CLOSING LUNCHEON AND GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 24, at the SAFE Credit Union Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a petition resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Closing Luncheon & General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 23. Resolutions can be viewed on Cal Cities Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond mdesmond@calcities.org.

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within Cal Cities. The principal means for deciding policy on the important issues facing cities is through Cal Cities seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop Cal Cities policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.

2. The issue is not of a purely local or regional concern.

3. The recommended policy should not simply restate existing Cal Cities policy.

4. The resolution should be directed at achieving one of the following objectives:

   (a) Focus public or media attention on an issue of major importance to cities.

   (b) Establish a new direction for Cal Cities policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.

   (c) Consider important issues not adequately addressed by the policy committees and board of directors.

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3

1 - Policy Committee Recommendation to General Resolutions Committee
2 - General Resolutions Committee
3 - General Assembly

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

REVENUE & TAXATION POLICY COMMITTEE

		1	2	3
1	Online Sales Tax Equity			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

ACTION FOOTNOTES

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

KEY TO ACTIONS TAKEN

A	Approve
D	Disapprove
N	No Action
R	Refer to appropriate policy committee for study
a	Amend+
Aa	Approve as amended+
Aaa	Approve with additional amendment(s)+
Ra	Refer as amended to appropriate policy committee for study+
Raa	Additional amendments and refer+
Da	Amend (for clarity or brevity) and Disapprove+
Na	Amend (for clarity or brevity) and take No Action+
W	Withdrawn by Sponsor

Procedural Note:
The League of California Cities resolution process at the Annual Conference is guided by the Cal Cities Bylaws.

1. **RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION**

Source: City of Rancho Cucamonga
Concurrence of five or more cities/city officials:
Cities: Town of Apple Valley; City of El Cerrito; City of La Canada Flintridge; City of La Verne; City of Lakewood; City of Moorpark; City of Placentia; City of Sacramento
Referred to: Revenue and Taxation Policy Committee

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city where the warehouse fulfillment center is located as opposed to going into a countywide pool that is shared with all jurisdictions in that County, as was done previously; and

WHEREAS, this all-or-nothing change for the allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue from the retailer that was once spread amongst all cities in countywide pools is now concentrated in select cities that host a fulfillment center; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting a 1 million square foot fulfillment center, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their RHNA obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering product from that center now receive no revenue from the center's sales activity despite also experiencing the impacts created by the center, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

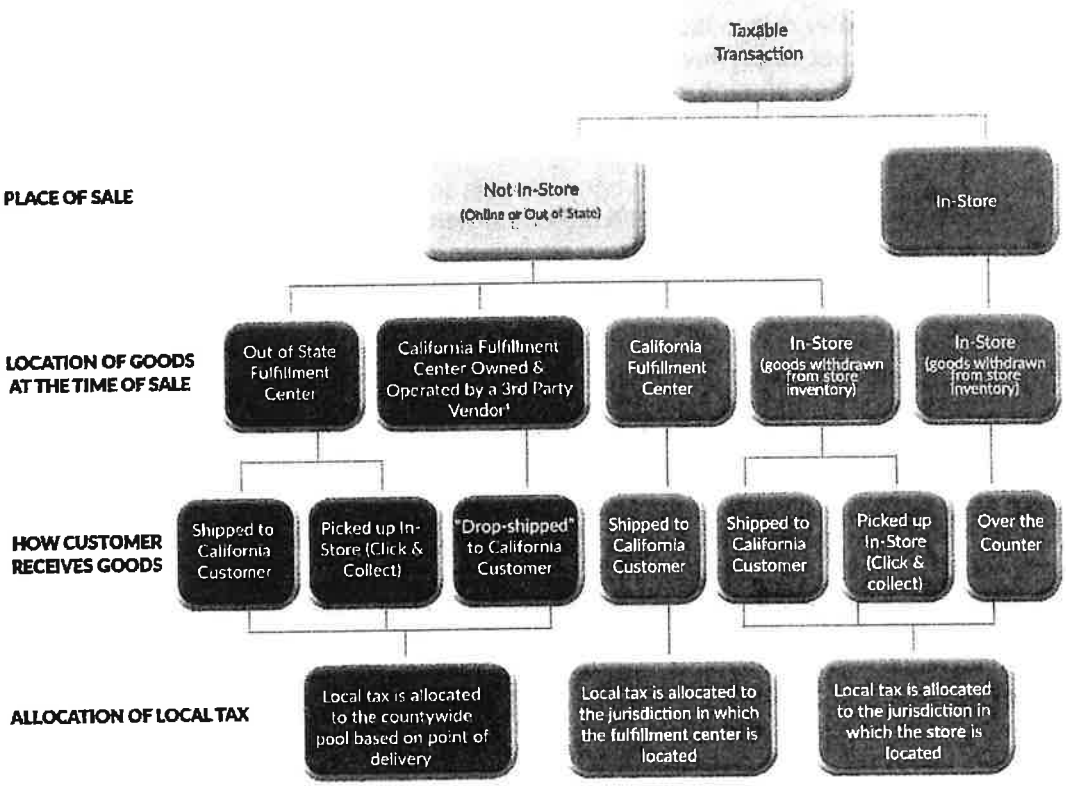
Background Information to Resolution

Source: City of Rancho Cucamonga

Background:
Sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries.

Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances. The California Department of Tax and Fee Administration (CDTFA) is responsible for administering this system and issuing rules regarding how it is applied in our state.

The following chart created by HdL Companies, the leading provider of California sales tax consulting, illustrates the complex structure of how sales and use tax allocation is done in California, depending on where the transaction starts, where the goods are located, and how the customer receives the goods:



[1] *In this scenario the retailer does not own a stock of goods in California and sales orders are negotiated/processed out of state. An out of state company is not required to hold a seller's permit for an in-state third party warehouse if they do not own a stock of goods at the time of sale.*

With the exponential growth of online sales and the corresponding lack of growth, and even decline, of shopping at brick and mortar locations, cities are seeing much of their sales tax

growth coming from the countywide sales tax pools, since much of the sales tax is now funneled to the pools.

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated. Following the chart above, previously much of the sales tax would have followed the green boxes on the chart and been allocated to the countywide pool based on point of delivery. Now, much of the tax is following the blue path through the chart and is allocated to the jurisdiction in which the fulfillment center is located. (It should be noted that some of the tax is still flowing to the pools, in those situations where the fulfillment center is shipping goods for another seller that is out of state.)

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers.

This has brought to light again the need to address the issues in how sales and use taxes are distributed in the 21st century. Many, if not most cities will never have the opportunity have a warehouse fulfillment center due to lack of space or not being situated along a major travel corridor. These policies especially favor retailers who may leverage current policy in order to negotiate favorable sales tax sharing agreements, providing more money back to the retailer at the expense of funding critical public services.

With that stated, it is important to note the many impacts to the jurisdictions home to the fulfillment centers. These centers do support the ecommerce most of us as individuals have come to rely on, including heavy wear and tear on streets – one truck is equal to about 8,000 cars when it comes to impact on pavement – and increased air pollution due to the truck traffic and idling diesel engines dropping off large loads. However, it is equally important that State policies acknowledge that entities without fulfillment centers also experience impacts from ecommerce and increased deliveries. Cities whose residents are ordering products that are delivered to their doorstep also experience impacts from traffic, air quality and compromised safety, as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping. These cities are rightfully entitled to compensation in an equitable share of sales and use tax. We do not believe that online sales tax distribution between fulfillment center cities and other cities should be an all or nothing endeavor, and not necessarily a fifty-fifty split, either. But we need to find an equitable split that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

Over the years, Cal Cities has had numerous discussions about the issues surrounding sales tax in the modern era, and how state law and policy should be revisited to address these issues. It is a heavy lift, as all of our cities are impacted a bit differently, making consensus difficult. We believe that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.

It is for these reasons, that we should all aspire to develop an equitable sales tax distribution for online sales.

LETTERS OF CONCURRENCE

Resolution No. 1

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The Town of Apple Valley strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool. Now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents.

We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the Town of Apple Valley concurs that the resolution should go before the General Assembly. If you have any questions regarding the Town's position in this matter, please do not hesitate to contact the Town Manager at 760-240-7000 x 7051.

Sincerely,



Curt Emick
Mayor

July 21, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Letter of Support for the City of Rancho Cucamonga's Resolution for Fair and Equitable Distribution of the Bradley Burns 1% Local Sales Tax

Dear President Walker:

The City of El Cerrito supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Previously, all sales tax revenue generated by this retailer's sales went into a countywide pool and was distributed amongst the jurisdictions in the pool; now the revenue from in-state sales goes entirely to the city where the fulfillment center is located and the packages are shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities such as El Cerrito who have no chance of ever obtaining a fulfillment center as we are a built out, four square mile, small city. Additionally, cities not situated along major travel corridors and no/low property tax cities that rely on sales tax revenue are especially impacted, as well as cities struggling to build much needed affordable housing that may require rezoning commercial parcels in order to meet their RHNA allocations.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies serve to divide local agencies, exacerbate already difficult municipal finances, and in the end results in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of El Cerrito concurs that the resolution should go before the General Assembly.

Sincerely,



Paul Fadelli, Mayor
City of El Cerrito

cc: El Cerrito City Council
City of Rancho Cucamonga

City Council
Terry Walker, Mayor
Keith Eich, Mayor Pro Tem
Jonathan C. Curtis
Michael T. Davitt
Richard B. Gunter III

CITY OF LA CAÑADA FLINTRIDGE

July 14, 2021

Ms. Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Cañada Flintridge strongly supports the City of Rancho Cucamonga's effort to introduce a resolution for consideration by the General Assembly at CalCITIES' 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1% Bradley Burns local tax revenue (sales tax) from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool, as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as an out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the jurisdiction where the fulfillment center is located and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state transactions even though their packages are delivered to locations within those cities' borders and paid for by residents in those locations. Cities that abut jurisdictions with fulfillment centers experience fulfillment centers' impacts just as much, such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers, that was once spread amongst all cities in countywide pools, is now concentrated in select cities fortunate enough to host a fulfillment center. This benefits only those few hosting jurisdictions and is particularly unfair to cities who have no chance of ever hosting a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely heavily on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably eager to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances and, in the end, result in a net loss of local government sales tax proceeds that simply serve to make private

One Civic Center Drive, La Cañada Flintridge, CA 91011 • (818) 790-8880 • Fax (818) 790-7536
www.lcf.ca.gov

sector businesses even more profitable at the expense of cities' residents. We should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Cañada Flintridge concurs that the proposed resolution should go before the General Assembly.

Sincerely,

Terry M. Walker

Terry Walker
Mayor

CITY OF LA VERNE
CITY HALL
3660 "D" Street, La Verne, California 91750-3599
www.cityoflaverne.org

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Verne strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities which have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are

especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exacerbate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Verne concurs that the resolution should go before the General Assembly.

Sincerely,



Bob Russi
City Manager
City of La Verne

Steve Croft
Vice Mayor

Todd Rogers
Council Member

Jeff Wood
Mayor

July 15, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Lakewood strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities that have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Lakewood concurs that the resolution should go before the General Assembly.

Sincerely,

Jeff Wood
Mayor

Lakewood

5050 Clark Avenue, Lakewood, CA 90712 • (562) 866-9771 • Fax (562) 866-0505 • www.lakewoodcity.org • Email: service1@lakewoodcity.org

CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021
Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 14, 2021

TRANSMITTED ELECTRONICALLY

Cheryl Viegas-Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Moorpark strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies of the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates both as an in-state online retailer and as an out-of-state online retailer. Whereas all sales tax revenues generated by this retailer's sales previously went into countywide pools and were distributed amongst the jurisdictions in the pool, sales tax revenues from in-state sales now go entirely to the city where the fulfillment center is located and the package is shipped from. Cities that do not have a fulfillment center now receive no sales tax revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and deteriorating road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenues from large online retailers that were once spread amongst all cities in countywide pools are now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted, as well as

JANICE S. PARVIN, Mayor | DR. ANTONIO CASTRO, Councilmember | CHRIS ENEGREN, Councilmember | DANIEL GROFF, Councilmember | DAVID POLLOCK, Councilmember

cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone limited commercial properties for residential land uses.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and ultimately result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses more profitable at the expense of everyone's residents. We can do better than this, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Moorpark concurs that the resolution should go before the General Assembly at the 2021 Annual Conference in Sacramento.

Sincerely,



Janice S. Parvin
Mayor

cc: City Council
City Manager

The People are the City

Mayor
CRAIG S. GREEN

Mayor Pro Tem
CHAD P. WANKE

Councilmembers:
RHONDA SHADER
WARD L. SMITH
JEREMY B. YAMAGUCHI

City Clerk:
ROBERT S. MCKINNELL

City Treasurer
KEVIN A. LARSON

City Administrator
DAMIEN R. ARRULA

401 East Chapman Avenue – Placentia, California 92870

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Placentia strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent (1%) Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The

current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Placentia concurs that the resolution should go before the General Assembly. Should you have any questions regarding this letter, please contact me at (714) 993-8117 or via email at administration@placentia.org.

Sincerely,

Damien R. Arrula
City Administrator

SACRAMENTO
Office of the City Manager

Leyne Milstein
Assistant City Manager

City Hall
915 I Street, Fifth Floor
Sacramento, CA 95814-2604
916-808-5704

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Sacramento strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment

Leyne Milstein
Assistant City Manager

City Hall
915 I Street, Fifth Floor
Sacramento, CA 95814-2604
916-808-5704

center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Sacramento concurs that the resolution should go before the General Assembly.

Sincerely,

Leyne Milstein (Jul 19, 2021 14:48 PDT)

Leyne Milstein
Assistant City Manager

League of California Cities Staff Analysis on Resolution No. 1

Staff: Nicholas Romo, Legislative Affairs, Lobbyist

Committee: Revenue and Taxation

Summary:
This Resolution calls on the League of California Cities (Cal Cities) to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Background:
The City of Rancho Cucamonga is sponsoring this resolution to *"address the issues in how sales and use taxes are distributed in the 21st century."*

The City notes that *"sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries. Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances.*

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated.

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers."

The City's resolution calls for action on an unspecified solution that *"rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction,"* which aims to acknowledge the actions taken by cities to alleviate poverty, catalyze economic development, and improve financial stability within their communities through existing tax sharing and zoning powers.

Ultimately, sponsoring cities believe *"that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger."*

Sales and Use Tax in California

The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property (taxable goods). This tax rate currently is fixed at 1.25% of the sales price of taxable goods sold at retail locations in a local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% of the tax to support general operations, while the remaining 0.25% is used for county transportation purposes.

In California, all cities and counties impose Bradley-Burns sales taxes. California imposes the sales tax on every retailer engaged in business in this state that sells taxable goods. The law requires businesses to collect the appropriate tax from the purchaser and remit the amount to the California Department of Tax and Fee Administration (CDTFA). Sales tax applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business. Unless the person pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming taxable goods in the state. The use tax rate is the same rate as the sales tax rate.

Generally, CDTFA distributes Bradley-Burns tax revenue based on where a sale took place, known as *a situs-based system*. A retailer's physical place of business—such as a retail store or restaurant—is generally the place of sale. "Sourcing" is the term used by tax practitioners to describe the rules used to determine the place of sale, and therefore, which tax rates are applied to a given purchase and which jurisdictions are entitled to the local and district taxes generated from a particular transaction.

California is primarily an origin-based sourcing state – meaning tax revenues go to the jurisdiction in which a transaction physically occurs if that can be determined. However, California also uses a form of destination sourcing for the local use tax and for district taxes (also known as "transactions and use taxes" or "add-on sale and use taxes"). That is, for cities with local add-on taxes, they receive their add-on rate amount from remote and online transactions.

Generally, allocations are based on the following rules:

- The sale is sourced to the place of business of the seller - whether the product is received by the purchaser at the seller's business location or not.
- If the retailer maintains inventory in California and has no other in state location, the source is the jurisdiction where the warehouse is situated. *This resolution is concerned with the growing amount of online retail activity being sourced to cities with warehouse/fulfillment center locations.*
- If the business' sales office is located in California but the merchandise is shipped from out of state, the tax from transactions under $500,000 is allocated

via the county pools. The tax from transactions over $500,000 is allocated to the jurisdiction where the merchandise is delivered.

- When a sale cannot be identified with a permanent place of business in the state, the sale is sourced to the allocation pool of the county where the merchandise was delivered and then distributed among all jurisdictions in that county in proportion to ratio of sales. *For many large online retailers, this has been the traditional path.*

Online Sales and Countywide Pools

While the growth of e-commerce has been occurring for more than two decades, led by some of the largest and most popular retailers in the world, the dramatic increase in online shopping during the COVID-19 pandemic has provided significant revenue to California cities as well as a clearer picture on which governments enjoy even greater benefits.

In the backdrop of booming internet sales has been the steady decline of brick-and-mortar retail and shopping malls. For cities with heavy reliance on in-person retail shopping, the value of the current allocation system has been diminished as their residents prefer to shop online or are incentivized to do so by retailers (during the COVID-19 pandemic, consumers have had no other option but to shop online for certain goods). All the while, the demands and costs of city services continue to grow for cities across the state.

As noted above, the allocation of sales tax revenue to local governments depends on the location of the transaction (or where the location is ultimately determined). For in-person retail, the sales tax goes to the city in which the product and store are located - a customer purchasing at a register. For online sales, the Bradley Burns sales tax generally goes to a location other than the one where the customer lives – either to the city or county where an in-state warehouse or fulfillment center is located, the location of in-state sales office (ex. headquarters) or shared as use tax proceeds amongst all local governments within a county based on their proportionate share of taxable sales.

Under current CDTFA regulations, a substantial portion of local use tax collections are allocated through a countywide pool to the local jurisdictions in the county where the property is put to its first functional use. The state and county pools constitute over 15% of local sales and use tax revenues. Under the pool system, the tax is reported by the taxpayer to the countywide pool of use and then distributed to each jurisdiction in that county on a pro-rata share of taxable sales. If the county of use cannot be identified, the revenues are distributed to the state pool for pro-rata distribution on a statewide basis.

Concentration of Online Sales Tax Revenue and Modernization

Sales tax modernization has been a policy goal of federal, state, and local government leaders for decades to meet the rapidly changing landscape of commercial activity and ensure that all communities can sustainably provide critical services.

For as long as remote and internet shopping has existed, policy makers have been concerned about their potential to disrupt sales and use tax allocation procedures that underpin the funding of local government services. The system was designed in the early twentieth century to ensure that customers were paying sales taxes to support local government services within the community where the transactions occurred whether they resided there or not. This structure provides benefit to and recoupment for the public resources necessary to ensure the health and safety of the community broadly.

City leaders have for as long been concerned about the loosening of the nexus between what their residents purchase and the revenues they receive. Growing online shopping, under existing sourcing rules, has led to a growing concentration of sales tax revenue being distributed to a smaller number of cities and counties. As more medium and large online retailers take title to fulfillment centers or determine specific sales locations in California as a result of tax sharing agreements in specific cities, online sales tax revenue will be ever more concentrated in a few cities at the control of these companies. Furthermore, local governments are already experiencing the declining power of the sales tax to support services as more money is being spent on non-taxable goods and services.

For more on sales and use tax sourcing please see Attachment A.

State Auditor Recommendations

In 2017, the California State Auditor issued a report titled, "The Bradley-Burns Tax and Local Transportation Funds, noting that:

"Retailers generally allocate Bradley Burns tax revenue based on the place of sale, which they identify according to their business structure. However, retailers that make sales over the Internet may allocate sales to various locations, including their warehouses, distribution center, or sales offices. This approach tends to concentrate Bradley Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Consequently, counties with a relatively large amount of industrial space may receive disproportionately larger amounts of Bradley Burns tax, and therefore Local Transportation Fund, revenue.

The State could make its distribution of Bradley Burns tax revenue derived from online sales more equitable if it based allocations of the tax on the destinations to which goods are shipped rather than on place of sale."

The Auditor's report makes the following recommendation:

"To ensure that Bradley-Burns tax revenue is more evenly distributed, the Legislature should amend the Bradley-Burns tax law to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale."

In acknowledgement of the growing attention from outside groups on this issue, Cal Cities has been engaged in its own study and convening of city officials to ensure pursued solutions account for the circumstances of all cities and local control is best protected. These efforts are explored in subsequent sections.

Cal Cities Revenue and Taxation Committee and City Manager Working Group
In 2015 and 2016, Cal Cities' Revenue and Taxation Policy Committee held extensive discussions on potential modernization of tax policy affecting cities, with a special emphasis on the sales tax. The issues had been identified by Cal Cities leadership as a strategic priority given concerns in the membership about the eroding sales tax base and the desire for Cal Cities to take a leadership role in addressing the associated issues. The policy committee ultimately adopted a series of policies that were approved by the Cal Cities board of directors. Among its changes were a recommended change to existing sales tax sourcing (determining where a sale occurs) rules, so that the point of sale (situs) is where the customer receives the product. The policy also clarifies that specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood. See "Existing Cal Cities Policy" section below.

Cal Cities City Manager Sales Tax Working Group Recommendations
In the Fall of 2017, the Cal Cities City Managers Department convened a working group (Group) of city managers representing a diverse array of cities to review and consider options for addressing issues affecting the local sales tax.

The working group of city managers helped Cal Cities identify internal common ground on rapidly evolving e-commerce trends and their effects on the allocation of local sales and use tax revenue. After meeting extensively throughout 2018, the Group made several recommendations that were endorsed unanimously by Cal Cities' Revenue and Taxation Committee at its January, 2019 meeting and by the board of directors at its subsequent meeting.

The Group recommended the following actions in response to the evolving issues associated with e-commerce and sales and use tax:

Further Limiting Rebate Agreements: The consensus of the Group was that:

- Sales tax rebate agreements involving online retailers should be prohibited *going forward*. They are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.
- Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited *going forward.* Existing law already prohibits such agreements for auto dealers and big box stores.

Shift Use Tax from Online Sales, including from the South Dakota v. Wayfair Decision Out of County Pools: The Group's recommendation is based first on the principle of "situs" and that revenue should be allocated to the jurisdiction where the use occurs. Each city and county in California imposed a Bradley Burns sales and use tax rate

under state law in the 1950s. The use tax on a transaction is the rate imposed where the purchaser resides (the destination). These use tax dollars, including new revenue from the South Dakota v. Wayfair decision, should be allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

- Shift of these revenues, from purchases from out of state retailers including transactions captured by the South Dakota v. Wayfair decision, out of county pools to full destination allocation on and after January 1, 2020.
- Allow more direct reporting of use taxes related to construction projects to jurisdiction where the construction activity is located by reducing existing regulatory threshold from $5 million to $100,000.

Request/Require CDTFA Analysis on Impacts of Sales Tax Destination Shifts: After discussion of numerous phase-in options for destination sourcing and allocation for sales taxes, the Group ultimately decided that a more complete analysis was needed to sufficiently determine impacts. Since the two companies most cities rely on for sales tax analysis, HdL and MuniServices, were constrained to modeling with transaction and use tax (district tax) data, concerns centered on the problem of making decisions without adequate information. Since the CDTFA administers the allocation of local sales and use taxes, it is in the best position to produce an analysis that examines:

- The impacts on individual agencies of a change in sourcing rules. This would likely be accomplished by developing a model to examine 100% destination sourcing with a report to the Legislature in early 2020.
- The model should also attempt to distinguish between business-to-consumer transactions versus business-to-business transactions.
- The model should analyze the current number and financial effects of city and county sales tax rebate agreements with online retailers and how destination sourcing might affect revenues under these agreements.

Conditions for considering a Constitutional Amendment that moves toward destination allocation: Absent better data on the impacts on individual agencies associated with a shift to destination allocation of sales taxes from CDTFA, the Group declined to prescribe if/how a transition to destination would be accomplished; the sentiment was that the issue was better revisited once better data was available. In anticipation that the data would reveal significant negative impacts on some agencies, the Group desired that any such shift should be accompanied by legislation broadening of the base of sales taxes, including as supported by existing Cal Cities policy including:

- Broadening the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed; and
- Expanding the sales tax base to services, such as those commonly taxed in other states.

This Resolution builds upon previous work that accounts for the impacts that distribution networks have on host cities and further calls on the organization to advocate for changes to sales tax distribution rules.

The Resolution places further demands on data collected by CDTFA to establish a "fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases." Such data is proposed to be collected by SB 792 (Glazer, 2021). More discussion on this topic can be found in the "Staff Comments" section.

Staff Comments:

Proposed Resolution Affixes Equity Based, Data Driven Approach to Existing Cal Cities Policy on Sales Tax Sourcing

The actions resulting from this resolution, if approved, would align with existing policy and efforts to-date to modernize sales tax rules. While not formalized in existing Cal Cities policy or recommendations, city managers and tax practitioners generally have favored proposals that establish a sharing of online sales tax revenues rather than a full destination shift. City leaders and practitioners across the state have acknowledged during Cal Cities Revenue and Taxation and City Manager's working group meetings that the hosting of fulfillment centers and ancillary infrastructure pose major burdens on local communities including detrimental health and safety impacts. This acknowledgement has moved mainstream proposals such as this one away from full revenue shifts towards an equity-based, data driven approach that favors revenue sharing. This Resolution would concretely affix this approach as Cal Cities policy.

More Data is Needed to Achieve Equity Based Approach

A major challenge is the lack of adequate data to model the results of shifting in-state online sale tax revenues. Local government tax consultants and state departments have limited data to model the effects of changes to sales tax distribution because their information is derived only from cities that have a local transactions and use tax (TUT). Tax experts are able to model proposed tax shifts using TUTs since they are allocated on a destination basis (where a purchaser receives the product; usually a home or business). However, more than half of all cities, including some larger cities, do not have a local TUT therefore modeling is constrained and incomplete.

Efforts to collect relevant sales tax information on the destination of products purchased online are ongoing. The most recent effort is encapsulated in SB 792 (Glazer, 2021), which would require retailers with online sales exceeding $50 million a year to report to CDTFA the gross receipts from online sales that resulted in a product being shipped or delivered in each city. The availability of this data would allow for a much more complete understanding of online consumer behavior and the impacts of future proposed changes to distribution. SB 792 (Glazer) is supported by Cal Cities following approval by the Revenue and Taxation Committee and board of directors.

Impact of Goods Movement Must Be Considered

As noted above, city leaders and practitioners across the state acknowledge that the hosting of fulfillment centers and goods movement infrastructure pose major burdens on local communities including detrimental health, safety, and infrastructure impacts. Not least of which is the issue of air pollution from diesel exhaust. According to California Environmental Protection Agency (Cal EPA):

"Children and those with existing respiratory disease, particularly asthma, appear to be especially susceptible to the harmful effects of exposure to airborne PM from diesel exhaust, resulting in increased asthma symptoms and attacks along with decreases in lung function (McCreanor et al., 2007; Wargo, 2002). People that live or work near heavily-traveled roadways, ports, railyards, bus yards, or trucking distribution centers may experience a high level of exposure (US EPA, 2002; Krivoshto et al., 2008). People that spend a significant amount of time near heavily-traveled roadways may also experience a high level of exposure. Studies of both men and women demonstrate cardiovascular effects of diesel PM exposure, including coronary vasoconstriction and premature death from cardiovascular disease (Krivoshto et al., 2008). A recent study of diesel exhaust inhalation by healthy non-smoking adults found an increase in blood pressure and other potential triggers of heart attack and stroke (Krishnan et al., 2013) Exposure to diesel PM, especially following periods of severe air pollution, can lead to increased hospital visits and admissions due to worsening asthma and emphysema-related symptoms (Krivoshto et al., 2008). Diesel exposure may also lead to reduced lung function in children living in close proximity to roadways (Brunekreef et al., 1997)."

The founded health impacts of the ubiquitous presence of medium and heavy-duty diesel trucks used to transport goods to and from fulfillment centers and warehouses require host cities to meet increased needs of their residents including the building and maintenance of buffer zones, parks, and open space. While pollution impacts may decline with the introduction of zero-emission vehicles, wide scale adoption by large distribution fleets is still in its infancy. Furthermore, the impacts of heavy road use necessitate increased spending on local streets and roads upgrades and maintenance. In addition, many cities have utilized the siting of warehouses, fulfillment centers, and other heavy industrial uses for goods movements as key components of local revenue generation and economic development strategies. These communities have also foregone other land uses in favor of siting sales offices and fulfillment networks.

All said, however, it is important to acknowledge that disadvantaged communities (DACs) whether measured along poverty, health, environmental or education indices exist in cities across the state. For one example, see: California Office of Environmental Health Hazard Assessment (OEHHA) CalEnviroScreen. City officials may consider how cities without fulfillment and warehouse center revenues are to fund efforts to combat social and economic issues, particularly in areas with low property tax and tourism-based revenues.

The Resolution aims to acknowledge these impacts broadly (this analysis does not provide an exhaustive review of related impacts) and requests Cal Cities to account for them in a revised distribution formula of the Bradley Burns 1% local sales tax from in-state online purchases. The Resolution does not prescribe the proportions.

Clarifying Amendments

Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. *To review the proposed changes, please see Attachment B.*

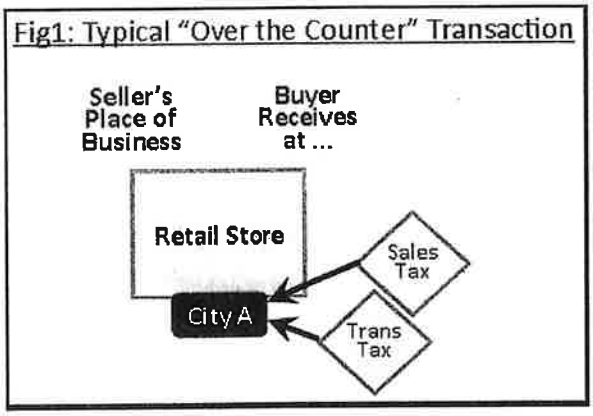
Fiscal Impact:
Significant but unknown. The Resolution on its own does not shift sales tax revenues. In anticipation and mitigation of impacts, the Resolution requests Cal Cities to utilize online sales tax data to identify a fair and equitable distribution formula that accounts for the broad impacts fulfillment centers involved in online retail have on the cities that host them. The Resolution does not prescribe the revenue distribution split nor does it prescribe the impacts, positive and negative, of distribution networks.

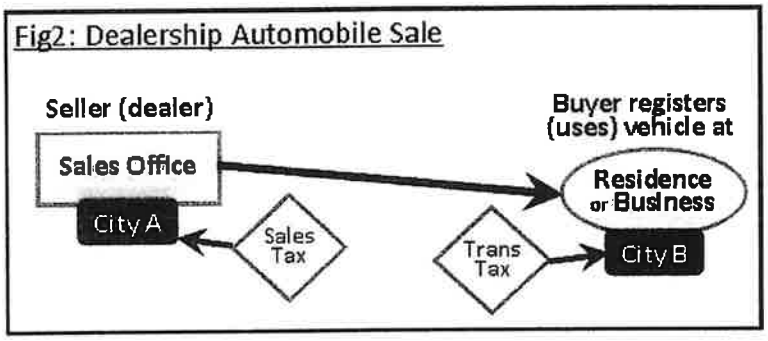
Existing Cal Cities Policy:

- Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.
- Support as Cal Cities policy that point of sale (situs) is where the customer receives the product. Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.
- Revenue from new regional or state taxes or from increased sales tax rates should be distributed in a way that reduces competition for situs-based revenue. (Revenue from the existing sales tax rate and base, including future growth from increased sales or the opening of new retail centers, should continue to be returned to the point of sale.)
- The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected.
- Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities, when the physical location of the affected businesses does not change. Sales tax rebate agreements involving online retailers are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one. Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward.
- Support Cal Cities working with the state California Department of Tax and Fee Administration (CDTFA) to update the county pool allocation process to ensure that more revenues are allocated to the jurisdiction where the purchase or first use of a product occurs (usually where the product is delivered). Use Tax collections from online sales, including from the South Dakota v Wayfair Decision, should be shifted out of county pools and allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

Support:
The following letters of concurrence were received:
Town of Apple Valley
City of El Cerrito
City of La Canada Flintridge
City of La Verne
City of Lakewood

City of Moorpark
City of Placentia
City of Sacramento


Fig1: Typical "Over the Counter" Transaction
Seller's Place of Business
Buyer Receives at ...
Retail Store
City A
Sales Tax
Trans Tax


Fig2: Dealership Automobile Sale
Seller (dealer)
Sales Office
City A
Sales Tax
Buyer registers (uses) vehicle at
Residence or Business
Trans Tax
City B

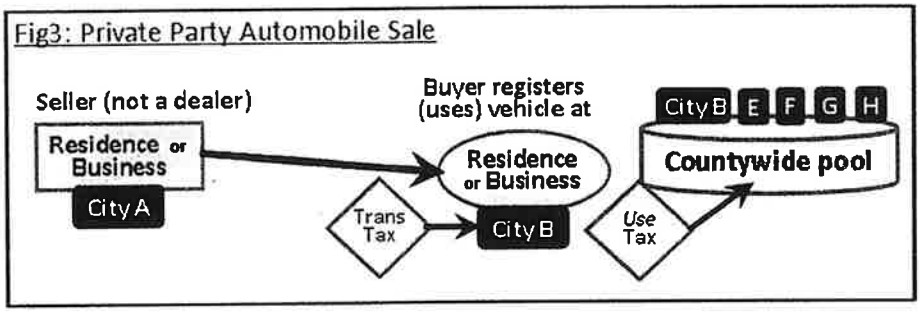
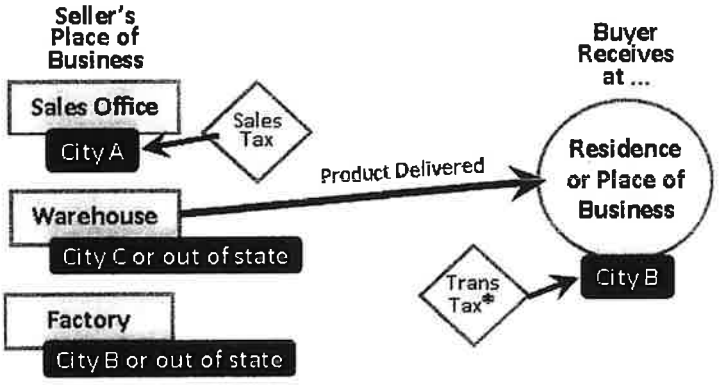
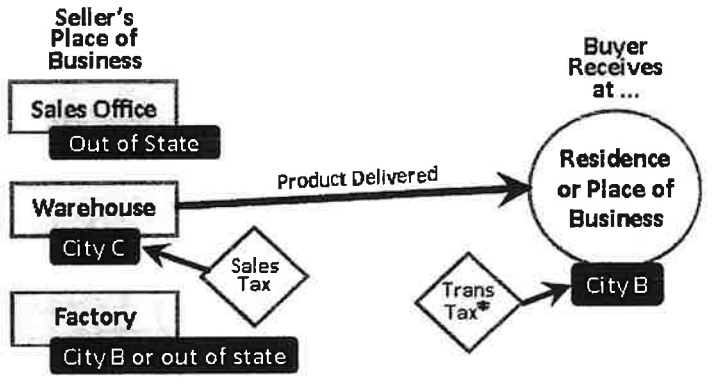

Fig3: Private Party Automobile Sale
Seller (not a dealer)
Residence or Business
City A
Buyer registers (uses) vehicle at
Residence or Business
Trans Tax
City B
City B E F G H
Countywide pool
Use Tax

Fig4: Remote (Online) Sale—In-State Business Office

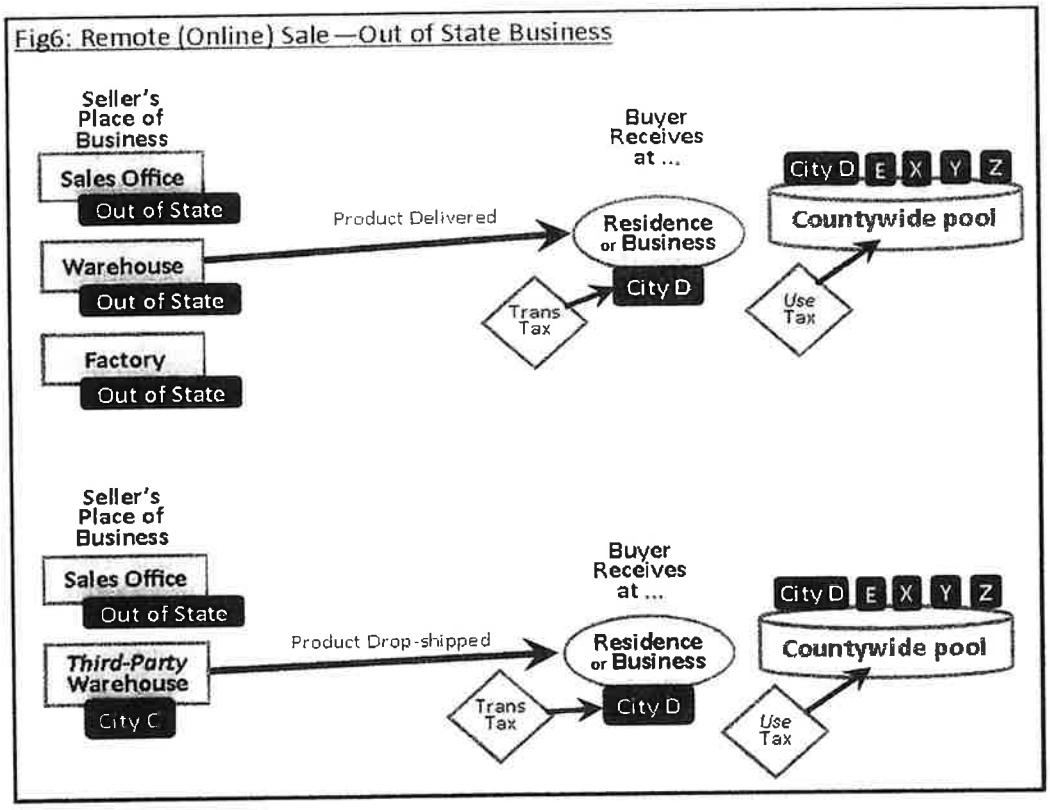


*If the seller is in the same Transactions and Use Tax "district" as the buyer, then the seller is responsible for collecting and remitting the tax. If the buyer is in a different district, the buyer is responsible.

