



SPECIAL MEETING

SAND CITY COUNCIL

AND

**SUCCESSOR AGENCY OF THE FORMER
REDEVELOPMENT AGENCY**

SAND CITY COUNCIL CHAMBERS

TUESDAY, OCTOBER 13, 2020

5:30 P.M.



**SPECIAL MEETING AGENDA
JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY
OF THE REDEVELOPMENT AGENCY**

**Special Meeting – October 13, 2020
5:30 P.M.**

**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. ROLL CALL**
 - 2. PUBLIC COMMENT**

Members of the public may address the City Council/Successor Agency on matters not appearing on the City Council/Successor Agency Agenda at this time for up to three minutes. In order that the City Clerk may later identify the speaker in the minutes of the meeting, it is helpful if speakers state

their names. Public comments regarding items on the scheduled agenda will be heard at the time the item is being considered by the City Council/Successor Agency.

If you need assistance, please advise the City Clerk in advance as to which item you would like to comment on and the City will assist you with arrangements.

3. NEW BUSINESS

- A. Consideration of City RESOLUTION Approving Procedures for the Consideration of Development Agreements

4. PUBLIC HEARING

- A. Consideration of Approval for FIRST READING of an ORDINANCE of the City Council of the City of Sand City Approving the Development Agreement by and between DBO Development No. 30, LLC relating to the Development commonly known as The South of Tioga Project

5. ADJOURNMENT

Next Scheduled Council Meeting:
Tuesday, October 20, 2020
5:30 P.M.
Telephonic meeting:
Dial-in number: (669) 900-6833
Access code: 441 727 7342#

This is intended to be a draft agenda. The City reserves the right to add or delete to this agenda as required.

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

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 222, or give your written request to the City Clerk at One Pendergrass Way, Sand City, CA 93955 at least 12 hours prior to the scheduled meeting to allow the City Clerk time to arrange for the requested modification or accommodation

AGENDA ITEM

3A



City of Sand City

Agenda
Item
3A

Staff Memo

TO: Honorable Mayor and City Council
FROM: Vibeke Norgaard, City Attorney
DATE: October 8, 2020 (for October 13, 2020 meeting)
SUBJECT: Resolution Adopting Procedures for Development Agreements

Background/Discussion

The City has received an application for a development agreement in conjunction with the South of Tioga Project, and anticipates entering into a development agreement with DBO LLC, No. 30. However, the City does not currently have a set of rules for considering development agreement applications.

A development agreement is typically a contract between a city and a developer that spells out the rules for a particular project. For developers, the advantage of a development agreement is that they can lock in their entitlements and know for certain what local rules and regulations will govern their project going forward. For cities, the advantage is that the developer will usually agree to conditions that go beyond what a city could require through the normal development process.

California law authorizes cities to enter into development agreements and establishes general rules governing development agreements. (Government Code §§ 65864 through 65869.5). One of those rules requires a city to establish procedures and requirements for consideration of development agreement applications if requested by an applicant. To date, the City has not received a request to establish development agreement procedures. Nonetheless, staff believes it would be prudent for the City Council to adopt the basic procedures and requirements for consideration of development agreements contained in the proposed resolution.

CEQA:

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

Fiscal Impact:

There is no fiscal impact associated with this item.

Recommendation:

Staff recommends Council adopt the resolution establishing procedures and requirements for consideration of development agreements attached as Exhibit A.

EXHIBIT A

CITY OF SAND CITY

RESOLUTION SC ___-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY APPROVING PROCEDURES FOR THE CONSIDERATION OF DEVELOPMENT AGREEMENTS

WHEREAS, In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, *et seq.*, of the Government Code (the "Development Agreement Statute"), authorizing the City, and any person having a legal or equitable interest in the real property, to enter into a Development Agreement and establish certain development rights in the property, which is the subject of the development project application; and

WHEREAS, Cities may establish procedures pursuant to California Government Code section 65865(c) for the consideration of development agreements; and

WHEREAS, DBO Development No. 30, LLC has filed an application requesting approval of a development agreement for the South of Tioga Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City that the City Council hereby adopts California Government Code sections 65864, *et seq.* as its procedures for considering development agreements. In considering development agreements, the City Council shall serve as the City's planning agency for purposes of development agreement review and also as the City Council. The City shall prepare, notice, consider, adopt, and periodically review development agreements as provided in California Government Code sections 65864, *et seq.*

PASSED AND ADOPTED by the City Council of Sand City on the 13th day of October, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, Acting City Clerk

West's Annotated California Codes
Government Code (Refs & Annos)
Title 7. Planning and Land Use (Refs & Annos)
Division 1. Planning and Zoning (Refs & Annos)
Chapter 4. Zoning Regulations (Refs & Annos)
Article 2.5. Development Agreements (Refs & Annos)

West's Ann.Cal.Gov.Code § 65865

§ 65865. Authorization, procedures and requirements; recovery of costs; compliance with § 66006

Effective: January 1, 2004

Currentness

(a) Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article.

(b) Any city may enter into a development agreement with any person having a legal or equitable interest in real property in unincorporated territory within that city's sphere of influence for the development of the property as provided in this article. However, the agreement shall not become operative unless annexation proceedings annexing the property to the city are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement is null and void.

(c) Every city, county, or city and county, shall, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

(d) A city, county, or city and county may recover from applicants the direct costs associated with adopting a resolution or ordinance to establish procedures and requirements for the consideration of development agreements.

(e) For any development agreement entered into on or after January 1, 2004, a city, county, or city and county shall comply with Section 66006 with respect to any fee it receives or cost it recovers pursuant to this article.

Credits

(Added by Stats.1979, c. 934, p. 3231, § 1. Amended by Stats.1984, c. 751, § 1; Stats.1986, c. 857, § 1; Stats.2003, c. 288 (A.B.1347), § 1.)

Notes of Decisions (16)

West's Ann. Cal. Gov. Code § 65865, CA GOVT § 65865

Current with urgency legislation through Ch. 372 of 2020 Reg.Sess. Some statute sections may be more current, see credits for details.

AGENDA ITEM

4A



City of Sand City

Agenda
Item
4A

Staff Memo

TO: Honorable Mayor and City Council
FROM: Aaron Blair, City Manager; Chuck Pooler, City Planner
DATE: October 5, 2020 (for October 13, 2020 meeting)
SUBJECT: Development Agreement for the South of Tioga Project.

1. The South of Tioga Project

The South of Tioga Project is a development project proposed by DBO LLC No 30 (DBO or Developer) to develop property in the approximately 10.64 acre area bounded by Tioga Avenue to the northeast, California Avenue to the southeast, East Avenue to the southwest, and the Merle street right-of-way to the northwest in the central portion of the City, generally referred to as the “South of Tioga” district. (Exhibit 1, Project Site). This district serves as a transition zone between the “big box” commercial developments to the northeast, the partially built East Dunes residential area to the west, and the West End district to the south and southwest.

DBO’s has a legal or equitable interest in the approximately 10.64 acres of real property which is located on forty separate parcels. (Assessor’s Parcel Numbers: 011-122-002, -003, -004, -005, -010, -011, -023, -024, -025, -026, -032, -038, -039, -040, -041; 011-123-001, -004, -005, -006, -007, -008, -009, -011, -022, -024, -025, -026; 011-134-011; 011-135-001, -014, -015, -016, -023, -024; 011-136-007, -012, -024; and 011-196-021, -038, and -039). (The “South of Tioga Project Area”). In addition, DBO is in the process of acquiring certain additional small portions of land owned by the City and certain parcels along the vacated section of Lincoln Avenue and Beach Way. Acquisition of the parcels by DBO is required prior to City’s approval and recording of the Final Map, and DBO may seek an amendment to the Development Agreement at a later date to include those additional parcels within the Project boundary.

The South of Tioga Project Area is currently comprised of blighted light industrial and heavy commercial uses, warehouse buildings, undeveloped but degraded sand dunes, and several dilapidated residential dwellings. The Sand Dollar Shopping Center is northeast of the hotel site across Tioga Avenue; the Granite Rock industrial facility, the Salvation Army Good Samaritan Center, and the Public Storage facility are southeast of the South of Tioga area; and existing and planned single family residential development are to the west.

DBO’s project is proposed to include a hotel and residential development on six (6) newly created parcels (H1, H1A, H2, H2A, R1 & R2) within the South of Tioga Project Area (“Project”). The Project will require abandoning the City rights-of-way of Afton Avenue, Fir Avenue, and Orlando Avenue in their entirety and a segment of Beach Way. East Avenue would be

relocated on a slightly more southerly alignment in parallel with and abutting the Salvation Army property. Parking access for the hotel parcels will be provided via the new Morgan Way.

Parcel H1 is proposed to be developed with a hotel of up to two hundred and sixteen (216) guest rooms at a maximum of four (4) floors with accessory guest amenities (i.e. swimming pool, parking, spa, etc.), guest food service, vehicular surface parking and drive isles, landscaping, utilities, and utility equipment shelters/screening. Parcels H1A, H2, and H2A will provide parking, landscaping, and utilities to serve parcel H1.

Parcel R1 is proposed to be developed with a single 5-story residential structure atop a partially underground 2-level podium parking structure, for a total of 7-stories not to exceed 85 feet in height. The residential structure would provide 125 dwelling units of which no fewer than fifty percent (50%) are to be condominium units as required by the VTM. This development would also include an outdoor courtyard with swimming pool and an indoor club area and a rooftop restaurant. Parcel R1 will also provide 2,860 square feet of park easement for public use.

Parcel R2, based on the latest plan submission reviewed by the Planning Department, is proposed to be developed with two detached 5-story residential structures built on slab with a cumulative 231 residential units and a 3-story parking structure to accommodate residential parking. Residential building 1 will occupy the westerly portion of the parcel abutting Scott Street, adjacent to the sand dunes and future habitat preserve. Residential building 2 will occupy the southerly area abutting California Avenue, the realigned East Avenue, and Parcel H2. This development would also include outdoor courtyards for each residential building with a swimming pool, spa, cabanas, indoor gym, and club area. Parcel R2 will also provide 5,582 square feet of park easement for public use, abutting the park easement of Parcel R1.

The Project is intended to be developed in three (3) phases, with Phase 1 consisting of the public improvements, completion of new public streets and rights-of-way, utility and infrastructure installation, and preparation of development pads on each of the VTM's newly created parcels (H1, H1A, H2, H2A, R1, & R2), Phase 2 consisting one (1) hotel on Parcel H1 with hotel parking on parcels H1A, H2, and H2A, and Phase 3 consisting of two multi-family residential developments, one on Parcel R1 and one on Parcel R2. (VTM, COA A2)

2. General Plan Consistency

As required by California Government Code §65867, all Development Agreements are to be considered at a public hearing before the Planning Commission and the City Council. Since Sand City does not have a separate Planning Commission, the City Council will serve as both the City's Planning agency and decision-makers for purposes of Development Agreement review and general plan consistency at the October 13, 2020 Special Council meeting. (Cal Gov. Code §§65867, 65867.5).

The City Council may approve the Development Agreement if it finds that the agreement is consistent with the Sand City General Plan and that the agreement will promote the public health, safety and general welfare. The proposed ordinance adopting the Development Agreement incorporates the VTM General Plan consistency findings as the General Plan

consistency findings for the Development Agreement because the Project is substantively unchanged by the Development Agreement. The Development Agreement implements the Project described in the VTM, setting out financing, fees and other requirements summarized below.

The Project endeavors to eliminate existing blighted conditions throughout the Property; provide public and private road and infrastructure improvements; provide appropriate land use transitions compatible with the East Dunes Planning District; provide a significant number of residential units (including units that will be made affordable to extremely low, very low and low income households) consistent with City's certified Housing Element (including, among others, Programs 4.1.1A and 4.1.1B); and increase the residential population of the City resulting in a "higher and better" use of land and aesthetic improvements, consistent with City's 2002 General Plan Goals 2.6 and 2.8, General Plan Policies 2.6.1 and 2.6.2, and General Plan Implementation Program 2.6a.

3. Land Use & Zoning

The South of Tioga Project Area has dual General Plan land use designations of Regional Commercial and Mixed Use Development; and zoning designations of MU-P (Planned Mixed Use) and CZ-C4 (Coastal-Regional Commercial). Each of the newly created parcels within the Project (H1, H1A, H2, H2A, R1, & R2) are required to obtain their own independent land entitlement permits (conditional use permits for Parcels R1, R2, H1 and H2, and coastal development permits for Parcels H1A and H2A that are in the non-appealable coastal zone overlay). Conditional Use Permits 623 and 624 and Coastal Development Permits 18-01 and 18-02 were approved by the City Council on November 6, 2018 for the Hotel development on Parcels H1, H2, H1A, and H2A. Conditional use permits still need to be obtained for parcels R1 and R2, and under the Development Agreement would be considered under the current City standards.

4. City Council's Prior Approvals of the Project

At a June 5, 2018 public hearing and City Council meeting, Council approved the Vesting Tentative Map 18-01 ("VTM"), and related mitigation monitoring and reporting program ("MMRP") for the Project. (Resolutions SC 18-58, SC18-59). (Exhibit 2, VTM). Also on June 5, 2018, the City Council certified an Environmental Impact Report (EIR) for the South of Tioga Project ("EIR"). On November 6, 2018, the City Council approved conditional use permits and coastal development permits for a hotel and associated parking on parcels H1, H2, H1A and H2A. (Resolution Nos. SC 18-98, 18-99, 18-100 and 18-101).

On February 4, 2020, Council considered the application of parkland (Quimby act) fees to the Project. (City Resolution 20-09). On February 13, 2020, the City Council vacated certain portions of Beach Way, and Lincoln Avenues. (City Resolution 20-11). On April 21, 2020, the Council heard a request for and granted an extension of the VTM for 12 months until June 5, 2021. (City Resolution 20-23).

5. The Development Agreement

One of the VTM's conditions of approval requires that the Parties enter into a development agreement for the South of Tioga Project ("DA") prior to the recordation of any final map for Project. (VTM condition (E)(9)). For the past year, under the direction of the City Council, the City Attorney and the City Manager, with input from City staff including the City Engineer, City Planner, City Surveyor, and former building inspector, John Kuehl, have been negotiating the terms of the DA with DBO. The City Attorney has also consulted with the land use attorneys at Meyers Nave who specialize in development agreement law, in particular with Adam Lindgren. The DA and the ordinance approving it is attached at Exhibit 3 to this report for your consideration and approval for first reading. The City Council and staff team also benefited from input from members of the community who participated in public meetings on the Development Agreement and Project implementation.

The Development Agreement is a contract between the City and DBO that delineates and implements the terms and conditions of the proposed Project. The DA allows DBO to secure vested rights in Project approvals, and it allows the City to secure certain benefits as well. Development Agreements are enabled by California Government Code Sections 6584-65869.5. Once the DA is approved by the City Council, it is an Ordinance and is subject to referendum.

6. The terms set forth in the Development Agreement with DBO

(a) Vesting of development rights

The main benefit of the DA to DBO is that the DA vests the laws applicable to the development of the South of Tioga Project on the Subject Property. The DA gives DBO the vested right -- for the term of the DA -- to further process, develop and construct the South of Tioga Project in accordance with current City rules and laws (such as the City's zoning code and General Plan). The DA also allows DBO to have any subsequent approvals it seeks (such as Conditional Use Permits for the R1 and R2 parcels) considered based upon the current City rules and law.

The DA also vests the permitted uses of the Property, the density and intensity of uses, the maximum height, bulk, and size of the proposed buildings, provisions for reservation or dedication of land for public purposes and the location of public improvements, the general location of public utilities, and other terms and conditions of development.

The DA does not vest impact fees, exactions, permit processing and inspection fees and charges, and utility fees -- all of which will be applied at the rate they are when due. Certain other rules applicable to the Project will be those in place at the time DBO seeks subsequent approvals, such as any changes in state and federal laws; rules regarding the design, engineering, and construction standards and specifications; building codes; residential code; plumbing code, electrical code, mechanical code, fire code, water conservation laws, energy code. The DA also requires that DBO pay the City the actual cost of time and expenditures of City employees, attorneys and consultants directly spent to process future approvals, conduct plan check and inspections for the Project.

(b) Term

The term of the DA is five years. In addition, it may be extended, at DBO's discretion, for an additional three-year period. Further, the DA term may be extended or tolled beyond the eight years for an additional three years under certain specific circumstances (such as, for example, natural disasters). This is a relatively short term compared to many development agreements, and is intended to motivate DBO to expedite construction and occupancy of the Project.

(c) Phasing and Securities

Phase 1 of the Project consists of the public improvements, completion of new public streets and rights-of-way, utility and infrastructure installation, and rough grading on each of the newly created parcels (H1, H1A, H2, H2A, R1, & R2). Under the terms of the DA, while DBO has the right to decide whether to commence construction of the project at all, if it elects to proceed, Phase 1 will be constructed as the first phase of the Project. DBO may construct the remaining phases concurrent with or subsequent to Phase 1.

The DA requires that DBO provide securities (either bonds or letters of credit) prior to: (i) the approval of the first final map or (ii) the issuance of any demolition permit for demolition of any public property, whichever occurs first. It also provides that if DBO starts, but does not complete construction of the public improvements and related rough grading within three years of starting, the City may enforce the security and complete Phase 1 itself. The DA also requires that DBO provide additional securities to be used to rehabilitate the public improvement if damaged or if there is excessive wear and tear due to construction activities.

(d) Establishment of a Community Facilities District

As a result of the financial burdens placed upon the City's operational budget due to the new development and projected increase in population base, a condition of approval of the VTM was that a Community Facilities District (CFD), or equivalent finance district, would need to be established. (VTM, COA A(14)). A CFD is a way for the City to pay for the increased cost to the City caused by a development. It is a special tax district.

The DA establishes an annual amount of the special tax at \$550,000, plus a CPI increase if applicable. This amount is based upon the analysis by staff in collaboration with the City-hired CFD consultant Sara Mares at NBS of what the increased cost to the City would be to provide the services required by the Project. CFD tax payments are required to commence on the first of August following the issuance of the first certificate of occupancy for the Project.

The DA further provides for a credit towards the payment of the CFD from transient occupancy tax ("TOT") the City will receive from the hotel component of the Project. DBO currently forecasts that the hotel on the Project will annually produce \$1,683,000.00 to \$2,052,000.00 in TOT. The TOT is a revenue that goes into the City's General Fund. If the TOT surpasses \$1,060,000, the maximum total amount of special tax to be imposed on the Project will be reduced on a dollar-for-dollar basis up to the full amount of the CFD. When the threshold is reached, the credit may be applied in the following tax year. This credit arrangement is

temporary, is meant to incentivize construction of the hotel, and therefore lasts only for the length of the term of the DA.

The CFD will cover landscape maintenance, irrigation maintenance, costs for a sub-contract for tree trimming, storm drains, pest control, and litter control, utilities, open space maintenance, storm water maintenance, fire and emergency personnel services, law enforcement services, public work and City administration staffing and purchase of equipment directly connected to provision of the aforementioned services.

(e) Coastal Dune Scrub Habitat Area

To compensate for the loss of federally and state listed and endangered species (the Monterey Spineflower; Smith’s Blue butterfly, and the Monterey Gilia) DBO is required by the EIR and VTM conditions to record a conservation easement over approximately 0.9 acre of coastal dune scrub habitat to preserve and protect this area in perpetuity in accordance with the requirements set forth in the MMRP. (VTM, COA J(5); MMRP BIO-1).

In addition, DBO has obtained incidental Take Permits (ITP’s) from both California Department of Fish & Wildlife (CDFW) and the U.S. Fish and Wildlife Service. (CDFW Permit No. 2081-2018-078-04; US permit no TE56304D-0). The ITP requires that DBO establish a conservation easement; designate a land manager to manage the conservation area in perpetuity; and establish a perpetual funding source.

The terms of the DA include the City’s agreement to be the holder (grantee) of the Conservation Easement, subject to the City’s review of and approval of the terms of the conservation easement, as well as CDFW’s approval of the arrangement. The City would own the conservation easement in perpetuity – which creates the duty to maintain it in perpetuity. CDFW will be named as a third party beneficiary of the conservation easement. This means that CDFW remains a party who can enforce the requirements of the easement.

DBO is required to designate a land manager to manage the habitat. The manager would be responsible for such things as fence repair, trash removal, site monitoring, enhancement activities, and vegetation and invasive species management.

Both the ITP and the DA also require that DBO establish an endowment fund that will ensure funds are available to pay the land manager and related costs. The ITP sets forth detailed requirements regarding this fund. The DA requires that the ITP requirements be satisfied, including the requirement that DBO provide a lump sum payment to a CDFW-approved funding account established for the perpetual monitoring and maintenance of the habitat purpose. The endowment amount provided by DBO would be placed in an interest bearing account that would provide long term financial support for habitat maintenance. The interest would pay for the year-to-year maintenance expense, and the endowment would be the interest earner. The endowment would need to be sized with a principal value adequate for the fund and Conservation Easement to be self-perpetuating and self-sufficient in perpetuity.

(f) Water Allocation

The DA establishes that the City reserve and allocate water from its desalination facility to serve the Project. The projected estimated water allocations necessary to accommodate the Project are approximately 60 AFY.

Under the terms of the DA, DBO will be required to utilize all water credit that currently exists on the properties within the Project area prior to the City allocating any water for development on the parcels. The current total existing water credit is 6.997 AFY.

(g) Parkland Exaction and Impact Fee Obligation

The DA reflects Council’s decision on February 4, 2020 that the Project shall receive credits for “private open space” to offset its obligations for parkland fees (City Resolution 20-09) in compliance with SCMC Chapter 17.68.

(h) Indemnification

DBO is also agreeing to indemnify and hold the City harmless from claims which may arise as a result of any actions by DBO in connection with the construction, improvement, operation, or maintenance of the Subject Property or the Project during the Term of the DA.

(i) Assignment

The DA provides that DBO may assign its rights and obligations to other entities which acquire the Subject Property. However, DBO is not permitted to assign certain obligations (namely, the construction of Phase 1; the recording of the conservation easement over the habitat Area and establishment of a perpetual funding source to fund management of the habitat in perpetuity; DBO’s security obligations; and DBO’s obligations regarding water) without the City Manager’s prior written consent, and then only to a single entity.

7. CEQA

To comply with the California Environmental Quality Act (Cal. Pub. Res. Code § 21000 *et seq.* and 14 Cal. Code Regs. § 15000 *et seq.*; “CEQA”), on June 5, 2018, at a duly noticed public hearing, the City Council certified the Environmental Impact Report for the South of Tioga Project (SCH # 2017061066) as described more fully in Resolution SC 18-57, and made the required findings. The DA is a requirement of the Project’s VTM that is included under the purview of the certified EIR, and therefore, no further environmental review is required for the DA.

8. Fiscal Impact

The City hired Sara Mares at NBS to produce the fiscal impact analysis dated July 2018 and attached as Exhibit 4. It was determined that the project area provides an overall positive fiscal impact of approximately \$357,600, mainly due to the projected increase in the Transient Occupancy Tax (“TOT”). While the hotel and restaurant land uses result in positive fiscal impacts, the proposed residential land use has a significant negative impact of approximately \$2,017 per residential unit or \$718,000. To mitigate the residential portion’s negative fiscal

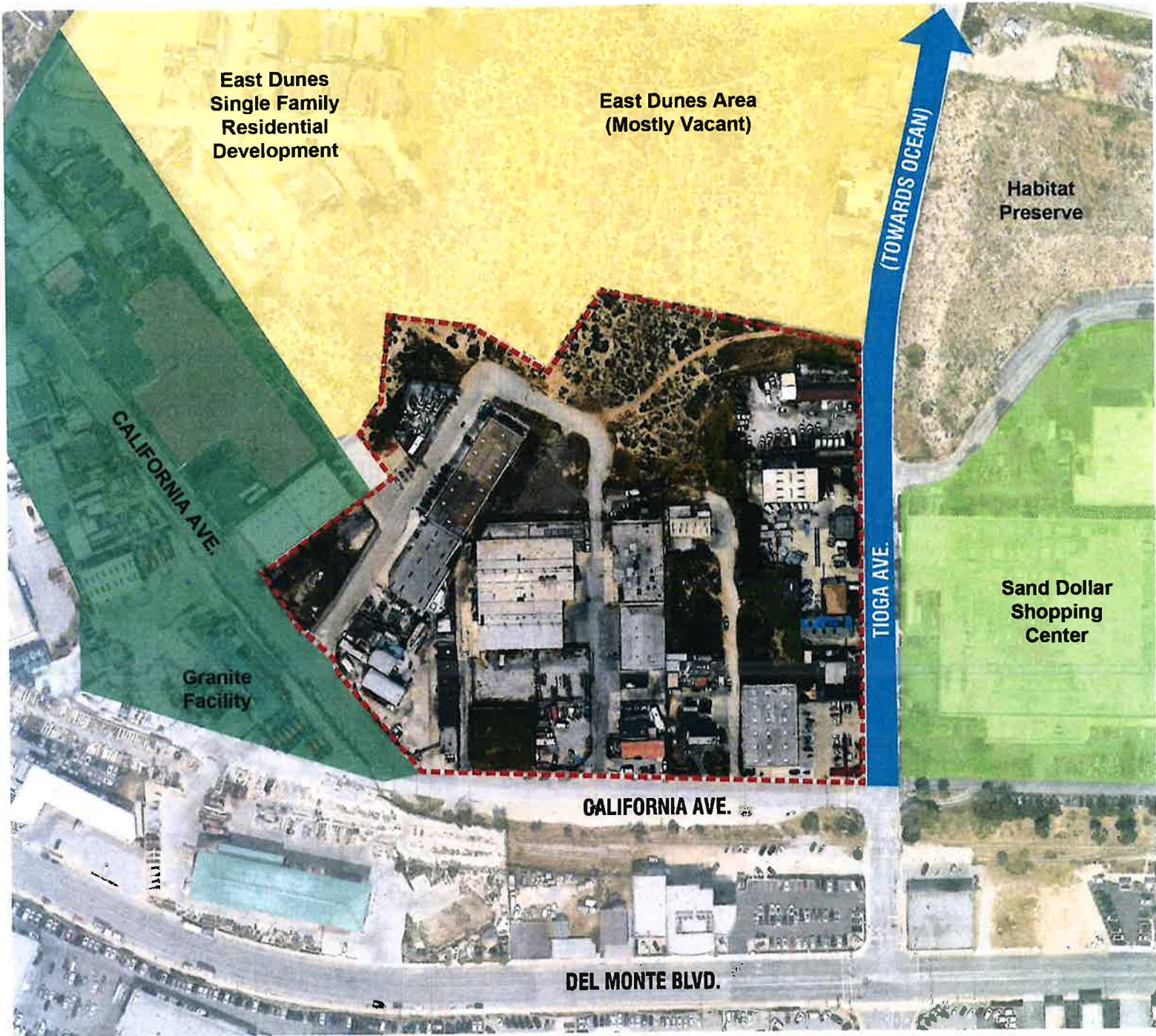
impact, the Development Agreement sets forth terms ensuring that a CFD in the amount of \$550,000 is established to cover increased costs associated to fire, public safety, public works, and administration. These items were outlined in the NBS report as areas that would need additional revenue to offset the residential development' negative fiscal impact to the City.

9. Staff's Recommendation

Staff recommends that Council: (1) waive reading of the ordinance in full and approve reading by title only and (2) approve the Development Agreement ordinance for first reading.

Exhibits:

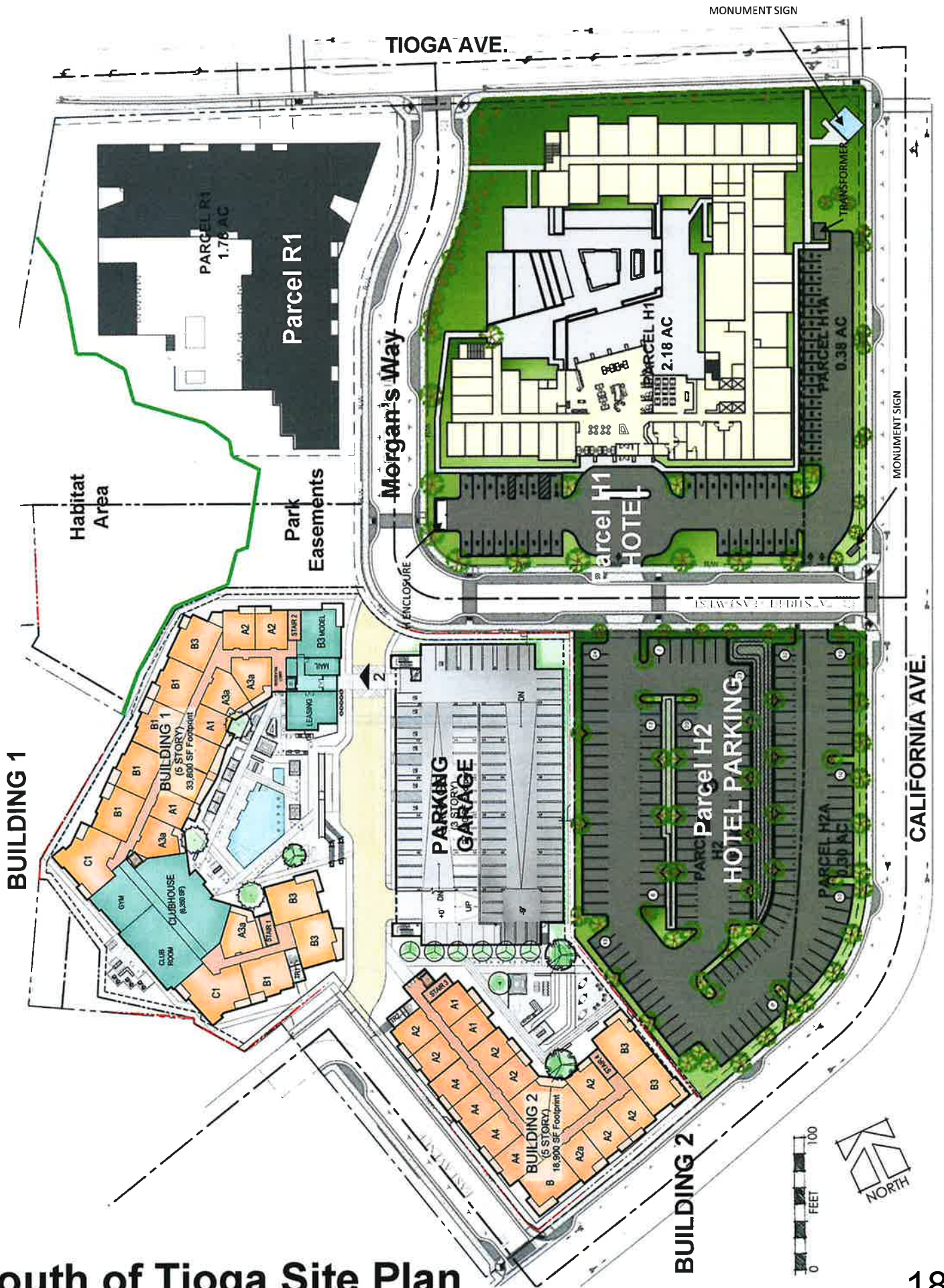
- 1: Project site
- 2: Vesting Tentative Map (Resolution SC 18-58)
- 3: Ordinance approving the Development Agreement (and Exhibits A-E thereto)
- 4: NBS CFD fiscal analysis 2018.



