

**AGENDA ITEM**

**6c**

**Replaces pages 38-47**

**CITY OF SAND CITY  
RESOLUTION SC \_\_\_\_\_, 2019**

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY  
AUTHORIZING A CITY SURVEYING SERVICES AGREEMENT  
WITH POLARIS CONSULTING**

**WHEREAS**, Polaris Consulting, a land surveying firm, has been providing satisfactory surveying services to the City of Sand City since 1999; and

**WHEREAS**, Ms. Lynn Kovach has adequately served as a professional licensed land surveyor under the direction of the City Engineer/Public Works Director since 1999 and is qualified to continue to provide surveying services to the City of Sand City; and

**WHEREAS**, the proposed City Surveying Service Agreement, attached as Exhibit A and incorporated herein by reference, with Polaris Consulting, is hereby found to be most appropriate to meet the needs of the City of Sand City and is hereby accepted; and

**WHEREAS**, the Scope of Work, attached as Exhibit B and incorporated herein by reference, is hereby accepted and approved; and

**WHEREAS**, the Polaris Consulting Fee Schedule, attached as Exhibit C and incorporated herein by reference, is hereby accepted and approved with the understanding that this Fee Schedule may be updated periodically, subject to review and approval by the City Council of Sand City; and

**WHEREAS**, due to the need to provide a specified amount for these services within the City's fiscal year budget, the estimated cost for general City Surveying Services shall not exceed the amount of \$10,000 for the fiscal year, unless written authorization is provided by the City Administrator.

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

1. The attached City Surveying Service Agreement (Exhibit A), Scope of Work (Exhibit B), and Fee Schedule (Exhibit C) are accepted and approved.
2. The Mayor and City Administrator are directed and authorized to execute the attached City Surveying Service Agreement in substantially the same form as the attached documents.
3. The term of the City Surveying Service Agreement will be for a twelve (12) month period beginning July 1, 2019 through June 30, 2020.
4. Polaris Consulting will maintain a current Sand City Business License throughout the term of the Service Agreement.

**PASSED AND ADOPTED** by the City Council of Sand City this \_\_\_\_\_ day of July, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Linda Scholink, City Clerk

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Mary Ann Carbone, Mayor

# EXHIBIT A

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## CITY SURVEYING SERVICE AGREEMENT

This Agreement made this \_\_\_\_\_ day of July, 2019, by and between the CITY OF SAND CITY, a municipal corporation, hereinafter referred to as "CITY", and POLARIS CONSULTING, PO Box 1378, Carmel Valley, CA 93924, hereinafter referred to as "CONSULTANT".

WITNESSETH:

**WHEREAS**, CITY desires professional surveying services in the discipline of municipal public works; and

**WHEREAS**, CONSULTANT is willing to provide, and CITY is willing to accept the professional and technical services of CONSULTANT for this work.

**NOW, THEREFORE**, CITY and CONSULTANT further agree as follows:

### A. GENERAL SCOPE OF SERVICES

CONSULTANT is to perform municipal land surveying services to CITY under the general direction of the City Administrator as described herein below, and as shown on Exhibit B.

### B. DIVISION OF SURVEYOR'S WORK

Although the CONSULTANT (Polaris Consulting) will render land surveying services to the CITY, the CONSULTANT, and the CITY agrees that the day-to-day land surveying services (hereinafter "Daily Services") will be rendered exclusively by the firm of Polaris Consulting and that special projects (hereinafter "Special Projects") may require the additional services of a specialized firm other than Polaris Consulting. If, in the opinion of the CITY and the CONSULTANT, Polaris Consulting does not have the personnel or expertise to perform such special services, then the CITY and/or Polaris Consulting shall have the right to subcontract such services to such other firm as is acceptable to both the CITY and the CONSULTANT.

### C. COMPENSATION FOR SERVICES

In consideration of the performance of service provided by this Agreement, CITY shall pay CONSULTANT an amount computed in accordance with Exhibit C - Fee Schedule, attached hereto and made a part of this Agreement. Due to the need to provide a specified amount for these services within the City's fiscal year budget, the estimated cost for general City Surveying Services shall not exceed the amount of \$10,000 for the fiscal year, unless written authorization is provided by the City Administrator.

CONSULTANT shall submit monthly statements of the services performed, which will be based upon daily individual and personnel classification time records.

### D. TITLE TO DOCUMENTS

All surveys, maps, plans, legal descriptions, detailed drawings, calculations, memorandums, reports and other documents prepared by CONSULTANT in the performance of services pursuant to this Agreement shall be considered services and shall be the property of the CITY at such time as CITY has compensated CONSULTANT for services rendered in connection with which they were prepared. The CITY shall not use copies of site specific work in other

locations. The CITY may use copies of general, non-site specific maps and plans such as zoning maps and base maps.