Fig5: Remote (Online) Sale—In-State Warehouse, Out-of-State Sales Office



*If the seller is in the same Transactions and Use Tax "district" as the buyer, then the seller is responsible for collecting and remitting the tax. If the buyer is in a different district, the buyer is responsible.



GUIDELINES FOR ALLOCATION OF LOCAL TAX - ONLINE AND IN-STORE			
Place of Sale	**Location of Goods at the Time of Sale**	**How Customer Receives Goods**	**Allocation of Tax**
Online – Order is placed or downloaded outside California	California Fulfillment Center	Shipped to California Customer	Local tax is allocated to the jurisdiction in which the fulfillment center is located
Online – Order is placed or downloaded in California	California Fulfillment Center	Shipped to California Customer	Per CDTFA Regulation 1802, local tax is allocated to the jurisdiction where the order is placed
Online	Out of State Fulfilment Center	Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	Out of State Fulfilment Center	Picked Up In-Store (Click & Collect)	Local tax is allocated to the countywide pool based on point of delivery
Online	California Fulfillment Center Owned and Operated by Third Party Vendor	Drop-Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	In-Store (Goods withdrawn from store inventory)	Shipped to California Customer	Local Tax is allocated to the jurisdiction where the store is located
Online	In-Store (Goods withdrawn from store inventory)	Picked Up In-Store (Click & Collect)	Local Tax is allocated to the jurisdiction where the store is located
In-Store	In-Store (Goods withdrawn from store inventory)	Over the Counter	Local Tax is allocated to the jurisdiction where the store is located

Courtesy of HdL Companies

Tax Incentive Programs, Sales Tax Sharing Agreements

In recent years, especially since Proposition 13 in 1978, local discretionary (general purpose revenues) have become more scarce. At the same time, options and procedures for increasing revenues have become more limited. One outcome of this in many areas has been a greater competition for sales and use tax revenues. This has brought a rise in arrangements to encourage certain land use development with rebates and incentives which exploit California's odd origin sales tax sourcing rules.

The typical arrangement is a sales tax sharing agreement in which a city provides tax rebates to a company that agrees to expand their operations in the jurisdiction of the city. Under such an arrangement, the company generally agrees to make a specified amount of capital investment and create a specific number of jobs over a period of years in exchange for specified tax breaks, often property tax abatement or some sort of tax credit. In some cases, this has simply taken the form of a sales office, while customers and warehouses and the related economic activity are disbursed elsewhere in the state. In some cases the development takes the form of warehouses, in which the sales inventory, owned by the company, is housed.[6]

Current sales tax incentive agreements in California rebate amounts ranging from 50% to 85% of sales tax revenues back to the corporations.

Today, experts familiar with the industry believe that between 20% to 30% of local Bradley-Burns sales taxes paid by California consumers is diverted from local general funds back to corporations; over $1 billion per year.

The Source of Origin Based Sourcing Problems

Where other than over-the-counter sales are concerned origin sourcing often causes a concentration of large amounts of tax revenue in one location, despite the fact that the economic activity and service impacts are also occurring in other locations.

The large amounts of revenue concentrated in a few locations by California's "warehouse rule" origin sourcing causes a concentration of revenue far in excess of the service costs associated with the development.

In order to lure jobs and tax revenues to their communities, some cities have entered into rebate agreements with corporations. This has grown to such a problem, that 20% to 30% of total local taxes paid statewide are being rebated back to corporations rather than funding public services.

Moving to Destination Sourcing: The Concept[7]

A change from origin sourcing rules to destination sourcing rules for the local tax component of California's sales tax would improve overall revenue collections and distribute these revenues more equitably among all of the areas involved in these transactions.

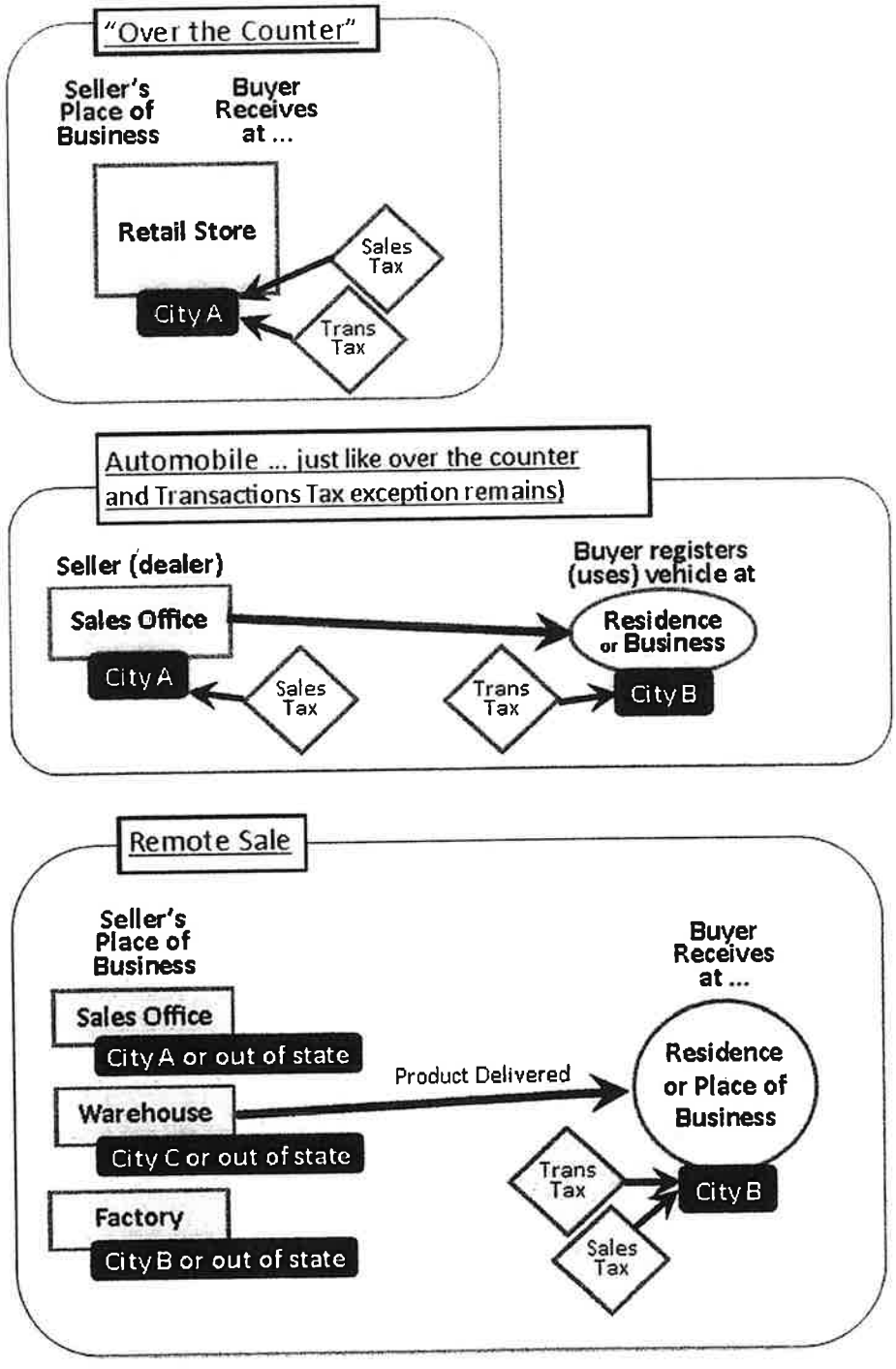
A change from origin based sourcing to destination based sourcing would have no effect on state tax collections. However, it would alter the allocations of local sales and use tax revenues among local agencies. Most retail transactions including dining, motor fuel purchases, and in-store purchases would not be affected. But in cases where the property is received by the purchaser in a different jurisdiction than where the sales agreement was negotiated, there would be a different allocation than under the current rules.

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[6] See Jennifer Carr, "Origin Sourcing and Tax Incentive Programs: An Unholy Alliance" Sales Tax Notes; May 27, 2013.

[7] The same issues that are of concern regarding the local sales tax do not apply to California's Transactions and Use Taxes ("Add-on sales taxes") as these transactions, when not over the counter, are generally allocated to the location of use or, as in the case of vehicles, product registration. There is no need to alter the sourcing rules for transactions and use taxes.

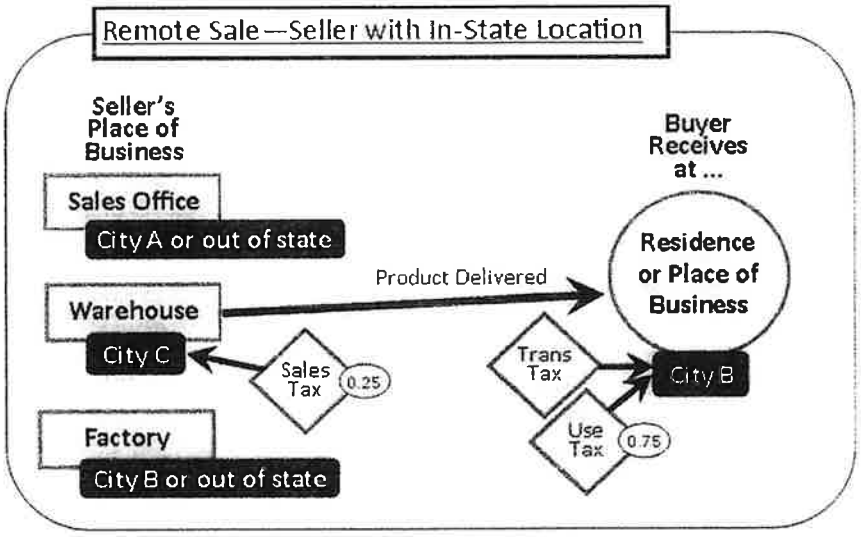
Destination Sourcing Scenario 1: Full-On

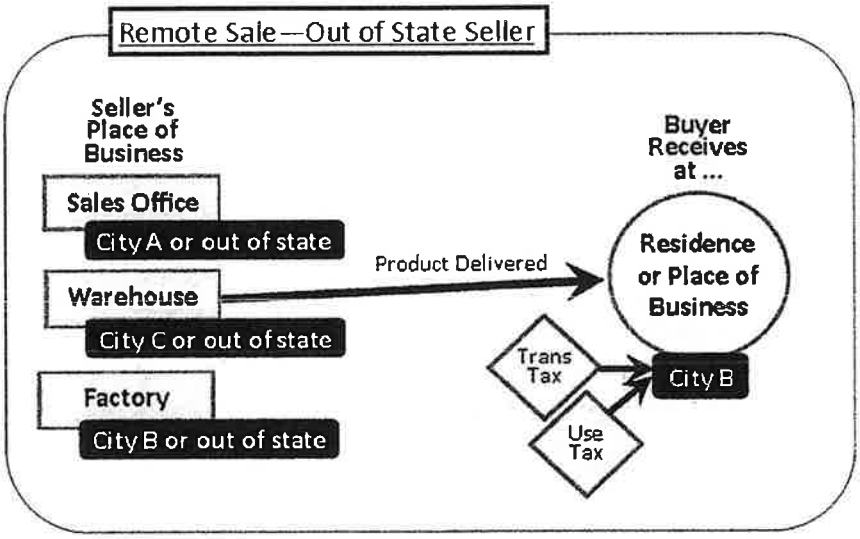


CaliforniaCityFinance.com

Destination Sourcing Scenario 2: Split Source

- Same as now for "over the counter" and automobile.
- Leave 0.25% on current seller if instate (origin)
- Could be phased in.





mjgc

RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being ~~entirely~~ allocated to ~~the specific city~~ cities where ~~the~~ warehouse fulfillment centers ~~is~~ are located as opposed to going into ~~a~~ countywide pools that ~~is~~ are shared with all jurisdictions in those counties ~~that County~~, as was done previously; and

WHEREAS, this all-or-nothing ~~change for the~~ allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue ~~from the retailer~~ that was once spread amongst all cities in countywide pools is now concentrated in select cities that host ~~a~~ fulfillment centers; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting ~~a 1 million square foot~~ fulfillment centers, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering products from those ~~that~~ centers now receive no Bradley Burns revenue ~~from the center's sales activity~~ despite also experiencing the impacts created by them ~~center~~, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

2. **A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECCESARY FUNDING FOR CUPC TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QAULITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETLY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHT-OF-WAY.**

Source: City of South Gate
Concurrence of five or more cities/city officials:
Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera
Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the California Public Utilities Commission for operational safety and maintenance; and

WHEREAS, the California Public Utilities Commission (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the League Annual Conference on September 24, 2021, in Sacramento, that the League calls for the Governor and the Legislature to work with the League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

Background Information to Resolution

Source: City of South Gate

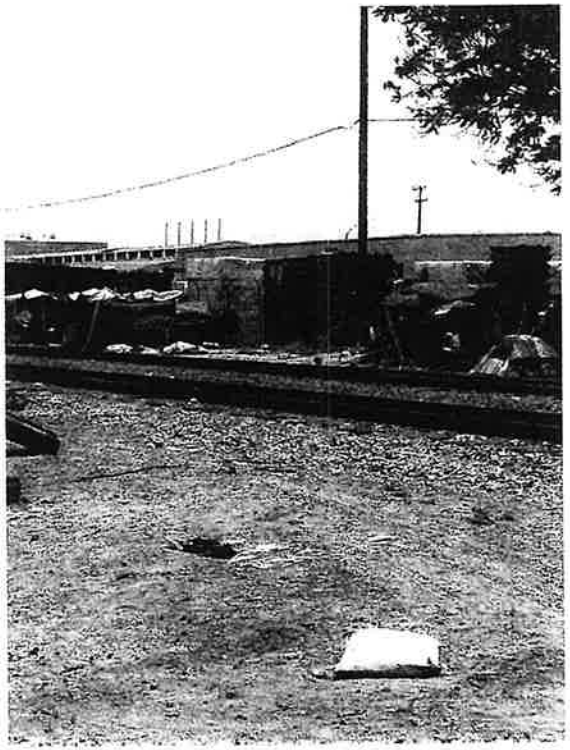
Background:
The State of California has over 6,000 miles of rail lines, with significant amount running through communities that are either economically disadvantaged and/or disadvantaged communities of color. While the Federal Railroad Administration (FRA) has primary oversight of rail operations, they delegate that obligation to the State of California for lines within our State. The administration of that oversight falls under the California Public Utilities Commission (CPUC). The CPUC has only 41 inspectors covering those 6,000 miles of railroad lines in the State of California. Their primary task is ensuring equipment, bridges and rail lines are operationally safe.

The right-of-way areas along the rail lines are becoming increasingly used for illegal dumping, graffiti and homeless encampments. Rail operators have admitted that they have insufficient funds set aside to clean up or sufficiently police these right-of-way areas, despite reporting a net income of over $13 billion in 2020. CPUC budget does not provide the resources to oversee whether rail operators are properly managing the right-of-way itself.

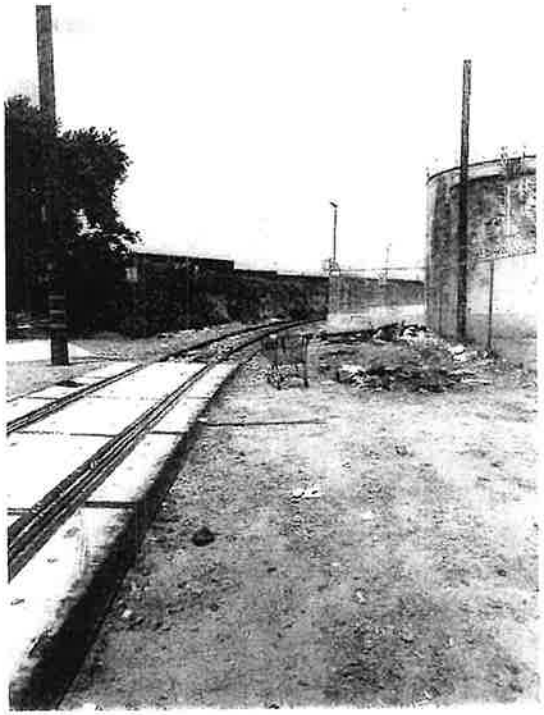
The City of South Gate has three rail lines traversing through its city limits covering about 4 miles. These lines are open and inviting to individuals to conduct illegal dumping, graffiti buildings and structures along with inviting dozens of homeless encampments. As private property, Cities like ourselves cannot just go upon them to remove bulky items, trash, clean graffiti or remove encampments. We must call and arrange for either our staff to access the site or have the rail operator schedule a cleanup. This can take weeks to accomplish, in the meantime residents or businesses that are within a few hundred feet of the line must endure the blight and smell. Trash is often blown from the right-of-way into residential homes or into the streets. Encampments can be seen from the front doors of homes and businesses.

South Gate is a proud city of hard working-class residents, yet with a median household income of just $50,246 or 65% of AMI for Los Angeles County, it does not have the financial resources to direct towards property maintenance of any commercial private property. The quality of life of communities like ours should not be degraded by the inactions or lack of funding by others. Cities such as South Gate receive no direct revenue from the rail operators, yet we deal with environmental impacts on a daily basis, whether by emissions, illegal dumping, graffiti or homeless encampments.

The State of California has record revenues to provide CPUC with funding nor only for safety oversight but ensuring right-of-way maintenance by operators is being managed properly. Rail Operators should be required to set aside sufficient annual funds to provide a regular cleanup of their right-of-way through the cities of California.









LETTERS OF CONCURRENCE

Resolution No. 2

City of Bell Gardens
7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Bell Gardens supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Marco Barcena at 562-7761 if you have any questions.

Sincerely,

Marco Barcena
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

As a Councilwoman with the City of Bell Gardens, I support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Lisseth Flores at (562) 806-7763 if you have any questions.

Sincerely,

Lisseth Flores

Lisseth Flores
Councilwoman

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

CITY OF SOUTH GATE ANNUAL CONFERNCE RESOLUTION

July 15, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The city of Bell supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Paul Philips, City Manager at 323-588-6211, if you have any questions.

Sincerely,

Alicia Romero
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division,

6330 Pine Avenue, Bell, California 90201 • Phone (323) 588-6211 Fax (323) 771-9473

CITY OF COMMERCE

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Railroad Oversight Annual Conference Resolution

President Walker:

The City of Commerce supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' ("League") 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially disadvantaged communities of color that are home to the State's freight rail lines. While I am supportive of the economic base the railroad industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Edgar Cisneros, City Manager, via email at ecisneros@ci.commerce.ca.us or at 323-722-4805, should you have any questions.

Sincerely,

Mayor Leonard Mendoza

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

CITY OF **CUDAHY** CALIFORNIA

Incorporated November 10, 1960

5220 Santa Ana Street
Cudahy, California 90201
(323)773-5143

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

Dear President Walker:

The City of Cudahy supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. If you have any questions, please do not hesitate to call my office at 323-773-5143.

Sincerely,

Jose Gonzalez
Mayor

CC: Chris Jeffers, City Manager, City of South Gate

City of El Segundo

Office of the Mayor

July 16, 2021

Elected Officials:

Drew Boyles,
Mayor
Chris Pimentel
Mayor Pro Tem
Carol Pirsztuk,
Council Member
Scot Nicol,
Council Member
Lance Giroux,
Council Member
Tracy Weaver,
City Clerk
Matthew Robinson,
City Treasurer

Appointed Officials:

Scott Mitnick,
City Manager
Mark D. Hensley,
City Attorney

Department Directors:

Barbara Voss
Deputy City Manager
Joseph Lillio,
Finance
Chris Donovan,
Fire Chief
Charles Mallory,
Information Technology Services
Melissa McCollum,
Community Services
Rebecca Redyk,
Human Resources
Denis Cook,
Interim Development Services
Jamie Bermudez,
Interim Police Chief
Elias Sassoon,
Public Works

www.elsegundo.org
www.elsegundobusiness.com
www.elsegundo100.org

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of El Segundo supports the Los Angeles County Division's City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact El Segundo Public Works Director Elias Sassoon at 310-524-2356, if you have any questions.

Sincerely,

Drew Boyles
Mayor of El Segundo

CC: City Council, City of El Segundo
Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org
Jeff Kiernan, League Regional Public Affairs Manager (via email)

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2302 Fax (310) 322-7137

CITY OF GLENDORA CITY HALL (626) 914-8200
116 East Foothill Blvd., Glendora, California 91741
www.ci.glendora.ca.us

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

SUBJECT: SUPPORT FOR THE CITY OF SOUTH GATE'S ANNUAL CONFERENCE RESOLUTION

Dear President Walker:

The City of Glendora is pleased to support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue that many communities, small and large, are experiencing along active transportation corridors, particularly rail lines. Given the importance and growth of the ports and logistics sector, and the economic support they provide, we need to do more to ensure that conflicts are appropriately addressed and mitigated to ensure they do not become attractive nuisances. Our cities are experiencing increasing amounts of illegal dumping (trash and debris) and the establishment of encampments by individuals experiencing homelessness along roadways, highways and rail lines. Such situations create unsafe conditions – safety, health and sanitation – that impact quality of life even as we collectively work to address this challenge in a coordinated and responsible manner.

As members of the League of California Cities, Glendora values the policy development process provided to the General Assembly and strongly support consideration of this issue. Your attention to this matter is greatly appreciated. Should you have any questions, please feel free to contact Adam Raymond, City Manager, at araymond@cityofglendora.org or (626) 914-8201.

Sincerely,

Karen K. Davis
Mayor

C: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Office of the Mayor

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Re: Resolution No. 2021-18 Supporting City of South Gate Annual Conference Resolution

President Walker:

The City of Huntington Park (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Enclosed is Resolution No. 2021-18 adopted by the City Council of the City of Huntington Park.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively affect our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, Ricardo Reyes, at 323-582-6161, if you have any questions.

Sincerely,

Graciela Ortiz
Mayor, City of Huntington Park

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Enclosure(s)

CITY OF LA MIRADA
DEDICATED TO SERVICE

13700 La Mirada Boulevard
La Mirada, California 90638
P.O. Box 828
La Mirada, California 90637-0828
Phone: (562) 943-0131 Fax: (562) 943-1464
www.cityoflamirada.org

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

SUBJECT: LETTER OF SUPPORT FOR CITY OF SOUTH GATE'S PROPOSED RESOLUTION AT CALCITIES ANNUAL CONFERENCE

President Walker:

The City of La Mirada supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities that are home to the State's freight rail lines. While the City of La Mirada is supportive of the economic base the railroad industry serves to the State, the rail lines have become places where illegal dumping and a growing homeless population are significant problems. The negative impact of these illegal activities decreases the quality of life for the La Mirada community, increases blight and unhealthy sanitation issues, and negatively impacts the City's ability to meet State water quality standards under the MS4 permits.

As members of the League, the City of La Mirada values the policy development process provided to the General Assembly. We appreciate your consideration on this issue. Please feel free to contact Assistant City Manager Anne Haraksin at (562) 943-0131 if you have any questions.

Sincerely,

CITY OF LA MIRADA

Ed Eng
Mayor

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Ed Eng, EdD, Mayor | Anthony A. Otero, DPPD, Mayor Pro Tem | Steve De Ruse, D. Min., Councilmember | John Lewis, Esq., Councilmember | Andrew Sarega, Councilmember | Jeff Boynton, City Manager

July 22, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Support for City of South Gate Resolution—Cleanup Activities on Rail Operator Properties

Dear President Walker,

On behalf of the City of Long Beach, I write to support the City of South Gate's proposed resolution for the League of California Cities' (League) 2021 Annual Conference. This resolution seeks to direct the League to adopt a policy urging State and federal governments to increase oversight of rail operators' land maintenance. The City is a proponent of increased maintenance along railways and believes a League advocacy strategy would help expedite regional responses.

The COVID-19 pandemic has exacerbated the public health and safety concerns on rail rights-of-way, as trash, debris, and encampments have increased exponentially. These challenges erode the quality of life for our communities, increase blight, and contribute to public health and sanitation issues. To address these concerns, the City has engaged directly with regional partners to prioritize ongoing maintenance and cleanups, and has invested $4 million in the Clean Long Beach Initiative as part of the City's Long Beach Recovery Act to advance economic recovery and public health in response to the COVID-19 pandemic.

The City of South Gate's proposed resolution would further advance these efforts for interjurisdictional coordination. The increased oversight proposed by the resolution will help support better coordination and additional resources to address illegal dumping and encampments along private rail operator property. This is a critical measure to advance public health and uplift our most vulnerable communities. For these reasons, the City supports the proposed League resolution.

Sincerely,

THOMAS B. MODICA
City Manager

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

City of
LYNWOOD
Incorporated 1921
11330 Bullis Road, Lynwood, CA 90262
(310) 603-0220 x 200

OFFICE OF THE
MAYOR
MARISELA SANTANA

CITY OF SOUTH GATE ANNUAL CONFERNCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Lynwood supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Ernie Hernandez at (310) 603-0220 ext. 200, if you have any questions.

Sincerely,

Marisela Santana, Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Resolution in Support of City of South Gate Annual Conference Resolution

President Walker:

The City of Montebello (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Attached is the Resolution to be considered for adoption by the City Council of the City of Montebello at our July 28, 2021, City Council meeting.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, René Bobadilla, at 323-887-1200, if you have any questions.

Sincerely,

Kimberly Cobos-Cawthorne

Kimberly Cobos-Cawthorne
Mayor, City of Montebello

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

BRENDA OLMOS
Mayor

VILMA CUELLAR STALLINGS
Vice Mayor

ISABEL AGUAYO
Councilmember

LAURIE GUILLEN
Councilmember

PEGGY LEMONS
Councilmember

Safe, Healthy, and Attractive

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: SUPPORT FOR ANNUAL LEAGUE OF CITIES CONFERENCE GENERAL ASSEMBLY RESOLUTION

President Walker:

The City of Paramount supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. The proposed resolution is attached

South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic boon the freight industry serves to the State, their rail line rights of way have often become places where illegal dumping is a constant problem and where our growing homeless populations reside. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As a member of the California League of Cities, the City of Paramount values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact City Manager John Moreno at (562) 220-2222 if you have any questions.

City of Pico Rivera
OFFICE OF THE CITY MANAGER
6615 Passons Boulevard · Pico Rivera, California 90660
(562) 801-4371
Web: www.pico-rivera.org e-mail: scastro@pico-rivera.org

Steve Carmona
City Manager

City Council
Raul Elias
Mayor
Dr. Monica Sánchez
Mayor Pro Tem
Gustavo V. Camacho
Councilmember
Andrew C. Lara
Councilmember
Erik Lutz
Councilmember

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 14, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Pico Rivera supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantaged communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Steve Carmona at (562) 801-4405 if you have any questions.

Sincerely,

City Manager
City of Pico Rivera

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

League of California Cities Staff Analysis on Resolution No. 2

Staff: Damon Conklin, Legislative Affairs, Lobbyist
Jason Rhine, Assistant Director, Legislative Affairs
Caroline Cirrincione, Policy Analyst

Committees: Transportation, Communications, and Public Works
Housing, Community, and Economic Development

Summary:
The City of South Gate submits this resolution, which states the League of California Cities should urge the Governor and the Legislature to provide adequate regulatory authority and necessary funding to assist cities with railroad right-of-way areas to address illegal dumping, graffiti, and homeless encampments that proliferate along the rail lines and result in public safety issues.

Background:
California Public Utilities Commission (CPUC) Railroad Oversight
The CPUC's statewide railroad safety responsibilities are carried out through its Rail Safety Division (RSD). The Railroad Operations and Safety Branch (ROSB), a unit of RSD, enforces state and federal railroad safety laws and regulations governing freight and passenger rail in California.

The ROSB protects California communities and railroad employees from unsafe practices on freight and passenger railroads by enforcing rail safety laws, rules, and regulations. The ROSB also performs inspections to identify and mitigate risks and potential safety hazards before they create dangerous conditions. ROSB rail safety inspectors investigate rail accidents and safety-related complaints and recommend safety improvements to the CPUC, railroads, and the federal government as appropriate.

Within the ROSB, the CPUC employs 41 inspectors who are federally certified in the five Federal Railroad Administration (FRA) railroad disciplines, including hazardous materials, motive power and equipment, operations, signal and train control, and track. These inspectors perform regular inspections, focused inspections, accident investigations, security inspections, and complaint investigations. In addition, the inspectors address safety risks that, while not violations of regulatory requirements, pose potential risks to public or railroad employee safety.

CPUC's Ability to Address Homelessness on Railroads
Homeless individuals and encampments have occupied many locations in California near railroad tracks. This poses an increased safety risk to these homeless individuals of being struck by trains. Also, homeless encampments often create unsafe work environments for railroad and agency personnel.

While CPUC cannot compel homeless individuals to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by homeless encampments. The disposal of waste materials or other disturbances of walkways by homeless individuals can create tripping hazards in the vicinity of railroad rights-of-way. This would cause violations of Commission GO 118-A, which sets standards for walkway surfaces alongside railroad tracks. Similarly, tents, wooden structures, and miscellaneous debris in homeless encampments can create violations of

Commission GO 26-D, which sets clearance standards between railroad tracks, and structures and obstructions adjacent to tracks.

Homelessness in California
According to the 2020 Annual Homeless Assessment Report (AHAR) to Congress, there has been an increase in unsheltered individuals since 2019. More than half (51 percent or 113,660 people) of all unsheltered homeless people in the United States are found in California, about four times as high as their share of the overall United States population.

Many metro areas in California lack an adequate supply of affordable housing. This housing shortage has contributed to an increase in homelessness that has spread to railroad rights-of-way. Homeless encampments along railroad right-of-way increase the incidents of illegal dumping and unauthorized access and trespassing activities. Other impacts include train service reliability with debris strikes, near-misses, and trespasser injuries/fatalities. As of April 2021, there have been 136 deaths and 117 injuries reported by the Federal Railroad Administration over the past year. These casualties are directly associated with individuals who trespassed on the railroad.

Cities across the state are expending resources reacting to service disruptions located on the railroad's private property. It can be argued that an increase in investments and services to manage and maintain the railroad's right-of-way will reduce incidents, thus enhancing public safety, environmental quality, and impacts on the local community.

State Budget Allocations – Homelessness
The approved State Budget includes a homelessness package of $12 billion. This consists of a commitment of $1 billion per year for direct and flexible funding to cities and counties to address homelessness. While some details related to funding allocations and reporting requirements remain unclear, Governor Newsom signed AB 140 in July, which details key budget allocations, such as:

- $2 billion in aid to counties, large cities, and Continuums of Care through the Homeless Housing, Assistance and Prevention grant program (HHAP);
- $50 million for Encampment Resolution Grants, which will help local governments resolve critical encampments and transitioning individuals into permanent housing; and
- $2.7 million in onetime funding for Caltrans Encampment Coordinators to mitigate safety risks at encampments on state property and to coordinate with local partners to connect these individuals to services and housing.

The Legislature additionally provided $2.2 billion specifically for Homekey with $1 billion available immediately. This funding will help local governments transition individuals from Project Roomkey sites into permanent housing to minimize the number of occupants who exit into unsheltered homelessness.