SUBMITTAL 2 - JUNE 5, 2017

	DBO DEVELOPMENT
	NO. 30 LLC
	TCA # 2016-022

South of Tioga Site Plan



**CITY OF SAND CITY
RESOLUTION SC18-58, 2018**

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY APPROVING
VESTING TENTATIVE MAP 18-01 WITH CONDITIONS FOR THE
SOUTH OF TIOGA DEVELOPMENT PROJECT**

WHEREAS, DBO Development No. 30, LLC (the “Applicant”) submitted applications to the City of Sand City (the “City”) for a vesting tentative map, coastal development and conditional use permits, site plan, and architectural review and approvals regarding a mixed use (residential and commercial) development project on an approximate 10.64 acre site bounded by Tioga Avenue to the northeast, California Avenue to the southeast, East Avenue to the southwest, and the Merle Street right-of-way to the northwest, generally referred to as the “South of Tioga Planning District”; and

WHEREAS, the overall project site is comprised of 41 existing parcels (Assessor’s Parcel Numbers 011-122-002, 003, 004, 005, 010, 011, 023, 024, 025, 026, 032, 038, 039, 040, 041; 011-123-001, 004, 005, 006, 007, 008, 009, 011, 022, 023, 024, 025, 026; 011-134-011; 011-135-001, 014, 015, 016, 023, 024; 011-136-007, 012, 024; and, 011-186-021, 038, 039) and encompasses all or portions of Scott Street, East Avenue, Lincoln Avenue, California Avenue, Tioga Avenue, Orland Street, Beach Way, Fir Avenue, and Afton Avenue public rights-of-way (the “Subject Property”); and

WHEREAS, the Applicant’s Vesting Tentative Map, dated May 10, 2018 (the “VTM”) and as approved by the City, merges existing lots, abandons existing public rights-of-way, creates six new parcels (H1, H1A, H2, H2A, R-1, and R-2), relocates an existing wastewater lift station, dedicates additional right-of-way to, or relocation of, existing streets, and dedicates right-of-way for new public streets; and

WHEREAS, the Applicant’s proposed project originated as a result of the Request for Qualifications (RFQ) put out by the former Sand City Redevelopment Agency (the “RDA”) where after that the RDA in 2001 signed an Exclusive Negotiation Agreement (the “ENA”) with the Applicant to redevelop the South of Tioga Planning District to mitigate ongoing conditions of blight and provide economic stimulus for the City; and though the City’s RDA has since been dissolved by the State of California, the property acquisition by the Applicant and development strategies that commenced under the ENA had continued until submission of the Applicant’s land entitlement application packet to the City in 2017; and

WHEREAS, The proposed project consists of a six-parcel Vesting Tentative Map (“VTM”) application (including roadway abandonment and dedications and lot mergers),

site plan review, architectural review, and conditional use permits on the 10.64-acre Subject Property. Coastal Development Permits would be required for two of the six parcels. Development would consist of 356 multi-family residential units, 216 hotel rooms, and a restaurant. A 0.9-acre dune area would be set aside within a conservation easement. Parcel H1 would be 2.18 acres located in the northeastern section of the Subject Property intended for a 216-room hotel including extended stay rooms, with surface parking spaces; Parcel H2 would be 1.18 acres located in the southeastern portion of the Subject Property intended for surface parking spaces to support the hotel, Parcel H1-A, to be 0.38 acres and Parcel H2-A, to be 0.3 acres to separate out territory within the Coastal Zone overlay and would be improved only for parking, landscaping, and utility improvements to service Parcels H1 and H2; Parcel R1 would be 1.78 acres located in the northwestern portion of the Subject Property intended for a 125-unit multi-family residential building with parking spaces in a partly below-grade structure; Parcel R2 would be 3.70 acres located in the southwestern portion of the Subject Property intended for a 231-unit multi-family residential complex with parking garage; and dedicate a new right-of-way for East Avenue and the right-of-way for a new Road "A" connecting California Avenue and Tioga Avenue, and establish two sand dune habitat preservation areas (the "Project"); and

WHEREAS, the Project is intended to be developed in three (3) phases, with Phase 1 consisting of the public improvements, completion of new public streets and rights-of-way, utility and infrastructure installation, and preparation of development pads on each of the Project's newly created parcels (H1, H1-A, H2, H2-A, R1, & R2), Phase 2 consisting of the hotel development on Parcels H1 and H2, and Phase 3 consisting of two multi-family residential developments; where Phase 1 will be completed by the Applicant, Phase 2 by an independent hotel developer, and Phase 3 by an independent residential developer. The order of Phases 2 and 3 may be completed in a different order or in sub-phases; and

WHEREAS, the conceptual site plans and building elevations for each newly created parcel within the Project, that were part of the land entitlement application packet submitted by the Applicant to the City, may change as independent developers for the hotel(s) and residential buildings finalize their architectural designs; where, as a requirement of general land use entitlement for the overall Project, those redesigns are subject to City review and design permit approval to ensure that the architectural integrity of the conceptual designs are implemented into the final designs; and

WHEREAS, the overall Project, in its endeavor to eliminate existing blighted conditions throughout the Subject Property, provides land use transition compatible with the East Dunes Planning District, and to increase the residential population of the City, resulting

in a “higher and better” use of land and aesthetic improvement, is consistent with Goals 2.6 and 2.8 of the City’s General Plan (2002 ed.); and

WHEREAS, the overall Project, in its endeavor to eliminate existing blighted conditions throughout the Subject Property, provide land use transition compatible with the East Dunes Planning District, and to increase the residential population of the City, resulting in a “higher and better” use of land and aesthetic improvement, is consistent with Policies 2.6.1 and 2.6.2 of the City’s General Plan (2002 ed.); and

WHEREAS, the overall Project, in its endeavor to eliminate existing blighted conditions throughout the Subject Property, provide land use transition compatible with the East Dunes Planning District, and to increase the residential population of the City, resulting in a “higher and better” use of land and aesthetic improvement, is consistent with the Implementation Program 2.6.a of the City’s General Plan (2002 ed.); and

WHEREAS, the overall Project includes a large residential component consistent with the City’s certified Housing Element (2016 ed.), Programs 4.1.1.A and 4.1.1.B, with dwelling unit numbers compliant with the Regional Housing Needs Allocation (RHNA) for the City and the inclusion of extremely low income, very low income, and low income units as required by City issued land entitlement permits; and

WHEREAS, the Project area includes two privately owned parcels (APN 011-123-004 and 011-123-023) that must be obtained for the creation of a new public road through the Project, acquisition by either the City potentially utilizing its power of eminent domain and/or by the Applicant in negotiations with those property’s current owners, whereby it is necessary to limit the effective date of any land use entitlement and restrict the Project from commencing construction unless and until the aforementioned privately owned parcels are legally obtained by, and title transfer complete to, either the Applicant and/or the City; and provided that the City is under no obligation to exercise the power of eminent domain; and

WHEREAS, a draft Environmental Impact Report was prepared for the Project pursuant to the California Environmental Quality Act that was adequately noticed and advertised, with a public review period for the draft Environmental Impact Report from March 2, 2018 through April 20, 2018 for a 50-day period; and

WHEREAS, the City of Sand City, as lead agency under the California Environmental Quality Act (Pub. Res. Act § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000-15387) (collectively, “CEQA”), completed the Final Environmental Impact Report (“Final EIR” or “EIR”) State Clearinghouse No. 2017061066 for the Project; and

WHEREAS, pursuant to CEQA, the City Council has certified the Project's Final EIR and found that the Project's environmental impacts were adequately evaluated, and the City Council further adopted a statement of overriding considerations for three potentially unavoidable traffic impacts; and

WHEREAS, the public hearing to consider the overall Project and coastal development permits for each of the proposed parcels was duly noticed in accordance with the requirements of the California Government Code, which included posting at three designated locations, publication in a newspaper of local circulation, and mailed to property owners within 300 feet of the Project boundaries; and

WHEREAS, the City Council held duly noticed public hearings, as required by law, to consider all of the information presented by staff, information from the Project Applicant, and public testimony presented in writing and orally, both prior to and at, the public hearings; and

WHEREAS, in accordance with California Government Code 66474, the site is physically suitable for the type of development; that the site is physically suitable for the proposed density of the development; that the preliminary design is not likely to cause serious public health problems; and that the preliminary design will not conflict with any easements acquired by the public at large; and

WHEREAS, the VTM for the project, as conditioned, is consistent with the Sand City General Plan, the Sand City Municipal Code, and the Sand City Local Coastal Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sand City hereby approves VTM 18-01 for the South of Tioga Development Project, subject to the following findings and conditions:

Findings

1. The submitted VTM, as conditioned, is consistent with the Subdivision Map Act, the Sand City General Plan, the Sand City Local Coastal Program, the Sand City Subdivision Ordinance (Municipal Code Title 17), the Zoning Ordinance (Municipal Code Title 18), and other applicable sections of the Sand City Municipal Code.
2. Portions of the Project as shown on the submitted VTM are within a Coastal Zone Overlay.

3. The submitted VTM, as conditioned, is consistent with the terms and conditions of the site plan permit and conditional use permits for the development of each parcel as shown on the VTM.
4. An Environmental Impact Report, certified by the City Council of Sand City, has been prepared and certified in accordance with CEQA.
5. The City finds that the preservation of 0.9 acres of dune land as open space is consistent with Sand City general plan Goal 5.4 and Policies 5.4.2, 5.4.3, 5.4.6 and that the open space easement is a conservation easement to preserve land that is valuable to the public as a wildlife preserve or sanctuary and appropriate covenants to that end will be developed in concert with the United States Fish and Wildlife Service and the California Department of Fish and Wildlife for the protection of Monterey spineflower, Monterey gilia, and Smith's blue butterfly host buckwheat plants.

Conditions of Approval

A. General

1. Compliance with the Law: The Applicant shall ascertain and comply with all Federal, State, County, and City requirements as are applicable to the Project. The VTM, Final Map, and all future development of the Project shall be consistent with all City Council approvals related to the Project.
2. Project Phasing and Infrastructure: The Project may be developed in phases and the Applicant may record multiple Final Maps. The number of phases shall be determined according to market demand, but in no case shall exceed three (3) phases, unless approval in writing is provided by the City. No Final Map shall be recorded for any phase of the project, unless and until all privately owned parcels within the project limits are legally obtained by, and title transfer complete to, either the Applicant and/or the City. All public infrastructure along Tioga Avenue, California Avenue, East Avenue, and Road "A", shall be constructed and accepted by the City as part of the 1st phase of development (Phase 1) and prior to the development of any pad within the Project.
3. Expiration: The VTM shall automatically expire 24 months (2 years) after City Council action to approve the VTM, unless a Final Map is recorded or an extension is granted pursuant to the Subdivision Map Act and City Council action. Prior to expiration of the VTM, the applicant may request an extension. Any request for extension shall be made in writing and submitted to the City at least sixty (60) days prior to expiration of the VTM. The VTM may also be extended if the property identified on the VTM is subject to a Development Agreement, in which case the VTM may be extended for a period of time

specified in the Development Agreement, but not longer than the duration of the Development Agreement itself.

4. Modifications/Conformance: All phases of development shall be in substantial conformance with the approved VTM, the conditions of approval, the mitigation measures, and all land use entitlement permits approved and issued by the City Council for the Parcels shown on the VTM. No condition of approval, mitigation measure, or permit requirements, shall be eliminated, added, or modified without Planning Department review and/or City Council action. If City Council action is required, the action shall occur following a public hearing.
5. Hold Harmless: The Applicant shall defend, indemnify, and hold harmless the City and its appointed officials, agents (including contract consultants), officers, and employees, from any claim, action, or proceeding from a third party against the City and its agents, officers, employees to attack, set aside, voice, or annul the City's approval of this Project, provided that the City has promptly notified the Applicant of any such claim, action, or proceeding, and cooperates fully in the defense. This condition and agreement shall be binding on all successors and assigns. Notwithstanding this provision, and regarding any proceeding between City and Applicant, the prevailing party shall be able to recover attorney fees.
6. Other County, State, and Federal Permits: Prior to recordation of a Final Map for any phase of the project, the Applicant shall provide copies of all required County, State, and Federal Permits or written verification of a waiver from said permit, to the City. The Applicant shall obtain all required governmental permits from said agencies, including but not limited to; the Army Corps of Engineers 404 permit, California Department of Fish and Game 1601, California Central Coast Regional Water Quality Control Board 401 Discharge Permit, State Water Resources Control Board ("SWRCB") National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities ("CGP"), SWRCB Order No. 2013-0001-DWQ NPDES Phase II General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems ("NPDES Phase II General Permit") or the most current NPDES Phase II permit in effect at the time, Monterey County Water Resource Agency Permits, United States Fish and Wildlife Service, and the California Department of Fish and Wildlife.
7. Adherence to City Standards: All public improvements shall be designed and constructed to the most current City standards at the time the development occurs.
8. Agency/Department Compliance: All requirements of the City's Planning, Engineering, Public Works, Building, and Fire Departments, and the requirements of any Agencies With Jurisdiction ("AWJ") over the project, including but not limited to; the Seaside County Sanitation District, California American Water, Monterey County Health Department, Monterey One Water,

United States Fish and Wildlife Service, and the California Department of Fish and Wildlife, shall be implemented to the satisfaction of the representatives of each Agency/ Department. All requirements of the AWJ over the project shall be met to the satisfaction of the City prior to the issuance of any building permits and/or certificates of occupancy for the project.

9. Covenants, Conditions, and Restrictions ("CC&Rs"): The draft CC&Rs and a copy of a typical deed shall be submitted for review and approval by the City and the City Attorney. The approved CC&Rs shall be recorded concurrently with the Final Map and a recorded copy shall be provided to the City. A copy of the deed for each parcel shall be submitted to the City prior to granting of a final inspection.
10. Title Reports and Deeds: The Applicant shall provide preliminary title reports and deeds for all existing parcels within the Subject Property concurrent with Final Map and Improvement Plan submission.
11. City Entry Monument Sign: The Project developer shall dedicate to the City an easement for a city entry monument sign on parcel H1A at the northwest corner of the Tioga Avenue and California Avenue intersection as shown on the Project's approved VTM. Final design of this city entry monument sign shall be subject to the City's DRC's consideration, discussion, and action in the issuance of either a design permit, sign permit, or unified sign program.
12. City Posting Board: A location and easement shall be provided to the City on Parcel H1A, near the corner intersection of California Avenue and Tioga Avenue, for the establishment of a posting board to replace the existing Municipal Code (Section 1.12.010) required board at 880 Tioga Avenue, at the same intersection/location, that will be demolished and re-purposed for the Project. This location/easement may be combined with the city entry sign easement at the same intersection. The City will be solely responsible for acquiring and installing this posting board for City use.
13. Special District: Property owners within this district will be required to pay special annual on-going annual assessments for the maintenance of public infrastructure associated with the Project. The Applicant shall furnish the necessary processing fees, documents, and boundary map required to annex to the district and complete the annexation process prior to the issuance of any building permits. Assessment will likely have an annual inflation adjustment.
14. Financing Mechanism: Following approval of the vesting tentative map, the applicant shall establish a financing mechanism inclusive of the six project site parcels resulting from the vesting tentative map to offset the increase in City services costs. Services costs to be paid through the financing district shall include at a minimum street maintenance, parks and recreation maintenance,

utility system and storm drainage system maintenance, public lighting and signs maintenance, and emergency response services.

15. Vested Development: The Vesting Tentative Map shall vest, for the life of the map, rights to the following development: Parcels H1 hotel not to exceed five stories and 65 feet in height with a total of 216 guest rooms (keys) with appurtenant facilities including parking, landscaping, signs, recreational facilities, meeting and dining rooms, and kitchen, office, laundry and other customary back-of-house facilities; Parcels H2, H1-A and H2-A, uses appurtenant to Parcel H1 including parking and landscaping; Parcel R1, a residential building not to exceed 85 feet in height with two levels partially underground podium parking, five levels of residential units, and a rooftop restaurant, with no more than 125 residential units, of which no fewer than 50 percent shall be condominium units, and appurtenant uses including landscaping, recreational facilities, meeting rooms, office, and storage areas; Parcel R2, residential building(s) not to exceed five stories and 65 feet in height, parking garage not to exceed two levels and 35 feet in height, with no more than 231 residential units and appurtenant uses including landscaping, recreational facilities, meeting rooms, office, and storage areas; A Conditional Use Permit reflecting final building designs, architecture, and finish materials shall be approved by City Council for Parcels H1, H2, R1, and R2, and a Coastal Development Permit shall be approved by City Council for Parcels H1-A and H2-A prior to development of improvements.

16. Affordable Housing: Fifty-two (52) affordable rental housing units shall be provided within the Project. The affordable rental units shall be provided entirely or primarily on Parcel R2, with up to ten (10) affordable rental units allowed on Parcel R1. There shall be one (1) extremely low income unit; three (3) extremely low income senior-restricted units (i.e. 55 years or older); five (5) very low income units seven (7) low income units, eighteen (18) moderate income units, and (18) 'workforce' units. The required affordable units shall meet the definitions of the California Department of Housing and Community Development, except 'workforce' units shall be defined as affordable to households between 121% and 140% of the Monterey County median income. A deed restriction in a form acceptable to the City Attorney shall be recorded with the Monterey County Recorder, prior to City issuance of a certificate of occupancy for the first habitable building on the applicable parcel(s), stating that the affordable housing units described herein shall be maintained for a period of fifty-five (55) years; commencing at time of City issuance of a certificate of occupancy for the applicable building(s). The City may more specifically define the size and character of the affordable rental units in the Conditional Use Permits for the residential parcels.

B. Stormwater Quality and Erosion Control

1. Governing Regulations: The discharge of storm water within the City of Sand City is regulated by the SWRCB Order No. 2013-0001-DWQ NPDES Phase II

General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems, and by incorporation, the Central Coast Regional Water Quality Control Board ("CCRWQCB") Resolution No. R3-2013-0032 Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region ("PCRs"), and the City's Municipal Code Title 13.05 Storm Water Management ("Title 13.05")..

2. Erosion and Sediment Control Plan ("ESCP"): The Applicant shall prepare an ESCP for all phases of development. The ESCP shall be prepared by a licensed Civil Engineer and shall be included with the grading and drainage plans and/or the improvement plan package. The ESCP shall be submitted to the City for review and approval by the City Engineer prior to the issuance of any grading or building permits for any phase of the project.
3. Stormwater Control Plan ("SCP"): the Applicant shall prepare a final Stormwater Control Plan ("SCP") for each phase of development. The SCP shall be prepared by a licensed Civil Engineer. The SCP shall demonstrate how each phase of development will achieve compliance with the applicable PCRs. The SCP shall clearly determine the amount of impervious surface created and/or replaced by the project and the corresponding Performance Requirements required by the PCRs. The SCP shall clearly indicate the location and size of all proposed Stormwater Control Measures ("SCMs"), both structural and non-structural, to ensure that they may be accommodated within each parcel of the development. As each individual parcel is developed, each parcel shall be responsible for implementing its own SCMs that function independently and mitigate for stormwater requirements on-site. The SCP shall include a grading and drainage plan that clearly indicates how stormwater runoff from all impervious surfaces (roofs, hardscape, pavement, walkways, patios, etc.) is directed and/or routed to the SCMs. The SCP shall include all necessary calculations to support the sizing of all proposed SCMs. The SCP shall be prepared per City requirements and in accordance with the latest edition of the Stormwater Technical Guide ("STG") and templates adopted by the Monterey Regional Stormwater Management Program ("MRSWMP"). The SCP shall be fully coordinated with the Project improvement plans, including landscape plans, so that no conflict occurs between the proposed SCMs and any other proposed improvements. The SCP shall be submitted for review and approval to the City's Planning and Engineering Departments prior to issuance of grading and/or building permit(s), or the commencement of any construction activities on the subject property.
4. Agreement Regarding Maintenance and Right of Entry for Stormwater Control Measures: For each phase of development, the property owner shall enter into a written agreement with the City for the installation and long-term operation and maintenance ("O&M") of all installed SCMs. The agreement will include deed restriction language for the protection of the SCMs, specifying that the SCMs within each parcel shall not be removed, relocated, covered, or hampered with in any way, so as to prevent their intended function. The agreement shall provide

for ongoing maintenance and verification of maintenance by the owner and the owner's successors in interest. The agreement shall provide for right of entry by designated City staff for the purposes of inspection of the installed SCMs. The agreement shall further identify that any costs associated with the long-term maintenance of the installed SCMs shall be the responsibility of the property owner of that parcel at the time when the maintenance is performed. The provisions in this legal agreement shall run with the land, and the document shall be recorded with the Monterey County Recorder. The final agreement shall be subject to review and approval by the City's Planning and Engineering Departments, and the City Attorney, prior to recordation with the Monterey County Recorder. The agreement shall be executed and recorded prior to the issuance of building permits for any phase of the project. The City shall provide a draft agreement to the property owner. Failure of the property owner to execute this agreement will be considered a violation of the applicable land use entitlement permits, and be of sufficient cause for termination of said permits.

5. Operation and Maintenance Plan ("OMP"): For each phase of development, the property owner shall submit an OMP that shall plan, direct, and record the long term operation and maintenance of all proposed SCMs to be constructed within the Project. The OMP shall clearly identify the parties responsible for the long term operation and maintenance of the installed SCMs and their obligations. The OMP shall include a description of the SCMs to be maintained, a schedule for inspection and maintenance activities, and a description of the inspection and maintenance activities. The OMP shall require the owner to provide annual certification to the City that the SCMs have been regularly inspected and are functioning as intended. The OMP shall be prepared per City requirements and in accordance with the latest edition of the Stormwater Technical Guide ("STG") adopted by the MRSWMP. The OMP shall be submitted for review and approval to the City's Planning and Engineering Departments, and the City Attorney, prior to the issuance of any certificates of occupancy for any phase of the project. The OMP may be referenced in, and become an exhibit to, the Agreement Regarding Maintenance and Right of Entry for Stormwater Control Measures.
6. Certification of SCMs: For each phase of development, the Applicant shall provide written certification by a licensed Civil Engineer that all of the installed SCMs were constructed in accordance with the Project's approved improvement plans and approved SCP. This certification shall be provided to the City prior to the issuance of certificates of occupancy for any phase of the project. The certification shall meet City requirements and shall be signed and stamped by the licensed Civil Engineer. The City shall provide a draft certification form to the Applicant.
7. Compliance: The Applicant shall demonstrate compliance with the requirements of the most current NPDES Phase II General Permit issued to the City of Sand City, the PCRs, and Title 13.05 Storm Water Management, prior to the recordation of all Final Maps. The document demonstrating compliance, such as

a Stormwater Control Plan, shall be prepared by a licensed Civil Engineer. If for any reason the project cannot demonstrate compliance with the City's NPDES Phase II General Permit, the PCRs, Title 13.05, or the applicant fails to execute an Agreement Regarding Maintenance and Right of Entry for SCMs, or to complete a final O&M Plan, the Project's Conditional Use Permits, Coastal Development Permits, and Site Plan Permits shall be subject to termination.

C. Construction Best Management Practices ("BMPs")

1. Storm Water Discharge: The discharge of storm water during construction activities within the City is regulated by the City's NPDES Phase II General Permit, Municipal Code Title 13.05, and the SWRCB NPDES Construction General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities.
2. Best Management Practices ("BMPs"): During all phases of construction and/or land disturbance activities, the Applicant shall implement appropriate, site-specific BMPs for the protection of stormwater quality as required by the City's General Permit, Title 13.05, and the California Construction General Permit. BMPs may include, but are not limited to; erosion and sediment control, materials management, prevention of non-storm water discharges, good housekeeping and waste management practices. All site specific BMPs shall be shown on the ESCP and/or the Project's Storm Water Pollution Prevention Plan ("SWPPP").
3. ESCP Submittal: The ESCP shall be submitted to the City for review and approval prior to the issuance of any grading and/or building permits, or the commencement of any construction activities resulting in soil disturbance of 500 square feet or 50 cubic yards within the subject property.
4. California Construction General Permit: The Legally Responsible Person ("LRP"), as defined in the Construction General Permit, shall seek coverage under the Construction General Permit. The LRP shall prepare and submit the Notice of Intent ("NOI"), Permit Registration Documents ("PRDs"), and the Project SWPPP to the SWRCB to obtain coverage under the Construction General Permit and shall provide copies of the approved NOI and the project's Waste Discharger Identification Number ("WDID") to the City prior to the issuance of any encroachment, grading or building permits for any activity resulting in land disturbance.
5. Fire Access during Construction: Fire access and water supply acceptable to the Fire Chief shall be provided prior to combustible construction.

D. Utilities and Equipment

1. Sewer System Improvements: The Project shall construct new public Sanitary Sewer ("SSWR") mains within the proposed public Road "A", to collect

wastewater from the two residential parcels R1 and R2 and the two hotel Parcels H1 and H2. The new SSWR mains shall connect to existing SSWR infrastructure within California Avenue. The existing Sanitary Sewer Lift Station (“SSWR LS”) #22 located along Tioga Avenue within APN 011-122-005 shall be relocated within a new easement on Parcel R1 prior the development of Parcel R1. The new, relocated SSWR LS shall be designed to accommodate wastewater flows from the lower levels of the proposed residential building within Parcel R1 and flow from the existing residential parcels that currently flow to the existing SSWR LS. The new, relocated SSWR LS shall be constructed within an underground vault and/or any above ground equipment shall be surrounded by a screen wall using exterior façade elements/treatments consistent with those approved for the R1 building. The proposed easement for the new, relocated SSWR LS shall be shown on the Final Parcel Map and construction documents for this phase of development. The Applicant of Parcel R1 shall prepare all documents necessary to quitclaim the existing SSWR LS easement and to process, approve, and record the new SSWR LS easement. All costs associated with the relocation of the proposed SSWR LS and shall be the responsibility of the Applicant of Parcel R1.

2. Sewer System Design: The design of all new Sanitary Sewer (“SSWR”) improvements shall include the location, depth, size, material, slope, etc., and shall meet the requirements of the Seaside County Sanitation District (“SCSD”) and the City. All new SSWR improvements shall be shown in both plan and profile on the improvement plans and shall be approved by both the SCSD and the City prior to the issuance of any building permits for the work. The Applicant shall provide a report with calculations prepared by a licensed Civil Engineer to confirm the project’s sewer generation rates and to support the sizing of all required SSWR infrastructure. The report and calculations shall be and shall be signed and stamped by a licensed Civil Engineer and shall be submitted to the City and the SCSD for review and approval. The Applicant shall obtain written approval from the SCSD for all new SSWR improvements and shall provide copies of the written approvals to the City, prior to issuance of any building and/or encroachment permits for the work.
3. Storm Drain System Design: The design of all new Storm Dain (“SD”) improvements shall include the location, depth, size, material, slope, etc., and shall meet the requirements of the City. All new SD improvements shall be shown in both plan and profile on the construction documents and shall be approved by the City prior to the issuance of any building permits for the work. The Applicant shall provide a report with calculations prepared by a licensed Civil Engineer to confirm the Project’s compliance with hydrology and hydraulic calculations and to support the sizing of all required SD infrastructure. The peak hourly rate and total quantity of runoff shall be limited to the post-construction requirements of the State of California MS4 and at no time shall the peak hourly flow rate exceed the existing runoff within the Subject Property for the annual rainfall return frequencies of 1% and 10%. The report and calculation shall be signed and stamped by a licensed Civil Engineer and shall be submitted to the

City for review and approval, prior to issuance of any building and/or encroachment permits for the work.

4. Water System Improvements: The Project shall construct new public water mains within the proposed East Avenue and Road "A" to serve all phases of development. The new public water mains shall connect into existing water lines within Tioga Avenue and California Avenue. All costs associated with the installation of new water system improvements required by the project shall be the responsibility of the Applicant.
5. Water System Design: The design of all new water system improvements shall include the location, depth, size, material, slope, etc., and shall meet the requirements of California American Water ("Cal-Am"), Monterey One Water ("M1W"), and the City. All new water system improvements shall be shown in both plan and profile on the improvement plans and shall be approved by both the Cal-Am and the City prior to the issuance of any building permits for the work. The Applicant shall provide a report with calculations prepared by a licensed Civil Engineer to confirm the project's water demand and to support the sizing of all required water system improvements. The report and calculation shall be and shall be signed and stamped by the licensed Civil Engineer and shall be submitted to the City for review and approval. The Applicant shall obtain approval from Cal-Am for all new water system improvements and shall provide copies of said approvals to the City, prior to issuance of any building and/or encroachment permits for the work.
6. Overhead Utilities and Relocation: The Applicant shall remove all existing overhead utilities within the Project site and along Tioga Avenue and California Avenue, as necessary for the Project, and shall relocate them within underground joint trench facilities. The Applicant shall prepare composite joint trench plans for all phases of development. The Applicant shall provide a complete set of PG&E approved joint trench composite plans with the each improvement plan submission. The joint trench composite plans shall be fully coordinated with the project improvement plans, landscape plans, and Stormwater Control Plan, so that no conflict with the proposed improvements occurs. All utility relocations and their associated costs required as a part of this development shall be the responsibility of the Applicant. All utility relocations necessary to complete all phases of the project shall be completed prior to recordation of a Notice of Completion and Acceptance for the public improvements and the issuance of a certificate of occupancy for the first unit of the first phase.
7. Public Utility Easements: The Applicant shall provide a Public Utility Easement ("PUE") along all street frontages. The PUE shall be of sufficient width to accommodate all public utilities outside the public right-of-way that may be required by PG&E, Comcast, AT&T, etc, but excluding storm water, sanitary

sewer, potable water, and their associated service laterals. The PUE shall be shown on all Final Maps and Improvement Plans for the Project.

8. Ground Level Utility Equipment & Boxes: Utility equipment and/or boxes, fire suppression equipment, and the like shall not occupy public rights-of-way. Said utilities shall be located within Public Utility Easements (the "PUE"). The PUE shall be of sufficient width to accommodate all public utilities that may be required by PG&E, Comcast, AT&T, etc., excluding storm water, sanitary sewer, potable water and their associated service laterals. The PUE shall be shown on all Final Maps and Improvement Plans for the Project. Any variance from this requirement shall be subject City Engineer review and approval. Any such meters, boxes, and/or equipment above ground may occupy landscape areas, excluding drainage areas identified on the Project's Stormwater Control Plan, subject to City Planner and City Engineer approval; however such meters, boxes, and/or equipment shall employ visual screening utilizing the same materials/colors as approved for the primary buildings of each Parcel while maintaining accessibility. Landscaping shall not be considered a sufficient or satisfactory screening method. Any standpipes or back flow preventers in landscape areas shall have, at a minimum, a metal cage enclosure for safety and security. Accessibility to utility and fire suppression equipment shall be maintained in accordance with utility company and Fire Department requirements. The location of all utility meters and equipment shall be identified on civil improvement and site plan construction drawings for this Parcel, subject to Planning, Engineering, and Fire Departments review and approval. The general contractor shall be responsible for coordinating the placement and installation of all utility meters (gas, electric, phone, cable, etc.) in accordance with City approved civil improvement construction plans for the Project. Non-compliant installations may impede issuance of a certificate of occupancy/completion by the City until corrected to the satisfaction of the City and/or involved utility company/agency.

9. Photometric Analysis: The Applicant shall prepare a Photometric Analysis for all street lighting to be installed within the public right-of-way. The Applicant shall prepare a separate Photometric Analysis for all on-site exterior lighting to be installed within each parcel of the development. The Photometric Analysis shall be prepared by a qualified professional. The Photometric Analysis shall show the illumination dispersal based on the proposed fixtures, heights, and locations of all proposed lights. The Photometric Analysis for lighting within the public right-of-way shall consider the effect and/or impact of proposed on-site lighting. The Photometric Analysis for lighting within the on-site parcels shall consider the effect and/or impact of lighting within abutting public right-of-way. The Photometric Analysis for all lighting within the public right-of-way shall be submitted to the City for review and approval prior to the issuance of any encroachment permits.

10. Street Lights: All street lights to be installed within the public right-of-way shall meet the City's standard decorative light pole, Universe Collection Medium Light Emitting Diode (LED) – UCM, with concrete poles, and shall meet City specifications. The locations and heights of all street lights to be installed within the public right-of-way shall be subject to review and approval by the City Engineer.
11. On-Site Lighting: All exterior lighting to be installed within each parcel of the development shall be in accordance with the approved land entitlement permits issued for each parcel. Pole lights for outdoor parking and/or pedestrian areas on any of the development pads (H1, H1A, H2, H2A, R1, and R2) within this Project shall consist of LED energy efficient fixtures that performs and distributes light similar to the High Pressure Sodium 1,000 watt 480 volt parking lot lights at the Edgewater Shopping Center, and subject to final City Engineer review and approval. The placement and number of such lights shall be subject to civil improvement plan review and approval by the City Engineer. Final approval of exterior parking lot pedestrian light pole fixture designs and styles shall be subject to final Design Review Committee review and approval of design permits for each of the development pads of this Project. Civil improvement plans shall identify all such exterior light poles, their specifications to the satisfaction of the City Engineer and City Planner.
12. Monument/Sign Lighting: Light fixtures for the illumination of any/all monument signs within the Project area shall be subject to the Design Review Committee's review and approval of a design permit, sign permit, and/or uniform sign program.

E. Public Improvements

1. Demolition Plan and Phase 2 Environmental Site Assessment ("P2 ESA"): The Applicant shall prepare final demolition plans for the project. The demolition plans shall be prepared by a licensed Civil Engineer. The demolition plans shall address the demolition and removal of all existing features including, but not limited to; structures, hardscape, curb, gutter, sidewalk, driveways, signs, fences, walls, landscaping, vegetation, trees, and shall identify any items that are to be protected or remain in place. The demolition plans shall incorporate any requirements for the safe handling, removal, and disposal of any hazardous material encountered and shall include the relevant recommendations contained in the P2 ESA report (see Mitigation Measures below). The demolitions plans shall incorporate and be consistent with all applicable mitigation measures contained in the final, certified EIR for the project. The Applicant shall coordinate with the owners of any properties adjacent to the development envelope to identify any lighting circuits and/or subsurface utilities needing to remain in service. These facilities shall be shown to be re-established to the satisfaction of the adjacent property owners and the City, prior to approval of the demolition plans. The demolition plans shall be submitted to the City for review and approval

concurrent with the improvement plan package for the first phase of development. The demolitions plans shall be approved by the City prior to the issuance of demolition permit for any portion of the project.

The P2 ESA shall include representative sampling of all areas of the project site proposed for development, and shall specifically address the following:

- a. Documented/Undocumented underground storage tanks and surrounding soils conditions;
- b. Documented/Undocumented subgrade structures and surrounding soils conditions;
- c. Areas of impacted soil from surface spills and/or hazardous material storage;
- d. Soil vapor intrusion;
- e. Presence of lead-based paint, pesticides, and related metals in soils surrounding the existing buildings;
- f. Asbestos-containing building materials; and
- g. The plugged oil and natural gas production well and surrounding soils conditions.

2. Signing and Striping Plan: The Applicant shall prepare signing and striping plans per City standards and requirements. Signing and striping plans shall show street names, street name signs, stop signs, stop bars, lane lines, and channelization as necessary, and any other regulatory signage appropriate for the project. The signing and striping plans shall distinguish between existing striping to be removed and new striping to be installed. All striping shall be thermoplastic. All signing and striping shall be installed by the Applicant at the Applicant's sole expense. Signing and striping plans shall be reviewed and approved by the City's Police Department and the City Engineer.
3. Stopping Sight Distance: Intersections, fencing, and landscaping shall be designed to allow for adequate stopping sight distance. A sight distance assessment shall be performed at all intersections by the project Civil Engineer and shown on the improvement and landscape plans, or included as an exhibit to the improvement and landscape plans.
4. Public Improvement Plans: Prior to recordation of the first Final Map for any phase of development, the Applicant shall prepare public improvement plans for the construction of improvements along Tioga Avenue, California Avenue, East Avenue, and Road "A". The improvement plans shall be prepared by a licensed Civil Engineer and shall be submitted to the City's Engineering and Public Works Department for review and approval prior to the issuance of any building and/or encroachment permits for the work. The improvement plans shall identify all public improvements, such as street and utility infrastructure (water, sewer, storm drainage gas, electric, CATV, etc.), grading and drainage, landscaping, lighting, etc., required by the project. At minimum, asphalt pavement along Tioga Avenue and California Avenue shall be rehabilitated and/or reconstructed to centerline.

Based on field conditions, the final limits of pavement rehabilitation and/or reconstruction shall be determined by the City Engineer. The public improvement plans shall be fully coordinated with the Project's SCP and landscaping plans. All project post-construction SCMs shall be constructed in conformance with the final approved SCP and the final approved improvement plans prior to issuance of any certificates of occupancy for the project or any section thereof. All public improvements along Tioga Avenue, California Avenue, East Avenue, Scott Street, and Road "A" shall be constructed and accepted by the City prior to the issuance of a building permit for any building pad within the development.

5. Merle Street Improvements Abutting Parcel R1: The Applicant of Parcel R1 shall be responsible for 50% of the cost of frontage improvements for that portion of Merle Street abutting Parcel R1 at such time that Merle Street is developed.
6. Merle Street Improvements Abutting Parcel R2: The Applicant of Parcel R2 shall be responsible for 50% of the cost of frontage improvements for that portion of Merle Street abutting Parcel R2 at such time that Merle Street is developed.
7. Engineer's Estimate: The Applicant shall prepare an engineer's estimate for the public improvements along Tioga Avenue, California Avenue, East Avenue, and Road "A". The engineer's estimate shall be prepared by a licensed Civil Engineer and submitted concurrent with the improvement plans.
8. Engineering Reports and Technical Documents: All engineering reports, technical studies and/or memorandums, maps, and supporting documents necessary to support the Project shall be submitted to the City for review and approval concurrent with submittal of Project improvement plans and prior to the issuance of building permits for any phase of the Project.
9. Development Agreement: The Applicant shall enter into a Development Agreement with the City for the Project and/or property identified on the VTM. The Development Agreement shall be prepared in accordance with the applicable provisions of Government Code Title 7 Planning and Land Use, Division 1 Planning and Zoning, Chapter 4 Zoning Regulations, Article 2.5 Development Agreements. The Development Agreement shall include, but not be limited to; provisions regarding the duration of the agreement, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public resources, permitted uses, the obligation to construct improvements, the extent and timing of improvements, the required securities for all improvements, the release of securities, alterations to improvement plans, the timing for inspections, warranty, and the maintenance and management of all areas within the project, etc. The Development Agreement shall be executed between the Applicant and the City and shall be recorded by the City prior to recordation of any Final Map for any portion of the Project.