**E. TERM OF AGREEMENT**

The term of the agreement will be for a twelve (12) month period beginning July 1, 2019 through June 30, 2020. The Agreement may be reviewed and renewed annually. No modification to the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

**F. NOTICES**

Notices shall be addressed and sent to:

CITY:

City of Sand City  
1 Sylvan Park  
Sand City, CA 93955  
Attn: City Administrator

CONSULTANT:

Polaris Consulting  
PO Box 1378  
Carmel Valley, CA 93924  
Attn: Lynn A. Kovach, Principal Surveyor

**G. SURVEYOR AS INDEPENDENT CONTRACTOR**

It is hereby understood that CONSULTANT is an agent of the City, not an employee of the CITY; but is an independent contractor with full rights to manage its employees subject to all legal requirements. All persons employed by CONSULTANT in connection with this Agreement will be employees of CONSULTANT and not employees of CITY in any respect. As part of this Service Agreement, it is agreed that Lynn A. Kovach shall be designated as "Contract City Surveyor" for City.

**H. INDEMNIFICATION AND INSURANCE**

1. 'CONSULTANT agrees to indemnify and hold the City, its officials, employees and agents, harmless from any cost, expense or liability incurred on account or assertion of a claim, suite, lien, or other cost against the CITY resulting from the direct actions or activities of CONSULTANT which are deemed to be negligent.
2. CONSULTANT shall, throughout the duration of this Agreement, maintain comprehensive general liability and property insurance covering all operations of the CONSULTANT, its agents and employees, performed in connection with this Agreement, including but not limited to premises and automobile.

CONSULTANT shall maintain the following limits:

General liability

- Combined single limit per occurrence.....\$1,000,000.00
- General Aggregate.....\$1,000,000.00  
(The policy shall cover on an occurrence or an accident basis, and not on a claims made basis.)
- Automobile Liability

Combined Single Limit per Occurrence.....\$ 500,000.00  
(The policy shall cover on an occurrence or accident basis, and not on a claims made basis.)

- Worker's Compensation.....Full Liability Coverage
- Professional Errors and Omissions.....\$ 500,000.00
- (CONSULTANT shall not disclaim responsibility or avoid liability for the acts or omissions of its subcontractors or other professional consultants. The retroactive date of the policy must be shown and must be before the date of the Agreement).

3. All insurance companies with the exception of worker's compensation and professional errors and omissions affording coverage to the CONSULTANT shall be required to add the CITY, its officers, employees, agents, and volunteers as additional "insureds" by endorsement under the insurance policy, and shall stipulate that this insurance policy will operate as primary insured for the work performed under this Agreement and that no other insurance affected by the CITY or other named insured will be called upon to contribute to a loss covered there under. The policy shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents, or volunteers.
4. All insurance companies affording coverage to the CONSULTANT shall be insurance organizations authorized by the Insurance Commissioner to transact the business of insurance in the State of California.
5. All insurance companies affording coverage shall provide thirty (30) day written notice mail to the City of Sand City should the policy be canceled or reduced in coverage below the limits required herein, before the expiration date. For the purposes of this notice requirement, any material change prior to expiration shall be considered cancellation.
6. CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the CITY, concurrently with the submission of this Agreement. A statement of the insurance certificate, which states that the insurance company will endeavor to notify the certificate holder, "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives", does not satisfy the requirements of subsection (5) herein. The CONSULTANT shall ensure that the above-quoted language is stricken from the certificate by the authorized representative of the insurance company.
7. CONSULTANT shall provide substitute certificate of insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered default by CONSULTANT.
8. Maintenance of insurance by the CONSULTANT as specified in the agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.

#### **I. PROFESSIONAL STANDARDS**

CONSULTANT shall be responsible, to the level of competency presently maintained by other practicing professional surveyors in the same area and performing the same type of work for the professional and technical soundness, accuracy, and adequacy of all surveys, drawings, maps, legal documents, and other work and materials furnished under this agreement.

**J. LEGAL EXPENSES**

In the event legal action is brought by CITY or CONSULTANT against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs, and expenses as may be set by the court.

**K. ASSIGNMENT**

It is recognized by the parties that a substantial inducement to CITY for entering into this Agreement was and is the professional reputation and competence of CONSULTANT. This Agreement is personal to CONSULTANT and shall not be assigned by it without express written approval of CITY.

**L. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS**

Services performed by CONSULTANT pursuant to this Agreement shall be performed in accordance and full compliance with applicable Federal, State, and City laws and any rules or regulations promulgated there under.

**M. NONDISCRIMINATION**

During the performance of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability.

**N. CONFLICT OF INTEREST**

CONSULTANT warrants and declares that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, in any manner or degree which will render the services required under the provisions of this Agreement a violation of any applicable State, local, or Federal law. In the event that any conflict of interest should nevertheless hereinafter arise, CONSULTANT shall promptly notify CITY of the existence of such conflict of interest so that CITY may determine whether to terminate this Agreement. CONSULTANT further warrants its compliance with the Political Reform Act (Government Code Section 8100 et.seq.) That applies to CONSULTANT as a result of CONSULTANT's performance of the work or services pursuant to the terms of this Agreement.

**O. TERMINATION**

This Agreement may be terminated by either party for any reason whatsoever upon thirty (30) days written notice. In the event that this Agreement is terminated by CITY for any reason, CITY is hereby expressly permitted to assume and complete the services imposed on CONSULTANT by this Agreement by any means, including but not limited to, an Agreement with another party.