With regards to this resolution, the State Budget also included $1.1 billion to clean trash and graffiti from highways, roads, and other public spaces by partnering with local governments to pick up trash and beautify downtowns, freeways, and neighborhoods across California. The program is expected to generate up to 11,000 jobs over three years.

Cities Railroad Authority
A city must receive authorization from the railroad operator before addressing the impacts made by homeless encampments because of the location on the private property. Additionally, the city

must coordinate with the railroad company to get a flagman to oversee the safety of the work crews, social workers, and police while on the railroad tracks.

A city may elect to declare the encampment as a public nuisance area, which would allow the city to clean up the areas at the railroad company's expense for failing to maintain the tracks and right-of-way. Some cities are looking to increase pressure on railroad operators for not addressing the various homeless encampments, which are presenting public safety and health concerns.

Courts have looked to compel railroad companies to increase their efforts to address homeless encampments on their railroads or grant a local authority's application for an Inspection and Abatement Warrant, which would allow city staff to legally enter private property and abate a public nuisance or dangerous conditions.

In limited circumstances, some cities have negotiated Memoranda of Understandings (MOU) with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way, and clean-ups of homeless encampments. These MOUs also include local law enforcement agencies to enforce illegally parked vehicles and trespassing in the railroad's right-of-way. MOUs also detailed shared responsibility and costs of providing security and trash clean-up. In cases where trespassing or encampments are observed, the local public works agency and law enforcement agency are notified and take the appropriate measures to remove the trespassers or provide clean-up with the railroad covering expenses outlined in the MOU.

Absent an MOU detailing shared maintenance, enforcement, and expenses, cities do not have the authority to unilaterally abate graffiti or clean-up trash on a railroad's right-of-way.

Fiscal Impact:
If the League of California Cities were to secure funding from the state for railroad clean-up activities, cities could potentially save money in addressing these issues themselves or through an MOU, as detailed above. This funding could also save railroad operators money in addressing concerns raised by municipalities about illegal dumping, graffiti, and homeless encampments along railroads.

Conversely, if the League of California Cities is unable to secure this funding through the Legislature or the Governor, cities may need to consider alternative methods, as detailed above, which may include significant costs.

Existing League Policy:
Public Safety:
Graffiti
The League supports increased authority and resources devoted to cities for abatement of graffiti and other acts of public vandalism.

Transportation, Communications, and Public Works
Transportation
The League supports efforts to improve the California Public Utilities Commission's ability to respond to and investigate significant transportation accidents in a public and timely manner to improve rail shipment, railroad, aviation, marine, highway, and pipeline safety

Housing, Community, and Economic Development
Housing for Homeless
Homelessness is a statewide problem that disproportionately impacts specific communities. The state should make funding and other resources, including enriched services, and outreach and case managers, available to help assure that local governments have the capacity to address the needs of the homeless in their communities, including resources for regional collaborations.

Homeless housing is an issue that eludes a statewide, one-size-fits-all solution, and collaboration between local jurisdictions should be encouraged.

Staff Comments:
Clarifying Amendments
Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. To review the proposed changes, please see Attachment A.

The committee may also wish to consider clarifying language around regulatory authority and funding to assist cities with these efforts. The resolution asks that new investments from the state be sent to the CPUC to increase their role in managing and maintaining railroad rights-of-ways and potentially to cities to expand their new responsibility.

The committee may wish to specify MOUs as an existing mechanism for cities to collaborate and agree with railroad operators and the CPUC on shared responsibilities and costs.

Support:
The following letters of concurrence were received:
City of Bell Gardens
City of Bell
City of Commerce
City of Cudahy
City of El Segundo
City of Glendora
City of La Mirada
City of Paramount
City of Pico Rivera
City of Huntington Park
City of Long Beach
City of Lynwood
City of Montebello

2. **A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE ~~NECCESARY~~ NECESSARY FUNDING FOR ~~CUPC~~ THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE ~~QAULITY~~ QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC ~~SAFETLY~~ SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUT~~,~~ THE RAILROAD RIGHT-OF-WAY.**

Source: City of South Gate
Concurrence of five or more cities/city officials
Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera
Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the ~~California Public Utilities Commission~~ CPUC for operational safety and maintenance; and

WHEREAS, the ~~California Public Utilities Commission (~~CPUC~~)~~ is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well as a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the ~~League~~ Cal Cities Annual Conference on September 24, 2021, in Sacramento, that ~~the~~ Cal Cities ~~League~~ calls for the Governor and the Legislature to work with ~~the~~ Cal Cities ~~League~~ and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. ~~The~~ Cal Cities ~~League~~ will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

AGENDA ITEM
7A.

Presentation by Haley Brown of Jacobs Heart Cancer Support Services

AGENDA ITEM
8A.

Consideration of City RESOLUTION to Approve Coastal Development Permit 21-03 for Kelcon Construction for Storage Use of an Existing Commercial Building at325 Elder Avenue (this item continued from the August 3, 2021 Council meeting)

CITY OF SAND CITY

STAFF REPORT - ADDENDUM 1

AUGUST 23, 2021
(For City Council Review on September 7, 2021)

TO: **Mayor and City Council**

FROM: **Charles Pooler, City Planner**

SUBJECT: **Coastal Development Permit for Kelcon Construction**

BACKGROUND

At the August 3, 2021 City Council meeting and public hearing, an application submitted by Kelcon General Building Contractor, Incorporated (the "Applicant") was considered for coastal development permit approval regarding storage of vehicles and other miscellaneous items (the "Applicant's Use") within a 3,000 square foot unit of an existing commercial building at 325 Elder Avenue (portion of APN 011-242-007 & 008) in Sand City (the "Subject Property"). At that public hearing, a lengthy portion of discussion revolved around the non-permitted construction within the unit and whether the Applicant had to remove that construction.

At that public hearing, the City Planner explained the necessity of a water allocation in order to maintain the non-permitted construction. The Building Official added that there were building/fire code compliance issues and that a licensed engineer's review/evaluation and plans were necessary. A meeting between the Applicant, his structural engineer, and the City's Building Official was advised by City staff on record at that Council Meeting. Thereafter, the City Council voted to continue the public hearing to September 7, 2021 pending the submission of information as to code compliance of the non-permitted construction, what modifications were necessary to correct code compliance issues, and the square footage of new floor area for staff to calculate potential water demand (based on Monterey Peninsula Water Management District regulations).

UPDATE:
The Applicant did meet with the City's Building Official on the morning of August 20th at the Subject Property, but without a structural engineer. The resulting discussion of that meeting focused on what needed to be removed, as there was no licensed engineer to discuss/support the structural integrity and code compliance of the new construction. The 2nd level mezzanine and 1 flight of stairs and restroom at the far west side corner of the unit appear to be existing construction that can remain and be used for storage. The wall separation of the ground floor area also appears to be existing and can remain. Per the Building Official, the partial walls of the second level loft, an extension up of the level 1 walls that provide shelving for storage, also appear to be original and can stay. However,

the stairs leading from the ground level of the "sub-leased area" to the second level, the separation wall for the 2nd level 'subleased' area, the stairs on the second level up to the third level, and the entire third level are all new non-permitted construction as determined by the City's Building Official/inspector. Scaled and dimensioned plans, prepared by a California licensed engineer, were not provided to the City by the Applicant at the time of preparing this report. The illustrations attached as Exhibits A, B, and C were prepared by City staff to exemplify the Building Official's meeting on August 20th with the Applicant.

WATER:
Additional floor area of a Group I commercial property, as defined by the Monterey Peninsula Water Management District (MPWMD), requires additional water to be allocated from the City and a permit issued by the MPWMD prior to City issuance of a building permit for the new construction to remain. As yet, there has been no allocation of water from the City for the non-permitted construction and added floor area.

The MPWMD regulations classify storage/warehouse area/use as a Group I water use category. As scaled and dimensioned plans, prepared by a licensed engineer, were not provided to the City by the Applicant, staff was unable to calculate the exact water allocation amount necessary to accommodate the non-permitted construction. However, based on the sketches previously provided by the Applicant, staff made estimates that the approximate floor area of level 2 and 3 combined is about 3,000 square feet. Since the Building Official determined that the level 2 mezzanine, estimated to be about 2,500 square feet, is a pre-existing condition, an allocation of water for this area is not necessary. The estimated remaining 500 square feet of level 3 would require 0.035 acre-feet/year to remain (pending plan check review and code compliance). For comparison, a 2.5 bathroom house with kitchen and clothes washer (with water efficient fixtures) would need 0.169 acre-feet/yr plus water for landscaping (see Exhibit D). Another comparison is a Group I category commercial building of 2,750 square feet (50-ft wide and 55-feet deep that would fit on a standard 50'x75' parcel with 20-foot setback for parking) that would need 0.193 acre-feet plus water for landscaping.

For the Applicant's non-permitted construction to stay, the Applicant would need a building permit from the City, based on construction plans with structural calculations provided by a California licensed engineer that are approved by the City's building department/plans examiner. However, before a building permit can be issued for that construction, an allocation of water from the City, recorded on the property with the Monterey County Recorder's Office, is necessary for the Applicant to obtain a water permit from the MPWMD.

SETTING A PRECEDENT:
Allocation of water from the City's Water Entitlement (desalination facility) is at the sole discretion of the City Council. Water available from the City's Water Entitlement (desalination facility) has always been intended to support redevelopment of blighted properties, new development of vacant land, and higher/better uses in Sand City as discussed in the City's General Plan (2002 ed.). Water is a valuable resource on the Monterey Peninsula, and must be allocated wisely to extend its benefit for the City at large.

Allocating water for non-permitted "after-the-fact" construction would set a undesirable precedent and send the public a message that water could or would be allocated (or possibly even entitled) if one builds first and "asks for forgiveness" later. Such a precedent that rewards non-permitted construction is not in the best interest of the City as it rewards non-permitted activities/construction. Therefore, staff strongly recommends not supporting an allocation of water to the Subject Property for the non-permitted construction because it would set a bad precedent where the Applicant's construction is not in the best interest of the City's dedication of water.

CONCLUSION

Based on the discussion and analysis of this report addendum, the City Planner stands by his original recommendation that all non-permitted construction, as determined by the City's Building Official/Inspector, within the Applicant's Unit be required to be demolished and removed (see Exhibits A, B, & C) as a condition of the draft Coastal Development Permit in order to bring the unit and property into previously existing condition and compliance with the City's Municipal Code. The Applicant failed to have a structural engineer attend the meeting with the City's Building Official (as suggested at the August 3rd public hearing); and he failed to provide City staff, at the time of preparing this addendum report, plans properly prepared by a California licensed structural engineer for the non-permitted construction that illustrates how the added floor area would be (or become) code compliant and enable City staff to accurately calculate the amount of water necessary for the new floor area. Furthermore, the creation of additional floor area for storage, or other potentially private recreation, are not necessarily a benefit to the City or community as a whole that would justify an allocation from the City's water entitlement.

RECOMMENDATION

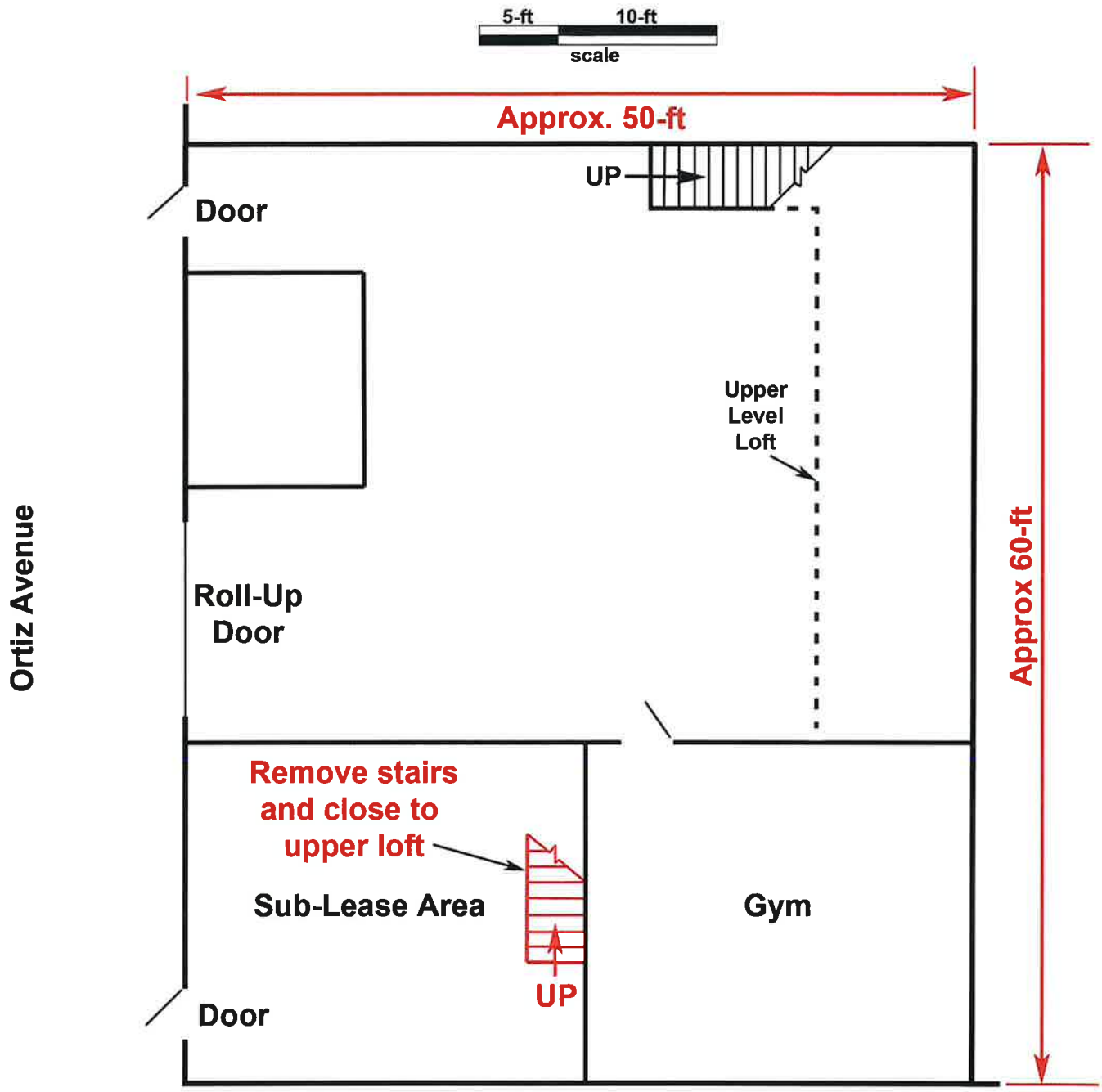
Staff recommends **APPROVAL** of the coastal development permit to allow storage as presented at the August 3rd Council meeting with the requirements/conditions to remove all non-permitted construction, as determined by the City's Building Official, within the Applicant's Unit of the Subject Property. Staff does NOT recommend any water be allocated to support the non-permitted construction (even if said construction is brought up to building code standards).

EXHIBITS:

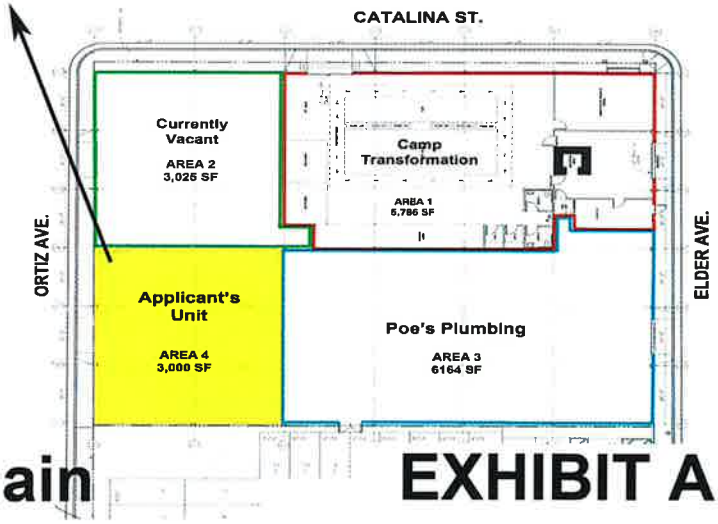
A. Ground Floor illustration of that construction to remain and be removed.
B. Level Two illustration of that construction to remain and be removed.
C. Level Three illustration of that construction to remain and be removed.
D. Example water calculations for a 2.5 bath SFD and 2,750 Group 1 commercial building.

ATTACHMENTS:

1. Staff Report w/ Exhibits as presented at the August 3rd Council meeting/public hearing.
2. Draft Resolution to approve a Coastal Development Permit for the Applicant's storage, as presented at the August 3rd Council meeting/public hearing.

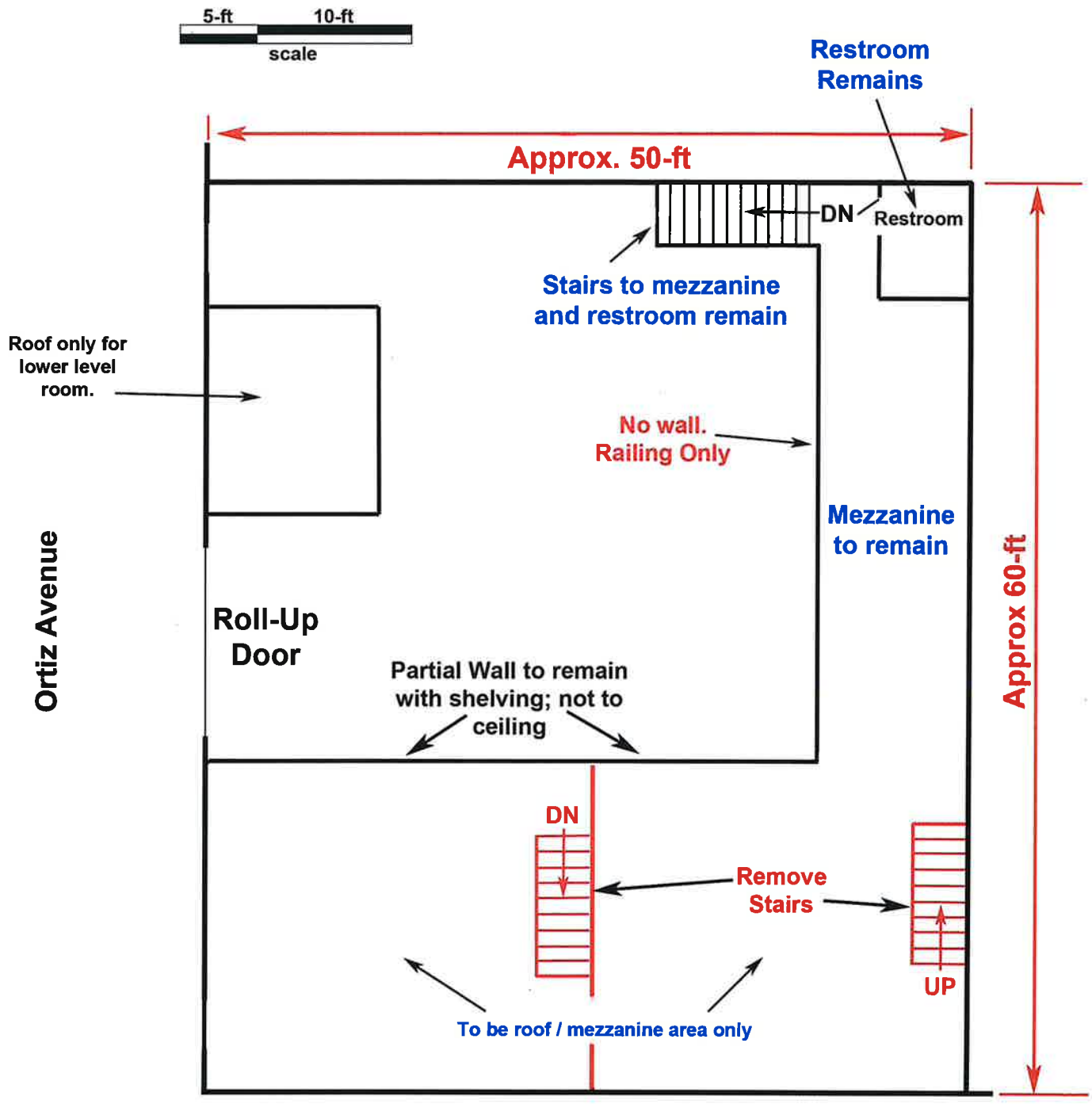


Ground Floor
3,000 sq.ft.



Level 1 - remove & remain

EXHIBIT A

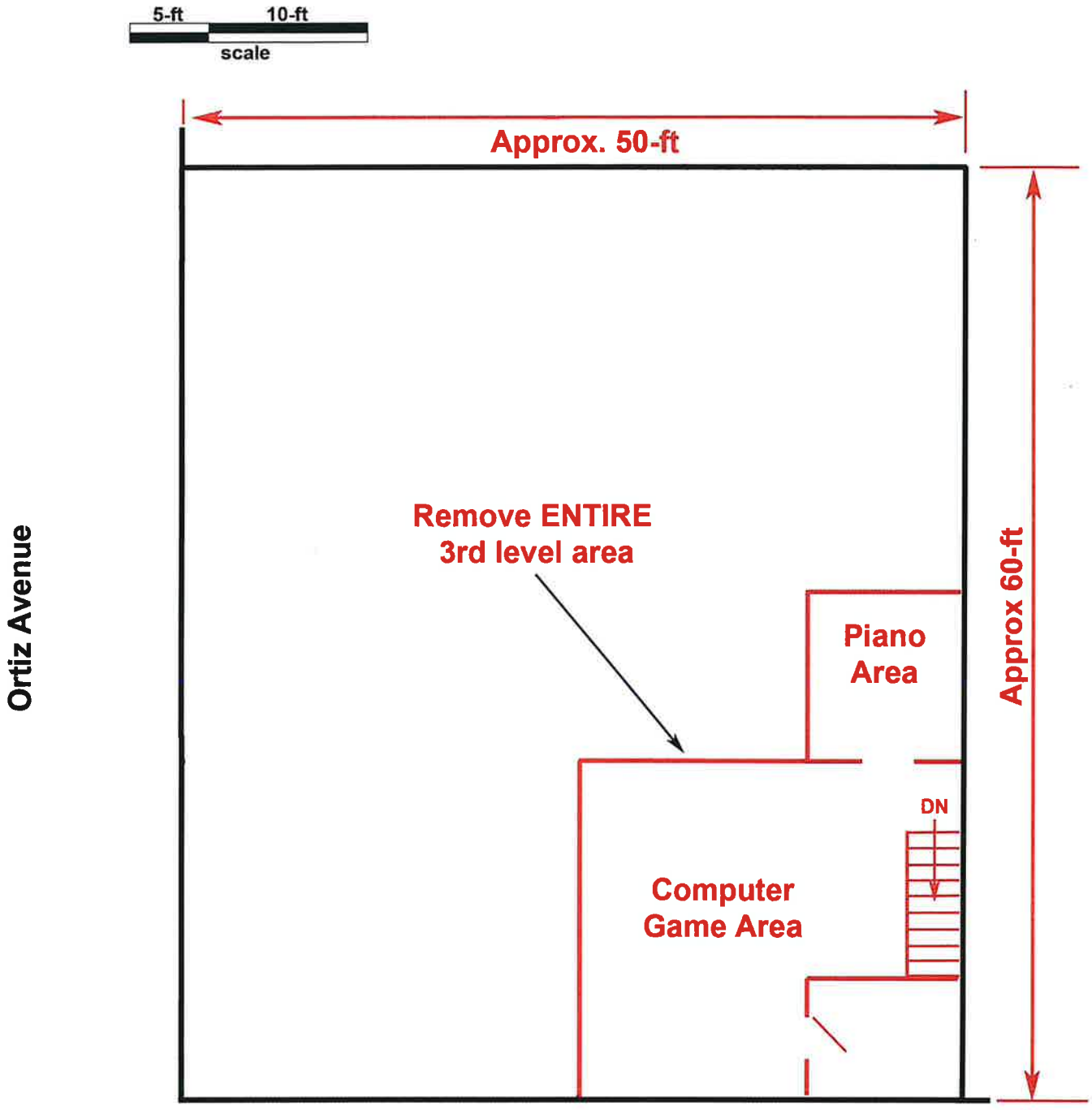


Level 2

Remove all walls and stairs illustrated in red.
Level 2 for storage only.

Level 2 - remain & remove

EXHIBIT B



Level 3
Entire 3rd Level (in red) to be removed.

Level 2 - remove & remain

EXHIBIT C

New Residential Water

Example Comparison Scenario - 1 SFD w/ 2.5 baths

FIXTURE TYPE/DESCRIPTION	No. of Fixtures		Fixture Unit Value		Fixture Units		Acre-Feet	NOTES
SINKS (bathroom)								
Washbasin (lavatory sink), each	2	x	1	=	**2**	x 0.01 =	**0.02**	
Two Washbins in Master Bath	1	x	1	=	**1**	x 0.01 =	**0.01**	
TOILETS:								
Toilet, Ultra Low Flush (1.6 gallons/flush)	0	x	1.7	=	**0**	x 0.01 =	**0**	
Toilet, High Efficiency (HET) 1.3 gallons/flush)	3	x	1.3	=	**3.9**	x 0.01 =	**0.039**	All new fixtures must be HET
URINALS:								
Urinal (1.0 gallon/flush)	0	x	1	=	**0**	x 0.01 =	**0**	
Urinal, High Efficiency (0.5 gallons/flush)	0	x	0.5	=	**0**	x 0.01 =	**0**	
Urinal, Zero Water Consumption	0	x	0	=	**0**	x 0.01 =	**0**	
BATHTUBS (w/ showers)								
Bathtub, Large (w/showerhead) & separate shower in master bath	1	x	3	=	**3**	x 0.01 =	**0.03**	
Bathtub, Large (may have showerhead)	0	x	3	=	**0**	x 0.01 =	**0**	
Bathtub, Standard (may have showerhead)	1	x	2	=	**2**	x 0.01 =	**0.02**	
SHOWERS (only)								
Shower, separate stall (one showerhead)	0	x	2	=	**0**	x 0.01 =	**0**	
Shower, each additional fixture	0	x	2	=	**0**	x 0.01 =	**0**	
Shower System, Rain Bars, or custom shower (varies per specifications)	0	x	2	=	**0**	x 0.01 =	**0**	
KITCHEN:								
Kitchen Sink (w/ opional dishwasher)	0	x	2	=	**0**	x 0.01 =	**0**	
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)	2	x	1.5	=	**3**	x 0.01 =	**0.03**	All new fixtures must be High Effic.

EXHIBIT D

New Residential Water

Example Comparison Scenario - 1 SFD w/ 2.5 baths

DISHWASHERS (only)								
Dishwasher, each additional (includes optional adjacent sink)	0	x	2	=	**0**	x 0.01 =	**0**	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	0	x	1.5	=	**0**	x 0.01 =	**0**	
UTILITY SINK:								
Laundry Sink/Utility Sink	0	x	2	=	**0**	x 0.01 =	**0**	
WASHING MACHINES:								
Clothes Washer	0	x	2	=	**0**	x 0.01 =	**0**	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	**2**	x	1	=	**2**	x 0.01 =	**0.02**	All new fixtures must be HEW
MISCELLANEOUS:								
Bidet	0	x	2	=	**0**	x 0.01 =	**0**	
Bar Sink	0	x	1	=	**0**	x 0.01 =	**0**	
Entertainment Sink	0	x	1	=	**0**	x 0.01 =	**0**	
Vegetable Sink	0	x	1	=	**0**	x 0.01 =	**0**	
Swimming Pool (each 100 sqft of pool surface)	0	x	1	=	**0**	x 0.01 =	**0**	

TOTAL (Building)	**16.9 F.U.**	x 0.01	**0.169 Ac.Ft.**

Note: This Example does NOT include landscaping.

EXHIBIT D

New Commercial Water

Example Comparison Scenario - 1 Group I Commercial Bldg of 2,750 sf (50'x55')

	ITEM	Sq.Ft.		FACTOR		ACRE-FEET
GROUP I - Low to Moderate Use	square footage (floor area)	2,750	x	0.00007	=	0.1925
GROUP II - High Use	square footage (floor area)	0	x	0.0002	=	0

GROUP III - Miscellaneous	ITEM	#		FACTOR	UNIT		ACRE-FEET
Assisting Living (more than 6 beds)	# of beds	0	x	0.085	per bed	=	0
Beauty Shop / Dog Grooming	# of stations	0	x	0.0567	AF/station	=	0
Child Care	# of children	0	x	0.0072	AF/child	=	0
Dormatory	# of rooms	0	x	0.04	AF/room	=	0
Gas Station	# of gas pumps	0	x	0.0913	AF/pump	=	0
Laundromat	# of wash machines	0	x	0.2	AF/machine	=	0
Meeting Hall	square footage	0	x	0.00053	AF/sq.ft.	=	0
Motel/Hotel/Bed & Breakfast	# of rooms	0	x	0.1	AF/room	=	0
rooms w/ large tubs (add to room factor)	# of large bathtubs	0	x	0.03	AF/tub	=	0
							0
Plant Nursery	Square Footage	0	x	0.00009	AF/sf total land	=	0
Public Toilets	# of toilets	0	x	0.058	AF/toilet	=	0
Public Urinals	# of urinals	0	x	0.036	AF/urinal	=	0
Zero Water consumptino Urinal(s)	# of urinals	0	x	0	n/a	=	0
Restaurant (general/bar)	# of seats	0	x	0.02	AF/seat	=	0
Restaurant (24-hour / Fast Food)	# of seats	0	x	0.038	AF/seat	=	0
Self-Storage	# of storage units	0	x	0.0008	AF/storage unit	=	0
Skilled Nursing	# of beds	0	x	0.12	AF/bed	=	0
Spa	# of spas	0	x	0.05	AF/spa	=	0
Swimming Pool	pool surface area	0	x	0.02	AF/100 sf surface area	=	0
Theater	# of seats	0	x	0.0012	AF/seat	=	0

Note: This Example does NOT include landscaping.

CITY OF SAND CITY

STAFF REPORT

JULY 13, 2021
(For City Council Review on August 3, 2021)

TO: **Mayor and City Council**

FROM: **Charles Pooler, City Planner**

SUBJECT: **Coastal Development Permit for Kelcon Construction**

BACKGROUND

An application for a conditional use permit was submitted by Kelcon General Building Contractor, Incorporated (the "Applicant") for storage of vehicles and other miscellaneous items (the "Applicant's Use") within a 3,000 square foot unit of an existing commercial building at 325 Elder Avenue (portion of APN 011-242-007 & 008) in Sand City (the "Subject Property"). The majority of the site is under the zoning designation of non-appealable Coastal Zone Planned Mixed Use (CZ-MU-P); which requires a coastal development permit for the Applicant's Use. The site's General Plan land use designation is Mixed-Use Development (MU-D). The intended use of an existing commercial building at the Subject Property qualifies for a categorical exemption, under State CEQA (California Environmental Quality Act) Guidelines, Section 15301.

The Applicant has occupied Unit 4 of the Subject Property for some time without zoning authorization, and has been subject to a code enforcement inspection by the City's Building Official in March of this year in response to public complaints received by the City from property owners and neighbors on Ortiz Avenue. Upon inspection, the construction of multiple levels and unit division for sublease area within the building, without City approval or permits, were discovered. Areas for recreation and social gathering was also noted. A notice of building/planning code violations was provided by the Building Official (see Exhibit H).

Site Description:
The Subject Property consists of two abutting parcels; parcel one (APN 011-242-007) fronting Catalina Street, Elder Avenue, and Ortiz Avenue is 18,750 square feet and facilitates the 18,000 square foot building, and parcel two (APN 011-242-008) is 18,750 square feet (approximate) abutting the hillside along the freeway corridor and fronts Ortiz and Elder Avenues, facilitating thirty-four (currently striped) on-site parking spaces on asphalt pavement. The 1-story commercial building is divided into four units: Area 1 of 5,786 square feet occupied by Camp Transformation, Area 2 of 3,025 square feet (vacant), Area 3 of 6,164 square feet occupied by Poe's Plumbing, and Area 4 of 3,000 square feet (Applicant's Unit). The Applicant's Use would be located within Area 4 fronting Ortiz Avenue with roll-up door access. Areas 3 and 4 were previously occupied by Monterey

ATTACHMENT 1

Bay Restaurant Equipment, a restaurant equipment wholesale business. Utilities (i.e. gas, electric, water, sewer, etc.) are available to serve the building and Applicant's Unit. As part of Camp Transformation's tenant improvements, new curb and sidewalk were installed along the Elder Avenue frontage that is now ADA compliant. The Catalina Street frontage has curb, gutter, and street pavement, but the sidewalk pavement is substandard, sporadic, and impeded by non-native landscaping. This frontage is planned to be rebuilt with a grant-funded storm water control and street improvement project for the entire length of Catalina Street, expected to commence in the next few years. The Ortiz Avenue frontage of the Subject Property consists of asphalt pavement for a walkway and a concrete gutter along the street.

DISCUSSION

Project Description:

The Applicant states in the Letter of Intent, submitted as part of the application (see Exhibit F), that his unit of the Subject Property will be used for storage with no standard hours of operation. There are six (6) employees who will make "random visits" to the Subject Property to pick up or drop off materials/equipment, but they do not work at this location. According to the Letter of Intent, items stored on-site are vehicles, off-road vehicles, gym equipment, furniture, old paperwork, tools, and left over material and lumber. The off-road vehicles identified are RZR (a form of dune buggy), dirt bikes, and boat. The submitted floor plan illustrations (see Exhibits E.2, E.3, E.4) also identify 4x4s and a golf cart on the ground floor and a computer gaming area and piano area on a third level inside; which were not noted in the "letter of intent".

Land Use: The Subject Property has a General Plan land use designation of "Mixed-Use Development" (MU-D) and a Zoning Map designation of "Coastal Planned Mixed Use". The Zoning Code does not specifically list "storage" or "warehousing" as permitted or conditionally permitted uses; however, Section 18.26.040 of the City's Zoning Ordinance does state that "any other use the City Council finds to be consistent with the goals and policies of the City's General Plan and the purposes of this district" can be subject to City Council issuance of a coastal development permit. General warehouse uses are discouraged by the City's General Plan (2002 ed); however, General Plan Goal 2.4 identifies the need to reduce land use conflicts created by insufficient parking. The Subject Property has unique parking issues because of the high parking demand of the Camp Transformation operation (see discussion under "Parking"). Allowing the Applicant's storage use in a building that has another high parking demand tenant will abate parking demand issues of the Subject Property. Due to this site specific parking situation, staff supports low parking demand uses such as storage in the remaining units of this building.