10. Encroachment Permits: An encroachment permit is required for any work within the public ROW. An encroachment permit shall be issued based upon final, approved improvement plans and an engineer's estimate for the work to be performed. The Applicant shall pay all fees associated with the review and processing of all encroachment permits for the Project.
11. East Avenue Access. Applicant shall maintain continuous access on East Avenue to the Salvation Army property during grading and construction.
12. Street Access. Prior to acceptance of public improvements, all streets shall be barricaded to prevent the public from entering the construction site. The developer and assigned contractors shall keep all streets clear of obstructions, whether not yet accepted or within the public right-of-way, and provide for clean up on a daily basis.
13. Park Improvements and Easements. An easement shall be recorded with the final map to provide public access to and over park facilities provided on private parcels and intended for public access, use, and enjoyment. Property owner shall be responsible for construction and maintenance of improvements on private property.

F. Grading and Drainage

1. Geotechnical Report: The Applicant shall submit a final geotechnical report for all phases of the project to the City. The report shall be prepared by a licensed geotechnical engineer and shall be signed and stamped. The report shall be submitted concurrent with the improvement plan package. The report shall ensure that the Project is designed and constructed in accordance with the most current and applicable standards of the City's building code. The report shall include a geotechnical evaluation and recommendations for all necessary aspects of the Project including, but not limited to; Geologic Hazards, Site Preparation, Earthwork, Grading, and Drainage, Foundations, Special Treatment at cut/fill interfaces, Retaining Walls, Street Pavement Sections, etc. The report shall include site specific soils infiltration/percolation testing at locations where structural stormwater control measures are proposed to be constructed, in order to support the design of said measures. The recommendations contained in the report shall be incorporated into the design of the Project.
2. Grading and Drainage Plans: The Applicant shall prepare grading and drainage plans for all phases of development. The grading and drainage plans shall be prepared by a licensed Civil Engineer and shall be approved by the City Engineer prior to the issuance of any building permits for any phase of the Project. The grading and drainage plan shall be prepared in accordance with City requirements and standards. At minimum, the grading and drainage plans shall contain the following information; existing and proposed contours, existing and proposed elevations, existing and proposed infrastructure, cut/fill interfaces and

limits of grading, lot/parcel boundaries and road rights-of-way, existing trees to be saved in place or removed, furnish all necessary details to clearly convey recommendations contained in the Project geotechnical investigation, proposed pad elevations and lot/parcel detail grading details, cross-sections as needed to show the areas of cut, fill, and grading, perimeter cross-sections along all sides of the Project to show the Project's interface with abutting streets and properties, plan view of proposed drainage facilities including storm drains, catch basins, manholes, underdrains, and stormwater control measures/water quality improvements. The grading and drainage plans shall be reviewed and approved by the Project Geotechnical Engineer and copies of said approval shall be provided to the City prior to approval of the Grading and Drainage Plans.

3. Overland Release: For each phase of development, the Applicant shall provide a detailed grading plan of the entire development showing an overland release path for runoff occurring during 24-hour rainfall events with annual return frequencies greater than 10%, individual parcel grading showing all post-construction stormwater management and control features, with area calculations in accordance with the approved Stormwater Control Plan and all finish floor elevations.
4. Slope Grading: All slope grading shall comply with the project geotechnical report. Slopes greater than 2 horizontal units to 1 vertical unit (2H:1V) shall not be allowed within the public ROW. Slopes greater than 2 horizontal units to 1 vertical unit (2H:1V) shall not be allowed on-site, unless written approval is provided by the City Engineer.
5. Grading at Abutting Properties: Proposed grading may affect adjacent and/or abutting properties. The Applicant shall coordinate details with adjoining property owners and to the satisfaction of the City Engineer.
6. Retaining Walls: Retaining walls over 4 feet tall shall be designed by a Civil or Structural Engineer. Retaining wall design shall incorporate all applicable recommendations contained within the Project's final geotechnical report. All retaining wall calculations and reports shall be submitted to the City's Engineering and Building Departments for review and approval, prior to the issuance of any permit for construction of said walls.
7. Site Grading: If the Applicant desires to grade prior to the City's approval of the improvement plans, the Applicant shall obtain a grading permit from the City's Engineering and Public Works Department. The Applicant shall pay all fees associated with the review and processing of the grading permit(s).
8. Wet Season Grading: No grading activities within the project site shall occur between October 15 and April 15, unless a written request is submitted by the applicant and an Erosion and Sediment Control Plan identifying site specific construction best management practices to prevent storm water pollution and to

protect water quality is submitted to the City Engineer for review and approval prior to the commencement of grading.

G. Landscape and Irrigation

1. Landscape and Irrigation Plans: The Applicant is required to install landscaping and irrigation along the frontages of the project along Tioga Avenue, California Avenue, East Avenue, and Road "A". The Applicant of each parcel is required to install on-site landscaping and irrigation concurrent with the development of that parcel. The Applicant shall prepare Landscape and Irrigation Plans for all phases of the Project. The Landscape and Irrigation Plans shall be prepared by a licensed Landscape Architect. All Landscape and Irrigation Plans shall be fully coordinated with the off-site and on-site improvement plans and the Project's SCP. Landscape and Irrigation Plans shall meet City requirements and the Model Water Efficient Landscape Ordinance (MWELO), as applicable to the Project, subject to review by the City. Landscape and Irrigation Plans shall be submitted to the City for review and approval prior to the issuance of building permits for any phase of the Project. All planting areas and planter pots shall be connected to an irrigation system.
2. Landscape and Irrigation Maintenance: The developer shall be responsible for the cost of maintenance, servicing and operation of landscaping and irrigation within the public right of way. This obligation may be satisfied by formation of a special financing district, deposit of an annuity that provides sufficient funding for the annual maintenance or other mechanism as agreed to by the City. Maintenance of all landscape and irrigation within the public right-of-way shall be the responsibility of the Community Facilities District. Maintenance of all landscape and irrigation within the private parcels shall be the responsibility of the owner(s) of each parcel at the time the maintenance is performed and the costs for such maintenance shall be paid for by the owner(s) of each parcel. Should maintenance of the on-site landscape and irrigation systems not be maintained to the satisfaction of the City, the City may take measures to correct the deficiencies and seek compensation from owner(s) of each parcel.
3. Weed Control: Keep weed growth no taller than 18 inches and site free of litter or debris prior to or during construction.
4. Landscape Plan Review: Complete landscape plans for each development pad, all new/improved public streets, parking areas, and exterior podium areas of the Project shall be reviewed and approved by the Design Review Committee in the issuance of a Design permit for each development pad prior to the issuance of a building permit and the City's acceptance of the new public street rights-of-way. This landscape plan shall provide complete information, to the satisfaction of the City Planner, regarding ground covers, plants, shrubs, and trees in regard to species, sizes, location, placement, and numbers. Landscape plans shall include:
 - a. Irrigation plan(s) with details;

- b. Tree planting and staking details; and
 - c. Consistency with all storm water control plans and improvement plans.
5. Landscape Installation: All required landscaping shall be installed to the satisfaction of the City Planner's interpretation of the approved Landscape Plan for each development pad and public areas prior to final issuance of a certificate of occupancy for that development pad and City acceptance of new public rights-of-way within the Project. To the satisfaction of the City Planner, all trees shall be no less than double staked with 2-inch diameter wood stakes, and possibly triple staked and/or wind screened where trees are susceptible to high winds until established.
6. Plant Materials: Trees, shrubs, and ground covers shall be drought resistant. Trees shall be tolerant of coastal sea winds and sandy soil.
7. Drainage to Landscaping: All ground level planting areas (not including the residential podium areas) shall not include raised curbs; rather, they are to be flush with adjacent pavement. Raised planter boxes and planter pots may be incorporated into the Project; however, they shall incorporate those materials and colors consistent with the Project's approved architecture.
8. Signs: Prior to the installation/establishment of any commercial and/or site identification sign(s) (monument and/or wall mounted) on any development pad within the Project, a design permit, sign permit, and/or a uniform sign program, as determined appropriate by the City Planner, for that corresponding development pad shall be approved by the City's Design Review Committee.
9. Temporary Construction Signs: Temporary construction signs may be placed within the Project and/or individual development pads of the Project during construction activities without approval from the City's Design Review Committee. However, said construction signs shall be subject to the terms/condition of approved land use entitlement permit(s), and only erected within those areas with construction activity.

H. Additional Requirements

- 1. Monuments: Centerline monuments shall be set within the street pavement at all intersections, angle points, and curve points. The locations of said monuments shall be shown on the Final Map and the Improvement Plans. The engineer/surveyor of record shall provide certification to the City's Engineering and Public Works Department when the monuments have been set.
- 2. Exterior Corners: The Applicant's engineer/surveyor of record shall monument all exterior corners with 1 1/2" or larger pipe marked with the surveyor of record license number.

3. Parcel Corners: The Applicant's engineer/surveyor of record shall set permanent monuments at all parcel corners.
4. Benchmark: The Applicant's engineer/surveyor of record shall set a permanent benchmark within the project limits. The permanent benchmark shall be either a brass disk in the sidewalk or another suitable monument, as approved by the City prior to installation.
5. Property Corner at Sidewalk: If a property corner falls in the back of sidewalk, the Applicant shall either construct the sidewalks 4.5 feet wide in this location or set the corner reference points in the top of curb.
6. Monuments on Final Map: The Final Map shall show all monuments found and set for the Subject Property and those that were used to establish the boundaries of the Subject Property.
7. Construction Signs: The type and location of all construction signs shall be subject to review and approval by the City prior to use.
8. Infrastructure Operation: Subject to provisions regarding funding by the CFD described in these Conditions of Approval, all infrastructure improvements that are installed within the public right-of-way shall be operated and maintained by the City.

I. Fees

1. Payment of Fees. For all phases of development, the Applicant shall pay all City fees associated with the processing and review of the Project. The Applicant shall pay all fees associated with the issuance of permits for any phase of the Project, or portion thereof, including all other pertinent agency fees.
2. Parkland or Fees. The applicant shall provide on-site parkland or a fee in lieu of parkland dedication, or combination thereof, in accordance with Municipal Code Chapter 17.68. Based on a Project of 356 residential units and an average per unit occupancy of 2.27 persons, the total Project population would be about 808 persons. The resulting parkland requirement, based on 130 square feet per each resident, is 2.4 acres. Park or recreation area provided by the applicant within the Project that qualifies under the provisions of Chapter 17.68 shall be credited toward this requirement as determined by the City Planner. Remaining park requirements shall be compensated through an in-lieu payment the amount to be determined prior to recording of the first Final Map by the City in accordance with the provisions of Chapter 17.86. Fees may be used for recreational amenities within the City's public rights-of-way within or adjacent to the Project, or for an off-site community or cultural center within the Sand City municipal limits. An in-kind contribution toward rent or facilities may be used in place of fees at the discretion of the City Administrator. One-half of the fee shall be paid prior to

recording of the final map, or as otherwise agreed by the City Administrator in the case of in-kind contributions, and one-quarter of the fee shall be paid prior to issuance of the first building permit for each parcel.

J. Mandatory Mitigation Measures

1. (AQ-1) Prior to occupancy of any residential units on the project site, the applicant shall construct a sidewalk to complete a gap on the existing sidewalk within or abutting to the railroad right-of-way on the south side of Tioga Avenue.
2. (AQ-2) To reduce dust emissions from demolition, grading, and construction activities on the project site, specific language shall be included in all grading and construction plans for these projects prior to the issuance of a building permit.

Dust control measures shall be employed to reduce visible dust leaving the project site. The following measures or equally effective substitute measures shall be used:

- a. Use recycled water to add moisture to the areas of disturbed soils twice a day, every day, to prevent visible dust from being blown by the wind;
 - b. Use recycled water to prevent visible dust from building demolition;
 - c. Apply chemical soil stabilizers or dust suppressants on disturbed soils that will not be actively graded for a period of four or more consecutive days;
 - d. Apply non-toxic binders and/or hydro seed disturbed soils where grading is completed, but on which more than four days will pass prior to paving, foundation construction, or placement of other permanent cover;
 - e. Cover or otherwise stabilize stockpiles that will not be actively used for a period of four or more consecutive days, or water at least twice daily as necessary to prevent visible dust leaving the site, using raw or recycled water when feasible;
 - f. Maintain at least two feet of freeboard and cover all trucks hauling dirt, sand, or loose materials;
 - g. Install wheel washers at all construction site exit points, and sweep streets if visible soil material is carried onto paved surfaces;
 - h. Stop demolition, grading, and earth moving if winds exceed 15 miles per hour;
 - i. Pave roads, driveways, and parking areas at the earliest point feasible within the construction schedule;
 - j. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours of receiving the complaint. The phone number of the Monterey Bay Air Resources District shall also be visible to ensure compliance with Rule 402 (Nuisance); and
 - k. Limit the area under construction at any one time
3. (AQ-3) The Applicant shall prepare a Construction Staging Management Plan to be reviewed and approved by the City Planner and City Engineer, prior to

issuance of grading or demolition permits. The plan shall include the following restrictions:

- a. On-site staging and loading areas for off-haul trucks during demolition, grading, and excavation activities shall be located no farther than thirty feet (30') feet south or west of Street "A;"
 - b. Offsite staging, if allowed, shall not be located on Tioga Avenue between Metz Road and Sand Dunes Drive, or at any location within five-hundred (500') feet of a residence; and
 - c. Construction equipment and off-haul trucks shall not idle in excess of five (5) minutes.
4. (AQ-4) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. All non-road diesel construction equipment shall, at a minimum, meet Tier 3 emission standards listed in the Code of Federal Regulations Title 40, Part 89, Subpart B, §89.112. The developer shall provide evidence of compliance prior to issuance of a grading permit.
5. (BIO-1) To compensate for the permanent loss of Monterey spineflower individuals and Smith's blue butterfly habitat, and to avoid impacts to Monterey gilia individuals, the applicant shall record a conservation easement over 0.9 acre of Monterey spineflower/Monterey gilia and Smith's blue butterfly coastal dune scrub habitat, including the existing 0.1 acre sandy trail. The area proposed for preservation shall be expanded from that proposed in the Draft EIR as illustrated in Figure 7-3 to avoid direct impacts to all known on-site Monterey gilia locations. Granting and conveyance of the easement will be subject to the conditions developed during consultation with the USFWS to secure an Incidental Take Permit. The conservation easement shall be recorded prior to issuance of the first grading permit for the project, subject to review and approval by the City Planner, City Attorney, and City Administrator. Conditions may include, but not be limited to, the following:
- a. The 0.9 acre will be expanded slightly in two locations, one to the south and one to the north, and preserved and protected in perpetuity, by an entity other than the applicant, per a conservation easement, which will prohibit any activity that is incompatible with the preservation efforts;
 - b. Invasive iceplant will be carefully removed by hand with the intent to minimize disturbance to the native seed bank, and this area will be maintained to support expanded growth of Smith's blue butterfly host plants and Monterey spineflower/Monterey gilia following completion of the project;
 - c. The existing 0.1-acre sandy trail (leading to Merle Street right-of-way) will be maintained by installing roped fencing, or other method deemed appropriate by the City, on both sides of the trail and from the trail to Tioga Avenue to guide foot traffic away from adjacent habitat areas;

- d. Permanent fencing will be installed between the project development area and the preserved area to prevent access to Smith's blue butterfly and Monterey spineflower/Monterey gilia habitat (except pedestrian access through the area using the roped/fenced path on the existing sandy trail);
 - e. Signage will be installed to notify the public that the area is protected and that special-status species may be present;
 - f. A U.S. Fish and Wildlife Service-approved native plant specialist will plant Smith's blue butterfly buckwheat host plants/seeds and Monterey spineflower seeds in the preserved area, with seeds/plants relocated/collected from the site impact areas prior to demolition or grading within the impact areas;
 - g. A monitoring and reporting program will be developed in detail in the project Habitat Conservation Plan. The monitoring program will include pre- and post-treatment vegetation sample plot or transect surveys to record the percent cover of invasive plants, Monterey spineflower, Monterey gilia, and buckwheat plants prior to and after treatment. The plots/transects will be surveyed during the appropriate blooming period for Monterey spineflower/Monterey gilia to allow for positive identification. Non-native and invasive weed cover will be no more than 10 percent in the restoration areas. Monitoring shall be conducted for a period of five years. If the restoration is not successful after five years, the project proponent will consult with the U.S. Fish and Wildlife Service and Sand City to define alternative measures. Brief written reports will be submitted annually to the property owner(s), conservation easement holder, and U.S. Fish and Wildlife Service; and
 - h. A fund will be created by the project applicant through a one-time endowment to carry out management of the habitat preservation area in perpetuity (including monitoring and weeding as necessary). Management activities will be conducted by a third party approved by the U.S. Fish and Wildlife Service.
6. (BIO-2) At least 15 days prior to ground disturbance, the applicant shall submit the names and credentials of biologists who will conduct activities specified in mitigation measures BIO-1 through BIO-5 ("qualified biologist"). No project activities shall begin until the applicant has received written approval from the U.S. Fish and Wildlife Service that the biologists are qualified to conduct the work. Written approval is required prior to issuance of the first grading and demolition permits, subject to review and approval by the City Planner. The qualified biologists shall supervise and/or implement all species protection measures.
7. (BIO-3) Prior to issuance of a grading permit and during construction, the following measures to avoid or minimize impacts to Monterey spineflower and Monterey gilia shall be implemented:
- a. Prior to grading and construction and during the appropriate identification period, Monterey spineflower and Monterey gilia surveys shall be

conducted by a U.S. Fish and Wildlife Service-approved, qualified biologist in areas where spineflower or gilia were previously identified or have potential to occur.

- b. The boundaries of Monterey spineflower and Monterey gilia populations near project work areas, or the limits of project work areas or access roads/routes near Monterey spineflower and Monterey gilia populations that are to be avoided shall be delineated with clearly visible flagging or fencing, which shall be checked weekly by the qualified biologist or designated site representative and repaired as needed.
 - c. The populations that are to be impacted shall be recorded using a submeter-accurate global positioning system ("GPS") unit, and the total acreage of temporary and permanent impacts shall be calculated.
 - d. In project work areas where Monterey spineflower is present, initial ground disturbance activities shall be conducted in late summer or early fall to avoid impacting these plants before they have set seed. If this is not feasible and it is possible to collect seed prior to the start of construction, seed shall be collected by a qualified biologist from the impact area. Monterey spineflower individuals shall be used during restoration following the completion of Phase 1 construction activities. Alternatively, a U.S. Fish and Wildlife Service-approved, qualified biologist can proceed with the relocation of the top layer of substrate containing the spineflower seeds to previously identified and approved locations.
8. (BIO-4) The project proponent shall conduct an education program for all persons employed or otherwise working at the project site before performing any demolition, grading, or excavation work. The program shall consist of a presentation from a U.S. Fish and Wildlife Service-approved biologist that includes photos of special-status species with the potential to occur on the project site in all life history stages, and a discussion of the biology and general behavior of each species in each life history stage, information about the distribution and habitat needs of the special-status species in each life history stage, sensitivity of the special-status species to human activities in each life history stage, and its status pursuant to the Federal Endangered Species Act, including legal protection, recovery efforts, penalties for violations, and project-specific protective measures. The project proponent shall prepare and distribute wallet-sized cards or a fact sheet handout containing illustrations and summarized information for workers to carry at the project site. Upon completion of the education program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be engaged in ground disturbance activities at the project site.

The project proponent shall be responsible for implementation of these mitigation measures with oversight by the City of Sand City. Compliance with these measures shall be documented and submitted to the City.

9. (BIO-5) Prior to issuance of a grading permit and during construction, the following measures to avoid or minimize impacts to Smith's blue butterfly will be implemented:
- a. Any vegetation removal or grading work in proximity to buckwheat plants should avoid the period of June 15 to September 15 (Smith's blue butterfly flight season) unless otherwise authorized by the qualified biologist after review of current Smith's blue butterfly activity.
 - b. The boundaries of buckwheat populations near project work areas, or the limits of project work areas or access roads/routes near buckwheat populations that will be avoided shall be delineated with clearly visible flagging or fencing. Fencing shall be checked weekly by the qualified biologist or designated site representative and repaired as needed.
 - c. Buckwheat populations that will be impacted shall be recorded using a submeter-accurate global positioning system ("GPS") unit, and the total acreage and/or number of individuals disturbed shall be calculated.
 - d. The qualified biologist will monitor activities on a regular basis during grading and construction, including all areas where Smith's blue butterflies may be present. Monitoring during the summer butterfly flight period will occur on a daily basis.
 - e. The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City.
10. (BIO-6) Prior to issuance of a grading permit and during demolition, site clearing, grading, excavation, and construction, a list of measures to avoid or minimize impacts to legless lizards and coast horned lizard will be implemented:
- a. Not less than three months prior to the start of grading activities (including staging and mobilization), a qualified biologist shall place coverboards in impact areas with suitable habitat (coastal dune scrub and disturbed maritime chaparral mixed with coastal dune scrub) for legless lizards and coast horned lizard. The coverboards shall be at least four feet by four feet and constructed of untreated plywood placed flat on the ground. The coverboards shall be checked by the biologist once per week for each week after placement up until the start of vegetation removal. All legless lizards and coast horned lizards found under the coverboards shall be captured and placed in five-gallon buckets for transportation to relocation sites. If areas are left undisturbed for a period of three months or longer, the coverboards will be replaced and relocation efforts will be repeated prior to the re-initiation of ground disturbance activities.
 - b. All relocation sites shall be approved by Sand City and/or the implementing entity and shall consist of suitable habitat. Relocation sites shall be as close to the capture site as possible but far enough away to ensure the animal(s) is/are not harmed by construction of the project. Relocation shall occur on the same day as capture. California Department of Fish and Wildlife California Natural Diversity Database Native Species

Field Survey Forms shall be submitted to the California Department of Fish and Wildlife for all special-status species observed.

- c. During all initial ground vegetation removal activities, a qualified biologist shall be on the site to recover any legless lizards and coast horned lizards that may be excavated/unearthed. If the animals are in good health, they shall be immediately moved to relocation sites. If they are injured, the animals shall be released to a wildlife recovery specialist until they are in a condition to be released into relocation sites.
- d. A report of all preconstruction survey efforts and monitoring during initial ground vegetation removal shall be submitted to the implementing entity within 30 days of completion of the survey/monitoring efforts to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report shall also include for each captured special-status animal, the Universal Transverse Mercator coordinates and habitat descriptions of the capture and release sites, the length of time between capture and release, and the general health of the individual(s).
- e. The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City.

11. (BIO-7) To avoid/minimize potential impacts to burrowing owls occurring within or adjacent to the project site, individual project developers will retain a qualified biologist to conduct a two-visit (i.e. morning and evening) presence/absence survey at areas of suitable habitat on and adjacent to the project site no less than 14 days prior to the start of any construction activities. Surveys shall be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife 2012). If these pre-construction "take avoidance" surveys performed during the breeding season (February through August) or the non-breeding season (September through January) locate occupied burrows in or near construction areas, consultation with the California Department of Fish and Wildlife would be required to interpret survey results and develop a plan for project-specific avoidance, minimization, and compensation.

Where there is insufficient habitat for permanent protection on, adjacent to, or near project sites where burrowing owls will be impacted, acquisition of off-site mitigation lands with occupied burrowing owl habitat may be required in consultation with the California Department of Fish and Wildlife. Compensation may take the form of (a) acquiring and dedicating lands into conservation easements; (b) purchasing mitigation credits at compensation ratios that have been approved by the California Department of Fish and Wildlife; or (c) preserving area contiguous or near the acreage lost.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City prior to ground disturbance.

12. (BIO-8) Prior to tree removal or structure demolition activities, the project proponent shall retain a qualified biologist to conduct a focused survey for bats and potential roosting sites in trees to be removed, in trees within 250 feet of the disturbance/ development footprint, within structures (when accessible), and surrounding any structures that may be demolished by the project. These surveys shall be conducted no more than 15 days prior to the start of tree removal or building demolition. The surveys can be conducted by visual identification and assumptions can be made by the biologist on what species is present due to observed visual characteristics along with habitat use, or the bats can be identified to the species level with the use of a bat echolocation detector such as an "Anabat" unit.

If no roosting sites or bats are found, a letter report confirming absence shall be submitted to the City of Sand City and no further mitigation is required.

If bats or roosting sites are found, a letter report and supplemental documents shall be provided to the City of Sand City prior to grading or demolition permits being issued and the following monitoring, exclusion, and habitat replacement measures shall be implemented:

- a. If bats are found roosting outside of the nursery season (May 1 through October 1), they shall be evicted as described under (b) below. If bats are found roosting during the nursery season, they shall be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. If the roost is determined to not be a maternal roost, then the bats shall be evicted as described under (b) below. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 250-foot buffer zone (or different size if determined in consultation with the California Department of Fish and Wildlife) shall be established around the roosting site within which no construction activities including tree removal or structure demolition shall occur until after the nursery season.
- b. If a non-breeding bat hibernaculum is found in a tree or snag scheduled for removal or on any structures scheduled to be demolished by project activities, the individuals will be safely evicted, under the direction of a qualified bat biologist and in consultation with the California Department of Fish and Wildlife. Methods could include: carefully opening the roosting area in a tree or snag by hand to expose the cavity, and opening doors/windows on structures or creating openings in walls to allow light into the structures. Removal of any trees or snags and demolition of any structures shall be conducted no earlier than the following day (i.e., at least one night will be provided between initial roost eviction disturbance and tree removal/structure demolition). This action will allow bats to leave

during dark hours, which increases their chance of finding new roosts with a minimum of potential predation.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City prior to vegetation removal, ground disturbance, or building demolition.

13. (BIO-9) To avoid possible impacts to nesting birds on and adjacent to the project site, if noise generation, ground disturbance, vegetation removal, or other construction activities begin during the nesting bird season (February 1 to September 15), or if construction activities are suspended for at least two weeks and recommence during the nesting bird season, then the project proponent shall retain a qualified biologist to conduct a pre-construction survey for nesting birds. The survey shall be performed within suitable nesting habitat areas on and adjacent to the site to ensure that no active nests would be disturbed during project implementation. This survey shall be conducted no more than one week prior to the initiation of disturbance or construction activities.

If no active bird nests are detected during the survey, then project activities can proceed as scheduled. However, if an active bird nest of a native species is detected during the survey, then a plan for bird nest avoidance shall be prepared by the qualified biologist to determine and clearly delineate an appropriately sized, temporary protective buffer area around each active nest, depending on the nesting bird species, existing site conditions, and type of proposed disturbance or construction activities. The protective buffer area around an active bird nest is typically 75-250 feet, determined at the discretion of the qualified biologist.

To ensure that no inadvertent impacts to an active bird nest will occur, no disturbance and/or construction activities shall occur within the protective buffer area(s) until the juvenile birds have fledged (left the nest), and there is no evidence of a second attempt at nesting, as determined by the qualified biologist.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City prior to vegetation removal, demolition, or ground disturbance.

14. (BIO-10) Prior to demolition, site clearing, grading, excavation, and construction, and in coordination with mitigation measures BIO-3 and BIO-5, which require the delineation of areas where Monterey spineflower/Monterey gilia and Smith's blue butterfly buckwheat host plants occur, the boundaries of coastal dune scrub located near project work areas, or the limits of project work areas or access roads/routes near coastal dune scrub that are to be avoided shall be delineated with clearly visible flagging or fencing, or otherwise marked for avoidance. The

flagging, fencing, and/or other marking shall be maintained in place for the duration of construction at each location until work is completed at the site. Fencing shall be checked weekly by the qualified biologist or designated site representative and repaired as needed.

15. (BIO-11) In coordination with mitigation measure BIO-1, a conservation easement over 0.9 acre of coastal dune scrub shall be recorded. This area will be managed for special-status species and include invasive iceplant removal, planting of native coastal dune scrub species, and mitigation and monitoring subject to the conditions developed during consultation with the USFWS to secure an Incidental Take Permit for impacts to federally listed species.

The project proponent shall be responsible for implementation of these mitigation measures with oversight by the City of Sand City. Compliance with these measures shall be documented and submitted to the City prior to ground disturbance.

16. (BIO-12) Prior to construction, the project proponent shall retain a certified arborist to survey all significant trees on the project site (those with a diameter at breast height of 10 inches or more). For proposed significant tree removals, a permit from the City shall be obtained. The permit may require replacement plantings, but not necessarily of the same species. The project proponent shall install replacement trees in accordance with all mitigation, maintenance, and monitoring requirements specified in the tree removal permit(s) or otherwise required by the City for project approvals.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with these measures shall be documented and submitted to the City prior to ground disturbance.

17. (CR-1) Due to the possibility that unique buried archeological or paleontological resources might be found during construction activities, the following language shall be included in all construction documents and on any grading or building permits:

“In the event that evidence of historical, archaeological and/or paleontological resources is uncovered during excavation and/or grading, all work shall stop in the area of the subject property until an appropriate data recovery program can be developed and implemented by a qualified historian, archaeologist and/or paleontologist. The City Planner shall ensure that the permit language has been included and shall ensure that the appropriate data recovery program is implemented should historical, archaeological and/or paleontological resources be uncovered.”

18. (CR-2) Due to the potential that human remains may be uncovered during construction activities, the following language shall be included in all construction documents and on grading and building permits:

"If human remains are found during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within twenty-four (24) hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within forty-eight (48) hours after being notified by the Commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner."

19. (CR-3) Due to the possibility that unique tribal resources might be found during construction activities, the following language shall be included in all construction documents and on any permits issued for the project site, including, but not limited to, grading, and conditional use building permits for the proposed project:

"The City Planner shall ensure that the permit language has been included and that the appropriate resource recovery program is implemented should any tribal resources be uncovered. In the event that evidence of tribal resources is uncovered during excavation and/or grading, all work shall stop in the area of the subject property until an appropriate data recovery program can be developed and implemented by a qualified archaeologist."

The applicant shall notify the Ohlone/Costanoan-Esselen Nation, with a copy to the Sand City Planning Department, no less than 14 days prior to initiation of grading and excavation activities to provide an opportunity for provision of a Tribal Monitor to be present during rough grading and excavation activities. All cultural items found during construction activities shall be returned to the Ohlone/Costanoan-Esselen Nation.

20. (GEO-1) After demolition activities, the project developer(s) shall remove, stockpile under cover, and/or compact all disturbed soils that will remain inactive for more than fourteen days, subject to the review of the City Engineer and the Monterey Building Department inspectors.
21. (GEO-2) During grading activities, exposed soils shall be kept continuously moist or otherwise stabilized prior to placement of subsequent fill on the project site, subject to the review of the City Engineer and the Monterey Building Department inspectors.
22. (GEO-3) A Geotechnical Engineer shall monitor mass grading operations weekly (on weeks when such activities occur) in order to guarantee acceptable compaction of material and performance of the appropriate stability requirements of development, and shall report monthly to the City Engineer. The Geotechnical Engineer shall specifically monitor removal and replacement of the area of loose prior fill.
23. (GEO-4) If the period of post-grading and pre-construction extends for longer than 30 days, the developer(s) shall present the City Engineer with updated documentation and a report within the following 30 days, and on October 15th of each subsequent year, identifying their continued compliance with storm water prevention measures until construction of the development has commenced.
24. (GEO-5) No earthwork activities will occur when winds exceed sustained speeds over 20 miles per hour.
25. (GEO-6) Subject to the review and approval of the City of Monterey Building Department and prior to the construction of any building, the developer(s) is (are) required to over-excavate and compact the soil within the proposed building areas to a depth of no less than 24 inches below the bottom of the footing elevation to minimize soil movement due to settlement and to provide uniform support for the proposed buildings.
26. (GEO-7) The developer(s) is (are) required to compact any uncertified fill material remaining after foundation excavation activities in accordance with the recommendations contained in the final project geotechnical report to prevent future compaction concerns to the fill material. Alternatively, uncertified fill material may be removed from beneath building foundations and replaced with engineered fill.
27. (GEO-8) Prior to the issuance of a building permit, developer(s) is (are) required to provide a shoring plan using slopes, benches, or protective structures, for review and approval by the City of Monterey Building Department for excavations exceeding five feet in total depth from the reference top-of-cut soil level.

28. (HAZ-1) The developer shall prepare a Phase II Environmental Site Assessment prior to the issuance of a permit for building demolition or site clearance activities. The Phase II Environmental Site Assessment shall be reviewed by the City Planner, the City Engineer, and the City of Monterey Fire Department. The City may opt to refer the Phase II Environmental Site Assessment to the Monterey County Environmental Health Department for review.

The Phase II Environmental Site Assessment shall include representative sampling of all areas of the project site proposed for development, and shall specifically address the following:

- a. Documented/Undocumented underground storage tanks and surrounding soils conditions;
 - b. Documented/Undocumented subgrade structures and surrounding soils conditions;
 - c. Areas of impacted soil from surface spills and/or hazardous material storage;
 - d. Soil vapor intrusion;
 - e. Presence of lead-based paint, pesticides, and related metals in soils surrounding the existing buildings;
 - f. Asbestos-containing building materials; and
 - g. The plugged oil and natural gas production well and surrounding soils conditions.
29. (HAZ-2) A geophysical survey shall be required during the Phase II Environmental Site Assessment in order to address the potential presence for improper closure of the oil and natural gas production well.
30. (HAZ-3) The developer shall prepare a Site Management Plan to describe all of the measures that will be taken to address the concerns identified in the Phase II Environmental Site Assessment, including any soil contamination subject to remediation. If a remediation plan for outside agency oversight is required, that may be attached, with only a summary included in the Site Management Plan. The Site Management Plan shall include provisions for adequate monitoring by a qualified professional during site grading and excavation activities. The Site Management Plan shall be reviewed by the City Planner, City Engineer, and the City of Monterey Fire Department. The City may opt to refer the Site Management Plan to the Monterey County Environmental Health Department for review, and in the event of the need for outside agency oversight, shall coordinate review of the Site Management Plan with that agency. The Site Management Plan shall be approved prior to the issuance of a permit for building demolition or site clearance activities.
31. (HAZ-4) Prior to the demolition of buildings, the developer shall conduct an asbestos survey and lead-based paint survey that include management of these hazardous materials during demolition of buildings. An abatement plan shall be

developed for approval by the City Planner, City Engineer, and/or City of Monterey Fire Department prior to the issuance of a demolition permit for any existing building within the project site. The developer shall notify the Monterey Bay Unified Air Resources District at least ten days prior to demolition activities. In the event underground pipes are discovered during excavation activities, those pipes shall be assessed for the potential to contain lead or asbestos.

The surveys shall include abatement measures and appropriate management during demolition of the buildings identified as containing these hazardous materials.