Upon termination, CONSULTANT shall be entitled to payment of such amount as fairly compensates CONSULTANT for all work satisfactorily performed up to the date of termination based on hourly rates shown in Exhibit C, except that in the event of termination by CITY for

CONSULTANT's default, CITY shall deduct from the amount due CONSULTANT the total amount of additional expenses incurred by CITY as a result of such default. In the event that such additional expenses shall exceed amounts otherwise due and payable to CONSULTANT, CONSULTANT shall pay CITY the full amount of such expense.

In the event that this Agreement is terminated by CITY for any reason, CONSULTANT shall:

1. Upon written receipt of notice of such termination immediately cease all services, unless otherwise directed by CITY; and
2. Deliver to CITY all documents, data, reports, summaries, correspondence, photographs, computer software, video and audio tapes, and any other materials provided to CONSULTANT or prepared by or for CONSULTANT or the CITY in connection with this Agreement. Such material is to be delivered to CITY whether it is in completed form or is in process, and CITY may condition payment for services rendered to the date of termination upon CONSULTANT's delivery to the CITY of such material.

The rights and remedies of the parties provided by this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other section of this Agreement.

**P. INTERPRETATION OF AGREEMENT**

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

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement in duplicate the day and year first above written.

**CITY OF SAND CITY**  
**A Municipal Corporation**

**Lynn A. Kovach**  
**DBA POLARIS CONSULTING**

By: \_\_\_\_\_  
Mary Ann Carbone, Mayor

By: \_\_\_\_\_  
Lynn A. Kovach, Owner  
Principal Surveyor

By: \_\_\_\_\_  
Fred Meurer, City Administrator

ATTEST:

\_\_\_\_\_  
Linda K. Scholink, City Clerk



# EXHIBIT B

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## SCOPE OF WORK

Polaris Consulting proposes to provide the services generally described in this Scope of Work. To provide these services, Polaris will draw on the experience gained in working with other public agencies and private developers. When undertaking each work assignment, the project requirements will first be evaluated by the Principal Land Surveyor. The Principal Land Surveyor will determine how to accomplish the work and produce the required product efficiently. The work approach will be reviewed with the City Administrator before initiating the project assignment.

The scope of work for this contract will vary as need arises and will be at the discretion of the City. CONCONSULTANT will provide surveying services for various projects at the request of City Staff or at the request of the City Engineer. Survey requests may be, but not limited to, topographic surveys, construction staking, property line surveys, easement surveys, and manhole invert surveys. Survey data may be provided directly to City Staff or to a separate design consultant. Construction staking requests may be needed within a 48-hour notification. Surveying may be needed in difficult terrain. The main categories of work will include:

### Surveys

- Review Tentative Maps and Tract Maps for survey requirements in conformance with City Conditions of Approval, Ordinances, and the Subdivision Map Act.
- Check subdivision and parcel maps for compliance with State Subdivisions Map Act requirements. Stamp & sign subdivision maps, parcel maps, lot line adjustments, and other documents as necessary, as City Surveyor.
- Determine locations of property lines, boundaries, easements and rights-of-way
- Construction surveys for improvement projects
- Establish and adjust benchmarks
- Establish and monument street center lines
- Traditional topographic surveys and aerial topographic surveys to determine locations and elevations of existing improvements, structures, and topographic features
- Perform research and survey work related to property divisions and mergers
- Perform research and survey work related to public and private land ownership, public and private easements, public improvements, construction, and historic information
- Do all survey related and some engineering related computations and drawings using traditional methods and/or using computer methods currently available within the City
- Prepare and interpret deeds and descriptions
- Develop legal descriptions and plat maps
- Other survey-related tasks as necessary

### G. Plan Checking (Public and Private Construction)

1. Participate in City's staff meetings, as requested, either in Sand City, or by telephone conference call.
2. Prepare reports to the City Administrator and City Council.
3. Coordinate with and assist the City's Planning Department, Public Works Department, other City Departments, and other contract consultants.
4. Assist in preparing Staff Reports and Ordinances for consideration by the City Administrator and City Council, as requested.

J. Sub-Consultants:

1. When the services of other consultants or experts are required, such as surveying, architectural, geotechnical, structural, electrical or other engineering and public works services, Polaris Consulting will obtain proposals for said work and arrange for these services on a sub-consultant basis, up to a maximum cost of \$20,000 with approval of the City Administrator. The fee for these services will be 5% based on the consultant's invoice.

If the sub-consultant costs exceed \$20,000, then approval of the City Council will be required or a separate contract arranged directly with the City.

K. Fee Schedule:

1. The attached Exhibit C - Fee Schedule will be used in the provision of the above land surveying services. These fees may be adjusted periodically based on the adjusted change of the Consumer Price Index and/or proposed new fee schedule as submitted by the Consultant. Any new fee schedule will be subject to review and approval by the City Council. Any specialized fee that is not listed on the attached Fee Schedule shall be subject to negotiation and agreement between the parties.