Hours of Operation: The Applicant states that there will be no standard hours of operation at the Subject Property. The submitted Letter of Intent states that employees will make "...random visits..." to the Subject Property. In order to minimize potential negative impacts to nearby residential properties, some limitation of the Applicant's activities at the Subject Property should be considered. Staff recommends that loading/unloading or other activities within the unit should be limited to within the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on

weekends; which are considered to be standard business hours for the mixed-use West End district of Sand City. There should be no off-hour use of the site for non-storage related activities, with exception to janitorial or office activities that are considered relatively benign and should not be restricted.

Parking: The Subject Property provides 34 on-site parking spaces; 18 of which are tandem parking and 2 are handicapped. The current parking layout (see Exhibit C.2) was a result of re-striping when Camp Transformation occupied Unit 1. There are also twelve (12) on-street parking spaces around the building, three (3) along Ortiz, five (5) along Catalina Street, and four (4) spaces along Elder Avenue; however, spaces along Catalina Street may be reduced or lost as part of the City's storm water and street capital improvement project planned for Catalina Street. The total floor area of the building is 18,000 square feet, of which the Applicant will occupy 3,000 square feet. City Municipal Code section 18.64.060(S) requires a 1/1000 parking ratio for warehouse uses, resulting in a parking requirement of three (3) off-street parking spaces for the Applicant's 3,000 square feet (does not include the floor area of non-permitted construction).

The Subject Property can accommodate this zoning requirement; however, it is important that the Applicant's Use not occupy the on-site parking area for overnight vehicle parking/storage to preserve as much on-site parking for Camp Transformation's 5:00 a.m. to 10:00 a.m. and 5:00 p.m. to 9:00 p.m. Monday through Friday, and 7:00 a.m. to 12:00 noon on weekend peak operational hours, which should be a condition of permit approval. Overlapping of parking demand may occur approximately between 7:00 a.m. to 10:00 a.m. and 5:00 p.m. to 6:00 p.m. hours, but staff anticipates minimal impact considering the Applicant's Use does not have customers/client visitations of the site and employees are not at the site full-time. According to the Applicant, Kelcon employees do not work at the site and their visitation is to be random for the pick-up/drop-off of materials and/or equipment. The daytime parking of company vehicles on-site during weekday business hours for pick-up/drop-off activities, as part of conducting the Applicant's business, is acceptable being short term occurrences and roughly alternates, with minimal overlapping of, parking demand between the Applicant's daytime activities and Camp Transformation's aforementioned primary hours. As this is a multi-tenant building, the Subject Property's Owner/ Manager is responsible for managing the on-site parking and addressing and resolving tenant disputes regarding on-site parking, provided City zoning and permit requirements are met to the satisfaction of the City, which should also be a condition of permit approval.

Loading/Unloading: The Applicant states that there will be no deliveries made to the Subject Property. If deliveries and/or shipments were to occur, along with loading/unloading activities, such activities should only occur during daytime business hours of 7:00 a.m. to 6:00 p.m. on weekdays and 10:00 a.m. to 5:00 p.m. on weekends (also see discussion under "Hours of Operation").

Non-Permitted Uses and Construction: In response to the public complaints received by the City, a site inspection was performed with both the tenant and building owner representative on March 23, 2021. A notice of violation was provided in April of 2021,

which noted that there was construction of multiple levels within the building, including a sublease area; without City approval or permits (see Exhibit H). The floor plans submitted by the Applicant (see Exhibits E.2, E.3, & E.4), with the coastal development permit application, illustrates separation of the ground floor for a gym and a sub-lease (of which no information has been provided to the City), a second level area for a pool table and sublease, and a third level for a computer game area and piano area. Upon the aforementioned inspection, it was determined that the occupant had expanded the site from storage to an "office-type social gathering" use. Those types of activities are not listed or referenced in the coastal development permit application submitted to the City; only a description of storage was specified.

Additional floor area of a Group I commercial property, as defined by the Monterey Peninsula Water Management District (MPWMD), requires additional water allocation from the City and a permit from the MPWMD. To date, there has been no allocation of water from the City for the non-permitted construction and added floor area. Water available from the City's Water Entitlement (desalination facility) has always been intended to support redevelopment of blighted properties, new development of vacant land, and higher/better uses in Sand City as discussed in the General Plan (2002 ed.). Water is a valuable resource on the Monterey Peninsula, and must be allocated wisely to extend its benefit for the City at large. The creation of additional floor area for storage, or other potentially private recreation, are not necessarily a benefit to the City or community as a whole that would justify an allocation from the City's water entitlement. Therefore, all non-permitted construction should be removed from the Applicant's unit.

Additionally, since the application identifies storage as the requested use, staff is not recommending the permit authorize use of the space to include gym or other recreational activities. If the Applicant wishes to sublease a section of the unit for only storage, the permit can accommodate that; however, the Applicant would ultimately be responsible for the sublease tenant's activities and answerable to the City for violations of that sublease tenant. Otherwise, staff recommends that other activities, including social gatherings/events, gym, and/or residential occupancy of the Applicant's unit on the Subject property be prohibited. Public complaints to the City regarding construction without permits and late night activity in a non-permitted space generated the code enforcement inspection of the Applicant's Unit. To allow uses that are beyond the application's stated use of 'storage' could lead to further issues and public complaints.

Storage: According to the Applicant's Letter of Intent, submitted as part of the permit application, items intended for storage on-site are vehicles, off-road vehicles, gym equipment, furniture, old paperwork, tools, left over material and lumber. The off-road vehicles identified are RZR (a form of dune buggy), dirt bikes, and boat. The majority of items noted for storage, both in the Letter of Intent and submitted floor plans, appear to be items of personal storage rather than those of a general contractor. Staff recommends the permit prohibit outside storage beyond the confines of the building and that vehicles and trailers not be stored on the Subject Property's parking area. Parking by the Applicant to conduct pick-up/drop-off activities related to his storage use is acceptable during the hours of operation discussed in this report. Furthermore, the

placement of self-contained portable storage units/containers on-site outside the building, particularly in the parking area, should be prohibited (see draft Permit Condition No. 8) to maintain maximum available parking and avoid blighting influences. The use of storage containers by the Applicant and/or sublease tenant beyond the confines of the building would identify that the interior of the building has become insufficient to accommodate the Applicant's storage needs.

The Monterey County Health Department 'Hazardous Material Questionnaire' completed and submitted by the Applicant notes that there will be no hazardous materials stored or used at the Subject Property. This questionnaire was forwarded by City staff to the Monterey County Health Department as part of the advisory agency notice distributed in reviewing and processing the coastal development permit application.

Trash Enclosure: The Subject Property does not provide an enclosure for refuge bins or dumpsters. The site had a history of unauthorized outside storage in the parking area by the former Restaurant Equipment business, which has not been an issue since the departure of Monterey Bay Restaurant Equipment. An enclosure could potentially be built within the parking area at the back of the building for use by all tenants provided no on-site parking is lost or inaccessible. For consistency with other permits and contingency for unanticipated circumstances, staff recommends the permit include the standard requirement prohibiting the outside/unscreened storage of debris, pallets, waste, etc. beyond the confines of the building or a City approved trash enclosure.

Impacts: Storage activities within the building are not anticipated to create negative impacts such as noise, dust, fumes, or vibrations. Two issues that sometimes occur regarding contractor operations are 1) outside unscreened storage and 2) excessive and/or overflow company vehicle parking during non-business hours. To address the storage concern, staff recommends the permit contain the standard conditions requiring all storage be maintained within the Applicant's building. Furthermore, the permit should prohibit the placement and use of storage containers beyond the confines of the building (see discussion under "storage"). The daytime parking of company vehicles on-site during weekday business hours for pick-up/drop-off activities as part of conducting the Applicant's business is acceptable; being short term occurrences and alternates parking demand between the Applicant's daytime activities and Camp Transformation's 5:00 a.m. to 10:00 a.m. and 5:00 p.m. to 9:00 p.m. Monday through Friday, and 7:00 a.m. to 12:00 noon on weekend peak time parking demand. However, overnight vehicle parking in the parking area should be prohibited as previously discussed.

Public complaints received by the City regarding construction without permits and late night activity in a non-permitted space is what generated the code enforcement inspection of the Applicant's Unit in March of this year. Staff recommends that all non-permitted construction be removed, and that the permit specify that residential or other non-storage related uses be prohibited.

Signs: The Applicant did not indicate whether he intends to establish commercial signs

on the building. Establishment of any commercial sign(s) on the Subject Property requires Design Review Committee (DRC) review and approval in the issuance of a sign permit before installation. Staff recommends the permit contain language to that effect. Furthermore, the City's Municipal Code (section 18.66.070(C)(1)) prohibits freeway oriented signs except for wall signs located on street frontage. In effect, this regulation prohibits signs on the west building elevation facing the freeway as there is no public right-of-way between the freeway and the west side of the building, but a sign could be established for the Applicant on the north facing elevation facing Ortiz Avenue, subject to DRC approval of a sign permit.

Water:
The proposed storage (warehouse) use qualifies as a Group I category low water use in accordance with the Monterey Peninsula Water Management District (MPWMD). The Subject Property and Applicant's 3,000 square foot floor area has credit based upon a Group I use; therefore, no additional water allocation is required for the Applicant's storage activity. However, the non-permitted construction within the building does require water for the added floor area. As this construction occurred without City approvals, water had not been allocated for that added floor area. Staff does not recommend allocating water for non-permitted construction; and instead recommends that the non-permitted construction within the unit be demolished and removed immediately. The permit should contain standard language stating that approval of the coastal development permit does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City or other Agency.

Storm Water Control:
The Applicant's Use is of an existing building on a developed site, and the Applicant does not intend pavement improvements or impermeable land coverage to the Subject Property that would trigger storm water control requirements. Therefore, storm water control regulations do not apply to this application.

Advisory Agencies:
Information on the Applicant's use and non-permitted existing conditions was circulated to the City's advisory agencies. The Chief of Police commented that improvements made by the Applicant were not up to code and that approval of tenant improvements are needed and must meet fire and building codes. Additionally, there were public complaints from property owners and neighbors on Ortiz Avenue regarding hosted parties at the property late into the night, and that some restriction on after hour occupation should be included. The Building Official commented that within 60 days of approval or denial of a coastal development permit for the Applicant that the Applicant shall 1) obtain a building permit for removal of all non-permitted construction, 2) complete all demolition/removal work, and 3) receive final City inspection approval(s) for all demolition/removal work. Additionally, the Applicant shall submit plans prepared by a licensed architect or design professional for the demolition/removal building permit application. No other comments were received at the time of preparing this report.

STAFF RECOMMENDATION

Though staff does not generally encourage the introduction of additional contractor or warehouse operations within the West End district of the City, the Subject Property has unique parking issues because of Camp Transformation's operation and parking needs. Due to this site specific situation, staff supports those uses/businesses of the remaining units of this building to be low parking demand uses such as storage. Since the Applicant's stated use is for storage, parking demand is anticipated to be exceedingly low for the Applicant's Use, which is consistent with General Plan Goal 2.4.

Staff recommends **APPROVAL** of the Coastal Development Permit for the Applicant's storage use only, with the conditions/restrictions proposed by staff and as discussed in this report.

Findings:

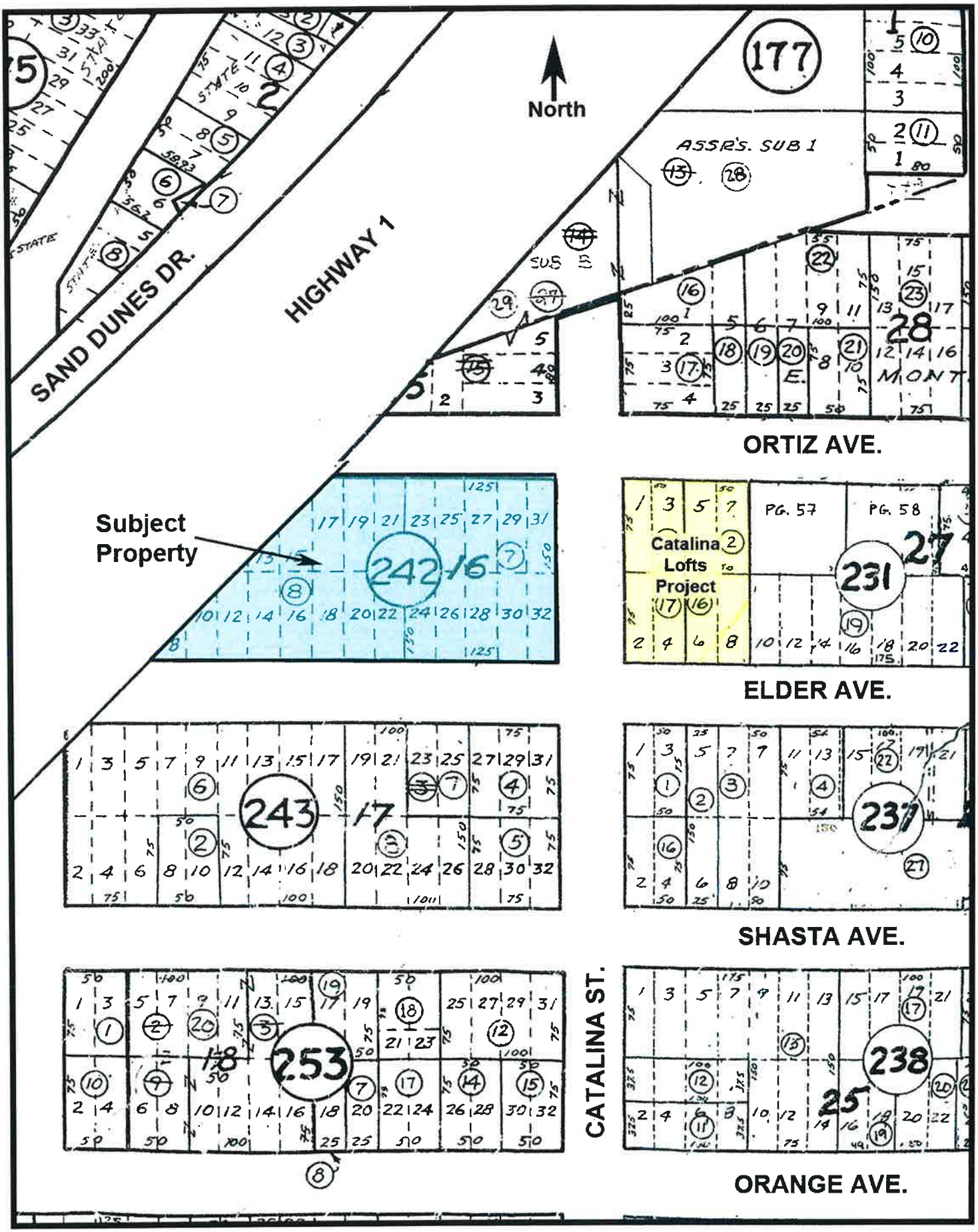
1. General Plan Goal 2.4 identifies the need to reduce land use conflicts created by insufficient parking, whereby allowing the Applicant's storage use in a building, which has a high parking demand tenant in another unit, will mitigate parking demand issues of the Subject Property.
2. Sand City Municipal Code section 18.26.040(P) specifies that uses the City Council finds to be consistent with the goals of the General Plan and the purposes of the CZ-MUP zoning district may be subject to issuance of a coastal development permit
3. The Subject Property has water credit based on a Monterey Peninsula Water Management District (MPWMD) 'Group I' classification, which is the same group classification for the Applicant's stated storage use; and therefore, no further allocation of water is deemed necessary for the Applicant's Use at the Subject Property; pending the removal of all non-permitted construction within the unit.
4. Utilities (electricity, gas, water, sewer, etc.) are sufficiently available to facilitate the Applicant's Use at the Subject Property.
5. In accordance with the Applicant's statement in the 'letter of intent' submitted, no deliveries/shipments to/from the Subject Property are anticipated for the Applicant's Use; and therefore, no parking/traffic conflicts due to routine loading/unloading activities are expected.
6. This application qualifies for a categorical exemption, under State CEQA Guidelines, Section 15301.

Exhibits:

A. Location Map
B. Aerial Map
C. Site Plan (2-sheets)
D. Floor Plan - ground floor basic layout
E. Applicant's submitted floor plan illustrations (4 sheets)
F. Applicant's submitted 'Letter of Intent'.
G. Mont. Cnty. Hazardous Material Questionnaire
H. City issued Building/Planning Code Violations (dated April 20,2021)

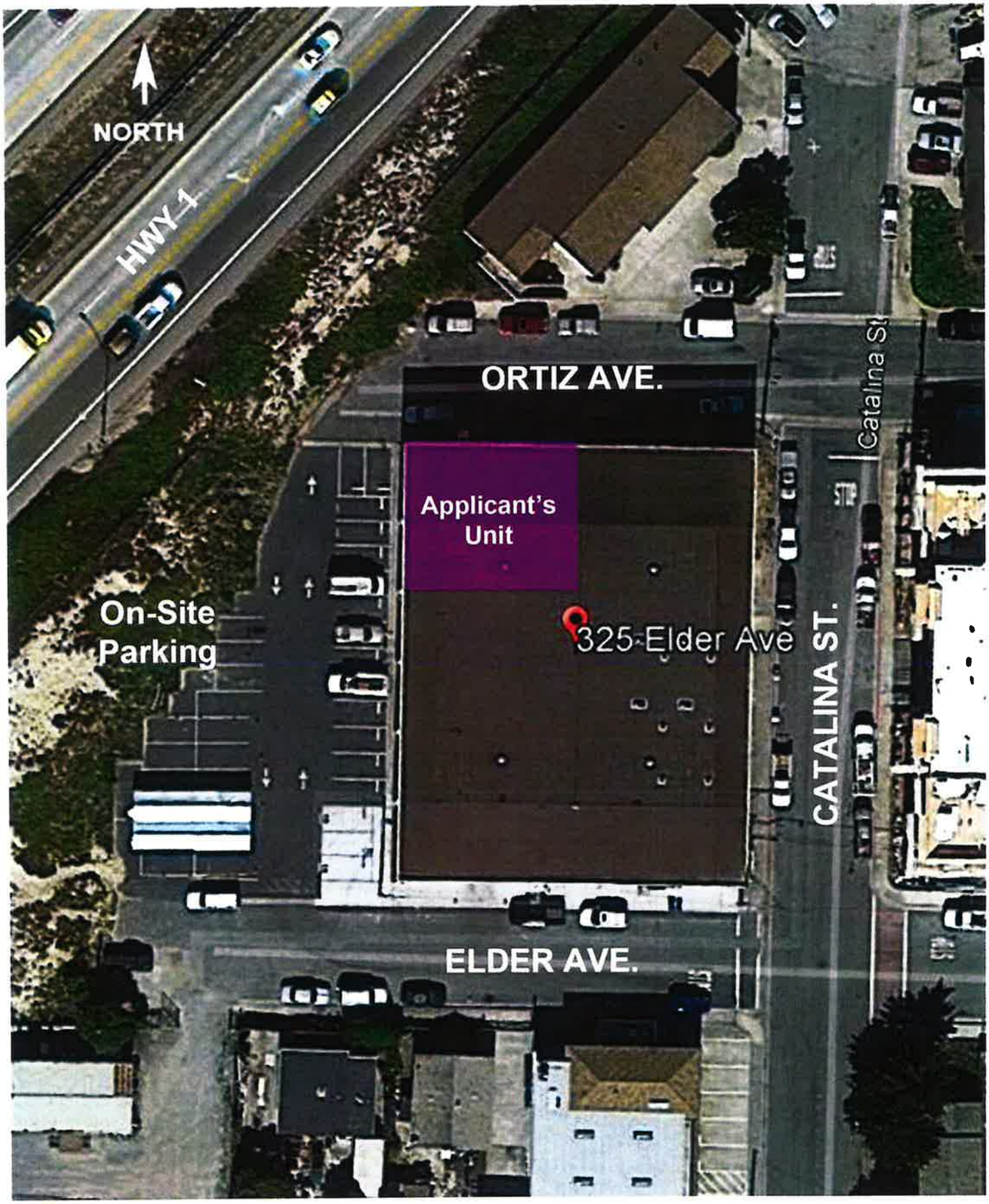
Attachment:

- Draft Resolution to approve a Coastal Development Permit (CDP)



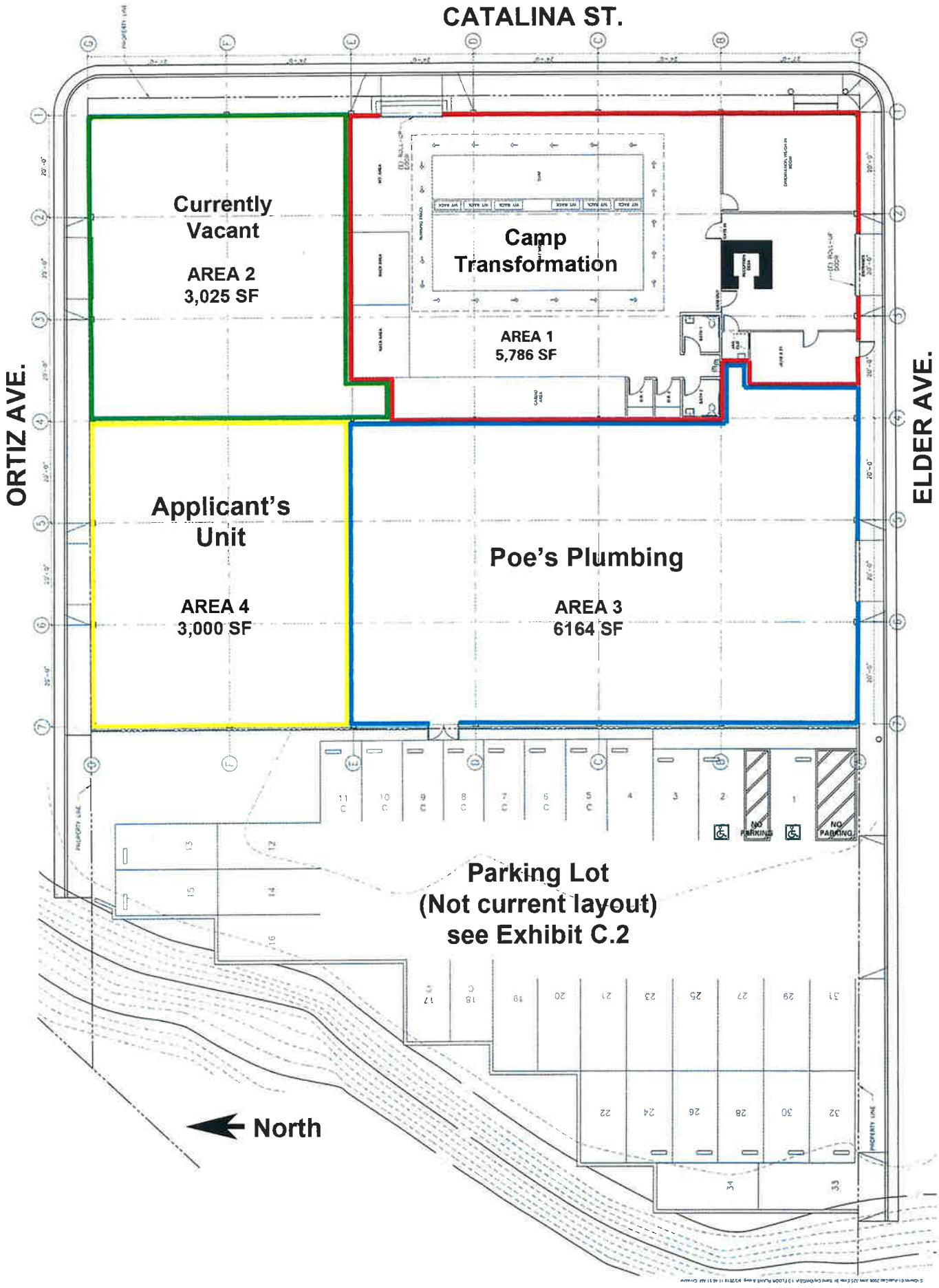
Location Map

EXHIBIT A



Aerial Map (via Google Earth)

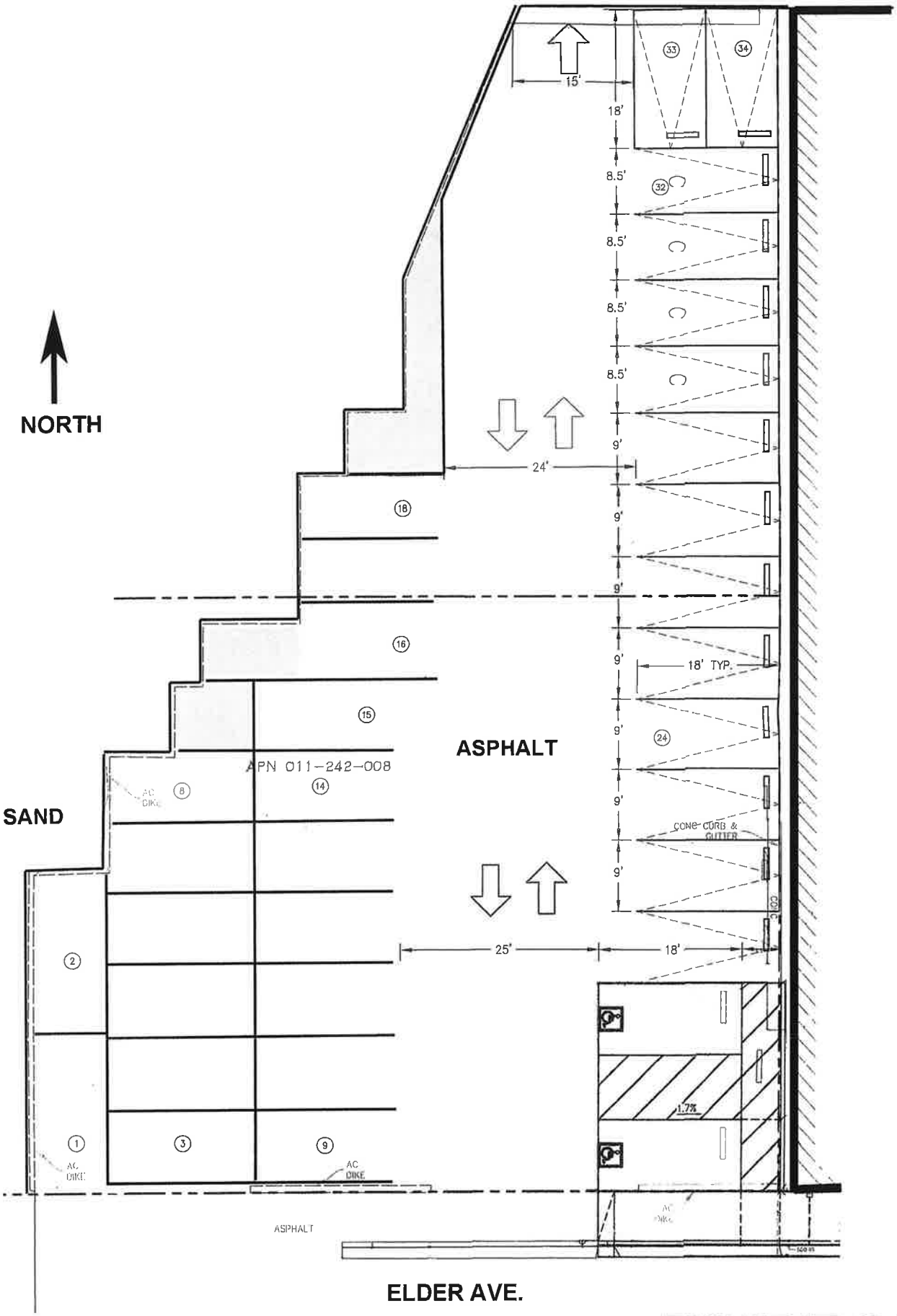
EXHIBIT B



Site Plan - Building Units

EXHIBIT C.1

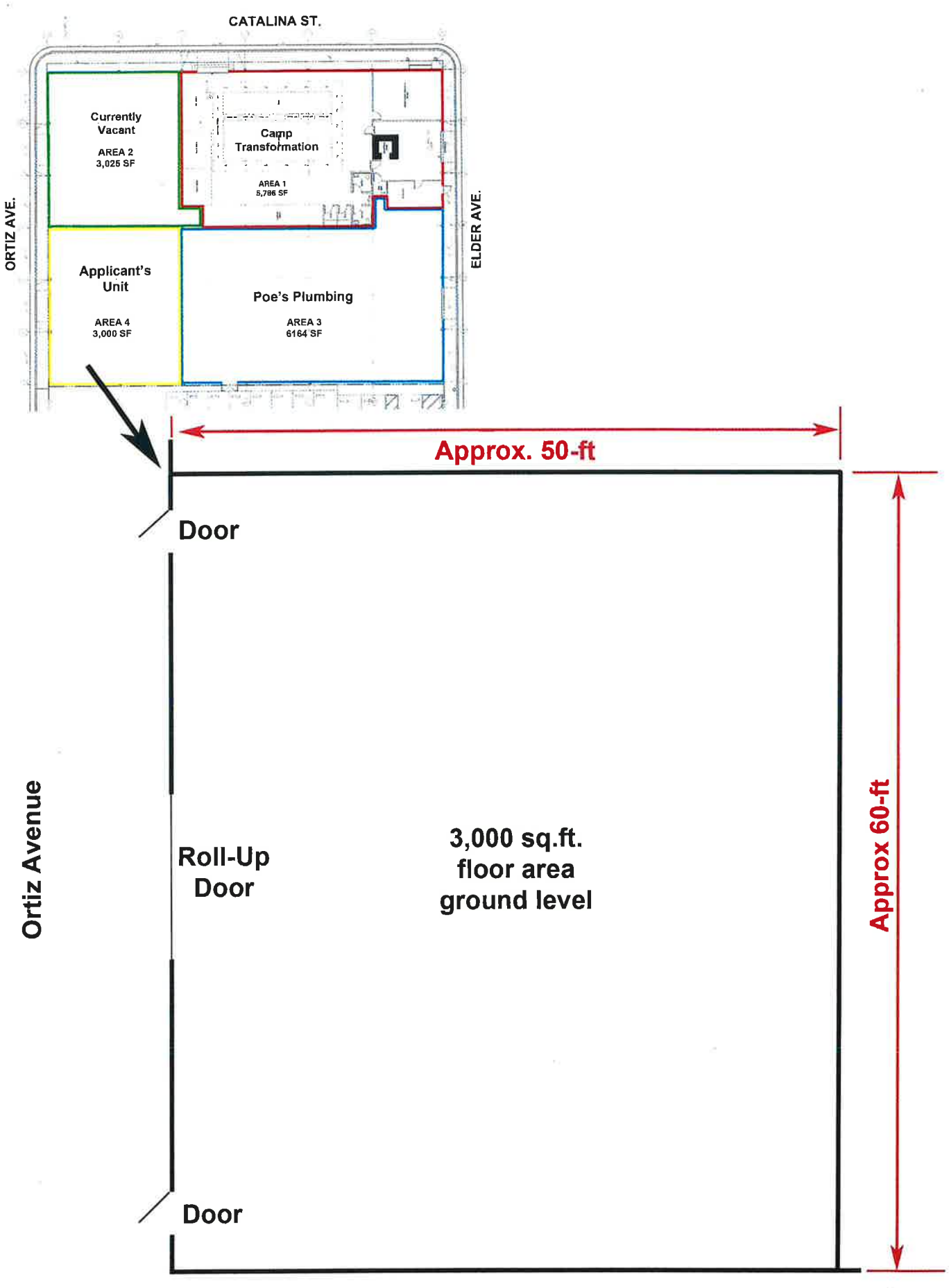
ORTIZ AVE:



ELDER AVE.