32. (DR-1) Refer to Section B. Stormwater Quality and Erosion Control, paragraph 3 “Stormwater Control Plan”, above.
33. (N-1) The developer shall include the following language on any grading, site work, and construction plans issued for the proposed project, prior to the issuance of grading and building permits. This restriction shall not apply to work, such as painting, that does not cause significant noise.

“During earth-moving, grading, and construction activities, the developer shall implement the following measures at the construction site:

- a. Limit outdoor construction activity to weekdays between 7:00 a.m. and 6:00 p.m., and on Saturdays between 10:00 a.m. and 5:00 p.m. Construction noise is prohibited on Sundays and City-observed holidays;
 - b. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area and/or provide an effective acoustical barrier or insulation;
 - c. Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment;
 - d. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists; and
 - e. Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.”
34. (T-1) Prior to issuance of a building permit for either the hotel(s) and residential buildings, the project developer, or developers, shall be responsible for their fair share of the costs of constructing a half signal to control the eastbound Fremont Boulevard approach and the northbound Del Monte Boulevard approach and provide a continuous green light on the westbound Fremont Boulevard approach.

The exiting westbound left turn movement could remain prohibited. The Military Avenue leg could remain with its current configuration and stop control.

This intersection is not included in the City of Seaside CIP and implementation of the improvements is not within the City of Sand City's jurisdictional authority. Should the City of Seaside not accept the fair share contribution, the project developer would be relieved from having to pay the fair share fee due to the infeasibility of the mitigation measure to reduce the proposed project's impact to the intersection of Fremont Boulevard / Del Monte Boulevard / Military Avenue, and the proposed project's impact would be potentially significant and unavoidable.

35. (T-2) Prior to issuance of a certificate of occupancy for either the hotel or residential buildings, the project developer shall pay its proportionate share of costs to re-stripe the eastbound leg of the intersection of State Route 218 / State Route 1 Southbound Ramp to add a southbound right turn lane from State Route 218. The recommended improvement is not identified in the AMBAG regional transportation plan and TAMC regional transportation impact fee program. Should Caltrans and TAMC not accept the developers fair share contribution toward improvements to the intersection, the project developer would be relieved from having to pay the fair share fee due to the infeasibility of the mitigation approach and the proposed project's impact to the intersection of State Route 1 Southbound Ramps / State Route 218 would be potentially significant and unavoidable.
36. (T-3) Prior to issuance of building permits for either the hotel(s) and residential structures, the project developer shall pay the TAMC Regional Traffic Impact fee.
37. (CUMT-1) Prior to final sign-off of any certificate of occupancy, the project developer shall either construct the signal improvement at the intersection of California Avenue and Playa Avenue, or, if the intersection has already been signalized or is in the process of being signalized, shall pay a pro-rata fee for the project's fair share of the cost of signalization of the intersection. Intersection improvement plans or payment of fees are subject to review and approval by the City Engineer.
38. (CUMT-2) Prior to final sign-off of any certificate of occupancy, the project developer shall pay its proportionate share of costs to modify the signal to add right turn overlaps (right turn green arrows) on the four approaches of the intersection of State Route 218 / Del Monte Boulevard. Should Caltrans not accept the developers fair share contribution toward the improvement, the project developer would be relieved from having to pay the fair share fee due to the infeasibility of the mitigation approach and the project's contribution to cumulative impacts to the intersection of State Route 218 / Del Monte Boulevard would be potentially significant and unavoidable.


39. (WS-1) The City shall ensure that sufficient new intake wells for the desalination facility, already approved by the City, will be constructed to ensure sufficient water from the desal facility is available to supply to the project.

PASSED AND ADOPTED, by the City Council of the City of Sand City this 5th day of June, 2018 by the following vote:

AYES: Council Members Blackwelder, Carbone, Hawthorne, Hubler, McDaniel
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

ATTEST:



Mary Ann Carbone, Mayor



Linda K. Scholink, City Clerk

SAND CITY

ORDINANCE NO. ___-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAND CITY APPROVING THE DEVELOPMENT AGREEMENT BY AND BETWEEN DBO DEVELOPMENT NO. 30, LLC RELATING TO THE DEVELOPMENT COMMONLY KNOWN AS THE SOUTH OF TIOGA PROJECT

THE CITY COUNCIL OF THE CITY OF SAND CITY DOES ORDAIN AS FOLLOWS:

Section 1. Recitals.

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, et seq., of the Government Code (the "Development Agreement Statute"), authorizing the City, and any person having a legal or equitable interest in the real property, to enter into a Development Agreement and establish certain development rights in the property, which is the subject of the development project application.

B. On ___ October, 2020 the City adopted Resolution SC ___ - 2020, establishing procedures pursuant to California Government Code section 65865(c) for the consideration of development agreements.

C. On June 5, 2018, the City Council adopted Resolution SC 18-58 approving Vesting Tentative Map 18-01 and a related mitigation monitoring and reporting program for the South of Tioga Project ("Project"). Condition of Approval E(9) requires the parties to enter into a development agreement for the Project prior to the recordation of any final map for any portion of the Project.

D. DBO Development, LLC ("Developer") has filed an application requesting approval of a development agreement for the Project.

E. A Development Agreement between the City and Developer ("Development Agreement") has been presented to the City Council, a copy of which is attached hereto as **Exhibit A**.

F. The City and Developer now desire to proceed with development consistent with the Development Agreement.

G. In compliance with the California Environmental Quality Act ("CEQA"), on June 5, 2018, by Resolution SC 18-57, the City Council certified the Environmental Impact Report for the South Tioga Project (SCH# 2017061066) ("EIR"); and by this Ordinance, the City finds the adoption of the Development Agreement does not require further environmental review.

H. On October 13, 2020, the City Council, serving as the City's planning agency for purposes of development agreement review pursuant to the Development Agreement Statute and Resolution SC ___ - 2020, held a public hearing to consider the Development Agreement.

I. The public hearing was noticed in accordance with the requirements set forth in Government Code section 65090 and 65091.

Section 2. Findings and Determination.

On the basis of: (a) the foregoing Recitals, which are incorporated herein, (b) the City's General Plan, (c) the EIR, and (d) the specific evidence and conclusions set forth below, the City Council acting as itself and as the City's planning agency finds and determines that:

A. **Consistency with the General Plan.** In accordance with Government Code section 65867.5(b), the Development Agreement is consistent with the objectives, policies, general land uses and programs specified and contained in the City's General Plan, and there is no applicable specific plan. The General Plan consistency findings made by the City Council in Resolution SC 18-58 adopting Vesting Tentative Map 18-01, are attached hereto and incorporated herein as if set forth in full by this reference as **Exhibit B**. The findings in Resolution SC 18-58 are accurate and unchanged. The findings are relevant and applicable to the Development Agreement and they are therefore incorporated into and adopted as the General Plan consistency findings for the Development Agreement. The findings and evidence to support this General Plan consistency determination for the Development Agreement are as described in the original findings for the approval of Vesting Tentative Map 18-01 in Resolution SC 18-58. The Development Agreement will implement and facilitate the Project as approved by Resolution SC 18-58, including establishing certain tax, fee and other agreements that will facilitate construction of the Project, and none of which alter the General Plan consistency findings in Resolution SC 18-58.

B. **Public Interest.** The proposed Development Agreement will not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that the Project will proceed in accordance with all programs and policies of the General Plan. The Project endeavors to eliminate existing blighted conditions throughout the Property; provide public and private road and infrastructure improvements; provide appropriate land use transitions compatible with the East Dunes Planning District; provide a significant number of residential units (including units that will be made affordable to extremely low, very low, and low income households); and result in positive fiscal impacts for the City.

C. **CEQA COMPLIANCE.** In compliance with the California Environmental Quality Act ("CEQA"), on June 5, 2018, by Resolution SC 18-57, the City Council certified the Environmental Impact Report for the South Tioga Project (SCH# 2017061066) ("EIR"); and by this Ordinance, the City finds that since the EIR was certified, there have been no substantial changes to the Project or to the circumstances under which it will be undertaken, and no new substantial information has become available, which would require further environmental review to be conducted. Therefore, no additional environmental review is necessary in order for the Council to take action on this Development Agreement.

Section 3. Approval of Amended and Restated Development Agreements.

The City Council hereby approves the Development Agreement, attached hereto as **Exhibit A**, in a form approved by the City Attorney, and authorizes the City Manager to execute the Development Agreement.

Section 4. Recordation.

Within ten (10) days after the Development Agreement is executed, the City Clerk shall submit it to the County Recorder for recordation.

Section 5. Severability.

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

Section 6. Publication and Effective Date.

Within fifteen (15) days after adoption, a summary of this Ordinance shall be published once in the Monterey Herald, a newspaper of general circulation printed and published in Monterey County and circulated in the City, in accordance with Government Code section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption. This ordinance will not be codified and published in the Sand City Municipal Code.

PASSED AND ADOPTED by the City Council of Sand City on the ___ day of October, 2020 by the following vote:

AYES: X
NOES: X
ABSENT: X
ABSTAIN: X

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, Acting City Clerk

**Recording Requested by:
CITY OF SAND CITY**

WHEN RECORDED, RETURN TO:

**City Clerk, City of Sand City
1 Pendergrass Way
Sand City, CA 93955**

Space Above for Recorder's Use Only

Record at the request and for the benefit of
the City of Sand City
Pursuant to Government Code §§ 6301 and 27383

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF SAND CITY, MONTEREY COUNTY, CALIFORNIA

AND

DBO DEVELOPMENT NO. 30, LLC RELATING TO THE

DEVELOPMENT COMMONLY KNOWN AS

THE SOUTH OF TIOGA PROJECT

**DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF SAND CITY,
CALIFORNIA AND DBO DEVELOPMENT NO. 30, LLC RELATING TO THE DEVELOPMENT
COMMONLY KNOWN AS THE SOUTH OF TIOGA PROJECT**

This Development Agreement ("**Agreement**") is entered into as of _____, 2020, by and between the City of Sand City, a municipal corporation and charter city in Monterey County ("**City**"), and DBO Development No. 30, LLC, a California limited liability company ("**DBO**" or "**Developer**"). City and Developer are sometimes referred to individually herein as a "**Party**" and collectively as the "**Parties**."

RECITALS

- A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted Government Code section 65864 *et seq.* ("**Development Agreement Statute**"), which authorizes a city to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property and establishing certain development rights therein.
- B. Developer has a legal or equitable interest in approximately ten point sixty-four (10.64) acres of real property in Sand City, located on forty (40) separate parcels (Assessor's Parcel Numbers (011-122-002, -003, -004, -005, -010, -011, -023, -024, -025, -026, -032, -038, -039, -040, -041; 011-123-001, -004, -005, -006, -007, -008, -009, -011, -022, -024, -025, -026; 011-134-011; 011-135-001, -014, -015, -016, -023, -024; 011-136-007, -012, -024; and 011-196-021, -038, and -039). The foregoing properties are more specifically described in Exhibit A and shown on the map set forth in Exhibit B, both of which are attached hereto and incorporated herein (collectively, "**Subject Property**").
- C. In addition to the Subject Property, Developer is in the process of (1) acquiring certain additional small portions of land currently owned by City (collectively, "**Property Slivers**"); and (2) acquiring certain portions of land along the vacated Lincoln Avenue and Beach Way (collectively, "**Street Parcels**"). If and to the extent Developer acquires a legal and/or equitable interest in the Property Slivers and/or the Street Parcels, and said lands are not part of the Subject Property as of the Effective Date (as that term is defined below), then it is anticipated that the Parties will mutually seek to amend this Agreement to include all such additional lands that are acquired so that they may be covered by the terms of this Agreement as part of the Subject Property, as amended. The Parties further contemplate that any such amendment process would be focused on the inclusion of these lands within the definition of Subject Property, and would not involve any other new material, substantive changes unless mutually agreed to by the Parties. Developer acknowledges that Condition of Approval (A)(2) imposed on the VTM (as that term is defined below) provides in relevant part: "...No Final Map shall be recorded for any phase of the project, unless and until all privately owned parcels within the project limits are legally obtained by and transfer complete to, either the Applicant and/or the City...." The foregoing reflects requirements under the State Subdivision Map Act (Gov't Code § 66410 *et seq.*) ("**Subdivision Map Act**") that a final map for a development must be signed by all owners of land covered by said map. Therefore, for purposes of filing the final map for the South of Tioga Project (as that term is defined below), Developer will either need to: (1) acquire all of the lands within the boundaries shown on the final map; (2) have all owner(s) of land within the boundaries shown on the

final map sign the same; or (3) modify the boundaries shown on the final map, subject to City's approval of same, such that only lands owned by Developer are covered. As detailed more fully herein, this Agreement includes provisions that require Developer to provide sufficient security such that City would be able to commence and complete construction of the Public Improvements (as that term is defined below) and related rough grading of the Subject Property regardless of whether the Property Slivers and/or the Street Parcels are ultimately acquired by Developer so long as a final map has been recorded for the South of Tioga Project.

- D. The Parties desire to develop the Subject Property with extensive residential and commercial uses that will benefit City and the broader community. As described more fully in the Current Approvals (as that term is defined below), the South of Tioga Project will involve the creation of six new parcels (H1, H1A, H2, H2A, R-1, and R-2), which will allow for development of the Subject Property consistent with the VTM.

The development of the Subject Property, as described more fully in the Current Approvals, is referred to in this Agreement collectively as the "**South of Tioga Project**" or "**Project**".

- E. The Project endeavors to eliminate existing blighted conditions throughout the Subject Property; provide public and private road and infrastructure improvements; provide appropriate land use transitions compatible with the East Dunes Planning District; provide a significant number of residential units (including units that will be made affordable to extremely low, very low and low income households) consistent with City's certified Housing Element (including, among others, Programs 4.1.1A and 4.1.1B); and increase the residential population of the City resulting in a "higher and better" use of land and aesthetic improvements, consistent with City's 2002 General Plan Goals 2.6 and 2.8, General Plan Policies 2.6.1 and 2.6.2, and General Plan Implementation Program 2.6a.
- F. To comply with the California Environmental Quality Act (Cal. Pub. Res. Code § 21000 *et seq.* and 14 Cal. Code Regs. § 15000 *et seq.*; "**CEQA**"), on June 5, 2018, at a duly noticed public hearing, the City Council of Sand City ("**Council**") certified the Environmental Impact Report for the South of Tioga Project (SCH # 2017061066) ("**EIR**"), as described more fully in Resolution SC 18-57, and made the required findings.
- G. At the same duly noticed public hearing on June 5, 2018, the Council adopted Resolution SC 18-58 approving the Vesting Tentative Map 18-01 ("**VTM**"), and related mitigation monitoring and reporting program ("**MMRP**") for the South of Tioga Project. Condition of Approval (E)(9) requires that the Parties enter into a development agreement for the South of Tioga Project prior to the recordation of any final map for any portion of the Project, and sets forth some of the provisions the development agreement shall address. The Parties intend for this Agreement to satisfy COA (E)(9).
- H. On November 6, 2018, at a duly noticed public hearing, the Council adopted Resolution Nos. SC 18-98, 18-99, 18-100 and 18-101 approving the following additional discretionary approvals for the South of Tioga Project:
1. Conditional Use Permit 623 for Parcel H1 (Resolution No. SC 18-98);
 2. Conditional Use Permit 624 for Parcel H2 (Resolution No. SC 18-99);

3. Coastal Development Permit 18-01 for Parcel H1A (Resolution No. SC 18-100); and
 4. Coastal Development Permit 18-02 for Parcel H2A (Resolution No. SC 18-101).
- I. City has given the required notice of its intention to consider adoption of this Agreement and has conducted the required public hearings thereon. City has reviewed and evaluated this Agreement in accordance with the Development Agreement Statute and found that the provisions of this Agreement and its purposes are consistent with the Development Agreement Statute and the applicable goals, policies, standards, and land use designations specified in the General Plan. On October 13, 2020, consistent with the Development Agreement Statute, at a duly noticed public hearing, the Council, serving as the City's Planning Agency and decision makers for purposes of Development Agreement review pursuant to Government Code section 65867, held a public hearing to consider this Agreement and approved this Agreement.
- J. Also on October 13, 2020, the Council confirmed that since the EIR was certified, there had been no substantial changes to the South of Tioga Project or to the circumstances under which it will be undertaken, and no new substantial information had become available, which would require further environmental review to be conducted. Therefore, no additional environmental review was necessary in order for the Council to take action on this Agreement. Thereafter, the Council approved this Agreement, and introduced Ordinance No. _____, after making the required findings. Subsequently, on October 20, 2020, the Council conducted a second reading on and adopted the foregoing ordinance approving this Agreement.
- K. Collectively, each of the permits, entitlements, and approvals for the South of Tioga Project referenced in Recitals D, F, G, and H above, along with this Agreement, shall each be referred to as a "**Current Approval**" and, collectively, "**Current Approvals**." The Current Approvals include the VTM; under applicable provisions of the Subdivision Map Act, once a vesting tentative map is approved or conditionally approved by the local land use agency, the developer may proceed with development in substantial compliance with the ordinances, policies, and standards in effect on the date that the developer's application for a vesting tentative map was deemed complete pursuant to Government Code Section 65943. However, here the Parties have determined that the vesting date for purposes of the Project shall be the Effective Date of this Agreement. Notwithstanding anything to the contrary in the foregoing, with respect to the Coastal Development Permits referenced in Recital H(3) and (4) above, the Parties recognize the continuing state authority of the California Coastal Commission under the Coastal Act (Pub. Res. Code § 30000 *et seq.*).
- L. City anticipates that during the Term (as that term is defined below) of this Agreement and subsequent to the Effective Date (as that term is defined below), Developer will seek from City (as well as other public agencies having jurisdiction over aspect(s) of the Project) certain other implementing approvals, entitlements, and permits that are necessary or desirable for the South of Tioga Project. Those Subsequent Approvals (as that term is defined below) consist of any approvals, entitlements and/or permits that may be necessary or desirable to develop the South of Tioga Project and may include, without limitation, tentative and final subdivision map(s), parcel map(s), lot line adjustment(s), conditional use permit(s), coastal development permit(s), design review,

site plan and architectural review, tree removal permit(s), sign permit(s), permit(s) under Section 404 of the Clean Water Act, permit(s) under the Federal Endangered Species Act and California Endangered Species Act, encroachment permit(s), vacation and/or abandonment of public roadway(s), demolition permit(s), grading permit(s), building permit(s), and/or certificate(s) of occupancy (each a "**Subsequent Approval**" and, collectively, the "**Subsequent Approvals**").

- M. The terms and conditions of this Agreement have undergone review by City staff, its Planning Department, and the City Attorney, as well as review by the Council at duly noticed public meetings and hearings and have been found to be fair, just, and reasonable, and in conformance with City's General Plan and City's Municipal Code; and, further, City finds that the interests of its citizens and the public health, safety, and welfare will best be served by entering into this Agreement.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the receipt and adequacy of which consideration is acknowledged, City and Developer agree as follows.

AGREEMENT

ARTICLE I. DESCRIPTION OF SUBJECT PROPERTY, PROPOSED DEVELOPMENT, EFFECTIVE DATE, AND TERM.

Section 1.01. **Description of Subject Property.** This Agreement vests the laws applicable to development of the South of Tioga Project on the Subject Property.

Section 1.02. **Proposed Development.** Subject to the terms and conditions of this Agreement, Developer shall have the vested right to construct the South of Tioga Project in accordance with the Current Approvals. Developer shall have the right to have Subsequent Approvals and amendments to the Current Approvals considered by City for approval or denial, based upon the terms, standards, criteria and requirements set forth in the Current Approvals in accordance with Developer's vested rights hereunder. In exercising its discretion when acting upon Subsequent Approvals, City shall apply the Current Approvals as the controlling body of law within which City's discretion shall be exercised. Notwithstanding the foregoing or anything to the contrary herein, any Subsequent Approvals or any amendment to the Current Approvals shall not become part of the law Developer is vested into under this Agreement unless an additional amendment of this Agreement is entered into between Developer and City. Furthermore, City shall process applications for any amendment(s) to the Current Approval(s) proposed by Developer as well as any and all applications for Subsequent Approval(s) expeditiously and in accordance with this Agreement.

Section 1.03. **Effective Date.** The rights, duties, and obligations hereunder shall be effective, and the Term (as that term is defined in Section 1.05 below) shall commence on the "**Effective Date**," which shall be the effective date of this Agreement. The Effective Date shall be inserted above, where indicated. The Parties acknowledge that Section 65868.5 of the Development Agreement Statute requires that City record this Agreement with the Monterey County Recorder's Office no later than ten (10) days after the Parties enter into this Agreement and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties hereto, subject to the assignment provisions in Article IX below.

Section 1.04. Initial Term. The term of this Agreement shall commence on the Effective Date and shall expire five (5) years thereafter ("**Initial Term**") unless it is sooner terminated, modified or extended consistent with the terms hereof. This Agreement shall automatically terminate upon expiration of the Initial Term unless otherwise extended pursuant to Section 1.05 below, and shall, upon termination, be of no further force and effect except for the provisions of this Agreement that expressly survive termination. At such time as this Agreement expires, Developer shall thereafter retain no vested rights hereunder except as otherwise may survive pursuant to the provisions of this Agreement that expressly survive termination, and City shall have the right to apply new laws, regulations, and fees to the development of the Subject Property; provided, however, this Section 1.04 shall not be interpreted to diminish any vested rights that Developer may have obtained pursuant to the VTM and/or common law.

Section 1.05. Extended Term. The Term of this Agreement may be extended beyond the Initial Term only in the manner provided in this Section 1.05. The Initial Term, together with any extension(s) of the Initial Term under this Section 1.05, are collectively referred to as the "**Term.**" Unless earlier terminated pursuant to the terms hereof, following the expiration of the Term or the completion of the Project, whichever occurs earlier, and satisfaction of the Parties' respective obligations in connection therewith, this Agreement shall be deemed terminated and of no further force and effect, except for the provisions of this Agreement that expressly survive termination.

(a) First Term Extension. So long as Developer is in compliance with the terms and provisions of this Agreement, then Developer shall have the right, in its discretion, to extend the Initial Term by one (1) additional period of three (3) years. In the event Developer desires to so extend this Agreement, then Developer shall give the City Planning Department and the City Planner a written extension notice at least one hundred twenty (120) days before the end of the Initial Term.

(b) Additional Extensions; Tolling. In addition to the First Term Extension under Section 1.05(a) above, the Term may be further extended or tolled as provided in this Section 1.05(b); provided, however, that the period(s) during which this Agreement is extended and/or tolled under this Section 1.05(b) shall, under no circumstances, exceed a total of three (3) years, which three-year limit shall be calculated by combining any and all period(s) during which the Agreement is extended and/or tolled pursuant to this Section 1.05(b).

(i) Tolling for Third-Party Lawsuit. If any third party files a lawsuit to challenge this Agreement, City's CEQA determination made in connection with its consideration of this Agreement and/or any other Current Approval(s), any Subsequent Approval(s), or any action taken or finding made by City in connection with the Current Approvals or Subsequent Approvals (each, a "**Third-Party Lawsuit**"), Developer may request that the Term be tolled during the pendency of the Third-Party Lawsuit by providing a written notice ("**Tolling Notice**") to City within thirty (30) days after the commencement of the Third-Party Lawsuit, and said request shall be granted by City. The tolling of the Term shall automatically begin upon City's receipt of the Tolling Notice, and it shall end on the earliest of the following to occur: (A) the date on which a court issues a final judgment in the Third-Party Lawsuit and the expiration of all appeal period(s) following that judgment; (B) the date the Third-Party Lawsuit is dismissed; or (C) the end of the three (3) year period of combined tolling allowed under this Section 1.05(b). If in a Third-Party Lawsuit, the court issues a temporary restraining order or injunction prohibiting Developer from taking action(s) to proceed with the South of Tioga Project, the Term also shall automatically be tolled beginning on the date the temporary restraining order or injunction is issued, and ending on the earliest of the following to

occur: (1) the date the temporary restraining order or injunction is lifted or vacated; or (2) the end of the three (3) year period of combined tolling allowed under this Section 1.05(b).

(ii) Tolling for Initiative or Referendum. If the subject of an initiative or referendum petition would overturn, set aside, or substantially modify this Agreement, the other Current Approval(s) or the Subsequent Approval(s), or otherwise substantially impair the development of the South of Tioga Project, the Term of this Agreement shall be tolled under this Section 1.05(c)(ii). The Term shall be automatically tolled beginning on the date that the initiative or referendum petition is submitted to the Monterey County elections official for signature verification, and ending on the date the last of the following occurs: (A) the date the County elections official determines the petition does not include a sufficient number of signatures; (B) the date the measure is voted on by the Council; or (C) the date of the election on the measure, if placed on the ballot.

(iii) Extension for Enforced Delay. If Developer encounters an Enforced Delay (as defined in this Section 1.05(b)(iii)) and desires to extend the Term because of that delay, Developer shall give City written notice of the Enforced Delay. If that written notice does not state the duration of the Enforced Delay because the delay remains ongoing, Developer shall give City written notice of the date the Enforced Delay ends within ninety (90) days after the end of said delay. Following the end of the Enforced Delay, the City Planner shall provide Developer written notice of the extension of the Term, which shall be extended for as many days as the Enforced Delay occurred, as reasonably determined by the City Planner, but no longer than allowed under the terms of this Section 1.05(b). For the purposes of this Agreement, "**Enforced Delay**" means a delay arising only from one or more of the following: (A) a natural disaster or other force majeure event; (B) an accident that requires key Project development activities to stop; (C) acts or failures to act of any governmental agency that significantly delays or prevents Developer from developing the South of Tioga Project as a result of a failure to issue Subsequent Approval(s) (except that acts or failures to act of City shall not excuse performance by City); (D) moratorium; (E) the lack of provision of necessary services, or interruption thereof, by suppliers for a substantial period of time including, without limitation, wet and dry utility provider(s); (F) riots, insurrections; or (G) pandemics, epidemics, quarantine or shelter in place restrictions and/or government orders related thereto.

ARTICLE II. STANDARDS, LAWS, AND PROCEDURES GOVERNING THE PROPOSED DEVELOPMENT.

Section 2.01. Vested Right to Develop. In recognition of the extraordinary, long-term investment in planning, engineering, design, technical review, and legal resources necessary to develop the Subject Property with the Project, subject to the terms of this Agreement, Developer shall have the right to develop the South of Tioga Project in accordance with all valid applicable written ordinances, resolutions, statutes, codes, laws, rules, regulations, initiatives, referenda, and/or official policies of City, including, without limitation, City's zoning code (SCMC Title 18); City's General Plan; City's environmental laws, entitlements, approvals, licenses and permits issued to Developer by City (including, without limitation, the Current Approvals), and City's franchise agreements, in effect on the Effective Date of this Agreement (collectively, "**City Rules**") and to have Subsequent Approval(s) considered for approval or denial based upon the terms, provisions, standards, criteria and requirements set forth in such City Rules. Except as otherwise provided in this Article II, this Agreement does not vest and Developer agrees to pay as provided below: Impact Fees (as that term is defined below), Exactions (as that term is defined below), permit processing and inspection fees and charges, and utility fees (including taxes, assessments, fees and charges) that are in place and effective at such time as said fees

and charges are then due. Provided, however, that nothing in this Section 2.01 precludes Developer from protesting and/or challenging any underlying nexus fee study or other technical basis relied upon by City to adopt any such fees and/or charges, except as provided in Section 2.08(a) with respect to Quimby Act Obligations (as that term is defined below).

Section 2.02. Development Standards. The permitted uses of the Subject Property, the density and intensity of uses, the maximum height, bulk, and size of the proposed buildings, provisions for reservation or dedication of land for public purposes and the location of public improvements, the general location of public utilities, and other terms and conditions of development applicable to the South of Tioga Project shall be as set forth in the Current Approvals.

Section 2.03. Vested Against Moratoria, Quotas, Restrictions or Other Growth Limitations. Subject to applicable law relating to the vesting provisions of development agreements, City agrees that, except as otherwise expressly provided in or expressly limited by the provisions of this Agreement, this Agreement vests the Project against subsequent City Rules that would directly or indirectly limit the rate, timing, or sequencing of development of the Project on the Subject Property, or prevent or conflict with the permitted uses, or the density or intensity of uses, or the terms, provisions, criteria, standards or requirements for development, as set forth in the Current Approvals and the Subsequent Approval(s) as and when approved.

Section 2.04. Vested Rights Exclude Design and Construction. All ordinances, resolutions, rules, regulations, initiatives, and official policies governing the design, improvement, engineering standards, and construction standards and specifications applicable to public infrastructure for the Project, including the Public Improvements (as that term is defined below) to be constructed by Developer, shall be those in force and effect at the time of approval by City of the applicable Subsequent Approval.

Section 2.05. Vested Rights Exclude Building and Fire Codes. Notwithstanding the foregoing or anything to the contrary in this Agreement, City shall apply to the South of Tioga Project the applicable provisions of the California Building Code, Residential Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code, Water Conservation laws, Energy Code, Green Building Standards, as may be amended from time to time, as adopted by the City of Sand City, any City specifications, and Federal Americans with Disabilities Act (ADA) (collectively, "**Applicable Uniform Codes**") in effect at the time the applicable building, grading, encroachment or other construction permit is submitted for review for the Project. If no construction permit is required for infrastructure improvement(s), such improvement(s) shall be constructed in accordance with the Applicable Uniform Codes in effect at the time of approval by City of the improvement plans for such infrastructure. If a building, grading, encroachment or other construction permit that has been granted subsequently expires prior to commencement of construction of the Project improvement at issue, the relevant Project improvement covered by said expired permit shall be required to be constructed in accordance with the provisions of the Applicable Uniform Codes in effect at the time the applicable replacement permit is granted for the Project.

Section 2.06. Vested Rights Exclude Processing Fees and Charges. Due to the scope and scale of the Project, City expenses to process the Subsequent Approval(s) and to conduct plan check and inspections are expected to exceed City's standard processing fee schedule. Rather than pay the standard processing fees as set forth in City's adopted fee schedule in place as of the Effective Date, Developer shall pay City the actual cost of time and expenditures of City employees, attorneys and consultants directly spent to process the

Subsequent Approval(s) and to conduct plan check and inspections for the Project (collectively, "**City Processing Costs**"). The City Processing Costs shall be subject to the hourly rates charged not exceeding those specified in attached Exhibit C, which rates shall be subject to annual increases for inflation pursuant to the CPI (as that term is defined below), and further subject to City's provision of reasonable documentation to Developer in the form of monthly invoice(s) that detail the City Processing Costs for both individual personnel and specific cost expenditures (e.g., copying, etc.).

Section 2.07. Vested Rights Exclude Changes in State or Federal Laws. This Agreement shall not preclude the application to development of the Subject Property of changes in City Rules, the terms of which are specifically mandated and required by changes in state or federal law(s) and/or regulation(s). In the event that state and/or federal law(s) and/or regulation(s) enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, the Party identifying the conflict shall provide the other Party, as soon as practicable after the conflict becomes known to the notifying Party, written notice of the conflict, a copy of the law(s) and/or regulation(s) that give rise to the conflict, and a statement explaining the nature of the conflict. Within thirty (30) days after that notice is given, the Parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement so as to comply with the state and/or federal law(s) and/or regulation(s) giving rise to the conflict, pursuant to Government Code section 65869.5. If Developer does not consent to an amendment that is required to make this Agreement consistent with state and/or federal law(s) and/or regulation(s) in accordance with Government Code section 65869.5, City shall provide Developer written notice of the immediate suspension of this Agreement, and the Agreement shall remain suspended until the date the Agreement is so amended. The Term shall not be tolled or extended for any period of suspension under this Section 2.07.

Section 2.08. Vested Rights Exclude Most Development Impact Fees. Except as provided for in subsections (a) and (b) below, this Agreement does not vest Developer with any rights with respect to payment of Impact Fees. Developer shall pay the applicable Impact Fee(s) that are in place at the time said fees are due and payable, subject to Developer's right to protest and/or pursue a challenge in law or equity to any such fee(s) as provided for under applicable laws and regulations. Notwithstanding anything to the contrary in the foregoing, nothing in this Section 2.08 shall preclude City from nor commit City to allowing Developer to pay certain of its Impact Fees prior to issuance of certificates of occupancy, rather than prior to issuance of building permits. "**Impact Fee(s)**" means any monetary amount charged by City or other governmental or quasi-governmental agency in connection with a Project Approval in order to lessen, offset, mitigate or compensate for the impacts of development of the Project on the environment; facilities, services, improvements and/or infrastructure; or other public interests, including, without limitation, any "fee" as that term is defined by Government Code section 66000(b) as well as any fee imposed "in lieu of" an Exaction. "**Exaction**" means an exaction that may be imposed by City as a condition of developing the Project, including, without limitation, requirements for acquisition, dedication or reservation of land; and obligations to construct on-site or off-site public and private infrastructure improvements such as roadways, utilities or other improvements; this is the case whether such exactions constitute subdivision improvements, mitigation measures in connection with environmental review of the Project, or impositions made under the City Rules. A requirement imposed by City or other governmental or quasi-governmental authority on the Project that meets both the definitions of an Impact Fee and an Exaction shall be considered to be an Impact Fee.

(a) **Parkland Exaction and Impact Fee Obligation.** Developer shall vest into the parkland dedication and fee obligations set forth in Sand City Municipal Code

Chapter 17.68 (collectively, "**Quimby Act Obligations**") that are in place as of the Effective Date, and shall satisfy same and Condition I.2 of the VTM as provided in this Section 2.08(a). The Parties acknowledge and agree that pursuant to the Council's authority granted under Government Code Section 66477 and Sand City Municipal Code Chapter 17.68, the Council has determined by Resolution SC 20-09 (2020) that the Project shall receive discretionary credits for private open space provided by the Project as set forth in Resolution SC 20-09 (2020). The effect of the Council action set forth in the foregoing resolution is that no Exactions or Impact Fees for parkland and/or park and recreational facilities shall be imposed on the Project, provided that the proposed areas and design of open space and recreational areas in the Subsequent Approval(s) are consistent with those proposed by Developer and referenced in Resolution SC 20-09 (2020). The Parties further acknowledge and agree that the Council's determination of the applicable fee credit with respect to the Project's Quimby Act Obligations as reflected in this Section 2.08(a) and Resolution SC 20-09 (2020) shall be conclusive.

(b) **Affordable Housing Obligations.** The Project hereby vests into, and shall be required to satisfy, the affordable housing obligations expressly set forth in Condition A.16 of the VTM, and City shall not impose on the South of Tioga Project any affordable housing and/or inclusionary housing obligations other than those set forth in Condition A.16 of the VTM.

Section 2.09. Priority of Enactments. In the event of any conflict or inconsistency between this Agreement and any of the other Current Approval(s), or between this Agreement and any Subsequent Approval(s), to the fullest extent legally possible, this Agreement shall prevail and control.

Section 2.10. Life of Vesting Tentative Map and Other Approval(s). The term of all Current Approvals including, without limitation, the VTM (pursuant to Government Code section 66452.6(a)), shall be deemed extended for the longer of the Term of this Agreement or the term otherwise applicable to such Current Approval(s).

Section 2.11. Intentionally Omitted.

Section 2.12. Timing and Security for Construction of Specified Public Improvements and Rough Grading.

(a) As required in the VTM, the Project is intended to be developed in three (3) phases, "with Phase 1 consisting of the public improvements, completion of new public streets and rights-of-way, utility and infrastructure installation, and preparation of development pads on each of the Project's newly created parcels (H1, H1-A, H2, H-2A, R1, & R2)." VTM COA(A)(2) states in part: "All public infrastructure along Tioga Avenue, California Avenue, East Avenue, and Road 'A', shall be constructed and accepted by the City as part of the First Phase of development (Phase 1) and prior to the development of any pad within the Project." Together, the public improvements described in this Section 2.12(a), consisting of the Project's public streets and road rights-of-way along with the related utilities, landscaping and lighting installed thereon shall be collectively referred to herein as the "**Public Improvements.**" Furthermore, the Parties acknowledge and agree that the reference in the foregoing conditions to "preparation of development pads" shall mean rough grading of the Subject Property as part of this initial phase of development, which Developer shall be required to complete. Construction of the Public Improvements and the related rough grading of the Subject Property shall be referred to herein collectively as "**Phase 1.**" Pursuant to Section 2.04 of this Agreement, Developer shall adhere to all applicable City standards and requirements in constructing the Public Improvements and

related rough grading in force and effect at the time of approval by City of the applicable Subsequent Approval, including, without limitation, installing street improvements such that they are installed utilizing the existing road thickness profile under the relevant traffic index and consistent with the Project's approved off-site improvement plans.

(b) The Parties agree that the Public Improvements and the related rough grading shall be constructed as Phase 1 of the Project, and that Phase 1 shall be constructed as the first (1st) phase of the Project by Developer. Notwithstanding anything to the contrary in the foregoing, Developer shall have the right, in its sole and absolute discretion, to construct remaining phase(s) concurrent with or subsequent to Phase 1 and in whatever order it deems appropriate.

(c) The Parties agree that prior to the earlier of (i) the approval of the first (1st) final map or (ii) the issuance of any demolition permit for demolition of any public property, Developer shall provide City with bond(s), letter(s) of credit or other security acceptable to City sufficient to secure completion of all Developer's obligations to construct the Public Improvements and related rough grading of the Subject Property, subject further to Section 3.01 below ("**Public Improvement and Rough Grading Construction Security**"). The Public Improvement and Rough Grading Construction Security obligations shall be reflected in a subdivision improvement agreement executed by the Parties, and shall be in the nature and amounts specified in applicable provisions of the Subdivision Map Act and City's Subdivision Ordinance ("**Subdivision Improvement Agreement**"). Once the Public Improvements are accepted by City and the related rough grading is inspected by City and subject to Developer's replacement of the Public Improvement and Rough Grading Construction Security with the Project Construction Damage Security (as that term is defined below) required under Section 3.01 below, the Public Improvement and Rough Grading Construction Security shall be promptly released to Developer in accordance with the terms and conditions of the Subdivision Improvement Agreement. Developer agrees that City may enforce the security and complete the Public Improvements and related rough grading if Developer does not complete construction of same within three (3) years of the date the obligation to provide the Public Improvement and Rough Grading Construction Security pursuant to this Section 2.12(c) was triggered (namely, by earlier of the approval of the first (1st) final map or the issuance of any demolition permit for demolition of any public property); this is the case even if Developer is unable to complete the acquisition of the Streets Parcels and make them a part of the Project. Provided, however, that nothing in this Section 2.12(c) shall prevent City from granting extension(s) of time for completion of the Public Improvements and related rough grading pursuant to the terms and conditions in the Subdivision Improvement Agreement. For the avoidance of doubt, Developer agrees that the Public Improvement and Rough Grading Construction Security may be used by City to complete the Public Improvements and related rough grading if Developer does not complete the same within the time frame specified herein and this is the case even if Developer is unable to complete the acquisition of the Street Parcels and make them a part of the Project.

Section 2.13. Timing of Construction and Completion of Project.

(a) Subject to (i) the Phase 1 phasing requirements set forth in Section 2.12 above; (ii) the security obligations set forth in Section 2.12 above, including timing requirements; and (iii) the obligations to Substantially Complete a Project phase, once commenced, pursuant to subsection (b) below, the Parties acknowledge and agree that Developer shall have the right, in its sole and absolute discretion, to decide whether to commence construction of the Project, and thus Developer has the right to elect not to proceed with the Project (all or any phase(s) thereof) for any reason or for no reason. If Developer

elects, in its sole and absolute discretion, to commence construction of the Project (all or any phase(s) thereof), then Developer shall also have the right to develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its discretion. If Developer so elects to commence construction of the Project (all or any phase(s) thereof) and after Developer has obtained all necessary Subsequent Approvals to commence construction of the phase at issue, then Developer shall notify City in writing of said election within thirty (30) days of commencing construction ("**Developer Notice of Election to Commence Construction**"). Provided, however, that Developer's election to commence construction of a phase of the Project shall not be treated as an election to commence construction of any other phase(s) of the Project.

(b) If Developer elects to commence construction of any portion of the Project (whether it be Phase 1 initially or any remaining phase(s) thereafter), as evidenced by a Developer Notice of Election to Commence Construction of a particular phase, then the Parties shall use diligent and good faith efforts to take all actions that are necessary or desirable to Substantially Complete the relevant phase(s) as soon as commercially practicable. "**Substantially Complete**" shall mean that the improvement at issue has been completed such that it can be used for its intended purpose(s). To that end, within sixty (60) days of the Effective Date, the Parties shall work cooperatively to prepare a Schedule of Performance to set forth the anticipated key milestones and time frames to implement the Project as contemplated herein. Said Schedule of Performance may be amended from time to time by the Parties' mutual consent, and shall reflect the Parties' diligent and good faith efforts to achieve the key milestones and time frames reflected therein. Notwithstanding anything to the contrary in the foregoing, the Schedule of Performance shall not be treated as setting forth mandatory obligations, but rather is intended by the Parties to set forth a mutually acceptable "road map" to achieve the purposes of this Agreement.

Section 2.14. Actions by Other Public Agencies Necessary to Implement the Approvals. Subject to Developer's election rights under Section 2.13 above, Developer shall be responsible for securing any and all Subsequent Approvals from other public agencies. Provided, however, upon Developer's request, City shall provide reasonable cooperation and assistance to Developer to process applications for such Subsequent Approvals. City's cooperation and assistance could include, without limitation, promptly answering reasonable questions about the Project in person or in writing, as well as other reasonable requests made by Developer and/or the relevant public agency, but shall not include City assuming a lead role with any other public agencies, taking or threatening legal action, nor taking positions that are inconsistent with any City law in effect on the Effective Date of this Agreement. Developer shall pay for City's actual costs that City incurs in connection with its obligations under this Section 2.14.

ARTICLE III. DEVELOPER'S ADDITIONAL OBLIGATIONS.

Section 3.01. Developer Obligations and Security For Damage to Public Improvements and Related Rough Grading.

Subject to Developer's election rights under Section 2.13 above, in addition to the time, amount, and other limitations on improvement security in Sand City Municipal Code ("**SCMC**") sections 17.40.170, 180, and applicable provisions in the Subdivision Map Act, the Parties agree to subsections (a) and (b) below with respect to the Public Improvements and Rough Grading Construction Security and the Project Construction Damage Security.

(a) The form of security that Developer will provide for purposes of the Public Improvement and Rough Grading Construction Security as well as the Project Construction Damage Security shall be either bond(s) or letter(s) of credit, the election of which shall be within Developer's sole discretion.

(b) Concurrent with City's release of the Public Improvement and Rough Grading Construction Security pursuant to Section 2.12(c) above, Developer shall provide City with the Project Construction Damage Security pursuant to subsection (c) below. The amount of the Project Construction Damage Security shall be based on an Engineer's estimate, subject to review and approval by the City Engineer, using reasonable assumptions and subject to the parameters and limitations set forth in this Section 3.01(b) and (c). The purpose of the Project Construction Damage Security is to secure Developer's obligations as follows. For the shorter of the Term of this Agreement or until the Project construction is complete, Developer shall: (i) remain responsible for the repair of all Public Improvements where such repair is triggered by Project Construction Damage (as that term is defined below) and (ii) Excessive Wear and Tear (as that term is defined below), subject to City granting all necessary approval(s) to allow Developer to perform such repair work once the improvement(s) at issue have been accepted by City. For purposes of this Agreement, "**Project Construction Damage**" shall be defined to consist of physical accidents or construction activities that occur in connection with Project construction that damage or destroy the Public Improvements as well as Excessive Wear and Tear (as that term is defined below) but shall exclude normal wear and tear that occurs as a result of the Project or wear and tear (whether normal or otherwise) from other non-Project users.

(c) "**Excessive Wear and Tear**" shall be defined to consist of Project construction activities that shorten the design life of any of the Public Improvements beyond the normal wear and tear these types of improvements would experience under normal loading following the date of City acceptance of the Public Improvements and shall be determined as follows:

(i) The new streets associated with the Project; i.e., Morgan's Way and East Avenue, shall be entered into the City's Pavement Management Program, "StreetSaver", and assigned a Pavement Condition Index (PCI) at the time of City's acceptance of same. As of the Effective Date, the existing, rehabilitated streets associated with the Project (i.e. Tioga Avenue and California Avenue) have already been entered into the StreetSaver program and their respective PCIs have already been evaluated. Upon issuance of a final certificate of occupancy for the last parcel within the Project, the PCI condition of each of these above-referenced streets shall be re-evaluated and compared to the projected, normal decrease in PCI over the same period as calculated by the StreetSaver software.

(ii) If the PCI for any street segment is determined to be less than the PCI projected by the StreetSaver software, this shall constitute Excessive Wear and Tear. Accordingly, Developer shall be responsible for rehabilitation of the corresponding street segment up to the PCI projected by StreetSaver; if this does not occur, then City shall have the right to perform such work utilizing the Project Construction Damage Security in the amount required for rehabilitation of the corresponding street segment up to the projected PCI in accordance with the terms of the Subdivision Improvement Agreement. Any such required rehabilitation of any street segment may include asphalt concrete overlay or reconstruction.

(d) In accordance with the timing requirements set forth in subsection (b) above, Developer) shall maintain bond(s) or letter(s) of credit in the amount of the Project Construction Damage Security required by and determined pursuant to this Section 3.01.

Section 3.02. Infrastructure and Maintenance Finance.

(a) The Parties acknowledge and agree that prior to issuance of the first (1st) building permit in the Project, Condition of Approval (A)(14) requires Developer to establish a financing mechanism to offset the increase in City service costs that will occur as a result of the Project. Pursuant to the terms and conditions set forth in this Section 3.02, the Parties shall cooperate in good faith to expeditiously prepare all necessary documentation, process, set for public hearing, and obtain approval in accordance with all applicable laws and regulations to establish a Mello Roos Community Facilities District (or similar financing mechanism) and fund such costs for the Project ("**CFD**"). Developer shall participate in, vote in favor of, and pay all actual, direct costs incurred by City in establishing the CFD and causing it to fund such costs, and Developer shall have the right to review and comment on all documentation and supporting technical reports prepared in connection with the CFD. Furthermore, the CFD shall adhere to the following parameters: (1) it shall only cover the municipal services set forth in subsection (b) below; (2) it shall only cover the cost of the level of service that is commensurate with that level of service being provided by City as of the Effective Date; and (3) the total annual amount of special tax to be imposed on the Project ("**CFD Tax**") shall not exceed, under any circumstances, the amount of Five Hundred and Fifty Thousand Dollars (\$550,000.00) in July 2018 Dollars, plus increases in the United States Department of Labor Consumer Price Index, San Francisco Area for All Urban Consumers ("**CPI**"). Once the CFD is established, Developer shall have no right to repeal or amend the amount of the CFD Tax, and Developer agrees not to seek any such repeal or amendment. CFD Tax payments for development located on each parcel within the Subject Property shall commence on the First of August following the issuance of the first (1st) certificate of occupancy issued for the Project. The CFD shall provide that on each July 1, commencing once the CFD has been established, the base year for special taxes shall escalate by the increase, if any, in the CPI. Provided, however, in no event shall the CFD Tax per parcel for any year be less than the amount established for the prior year.

(b) The CFD shall cover only the following municipal services: landscape maintenance, irrigation maintenance, costs for a sub-contract for tree trimming, storm drains, pest control, and litter control, utilities, open space maintenance, storm water maintenance, fire and emergency personnel services, law enforcement services, public work and city administration staffing and purchase of equipment directly connected to provision of the aforementioned services.

(c) In order to incentivize and stimulate the construction of the hotel on the Project in particular, and the Project overall, this subsection (c) creates a limited, temporary credit, which shall be in place for the Term of this Agreement, for certain Transient Occupancy Tax ("**TOT**") collected by the hotel on the Project which shall be credited to, and thereby reduce, the CFD Tax that will be due on all the parcels in the Project. The City and Developer currently forecast that the hotel on the Project will open in 2022 and annually produce \$1,683,000.00 to \$2,052,000.00 in TOT. The TOT is a revenue that goes into the City's General Fund. Each City fiscal year (July 1 – June 30) that the hotel on the Project collects and tenders to the City TOT in excess of One Million Sixty Thousand Dollars (\$1,060,000), excluding any enforcement costs incurred by the City in collecting the TOT and excluding any TOT that is collected and tendered to the City more than sixty (60) days after it is due, is a "**Credit Year.**" In the CFD Tax year (January 1 – December 31) immediately following each Credit Year, City shall transfer One Dollar (\$1.00) from the City General Fund to the CFD for each One Dollar (\$1.00) that would

otherwise be due from the CFD up to the full amount of the CFD in order to reduce the CFD Tax. The total sum transferred from the City General Fund to the CFD in any CFD tax year shall be the "**Credit**". The transfer from the City General Fund to the CFD shall be accomplished by the following procedure: (i) City shall transfer the Credit from the City General Fund to the CFD to be used for CFD expenses; (ii) City shall apportion the Credit based on the portion of the total CFD tax paid by each parcel; and (iii) on each tax bill, the CFD shall identify the apportioned Credit as a "One Time Tax Credit" and subtract it from the CFD Tax on the subject parcel. "[**A**]pportion the Credit" in this subsection (c) means that each parcel shall receive a portion of the Credit in the same percentage as that parcel's portion of the total CFD Tax in that CFD Tax Year. All Credit Years must be completed prior to the expiration of this Agreement. If the TOT that the hotel on the Project collects and tenders to City in a City fiscal year is any amount less than One Million Sixty Thousand Dollars (\$1,060,000), excluding any enforcement costs incurred by the City in collecting the TOT and excluding any TOT that is collected and tendered to the City more than sixty (60) days after it is due, that year is not a Credit Year and there is no Credit.

Any Assignment Agreement (as defined below) shall include an express waiver of election rights and assumption of obligations by Assignee regarding the CFD under this Section 3.02.

Section 3.03. Coastal Dune Scrub Habitat Area.

Consistent with VTM COA J(5), prior to issuance of the first (1st) grading permit for the Project, the Parties acknowledge and agree that Developer is required to record a conservation easement over an approximate 0.9-acre area ("**Dune Habitat Area**") to preserve and protect this area in perpetuity in accordance with the requirements set forth in the MMRP BIO-1 ("**Conservation Easement**"). Consistent with the foregoing condition, as of the Effective Date, Developer has obtained approval from California Department of Fish and Wildlife ("**CDFW**") of an Incidental Take Permit, Permit No. 2081-2018-078-04 ("**ITP**"). Subject to the qualifications set forth in this Agreement and in the ITP, the Parties acknowledge and agree that (a) the City shall be the holder of the Conservation Easement; (b) a qualified biological resources consulting firm, that is mutually agreed upon by the Parties, shall be the long-term land manager required under the ITP to ensure that the Dune Habitat Area is monitored and managed pursuant to the terms of the Conservation Easement; and (c) a Perpetual Funding Source, as defined below, will be mutually agreed upon and established prior to City's acceptance of the Conservation Easement.

City's acceptance of the Conservation Easement is subject to: (1) approval by CDFW; (2) the City Attorney's and City Manager's review and reasonable approval of all documents required to establish the Conservation Easement, which approval shall not be unreasonably withheld, delayed, or conditioned; (3) Developer's completion of all "start-up activities" required by the ITP (including but not limited to initial site protection; enhancement of habitat lands; conducting initial habitat enhancement; establishing fencing; preparing the financial management plan and biological assessment); (4) CDFW's acceptance of the habitat enhancement plan required by the ITP; and (5) the establishment of a permanent funding source sufficiently funded to provide for the perpetual management of the Dune Habitat Area ("**Perpetual Funding Source**"). The Perpetual Funding Source shall be established in accordance with all the terms of the ITP, including CDFW approvals, all Current Approvals, applicable laws and regulations, and shall be subject to the City Manager's reasonable review and approval, which approval shall not be unreasonably withheld, delayed, or conditioned. For the avoidance of doubt, the Parties agree that the City Manager's approval of the Perpetual Funding Source shall not seek to impose any condition or requirement that would be in addition to those imposed by the ITP and CDFW, with

the exception that a requirement that the actual and reasonable expenses incurred by City related to the grant and implementation of the Conservation Easement may be imposed. In the event a Third Party Lawsuit is brought challenging City's issuance of any Subsequent Approval for the Project based on alleged violations of the Federal Endangered Species Act or the California Endangered Species Act, Developer shall hold City harmless and indemnify City pursuant to Article VII below. Developer agrees to reimburse City for all actual, reasonable expenses incurred by City related to the grant and implementation of the Conservation Easement.

Section 3.04. Water Allocation, Inspections and Documentation of Water Credit.

(a) Existing Water Credit. The Parties acknowledge and agree that Developer has coordinated with the Monterey Peninsula Water Management District ("MPWMD") for on-site inspections to verify and document all available water credit within the Subject Property, which has been determined by MPWMD to be as set forth in attached Exhibit D ("Existing Water Credit"). The Parties further acknowledge and agree that Exhibit D and this Section 3.04(a) shall constitute sufficient documentation of the Existing Water Credit for purposes of City approving the City Water Allocations pursuant to Section 3.04(b) below.

(b) Water Allocations. The Project shall utilize the Existing Water Credit prior to utilizing any City Water Allocations (as that term is defined below). Irrespective of which South of Tioga Project parcel (H1, H1A, H2, H2A, R-1, or R-2) is developed first, the Existing Water Credit shall be allocated amongst these parcels consistent with the applicable MPWMD's regulations and policies. The Existing Water Credit allocated to each of the aforementioned parcels shall be entirely allocated to that individual parcel prior to City allocating water from its water entitlement (i.e., desalination facility) to that same parcel. City shall reserve and allocate water from its desalination facility to serve the Project in accordance with the Project water allocations set forth in Appendix 1 of the Project's EIR to the extent allowed and approved by the MPWMD. The amount provided via the Existing Water Credit shall be made available when needed to serve the Project, subject to the obligation in this Section 3.04(b) to utilize the Existing Water Credit first. City shall further ensure that it provides timely verification of this available supply to MPWMD in accordance with the applicable regulations and policies.

ARTICLE IV. RESERVED.

ARTICLE V. AMENDMENTS.

Section 5.01. Amendment or Cancellation of this Agreement. This Agreement may be amended from time to time, or canceled in whole or in part, only by mutual written consent of the Parties or their successor(s) in interest, in accordance with the Development Agreement Statute. Following any amendment of this Agreement, the amended Agreement shall be recorded in accordance with Government Code Section 65868.5.

ARTICLE VI. DEFAULTS; PERIODIC REVIEW.

Section 6.01. Violation of Other Project Approvals. Any failure by Developer to perform any material term, condition, or requirement of any Project Approval other than this Agreement shall be enforced by City pursuant to applicable provisions of the Sand City Municipal Code, State and Federal law and/or the specific provisions of the Project Approval at issue.

Section 6.02. Default and Notice of Default. Failure by either Party to perform any term or provision of this Agreement required to be performed by such Party, constitutes an event of default (“**Event of Default**” or “**Default**”). For purposes of this Agreement, a Party claiming another Party is in Default shall be referred to as the “**Complaining Party**,” and the Party alleged to be in Default shall be referred to as the “**Party in Default**.” If an Event of Default occurs, prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such Default (“**Notice of Default**”). Written notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure may be cured.

Section 6.03. Cure. Except as otherwise provided for in this Section 6.03, the Party in Default must cure the Default within thirty (30) days from the Notice of Default and the Complaining Party may pursue all available remedies against the Party in Default if the Party in Default fails to cure the Default within the 30-day time period. Notwithstanding anything to the contrary in the foregoing, if the nature of the alleged Default is such that it cannot reasonably be cured within thirty (30) days, the 30-day time period shall be tolled if: (a) the cure is commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the Party in Default’s receipt of the Notice of Default), the Party in Default provides written notice to the Complaining Party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure is completed at the earliest practicable date. In no event shall the Complaining Party be precluded from exercising remedies if a Default is not cured within ninety (90) days after the first (1st) Notice of Default is given. If an Event of Default where Developer is the Party in Default is not cured within the time frame(s) specified in this Section 6.03, then in addition to exercising any other available remedies, City may thereafter temporarily cease to issue any Subsequent Approval(s) for which an application has been filed for any portion(s) of the Subject Property then owned or controlled by the Party in Default until the Default is cured pursuant to the procedures in this Section 6.03. If the Event of Default is discovered or determined in the course of the Periodic Compliance Review (as that term is defined in Section 6.06 below), in addition to other remedies and potential cures, City shall have the statutory authority pursuant to Government Code Section 65865.1 to decide to terminate or modify this Agreement (as to the portion(s) of the Subject Property then owned or controlled by the Party in Default) following the opportunity to cure as provided in this Section 6.03. Provided, however, that any such decision to terminate or modify this Agreement shall be supported by substantial evidence in the record that demonstrates there is, in fact, a Default hereunder by the Party in Default. Notwithstanding anything to the contrary in the foregoing, a Default by one Developer shall not be considered a Default by any other Developer to the extent the obligation at issue has been assumed pursuant to Article IX below.

Section 6.04. Failure to Assert. Any failure(s) or delay(s) by a Complaining Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies. Furthermore, any delay(s) by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any action(s) or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

Section 6.05. Legal Proceedings. If the Party in Default fails to cure a Default in accordance with the provisions of Section 6.03 above, the Complaining Party, at its option, may institute legal proceedings against the Party in Default pursuant to this Agreement or terminate this Agreement as to the portion(s) of the Subject Property then owned or controlled by the Party in Default. Upon the occurrence of an Event of Default, the Parties may pursue all other

available remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement expressly including the remedy of specific performance by the Party in Default of its obligations under this Agreement. Provided, however, that in no event, except as provided in Sections 14.04 (Attorneys' Fees) and Article VII (Indemnity) of this Agreement, shall either Party be liable to the other Party for any monetary damage for claims arising out of this Agreement, and both Parties hereby expressly waive any such monetary damages.

Section 6.06. Periodic Review. No later than ten (10) months after the Effective Date, and no later than every twelve (12) months thereafter, Developer and the City Planner, or his or her designee, shall meet and review this Agreement annually pursuant to the Development Agreement Statute, to ascertain the good faith compliance by Developer with the Agreement's terms. If, as a result of City's periodic review of this Agreement, City determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms of this Agreement, City may terminate or modify this Agreement as to the portion(s) of the Subject Property owned or controlled by the Party in Default in accordance with the Development Agreement Statute as well as Section 6.03 above and Section 6.07 below. Failure of City to perform such periodic review is not a waiver of any City right under this Agreement to determine that Developer is in Default, nor shall any such failure constitute a determination by City that the Project is in compliance during such period. Upon the written request of Developer, City shall provide to the requesting Party a copy of all staff reports and related exhibits concerning performance under this Agreement and, to the extent practical, at least ten (10) calendar days prior to any such periodic review.

Section 6.07. Termination.

(a) Termination by City. If City elects to consider terminating this Agreement as to the portion(s) of the Subject Property that are owned or controlled by the Party in Default due to a material default by Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the Council in the manner set forth in the Development Agreement Statute. If the Council, in its reasonable discretion, determines that a material Default has occurred (and not been cured pursuant to Section 6.03 above) and elects to terminate this Agreement City shall give Developer by certified mail, written notice of termination of this Agreement under this Section 6.07 and this Agreement shall be terminated (as to the portion(s) of the Subject Property that are owned or controlled by the Party in Default) on the date that notice of termination is given. Notwithstanding anything to the contrary in the foregoing, Developer hereby reserve any and all rights it may have to challenge in court City's termination of this Agreement and the basis therefor.

(b) Termination by Mutual Consent. This Agreement may also be terminated in whole or in part by the mutual written consent of the Parties or their respective successor(s) in interest.

Section 6.08. Attorney's Fees. In any legal action or other proceeding, including an Enforcement Action, brought by either Party to enforce or interpret this Agreement, each Party shall bear its own costs and attorney's fees, unless a statute expressly provides otherwise.

Section 6.09. Estoppel Certificate. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting that the other Party certify in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended or modified either

orally or in writing, or if so amended, identifying the amendments; and, (iii) the requesting Party is not in Default in the performance of its obligations under this Agreement, or if in Default, describing therein the nature and amount of any such Default. A Party receiving a request hereunder shall execute and return such estoppel certificate, or give a written detailed response explaining why it will not do so, within sixty (60) days following the receipt of each such request. Each Party acknowledges that such an estoppel certificate may be relied upon by third parties acting in good faith. A certificate provided by City establishing the status of this Agreement with respect to the Subject Property or any portion thereof shall be in recordable form and may be recorded at the expense of the requesting Party.

ARTICLE VII. **INDEMNITY.**

Section 7.01. Indemnification from Construction, Improvement, Operation, and Maintenance Claims. Developer agrees to indemnify, defend with counsel selected by City and hold harmless City and its elected and appointed boards, commissions, officers, employees, independent contractors and agents (collectively, "**City Indemnitees**") from any and all liabilities, claims, demands, and losses, including for personal injury, death, and property damage, costs and expenses, including attorney's and expert's fees (collectively, "**Liabilities**") which may arise directly or indirectly as a result of any actions or inactions by Developer, or any actions or inactions of Developer's contractors, subcontractors, agents, or employees, in connection with the construction, improvement, operation, or maintenance of the Subject Property or the Project during the Term of this Agreement. Provided, however, that Developer shall have no indemnification obligation under this Section 7.01 with respect to the gross negligence or willful misconduct of City, or any of the City Indemnitee(s) regarding the construction, improvement, operation or maintenance of the Subject Property; furthermore, the Parties acknowledge and agree that Developer shall have no indemnification obligations whatsoever for any Liabilities which may arise directly or indirectly as a result of the use of the Public Improvement(s) after the time said improvement(s) have been dedicated to and accepted by City or another public entity (except if and to the extent provided for in the Sand City Municipal Code section 17.40.180 and the Subdivision Improvement Agreement or maintenance bond(s), and excluding Public Improvements that are damaged during construction and in need of repair under Section 3.1 of this Agreement). Notwithstanding anything to the contrary in the foregoing, Developer's indemnifications under this Section 7.01 are subject to the assignment, assumption and release provisions of Article IX below. The foregoing indemnification obligations shall survive the expiration or termination of this Agreement.

Section 7.02. Cooperation and Indemnification of City in Event of Legal Challenge to This Agreement, City Actions or Approvals. In the event of any Third Party Lawsuit, then the Parties agree to the following:

- (a) The Parties agree to cooperate in defending against the action or proceeding, with such cooperation efforts governed by Section 11.09 below;
- (b) Developer is solely responsible for its own costs and any costs incurred by City for such defense subject to the limitations set forth in Section 11.09 below;
- (c) Developer shall indemnify, defend with counsel selected by City and hold harmless City, and the City Indemnitees from any and all Liabilities subject to the limitations set forth in Section 11.09 below;

(d) Neither Developer nor City shall settle any action or proceeding on grounds that include non-monetary relief or admissions of liability without written consent of the other Party. City agrees to not settle any action based upon monetary relief without the written consent of Developer, unless City is solely liable and agrees to pay such monetary relief; and

(e) The provisions of this Section 7.02 shall survive the termination of this Agreement for a period of five (5) years thereafter.

ARTICLE VIII. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP.

The South of Tioga Project is a private undertaking of Developer. Neither Party is acting as the agent of the other in any respect hereunder. Each Party is an independent contracting entity with respect to the terms and provisions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership, joint venture, or joint enterprise between the Parties to this Agreement. Developer shall provide City copy of a fully executed Assignment and Assumption Agreement pursuant to Article IX below.

ARTICLE IX. SALE, ASSIGNMENT, OR TRANSFER.

Section 9.01. Subject to Section 9.02 below, Developer shall have the right to sell, assign, or transfer (collectively, "**assign**" or "**assignment**"), in whole or in part, this Agreement, and any and/or all of its rights, duties, and obligations hereunder, to any person or entity that is acquiring all or portion(s) of the Subject Property (each, an "**Assignee**") at any time during the Term so long as: (a) Developer provides City written notice at least forty-five (45) days in advance of any assignment of this Agreement; (b) Developer has paid City any and all fees or amounts due to City at the time of the assignment that (i) are expressly required under this Agreement, (ii) have been triggered as a result of the processing of Approval(s) prior to the assignment and which payment remains outstanding, or (iii) have otherwise been triggered as a result of the development of the Subject Property (or portion(s) thereof) to be assigned as a condition of approval of the Project; and (c) Developer provides to the City Manager an express written assignment by Developer and assumption by the Assignee of such assignment of Developer obligations under this Agreement which shall comply with Section 9.06 with regard to any partial assignment. The foregoing agreement shall be subject to City Attorney approval as to form and City Manager approval which shall not be unreasonably withheld, delayed or denied. A proposed draft of the assignment agreement is attached as Exhibit E ("**Assignment Agreement**"). After City Manager approval and recordation of the Assignment Agreement by Developer, Developer shall be released from any and all obligations under this Agreement assumed by Assignee under the Assignment Agreement. All Assignee(s) shall be treated as "Developer" for purposes of this Agreement with respect to the rights and obligations assumed by each respective Assignee under the Assignment Agreement.

Section 9.02. Notwithstanding Section 9.01 above, Developer shall not be permitted to assign the following obligations under this Agreement without the City Manager's prior written consent, which shall not be unreasonably withheld, delayed or denied and any such assignment shall be to a single entity: (a) Developer's obligation to construct Phase 1 as defined in Section 2.12(a) above; (b) Developer's obligation to record the Conservation Easement over the Dune Habitat Area pursuant to VTM COA J(5) and Section 3.03 of this Agreement; (c) Developer's obligation to establish the Perpetual Funding Source to carry out management of the foregoing habitat preservation area in perpetuity, as required by VTM COA J5(h) and Section 3.03 of this Agreement; (d) any required security obligations provided by Developer to City for improvements or other activities or obligations, including but not limited to the Public

Improvement and Rough Grading Construction Security and the Project Construction Damage Security as set forth in Article 3 of this Agreement unless Assignee provides replacement and equivalent security subject to the City Attorney's reasonable approval as to form; and (e) Developer's obligations regarding water allocations as set forth in Section 3.04 of this Agreement. Notwithstanding the foregoing, the City Manager's approval shall not be required under this Section 9.02 for an assignment to an entity controlling Developer, controlled by Developer, or under common control with Developer, provided that Developer owns and controls no less than fifty percent (50%) of such successor entity or controls the day-to-day management decisions of such successor entity.

Section 9.03. The City Manager shall consider and decide on any assignment of this Agreement pursuant to Section 9.02 above within thirty (30) days after receipt by the City Manager of Developer's notice of intent to assign and all necessary documents, certifications and other information from Developer to reasonably enable the City Manager to determine whether the proposed Assignee can perform Developer's obligations hereunder. The City Manager's consent to any proposed assignment pursuant to Section 9.02 above shall not be unreasonably withheld, delayed or denied and shall be subject to the standard set forth in Section 9.04 below. Notice of any such approved Assignment Agreement shall be recorded in the official records of Monterey County in a Memorandum of Assignment, in a form reasonably acceptable to the City Attorney, concurrently with such assignment.

Section 9.04. In considering the request to assign all or portion(s) of this Agreement pursuant to Section 9.02 above, the City Manager shall base the decision upon relevant factors such as the proposed Assignee's reputation, experience, financial resources (including, among others, access to credit), capability to successfully carry out the development of that portion of the Subject Property so assigned to completion consistent with the Approvals, and a confirmation that there is sufficient clarity in the allocation of rights and obligations as between Developer and the Assignee and between all Assignees in the Assignment Agreement.

Section 9.05. Developer may elect to withhold from an assignment of this Agreement, certain specified rights, interests and/or obligations which Developer wishes to retain, provided that Developer specifies any such rights, interests and/or obligations in the Assignment Agreement. Assignee shall then have no interest or obligation with respect to such rights, interests and obligations as set forth in the Assignment Agreement, and this Agreement shall remain applicable to Developer with respect to any such retained rights, interests and/or obligations.

Section 9.06. In the event of a partial Assignment, Developer and any proposed Assignee shall reasonably allocate their respective rights and obligations under this Agreement among the retained portion(s) of the Subject Property and the assigned portion(s) of the Subject Property in the Assignment Agreement. The allocation of rights and obligations under the Assignment Agreement shall be subject to the review and reasonable approval of the City Attorney to confirm the following: (a) that the obligations set forth in Section 9.02 are reflected as required; and (b) the allocation provided for under the Assignment Agreement clearly sets forth which party (i.e., Assignee or Assignor) is required to satisfy specific obligations under this Agreement so as to enable City to effectively enforce its rights under this Agreement. Each Assignee shall be solely responsible for the reporting and periodic review requirements under Section 6.06 above relating to the portion(s) of the Subject Property owned by such Assignee. Any amendment to this Agreement between City and an Assignee shall only affect the portion(s) of the Subject Property owned by such Assignee.

ARTICLE X.

NOTICES.

Unless this Agreement expressly provides otherwise, any notice, demand, or communication required hereunder between City and Developer shall be in writing, and may be given either personally, by overnight delivery, or by registered or certified mail (return receipt requested) to the address specified below. A courtesy copy shall be provided by email but shall not constitute notice:

Sand City:

City of Sand City
Attn: City Planner
1 Pendergrass Way
Sand City, CA 93955
email: Chuck@sandcityca.org
With a copy to:

City Manager
City of Sand City
1 Pendergrass Way
Sand City, CA 93955
email: aaron@sandcityca.org

With a copy to:

City Attorney
City of Sand City
1 Pendergrass Way
Sand City, CA 93955
email: vibeke@vnorgaardlaw.com

DBO Development No. 30, LLC

DBO Development No., 30, LLC
Attn: Contract Administrator
10 Harris Court, Suite B-1
Monterey, CA 93940
email: propertyteam@oroscogroup.com

With a copy to:

Miller Starr Regalia
Attn: Nadia L. Costa
1331 N. California Blvd.
Walnut Creek, CA 94596
email: nadia.costa@msrlegal.com

A Party may change its address listed above by giving the other Party written notice in accordance with this Article X at least (ten) 10 days before the change in address becomes effective. Unless this Agreement expressly provides otherwise, a notice shall be deemed

effective on the day it is given if given personally, on the next business day following the date of deposit for overnight delivery, and three (3) business days following the date of mailing if given by registered or certified mail (return receipt requested).