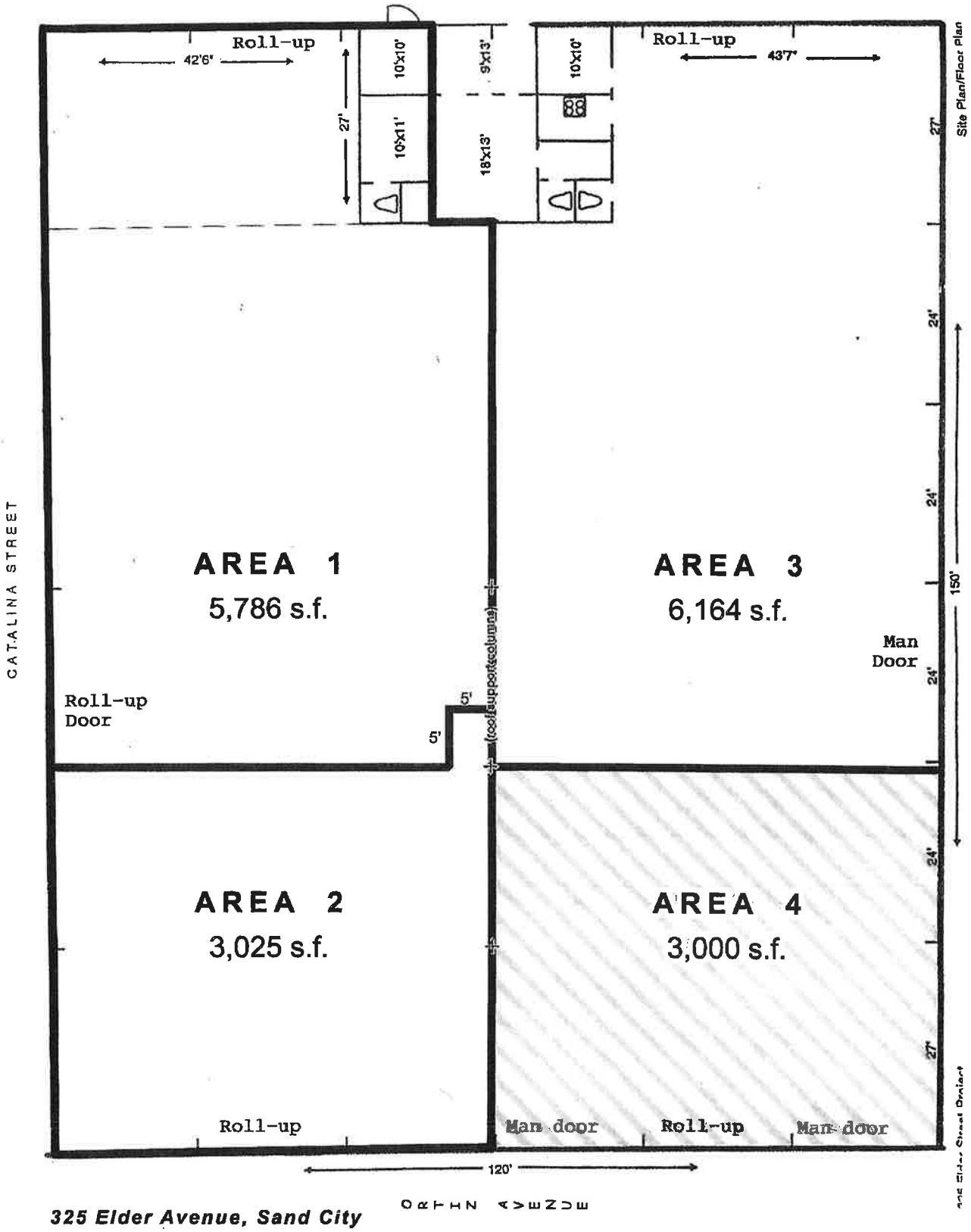
Site Plan - Parking

EXHIBIT C.2



Floor Plan - Applicant's Unit

EXHIBIT D

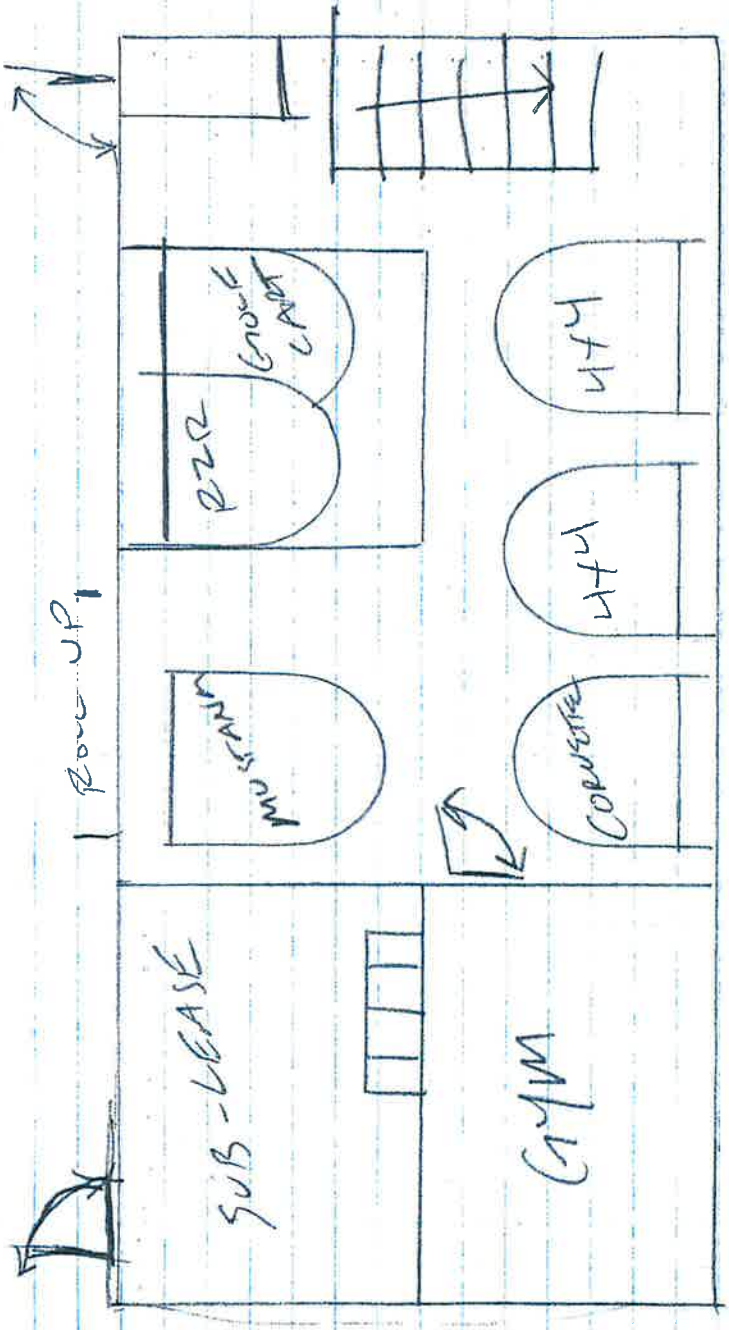


325 Elder Avenue, Sand City

PREMISES: Approximately **3,000+/-** square feet located within the area outlined in red, labelled **Area 4**. Depicted areas are approximate sizes, locations, and layouts.

Submitted Building Floor Plan EXHIBIT E.1

FLOOR LEVEL

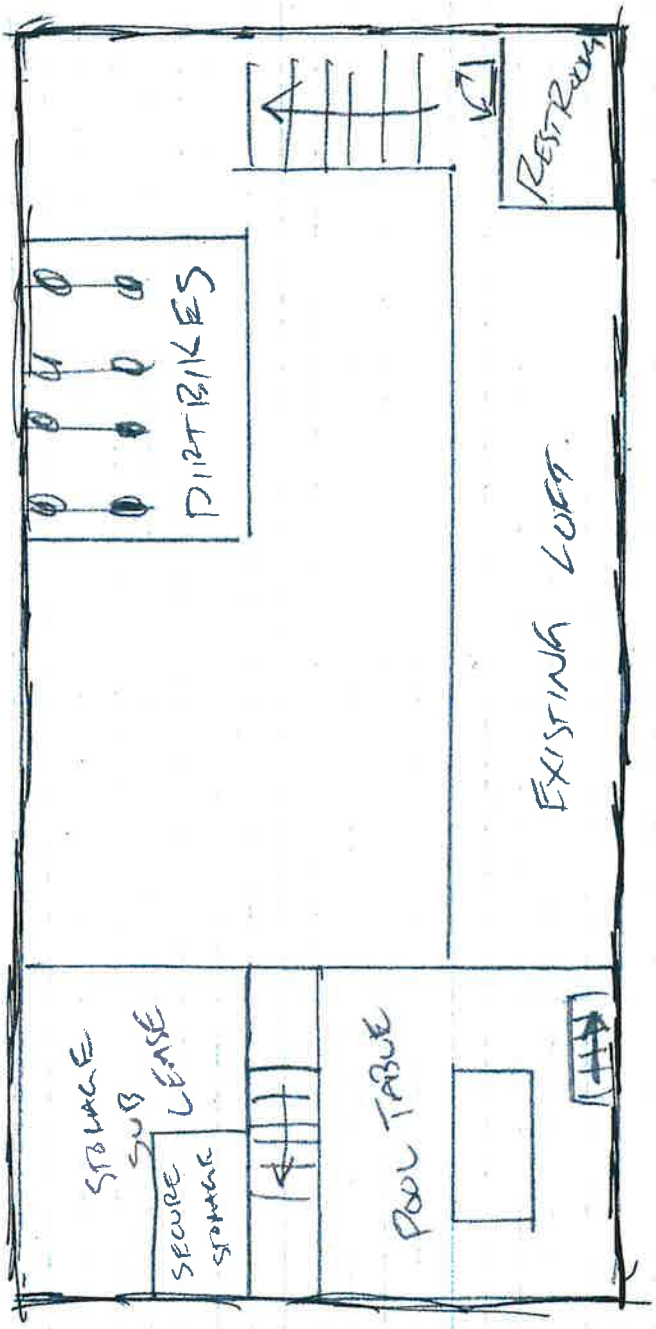


SCALE
☒ = 3'
TOTAL SF
3600☒

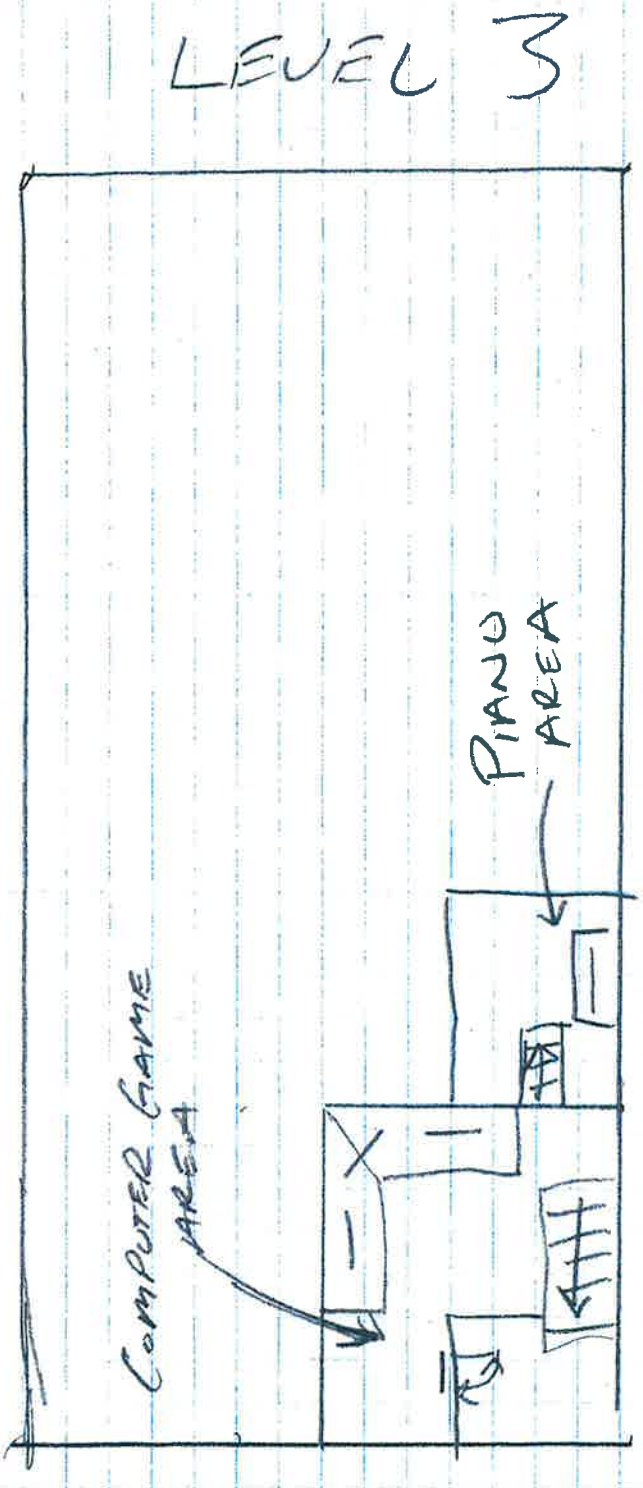
325 ELDER AVE
FLOOR-PLAN

Submitted Unit Floor Plan **EXHIBIT E.2**

LEVEL 2



Submitted Unit Floor Plan **EXHIBIT E.3**



Submitted Unit Floor Plan **EXHIBIT E.4**

June 28, 2021

Kelly Howell
404 Casanova Ave
Monterey, CA 93940

Re: Letter of Intent, 325 Elder Ave

Our intent for this unit is to use it as a storage place.

1: Hours of operation
There are no hours of operation, no project is being done at this location random visits are made.
2: # of Employees
Employ 6 people but we do not work at this location
3: One Company vehicle is parked at location on street outside of building
4: Deliveries
No delivers are made at this location
5: We are using space as a storage for the following items,
Vehicles,
Off road vehicles, RZR, Dirt bikes, Boat
Gym Equipment
Furniture
Old paperwork
Left over material and lumber
Tools

Thank you,

Kelly Howell
831-760-2932

EXHIBIT F

Monterey County Health Department
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511
Fax (831) 755-8954

Jurisdiction Name Sand City
Use Permit # CDP 21-03
Or
Building Permit # _____
Contact Name _____
Phone # _____

HAZARDOUS MATERIAL QUESTIONNAIRE

Business Name Kelcon Const. Type of Business Storage
Site Location 325 Elder Ave City Seaside APN: 011-242-007
Mailing Address 404 Casanova Ave. Monterey CA 93940
Business Contact Cassandra or Kelly Howell 831-760-2932
Name *Phone Number*
Property Owner Dianna Addeman Cannery Row Company 831-649-2614
Name *Phone Number*

1. Will your business/proposed project be using any hazardous materials such as oil, fuels, solvents, compressed gases, acids, corrosives, pesticides, fertilizers, paints or other chemicals?
☐ Yes ☒ No

2. Will your business/proposed project be using hazardous materials in quantities of 55 gallons and above for liquids, 500 lbs. and above for solids and/or 200 cubic feet and above for compressed gases?
☐ Yes ☒ No

3. Will your business/proposed project be using any quantities of acutely hazardous materials such as ammonia, chlorine, sulfuric acid, formaldehyde, hydrogen peroxide, methyl bromide or other restricted pesticides?
☐ Yes ☒ No

4. Will your business/proposed project be using underground storage tanks to store hazardous materials?
☐ Yes ☒ No

5. Will your business/proposed project be generating any quantities of hazardous waste such as waste oil, waste solvents, etc?
☐ Yes ☒ No

6. Will your business/proposed project be emitting any hazardous air emissions?
☐ Yes ☒ No

CERTIFICATION:
I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and belief.

ANY QUESTIONS REGARDING THIS FORM CAN BE DIRECTED TO:
Monterey County Health Department
Division of Environmental Health
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511

Executed AT:
Monterey CA
City, State

Print Name of Owner/Operator: [signature]

Signature of Owner/Operator: _____

For Local Jurisdiction Use Only:

1. Is there a known or proposed school, hospital, day care, or long term care facility within 1,000 feet of this site location?
☐ Yes ☒ No

2. Is there a known or proposed school, hospital, day care, or long term care facility ¼ mile of this site location?
☐ Yes ☒ No

Health Department Clearance
Signature: _____ Date: _____
Print Name and Title: _____

Air Pollution District Clearance
Signature: _____ Date: _____
Print Name and Title: _____

EXHIBIT G

Tenant: Kelcon Construction
404 Casanova Ave
Monterey, CA 93940

April 20, 2021

RE: 325 Elder Ave
Sand City, CA 93955
011-242-008-000
Building/Planning Code Violations

Dear Kelly:

City records indicate that you are the owners of the above-referenced property. In response to a number of complaints, our office scheduled and performed a site inspection with the tenant and owner's representative on Tuesday, March 23, 2021. Based on this interior inspection, the following violations were observed:

1. The existing tenant, Kelcon Construction, has occupied this space without a required Planning Department coastal development permit (Zoning Code section 18.26.040). The City Planner provided an application for planning review to Kelcon Construction in 2020; but that application was never submitted. The space has also been subdivided and a sublease completed, also without Planning permit approval. A Planning permit application was again provided during the site visit. **Please note**, a Planning application is required for all use and occupancy of the subject space .
2. Multiple interior tenant improvements were conducted without proper City approvals or permits. (105.1 2019 California Building Code). This addition of floor area may be subject to City discretionary allocation of water, in accordance with the regulations of the Monterey Peninsula Water Management District, which has not been approved for these improvements. If water is not allocated, then all said construction would have to be removed.
3. Numerous extension cords are being used for permanent power. (605.4 2018 International Property Maintenance Code)
4. Tenant improvements installed in a building with fire sprinklers without installing the required fire sprinkler protections. (704.1.2 2018 International Property Maintenance Code)

As such, you to avoid future citations and the imposition of fines, you must take the following actions no later than May 14, 2021:

Complete the Planning application for a coastal development permit and submit it for review.

If a coastal development permit is approved by the City Council, then within 30-days of said approval, submit full construction drawings for review. If the Planning application is denied, a demolition permit must be obtained and all of the non-permitted improvements removed Within 30 days from the date of denial.

EXHIBIT H

Note: The past recognized use for this space is commercial storage. It was determined that the current tenant has expanded the use to include "office-type social" gatherings. With immediate effect, you are required to discontinue these types of events unless and until City approval is granted.

This Notice of Violation serves as an OFFICIAL WARNING to correct violation(s) before being subject to a citation and fine/civil enforcement action. Failure to take the corrective action)s) described herein , or if future violations are discovered, you may be issued a Citation and fined.

Violation(s) of Sand City Municipal Code section 18.26.040 is punishable by fines up to $100 for the first violation, $200 for a second violation of the same provision within one year, and $500 for each subsequent violation of the same provision within one year. (Municipal Code 1.16.010(D))- The fines for violation(s) of Title 15 of the Sand City Municipal Code (Buildings and construction) are $100 for a first violation; $500 for a second violation of the same provision within one year; and $1,000 for each additional violation of the same ordinance within 1 year. The City may recover costs and attorneys' fees incurred in connection with successful enforcement of its laws. A separate citation and fine may be imposed for each requirement of the Ordinance violated for each day on which a violation occurs. (SCMC 1.16.010(B)). Re-inspection of your property could occur within 7-120 days of the date of this notice.

John Kuehl CBO
jkuehl@4leafinc.com
831-648-3113 desk
831-233-0188 cell

CC: Cannery row Company
Charles Pooler

CITY OF SAND CITY

RESOLUTION SC_____, 2021

RESOLUTION OF THE CITY COUNCIL OF SAND CITY TO APPROVE COASTAL DEVELOPMENT PERMIT 21-03 FOR KELCON CONSTRUCTION FOR STORAGE USE OF AN EXISTING COMMERCIAL BUILDING AT 325 ELDER AVENUE

WHEREAS, Kelcon Construction (the "Applicant") submitted an application to the City of Sand City (the "City") for coastal development permit approval for storage of miscellaneous items (the "Applicant's Use") within a 3,000 square foot unit of an existing commercial building at 325 Elder Avenue Unit 4 (portion of APN 011-242-007 & 008) in Sand City (the "Subject Property"); and

WHEREAS, the Applicant's Use at the Subject Property, at the scale and intensity described in the application and with the appropriate mitigation required, is considered marginally consistent with the non-appealable coastal "Planned Mixed-Use" (CZ-MU-P) zoning designation of the Subject Property and compatible with neighboring properties and uses; and

WHEREAS, the demand for parking by Camp Transformation at the Subject Property during peak morning and evening times makes it imperative to incorporate other land uses and tenants within the remaining units of the Subject Property that have little to no need of parking and/or can alternate their parking usage at times to interchange parking demand at opposing hours of the day/evening such as the Applicant's proposal for solely storage; and

WHEREAS, the Subject Property provides thirty-four (34) on-site parking spaces that can sufficiently accommodate zoning requirements of the Applicant's use during daytime business hours that do not overlap with peak hour parking demand of Camp Transformation; and

WHEREAS, general warehouse uses are discouraged by the City's General Plan (2002 ed), General Plan Goal 2.4 identifies the need to reduce land use conflicts created by insufficient parking, whereby allowing the Applicant's storage use in a building that has a tenant in another unit with high parking needs, will mitigate parking issues of the Subject Property consistent with General Plan Goal 2.4; and

WHEREAS, Sand City Municipal Code section 18.26.040(P) specifies that uses the City Council finds to be consistent with the goals of the General Plan and the purposes of the CZ-MUP zoning district may be subject to issuance of a coastal development permit; and

WHEREAS, public complaints received by the City regarding construction without permits and late night activity in a non-permitted space generated a code enforcement inspection by the City's Building Official of the Applicant's Unit in March of 2021 that discovered multi-level and unit separation construction, which included separated pool room and gaming

room, that had no City zoning or building permit(s) or water allocation approval(s); and

WHEREAS, water is an incredibly valuable resource on the Monterey Peninsula and water available from the City's Water Entitlement (desalination facility) has always been intended to support redevelopment of blighted properties, new development on vacant land, and higher/better uses in Sand City as discussed in the City's General Plan (2002 ed.); and

WHEREAS, the Subject Property and Applicant's unit have water credit based upon the Monterey Peninsula Water Management District's (MPWMD) Group I classification, which is sufficient to accommodate storage and warehouse occupancy as identified in the application for coastal development permit submitted by the Applicant; and

WHEREAS, additional floor area of a Group I commercial property, as defined by the MPWMD, requires additional water allocation from the City and a permit from the MPWMD, where, to date, there has been no allocation of water from the City for the non-permitted construction or added floor area discovered during the March 2021 code enforcement inspection of the Subject Property; and

WHEREAS, the creation of additional floor area for storage or private recreation within a commercial building are not necessarily considered a benefit to the City or community as a whole that would not, in itself, justify an allocation from the City's water entitlement, thus all non-permitted construction within the Applicant's unit should be removed unless granted a water allocation and building permit by the City; and

WHEREAS, the Applicant's storage within an existing building qualifies for a Categorical Exemption under CEQA (California Environmental Quality Act) Guidelines, Section 15301; and

WHEREAS, the City Council of the City of Sand City, on _____, 2021, has found and determined that the Applicant's Use of the Subject Property for storage only, as conditioned, will not adversely impact the character of the surrounding neighborhood, nor be injurious or detrimental to adjoining properties or the rights of the owners therein, and thus Coastal Development Permit 21-03, (hereinafter referred to as "CDP 21-03") shall be granted upon the conditions hereinafter set forth in this resolution and CDP 21-03; and

WHEREAS, the City Council of the City of Sand City has accepted the findings for approving CDP 21-03, as outlined in the City staff report, dated July 13, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City to hereby grant and issue CDP 21-03 upon the following terms and conditions:

1. Execution & Acceptance: CDP 21-03 is not valid, and the Applicant's Use of the Subject Property shall not commence unless and until two copies of this Resolution/Permit, signed by the Applicant and owner of the Subject Property, acknowledging receipt of CDP 21-03 and acceptance of the terms and conditions therein, is returned to the City's Planning Department. Failure to return said signed/executed CDP 21-03 may be sufficient grounds for City termination of CDP 21-

03.

2. Purpose: CDP 21-03 is for the express purpose of authorizing the storage of various miscellaneous non-hazardous material items, at the scope and scale described in the Applicant's application, within an approximate 3,000 square foot floor area commercial unit at 325 Elder Avenue (011-242-007 & 008); subject to the terms and conditions specified in CDP 21-03. Residential occupancy and/or social events/gatherings of the Applicant's unit on the Subject Property are prohibited. There shall be no expansion to the scope or intensity of the Applicant's Use beyond that as authorized by CDP 21-03 without either an amendment of said Permit or the issuance of a new land use entitlement permit. Subleasing an area for storage is permissible; however, any sublease tenant shall be required to abide by the Conditions of CDP 21-03 whereby the Applicant shall be responsible for any violations of this Permit by any sublease tenant. Termination of CDP 21-03 would require the Applicant and any sublet tenant of the Applicant's unit to vacate the site.

3. Non-Permitted Construction & Land Use: All construction within the Applicant's Unit that does not have a City approved/issued building permit and/or is otherwise not Fire or Building code compliant shall be demolished and removed within sixty (60) days of City Council approval of CDP 21-03 or as otherwise instructed by the City's Building Official. The Applicant shall provide the City with plans prepared by a licensed architect or design professional with a building permit application for the demolition/removal of non-permitted non-code compliant construction within the Applicant's Unit prior to initiating demolition/removal activities. All demolition/removal work shall be inspected by the City's building department and subject to final approval by the City's Building official. All demolished materials shall either be collected by the City's franchised waste hauler, in accordance with Chapter 13.04 of the Sand City Municipal Code, or delivered to the Monterey Regional Waste Management District facility in Marina, California for disposal; with landfill weight tickets provided to the City. All activities within the Applicant's unit that are not related to storage, as defined by CDP 21-03 Condition no. 2, shall cease and desist unless and until separate zoning approval and land entitlement permit(s) is (are) granted by the City. Non-compliance with this condition shall be sufficient grounds for City termination of CDP 21-03.

4. Hours of Operation: All activities, including loading/unloading, associated with the storage use of the Subject Property, as authorized by CDP 21-03, may only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on weekends to minimize noise impacts to neighboring residential properties/units. Office and/or janitorial activities on-site by the Applicant may extend beyond the aforementioned hours/days provided that the Applicant's unit is not open to the public and such activities do not pose a public disturbance/nuisance.

5. On-Site Parking: A minimum of thirty-four (34) on-site parking spaces shall be maintained on the Subject Property and shared between all tenants of the commercial building on the Subject Property. The Subject Property's owner and/or property manager shall be responsible for managing parking and addressing and resolving tenant disputes regarding on-site parking, provided City zoning and permit requirements are met to the satisfaction of the City. On-site parking spaces shall not

be utilized by the Applicant's Use for any purpose that impedes vehicle parking. Failure to maintain these spaces for vehicle parking by the Applicant's Use shall be sufficient reason for the City to terminate CDP 21-03. The Applicant is prohibited from parking/storing vehicles in the parking area of the Subject Property; however, vehicles parked while conducting pick-up/drop-off activities associated with the Applicant's Use during permit specified hours of activity is allowed. Any vehicle parking by and for the Applicant Use shall not double park as to encroach into public rights-of-way, including public sidewalks. The Applicant shall not park and/or store any hitch or other type of trailer outside the building on the Subject Property or within any City public right-of-way unless actively involved with loading/unloading activities.

6. Truck & Trailer Street Parking: In accordance with Sand City Municipal Code (the "SCMC") Chapter 10.08, the Applicant shall not park or store trucks, trailers, or other large vehicles, as listed in SCMC Chapter 10.08, within any City street at any time unless actively involved with loading/unloading or otherwise has a valid City issued annual parking permit. Violation of this condition may result in the issuance of citations in accordance with SCMC Chapter 10.08.

7. Loading/Unloading: All loading/unloading of items associated with the Applicant's Use at the Subject Property shall only occur during Permit specified hours of operation (see Permit Condition No. 3). The Applicant's Use is prohibited from conducting any loading and/or unloading activities on Catalina Street, nor shall such activity impede vehicular travel on Ortiz Avenue and Elder Avenue.

8. Storage: All materials, parts, tools, equipment, packaging, pallets, and/or any other item associated with the Applicant's Use, stored on the Subject Property, shall only be stored within the building, and such items are prohibited from being stored on-site beyond the confines of the building. Any materials stored/used on-site, that may pose a hazard, shall comply with all requirements of the Monterey County Health Department and the City's Fire Department. The placement of a self-contained portable storage unit/pod on-site, beyond the confines of the building, is hereby prohibited; and the need of the Applicant to do so shall be considered by the City as justification that the Applicant's Use has expanded beyond the Subject Property's ability to sufficiently accommodate the Applicant's Use; and thus be sufficient reason for the City to amend or terminate CDP 21-03.

9. Property Maintenance: The Subject Property shall be maintained in a clean, orderly, weed-free, and litter-free condition. There shall be no storage of waste material or debris on-site, except as otherwise allowed by CDP 21-03. The Applicant and/or the Subject Property's owner shall be responsible for maintenance and upkeep of the Applicant's leased/occupied area of the Subject Property.

10. General Waste: Trash, litter, boxes, crates, pallets, debris, and/or other used and/or discarded materials generated/used by the Applicant's Use shall be stored in an appropriate waste collection bin or dumpster. Except on a designated trash collection day, said bin(s) or dumpster(s) shall be stored/maintained within the building or within a City approved enclosure; however, bin(s) or dumpster(s) shall not occupy or impede on-site parking or public right-of-way. An enclosure may be established on the Subject

Property only after approval by the City's Planning Department. The Applicant shall work and coordinate with the City's franchised waste hauler to implement material recycling and recovery as part of the Applicant's use to the maximum degree feasible.

11. Hazardous Waste: Any and all hazardous materials and/or waste used/generated by the Applicant's Use shall be legally stored and disposed of in accordance with the regulations of the City, the County of Monterey, and the State of California. The Applicant shall concede to any direction of the City's Fire Department, City Code Enforcement Officer, and/or the Monterey County Health Department regarding the storage and/or handling of hazardous materials on the Subject Property. Any illegal material storage, dumping, and/or disposal shall be sufficient grounds for City termination of CDP 21-03.

12. Signs: Any commercial sign on the exterior of the building or anywhere on the Subject Property, identifying and/or serving the Applicant's Use, shall be reviewed and approved by the Sand City Design Review Committee (DRC) in the issuance of a sign permit prior to the establishment of any sign such at the Subject Property. Signs attached to the building shall also obtain a City building permit prior to installation of said sign. In accordance with Sand City Municipal Code section 18.66.070(C)(1), there shall be no sign established on the building's west elevation. The Applicant shall not place any free-standing sign anywhere within City limits without City Planning Department approval.

13. Water Runoff: The Applicant's Use shall not create water run-off within the City in accordance with SCMC Chapter 13.05 regarding Storm Water Management. There shall be no washing of vehicles on the Subject Property or within any public right-of-way by the Applicant or Applicant's Use.

14. Water: Issuance of CDP 21-03 does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City of Sand City or other entity. The Applicant's Use, described in the application as "storage" shall be limited to that water credit currently available to the Subject Property, in accordance with the regulations of the Monterey Peninsula Water Management District (MPWMD).

15. Local/Regional Compliance: All requirements of the City's contracted Building and Fire Departments, the City Engineer, the Sand City Police Department, the Sand City Code Enforcement officer(s), the Seaside County Sanitation District, Monterey One Water (formerly 'Monterey Regional Water Pollution Control Agency'), and Monterey County Health Department, shall be implemented to the satisfaction of each department and inspector thereof.

16. Air District: The Applicant shall be responsible for complying with applicable rules and regulations of the Monterey Bay Air Resources District. Failure to comply shall be sufficient grounds for City termination of CDP 21-03.

17. Fire Department: The Applicant's use of the Subject Property, as authorized by CDP 21-03, must conform to storage and operational requirements specified in the California Fire Code and to the satisfaction of the City's Building Official and/or Fire

Department inspector. The Subject Property shall be available and open for Fire Department and/or City code enforcement inspections. Failure to comply with the City's Building Official and/or Fire Inspector and/or code enforcement requirements may be sufficient grounds for City issuance of a 'Cease and Desist' order for closure of the Applicant's Use and City amendment or termination of CDP 21-03.

18. Nuisance: The Applicant's use, or any sublease tenant of the Applicant's Unit, on the Subject Property shall be conducted as to not constitute a nuisance to abutting units, surrounding properties, and/or the occupants thereof. The Applicant shall be considered responsible for the impacts created by the Applicant's activities or sublease tenant's activities. The Applicant shall implement all mitigation necessary to inhibit any noise, vibration, dust, fumes, odors, overflow parking, and/or other negative impact(s) that the Applicant's Use, or sublease tenant, may or will generate. If the City Council finds at any time that the Applicant's, or any sublease tenant's, activities and use of the Subject Property constitutes a nuisance, violates conditions of CDP 21-03, and/or is otherwise detrimental to the neighborhood or to the community, such use shall be discontinued or modified as may be required by the City. Failure to effectively implement mitigation required by this Permit, or other direction/notification by the City deemed necessary to abate negative impacts generated by the Applicant or sublease tenant, may be adequate grounds for the City to amend or terminate CDP 21-03. Failure to comply with such City direction may result in the amendment or revocation of CDP 21-03.

19. Violation/Termination: If the City determines that any term or condition of CDP 21-03 has been violated, and/or the Applicant's activities or sublease tenant's activities at the Subject Property constitutes a nuisance or is otherwise detrimental to neighboring units, properties, and/or community, written notice shall be issued by the City to the Applicant, that if such violation is not corrected or removed within a specified time, a public hearing may then be scheduled where the City Council may consider amending or revoking CDP 21-03, and may then order said Permit amended or revoked. The Applicant and the Subject Property's owner/manager shall be notified of any such public hearing, and provided an opportunity to address the City Council prior to any action by the City Council to amend or terminate CDP 21-03.

20. Interpretation: Any questions of intent or interpretation regarding any condition of CDP 21-03 shall be subject to, and resolved by, the Sand City Planning Department.

21. The issuance of CDP 21-03 shall not supersede or override any applicable requirements of any other City, County, State, or Federal agency.

22. Indemnity: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees, contractors, and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the Applicant to attack, set aside, or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorney's fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

23. Business License: The Applicant and all sublease tenants shall acquire, maintain, and annually renew a Sand City business license for the duration of their occupancy and use of the Subject Property. Failure to maintain a current Sand City business license may be sufficient grounds for termination of CDP 21-03.

PASSED AND ADOPTED, CDP 21-03, inclusive of all specified conditions/requirements for the Applicant's Use at the Subject Property, is hereby approved by the City Council of Sand City, this __ day of August, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

_____
Mary Ann Carbone, Mayor

_____
Connie Horca, City Clerk

This is to certify that Coastal Development Permit 21-03 contains the conditions specified by the City Council in approving said Permit.

_____
Charles Pooler, City Planner

APPLICANT ACCEPTANCE (CDP 21-03)
Coastal Development Permit 21-03 are hereby accepted upon the express terms and conditions hereof, and the undersigned agrees to strictly conform to and comply with each and all of the said terms and conditions.

DATED: _____ BY: _____
Applicant

CONSENT OF OWNER (CDP 21-03)
Consent is hereby granted to the permittee to proceed with the City approved use, in accordance with the terms and conditions of Coastal Development Permit 21-03.

DATED: _____ BY: _____
Property Owner

AGENDA ITEM
8B.

Consideration of City RESOLUTION Approving Conditional Use Permit 648 for Michael Worcester Authorizing a Glasswork Artist Studio at 769 Dias Avenue

CITY OF SAND CITY

STAFF REPORT

AUGUST 5, 2021
(For City Council Review on September 7, 2021

TO: **Mayor and City Council**

FROM: **Charles Pooler, City Planner**

SUBJECT: **Conditional Use Permit Application for Sand City Glassworks**

BACKGROUND

An application was submitted by Michael Worcester of Sand City Glassworks (the "Applicant") for conditional use permit approval to establish and operate an art studio workshop and gallery (the "Applicant's Use") within an existing 1,164 commercial building at 769 Dias Avenue (APN 011-192-015) in Sand City (the "Subject Property"). The site has a non-coastal zoning designation of Planned-Mixed Use (MU-P) and a General Plan land use designation of Mixed-Use (MU-D). A conditional use permit is required for new uses/operations within this zoning district. The intended use within an existing building qualifies for a categorical exemption, under State CEQA (California Environmental Quality Act) Guidelines, Section 15301.

Site Description:
The Subject Property is located towards the eastern end of Dias Avenue, abutting the Granite Rock facility. The site is 50-feet wide and 75-feet deep for a total area of 3,750 square feet. The building has zero (0) rear and side setbacks, and a front setback of approximately 44-feet. The building is a one (1) story metal clad structure with two small roll-up doors. There is a wood fence and gate about 21-feet back from the public right of way providing an enclosed yard. The 50-foot frontage width and asphalt pavement provide space for five (5) on-site parking spaces that are currently not striped. There are no curbs, gutters, or sidewalk along the frontage of the Subject Property; only asphalt pavement for the on-site parking up to the street pavement. Existing utilities (i.e., gas, electric, water, sewer, etc.) are available and adequate to service the Applicant's Use.