ARTICLE XI. **MISCELLANEOUS.**

Section 11.01. Capitalized Terms. The capitalized terms used throughout this Agreement shall have the meaning assigned to them herein or as otherwise apparent from the context in which they are used.

Section 11.02. No Third Party Beneficiary Rights. This Agreement is not intended nor shall it be construed to create any third party beneficiary rights in any person or entity that is not a Party to this Agreement.

Section 11.03. Governing Law. Interpretation of Agreement. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be brought in the Superior Court of California, Monterey County or, in the case of any federal claims, in the United States District Court, Central District of California.

Section 11.04. Severability. If any term of this Agreement, or its application to any situation, is held invalid or unenforceable in whole or in part for any reason, in a final judgment that is no longer subject to rehearing, review or appeal by a court of competent jurisdiction, then the invalid term is severed, and the remaining parts of this Agreement, and the application of any part of this Agreement to other situations, shall continue in full force and effect unless an essential purpose of this Agreement would be defeated by the loss of the invalid or unenforceable provisions, in which case either Party may terminate this Agreement by providing written notice thereof to the other.

Section 11.05. Covenants Running with the Land. Except as otherwise provided in this Agreement, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, Assignees, representatives, lessees and all other persons acquiring the Subject Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the terms and provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, without limitation, California Civil Code section 1468. Each covenant to do, or refrain from doing, some act on the Subject Property, or with respect to the Subject Property: (i) is for the benefit of the Subject Property and is a burden upon the Subject Property; (ii) runs with the Subject Property; and (iii) is binding upon each Party and each successive owner during its ownership of the Subject Property or any portion thereof, and shall be a benefit to and a burden upon each Party and its property hereunder and each other person succeeding to an interest in the Subject Property.

Section 11.06. Further Acts. Each Party shall execute and deliver any and all additional documents and instruments, and perform such further acts, that the executing, delivering, or performing Party determines, in its reasonable discretion, to be necessary or proper to achieve the purposes of this Agreement.

Section 11.07. Counterparts. This Agreement, and any and all amendments and supplements to it, may be executed in counterparts, and all counterparts together shall be construed as one document.

Section 11.08. Recordation of Agreement. Not later than ten (10) days after the Parties enter into this Agreement, the City Clerk of Sand City shall cause this Agreement to be recorded in the Official Records of Monterey County. Developer shall reimburse City for the cost to record this Agreement within thirty (30) days after Developer receives City's written request for reimbursement.

Section 11.09. Cooperation in the Event of Legal Challenge.

(a) **In General.** In the event of any Third Party Lawsuit, the Parties agree to cooperate in defending the Third Party Lawsuit in accordance with the terms of this Section 11.09. The Parties shall keep each other informed of all developments relating to such defense, subject only to confidentiality requirements that may prevent the communication of such information. The obligations of this Section 11.09 shall survive the expiration or termination of this Agreement for a period of five (5) years.

(b) **Meet and Confer.** If a Third Party Lawsuit is filed, upon receipt of the petition or complaint, the Parties shall have twenty (20) days to meet and confer regarding the merits of such Third Party Lawsuit to determine whether they will jointly defend against the Third Party Lawsuit, which period may be extended by the Parties' mutual agreement so long as it does not adversely and materially impact any litigation deadlines. City and Developer shall mutually commit to meet all required litigation timelines and deadlines. If City and Developer agree jointly to defend the Third Party Lawsuit, they shall expeditiously enter a joint defense agreement, which shall include, among other things, provisions regarding the preservation of confidential communications. The City Manager is authorized to negotiate and enter such joint defense agreement in a form reasonably acceptable to the City Attorney and Developer's attorneys. Such joint defense agreement shall also provide that any proposed settlement of a Third Party Lawsuit shall be subject to City's and Developer's approval, each in its reasonable discretion. If the terms of the proposed settlement would constitute an amendment or modification of this Agreement, the settlement shall not become effective unless and until such amendment or modification is approved by Developer, and by City in accordance with Applicable Laws, and City reserves its full legislative discretion with respect thereto.

(c) **Defense Election.** If, after meeting and conferring, the Parties mutually agree (each in its sole discretion) to defend against the Third Party Lawsuit, then the following shall apply:

(i) For the purposes of cost efficiency and coordination, the Parties shall first consider defending the Third Party Lawsuit with common counsel and under terms of a joint representation agreement mutually acceptable to City and Developer (each in its sole discretion), at Developer's sole cost and expense.

(ii) If the Parties cannot reach timely and mutual agreement on a joint counsel, and Developer continues to elect (in its sole discretion) to defend against the Third Party Lawsuit, then:

(A) Developer may, in its sole discretion, elect to be represented by the legal counsel of its choice;

(B) City may, in its sole discretion, elect to be separately represented by the City Attorney (and/or outside legal counsel of its choice) in any such action or proceeding with the reasonable costs of such representation to be paid by Developer. City reserves its right to protect City's interests, and City shall make good faith efforts to maximize coordination and minimize its City Attorney and any outside legal costs (for example, minimizing filing separate briefs, and duplication of effort to the extent feasible);

(C) Developer shall reimburse City, within twenty (20) business days following City's written demand therefor, which may be made from time to time during the course of such litigation, all necessary and reasonable costs incurred by City in connection with the Third Party Lawsuit, including City's administrative, outside legal fees and costs, and court costs.

For any Third Party Lawsuit which Developer has elected to defend under this Section 11.09, Developer shall indemnify, and hold harmless City pursuant to Developer's indemnity obligations under Article VI above.

(d) **Developer Election Not To Defend.** If, after meeting and conferring, Developer elects, in its sole and absolute discretion, not to defend against the Third Party Lawsuit, it shall deliver written Notice to City regarding such decision. If Developer elects not to defend, City has the right, but not the obligation, in its sole discretion to proceed to defend against the Third Party Lawsuit with the reasonable costs of such representation to be paid by Developer, and in the case that Developer elects not to defend against the Third Party Lawsuit, then City has the right to rescind and void any Current Approval(s) or Subsequent Approval(s) that are the subject of such Third Party Lawsuit, including without limitation this Agreement. In the alternative, if Developer and City both elect not to defend against the Third Party Lawsuit, Developer shall remain obligated to indemnify and hold City harmless as set forth in Article VI above. If, however, City elects to proceed with litigation for its own interests-after Developer has elected not to continue to proceed with litigation, Developer will be responsible for all costs incurred until the election date and Developer will have no indemnification obligations

(e) **Waiver.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or waiver of a subsequent breach of the same or any other provision of this Agreement.

Section 11.10. Bankruptcy. The obligations of this Agreement are not intended to be dischargeable in bankruptcy.

Section 11.11. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the representative legal entities of Developer and City.

In witness whereof, the Parties have entered into this Agreement as of the Effective Date.

DEVELOPER:

DBO DEVELOPMENT NO. 30, LLC

By: _____

THE CITY:

CITY OF SAND CITY

By: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibits

Exhibit A – Legal Description of the Subject Property

Exhibit B – Map of the Subject Property

Exhibit C – City Processing Costs

Exhibit D – Existing Water Credit

Exhibit E – Form of Assignment and Assumption Agreement

EXHIBIT A. Legal Description of the Subject Property.

[Remainder of page left blank]

The land referred to is situated in the County of Monterey, City of Sand City, State of California, and is described as follows:

PARCEL ONE: (DBO Development No. 30)

All of the land within the solid red boundary line of the map entitled "Existing Lots & Proposed Boundary West End Sand City Vesting Tentative Map" dated December 11, 2017, Project 3571.00 prepared by Whitson Engineers.

EXCEPTING THEREFROM those portions that lie within Parcels Nine, Ten, Eleven, Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Seventeen and Eighteen described below:

PARCEL NINE: (Gill)

That portion of Lincoln Avenue and East Avenue that would pass with a conveyance of Lots 25, 27 and 28 in Block 12, Seaside Addition to the Town of East Monterey filed for record July 16, 1889 in the office of the County Recorder of in the County of Monterey, State of California, in Volume 1 of Cities and Towns, Page 29 that lies within the bounds of the solid red boundary line of the map entitled "Existing Lots & Proposed boundary West End Sand City Vesting Tentative Map" dated December 11, 2017, Project 3571.00 prepared by Whitson Engineers.

APN of adjoining lots: 011-133-010 and 011-133-011

PARCEL TEN: (Wilson)

That portion of Lincoln Avenue and East Avenue that would pass with a conveyance of Lots 24, 25, 26 and 27 in Block 18, Seaside Addition to the Town of East Monterey filed for record July 16, 1889 in the office of the County Recorder of in the County of Monterey, State of California, in Volume 1 of Cities and Towns, Page 29 that lies within the bounds of the solid red boundary line of the map entitled "Existing Lots & Proposed boundary West End Sand City Vesting Tentative Map" dated December 11, 2017, Project 3571.00 prepared by Whitson Engineers.

APN of adjoining lots: 011-125-053, 011-125-054 and 011-125-055

PARCEL ELEVEN: (Gill)

That portion of Beach Way and Fir Avenue that would pass with a conveyance of Lot 28, in Block 27, "Map No. 3 Hot Springs Tract", in the County of Monterey, State of California, filed April 1, 1912 in the Office of the County Recorder of said County, Volume 2, Page 35, of Maps of "Cities and Towns" that lies within the bounds of the solid red boundary line of the map entitled "Existing Lots & Proposed boundary West End Sand City Vesting Tentative Map" dated December 11, 2017, Project 3571.00 prepared by Whitson Engineers.

APN of adjoining lot: 011-123-019

PARCEL TWELVE: (City of Sand City)

A portion of Rancho Noche Buena, Monterey County, California, State of California, and being part of Block 46 as said Block, is shown and so designated on that certain Map entitled "Map of First Addition in the Town of East Monterey" filed March 22, 1888, in Volume 1 of Maps of Cities and Towns at Page 24, Records of Monterey County, California, particularly described as follows to wit:

Beginning at the most Westerly corner of the aforesaid Block 46, "First Addition to the Town of East Monterey;" said corner being common to the most Northerly corner of "East Monterey" as per Map thereof filed October 18, 1887, in Volume 1 of Cities and Towns at Page 22, Records of Monterey County, California; thence from said place of beginning following the Northwesterly boundary of said Block 46

(1) N. 19° 15' E., 75.82 feet more or less to the Northwesterly corner of said Block 46; thence following the Northerly boundary of said Block 46

(2) East 206 feet more or less to a point in the Westerly right of way line of the Southern Pacific Railroad, said point being the most Easterly corner of said Block 46; thence leaving the Northerly boundary of said Block 46

(3) S. 72° 47' W., 241.84 feet more or less to the place of beginning.

Being the same land that was described in the Grant Deed from Houghton M. Roberts et al. to the County of Monterey recorded December 17, 1954 in Book 1575 of Official Records, Page 1 under Recorder's Serial Number 35853.

APN of adjoining lot: 011-201-010

PARCEL THIRTEEN: (City of Sand City)

Lots 21 and 22, Block 28, as said lots and block are shown on that certain map entitled, "Map No. 3, Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912 in the office of the Recorder, County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns", at Page 35.

Being the same land that was described in the Grant Deed from Harry F. Mooney to the City of Sand City, a municipal corporation recorded May 20, 1965 in Reel 406 of Official Records, Page 760 under Recorder's Serial Number 72585.

EXCEPTING THEREFROM that portion of California Avenue that would pass with a conveyance of Lots 21 and 22, Block 28, as said avenue, lots and block are shown on that certain map entitled, "Map No. 3, Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912 in the office of the Recorder, County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns", at Page 35.

APN of adjoining lot: 011-136-012

PARCEL FOURTEEN: (City of Sand City)

Lots 27 and 54, in Block 27, as shown on that certain map entitled, "Map No. 3 Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., Surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912 in the office of the County Recorder of the County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns", at page 35.

Being the same land that was described in the Grant Deed from Mabelle A. Edgerly to the City of Sand City, a municipal corporation recorded May 21, 1965 in Reel 406 of Official Records, Page 1049 under Recorder's Serial Number 72797.

EXCEPTING THEREFROM that portion of California Avenue that would pass with a conveyance of Lots 27 and 54, in Block 27, as said avenue, lots and block are shown on that certain map entitled, "Map No. 3, Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912 in the office of the Recorder, County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns", at Page 35.

APN of adjoining lot: 011-123-009 and 011-123-011

PARCEL FIFTEEN: (City of Sand City)

Lot 25 in Block 26, as shown on that certain map entitled, "Map No. 3 Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., Surveyed by C. H. Sanders, March 1912," filed for record April 1, 1912 in the office of the County Recorder of the County of Monterey, State of California, in Volume 2

of Maps, "Cities and Towns", at page 35.

Being the same land that was described in the Grant Deed from Ernest Campo et ux. to the City of Sand City, a municipal corporation recorded October 7, 1966 in Reel 479 of Official Records, Page 481 under Recorder's Serial Number G27196.

EXCEPTING THEREFROM that portion of California Avenue that would pass with a conveyance of Lot 25 in Block 26, as said avenue, lot and block are shown on that certain map entitled, "Map No. 3, Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912 in the office of the Recorder, County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns", at Page 35.

APN of adjoining lot: 011-122-041

PARCEL SIXTEEN: (City of Sand City)

Lots 37 and 38, in Block 28, as shown on "Map No. 3 Hot Spring Tract," etc., filed April 1, 1912 in the office of the County Recorder of the County of Monterey, State of California, and now on file in said office in Map Book Two, Cities and Towns, at page 35 therein.

Being the same land that was described in the Grant Deed from Kenneth C. Townsend et ux. to the City of Sand City, a municipal corporation recorded January 31, 1967 in Reel 491 of Official Records, Page 997 under Recorder's Serial Number G35759.

EXCEPTING THEREFROM that portion of California Avenue that would pass with a conveyance of Lots 37 and 38, in Block 28, as said avenue, lots and block are shown on that certain map entitled, "Map No. 3, Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912 in the office of the Recorder, County of Monterey, State of

California, in Volume 2 of Maps, "Cities and Towns", at Page 35.

APN of adjoining lot: 011-136-007

PARCEL SEVENTEEN: (City of Sand City)

A portion of Lot 51, in Block 26, as shown on the map entitled, "Map No. 3 Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912, in the office of the County Recorder of the County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns", at page 35; more particularly described as follows:

Beginning at the northeasterly corner of said Lot 51 in Block 26, said corner common to Lots 51 and 25 of Block 26; and running thence along the northerly line of said Lot 51

(1) North 68° 58' 34" West, 30.02 feet; thence leaving the northerly line of said Lot 51

(2) South 23° 12' West, 90.07 feet to a point on the northerly line of Afton Way; thence along said northerly line of Afton Way

(3) South 68° 58' 34" East, 30.02 feet to the southeasterly block corner; thence along the northwesterly line of California Avenue

(4) North 23° 12' East, 90.07 feet to the point of beginning.

Being the same land that was described in the Grant Deed from Madeline E. Ellis, to the City of Sand City, a municipal corporation recorded February 23, 1967 in Reel 494 of Official Records, Page 653 under Recorder's Serial Number G37816.

APN of adjoining lot: 011-123-041

PARCEL EIGHTEEN: (City of Sand City)

Parcel I of Parcel Eighteen:

A portion of Lot 7, in Block 29, as shown on the map entitled, "Map No. 3 Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912, in the office of the County Recorder of the County of Monterey, State of California, in Volume 2

of Maps, "Cities and Towns", at page 35; more particularly described as follows:

Beginning at the Southwesterly corner of said Lot 7 in Block 29, said corner being common to Lots 6 and 7 of Block 29; and running thence

(1) North 49° 59' East, 51.62 feet to a point on the common line to Lots 7 and 8; thence

(2) South 21° 01' 26" West, 35.55 feet to the common corner of Lots 7 and 8; thence

(3) South 89° 59' West, 26.78 feet to the point of beginning.

Parcel II of Parcel Eighteen:

Lot 8, in Block 29, as shown on the map entitled, "Map No. 3 Hot Spring Tract, being a portion of Lot 1, Rancho Noche Buena, Monterey County, Calif., surveyed by C. H. Sanders, March 1912", filed for record April 1, 1912, in the office of the County Recorder of the County of Monterey, State of California, in Volume 2 of Maps, "Cities and Towns",

APN (PARCEL ONE): 011-122-005, 011-123-004, 011-123-023, 011-122-0023, 011-122-024, 011-122-025, 011-122-026, 011-122-040, 011-123-001, 011-123-005, 011-123-006, 011-123-007, 011-123-008, 011-123-022, 011-123-024, 011-123-025, 011-123-026, , 011-134-011, 011-135-001, 011-135-014, 011-135-015, 011-135-016, 011-135-023, 011-136-007, 011-136-012, 011-136-024, 011-186-039 and portions of 011-122-002, 011-122-003, 011-122-004, 011-122-010, 011-122-011, 011-122-027, 011-122-038, 011-122-039, 011-122-041, 011-123-009, 011-123-011, 011-135-024, 011-186-021 and 011-186-038

PARCEL TWO: (DBO Development No. 30)

Lots 1 through 24, 50 and 51 in Block 26, "Map No. 3 Hot Springs Tract", in the County of Monterey, State of California, filed April 1, 1912 in the Office of the County Recorder of said County, Volume 2, Page 35, of Maps of "Cities and Towns".

EXCEPTING THEREFROM that portion described in the Grant Deed from Madeline E. Ellis, to the City of Sand City, a municipal corporation recorded February 23, 1967 in Reel 494 of Official Records, Page 653 under Recorder's Serial Number G37816.

ALSO EXCEPTING THEREFROM those portions that lie within Parcel One described above.

APN: A portion of 011-122-002, 011-122-003, 011-122-004, 011-122-010, 011-122-011, 011-122-027, 011-122-038, 011-122-039 and 011-122-041

PARCEL THREE: (DBO Development No. 30)

Lots 26 and 53 in Block 27, "Map No. 3 Hot Springs Tract", in the County of Monterey, State of California, filed April 1, 1912 in the Office of the County Recorder of said County, Volume 2, Page 35, of Maps of "Cities and Towns".

EXCEPTING THEREFROM those portions that lie within Parcel One described above.

APN: A portion of 011-123-009 and 011-123-011

PARCEL FOUR: (DBO Development No. 30)

Lots 5 through 8 in Block 29, "Map No. 3 Hot Springs Tract", in the County of Monterey, State of California, filed April 1, 1912 in the Office of the County Recorder of said County, Volume 2, Page 35, of Maps of "Cities and Towns".

EXCEPTING THEREFROM those portions described in the Grant Deed from Richard C. Ross et ux. to the City of Sand City, a municipal corporation recorded December 14, 1962 in Reel 125 of Official Records, Page 157 under Recorder's Serial Number 45328.

ALSO EXCEPTING THEREFROM those portions described in the Grant Deed from Richard C. Ross et ux. to the City of Sand City, a municipal corporation recorded May 23, 1967 in Reel 506 of Official Records, Page 265 under Recorder's Serial Number G45871.

FURTHER EXCEPTING THEREFROM those portions that lie within Parcel One described above.

APN: A portion of 011-135-024

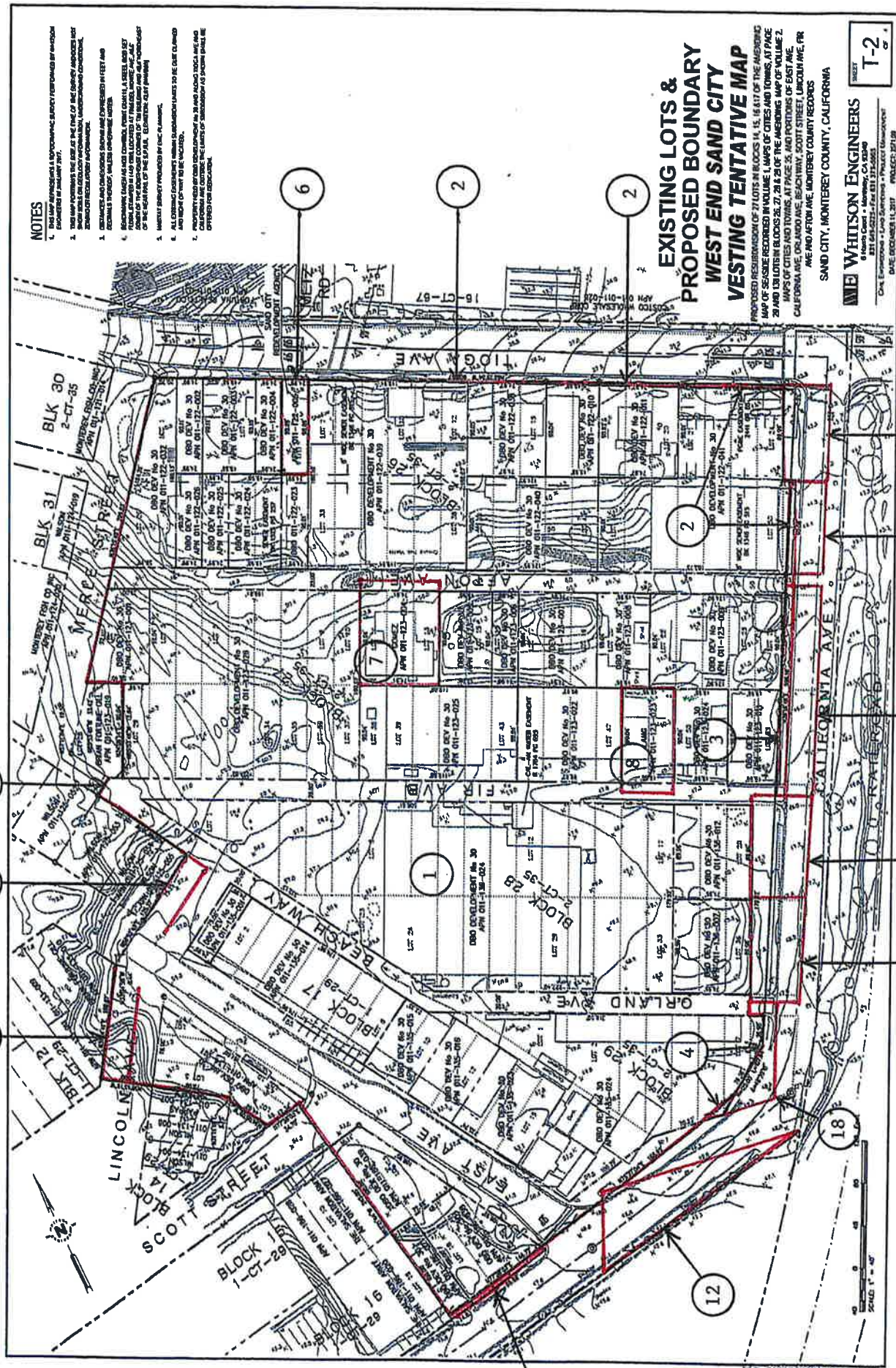
PARCEL FIVE: (DBO Development No. 30)

Lots 17, 18, 19 and 20 in Block 16, Seaside Addition to the Town of East Monterey filed for record July 16, 1889 in the office of the County Recorder of in the County of Monterey, State of California, in Volume 1 of Cities and Towns, Page 29.

EXCEPTING THEREFROM those portions that lie within Parcel One described above.

APN: A portion of 011-186-021 and 011-186-038

KEY: Parcel Numbers are circled. *Parcel Lines at intersections are not drawn



- NOTES
1. THIS MAP SHOWS THE PROPOSED BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 2. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 3. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 4. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
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 8. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 9. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 10. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 11. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 12. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 13. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 14. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 15. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 16. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 17. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.
 18. THIS MAP SHOWS THE BOUNDARY LOTS AND BLOCKS AS OF JANUARY 2017.

EXISTING LOTS & PROPOSED BOUNDARY WEST END SAND CITY VESTING TENTATIVE MAP

SAND CITY, MONTEREY COUNTY, CALIFORNIA

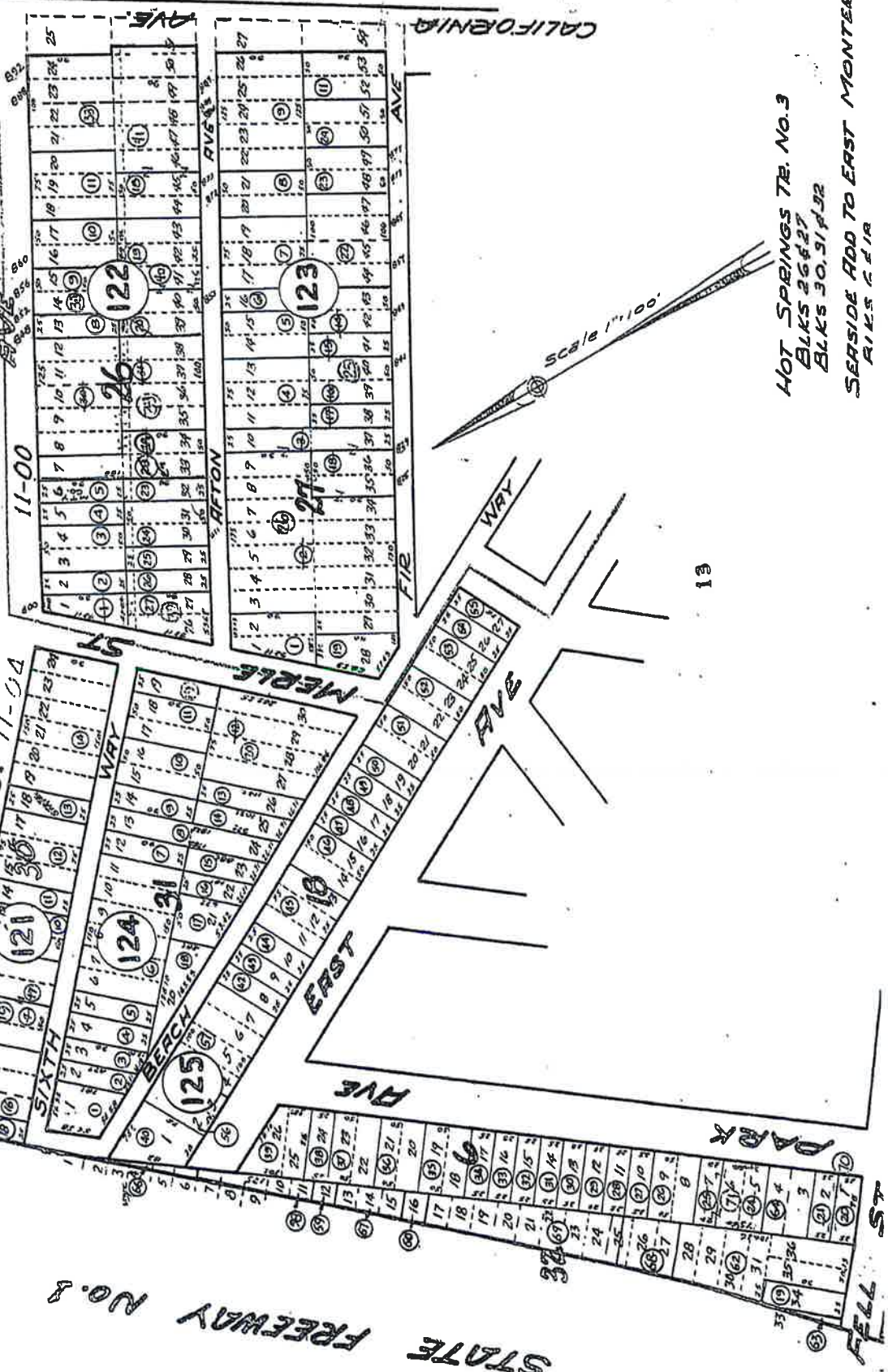
MEI WHITSON ENGINEERS
4545 Highway 101, Monterey, CA 93950
TEL: (831) 372-5051
CIVIL ENGINEERING ARCHITECTURE ENVIRONMENTAL PLANNING

DATE: DEC 28, 2017 FILED: 03-18-2018

PROJECT	T-2
SCALE	AS SHOWN

TAX CODE AREA

1 THIS MAP IS INTENDED TO BE USED FOR
PROPERTY TAX ASSESSMENT PURPOSES ONLY.



HOT SPRINGS TR. No. 3
BLKS 26 & 27
BLKS 30, 31 & 32
SEASIDE ADD TO EAST MONTEREY
R.I.K.S. C.D.R.

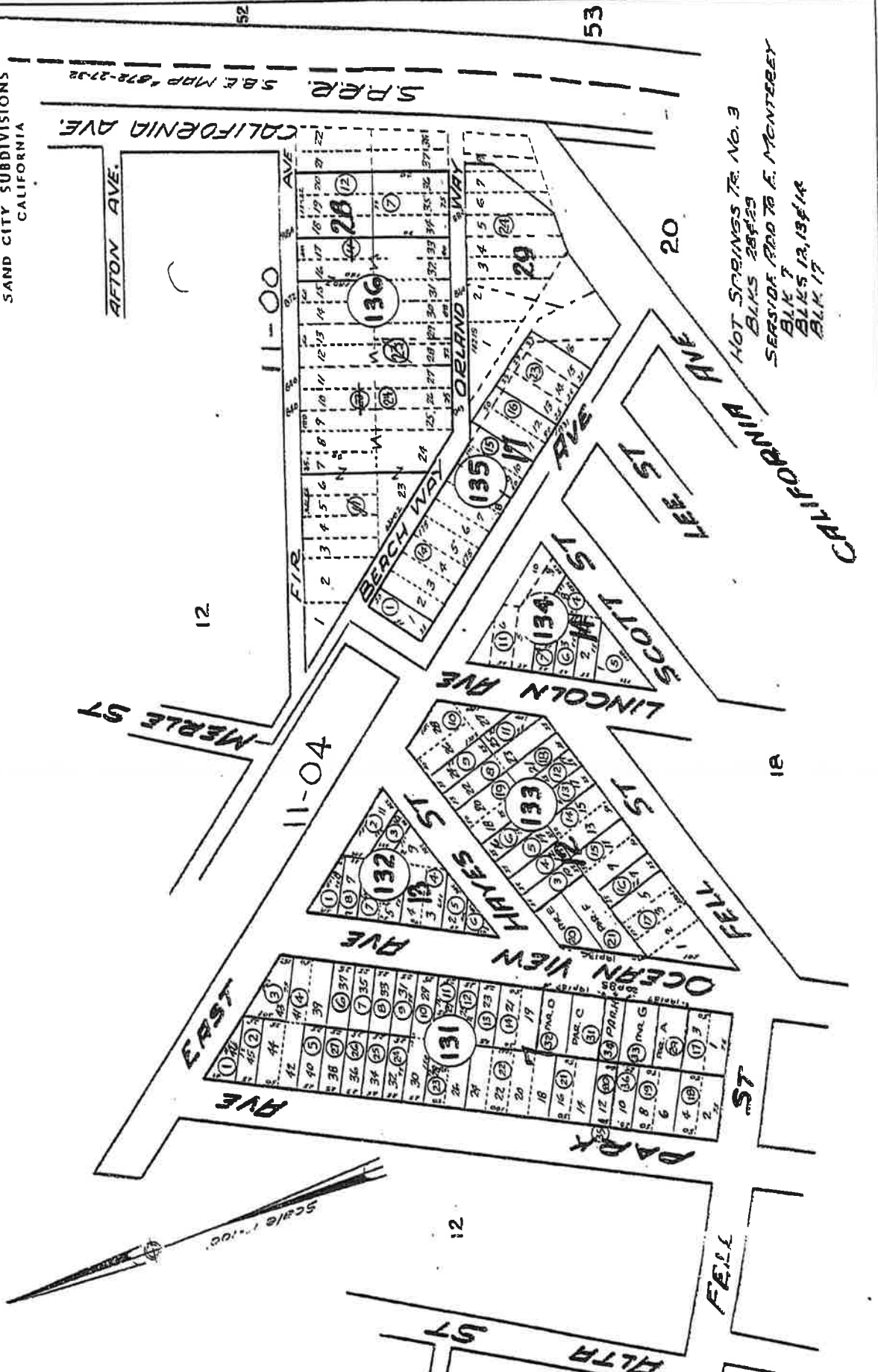
TAX CODE AREA

CALIFORNIA AVE.

AFTON AVE.