DISCUSSION

Project Description:
The Applicant proposes an artist workshop to engrave and polish art-glass, with a gallery to showcase and sell items. The Applicant also proposes a sewing and painting area as well. There will be no employees beyond the Applicant and his wife. Glassblowing and/or kilns/ovens are not proposed for this operation. Items used on-site consist of an air compressor, small enclosed sandblast unit with filters, a lap grinder, a wet glass belt sander, glass carving lathe, sewing machine, and small woodworking tools. Hours of operation will be sporadic, but usually between 10:00 a.m. to 5:00 p.m. on weekdays and

some weekends. Most public visitations would be by appointment. There are no company vehicles. Shipments/deliveries will be limited. Typically, a pallet of glass from the Applicant's workshop in Maui will be shipped to the Subject Property once or twice a year, delivered via box truck or smaller. No semi-truck deliveries/shipments are intended.

Land Use: The Subject Property has a non-coastal General Plan land use and Zoning Map designation of "Mixed-Use". Section 18.13.040 of the zoning ordinance specifies that 'light-manufacturing' and 'art/craft' studios' are permissible subject to the City Council's approval of a conditional use permit. The City's General Plan (2002 ed.), Policy 2.1.1. states to "encourage the establishment of new land uses...that could include artisans...". The Applicant's Use is consistent with this General Plan policy. Low impact artisan studios and art galleries such as proposed by the Applicant are considered compatible with residential uses as such activities do not generate excessive noise, dust fumes, vibrations or other detrimental impacts; which is consistent with General Plan Policy 2.1.1. that supports new land uses that are generally complementary to other desirable businesses and are residentially compatible.

Hours of Operation: The Applicant states that their hours of operation will be sporadic, but generally between 10:00 a.m. to 5:00 p.m. weekdays and some weekends. Staff recommends the permit specify this operation be able to operate during the standard business hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on weekends; which is an expansion of the Applicant's intentions and provides greater flexibility.

Parking: The Subject Property provides space for five (5) perpendicular parking spaces along the frontage. The building is approximately 1,164 square feet of floor area, which requires two (2) parking spaces based on the 1/700 parking ratio for manufacturing operations. Therefore, there is sufficient on-site parking to accommodate the Applicant's Use.

Loading/Unloading: Shipments/deliveries will be limited. Typically, a pallet of glass from the Applicant's workshop in Maui will be shipped to the Subject Property once or twice a year, delivered via box truck or smaller vehicle. No semi-truck deliveries/shipments are intended; and such large vehicles would have difficulties exiting this segment of street. This end of Dias Avenue is not a highly traveled street segment and it is officially a 'dead end'; whereby loading/unloading within a portion of the street would have minimal impact upon traffic flow.

Storage: The Applicant does not intend any storage beyond the confines of the building or courtyard, and will maintain glasswork activities within the building. Staff recommends that be a condition of permit approval. According to the completed Hazardous Material Questionnaire (see Exhibit G), there will be no hazardous materials in any substantial quantities stored/used on the Subject Property. The placement of self-contained portable storage units/containers on-site outside the building, particularly in the parking area, should be prohibited to avoid visually blighting influences. The use of storage containers beyond the confines of the building would indicate that the interior

of the building and courtyard have become insufficient to accommodate the Applicant's operation and storage needs.

Trash Enclosure: The Subject Property does not have a specific enclosure for trash bins or dumpsters. The fenced courtyard is able to screen bins and dumpsters from general public view; however, the front gate may not be wide enough to accommodate moving a dumpster out for collection service. The Applicant has sufficient space in front of the gate that, if a dumpster was needed, a small enclosure could be built reducing 1 or 2 spaces to "compact" dimensions (8.5'x16') and remain in code compliance. Any enclosure needs to be reviewed and approved by the City's Planning Department prior to being established. The permit should contain the standard language requiring that refuse bins/dumpsters be maintained within the fenced courtyard or the building except on trash collection days unless within an enclosure.

Signs: The Applicant does intend to establish a business sign on the Subject Property; however, no information has yet been provided regarding this sign. Commercial signs are subject to City Design Review Committee (DRC) review and approval in the issuance of a sign permit prior to installation. This should be a condition of permit approval.

Impacts: The scope and scale of the Applicant's Use is not foreseen to generate excessive noise, vibration, dust, fumes, odors, or other such impacts that would negatively impact adjacent units or neighboring properties. Potential impacts from the identified equipment/tools to be used on-site are anticipated to be adequately contained within the building. The Subject Property is located at the far east end of the Mixed-Use Zoning district, abutting the Granite Rock facility, which will isolate/limit potential impacts of the Applicant's Use from the remainder of the West End District. The submitted site plan identifies an air compressor outside in a shed. As with previous permits addressing air compressors, staff recommends the Applicant's permit contain the following language to minimize potential noise to surrounding properties:

> "*If the Applicant utilizes and maintains an air compressor on the Subject Property, said compressor shall be maintained within the building or other enclosure at all times and be electric powered and not gas/fuel powered. During non-operational hours (see Condition No. 3), said air compressor shall be turned off to prevent automatic re-pressurization during those non-operational hours.*"

Storm Water Control:
The Applicant's Use is of an existing building on a developed site, and the Applicant does not identify the need or desire for any construction or pavement improvements to the Subject Property. Therefore, storm water control regulations do not apply to this application.

Water:
Warehouse buildings qualify as a Group I category low water use in accordance with the Monterey Peninsula Water Management District (MPWMD). The Subject Property has credit based upon a Group I use; therefore, no additional water allocation is required. The

permit should contain standard language stating that approval of the permit does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City or other Agency.

Covid-19 Epidemic:
Issuance of a conditional use permit does not override any Federal, State, or County orders that may impact the Applicant's Use in terms of operating during a pandemic. The conditional use permit outlines the authorized land use and the conditions and restrictions upon which the Applicant may conduct business during normal circumstances. The Applicant will have to coordinate with the Monterey County Health Department as to determine the conditions and restrictions that could/would impact and/or limit the Applicant during the current pandemic.

Advisory Agencies:
Information on the proposed use was circulated to the City's advisory agencies. The Building Official and Seaside County Sanitation District expressed no concern with this application. No other comments were received at the time of preparing this report.

RECOMMENDATION

Staff recommends **APPROVAL** of the conditional use permit, authorizing the Applicant's art studio/gallery at the Subject Property, per staff's recommended permit conditions.

Findings for Approval:

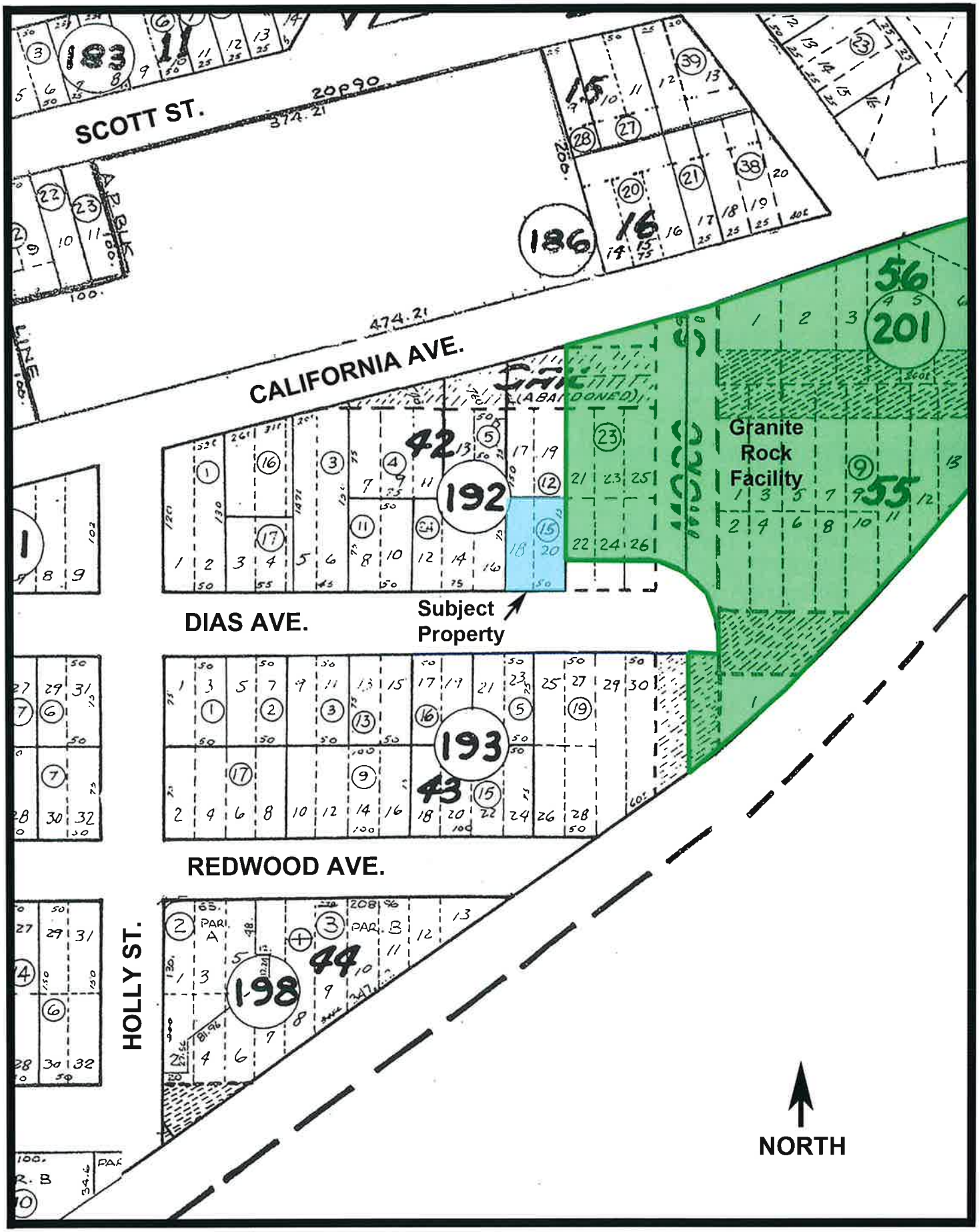
1. The Applicant's Use, at the described scale and intensity and as conditioned, is compatible with the Planned Mixed-Use (MU-P) zoning district and the existing neighboring land uses.
2. No allocation of water from Sand City is required for the Applicant's Use at the Subject Property.
3. Adequate utilities are available to facilitate the Applicant's Use.
4. Sufficient off-street parking is provided to accommodate the Applicant's Use.
5. The Applicant's Use of an existing commercial building qualifies for a categorical exemption, under State CEQA Guidelines, Section 15301.
6. The Applicant's Use is not anticipated to pose a public nuisance or impose any blighting influences, as conditioned, on the surrounding area or the City as a whole.

Exhibits:

A. Location Map
B. Aerial Map
C. Site Plan
D. Floor Plan
E. Site Photograph
F. Applicant's Letter of Intent
G. Mont. Cnty. Health Dept. Hazardous Material Questionnaire

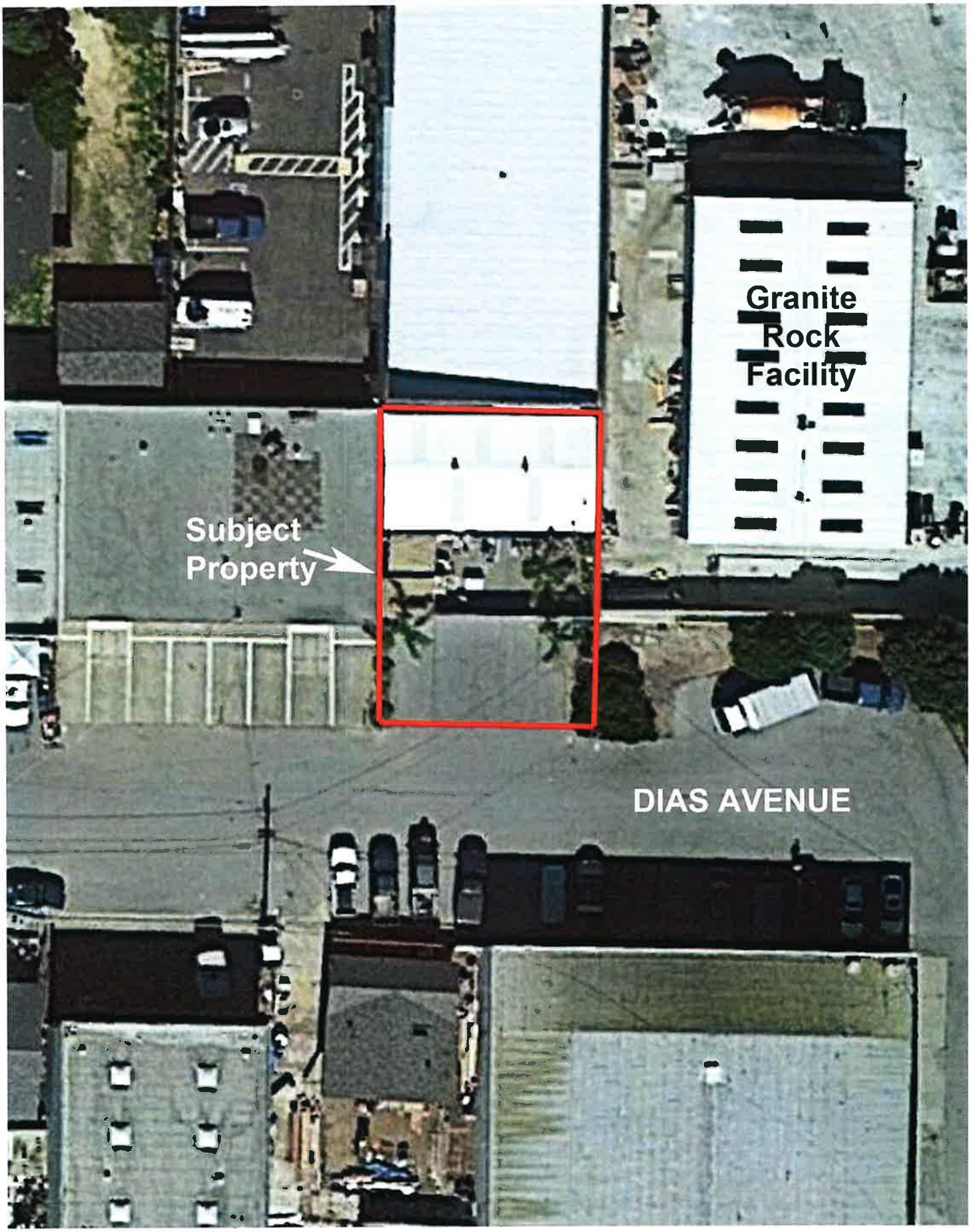
Attachments:

- Draft Resolution to approve a conditional use permit



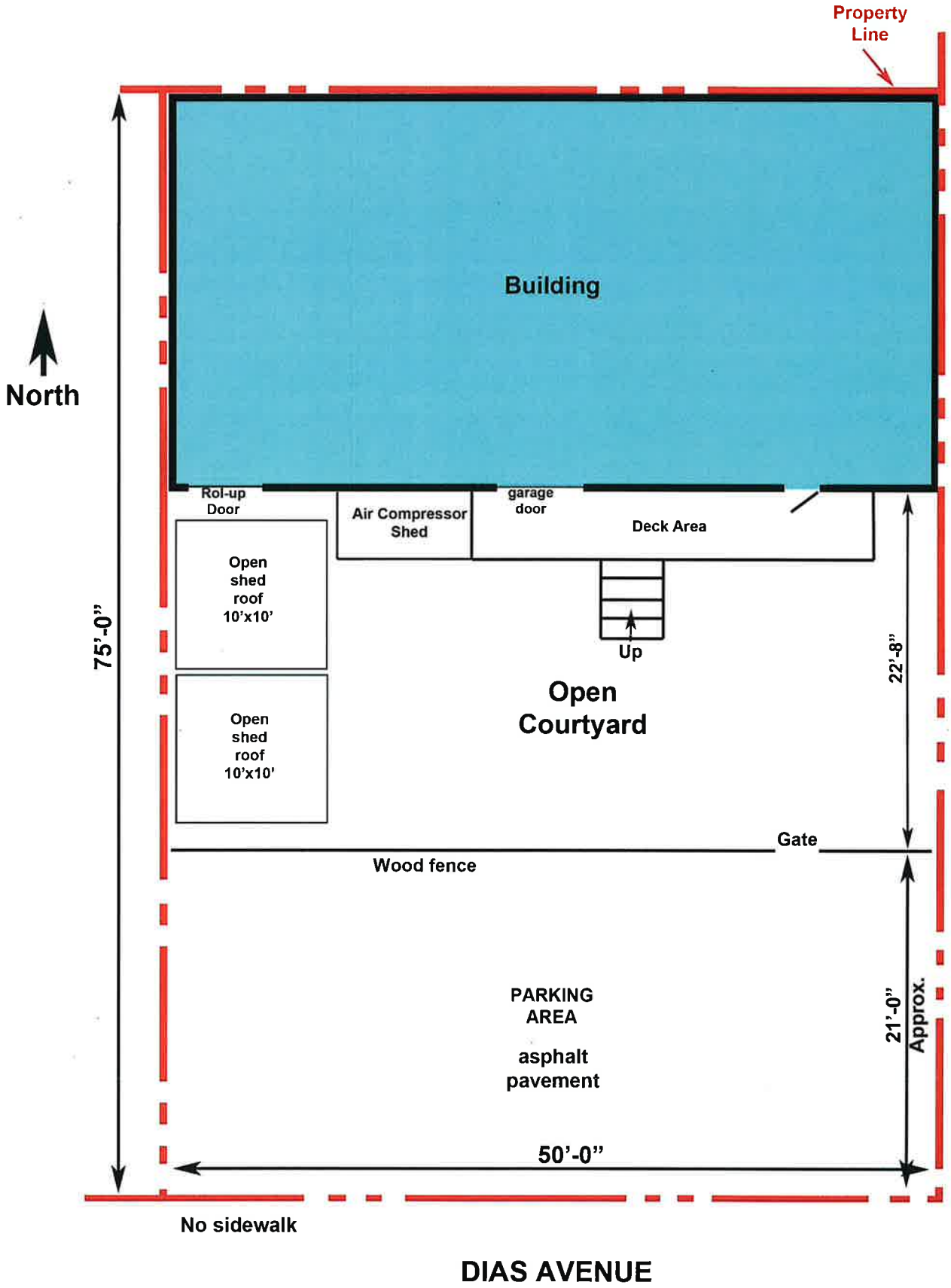
Location Map

EXHIBIT A



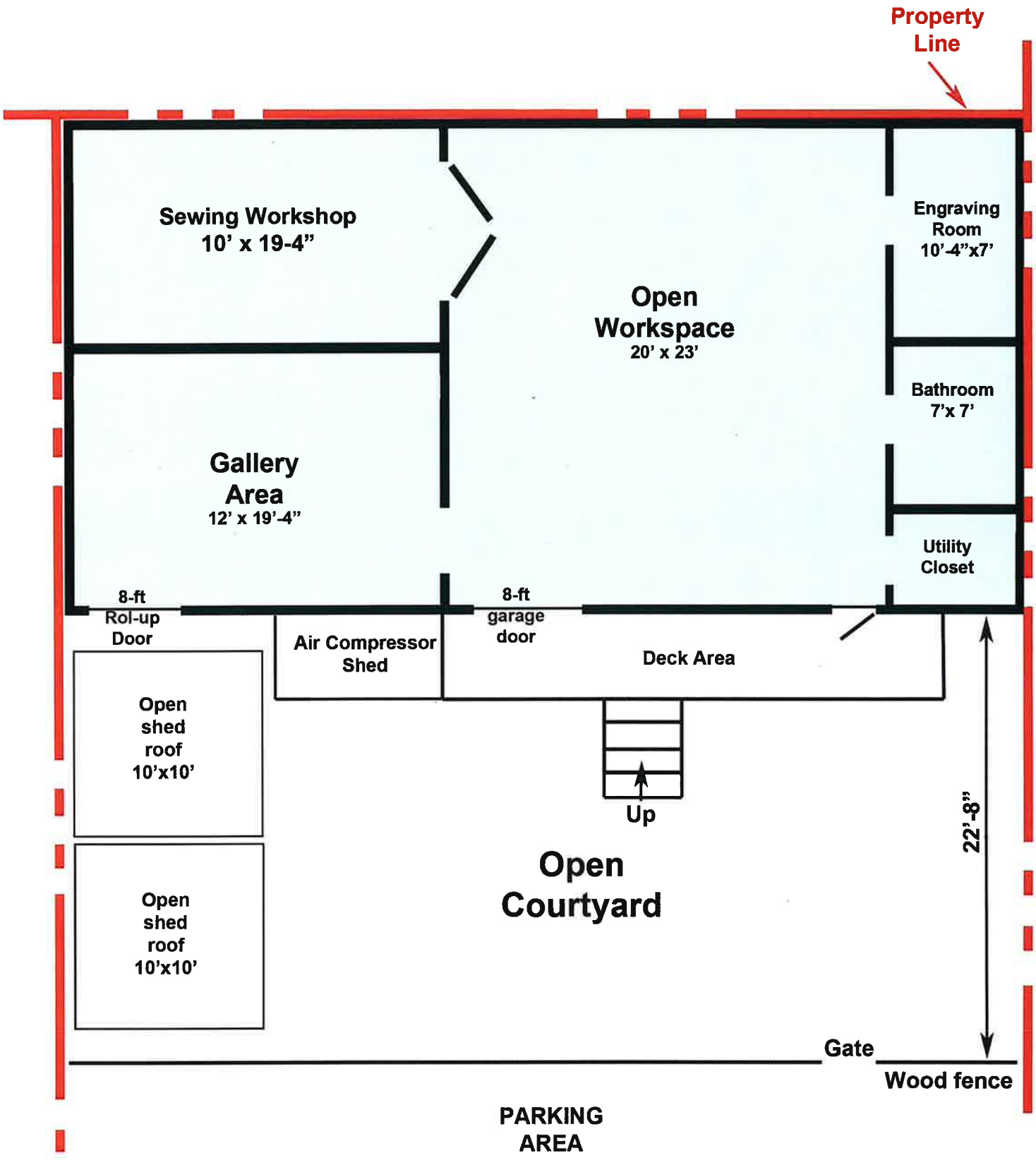
Aerial Map

EXHIBIT B



Site Plan

EXHIBIT C



Not to Scale

Floor Plan

EXHIBIT D



Applicant's building is the 1-story blue building behind the fence. The metal frame building is the San Juan Pools building under construction on abutting property to the rear.

Site Photograph (via Google Earth)

EXHIBIT E

Sand City Glassworks

769 Dias ave
Sand City
Ca 93955

July 16, 2021

Mike Worcester
PO Box 3048
Carmel
Ca 93921
808-344-8113

Dear Charles,
This is my letter of intent for our workshop/gallery at 769 Dias Av.
We have run a small family business on the island of Maui called Worcester glassworks for the last 20 years .
Many of our clients are from this area, now that we have this property we would like to set up our small art gallery and workshop.
Our hours will be sporadic but usually 10 to 5 weekdays and occasionally on weekends. mostly By appointment
We plan to have about a quarter of the building as a art gallery and a quarter of the building as a sewing workshop.

The other half of the building is glass engraving workshop.

We do not plan to have any employees.

We have no company vehicles so it is just my car in my wife's car depending on who's there at the time.

We will have limited shipments and deliveries, A pallet of glass that was made in our Hawaii shop will get shipped once or twice a year.

EXHIBIT F

All the equipment is relatively small and quiet

Air compressor (that has been on site for many years)
Small enclosed sandblast unit with filters
24" flat lap grinder. (To flatten and polish glass)
Stand up wet glass belt sander.
Glass carving lathe
Sewing machine
Small woodworking tools.

Sincerely yours,

Michael Worcester, Kelly Cliff

Monterey County Health Department
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511
Fax (831) 755-8954

Jurisdiction Name Sand City
Use Permit # CUP 648
Or
Building Permit #
Contact Name
Phone #

HAZARDOUS MATERIAL QUESTIONNAIRE

Business Name Sand City Glassworks Type of Business ART Gallery and workshop
Site Location 769 Dias Ave City Sand City APN: 011-192-015
Mailing Address PO Box 3048 Carmel CA 93921
Business Contact Mike Worcester 808-344-8113
Name *Phone Number*
Property Owner Mike Worcester/Kelly Cliff 808 344-8113
Name *Phone Number* " " 9326

1. Will your business/proposed project be using any hazardous materials such as oil, fuels, solvents, compressed gases, acids, corrosives, pesticides, fertilizers, paints or other chemicals?
☐ Yes ☒ No

2. Will your business/proposed project be using hazardous materials in quantities of 55 gallons and above for liquids, 500 lbs. and above for solids and/or 200 cubic feet and above for compressed gases?
☐ Yes ☒ No

3. Will your business/proposed project be using any quantities of acutely hazardous materials such as ammonia, chlorine, sulfuric acid, formaldehyde, hydrogen peroxide, methyl bromide or other restricted pesticides?
☐ Yes ☒ No

4. Will your business/proposed project be using underground storage tanks to store hazardous materials?
☐ Yes ☒ No

5. Will your business/proposed project be generating any quantities of hazardous waste such as waste oil, waste solvents, etc?
☐ Yes ☒ No

6. Will your business/proposed project be emitting any hazardous air emissions?
☐ Yes ☒ No

CERTIFICATION:
I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and belief.

Executed AT:
Sand City California
City, State

ANY QUESTIONS REGARDING THIS FORM CAN BE DIRECTED TO:
Monterey County Health Department
Division of Environmental Health
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511

Print Name of Owner/Operator: Michael Worcester
Signature of Owner/Operator: Mike Worcester

For Local Jurisdiction Use Only:

1. Is there a known or proposed school, hospital, day care, or long term care facility within 1,000 feet of this site location?
☐ Yes ☑ No

2. Is there a known or proposed school, hospital, day care, or long term care facility ¼ mile of this site location?
☐ Yes ☑ No

Health Department Clearance
Signature: _____ Date: _____
Print Name and Title: _____

Air Pollution District Clearance
Signature: _____
Print Name and Title: _____

EXHIBIT G

CITY OF SAND CITY

RESOLUTION SC_____, 2021

RESOLUTION OF THE CITY COUNCIL OF SAND CITY APPROVING CONDITIONAL USE PERMIT 648 FOR MICHAEL WORCESTER AUTHORIZING A GLASSWORK ARTIST STUDIO AT 769 DIAS AVENUE

WHEREAS, Michael Worcester of Sand City Glassworks (the "Applicant") submitted an application to the City of Sand City (the "City") for conditional use permit approval to establish and operate an art studio workshop and gallery (the "Applicant's Use") within an existing 1,164 commercial building at 769 Dias Avenue (APN 011-192-015) in Sand City (the "Subject Property"); and

WHEREAS, the Applicant's Use, at the described scale and intensity, is considered compatible with this mixed-use neighborhood and the General Plan land use and Zoning designations of the Subject Property; and

WHEREAS, there is sufficient off-street parking available on the Subject Property to accommodate the Applicant's Use and satisfy minimum zoning requirements; and

WHEREAS, existing on-site water credit for the Applicant's commercial unit of the Subject Property is a Group I category in accordance with the regulations of the Monterey Peninsula Water Management District (MPWMD), which is sufficient to accommodate the Applicant's Use, and no additional water allocation from the City is required; and

WHEREAS, the Applicant's Use of an existing commercial building qualifies for a categorical exemption per the regulations of the CEQA (California Environmental Quality Act) Guidelines, Section 15301; and

WHEREAS, the City Council of the City of Sand City, on _____, 2021, has found and determined that the Applicant's Use, as conditioned, will not adversely affect the character of the surrounding neighborhood, nor be injurious or detrimental to adjoining properties or the rights of the owners and/or tenants therein, and thus Conditional Use Permit 648 ("CUP 648") shall be granted upon the terms and conditions hereinafter set forth; and

WHEREAS, the Sand City City Council has accepted the findings for approving CUP 648 as outlined in the City Staff Report, dated August 5, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City to hereby grant and issue CUP 648 upon the following terms and conditions:

1. CUP 648 is not valid, and use of the Subject Property by the Applicant shall not commence unless and until two copies of the Resolution/Permit, signed by the permittee and the Subject Property's landowner, acknowledging receipt of the Permit and acceptance of the terms and conditions, is returned to the City's

Planning Department. Failure to return said signed/executed document may be sufficient grounds for City termination of CUP 648.

2. Purpose: CUP 648 is for the express purpose of authorizing an art studio workshop to engrave and polish art-glass with accessory painting, sewing, and gallery with sales within an existing 1,164 commercial building at 769 Dias Avenue (APN 011-192-015) in Sand City, subject to the terms and conditions specified in CUP 648. There shall be no expansion to the scope or intensity of the Applicant's Use beyond that as authorized by CUP 648 without either an amendment of said Permit or the issuance of a new land use entitlement permit by the City.

3. Hours of Operation: The Applicant's Use on the Subject Property shall only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. on weekends. All shipments/deliveries and loading/unloading activities at the Subject Property for the Applicant's Use shall only occur between the aforementioned hours. Office and/or janitorial activities on-site by the Applicant may extend beyond the aforementioned hours/days provided that the Applicant's unit is not open to the public.

4. Parking: The Subject Property shall maintain a minimum of five (5) on-site parking spaces along the frontage of the Subject Property. On-site parking spaces shall not be utilized by the Applicant's Use for any purpose that impedes vehicle parking. Failure to maintain these spaces for vehicle parking by the Applicant's Use shall be sufficient reason for the City to terminate CUP 648. The Applicant is prohibited from parking any non-operational vehicles on the Subject Property. Any vehicle parking by and for the Applicant's Use shall not double park on the Subject Property as to encroach into the public right-of-way, including public sidewalks. The Applicant shall not park and/or store any hitch or other type of trailer outside the building on the Subject Property or within any City public right-of-way unless actively involved with loading/unloading activities.

5. Truck & Trailer Street Parking: In accordance with City Municipal Code Chapter 10.08, the Applicant shall not park or store trucks, trailers, or other large vehicles, as listed in said Chapter 10.08, within any City street at any time unless actively involved with loading/unloading or otherwise has a valid City issued annual parking permit. Violation of this condition may result in the issuance of citations in accordance with City Municipal Code Chapter 10.08.

6. Loading/Unloading: Any loading/unloading activities associated with the Applicant's Use shall only occur on-site during those daytime hours specified by CUP 648 (see Condition No. 3 "Hours of Operation"). Loading/unloading activities for the Applicant's Use shall not occur, nor obstruct traffic flow, within the Dias Avenue public right-of-way.

7. Storage: All materials, parts, tools, equipment, packaging, pallets, and/or any other item associated and/or manufactured by the Applicant's Use that is stored on the Subject Property, shall only be stored within the building or open courtyard behind fencing of the Subject Property. Any materials stored/used on-site, that may pose

a hazard, shall comply with all requirements of the Monterey County Health Department, the City's Fire Department, and/or the City's Building Official and/or code enforcement officer. The placement of a self-contained portable storage unit by the Applicant on-site, beyond the confines of the building, is hereby prohibited; and the need of the Applicant to do so shall be considered by the City as justification that this operation has expanded beyond the Subject Property's ability to sufficiently accommodate the Applicant's operation; and thus be sufficient reason for the City to terminate CUP 648.

8. Property Maintenance: The Subject Property shall be maintained in a clean, orderly, weed-free, and litter-free condition. There shall be no storage of waste material or debris on-site, except as otherwise allowed by CUP 648. The Applicant and/or the Subject Property's owner shall be responsible for maintenance and upkeep of the Applicant's leased area of the Subject Property for the duration of the Applicant's Use at the Subject Property as authorized by CUP 648.

9. Signs: Commercial signs erected on the Subject Property, identifying the Applicant's Use, shall be reviewed and approved by the Sand City Design Review Committee (the "DRC") in the issuance of a sign permit prior to the establishment of any such sign at the Subject Property. The Applicant shall not place any free-standing sign off the Subject Property within City limits without City Planning Department approval.

10. General Waste: Trash, litter, boxes, crates, pallets, debris, or other used and/or discarded materials generated/used by the Applicant's Use shall be stored in an appropriate waste collection bin or dumpster. Except on a designated trash collection day, said bin(s) or dumpster(s) shall be maintained either within the building, the fenced courtyard, or within a City approved enclosure on the Subject Property. A trash enclosure may be established on the Subject Property only after approval by the City's Planning Department. The Applicant shall work and coordinate with the City's franchised waste hauler to implement material recycling and recovery as part of this operation's regular routine when feasible.

11. Hazardous Waste: Any and all hazardous materials and/or hazardous waste used/generated by the Applicant's Use shall be legally stored and disposed of in accordance with the regulations of the City, the County of Monterey, and the State of California. The Applicant shall maintain Material Safety Data Sheets ("MSDS") on the Subject Property for any and all hazardous materials/substances used and/or maintained on-site. The Applicant shall concede to any direction of the City's Fire Department, City Code Enforcement Officer(s), and/or the Monterey County Health Department regarding the storage and/or handling of hazardous materials on the Subject Property. Any illegal material storage, dumping, and/or disposal shall be sufficient grounds for City termination of CUP 648.

12. Water Runoff: The Applicant's Use shall not create water run-off within the City in accordance with Chapter 13.05 of the Sand City Municipal Code regarding Storm

Water Management. There shall be no washing of vehicles on the Subject Property.

13. Water: Issuance of CUP 648 does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City or other entity. The Applicant's Use shall be limited to that water credit available to the Subject Property, in accordance with the regulations of the Monterey Peninsula Water Management District (MPWMD).

14. Local/Regional Compliance: All requirements of the City's contracted Building and Fire Departments, the City Engineer, the City Police Department, the Sand City Code Enforcement officer(s), the Seaside County Sanitation District, Monterey One Water (formerly 'Monterey Regional Water Pollution Control Agency'), and Monterey County Health Department, that are applicable to the Applicant's Use shall be implemented to the satisfaction of each department and inspector thereof.

15. Air District: The Applicant shall be responsible for complying with all applicable regulations of the Monterey Bay Air Resources District. Failure to comply shall be sufficient grounds for City termination of CUP 648.

16. Nuisance: The Applicant's use of the Subject Property shall be conducted as to not constitute a nuisance to surrounding units and/or properties or the occupants thereof. The Applicant shall be considered responsible for the impacts created by the Applicant's Use and activities. The Applicant shall implement all mitigation necessary to inhibit any noise, vibration, particulate, odors, overflow parking, and/or other negative impact(s) that this operation may or will generate. Any mitigation to abate negative impacts of the Applicant's Use, as directed by the City, shall be implemented by the Applicant to the City's satisfaction as to effectively mitigate such negative impacts. If the City Council finds at any time that any use of the Subject Property constitutes a nuisance, or is otherwise detrimental to the neighborhood or to the community, such use shall be discontinued or modified as may be required by the City. Failure to effectively implement mitigation required by this Permit, or other direction/notification by the City deemed necessary to abate negative impacts generated by the Applicant's Use, may be adequate grounds for the City to amend or terminate CUP 648. Failure to comply with such City direction may result in the amendment or revocation of CUP 648.

17. Air Compressor: If the Applicant utilizes and maintains an air compressor on the Subject Property, said compressor shall be maintained within the building or other enclosure at all times and be electric powered and not gas/fuel powered. During non-operational hours (see Condition No. 3), said air compressor shall be turned off to prevent automatic re-pressurization during those non-operational hours.

18. Violation/Termination: If the City determines that any term or condition of CUP 648 has been violated, and/or use of the Subject Property constitutes a nuisance or is otherwise detrimental to the neighborhood or the community, written notice shall be issued by the City to the Applicant, that if such violation is not corrected or removed

within a specified time, a public hearing may then be scheduled where the City Council may consider amending or revoking CUP 648 and may then order said Permit amended or revoked. The Applicant and the Subject Property's owner shall be notified of any such public hearing, and provided an opportunity to address the City Council prior to any action by the City Council to amend or terminate CUP 648.

19. Interpretation: Any question of intent or interpretation regarding any condition within CUP 648 shall be resolved by the City's Planning Department.

20. Other Agency Regulations: The issuance of CUP 648 shall not supersede or override any requirement of any other City, County, State, or Federal agency.

21. Indemnification: To the extent permitted by law, the Applicant and Property Owner shall indemnify and hold harmless the City, its City Council, its officers, employees, consultants, and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties, the Applicant, and/or Property Owner in connection with this Permit, including but not limited to any such action to attack, set aside, or void, any permit or approval authorized hereby, including (without limitation) reimbursing the City for its actual attorney's fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

22. Business License: The Applicant shall acquire, maintain, and annually renew a Sand City business license for the duration of their occupancy and activity at the Subject Property within Sand City. Failure to maintain a current City business license may be sufficient grounds for City Council termination of CUP 648.

PASSED AND ADOPTED by the City Council of Sand City this ___ day of September, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

_____
Mary Ann Carbone, Mayor

_____
Connie Horca, City Clerk

This is to certify that the Conditional Use Permit (CUP) 648 contains the conditions specified by the City Council in approving said Permit.

_____
Charles Pooler, City Planner

Signatures continued on following page...

Signatures continued from previous page.

APPLICANT ACCEPTANCE (CUP 648)
The Conditional Use Permit is hereby accepted upon the express terms and conditions hereof, and the undersigned agrees to strictly conform to and comply with each and all of the said terms and conditions therein.

DATED: _____ BY: _____
Applicant

CONSENT OF OWNER (CUP 648)
Consent is hereby granted to the permittee to carry out the terms and conditions of the Conditional Use Permit.

DATED: _____ BY: _____
Property Owner

AGENDA ITEM
9A.

Consideration of Successor Agency RESOLUTION Repealing Resolution No. SA 18-02 and Approving Reinstatement of a Loan Agreement between the City of Sand City and the Former Sand City Redevelopment Agency, Finding the Loan was made for Legitimate Redevelopment Purposes and Approving a Schedule for Repayment by the Successor Agency of the Amount of the Loan Used to Fund Payments under the Seaside Agreement

City of Sand City

Staff Report

TO: Successor Agency Chair and Agency Members
FROM: Aaron Blair, Executive Director
DATE: August 30, 2021 (for September 7, 2021 Successor Agency meeting)
SUBJECT: Resolution Repealing Resolution No. SA 18-02 and Approving Reinstatement of a Loan Agreement Between the City of Sand City and the Former Sand City Redevelopment Agency, Finding the Loan Was Made for Legitimate Redevelopment Purposes and Approving a Revised Schedule for Repayment by the Successor Agency of the Amount of the Loan Used to Fund Payments under the Seaside Agreement

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Background:

In accordance with the **Dissolution Act** (AB1x 26 as amended by AB 1484 and further amended by SB 107), at the time that redevelopment agencies were dissolved, the repayment of many loans made in good faith by a city to its redevelopment agency became unenforceable as of February 1, 2012, and not eligible for repayment.

AB 1484 amended the original Dissolution Act and provided that after receiving a Finding of Completion from the California Department of Finance ("**DOF**"), loan agreements between a former redevelopment agency and a city would be eligible for repayment provided the Oversight Board made a finding that the loan was for legitimate redevelopment purposes.

In 1989, the Sand City Redevelopment Agency ("**Former Agency**") entered into the following two agreements:

1) "Agreement Regarding Future Impacts on the Provision of Public Services" dated May 18, 1989 with the City of Seaside to mitigate and provide a funding mechanism for the mitigation of the impacts on streets located within the City of Seaside resulting from the Former Agency's redevelopment activities within the Redevelopment Project Area pursuant to and in furtherance of the Redevelopment Plan (the "**Seaside Agreement**"); and

2) "Owner Participation Agreement" dated May 31, 1989 with Costco Wholesale Corporation pursuant to which the Former Agency agreed to reimburse Costco for certain property acquisition costs associated with the Costco project in order to facilitate and expedite the financing and construction of public and infrastructure improvements and to stimulate redevelopment and revitalization within the Redevelopment Project Area pursuant to and in furtherance of the Redevelopment Plan (the "**Costco Agreement**").

To enable the Former Agency to meet its obligations to make payments under the Seaside Agreement (the "**Seaside Loan**") and the Costco Agreement (the "**Costco Loan**"), the City agreed to financially assist the Former Agency by loaning City Sales and Use Taxes generated in the Redevelopment Project Area on an "as needed" basis pursuant an "Agreement Between the City of Sand City and the Redevelopment Agency of the City of Sand City Concerning Certain Sales and Use Taxes" dated July 18, 1989, a copy of which is attached to the proposed Resolution marked Exhibit "A" (the "**Loan Agreement**"). Under the terms of the Loan Agreement, the Former Agency agreed to repay the City from future property tax increment funds received by the Former Agency. Pursuant to that repayment obligation, the Former Agency paid the City $1,920,908 as a principal reduction of the Seaside Loan from available property tax increment funds commencing in 2005 through 2011 prior to dissolution.

Discussion:

The Successor Agency received a Finding of Completion from the DOF on August 1, 2013. A copy of the Finding of Completion is attached to this Report as Attachment 2. Pursuant to Health & Safety Code Section 34191.4, the Successor Agency is eligible to request Oversight Board approval to repay amounts due to the City of Sand City pursuant to the Loan Agreement. Loans from the City to the Former Agency are eligible for repayment pursuant to Health & Safety Code Section 34191.4 provided that the Oversight Board determines that the loans were for legitimate redevelopment purposes. This item has been submitted to the Countywide Consolidated Oversight Board for consideration and approval at its September 16, 2021 meeting.

The Former Agency was authorized to borrow from the City.

The funds borrowed by the Former Agency under the 1989 Loan Agreement were used to satisfy the Former Agency's obligations under the Seaside Agreement and the Costco Agreement. The Seaside Agreement and the Costco Agreement were entered into to effectuate the Redevelopment Plan and mitigate the impacts of the redevelopment activities in the Project Area in accordance with the California Community Redevelopment Law (the "**CRL**") (Health & Safety Code Section 33000, et seq.). Pursuant to CRL Section 33601, the Former Agency was authorized to borrow money from any public agency, including the City, for redevelopment projects within the Project Area.

The Loan proceeds were used for legitimate redevelopment purposes.

CRL Section 33020 defines "redevelopment" as the "planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, or all or part of a survey area, and the provision of those residential commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them...".

The Costco Loan

The Costco Agreement was entered into pursuant to the owner participation provisions of the CRL and Sections 33433 and 33445 for the development of a commercial project and related on-site and off-site improvements located in the Sand City Redevelopment Project Area in furtherance of the redevelopment objectives of the Redevelopment Plan.

The purpose of the Costco Agreement is set out as follows:

> "1.2 Purpose of Agreement
>
> The purpose of this Agreement is to effectuate a portion of the Redevelopment Plan for a portion of the Project by providing for the redevelopment of the Participation Parcel. The redevelopment being undertaken pursuant to this Agreement, and the fulfillment generally of this Agreement are in the vital and best interests of the City and the Agency, will facilitate and expedite the financing and construction of public and infrastructure improvements in the City and adjacent public rights-of-way, will stimulate redevelopment and revitalization elsewhere within the Project Area, will enhance the economic climate of the community, and otherwise will promote the health, safety and welfare of the City's residents, all in accordance with public purposes and provisions of applicable law and requirements."

Under the Costco Agreement, the Former Agency committed to provide off-site infrastructure generally consisting of the grading and paving of public rights-of-way and the construction of public streets, curbs, gutters, sidewalks, utilities and water, sewer and storm drain systems, including Tioga Avenue and La Playa Avenue. In addition, the Costco Agreement obligated the Former Agency to reimburse Costco for a portion of its property acquisition costs in exchange for Costco's construction of certain on-site improvements and the performance of related obligations.

Funds loaned by the City to the Former Agency to meet the financial obligations of the Costco Agreement as listed on ROPS Item # 28 were for these legitimate redevelopment purposes. The Successor Agency is not requesting an allocation of Real Property Tax Trust Fund ("RPTTF")" at this time in connection with the Costco Loan.

The Seaside Loan

The Seaside Agreement was entered into by the Former Agency to effectuate three major commercial redevelopment projects and related on-site and off-site improvements (Phase I – Sand Dollar Center; Phase II – Edgewater Center; and Phase III – Sand City's coastal zone west of Highway One) located in the Sand City Redevelopment Project Area and to mitigate the impacts of those redevelopment activities on the City of Seaside. The Seaside Agreement recites that the parties to the agreement found the future redevelopment projects would have impacts within Seaside and that the parties desired

to enter into the agreement for the mitigation of all such impacts and to provide a funding mechanism for such mitigation costs. These mitigation costs were integral to implementing these redevelopment projects and effectuating the Redevelopment Plan.

Indeed, the Seaside Agreement was upheld as a valid and enforceable obligation by the Superior Court of the State of California County of Santa Clara in Case No. 1-13-CV-243063. The Judgment filed on January 19, 2016 orders the Successor Agency to "list an enforceable obligation of $364,521 per year on its Recognized Obligation Payment Schedules ("ROPS") which constitutes the annual payment amounts owed by the Former Agency to Seaside pursuant to the May 18, 1989 [Seaside] Agreement." The Judgment further orders the Successor Agency to "promptly pay to Seaside funds allocated to it from the Real Property Tax Trust Fund ("RPTTF")" for the Seaside Agreement. A copy of the Judgment is attached to this Report as Attachment 3. ROPS Item #11 is included on the Successor Agency ROPS in compliance with the Judgment and provides for the implementation of the Seaside Agreement post-dissolution. Funds borrowed by the Former Agency to satisfy its obligations under the Seaside Agreement prior to dissolution as listed on ROPS Item #13 were for the same legitimate redevelopment purpose.

Repayment of the loans.

The Dissolution Act provides that interest on the outstanding principal of amounts due to the City pursuant the Loan Agreement is to be recalculated from the date of origination of the loan on a quarterly basis at 3% simple interest. (Health & Safety Code Section 34191.4(b)(3).) Attached to the proposed Resolution marked Exhibit "B" is a true and correct accounting of all funds the Former Agency borrowed from the City under the Loan Agreement for the Seaside Loan, all payments made by the Former Agency from available tax increment prior to dissolution to reduce the outstanding principal amount and recalculation of the total amount due from the Successor Agency to the City for the Seaside Loan in accordance with Health & Safety Code Section 34191.4(b)(3). As of December 31, 2021, the unpaid balance of the funds borrowed by the Former Agency from the City under the Loan Agreement for the Seaside Loan is $6,308,551.99.

By Resolution No. SA 18-02 adopted on January 16, 2018, the Successor Agency previously approved a repayment schedule for the Seaside Loan. However, the Successor Agency has not requested RPTTF on its prior ROPS for this obligation and no payments have been made pending approval by the Consolidated Oversight Board and the DOF. Successor Agency staff has prepared a revised and recalculated Loan Repayment Schedule (Seaside Monetary Loan) based on current property tax revenue projections and the availability of RPTTF. Consequently, the attached Resolution provides for the repeal of Resolution SA 18-02 and the approval of a revised and recalculated Seaside Loan Repayment Schedule attached to the proposed Resolution marked Exhibit "C" ("**Revised Repayment Schedule**"). Under the Revised Repayment Schedule, the unpaid balance is reduced from $6,448,068 to $6,308,551.99 as of December 31, 2021 and the projected amortized repayment schedule is shortened from 26 years to 16 years. The first payment of $440,858 in accordance with the Revised

Repayment Schedule is reflected as a requested adjustment for the allocation of RPTTF on the Successor Agency's Amended ROPS 20-21B, Item #13.

CEQA:

The actions set forth in the recommended accompanying resolution, as summarized above, are exempt under Guideline 15378(b)(4) of the California Environmental Quality Act (CEQA) in that the actions do not constitute a "project" which may result in a potentially significant physical impact on the environment, but instead are required to continue a governmental funding mechanism for enforceable obligations of the former Agency and to perform the statutorily mandated unwinding of the assets, liabilities, and functions of the former Agency pursuant to the Dissolution Act.

Fiscal Impact:

If the attached Resolution and the Amended ROPS 21-22B is approved by the Sand City Successor Agency, the Consolidated Oversight Board and the Department of Finance, the Successor Agency will receive RPTTF sufficient to make a payment of $440,858 to the City for the Seaside Loan during the fiscal year 2021-2022.

Recommendation:

Staff seeks Successor Agency approval of the attached Resolution repealing Resolution No. SA 18-02 and approving reinstatement of the Loan Agreement, finding the loan by the City of the Former Agency pursuant thereto was made for legitimate redevelopment purposes, and approving a schedule for repayment by the Successor Agency of the amount of the loan used to fund payments under the Seaside Agreement.

Attachments:
1. Resolution
   - A. Loan Agreement
   - B. Seaside Loan – Seaside Monetary Loan
   - C. Loan Repayment Schedule – Seaside Monetary Loan
2. Finding of Completion
3. Judgment - Seaside Agreement

SAND CITY SUCCESSOR AGENCY
RESOLUTION SA _____, 2021

RESOLUTION OF THE SUCCESSOR AGENCY TO THE FORMER SAND CITY REDEVELOPMENT AGENCY REPEALING RESOLUTION NO. SA 18-02 AND APPROVING REINSTATEMENT OF A LOAN AGREEMENT BETWEEN THE CITY OF SAND CITY AND THE FORMER SAND CITY REDEVELOPMENT AGENCY, FINDING THE LOAN WAS MADE FOR LEGITIMATE REDEVELOPMENT PURPOSES AND APPROVING A REVISED SCHEDULE FOR REPAYMENT BY THE SUCCESSOR AGENCY OF THE AMOUNT OF THE LOAN USED TO FUND PAYMENTS UNDER THE SEASIDE AGREEMENT

WHEREAS, the Sand City Redevelopment Agency ("**Agency**") was established as a redevelopment agency organized and existing under the California Community Redevelopment Law, Health & Safety Code Section 33000, et seq. ("**CRL**") and authorized to transact business and exercise powers of a redevelopment agency pursuant to Ordinance No. 86-12 adopted by the City Council of the City of Sand City ("**City**) on October 16, 1986; and

WHEREAS, the Redevelopment Plan ("**Redevelopment Plan**") for the Sand City Redevelopment Project Area ("**Project Area**) was approved and adopted by the City Council on July 20, 1987 by Ordinance No. 87-6; and

WHEREAS, on May 18, 1989, the Agency entered into an agreement with the City of Seaside to mitigate and provide a funding mechanism for the mitigation of the impacts on streets located within the City of Seaside resulting from the Agency's redevelopment activities within the Project Area pursuant to and in furtherance of the Redevelopment Plan (the "**Seaside Agreement**"); and

WHEREAS, on May 31, 1989, the Agency entered into an Owner Participation Agreement with Costco Wholesale Corporation pursuant to which the Agency agreed to reimburse Costco for certain property acquisition costs associated with the Costco project in order to facilitate and expedite the financing and construction of public and infrastructure improvements and to stimulate redevelopment and revitalization within the Project Area pursuant to and in furtherance of the Redevelopment Plan (the "**Costco Agreement**"); and

WHEREAS, on July 18, 1989, the Agency and the City entered into that certain "Agreement Between the City of Sand City and the Redevelopment Agency of the City of Sand City Concerning Certain Sales and Use Taxes", a copy of which is attached hereto marked Exhibit "A" and by this reference incorporated herein (the "**Loan Agreement**"); and

WHEREAS, under the terms of the Loan Agreement the City agreed to loan sufficient funds to the Agency to enable the Agency to meet its obligations to make payments under the Seaside Agreement (the "**Seaside Loan**") and the Costco Agreement (the "**Costco**

Loan") and the Agency agreed to repay such loans from property tax increment funds received by the Agency; and

WHEREAS, on February 1, 2012 the Agency was dissolved pursuant to Assembly Bill 1X 26 (the "**Dissolution Act**") and its rights, powers, duties and obligations were transferred to a successor agency; and

WHEREAS, the City Council of the City elected to act as the former Agency's successor agency ("**Successor Agency**") under Section 34173 of the Dissolution Act, and, as such, is charged with implementing enforceable obligations and winding down the affairs of the former Agency by administering the retirement of the former Agency's debts and other obligations; and

WHEREAS, Assembly Bill 1484 added Health & Safety Code Section 34191.4(b) to the Dissolution Act which allows reinstatement of loans previously made by the City to the former Agency as enforceable obligations payable from Real Property Tax Trust Funds ("**RPTTF**") over time subject to certain limitations and provided the following conditions are satisfied: (1) the Department of Finance ("**DOF**") must have issued a Finding of Completion to the Successor Agency; (2) the Oversight Board must find that the loans were made for legitimate redevelopment purposes and must approve repayment of the loans as enforceable obligations in the Recognized Obligation Payment Schedule ("**ROPS**"); and (3) the Oversight Board's action is subject to review and approval by the DOF; and

WHEREAS the DOF issued the Finding of Completion to the Successor Agency on August 1, 2013; and

WHEREAS, attached hereto marked Exhibit "B" and by this reference incorporated herein is a true and correct accounting of all funds the former Agency borrowed from the City under the Loan Agreement for the Seaside Loan, all payments made by the former Agency from available tax increment prior to dissolution to reduce the outstanding principal amount and recalculation of the total amount due from the Successor Agency to the City for the Seaside Loan in accordance with Health & Safety Code Section 34191.4(b)(3) which amount as of December 31, 2021 is $6,308,551.99; and

WHEREAS, on January 16, 2018, the Successor Agency adopted Resolution No. SA 18-02 approving a repayment schedule for the Seaside Loan which Resolution was repealed by the adoption of Resolution No. SA 21-__ on September 7, 2021 approving a revised and recalculated Loan Repayment Schedule (Seaside Monetary Loan) attached hereto marked Exhibit "C" and by this reference incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency to the Former Sand City Redevelopment Agency that:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Successor Agency hereby finds and determines, based on all of the evidence presented, that the Loan Agreement was a proper and legally authorized loan agreement made by the City to the former Agency and that the funds borrowed by the former Agency from the City thereunder were for legitimate redevelopment purposes in that such funds were used to satisfy the former Agency's obligations under the Seaside Agreement and the Costco Agreement which agreements were entered into to effectuate the Redevelopment Plan and mitigate the impacts of the redevelopment activities in the Project Area on the City of Seaside in accordance with the CRL.

SECTION 3. The Successor Agency further finds and determines, based on all of the evidence presented, that upon approval by the Consolidated Oversight Board and the DOF, the Loan Agreement shall constitute enforceable obligations within the meaning of Section 34171(d) of the Dissolution Act eligible for payment through the ROPS from RPTTF in accordance with the formula set forth in Health & Safety Code Section 34191.4(b) providing for the recalculation of interest at a 3% simple interest rate from the date of origination on a quarterly basis.

SECTION 4. The Successor Agency hereby repeals Resolution No. SA 18-02 and the repayment schedule (Seaside Loan) adopted thereby and adopts the revised and recalculated Seaside Loan Repayment Schedule attached hereto as Exhibit "C" and incorporated herein by reference ("**Revised Repayment Schedule**") and authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to include repayment of the Seaside Loan on the ROPS to meets its obligation to repay the City the sum of $6,308,551.99 (as of December 31, 2021), together with simple interest at the rate of 3% per annum, recalculated quarterly, on any outstanding balance of the Seaside Loan from its RPTTF until repaid in full in accordance with the Revised Repayment Schedule.

SECTION 5. To the extent that the amount of RPTTF available for repayment in any given year is insufficient to make the full payment shown on Exhibit "C", the scheduled payment amount shall be reduced accordingly and the repayment schedule for subsequent years will then be adjusted accordingly to provide for repayment of the outstanding balance of the Seaside Loan. To the extent that the amount of RPTTF available for repayment in any given year exceeds the amount of the scheduled payment, the payment amount shall be increased up to the maximum payment of RPTTF available for the repayment that year, and the repayment scheduled for subsequent years will then be adjusted accordingly.

SECTION 6. This Resolution shall take effect at the time and in the manner prescribed in Health & Safety Code Section 34179(h).

PASSED, APPROVED AND ADOPTED by the Successor Agency to the Former Sand City Redevelopment Agency, this 7th day of September 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

_____
Mary Ann Carbone, Chair of the
Successor Agency

ATTEST:

By:_____
Connie P. Horca, Clerk of the
Successor Agency

EXHIBIT A

RESOLUTION NO. (SC) 42 1989

AGREEMENT BETWEEN THE CITY OF SAND CITY AND THE SAND CITY REDEVELOPMENT AGENCY CONCERNING CERTAIN SALES AND USE TAXES

WHEREAS, the Sand City Redevelopment Agency in cooperation with the City of Sand City has entered into certain agreements with the City of Seaside and Costco Wholesale Inc, which require certain financial contributions be made to said parties, and

WHEREAS, said contributions are based on formula's keyed to the amount of sales and use tax generated from private development occuring in the Sand City Redevelopment Area, and

WHEREAS, The City Council and the Redevelopment Agency have passed Ordinances to allow passage of the Sales and Use Taxes to the Redevelopment Agency for the purpose of paying said Agency contributions, and

WHEREAS, the City and the Agency have agreed that it is the responsibility of the Agency to administer the procedures and accounting of repaying said debts, and

WHEREAS, the City is supportive of financially assisting the Agency by making available City sales and use taxes on a as needed basis, and

WHEREAS, the City intends that the Agency shall repay any and all portion of the City owned Sales and Use Taxes from future tax increment generated from the Redevelopment Project Area.

NOW THEREFORE BY IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAND CITY THAT.

1. The City Council approves the Agreement attached as Exhibit "A" and authorizes that Mayor to sign said agreement.

2. The Redevelopment Agency shall prepare and maintain all necessary books of accounts to keep clear, concise and accurate records of the use of City sales and use taxes.

3. The Redevelopment Agency shall prepare an annual audited statement for review and approval of the City Council.

4. The Redevelopment Agency shall return any unused portions of said sales and use taxes back to the City on a periodic basis as determined by the Council as necessary to continue normal city operations.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAND CITY THIS 18 DAY OF July 1989 BY THE FOLLOWING VOTE:

AYES: Ritter, Francini and Mayor Pendergrass

NOES: None

ABSENT: None

David K. Pendergrass, Mayor

ATTEST: _____
City Clerk

I certify, under oath, that the above is a true and correct copy of documents on file in City Hall.

_____ _____
City Clerk Date

AGREEMENT BETWEEN THE CITY OF SAND CITY

AND THE REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY

CONCERNING CERTAIN SALES AND USE TAXES

EXHIBIT "A" TO RESOLUTION NO. SC-421989

This Agreement is made as of this 18th day of July 1989, by and between the City of Sand City, a municipal corporation (the "City") and the Redevelopment Agency of the City of Sand City, a public body, corporate and politic, (the "Agency").

RECITALS

A. Pursuant to Revenue and Taxation Code Section 7202.6, the Agency has enacted Ordinance No. (RA) 1, 1989 and the City has enacted Ordinance No. (SC) 89-3, 1989 imposing a sales and use tax upon retail sales within the Sand City Redevelopment Project Area ("the Project Area").

B. The purposes of the above two Ordinances are to transfer from the City to the Agency a portion of the sales and use tax collected within a portion of the Project Area as further described in the Ordinances (the "Transferred Sales and Use Taxes").

C. On May 18, 1989 the Agency and City entered into an agreement with the City of Seaside (the "Seaside Agreement") whereby the Agency agreed to pay to the City of Seaside a portion of the sales and use tax collected from the portion of the Project Area. The Payments to the City of Seaside are to compensate the City of Seaside for impacts it will suffer due to development within portions of the project area in accordance with the Sand City Redevelopment Plan. Pursuant to the terms of the agreement with the City of Seaside, the Agency will pay to the City of Seaside a portion of the transferred Sales and Use Tax.

D. The Redevelopment Agency, on May 31, 1989 adopted Resolution No. (RA) 6, authorizing the entering of an Owner Participation Agreement with Costco Wholesale Inc. Said Agreement requires certain financial reimbursements to Costco Wholesale Inc. for the purpose of writing down land costs. The reimbursements are calculated on a sales and use tax formula, until the time when the Agency's tax increment is adequate to make the reimbursement payments.

E. The parties to this Agreement now desire to enter into this Agreement whereby the Agency shall transfer to the City all of the Transferred Sales and Use Tax not required to be paid to the City of Seaside by the Agency.

NOW THEREFORE, the parties agree as follows:

SECTION 1. Pledge of Transferred Sales and Use Taxes

Pursuant to Revenue and Taxation Code Section 7202.8 and Health and Safety Code Section 33641, the transferred Sales and Use Taxes are pledged to the payment due under the Seaside Agreement and as pledged in the Costco Wholesale Inc. Owner Participation Agreement. Such pledges shall constitute the obligation of contract between the Agency and the City of Seaside and the Agency and Costco Wholesale Inc. and shall be protected from impairment by the United States and California Constitutions. Pursuant to the provisions of Revenue and Taxation Code Section 7202.8, Ordinance No. (RA) 1, 1989 of the Agency and Section 13.16.140 of the Sand City Municipal Code may not be repealed during the time that any of the payments due under the Seaside Agreement or the Owner Participation Agreement remains outstanding.

SECTION 2. Use of transferred Sales and Use Taxes

The Transferred Sales and Use Taxes shall only be used to the extent necessary to pay any amounts due pursuant to the Seaside Agreement and the Costco Wholesale Inc. Owner Participation Agreement, and to pay any amounts due to the State Board of Equalization for administration of the sales and use tax pursuant to Revenue and Taxation Code Section 7204.3.

SECTION 3. Payment to City.

A. In consideration for the City's agreement to allow sales and use tax revenues to be transferred to the Agency in order to pay the amounts due under the above agreements, the Agency agrees to pay to the City the amount of Transferred Sales and Use Taxes not required to be paid by the Agency to Seaside or Costco Wholesale Inc. pursuant to the Seaside Agreement and/or the Costco Wholesale Inc. Owner Participation Agreement.

B. Any use by the Agency of the City's sales and use tax revenue are, to the extent allowed by law, to be considered a loan from the City to the Agency and eligible for repayment from future tax increment generated from the Rede-

velopment Project Area. Said loan is subordinate to the REDIP Loan Agreement between the Agency and the State of California Department of Commerce. The City may charge the Agency interest up to the amount legally authorized by law.

E. The Agency shall file with the City an annual report on the status of the use of the sales and use taxes, included in such report will be an independent audit of the use of the funds.

F. This Agreement to be effective upon adoption of the City's Ordinance and the Agency's Ordinance.

IN WITNESS WHEREOF, the City and Agency have caused this Agreement to be executed on this 18th day of July, 1989.

ATTEST:

City Clerk

CITY OF SAND CITY

BY: David K. Pendergrass, Mayor

REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY

BY: Chairman, Redevelopment Agency of the City of Sand City

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
7/1/1992	$0.00			$0.00	$0.00
9/3/1992	$9,242.83			$9,242.83	$9,242.83
9/30/1992		$0.00		$9,242.83	$9,242.83
12/10/1992	$23,464.38			$32,707.21	$32,707.21
12/31/1992		$69.32		$32,776.53	$32,707.21
2/12/1993	$21,860.91			$54,637.44	$54,568.12
3/31/1993		$245.30		$54,882.75	$54,568.12
5/27/1993	$17,598.57			$72,481.32	$72,166.69
6/30/1993		$409.26		$72,890.58	$72,166.69
9/9/1993	$18,927.26			$91,817.84	$91,093.95
9/30/1993		$541.25		$92,359.09	$91,093.95
12/3/1993	$17,599.13			$109,958.22	$108,693.08
12/31/1993		$683.20		$110,641.42	$108,693.08
3/11/1994	$22,750.40			$133,391.82	$131,443.48
3/31/1994		$815.20		$134,207.02	$131,443.48
6/7/1994	$19,965.39			$154,172.41	$151,408.87
6/30/1994		$985.83		$155,158.24	$151,408.87
9/22/1994	$20,134.37			$175,292.61	$171,543.24
9/30/1994		$1,135.57		$176,428.17	$171,543.24
12/13/1994	$24,046.91			$200,475.08	$195,590.15
12/31/1994		$1,286.57		$201,761.66	$195,590.15
3/8/1995	$18,593.64			$220,355.30	$214,183.79
12/31/1994		$1,466.93		$221,822.22	$214,183.79
5/25/1995	$18,215.38			$240,037.60	$232,399.17
6/30/1995		$1,606.38		$241,643.98	$232,399.17
9/26/1995	$18,366.58			$260,010.56	$250,765.75
9/30/1995		$1,742.99		$261,753.55	$250,765.75
12/7/1995	$24,463.82			$286,217.37	$275,229.57
12/31/1995		$1,880.74		$288,098.12	$275,229.57
2/26/1996	$23,082.10			$311,180.22	$298,311.67
3/31/1996		$2,064.22		$313,244.44	$298,311.67
5/24/1996	$18,146.13			$331,390.57	$316,457.80
6/30/1996		$2,237.34		$333,627.91	$316,457.80
8/28/1996	$20,005.12			$353,633.03	$336,462.92
9/30/1996		$2,373.43		$356,006.46	$336,462.92
12/10/1996	$20,742.20			$376,748.66	$357,205.12
12/31/1996		$2,523.47		$379,272.13	$357,205.12
3/6/1997	$25,730.23			$405,002.36	$382,935.35
3/31/1997		$2,679.04		$407,681.40	$382,935.35
6/20/1997	$27,438.95			$435,120.35	$410,374.30
6/30/1997		$2,872.02		$437,992.37	$410,374.30

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
9/30/1997	$31,225.01	$3,077.81		$472,295.18	$441,599.31
12/22/1997	$57,418.97			$529,714.15	$499,018.28
12/31/1997		$3,311.99		$533,026.15	$499,018.28
3/15/1998	$76,250.67			$609,276.82	$575,268.95
3/31/1998		$3,742.64		$613,019.45	$575,268.95
6/10/1998	$59,617.63			$672,637.08	$634,886.58
6/30/1998		$4,314.52		$676,951.60	$634,886.58
9/30/1998		$4,761.65		$681,713.25	$634,886.58
10/22/1998	$64,595.37			$746,308.62	$699,481.95
12/29/1998	$69,403.16			$815,711.78	$768,885.11
12/31/1998		$4,761.65		$820,473.43	$768,885.11
3/31/1999		$5,766.64		$826,240.07	$768,885.11
4/21/1999	$89,966.65			$916,206.72	$858,851.76
6/30/1999		$5,766.64		$921,973.36	$858,851.76
8/4/1999	$73,173.35			$995,146.71	$932,025.11
9/29/1999	$72,753.50			$1,067,900.21	$1,004,778.61
9/30/1999		$6,441.39		$1,074,341.60	$1,004,778.61
10/6/1999	$64,003.72			$1,138,345.32	$1,068,782.33
10/25/1999	$20,700.00			$1,159,045.32	$1,089,482.33
11/23/1999	$27,585.00			$1,186,630.32	$1,117,067.33
12/31/1999		$7,535.84		$1,194,166.16	$1,117,067.33
1/13/2000	$39,399.74			$1,233,565.90	$1,156,467.07
1/20/2000	$13,493.27			$1,247,059.17	$1,169,960.34
2/1/2000	$26,430.00			$1,273,489.17	$1,196,390.34
2/28/2000	$35,235.00			$1,308,724.17	$1,231,625.34
3/30/2000	$32,827.20			$1,341,551.37	$1,264,452.54
3/31/2000		$8,378.00		$1,349,929.37	$1,264,452.54
4/20/2000	$26,308.42			$1,376,237.79	$1,290,760.96
4/26/2000	$20,835.00			$1,397,072.79	$1,311,595.96
6/19/2000	$27,809.55			$1,424,882.34	$1,339,405.51
6/30/2020		$9,483.39		$1,434,365.73	$1,339,405.51
7/17/2000	$33,816.86			$1,468,182.59	$1,373,222.37
8/21/2000	$22,710.00			$1,490,892.59	$1,395,932.37
8/21/2000	$1,578.79			$1,492,471.38	$1,397,511.16
9/20/2000	$30,255.00			$1,522,726.38	$1,427,766.16
9/30/2000		$10,045.54		$1,532,771.93	$1,427,766.16
10/10/2000	$27,130.00			$1,559,901.93	$1,454,896.16
10/24/2000	$8,978.08			$1,568,880.01	$1,463,874.24
11/7/2000	$23,415.00			$1,592,295.01	$1,487,289.24
12/11/2000	$31,215.00			$1,623,510.01	$1,518,504.24
12/31/2000		$10,708.25		$1,634,218.25	$1,518,504.24