S.P.R.R. S.B.E. M.P.P. 878-2732

HOT SPRINGS Tr. No. 3
 BLKS 28, 29
 SEASIDE ROAD TO E. MONTEREY
 BLK 7
 BLKS 12, 13, 14
 BLK 17



THIS MAP IS INTENDED TO BE USED FOR
 PROPERTY TAX ASSESSMENT PURPOSES ONLY

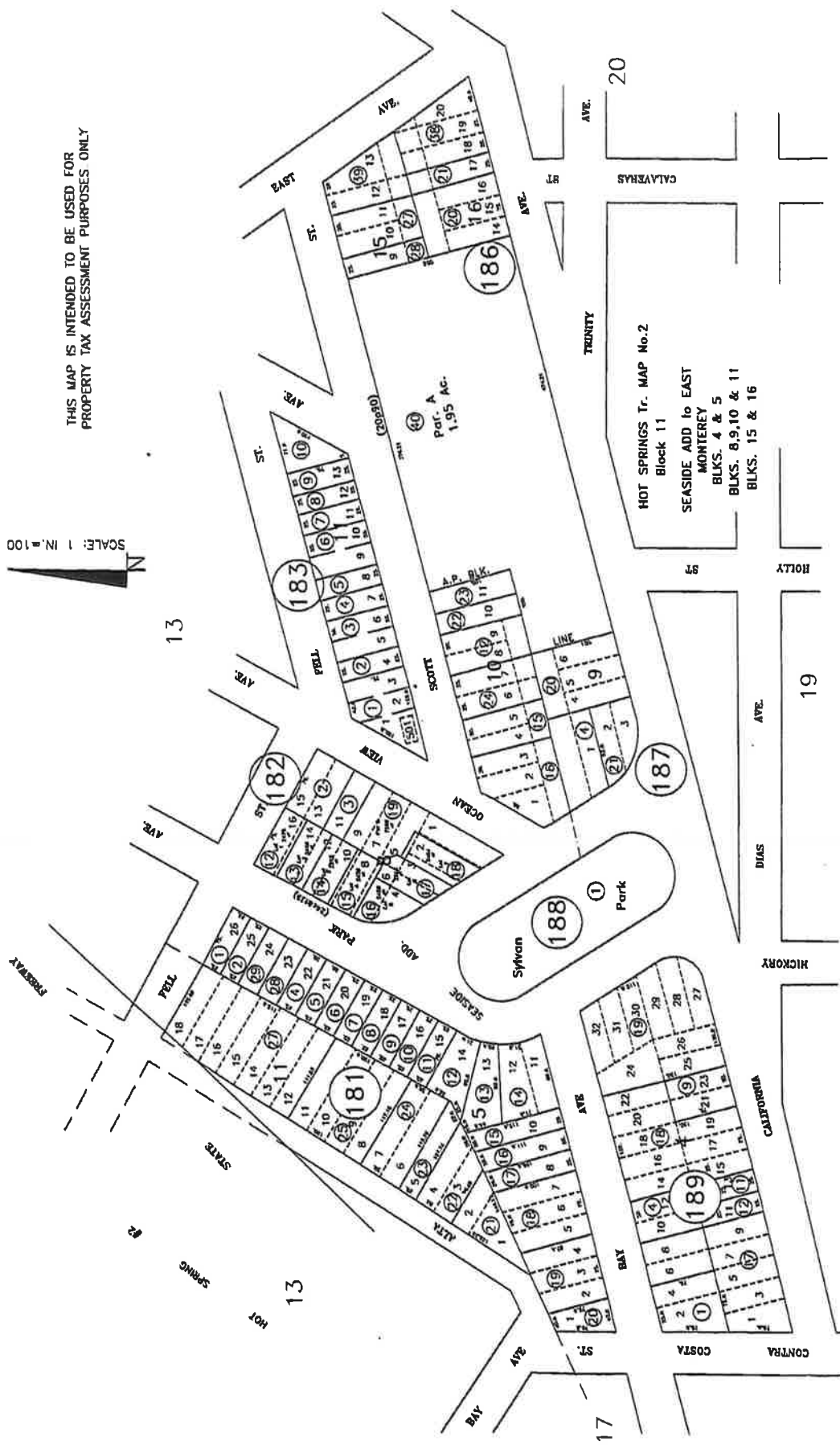
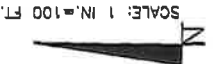
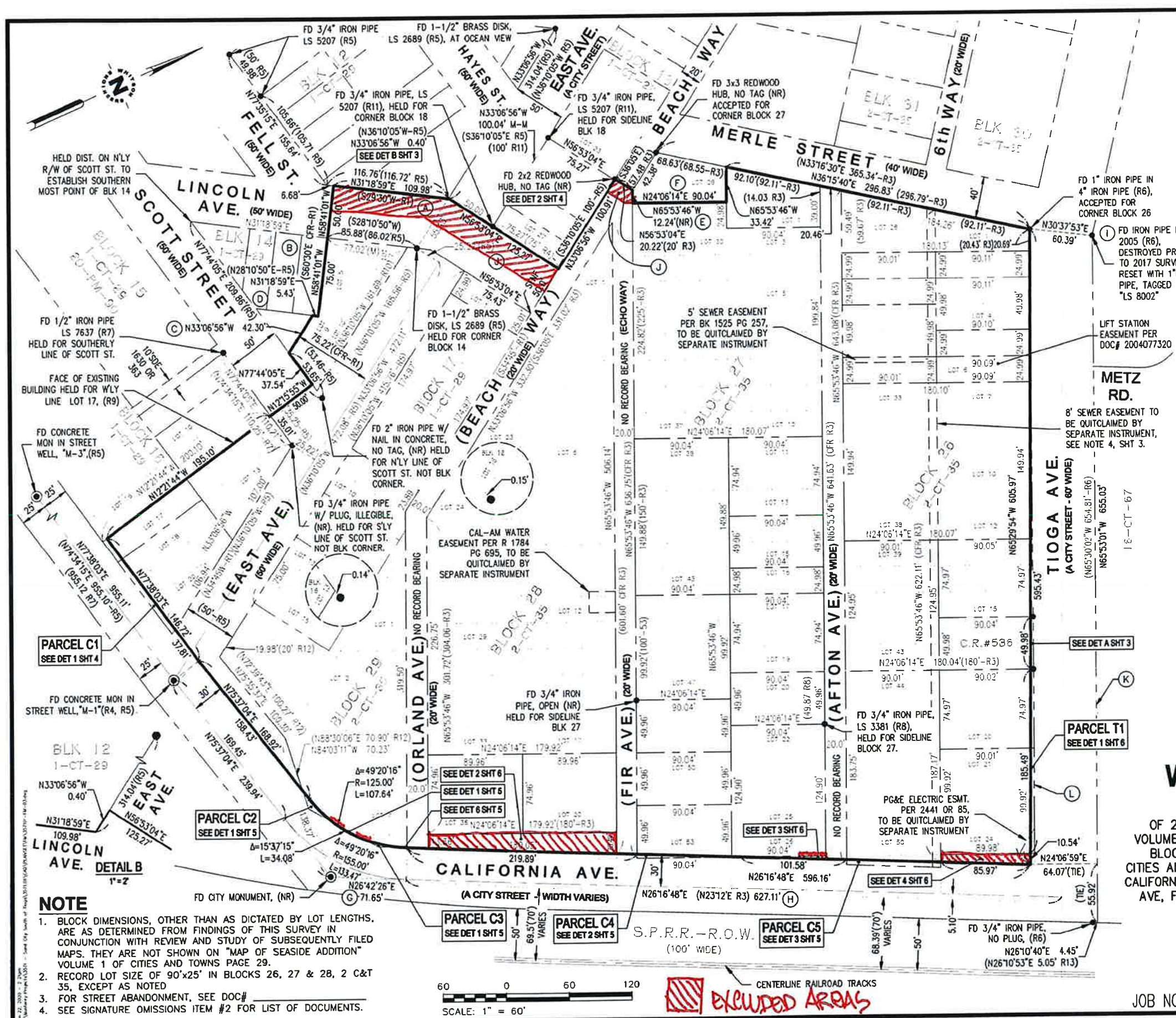


EXHIBIT B. Map of the Subject Property.

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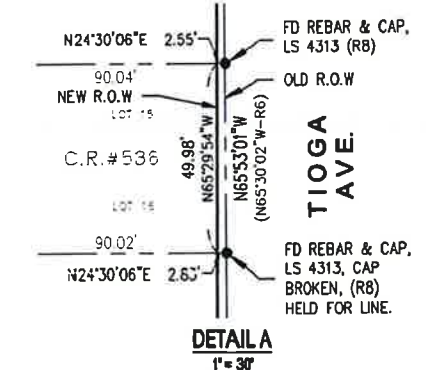


LEGEND

- TRACT BOUNDARY
- - - EXISTING PROPERTY LINE
- ORIGINAL SUBDIVISION LOT LINE (REMOVED)
- - - NEW LOT LINE
- CENTERLINE
- EASEMENT
- ⊙ FD CONCRETE STREET MONUMENT WELL.
- FOUND MONUMENT AS NOTED
- ⊙ SET CITY STANDARD CENTERLINE MONUMENT
- SET 1 1/2" IRON PIPE, TAGGED LS 8002
- PUE PUBLIC UTILITY EASEMENT
- CL CENTERLINE
- MON MONUMENT
- S.F. SQUARE FEET
- FD FOUND
- IP IRON PIPE
- (CFR) DENOTES CALCULATED FROM RECORD
- (....) DENOTES RECORD DATA (SEE REFERENCES)
- SFNF SEARCHED FOR NOT FOUND
- CR CORNER RECORD (SERIAL # AS SHOWN)
- C&T CITIES AND TOWNS
- PAR PARCEL MAPS
- SUR SURVEYS
- (A) (L) SEE SURVEYOR'S NOTES, SHEET 2

REFERENCES

R1	1 C&T 29	R8	CR #536/SN 24536
R2	2 C&T 20	R9	R2189 P295
R3	2 C&T 35	R10	R2672 P512
R4	11 SUR 43	R11	CR #595/SN 24595
R5	15 C&T 82	R12	X-4 SUR 117
R6	16 C&T 67	R13	33 SUR 43
R7	20 PAR 90	NR	NO RECORD



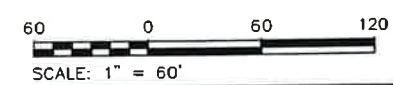
TRACT NO. _____
WEST END SAND CITY
 A SUBDIVISION
 OF 27 LOTS IN BLOCKS 14, 15, 16 & 17 RECORDED IN VOLUME 1 OF CITIES AND TOWNS AT PAGE 29, 128 LOTS IN BLOCKS 26, 27, 28 & 29 RECORDED IN VOLUME 2 OF CITIES AND TOWNS AT PAGE 35, AND PORTIONS OF EAST AVE, CALIFORNIA AVE, ORLANDO AVE, BEACH WAY, SCOTT ST, LINCOLN AVE, FIR AVE AND AFTON AVE, AS SHOWN ON SAID MAPS MONTEREY COUNTY RECORDS SAND CITY, CALIFORNIA

PREPARED BY:
WHITSON ENGINEERS
 6 HARRIS COURT, MONTEREY CALIFORNIA

JOB NO. 3571.01 JUNE 22, 2020 SHEET 3 OF 6

NOTE

- BLOCK DIMENSIONS, OTHER THAN AS DICTATED BY LOT LENGTHS, ARE AS DETERMINED FROM FINDINGS OF THIS SURVEY IN CONJUNCTION WITH REVIEW AND STUDY OF SUBSEQUENTLY FILED MAPS. THEY ARE NOT SHOWN ON "MAP OF SEASIDE ADDITION" VOLUME 1 OF CITIES AND TOWNS PAGE 29.
- RECORD LOT SIZE OF 90'x25' IN BLOCKS 26, 27 & 28, 2 C&T 35, EXCEPT AS NOTED
- FOR STREET ABANDONMENT, SEE DOC# _____
- SEE SIGNATURE OMISSIONS ITEM #2 FOR LIST OF DOCUMENTS.



CENTERLINE RAILROAD TRACKS
EXCLUDED AREAS

EXHIBIT C. City Processing Costs

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Development Agreement Exhibit C

City of Sand City Fees South of Tioga Project

4 Leaf Fee Schedule & Basis of Charge

Plan Review Services

Plan Review (Building, Accessibility, Fire, and Civil) \$160hr

Inspection Services

Lead Inspector/Fire Inspector/Building Official \$140hr

Assistant Inspector \$120hr

Fire Inspection \$155hr

Public Work Inspector \$149hr

Administrative Services

On-site permit manager \$90hr

GoFormz Software \$30 per use

Project Manager \$175hr

Mileage (for inspections performed within the City) IRS Rate +20%

City Planner \$52.47/hr, plus hourly cost of benefits (approximately \$71/hr total). In the event 4LEAF assist with planning functions, 4LEAF hourly rate will apply.

City Attorney: \$250.00/hr

City Engineer: \$205.00/hr. Harris & Associates fee schedule applicable to Sand City contract engineering services attached.

City Surveyor: \$135.00hr



Harris & Associates.

Hourly Rates

Applicable to Contract City Engineering Services for the City of Sand City, CA
 Effective July 1, 2020 — June 30, 2021

	Hourly Rates
Engineering Services	
Leon Gomez-Contract City Engineer	\$205
Sr. Project Directors	\$220- \$280
Project Directors	\$200- \$250
Sr. Project Managers	\$195- \$240
Project Managers	\$165- \$200
Sr. Project Engineers	\$160- \$190
Project Engineers	\$135- \$160
Technical Support	\$100- \$120
Administration	\$90- \$110
Engineering Inters	\$60-70

Actual Staff Utilized on South of Tioga Project to Date:
 City Engineer - \$205/hour
 Project Manager - \$185/hour
 Sr. Project Engineer - \$160/hour
 Project Engineer - \$135/hour
 Document Control/Admin. - \$90/hour

Construction Management	
Sr. Project Directors	\$220- \$280
Project Directors	\$200- \$250
Sr. Construction Managers	\$190- \$210
Construction Managers	\$160- \$185
Inspectors (prevailing wage)*	\$165- \$190
Inspectors (nonprevailing wage)	\$135- \$150

Environmental Services	
Project Director	\$200- \$250
Project Manager	\$150- \$200
Project Analyst	\$125- \$150

Notes: Rates are subject to adjustment due to promotions during the effective period of this schedule. Unless otherwise indicated in the cost proposal, hourly rates include most direct costs such as travel, equipment, computers, communications and reproduction (except large quantities such as construction documents for bidding purposes).

*Inspectors working in the State of California are subject to the Prevailing Wage Rates established for that area.

All subconsultant charges are subject to a 10% markup.

Harris & Associates, Inc. ■ 450 Lincoln Avenue, Suite 103, Salinas, CA 93901 Tel. 831.233.9242 ■ WeAreHarris.com

EXHIBIT D. Existing Water Credit

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TOTAL NECESSARY WATER ALLOCATION
South of Tioga - Residential and Commercial Summary

RESIDENTIAL CREDIT SUMMARY:	
884 Afton Ave.	0.088 AF
825 California Ave.	0.088 AF
853 Afton Ave.	0.088 AF
852 Tioga Ave.	0.088 AF
803 California Ave.	0.088 AF
1795 California Ave.	0.068 AF
860 Tioga Ave.	0.068 AF
Total Residential Water Credit	0.508 AF

NOTES:

- 1) 860 Tioga Avenue not included with DBO estimates.
- 2) 836 Afton & 773 Fir not included with DBO estimates.
- 3) 836 Afton & 773 Fir not under DBO ownership.
- 4) Sq.ft. of DBO commercial properties based on DBO provided data.
- 5) All residential presumed to be 1-bathroom units.
- 6) All but two residential addresses have washing machines.
- 7) Unknown if 860 Tioga has a washing machine. Credit estimates no W.M.
- 8) 840 & 842 Fir Avenue - Cannery Credit expired. Amount based on Group 1 square footage only.
- 9) 836 Afton & 873 Fir sq.ft. based on City use permit files

COMMERCIAL CREDIT SUMMARY:	
808 Tioga Ave.	0.166 AF
856 Tioga Ave.	0.167 AF
840 Tioga Ave.	0.361 AF
880 Tioga Ave.	0.666 AF
872 Afton Ave.	0.045 AF
1830 California Ave.	0.113 AF
857 & 865 Fir Ave.	0.456 AF
877 Fir Ave.	0.083 AF
841 Fir Ave.	1.052 AF
1857 East Ave.	0.095 AF
1855 East Ave.	0.735 AF
1831 East Ave.	0.591 AF
1795 California Ave.	0.195 AF
840 & 872 (842?) Fir Ave.	1.763 AF
836 Afton Ave. (Note: Not owned by DBO)	0.117 AF
873 Fir Ave. (Note: Not owned by DBO)	0.070 AF
Total Commercial Water Credit	6.489 AF

6.997 AF

Total Res & Comm Credit

Residential Water - CREDIT
884 AFTON AVE. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	1	0.01
Two Washbins in Master Bath		1	0	0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	1.8	0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	0	0
URINALS:				
Urinal (1.0 gallon/flush)		1	0	0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	0	0
Urinal, Zero Water Consumption		0	0	0
BATHTUBS (w/ showers)				
Bathtub, Large (w/showerhead) & separate shower in master bath		3	0	0
Bathtub, Large (may have showerhead)		3	0	0
Bathtub, Standard (may have showerhead)	1	2	2	0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	0	0
Shower, each additional fixture		2	0	0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	0	0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	2	0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	0	0

Residential Water - CREDIT
884 AFTON AVE. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

	X	2	=	0	X 0.01 =	0
	X	1.5	=	0	X 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

	X	2	=	0	X 0.01 =	0
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WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

1	X	2	=	2	X 0.01 =	0.02
	X	1	=	0	X 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

	X	2	=	0	X 0.01 =	0
	X	1	=	0	X 0.01 =	0
	X	1	=	0	X 0.01 =	0
	X	1	=	0	X 0.01 =	0
	X	1	=	0	X 0.01 =	0

TOTALS CREDIT	8.8 F.U.	X 0.01	0.088 Ac.Ft.
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Residential Water - CREDIT
825 California Ave. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	1	0.01
Two Washbins in Master Bath		1	0	0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	1.8	0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	0	0
URINALS:				
Urinal (1.0 gallon/flush)		1	0	0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	0	0
Urinal, Zero Water Consumption		0	0	0
BATHTUBS (w/ showers)				
Bathtub, Large (w/showerhead) & separate shower in master bath		3	0	0
Bathtub, Large (may have showerhead)		3	0	0
Bathtub, Standard (may have showerhead)	1	2	2	0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	0	0
Shower, each additional fixture		2	0	0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	0	0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	2	0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	0	0

Residential Water - CREDIT
825 California Ave. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

	x	2	=	0	x 0.01 =	0
	x	1.5	=	0	x 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

	x	2	=	0	x 0.01 =	0
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WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

1	x	2	=	2	x 0.01 =	0.02
	x	1	=	0	x 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

	x	2	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0

TOTALS CREDIT	8.8 F.U.	x 0.01	0.088 Ac.Ft.
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Residential Water - CREDIT
853 AFTON AVE. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	1	0.01
Two Washbins in Master Bath		1	0	0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	1.8	0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	0	0
URINALS:				
Urinal (1.0 gallon/flush)		1	0	0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	0	0
Urinal, Zero Water Consumption		0	0	0
BATHTUBS (w/ showers)				
Bath tub, Large (w/showerhead) & separate shower in master bath		3	0	0
Bath tub, Large (may have showerhead)		3	0	0
Bath tub, Standard (may have showerhead)	1	2	2	0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	0	0
Shower, each additional fixture		2	0	0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	0	0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	2	0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	0	0

Residential Water - CREDIT
853 AFTON AVE. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

	x	2	=	0	x 0.01 =	0
	x	1.5	=	0	x 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

	x	2	=	0	x 0.01 =	0
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WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

1	x	2	=	2	x 0.01 =	0.02
	x	1	=	0	x 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

	x	2	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0

TOTALS CREDIT	8.8 F.U.	x 0.01	0.088 Ac.Ft.
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Residential Water - CREDIT
852 TIOGA. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	1	0.01
Two Washbins in Master Bath		1	0	0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	1.8	0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	0	0
URINALS:				
Urinal (1.0 gallon/flush)		1	0	0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	0	0
Urinal, Zero Water Consumption		0	0	0
BATHTUBS (w/ showers)				
Bathtub, Large (w/showerhead) & separate shower in master bath		3	0	0
Bathtub, Large (may have showerhead)		3	0	0
Bathtub, Standard (may have showerhead)	1	2	2	0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	0	0
Shower, each additional fixture		2	0	0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	0	0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	2	0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	0	0

Residential Water - CREDIT
852 TIOGA. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

	x	2	=	0	x 0.01 =	0
	x	1.5	=	0	x 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

	x	2	=	0	x 0.01 =	0
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WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

1	x	2	=	2	x 0.01 =	0.02
	x	1	=	0	x 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

	x	2	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0

TOTALS	8.8	x 0.01	0.088
CREDIT	F.U.		Ac.Ft.

Residential Water - CREDIT
852 TIOGA. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	= 1	x 0.01 = 0.01
Two Washbins in Master Bath		1	= 0	x 0.01 = 0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	= 1.8	x 0.01 = 0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	= 0	x 0.01 = 0
URINALS:				
Urinal (1.0 gallon/flush)		1	= 0	x 0.01 = 0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	= 0	x 0.01 = 0
Urinal, Zero Water Consumption		0	= 0	x 0.01 = 0
BATHTUBS (w/ showers)				
Bathtub, Large (w/showerhead) & separate shower in master bath		3	= 0	x 0.01 = 0
Bathtub, Large (may have showerhead)		3	= 0	x 0.01 = 0
Bathtub, Standard (may have showerhead)	1	2	= 2	x 0.01 = 0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	= 0	x 0.01 = 0
Shower, each additional fixture		2	= 0	x 0.01 = 0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	= 0	x 0.01 = 0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	= 2	x 0.01 = 0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	= 0	x 0.01 = 0

Residential Water - CREDIT
852 TIOGA. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

x	2	=	0	x 0.01 =	0
x	1.5	=	0	x 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

x	2	=	0	x 0.01 =	0
---	---	---	---	----------	---

WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

1	x	2	=	2	x 0.01 =	0.02
	x	1	=	0	x 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

	x	2	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0

TOTALS CREDIT	8.8 F.U.	x 0.01	0.088 Ac.Ft.
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Residential Water - CREDIT
852 TIOGA. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	1	0.01
Two Washbins in Master Bath		1	0	0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	1.8	0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	0	0
URINALS:				
Urinal (1.0 gallon/flush)		1	0	0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	0	0
Urinal, Zero Water Consumption		0	0	0
BATHTUBS (w/ showers)				
Bathtub, Large (w/showerhead) & separate shower in master bath		3	0	0
Bathtub, Large (may have showerhead)		3	0	0
Bathtub, Standard (may have showerhead)	1	2	2	0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	0	0
Shower, each additional fixture		2	0	0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	0	0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	2	0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	0	0

Residential Water - CREDIT
852 TIOGA. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

x	2	=	0	x 0.01 =	0
x	1.5	=	0	x 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

x	2	=	0	x 0.01 =	0
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WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

x	2	=	0	x 0.01 =	0
x	1	=	0	x 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

x	2	=	0	x 0.01 =	0
x	1	=	0	x 0.01 =	0
x	1	=	0	x 0.01 =	0
x	1	=	0	x 0.01 =	0
x	1	=	0	x 0.01 =	0

TOTALS CREDIT	6.8 F.U.	x 0.01	0.068 Ac.Ft.
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Residential Water - CREDIT
852 TIOGA. (Credit)

FIXTURE TYPE/DESCRIPTION	No. of Fixtures	Fixture Unit Value	Fixture Units	Acre-Feet
SINKS (bathroom)				
Washbasin (lavatory sink), each	1	1	1	0.01
Two Washbins in Master Bath		1	0	0
TOILETS:				
Toilet, Ultra Low Flush (1.6 gallons/flush)	1	1.8	1.8	0.018
Toilet, High Efficiency (HET) 1.3 gallons/flush)		1.3	0	0
URINALS:				
Urinal (1.0 gallon/flush)		1	0	0
Urinal, High Efficiency (0.5 gallons/flush)		0.5	0	0
Urinal, Zero Water Consumption		0	0	0
BATHTUBS (w/ showers)				
Bathtub, Large (w/showerhead) & separate shower in master bath		3	0	0
Bathtub, Large (may have showerhead)		3	0	0
Bathtub, Standard (may have showerhead)	1	2	2	0.02
SHOWERS (only)				
Shower, separate stall (one showerhead)		2	0	0
Shower, each additional fixture		2	0	0
Shower System, Rain Bars, or custom shower (varies per specifications)		2	0	0
KITCHEN:				
Kitchen Sink (w/ optional dishwasher)	1	2	2	0.02
Kitchen Sink (w/ adjacent High Efficiency Dishwasher (5.8 gallons max/cycle)		1.5	0	0

Residential Water - CREDIT
852 TIOGA. (Credit)

DISHWASHERS (only)	
Dishwasher, each additional (includes optional adjacent sink)	
Dishwasher, High Efficiency, each additional (including optional adjacent sink / 5.8 gallons max/cycle)	

	x	2	=	0	x 0.01 =	0
	x	1.5	=	0	x 0.01 =	0

UTILITY SINK:	
Laundry Sink/Utility Sink	

	x	2	=	0	x 0.01 =	0
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WASHING MACHINES:	
Clothes Washer	
Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	

	x	2	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0

MISCELLANEOUS:	
Bidet	
Bar Sink	
Entertainment Sink	
Vegetable Sink	
Swimming Pool (each 100 sqft of pool surface)	

	x	2	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0
	x	1	=	0	x 0.01 =	0

TOTALS CREDIT	6.8 F.U.	x 0.01	0.068 Ac.Ft.
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Commercial Water - CREDIT
808 TIOGA AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	2368	0.00007	0.16576
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	#	FACTOR	UNIT	ACRE-FEET
Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
856 TIOGA AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	2391	0.00007	0.16737
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use	GROUP II - High Use
Assisting Living (more than 6 beds)	
Beauty Shop / Dog Grooming	
Child Care	
Dormitory	
Gas Station	
Laundromat	
Meeting Hall	

GROUP III - Miscellaneous	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)	per bed	0
Beauty Shop / Dog Grooming	AF/station	0
Child Care	AF/child	0
Dormitory	AF/room	0
Gas Station	AF/pump	0
Laundromat	AF/machine	0
Meeting Hall	AF/sq.ft.	0

ITEM	#	FACTOR	UNIT	ACRE-FEET
# of beds		0.085	per bed	0
# of stations		0.0567	AF/station	0
# of children		0.0072	AF/child	0
# of rooms		0.04	AF/room	0
# of gas pumps		0.0913	AF/pump	0
# of wash machines		0.2	AF/machine	0
square footage		0.00053	AF/sq.ft.	0

ITEM	#	FACTOR	UNIT	ACRE-FEET
# of rooms		0.1	AF/room	0
# of large bathtubs		0.03	AF/tub	0

Irrigated areas not adjacent

Provide Landscape Plan	MAWA	n/a
Plant Nursery		
Public Toilets		
Public Urinals		
Zero Water consumptino Urinal(s)		
Restaurant (general/bar)		
Restaurant (24-hour / Fast Food)		
Self-Storage		
Skilled Nursing		
Spa		
Swimming Pool		
Theater		

ITEM	MAWA	n/a
Square Footage	0.00009	AF/sf total land
# of toilets	0.058	AF/toilet
# of urinals	0.036	AF/urinal
# of urinals	0	n/a
# of seats	0.02	AF/seat
# of seats	0.038	AF/seat
# of storage units	0.0008	AF/storage unit
# of beds	0.12	AF/bed
# of spas	0.05	AF/spa
pool surface area	0.02	AF/100 sf surface area
# of seats	0.0012	AF/seat

Commercial Water - CREDIT
840 TIOGA AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	5155	0.00007	0.36085
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs (add to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	#	FACTOR	UNIT	ACRE-FEET
Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
880 TIOGA AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	9512	0.00007	0.66584
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs (add to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent

Provide Landscape Plan

MAWA n/a

Plant Nursery					0
Public Toilets		0.00009	AF/sf total land		0
Public Urinals		0.058	AF/toilet		0
Zero Water consumptino Urinal(s)		0.036	AF/urinal		0
Restaurant (general/bar)		0	n/a		0
Restaurant (24-hour / Fast Food)		0.02	AF/seat		0
Self-Storage		0.038	AF/seat		0
Skilled Nursing		0.0008	AF/storage unit		0
Spa		0.12	AF/bed		0
Swimming Pool		0.05	AF/spa		0
Theater		0.02	AF/100 sf surface area		0
		0.0012	AF/seat		0

Commercial Water - CREDIT
872 AFTON AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	647	0.00007	0.04529
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)			per bed	0
Beauty Shop / Dog Grooming		0.085	AF/station	0
Child Care		0.0567	AF/child	0
Dormitory		0.0072	AF/room	0
Gas Station		0.04	AF/room	0
Laundromat		0.0913	AF/pump	0
Meeting Hall		0.2	AF/machine	0
		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	Sq.Ft.	FACTOR	UNIT	ACRE-FEET
Plant Nursery			AF/sf total land	0
Public Toilets		0.00009	AF/toilet	0
Public Urinals		0.058	AF/urinal	0
Zero Water consumptino Urinal(s)		0.036	n/a	0
Restaurant (general/bar)		0	AF/seat	0
Restaurant (24-hour / Fast Food)		0.02	AF/seat	0
Self-Storage		0.038	AF/seat	0
Skilled Nursing		0.0008	AF/storage unit	0
Spa		0.12	AF/bed	0
Swimming Pool		0.05	AF/spa	0
Theater		0.02	AF/100 sf surface area	0
		0.0012	AF/seat	0

Commercial Water - CREDIT
1830 CALIFORNIA AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	1621	0.00007	0.11347
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormatory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0

Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	#	FACTOR	UNIT	ACRE-FEET
Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
857 865 FIR AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	6520	0.00007	0.4564
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs (add to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
877 FIR AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	1182	0.00007	0.08274
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

Assisting Living (more than 6 beds)
Beauty Shop / Dog Grooming
Child Care
Dormitory
Gas Station
Laundromat
Meeting Hall

Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)

ITEM	#	FACTOR	UNIT	ACRE-FEET
# of beds		0.085	per bed	0
# of stations		0.0567	AF/station	0
# of children		0.0072	AF/child	0
# of rooms		0.04	AF/room	0
# of gas pumps		0.0913	AF/pump	0
# of wash machines		0.2	AF/machine	0
square footage		0.00053	AF/sq.ft.	0
# of rooms		0.1	AF/room	0
# of large bathtubs		0.03	AF/tub	0

Irrigated areas not adjacent

Provide Landscape Plan

MAWA

n/a

Plant Nursery
Public Toilets
Public Urinals
Zero Water consumptino Urinal(s)
Restaurant (general/bar)
Restaurant (24-hour / Fast Food)
Self-Storage
Skilled Nursing
Spa
Swimming Pool
Theater

ITEM	#	FACTOR	UNIT	ACRE-FEET
Square Footage		0.00009	AF/sf total land	0
# of toilets		0.058	AF/toilet	0
# of urinals		0.036	AF/urinal	0
# of urinals		0	n/a	0
# of seats		0.02	AF/seat	0
# of seats		0.038	AF/seat	0
# of storage units		0.0008	AF/storage unit	0
# of beds		0.12	AF/bed	0
# of spas		0.05	AF/spa	0
pool surface area		0.02	AF/100 sf surface area	0
# of seats		0.0012	AF/seat	0

Commercial Water - CREDIT
841 FIR AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	15,022	0.00007	1.05154
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
1857 EAST AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	1357	0.00007	0.09499
square footage (floor area)		0.00002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast		0.1	AF/room	0
rooms w/ large tubs (add to room factor)		0.03	AF/tub	0

Irrigated areas not adjacent. Provide Landscape Plan. MAWA n/a

ITEM	#	FACTOR	UNIT	ACRE-FEET
Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
1855 EAST AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	10500	0.00007	0.735
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast		0.1	AF/room	0
rooms w/ large tubs (add to room factor)		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	#	FACTOR	UNIT	ACRE-FEET
Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
1831 EAST AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	8445	0.00007	0.59115

GROUP I - Low to Moderate Use

square footage (floor area)		0.0002	0
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GROUP II - High Use

ITEM	#	FACTOR	UNIT	ACRE-FEET
# of beds		0.085	per bed	0
# of stations		0.0567	AF/station	0
# of children		0.0072	AF/child	0
# of rooms		0.04	AF/room	0
# of gas pumps		0.0913	AF/pump	0
# of wash machines		0.2	AF/machine	0
square footage		0.00053	AF/sq.ft.	0

GROUP III - Miscellaneous

Assisting Living (more than 6 beds)				
Beauty Shop / Dog Grooming				
Child Care				
Dormitory				
Gas Station				
Laundromat				
Meeting Hall				

Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0

Irrigated areas not adjacent

Provide Landscape Plan

MAWA

n/a

Plant Nursery				
Public Toilets				
Public Urinals				
Zero Water consumptino Urinal(s)				
Restaurant (general/bar)				
Restaurant (24-hour / Fast Food)				
Self-Storage				
Skilled Nursing				
Spa				
Swimming Pool				
Theater				

Square Footage		0.00009	AF/sf total land	0
# of toilets		0.058	AF/toilet	0
# of urinals		0.036	AF/urinal	0
# of urinals		0	n/a	0
# of seats		0.02	AF/seat	0
# of seats		0.038	AF/seat	0
# of storage units		0.0008	AF/storage unit	0
# of beds		0.12	AF/bed	0
# of spas		0.05	AF/spa	0
pool surface area		0.02	AF/100 sf surface area	0
# of seats		0.0012	AF/seat	0

Commercial Water - CREDIT
1795 CALIFORNIA AVE.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	2792	0.00007	0.19544
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast		0.1	AF/room	0
rooms w/ large tubs (add to room factor)		0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
840 872 FIR

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	25,186	x 0.00007	1.76302
square footage (floor area)		x 0.00002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		x 0.085	per bed	0
Beauty Shop / Dog Grooming		x 0.0567	AF/station	0
Child Care		x 0.0072	AF/child	0
Dormitory		x 0.04	AF/room	0
Gas Station		x 0.0913	AF/pump	0
Laundromat		x 0.2	AF/machine	0
Meeting Hall		x 0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast		x 0.1	AF/room	0
rooms w/ large tubs (add to room factor)		x 0.03	AF/tub	0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	FACTOR	UNIT	ACRE-FEET
Plant Nursery	x 0.00009	AF/sf total land	0
Public Toilets	x 0.058	AF/toilet	0
Public Urinals	x 0.036	AF/urinal	0
Zero Water consumptino Urinal(s)	x 0	n/a	0
Restaurant (general/bar)	x 0.02	AF/seat	0
Restaurant (24-hour / Fast Food)	x 0.038	AF/seat	0
Self-Storage	x 0.0008	AF/storage unit	0
Skilled Nursing	x 0.12	AF/bed	0
Spa	x 0.05	AF/spa	0
Swimming Pool	x 0.02	AF/100 sf surface area	0
Theater	x 0.0012	AF/seat	0

Commercial Water - CREDIT
836 Afton Ave.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	1,668	0.00007	0.11676
square footage (floor area)		0.0002	0

GROUP I - Low to Moderate Use

GROUP II - High Use

GROUP III - Miscellaneous

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0
Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0
				0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

ITEM	Sq.Ft.	FACTOR	UNIT	ACRE-FEET
Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

Commercial Water - CREDIT
873 Fir Ave.

ITEM	Sq.Ft.	FACTOR	ACRE-FEET
square footage (floor area)	996	0.00007	0.069734

GROUP I - Low to Moderate Use

square footage (floor area)		0.00002	0
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GROUP II - High Use

ITEM	#	FACTOR	UNIT	ACRE-FEET
Assisting Living (more than 6 beds)		0.085	per bed	0
Beauty Shop / Dog Grooming		0.0567	AF/station	0
Child Care		0.0072	AF/child	0
Dormitory		0.04	AF/room	0
Gas Station		0.0913	AF/pump	0
Laundromat		0.2	AF/machine	0
Meeting Hall		0.00053	AF/sq.ft.	0

GROUP III - Miscellaneous

Motel/Hotel/Bed & Breakfast rooms w/ large tubs to room factor)		0.1	AF/room	0
		0.03	AF/tub	0
				0

Irrigated areas not adjacent Provide Landscape Plan MAWA n/a

Plant Nursery		0.00009	AF/sf total land	0
Public Toilets		0.058	AF/toilet	0
Public Urinals		0.036	AF/urinal	0
Zero Water consumptino Urinal(s)		0	n/a	0
Restaurant (general/bar)		0.02	AF/seat	0
Restaurant (24-hour / Fast Food)		0.038	AF/seat	0
Self-Storage		0.0008	AF/storage unit	0
Skilled Nursing		0.12	AF/bed	0
Spa		0.05	AF/spa	0
Swimming Pool		0.02	AF/100 sf surface area	0
Theater		0.0012	AF/seat	0

EXHIBIT E. Form of Assignment and Assumption Agreement

[Remainder of page left blank]

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Attention: _____

**FORM OF
[PARTIAL]
ASSIGNMENT AND ASSUMPTION AGREEMENT**

This [PARTIAL] Assignment and Assumption Agreement ("**Assignment Agreement**") is made effective as of _____, 20____ ("**Effective Date**"), by and between _____, a _____ ("**Assignor**"), and _____, a _____ ("**Assignee**").