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
1/18/2001	$46,234.09			$1,680,452.34	$1,564,738.33
2/27/2001	$28,695.00			$1,709,147.34	$1,593,433.33
3/2/2001	$10,031.28			$1,719,178.62	$1,603,464.61
3/23/2001	$38,280.00			$1,757,458.62	$1,641,744.61
3/31/2001		$11,388.78		$1,768,847.40	$1,641,744.61
4/10/2001	$33,920.20			$1,802,767.60	$1,675,664.81
5/21/2001	$22,950.00			$1,825,717.60	$1,698,614.81
5/25/2001	$16,497.24			$1,842,214.84	$1,715,112.05
6/30/2001	$30,615.00	$12,313.08		$1,885,142.93	$1,745,727.05
7/13/2001	$32,377.99			$1,917,520.92	$1,778,105.04
9/30/2001		$13,092.95		$1,930,613.87	$1,778,105.04
12/31/2001		$13,335.79		$1,943,949.66	$1,778,105.04
2/12/2002	$57,747.23			$2,001,696.89	$1,835,852.27
3/31/2002		$13,335.79		$2,015,032.68	$1,835,852.27
4/8/2002	$125,249.38			$2,140,282.06	$1,961,101.65
6/30/2002		$13,768.89		$2,154,050.95	$1,961,101.65
7/10/2002	$89,698.26			$2,243,749.21	$2,050,799.91
9/30/2002		$14,708.26		$2,258,457.47	$2,050,799.91
10/29/2002	$90,793.66			$2,349,251.13	$2,141,593.57
12/31/2002		$15,381.00		$2,364,632.13	$2,141,593.57
3/31/2003		$16,061.95		$2,380,694.08	$2,141,593.57
4/10/2003	$103,416.62			$2,484,110.70	$2,245,010.19
6/3/2003	$119,605.60			$2,603,716.30	$2,364,615.79
6/30/2003		$16,061.95		$2,619,778.25	$2,364,615.79
7/21/2003	$96,016.56			$2,715,794.81	$2,460,632.35
9/30/2003		$17,734.62		$2,733,529.43	$2,460,632.35
10/23/2003	$95,227.08			$2,828,756.51	$2,555,859.43
12/31/2003		$18,454.74		$2,847,211.25	$2,555,859.43
1/9/2004	$98,142.86			$2,945,354.11	$2,654,002.29
3/31/2004		$19,168.95		$2,964,523.06	$2,654,002.29
4/21/2004	$125,867.70			$3,090,390.76	$2,779,869.99
6/30/2004		$19,905.02		$3,110,295.78	$2,779,869.99
7/15/2004	$98,969.02			$3,209,264.80	$2,878,839.01
9/30/2004		$20,849.02		$3,230,113.82	$2,878,839.01
11/17/2004	$103,839.30			$3,333,953.12	$2,982,678.31
12/31/2004		$21,591.29		$3,355,544.42	$2,982,678.31
3/31/2005		$22,370.09		$3,377,914.50	$2,982,678.31
4/15/2005	$178,986.35			$3,556,900.85	$3,161,664.66
6/30/2005		$22,370.09	$26,714.83	$3,552,556.11	$3,134,949.83
7/12/2005	$59,762.11			$3,612,318.22	$3,194,711.94
9/6/2005	$104,960.76			$3,717,278.98	$3,299,672.70

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
9/30/2005		$23,512.12		$3,740,791.10	$3,299,672.70
11/22/2005	$109,034.90			$3,849,826.00	$3,408,707.60
12/31/2005		$24,747.55		$3,874,573.55	$3,408,707.60
1/27/2006	$111,663.26			$3,986,236.81	$3,520,370.86
3/31/2006		$25,565.31		$4,011,802.12	$3,520,370.86
4/17/2006	$132,761.38			$4,144,563.50	$3,653,132.24
6/30/2006		$26,402.78	$59.96	$4,170,906.32	$3,653,072.28
7/20/2006	$109,769.22			$4,280,675.54	$3,762,841.50
9/30/2006		$27,398.04		$4,308,073.58	$3,762,841.50
10/10/2006	$103,299.72			$4,411,373.30	$3,866,141.22
12/31/2006		$28,221.31		$4,439,594.61	$3,866,141.22
1/23/2007	$115,246.30			$4,554,840.91	$3,981,387.52
3/31/2007		$28,996.06		$4,583,836.97	$3,981,387.52
4/17/2007	$131,769.98			$4,715,606.95	$4,113,157.50
6/30/2007		$29,860.41		$4,745,467.36	$4,113,157.50
7/12/2007	$105,037.92			$4,850,505.28	$4,218,195.42
9/30/2007		$30,848.68		$4,881,353.96	$4,218,195.42
10/15/2007	$103,273.44			$4,984,627.40	$4,321,468.86
12/31/2007		$31,636.47		$5,016,263.86	$4,321,468.86
3/18/2008	$109,791.12			$5,126,054.98	$4,431,259.98
3/31/2008		$32,411.02		$5,158,466.00	$4,431,259.98
4/30/2008	$121,445.84			$5,279,911.84	$4,552,705.82
6/30/2008	$90,875.94	$33,234.45	$219,165.02	$5,184,857.21	$4,424,416.74
9/30/2008		$33,183.13		$5,218,040.33	$4,424,416.74
10/3/2008	$94,862.94			$5,312,903.27	$4,519,279.68
11/19/2008			$206,347.89	$5,106,555.38	$4,312,931.79
12/31/2008		$33,183.13		$5,139,738.51	$4,312,931.79
1/20/2009	$95,525.50			$5,235,264.01	$4,408,457.29
3/31/2009		$32,346.99		$5,267,611.00	$4,408,457.29
5/1/2009	$106,002.44			$5,373,613.44	$4,514,459.73
6/11/2009			$301,986.86	$5,071,626.58	$4,212,472.87
6/30/2009	$83,970.14	$33,063.43	$27,290.41	$5,161,369.74	$4,269,152.60
7/14/2009			$19,919.09	$5,141,450.65	$4,249,233.51
9/30/2009		$32,018.64		$5,173,469.29	$4,249,233.51
11/9/2009			$84,422.23	$5,089,047.06	$4,164,811.28
12/10/2009			$141,362.46	$4,947,684.60	$4,023,448.82
12/31/2009		$31,869.25		$4,979,553.85	$4,023,448.82
1/15/2010			$52,700.75	$4,926,853.10	$3,970,748.07
2/25/2010	$169,473.82		$62,589.59	$5,033,737.33	$4,077,632.30
3/31/2010		$30,175.87		$5,063,913.20	$4,077,632.30
4/9/2010			$42,760.07	$5,021,153.13	$4,034,872.23

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
6/1/2010	$104,013.98			$5,125,167.11	$4,138,886.21
6/30/2010	$81,914.66	$30,582.24	$149,402.90	$5,088,261.11	$4,071,397.97
9/30/2010		$30,535.48		$5,118,796.60	$4,071,397.97
10/27/2010	$83,196.76			$5,201,993.36	$4,154,594.73
12/31/2010		$30,535.48		$5,232,528.84	$4,154,594.73
1/26/2011	$86,989.22			$5,319,518.06	$4,241,583.95
2/9/2011			$332,888.68	$4,986,629.38	$3,908,695.27
3/9/2011			$44,230.53	$4,942,398.85	$3,864,464.74
3/31/2011		$31,159.46		$4,973,558.31	$3,864,464.74
6/27/2011	$104,998.26			$5,078,556.57	$3,969,463.00
6/30/2011	$83,843.92	$28,983.49	$209,066.87	$4,982,317.11	$3,844,240.05
9/30/2011		$28,831.80		$5,011,148.91	$3,844,240.05
11/20/2011	$88,691.74			$5,099,840.65	$3,932,931.79
12/31/2011		$28,831.80		$5,128,672.45	$3,932,931.79
3/31/2012		$29,496.99		$5,158,169.44	$3,932,931.79
6/30/2012		$29,496.99		$5,187,666.43	$3,932,931.79
9/30/2012		$29,496.99		$5,217,163.41	$3,932,931.79
12/31/2012		$29,496.99		$5,246,660.40	$3,932,931.79
3/31/2013		$29,496.99		$5,276,157.39	$3,932,931.79
6/30/2013		$29,496.99		$5,305,654.38	$3,932,931.79
9/30/2013		$29,496.99		$5,335,151.37	$3,932,931.79
12/31/2013		$29,496.99		$5,364,648.36	$3,932,931.79
3/31/2014		$29,496.99		$5,394,145.35	$3,932,931.79
6/30/2014		$29,496.99		$5,423,642.33	$3,932,931.79
9/30/2014		$29,496.99		$5,453,139.32	$3,932,931.79
12/31/2014		$29,496.99		$5,482,636.31	$3,932,931.79
3/31/2015		$29,496.99		$5,512,133.30	$3,932,931.79
6/30/2015		$29,496.99		$5,541,630.29	$3,932,931.79
9/30/2015		$29,496.99		$5,571,127.28	$3,932,931.79
12/31/2015		$29,496.99		$5,600,624.26	$3,932,931.79
3/31/2016		$29,496.99		$5,630,121.25	$3,932,931.79
6/30/2016		$29,496.99		$5,659,618.24	$3,932,931.79
9/30/2016		$29,496.99		$5,689,115.23	$3,932,931.79
12/31/2016		$29,496.99		$5,718,612.22	$3,932,931.79
3/31/2017		$29,496.99		$5,748,109.21	$3,932,931.79
6/30/2017		$29,496.99		$5,777,606.19	$3,932,931.79
9/30/2017		$29,496.99		$5,807,103.18	$3,932,931.79
12/31/2017		$29,496.99		$5,836,600.17	$3,932,931.79
3/31/2018		$29,496.99		$5,866,097.16	$3,932,931.79
6/30/2018		$29,496.99		$5,895,594.15	$3,932,931.79
9/30/2018		$29,496.99		$5,925,091.14	$3,932,931.79

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
12/31/2018		$29,496.99		$5,954,588.13	$3,932,931.79
3/31/2019		$29,496.99		$5,984,085.11	$3,932,931.79
6/30/2019		$29,496.99		$6,013,582.10	$3,932,931.79
9/30/2019		$29,496.99		$6,043,079.09	$3,932,931.79
12/31/2019		$29,496.99		$6,072,576.08	$3,932,931.79
3/31/2020		$29,496.99		$6,102,073.07	$3,932,931.79
6/30/2020		$29,496.99		$6,131,570.06	$3,932,931.79
9/30/2020		$29,496.99		$6,161,067.04	$3,932,931.79
12/31/2020		$29,496.99		$6,190,564.03	$3,932,931.79
3/31/2021		$29,496.99		$6,220,061.02	$3,932,931.79
6/30/2021		$29,496.99		$6,249,558.01	$3,932,931.79
9/30/2021		$29,496.99		$6,279,055.00	$3,932,931.79
12/31/2021		$29,496.99		$6,308,551.99	$3,932,931.79
	$5,853,839.93	$2,375,620.20	$1,920,908.14		

Sand City Successor Agency
Proposed Loan Repayment Schedule

Seaside Monetary Loan
Pursuant to Resolution No. (SC) 42 1989 adopted on July 18, 1989

Original Loan Amount	$5,853,840
Annual Interest Rate - Quarterly	3%
Loan period in years	30
Number of payments per year	See amortization Schedule Below

Pmt No	Payment Date	Beginning Balance	Interest	Scheduled Payment	Extra Payment	Total Payment	Ending Balance	Principal Balance
								3,932,932
1	1/1/2022	6,308,552	29,497	440,858		440,858	5,897,191	3,492,073
	4/1/2022	5,897,191	26,191			0	5,923,381	3,492,073
2	7/1/2022	5,923,381	26,191	0		0	5,949,572	3,492,073
	10/1/2022	5,949,572	26,191			0	5,975,762	3,492,073
	1/1/2023	5,975,762	26,191			0	6,001,953	3,492,073
	4/1/2023	6,001,953	26,191			0	6,028,143	3,492,073
3	7/1/2023	6,028,143	26,191	177,105		177,105	5,877,229	3,314,968
	10/1/2023	5,877,229	24,862			0	5,902,091	3,314,968
	1/1/2024	5,902,091	24,862			0	5,926,953	3,314,968
	4/1/2024	5,926,953	24,862			0	5,951,815	3,314,968
4	7/1/2024	5,951,815	24,862	84,504		84,504	5,892,174	3,230,464
	10/1/2024	5,892,174	24,228			0	5,916,402	3,230,464
	1/1/2025	5,916,402	24,228			0	5,940,631	3,230,464
	4/1/2025	5,940,631	24,228			0	5,964,859	3,230,464
5	7/1/2025	5,964,859	24,228	161,140		161,140	5,827,948	3,069,325
	10/1/2025	5,827,948	23,020			0	5,850,968	3,069,325
	1/1/2026	5,850,968	23,020			0	5,873,988	3,069,325
	4/1/2026	5,873,988	23,020			0	5,897,008	3,069,325
6	7/1/2026	5,897,008	23,020	139,392		139,392	5,780,636	2,929,932
	10/1/2026	5,780,636	21,974			0	5,802,610	2,929,932
	1/1/2027	5,802,610	21,974			0	5,824,585	2,929,932
	4/1/2027	5,824,585	21,974			0	5,846,559	2,929,932
7	7/1/2027	5,846,559	21,974	322,457		322,457	5,546,077	2,607,476
	10/1/2027	5,546,077	19,556			0	5,565,633	2,607,476
	1/1/2028	5,565,633	19,556			0	5,585,189	2,607,476
	4/1/2028	5,585,189	19,556			0	5,604,745	2,607,476
8	7/1/2028	5,604,745	19,556	648,836		648,836	4,975,465	1,958,639
	10/1/2028	4,975,465	14,690			0	4,990,155	1,958,639
	1/1/2029	4,990,155	14,690			0	5,004,844	1,958,639
	4/1/2029	5,004,844	14,690			0	5,019,534	1,958,639
9	7/1/2029	5,019,534	14,690	564,266		564,266	4,469,958	1,394,373
	10/1/2029	4,469,958	10,458			0	4,480,416	1,394,373
	1/1/2030	4,480,416	10,458			0	4,490,874	1,394,373
	4/1/2030	4,490,874	10,458			0	4,501,331	1,394,373
10	7/1/2030	4,501,331	10,458	624,707		624,707	3,887,082	769,666
	10/1/2030	3,887,082	5,772			0	3,892,854	769,666
	1/1/2031	3,892,854	5,772			0	3,898,627	769,666
	4/1/2031	3,898,627	5,772			0	3,904,399	769,666
11	7/1/2031	3,904,399	5,772	613,006		613,006	3,297,166	156,660
	10/1/2031	3,297,166	1,175			0	3,298,341	156,660
	1/1/2032	3,298,341	1,175			0	3,299,516	156,660
	4/1/2032	3,299,516	1,175			0	3,300,691	156,660
12	7/1/2032	3,300,691	1,175	637,746		637,746	2,664,119	0
	10/1/2032	2,664,119	0			0	2,664,119	0
	1/1/2033	2,664,119	0			0	2,664,119	0
	4/1/2033	2,664,119	0			0	2,664,119	0
13	7/1/2033	2,664,119	0	644,644		644,644	2,019,475	0
	10/1/2033	2,019,475	0			0	2,019,475	0
	1/1/2034	2,019,475	0			0	2,019,475	0
	4/1/2034	2,019,475	0			0	2,019,475	0
14	7/1/2034	2,019,475	0	660,848		660,848	1,358,627	0
	10/1/2034	1,358,627	0			0	1,358,627	0
	1/1/2035	1,358,627	0			0	1,358,627	0
	4/1/2035	1,358,627	0			0	1,358,627	0

Pmt No	Payment Date	Beginning Balance	Interest	Scheduled Payment	Extra Payment	Total Payment	Ending Balance	Principal Balance
15	7/1/2035	1,358,627	0	672,792		672,792	685,835	0
	10/1/2035	685,835	0			0	685,835	0
	1/1/2036	685,835	0			0	685,835	0
	4/1/2036	685,835	0			0	685,835	0
16	7/1/2036	685,835	0	685,835		685,835	0	0
	10/1/2036	0	0			0	0	0
	1/1/2037	0	0			0	0	0
	4/1/2037	0	0			0	0	0
17	7/1/2037	0	0	0		0	0	0
	10/1/2037	0	0			0	0	0
	1/1/2038	0	0			0	0	0
	4/1/2038	0	0			0	0	0
18	7/1/2038	0	0	0		0	0	0
	10/1/2038	0	0			0	0	0
	1/1/2039	0	0			0	0	0
	4/1/2039	0	0			0	0	0
19	7/1/2039	0	0	0		0	0	0
	10/1/2039	0	0			0	0	0
	1/1/2040	0	0			0	0	0
	4/1/2040	0	0			0	0	0
20	7/1/2040	0	0	0		0	0	0
	10/1/2040	0	0			0	0	0
	1/1/2041	0	0			0	0	0
	4/1/2041	0	0			0	0	0
21	7/1/2041	0	0	0		0	0	0
	10/1/2041	0	0			0	0	0
	1/1/2042	0	0			0	0	0
	4/1/2042	0	0			0	0	0
22	7/1/2042	0	0	0		0	0	0

Loan Terms

This loan originated in 1989 and is payable over a twenty-two year period commencing in January 2, 2022. To the extent that the amount of Real Property Tax Trust Funds available for repayment in any given year is insufficient to make the full payment, the above scheduled payment amount will be reduced accordingly, and the repayment schedule for subsequent years then will be adjusted accordingly to provide for repayment of the full loan amount. Also, to the extent the amount of Real Property Tax Trust Funds available for repayment in any given year exceeds the above scheduled payment amount, the above scheduled payment amount will be increased, up to a maximum payment of the Real Property Tax Trust Funds available for repayment that year, and the repayment scheduled for subsequent years then will be adjusted accordingly.

DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

August 1, 2013

RECEIVED

AUG 0 2 2013

CITY OF SAND CITY

Mr. Steve Matarazzo, City Administrator
City of Sand City
1 Sylvan Park
Sand City, CA 93955

Dear Mr. Matarazzo:

Subject: Request for a Finding of Completion

The California Department of Finance (Finance) has completed the Finding of Completion for the City of Sand City Successor Agency.

Finance has completed its review of your documentation, which may have included reviewing supporting documentation submitted to substantiate payment or obtaining confirmation from the county auditor-controller. Pursuant to Health and Safety Code (HSC) section 34179.7, we are pleased to inform you that Finance has verified that the Agency has made full payment of the amounts determined under HSC section 34179.6, subdivisions (d) or (e) and HSC section 34183.5.

This letter serves as notification that a Finding of Completion has been granted. The Agency may now do the following:

- Place loan agreements between the former redevelopment agency and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes per HSC section 34191.4 (b) (1). Loan repayments will be governed by criteria in HSC section 34191.4 (a) (2).

- Utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants per HSC section 34191.4 (c).

Additionally, the Agency is required to submit a Long-Range Property Management Plan to Finance for review and approval, per HSC section 34191.5 (b), within six months from the date of this letter.

Please direct inquiries to Andrea Scharffer, Staff Finance Budget Analyst, or Chris Hill, Principal Program Budget Analyst, at (916) 445-1546.

Sincerely,

for

STEVE SZALAY
Local Government Consultant

cc: Ms. Linda Scholink, Director of Administrative Services, Sand City
Ms. Connie Horca, Deputy City Clerk, Sand City
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office

(ENDORSED)
FILED
JAN 19 2016
DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
F. Tong-Miller

RICHARDS | WATSON | GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

CITY OF SEASIDE, a municipal corporation, Plaintiff/Petitioner, vs. CITY OF SAND CITY, a municipal corporation; SUCCESSOR AGENCY TO THE SAND CITY REDEVELOPMENT AGENCY, a local public entity; DOES 1 through 20, inclusive, Defendants/Respondents.	Case No. 1-13-CV-243063 Assigned to Hon. Patricia M. Lucas - Dept. 2 **[PROPOSED] JUDGMENT ON STIPULATION FOR ENTRY OF JUDGMENT** Complaint Filed: December 11, 2012 FAC Filed: January 9, 2013 [Exempt from filing fees pursuant to Govt. Code § 6103]
AND RELATED CROSS-ACTION.	

In the above action, plaintiff and cross-defendant City of Seaside ("Seaside") and defendants and cross-complainants Successor Agency to the Sand City Redevelopment Agency ("Successor Agency") and City of Sand City ("Sand City"), having stipulated that judgment be entered:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Judgment on the First Amended Complaint ("FAC") and the Cross-Complaint is awarded as follows:

FAXED

a. The Successor Agency shall list an enforceable obligation of $364,521 per year on its Recognized Obligation Payment Schedules ("ROPS") which constitutes the annual payment amounts owed by the Former Agency to Seaside pursuant to the May 18, 1989 Agreement ("1989 Agreement").

b. The semi-annual payment obligations of $182,261 to Seaside will be listed by the Successor Agency beginning with ROPS 16-17a which covers the period from July 1, 2016 to December 31, 2016. If the Dissolution Act permits annual filing of ROPS, the Successor Agency shall include the full annual amount on each annual ROPS.

c. The obligation of the Successor Agency to list the semi-annual payment obligations to Seaside of $182,261 in its ROPS shall continue through the ROPS period covering July 1, 2027 through December 31, 2027.

d. In lieu of stipulating to a Court order allowing an amendment of the Successor Agency's ROPS for the period covering January 1, 2016 to June 30, 2016, the Successor Agency agrees to list the semi-annual payment obligation of $182,261 in the ROPS for the period covering July 1, 2027 through December 31, 2027.

e. The Successor Agency shall promptly pay to Seaside funds allocated to it from the Redevelopment Property Tax Trust Fund ("RPTTF") for the 1989 Agreement in accordance with Health and Safety Code Section 34183, following current payments on the 2008A and 2008B Bonds. In the event there are insufficient funds allocated to the Successor Agency from the RPTTF to pay the entirety of the requested semi-annual payment amount of $182,261 for a particular ROPS period, together with other enforceable obligations listed on the ROPS for that period, following payments due on the 2008A and 2008B Bonds for that same ROPS period, the deficit will not be carried over to subsequent years. Only property taxes allocated to the Successor Agency from the RPTTF shall be obligated to pay Seaside the semi-annual payment amount.

f. The Successor Agency agrees to cooperate with Seaside to perfect Seaside's right to receive payments from the RPTTF including, but not limited to, listing the payment obligation to Seaside on the ROPS, advocating approval of this payment

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obligation to Seaside by the Oversight Board and the Department of Finance and, if necessary, participating as a party in litigation regarding the payment obligations to Seaside.

g. If litigation is initiated by Seaside to enforce its right to receive payment from the RPTTF as set forth above, the Successor Agency shall join in any such action if it is necessary to establish jurisdiction, standing to sue or other procedural prerequisites to bringing the action, however, Seaside will take the lead in any such litigation. Seaside agrees to reimburse the Successor Agency for attorneys' fees and costs if the Successor Agency's participation is required in potential future litigation against the Oversight Board and/or the Department of Finance regarding the payment obligations to Seaside. Reimbursement shall be made monthly.

h. Upon execution by the Court and filing of the Judgment, the 1989 Agreement will terminate.

i. Seaside, Sand City and the Successor Agency shall bear their own attorneys' fees and costs incurred in this Action.

j. Except as set forth above, Seaside shall take nothing from the FAC and Sand City and the Successor Agency shall take nothing from the Cross-Complaint.

k. Pursuant to Code of Civil Procedure Section 664.6, the Court shall retain jurisdiction over the parties to enforce performance of the judgment until performance in full of the terms hereof.

Dated: 12-17, 2015

Patricia M. Lucas

JUDGE OF THE SANTA CLARA SUPERIOR COURT

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AGENDA ITEM
9B.

Approval of Successor Agency RESOLUTION Approving the Amended Recognized Obligation Payment Schedule (ROPS 21-22B) for the Period January 1, 2022 through June 30, 2022 and Making Certain Findings in Connection Therewith

City of Sand City

Staff Report

TO: Successor Agency Chair and Agency Members
FROM: Aaron Blair, Executive Director
DATE: August 30, 2021 (for September 7, 2021 Successor Agency meeting)
SUBJECT: Amended Recognized Obligation Payment Schedule (ROPS) 21-22B

Background/Discussion:

Pursuant to Assembly Bill No. 1X 26, enacted on June 28, 2011, and as subsequently amended by AB 1484 enacted on June 27, 2012 and SB 107 enacted September 22, 2015 ("**Dissolution Act**"), the Sand City Redevelopment Agency ("**Former Agency**") was dissolved on February 1, 2012. The City of Sand City elected to serve as the Successor Agency for the Former Agency ("**Successor Agency**") and is vested with all of the authority, rights, powers, duties and obligations of the Former Agency.

The Dissolution Act imposes requirements on successor agencies with regard to the submittal of a Recognized Obligation Payment Schedule ("**ROPS**"). Senate Bill 107 changed the ROPS period from a six-month period to a twelve month period ending each June 30. The Successor Agency's ROPS 21-22 for the period of July 1, 2021 through June 30, 2022 was approved by the Successor Agency on December 15, 2020 by Resolution No. 20-__. On January 7, 2021, the Consolidated Oversight Board for the County of Monterey ("**Consolidated Oversight Board**") approved the Successor Agency's ROPS 21-22 by Resolution No. 2021-01.

Pursuant to California Health & Safety Code Section 34177.7(o)(1)(E), once per ROPS period, and no later than October 1st of each year, the Successor Agency may submit one amendment to the ROPS, if the Consolidated Oversight Board makes a finding that a revision is necessary for the payment of approved enforceable obligations during the second one-half of the ROPS period which is January 1 to June 30, inclusive.

Successor Agency staff has prepared a proposed Amended Recognized Obligation Payment Schedule (21-22B) for the period of January 1, 2022 through June 30, 2022 ("**Amended ROPS 21-22B**"), substantially in the form shown in Attachment "2." The Amended ROPS 21-22B requests additional Redevelopment Property Tax Trust Fund ("**RPTTF**") monies to fund the payment of $440,585 toward repayment of the City Loan (ROPS Item #13) in accordance with the City Loan Repayment Schedule (Seaside) approved by Successor Agency Resolution No. 20-__. No new enforceable obligations are included in the Amended ROPS 21-22B that were not included in the previously adopted ROPS.

Pursuant to Section 34177 and 34180(g) of the Health & Safety Code, the Amended ROPS 21-22B has been submitted to the Countywide Consolidated Oversight Board for consideration and approval at its September 16, 2021 meeting.

CEQA:

Pursuant to the California Environmental Quality Act (CEQA), based upon a review of the evidence and information presented on the matter as it relates to the adoption of the Amended ROPS 21-22B, the Successor Agency has determined that such approval is categorically exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines because there is no possibility that the activities in question will have a significant impact on the environment and the amendment is merely the adoption of annual budget; it will not require any construction activities and will not lead to any direct or reasonably foreseeable indirect physical environmental impacts.

Fiscal Impact:

If the attached Amended ROPS 21-22B is approved by the Sand City Successor Agency, the Consolidated Oversight Board and the Department of Finance, the fiscal impact will be reflected during the fiscal year 2021-2022 for the amount approved.

Recommendation:

Staff seeks Successor Agency approval of the attached Resolution approving the Amended Recognized Obligation Payment Schedule (ROPS 21-22B) for January 1, 2022 through June 30, 2022.

Attachments:
1. - Resolution
2. - Amended ROPS 21-22B

SAND CITY SUCCESSOR AGENCY
RESOLUTION SA _____, 2021

RESOLUTION OF THE SUCCESSOR AGENCY TO THE FORMER SAND CITY REDEVELOPMENT AGENCY, APPROVING THE AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 21-22B) FOR THE PERIOD JANUARY 1, 2022 THROUGH JUNE 30, 2022 AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, pursuant to Assembly Bill No. 1X 26, enacted on June 28, 2011, and as subsequently amended by AB 1484 enacted on June 27, 2012 and SB 107 enacted September 22, 2015 ("**Dissolution Act**"), the Sand City Redevelopment Agency was dissolved on February 1, 2012 and its rights, powers, duties and obligations were transferred to a successor agency; and

WHEREAS, the City Council of the City of Sand City elected to act as the former Agency's successor agency ("**Successor Agency**") under Section 34173 of the Dissolution Act, and, as such, is charged with implementing enforceable obligations and winding down the affairs of the former Agency by administering the retirement of the former Agency's debts and other obligations; and

WHEREAS, Assembly Bill No. 1X 26 provided that all obligations of a former redevelopment agency that must be paid by the successor agency to the former redevelopment agency from property tax and other funding sources must be listed on a six-month list of payments called a "Recognized Obligation Payment Schedule" ("**ROPS**");and

WHEREAS, commencing with the ROPS covering the period from July 1, 2016 to June 30, 2017, and continuing thereafter, the ROPS became due on an annual basis in accordance with SB 107; and

WHEREAS, the Successor Agency and its Oversight Board adopted the ROPS and Administrative Budgets for all prior periods as required by law; and

WHEREAS, on July 1, 2018 the Oversight Board of the Successor Agency for the City of Sand City dissolved and was succeeded by the Consolidated Oversight Board of the County of Monterey ("**Consolidated Oversight Board**"); and

WHEREAS, the Successor Agency ROPS 21-22 for the period of July 1, 2021 through June 30, 2022 was approved by the Successor Agency on December 15, 2020 by Resolution No. 20- __ and by the Consolidated Oversight Board on January 7, 2021 by Resolution No. 2021-01; and

WHEREAS, SB 107 permits an amended ROPS 21-22B for the period January 1, 2022 through June 30, 2022 to be submitted to the Department of Finance and the State Controller's office, after approval by the Consolidated Oversight Board, no later than October 1, 2021; and,

WHEREAS, Successor Agency staff has prepared a proposed Amended Recognized Obligation Payment Schedule 21-22B for the period of January 1, 2022 through June 30, 2022 ("**Amended ROPS 21-22B**"), substantially in the form attached hereto and incorporated by reference herein; and

WHEREAS, on September 16, 2021, the Consolidated Oversight Board will consider finding that a revision to ROPS 21-22 is necessary for the payment of enforceable obligations during the second half of the ROPS period and consider the approval of the Amended ROPS 21-22B.

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency to the Former Sand City Redevelopment Agency that:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Successor Agency hereby approves the Schedule attached hereto as the Amended Recognized Obligation Payment Schedule 21-22B for the period January 1, 2022 through June 30, 2022. Pursuant to Health & Safety Code Section 34173, the Successor Agency's liability, including, but not limited to, its liability for the obligations on the attached schedule, is limited to the total sum of property tax revenues it receives pursuant to Part 1.85 of AB X1 26.

SECTION 3. The Successor Agency hereby authorizes and directs the Clerk of the Successor Agency to forward the Amended ROPS 21-22B to the Consolidated Oversight Board and, following approval by the Consolidated Oversight Board, to the County of Monterey Auditor Controller, State Controller's Office, and the California Department of Finance, to place the ROPS on the Sand City website, and to take such other actions on behalf of the Successor Agency with respect to the Amended ROPS 21-22B as may be necessary in accordance with applicable law.

PASSED, APPROVED AND ADOPTED by the Successor Agency to the Former Sand City Redevelopment Agency, this 7th day of September 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

_____
Mary Ann Carbone, Chair of the
Successor Agency

ATTEST:

By:_____
Connie P. Horca, Clerk of the
Successor Agency

Amended Recognized Obligation Payment Schedule (ROPS 21-22B) - Summary
Filed for the January 1, 2022 through June 30, 2022 Period

Successor Agency: Sand City

County: Monterey

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	ROPS 21-22B Authorized Amounts	ROPS 21-22B Requested Adjustments	ROPS 21-22B Amended Total
A Enforceable Obligations Funded as Follows (B+C+D)	**$ -**	**$ -**	**$ -**
B Bond Proceeds	-	-	-
C Reserve Balance	-	-	-
D Other Funds	-	-	-
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	**$ 593,412**	**$ 440,858**	**$ 1,034,270**
F RPTTF	513,412	440,858	954,270
G Administrative RPTTF	80,000	-	80,000
H Current Period Enforceable Obligations (A+E)	**$ 593,412**	**$ 440,858**	**$ 1,034,270**

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/

Signature Date

Sand City
Amended Recognized Obligation Payment Schedule (ROPS 21-22B) - ROPS Detail
January 1, 2022 through June 30, 2022

Item #	Project Name	Obligation Type	Total Outstanding Obligation	Authorized Amounts					Total	Requested Adjustments					Total	Notes
				Fund Sources						Fund Sources						
				Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		
			$24,137,430	**$-**	**$-**	**$-**	**$513,412**	**$80,000**	**$593,412**	**$-**	**$-**	**$-**	**$440,858**	**$-**	**$440,858**	
2	2008B Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	$670,150	-	-	-	111,788	-	$111,788	-	-	-	-	-	$-	
3	Sand City	Admin Costs	$160,000	-	-	-	-	-	$-	-	-	-	-	-	$-	
5	City of Sand City	Miscellaneous	$1,454,766	-	-	-	-	-	$-	-	-	-	-	-	$-	
6	SERAF Payment	SERAF/ERAF	$-	-	-	-	-	-	$-	-	-	-	-	-	$-	
7	SERAF Payment	SERAF/ERAF	$-	-	-	-	-	-	$-	-	-	-	-	-	$-	
10	McDonald Coastal Project	OPA/DDA/Construction	$1,455,000	-	-	-	-	-	$-	-	-	-	-	-	$-	
11	Tax Sharing Agreement	Litigation	$2,363,383	-	-	-	182,261	-	$182,261	-	-	-	-	-	$-	
12	Sand City Redevelopment Project	City/County Loan (Prior 06/28/11), Cash exchange	$3,628,058	-	-	-	-	-	$-	-	-	-	-	-	$-	
13	Sand City Redevelopment Project	City/County Loan (Prior 06/28/11), Cash exchange	$6,448,068	-	-	-	-	-	$-	-	-	-	440,858	-	$440,858	
21	Fiscal Agent Fees	Fees	$6,250	-	-	-	2,000	-	$2,000	-	-	-	-	-	$-	
22	Bond Disclosure Services	Fees	$4,350	-	-	-	1,400	-	$1,400	-	-	-	-	-	$-	
23	PERS Unfunded Liability-Pension	Unfunded Liabilities	$700,000	-	-	-	-	-	$-	-	-	-	-	-	$-	
24	PERS Unfunded Liability-OPEB	Unfunded Liabilities	$1,550,000	-	-	-	-	-	$-	-	-	-	-	-	$-	
25	CalPERS	Unfunded Liabilities	$6,000	-	-	-	-	-	$-	-	-	-	-	-	$-	
26	Subordinate Tax Allocation Refunding Bonds, Series 2017	Bonds Issued After 12/31/10	$3,779,155	-	-	-	215,963	-	$215,963	-	-	-	-	-	$-	
27	Fiscal Agent Fees	Fees	$12,250	-	-	-	-	-	$-	-	-	-	-	-	$-	
28	Sand City Redevelopment Project	City/County Loan (Prior 06/28/11), Cash exchange	$1,900,000	-	-	-	-	-	$-	-	-	-	-	-	$-	

AGENDA ITEM
9C.

Discussion regarding COVID-19 vaccine mandates and whether to direct City staff to place on an upcoming City Council agenda an order requiring that City employees be either vaccinated against COVID-19 or submit to regular testing for COVID-19