A. DBO Development No. 30, LLC, a California limited liability company ("**DBO**") and the City of Sand City, a municipal corporation and charter city in Monterey County ("**City**"), entered into that certain *Development Agreement By and Between the City of Sand City, California and DBO Development No. 30, LLC Relating to the Development Commonly Known as the South of Tioga Project*, dated as of _____, 2020 and recorded as Document No. 2020-_____ on _____ ("**DA**"), relating to certain real property located in the City of Sand City, County of Monterey, State of California ("**Subject Property**"). All capitalized terms used herein shall have the definitions given to them in the DA, unless otherwise expressly stated in this Assignment Agreement.

B. Assignor is selling an approximately _____-acre portion of the Subject Property to Assignee substantially concurrently with the Effective Date of this Assignment Agreement, which portion of the Subject Property is more particularly shown and described on attached Exhibit A ("**Assignee Property**").

C. The DA provides for development of the Project on the Subject Property, as more particularly described in the DA and the Current Approvals. Assignee seeks to develop a portion of the Project on the Assignee Property with the development of _____ ("**Assignee Development**") in accordance with the [CURRENT AND/OR SUBSEQUENT APPROVALS].

D. Assignor desires to assign to Assignee all of Assignor's rights and obligations as "Developer" under the DA with respect to and only to the extent applicable to development of the Assignee Property with the Assignee Development (collectively, "**Assigned Interests**") and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interests. In the event of a partial assignment of Assignor's interests, this Agreement shall clearly set forth in Exhibit C which party (i.e., Assignee or Assignor) is required to satisfy specific obligations under the Development Agreement so as to enable City to effectively enforce its rights under the Development Agreement
2. Assumption. Assignee hereby assumes from Assignor all of Assignor's right, title and interest in and to the Assigned Interests relating to the period from and after the Effective Date of this Assignment Agreement, and agrees to perform all of Assignor's obligations as "Developer" under the DA with respect to the Assigned Interests relating to the period from and after the Effective Date of this Assignment Agreement. Pursuant to Section 9.01 of the DA, Assignor further agrees to have City look solely to Assignee for performance of the Assigned Interests relating to the period from and after the Effective Date of this Assignment Agreement, and that in so doing, Assignor shall thereafter be released from its obligations to perform the Assigned Interests. For avoidance of any doubt, Assignee expressly waives its election rights and assumes Assignor's obligations in regard to the Community Facilities District (CFD) as set forth in DA section 3.02. Assignee agrees to participate in and vote in favor of establishing the CFD. Assignee understands it shall have no right to repeal or amend the CFD tax, and agrees to not seek such amendment.
3. Severability. Any term or provision of this Assignment Agreement that is found by a court of competent jurisdiction to be invalid or unenforceable in any situation shall not affect the validity or enforceability of the offending term or provision in any other situation.
4. Consent. As set forth in attached Exhibit B, the City has consented to the assignment and assumption contemplated herein pursuant to Section 9.02 of the DA. [INCLUDE THIS PROVISION IN THE ASSIGNMENT AGREEMENT ONLY IF CONSENT IS REQUIRED FROM THE CITY UNDER SECTION 9.02 and/or 9.06 OF THE DA]
5. Applicable Law. This Assignment Agreement shall be governed by, and construed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof. The jurisdiction and venue with respect to any disputes arising hereunder shall be Monterey County.
6. Attorneys' Fees. If it becomes necessary for either party to file a suit to enforce this Assignment Agreement or any terms contained herein, the prevailing party may recover, in addition to all other remedies or damages, reasonable attorneys' fees and costs of court incurred in such suit.

7. Counterparts. This Assignment Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

a _____

By: [NO SIGNATURE/FORM ONLY]

Name: _____

Title: _____

ASSIGNEE:

a _____

By: [NO SIGNATURE/FORM ONLY]

Name: _____

Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, ____ before me, _____, Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, ____ before me, _____, Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE ASSIGNEE PROPERTY

EXHIBIT B

CONSENT TO ASSIGNMENT AND ASSUMPTION

The CITY OF SAND CITY, a municipal corporation and charter city in Monterey County ("**City**"), hereby consents to the Partial Assignment and Assumption Agreement (Development Agreement) by and between and between _____ ("**Assignor**"), and _____ ("**Assignee**") ("**Assignment**"), to which this Consent to Assignment and Assumption is attached, and releases Assignor from obligations under the DA (as defined in the Assignment Agreement) with respect to the Assigned Interests (as defined in the Assignment Agreement) relating to the period from and after the effective date of the Assignment.

CITY:

CITY OF SAND CITY

By: _____

Print: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

City of Sand City, City Attorney's Office

City Attorney

Date: _____

EXHIBIT C

ALLOCATION OF RIGHTS AND OBLIGATIONS

As set forth in Section 1 of the Assignment Agreement to which this Exhibit C is attached, Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interests. This Exhibit C is intended to further clarify the parties' intention with respect to the rights and obligations that are included and excluded from the Assigned Interests and the extent to which such rights and obligations are to be allocated as between the parties. In the event of any conflict between this Agreement and Exhibit C, the provisions of this Exhibit C shall govern and control.

Therefore, in accordance with the Assignment Agreement, Assignee shall be assigned all rights and shall assume all obligations with respect to and only to the extent applicable to development of the Assignee Property, and to the extent further clarified in this Exhibit C. If a specific DA provision is not expressly provided for in this Exhibit C, the parties intend for said provision to be treated as Assigned Interests pursuant to Sections 1 and 2 of the Assignment Agreement. The below section references in this Exhibit C refer to sections in the DA unless expressly stated otherwise.

[PARTIES TO INCLUDE SPECIFIC PROVISIONS FROM THE DA IN THIS EXHIBIT C TO SATISFY THE REQUIREMENTS SET FORTH IN SECTION 9.06 OF THE DA WITH RESPECT TO THE ALLOCATION OF RIGHTS AND OBLIGATIONS OF THE ASSIGNED INTERESTS]

**CITY OF SAND CITY
RESOLUTION SC18-58, 2018**

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY APPROVING
VESTING TENTATIVE MAP 18-01 WITH CONDITIONS FOR THE
SOUTH OF TIOGA DEVELOPMENT PROJECT**

WHEREAS, DBO Development No. 30, LLC (the “Applicant”) submitted applications to the City of Sand City (the “City”) for a vesting tentative map, coastal development and conditional use permits, site plan, and architectural review and approvals regarding a mixed use (residential and commercial) development project on an approximate 10.64 acre site bounded by Tioga Avenue to the northeast, California Avenue to the southeast, East Avenue to the southwest, and the Merle Street right-of-way to the northwest, generally referred to as the “South of Tioga Planning District”; and

WHEREAS, the overall project site is comprised of 41 existing parcels (Assessor’s Parcel Numbers 011-122-002, 003, 004, 005, 010, 011, 023, 024, 025, 026, 032, 038, 039, 040, 041; 011-123-001, 004, 005, 006, 007, 008, 009, 011, 022, 023, 024, 025, 026; 011-134-011; 011-135-001, 014, 015, 016, 023, 024; 011-136-007, 012, 024; and, 011-186-021, 038, 039) and encompasses all or portions of Scott Street, East Avenue, Lincoln Avenue, California Avenue, Tioga Avenue, Orland Street, Beach Way, Fir Avenue, and Afton Avenue public rights-of-way (the “Subject Property”); and

WHEREAS, the Applicant’s Vesting Tentative Map, dated May 10, 2018 (the “VTM”) and as approved by the City, merges existing lots, abandons existing public rights-of-way, creates six new parcels (H1, H1A, H2, H2A, R-1, and R-2), relocates an existing wastewater lift station, dedicates additional right-of-way to, or relocation of, existing streets, and dedicates right-of-way for new public streets; and

WHEREAS, the Applicant’s proposed project originated as a result of the Request for Qualifications (RFQ) put out by the former Sand City Redevelopment Agency (the “RDA”) where after that the RDA in 2001 signed an Exclusive Negotiation Agreement (the “ENA”) with the Applicant to redevelop the South of Tioga Planning District to mitigate ongoing conditions of blight and provide economic stimulus for the City; and though the City’s RDA has since been dissolved by the State of California, the property acquisition by the Applicant and development strategies that commenced under the ENA had continued until submission of the Applicant’s land entitlement application packet to the City in 2017; and

WHEREAS, The proposed project consists of a six-parcel Vesting Tentative Map (“VTM”) application (including roadway abandonment and dedications and lot mergers),

site plan review, architectural review, and conditional use permits on the 10.64-acre Subject Property. Coastal Development Permits would be required for two of the six parcels. Development would consist of 356 multi-family residential units, 216 hotel rooms, and a restaurant. A 0.9-acre dune area would be set aside within a conservation easement. Parcel H1 would be 2.18 acres located in the northeastern section of the Subject Property intended for a 216-room hotel including extended stay rooms, with surface parking spaces; Parcel H2 would be 1.18 acres located in the southeastern portion of the Subject Property intended for surface parking spaces to support the hotel, Parcel H1-A, to be 0.38 acres and Parcel H2-A, to be 0.3 acres to separate out territory within the Coastal Zone overlay and would be improved only for parking, landscaping, and utility improvements to service Parcels H1 and H2; Parcel R1 would be 1.78 acres located in the northwestern portion of the Subject Property intended for a 125-unit multi-family residential building with parking spaces in a partly below-grade structure; Parcel R2 would be 3.70 acres located in the southwestern portion of the Subject Property intended for a 231-unit multi-family residential complex with parking garage; and dedicate a new right-of-way for East Avenue and the right-of-way for a new Road "A" connecting California Avenue and Tioga Avenue, and establish two sand dune habitat preservation areas (the "Project"); and

WHEREAS, the Project is intended to be developed in three (3) phases, with Phase 1 consisting of the public improvements, completion of new public streets and rights-of-way, utility and infrastructure installation, and preparation of development pads on each of the Project's newly created parcels (H1, H1-A, H2, H2-A, R1, & R2), Phase 2 consisting of the hotel development on Parcels H1 and H2, and Phase 3 consisting of two multi-family residential developments; where Phase 1 will be completed by the Applicant, Phase 2 by an independent hotel developer, and Phase 3 by an independent residential developer. The order of Phases 2 and 3 may be completed in a different order or in sub-phases; and

WHEREAS, the conceptual site plans and building elevations for each newly created parcel within the Project, that were part of the land entitlement application packet submitted by the Applicant to the City, may change as independent developers for the hotel(s) and residential buildings finalize their architectural designs; where, as a requirement of general land use entitlement for the overall Project, those redesigns are subject to City review and design permit approval to ensure that the architectural integrity of the conceptual designs are implemented into the final designs; and

WHEREAS, the overall Project, in its endeavor to eliminate existing blighted conditions throughout the Subject Property, provides land use transition compatible with the East Dunes Planning District, and to increase the residential population of the City, resulting

in a “higher and better” use of land and aesthetic improvement, is consistent with Goals 2.6 and 2.8 of the City’s General Plan (2002 ed.); and

WHEREAS, the overall Project, in its endeavor to eliminate existing blighted conditions throughout the Subject Property, provide land use transition compatible with the East Dunes Planning District, and to increase the residential population of the City, resulting in a “higher and better” use of land and aesthetic improvement, is consistent with Policies 2.6.1 and 2.6.2 of the City’s General Plan (2002 ed.); and

WHEREAS, the overall Project, in its endeavor to eliminate existing blighted conditions throughout the Subject Property, provide land use transition compatible with the East Dunes Planning District, and to increase the residential population of the City, resulting in a “higher and better” use of land and aesthetic improvement, is consistent with the Implementation Program 2.6.a of the City’s General Plan (2002 ed.); and

WHEREAS, the overall Project includes a large residential component consistent with the City’s certified Housing Element (2016 ed.), Programs 4.1.1.A and 4.1.1.B, with dwelling unit numbers compliant with the Regional Housing Needs Allocation (RHNA) for the City and the inclusion of extremely low income, very low income, and low income units as required by City issued land entitlement permits; and

WHEREAS, the Project area includes two privately owned parcels (APN 011-123-004 and 011-123-023) that must be obtained for the creation of a new public road through the Project, acquisition by either the City potentially utilizing its power of eminent domain and/or by the Applicant in negotiations with those property’s current owners, whereby it is necessary to limit the effective date of any land use entitlement and restrict the Project from commencing construction unless and until the aforementioned privately owned parcels are legally obtained by, and title transfer complete to, either the Applicant and/or the City; and provided that the City is under no obligation to exercise the power of eminent domain; and

WHEREAS, a draft Environmental Impact Report was prepared for the Project pursuant to the California Environmental Quality Act that was adequately noticed and advertised, with a public review period for the draft Environmental Impact Report from March 2, 2018 through April 20, 2018 for a 50-day period; and

WHEREAS, the City of Sand City, as lead agency under the California Environmental Quality Act (Pub. Res. Act § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000-15387) (collectively, “CEQA”), completed the Final Environmental Impact Report (“Final EIR” or “EIR”) State Clearinghouse No. 2017061066 for the Project; and

WHEREAS, pursuant to CEQA, the City Council has certified the Project's Final EIR and found that the Project's environmental impacts were adequately evaluated, and the City Council further adopted a statement of overriding considerations for three potentially unavoidable traffic impacts; and

WHEREAS, the public hearing to consider the overall Project and coastal development permits for each of the proposed parcels was duly noticed in accordance with the requirements of the California Government Code, which included posting at three designated locations, publication in a newspaper of local circulation, and mailed to property owners within 300 feet of the Project boundaries; and

WHEREAS, the City Council held duly noticed public hearings, as required by law, to consider all of the information presented by staff, information from the Project Applicant, and public testimony presented in writing and orally, both prior to and at, the public hearings; and

WHEREAS, in accordance with California Government Code 66474, the site is physically suitable for the type of development; that the site is physically suitable for the proposed density of the development; that the preliminary design is not likely to cause serious public health problems; and that the preliminary design will not conflict with any easements acquired by the public at large; and

WHEREAS, the VTM for the project, as conditioned, is consistent with the Sand City General Plan, the Sand City Municipal Code, and the Sand City Local Coastal Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sand City hereby approves VTM 18-01 for the South of Tioga Development Project, subject to the following findings and conditions:

Findings

1. The submitted VTM, as conditioned, is consistent with the Subdivision Map Act, the Sand City General Plan, the Sand City Local Coastal Program, the Sand City Subdivision Ordinance (Municipal Code Title 17), the Zoning Ordinance (Municipal Code Title 18), and other applicable sections of the Sand City Municipal Code.
2. Portions of the Project as shown on the submitted VTM are within a Coastal Zone Overlay.

3. The submitted VTM, as conditioned, is consistent with the terms and conditions of the site plan permit and conditional use permits for the development of each parcel as shown on the VTM.
4. An Environmental Impact Report, certified by the City Council of Sand City, has been prepared and certified in accordance with CEQA.
5. The City finds that the preservation of 0.9 acres of dune land as open space is consistent with Sand City general plan Goal 5.4 and Policies 5.4.2, 5.4.3, 5.4.6 and that the open space easement is a conservation easement to preserve land that is valuable to the public as a wildlife preserve or sanctuary and appropriate covenants to that end will be developed in concert with the United States Fish and Wildlife Service and the California Department of Fish and Wildlife for the protection of Monterey spineflower, Monterey gilia, and Smith's blue butterfly host buckwheat plants.

Conditions of Approval

A. General

1. Compliance with the Law: The Applicant shall ascertain and comply with all Federal, State, County, and City requirements as are applicable to the Project. The VTM, Final Map, and all future development of the Project shall be consistent with all City Council approvals related to the Project.
2. Project Phasing and Infrastructure: The Project may be developed in phases and the Applicant may record multiple Final Maps. The number of phases shall be determined according to market demand, but in no case shall exceed three (3) phases, unless approval in writing is provided by the City. No Final Map shall be recorded for any phase of the project, unless and until all privately owned parcels within the project limits are legally obtained by, and title transfer complete to, either the Applicant and/or the City. All public infrastructure along Tioga Avenue, California Avenue, East Avenue, and Road "A", shall be constructed and accepted by the City as part of the 1st phase of development (Phase 1) and prior to the development of any pad within the Project.
3. Expiration: The VTM shall automatically expire 24 months (2 years) after City Council action to approve the VTM, unless a Final Map is recorded or an extension is granted pursuant to the Subdivision Map Act and City Council action. Prior to expiration of the VTM, the applicant may request an extension. Any request for extension shall be made in writing and submitted to the City at least sixty (60) days prior to expiration of the VTM. The VTM may also be extended if the property identified on the VTM is subject to a Development Agreement, in which case the VTM may be extended for a period of time

specified in the Development Agreement, but not longer than the duration of the Development Agreement itself.

4. Modifications/Conformance: All phases of development shall be in substantial conformance with the approved VTM, the conditions of approval, the mitigation measures, and all land use entitlement permits approved and issued by the City Council for the Parcels shown on the VTM. No condition of approval, mitigation measure, or permit requirements, shall be eliminated, added, or modified without Planning Department review and/or City Council action. If City Council action is required, the action shall occur following a public hearing.
5. Hold Harmless: The Applicant shall defend, indemnify, and hold harmless the City and its appointed officials, agents (including contract consultants), officers, and employees, from any claim, action, or proceeding from a third party against the City and its agents, officers, employees to attack, set aside, void, or annul the City's approval of this Project, provided that the City has promptly notified the Applicant of any such claim, action, or proceeding, and cooperates fully in the defense. This condition and agreement shall be binding on all successors and assigns. Notwithstanding this provision, and regarding any proceeding between City and Applicant, the prevailing party shall be able to recover attorney fees.
6. Other County, State, and Federal Permits: Prior to recordation of a Final Map for any phase of the project, the Applicant shall provide copies of all required County, State, and Federal Permits or written verification of a waiver from said permit, to the City. The Applicant shall obtain all required governmental permits from said agencies, including but not limited to; the Army Corps of Engineers 404 permit, California Department of Fish and Game 1601, California Central Coast Regional Water Quality Control Board 401 Discharge Permit, State Water Resources Control Board ("SWRCB") National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities ("CGP"), SWRCB Order No. 2013-0001-DWQ NPDES Phase II General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems ("NPDES Phase II General Permit") or the most current NPDES Phase II permit in effect at the time, Monterey County Water Resource Agency Permits, United States Fish and Wildlife Service, and the California Department of Fish and Wildlife.
7. Adherence to City Standards: All public improvements shall be designed and constructed to the most current City standards at the time the development occurs.
8. Agency/Department Compliance: All requirements of the City's Planning, Engineering, Public Works, Building, and Fire Departments, and the requirements of any Agencies With Jurisdiction ("AWJ") over the project, including but not limited to; the Seaside County Sanitation District, California American Water, Monterey County Health Department, Monterey One Water,

United States Fish and Wildlife Service, and the California Department of Fish and Wildlife, shall be implemented to the satisfaction of the representatives of each Agency/ Department. All requirements of the AWJ over the project shall be met to the satisfaction of the City prior to the issuance of any building permits and/or certificates of occupancy for the project.

9. Covenants, Conditions, and Restrictions ("CC&Rs"): The draft CC&Rs and a copy of a typical deed shall be submitted for review and approval by the City and the City Attorney. The approved CC&Rs shall be recorded concurrently with the Final Map and a recorded copy shall be provided to the City. A copy of the deed for each parcel shall be submitted to the City prior to granting of a final inspection.
10. Title Reports and Deeds: The Applicant shall provide preliminary title reports and deeds for all existing parcels within the Subject Property concurrent with Final Map and Improvement Plan submission.
11. City Entry Monument Sign: The Project developer shall dedicate to the City an easement for a city entry monument sign on parcel H1A at the northwest corner of the Tioga Avenue and California Avenue intersection as shown on the Project's approved VTM. Final design of this city entry monument sign shall be subject to the City's DRC's consideration, discussion, and action in the issuance of either a design permit, sign permit, or unified sign program.
12. City Posting Board: A location and easement shall be provided to the City on Parcel H1A, near the corner intersection of California Avenue and Tioga Avenue, for the establishment of a posting board to replace the existing Municipal Code (Section 1.12.010) required board at 880 Tioga Avenue, at the same intersection/location, that will be demolished and re-purposed for the Project. This location/easement may be combined with the city entry sign easement at the same intersection. The City will be solely responsible for acquiring and installing this posting board for City use.
13. Special District: Property owners within this district will be required to pay special annual on-going annual assessments for the maintenance of public infrastructure associated with the Project. The Applicant shall furnish the necessary processing fees, documents, and boundary map required to annex to the district and complete the annexation process prior to the issuance of any building permits. Assessment will likely have an annual inflation adjustment.
14. Financing Mechanism: Following approval of the vesting tentative map, the applicant shall establish a financing mechanism inclusive of the six project site parcels resulting from the vesting tentative map to offset the increase in City services costs. Services costs to be paid through the financing district shall include at a minimum street maintenance, parks and recreation maintenance,

utility system and storm drainage system maintenance, public lighting and signs maintenance, and emergency response services.

15. Vested Development: The Vesting Tentative Map shall vest, for the life of the map, rights to the following development: Parcels H1 hotel not to exceed five stories and 65 feet in height with a total of 216 guest rooms (keys) with appurtenant facilities including parking, landscaping, signs, recreational facilities, meeting and dining rooms, and kitchen, office, laundry and other customary back-of-house facilities; Parcels H2, H1-A and H2-A, uses appurtenant to Parcel H1 including parking and landscaping; Parcel R1, a residential building not to exceed 85 feet in height with two levels partially underground podium parking, five levels of residential units, and a rooftop restaurant, with no more than 125 residential units, of which no fewer than 50 percent shall be condominium units, and appurtenant uses including landscaping, recreational facilities, meeting rooms, office, and storage areas; Parcel R2, residential building(s) not to exceed five stories and 65 feet in height, parking garage not to exceed two levels and 35 feet in height, with no more than 231 residential units and appurtenant uses including landscaping, recreational facilities, meeting rooms, office, and storage areas; A Conditional Use Permit reflecting final building designs, architecture, and finish materials shall be approved by City Council for Parcels H1, H2, R1, and R2, and a Coastal Development Permit shall be approved by City Council for Parcels H1-A and H2-A prior to development of improvements.

16. Affordable Housing: Fifty-two (52) affordable rental housing units shall be provided within the Project. The affordable rental units shall be provided entirely or primarily on Parcel R2, with up to ten (10) affordable rental units allowed on Parcel R1. There shall be one (1) extremely low income unit; three (3) extremely low income senior-restricted units (i.e. 55 years or older); five (5) very low income units seven (7) low income units, eighteen (18) moderate income units, and (18) 'workforce' units. The required affordable units shall meet the definitions of the California Department of Housing and Community Development, except 'workforce' units shall be defined as affordable to households between 121% and 140% of the Monterey County median income. A deed restriction in a form acceptable to the City Attorney shall be recorded with the Monterey County Recorder, prior to City issuance of a certificate of occupancy for the first habitable building on the applicable parcel(s), stating that the affordable housing units described herein shall be maintained for a period of fifty-five (55) years; commencing at time of City issuance of a certificate of occupancy for the applicable building(s). The City may more specifically define the size and character of the affordable rental units in the Conditional Use Permits for the residential parcels.

B. Stormwater Quality and Erosion Control

1. Governing Regulations: The discharge of storm water within the City of Sand City is regulated by the SWRCB Order No. 2013-0001-DWQ NPDES Phase II

General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems, and by incorporation, the Central Coast Regional Water Quality Control Board (“CCRWQCB”) Resolution No. R3-2013-0032 Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region (“PCRs”), and the City’s Municipal Code Title 13.05 Storm Water Management (“Title 13.05”).

2. Erosion and Sediment Control Plan (“ESCP”): The Applicant shall prepare an ESCP for all phases of development. The ESCP shall be prepared by a licensed Civil Engineer and shall be included with the grading and drainage plans and/or the improvement plan package. The ESCP shall be submitted to the City for review and approval by the City Engineer prior to the issuance of any grading or building permits for any phase of the project.
3. Stormwater Control Plan (“SCP”): the Applicant shall prepare a final Stormwater Control Plan (“SCP”) for each phase of development. The SCP shall be prepared by a licensed Civil Engineer. The SCP shall demonstrate how each phase of development will achieve compliance with the applicable PCRs. The SCP shall clearly determine the amount of impervious surface created and/or replaced by the project and the corresponding Performance Requirements required by the PCRs. The SCP shall clearly indicate the location and size of all proposed Stormwater Control Measures (“SCMs”), both structural and non-structural, to ensure that they may be accommodated within each parcel of the development. As each individual parcel is developed, each parcel shall be responsible for implementing its own SCMs that function independently and mitigate for stormwater requirements on-site. The SCP shall include a grading and drainage plan that clearly indicates how stormwater runoff from all impervious surfaces (roofs, hardscape, pavement, walkways, patios, etc.) is directed and/or routed to the SCMs. The SCP shall include all necessary calculations to support the sizing of all proposed SCMs. The SCP shall be prepared per City requirements and in accordance with the latest edition of the Stormwater Technical Guide (“STG”) and templates adopted by the Monterey Regional Stormwater Management Program (“MRSWMP”). The SCP shall be fully coordinated with the Project improvement plans, including landscape plans, so that no conflict occurs between the proposed SCMs and any other proposed improvements. The SCP shall be submitted for review and approval to the City’s Planning and Engineering Departments prior to issuance of grading and/or building permit(s), or the commencement of any construction activities on the subject property.
4. Agreement Regarding Maintenance and Right of Entry for Stormwater Control Measures: For each phase of development, the property owner shall enter into a written agreement with the City for the installation and long-term operation and maintenance (“O&M”) of all installed SCMs. The agreement will include deed restriction language for the protection of the SCMs, specifying that the SCMs within each parcel shall not be removed, relocated, covered, or hampered with in any way, so as to prevent their intended function. The agreement shall provide

for ongoing maintenance and verification of maintenance by the owner and the owner's successors in interest. The agreement shall provide for right of entry by designated City staff for the purposes of inspection of the installed SCMs. The agreement shall further identify that any costs associated with the long-term maintenance of the installed SCMs shall be the responsibility of the property owner of that parcel at the time when the maintenance is performed. The provisions in this legal agreement shall run with the land, and the document shall be recorded with the Monterey County Recorder. The final agreement shall be subject to review and approval by the City's Planning and Engineering Departments, and the City Attorney, prior to recordation with the Monterey County Recorder. The agreement shall be executed and recorded prior to the issuance of building permits for any phase of the project. The City shall provide a draft agreement to the property owner. Failure of the property owner to execute this agreement will be considered a violation of the applicable land use entitlement permits, and be of sufficient cause for termination of said permits.

5. Operation and Maintenance Plan ("OMP"): For each phase of development, the property owner shall submit an OMP that shall plan, direct, and record the long term operation and maintenance of all proposed SCMs to be constructed within the Project. The OMP shall clearly identify the parties responsible for the long term operation and maintenance of the installed SCMs and their obligations. The OMP shall include a description of the SCMs to be maintained, a schedule for inspection and maintenance activities, and a description of the inspection and maintenance activities. The OMP shall require the owner to provide annual certification to the City that the SCMs have been regularly inspected and are functioning as intended. The OMP shall be prepared per City requirements and in accordance with the latest edition of the Stormwater Technical Guide ("STG") adopted by the MRSWMP. The OMP shall be submitted for review and approval to the City's Planning and Engineering Departments, and the City Attorney, prior to the issuance of any certificates of occupancy for any phase of the project. The OMP may be referenced in, and become an exhibit to, the Agreement Regarding Maintenance and Right of Entry for Stormwater Control Measures.
6. Certification of SCMs: For each phase of development, the Applicant shall provide written certification by a licensed Civil Engineer that all of the installed SCMs were constructed in accordance with the Project's approved improvement plans and approved SCP. This certification shall be provided to the City prior to the issuance of certificates of occupancy for any phase of the project. The certification shall meet City requirements and shall be signed and stamped by the licensed Civil Engineer. The City shall provide a draft certification form to the Applicant.
7. Compliance: The Applicant shall demonstrate compliance with the requirements of the most current NPDES Phase II General Permit issued to the City of Sand City, the PCRs, and Title 13.05 Storm Water Management, prior to the recordation of all Final Maps. The document demonstrating compliance, such as

a Stormwater Control Plan, shall be prepared by a licensed Civil Engineer. If for any reason the project cannot demonstrate compliance with the City's NPDES Phase II General Permit, the PCRs, Title 13.05, or the applicant fails to execute an Agreement Regarding Maintenance and Right of Entry for SCMs, or to complete a final O&M Plan, the Project's Conditional Use Permits, Coastal Development Permits, and Site Plan Permits shall be subject to termination.

C. Construction Best Management Practices ("BMPs")

1. Storm Water Discharge: The discharge of storm water during construction activities within the City is regulated by the City's NPDES Phase II General Permit, Municipal Code Title 13.05, and the SWRCB NPDES Construction General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities.
2. Best Management Practices ("BMPs"): During all phases of construction and/or land disturbance activities, the Applicant shall implement appropriate, site-specific BMPs for the protection of stormwater quality as required by the City's General Permit, Title 13.05, and the California Construction General Permit. BMPs may include, but are not limited to; erosion and sediment control, materials management, prevention of non-storm water discharges, good housekeeping and waste management practices. All site specific BMPs shall be shown on the ESCP and/or the Project's Storm Water Pollution Prevention Plan ("SWPPP").
3. ESCP Submittal: The ESCP shall be submitted to the City for review and approval prior to the issuance of any grading and/or building permits, or the commencement of any construction activities resulting in soil disturbance of 500 square feet or 50 cubic yards within the subject property.
4. California Construction General Permit: The Legally Responsible Person ("LRP"), as defined in the Construction General Permit, shall seek coverage under the Construction General Permit. The LRP shall prepare and submit the Notice of Intent ("NOI"), Permit Registration Documents ("PRDs"), and the Project SWPPP to the SWRCB to obtain coverage under the Construction General Permit and shall provide copies of the approved NOI and the project's Waste Discharger Identification Number ("WDID") to the City prior to the issuance of any encroachment, grading or building permits for any activity resulting in land disturbance.
5. Fire Access during Construction: Fire access and water supply acceptable to the Fire Chief shall be provided prior to combustible construction.

D. Utilities and Equipment

1. Sewer System Improvements: The Project shall construct new public Sanitary Sewer ("SSWR") mains within the proposed public Road "A", to collect

wastewater from the two residential parcels R1 and R2 and the two hotel Parcels H1 and H2. The new SSWR mains shall connect to existing SSWR infrastructure within California Avenue. The existing Sanitary Sewer Lift Station (“SSWR LS”) #22 located along Tioga Avenue within APN 011-122-005 shall be relocated within a new easement on Parcel R1 prior the development of Parcel R1. The new, relocated SSWR LS shall be designed to accommodate wastewater flows from the lower levels of the proposed residential building within Parcel R1 and flow from the existing residential parcels that currently flow to the existing SSWR LS. The new, relocated SSWR LS shall be constructed within an underground vault and/or any above ground equipment shall be surrounded by a screen wall using exterior façade elements/treatments consistent with those approved for the R1 building. The proposed easement for the new, relocated SSWR LS shall be shown on the Final Parcel Map and construction documents for this phase of development. The Applicant of Parcel R1 shall prepare all documents necessary to quitclaim the existing SSWR LS easement and to process, approve, and record the new SSWR LS easement. All costs associated with the relocation of the proposed SSWR LS and shall be the responsibility of the Applicant of Parcel R1.

2. Sewer System Design: The design of all new Sanitary Sewer (“SSWR”) improvements shall include the location, depth, size, material, slope, etc., and shall meet the requirements of the Seaside County Sanitation District (“SCSD”) and the City. All new SSWR improvements shall be shown in both plan and profile on the improvement plans and shall be approved by both the SCSD and the City prior to the issuance of any building permits for the work. The Applicant shall provide a report with calculations prepared by a licensed Civil Engineer to confirm the project’s sewer generation rates and to support the sizing of all required SSWR infrastructure. The report and calculations shall be and shall be signed and stamped by a licensed Civil Engineer and shall be submitted to the City and the SCSD for review and approval. The Applicant shall obtain written approval from the SCSD for all new SSWR improvements and shall provide copies of the written approvals to the City, prior to issuance of any building and/or encroachment permits for the work.
3. Storm Drain System Design: The design of all new Storm Dain (“SD”) improvements shall include the location, depth, size, material, slope, etc., and shall meet the requirements of the City. All new SD improvements shall be shown in both plan and profile on the construction documents and shall be approved by the City prior to the issuance of any building permits for the work. The Applicant shall provide a report with calculations prepared by a licensed Civil Engineer to confirm the Project’s compliance with hydrology and hydraulic calculations and to support the sizing of all required SD infrastructure. The peak hourly rate and total quantity of runoff shall be limited to the post-construction requirements of the State of California MS4 and at no time shall the peak hourly flow rate exceed the existing runoff within the Subject Property for the annual rainfall return frequencies of 1% and 10%. The report and calculation shall be signed and stamped by a licensed Civil Engineer and shall be submitted to the

City for review and approval, prior to issuance of any building and/or encroachment permits for the work.

4. Water System Improvements: The Project shall construct new public water mains within the proposed East Avenue and Road "A" to serve all phases of development. The new public water mains shall connect into existing water lines within Tioga Avenue and California Avenue. All costs associated with the installation of new water system improvements required by the project shall be the responsibility of the Applicant.
5. Water System Design: The design of all new water system improvements shall include the location, depth, size, material, slope, etc., and shall meet the requirements of California American Water ("Cal-Am"), Monterey One Water ("M1W"), and the City. All new water system improvements shall be shown in both plan and profile on the improvement plans and shall be approved by both the Cal-Am and the City prior to the issuance of any building permits for the work. The Applicant shall provide a report with calculations prepared by a licensed Civil Engineer to confirm the project's water demand and to support the sizing of all required water system improvements. The report and calculation shall be and shall be signed and stamped by the licensed Civil Engineer and shall be submitted to the City for review and approval. The Applicant shall obtain approval from Cal-Am for all new water system improvements and shall provide copies of said approvals to the City, prior to issuance of any building and/or encroachment permits for the work.
6. Overhead Utilities and Relocation: The Applicant shall remove all existing overhead utilities within the Project site and along Tioga Avenue and California Avenue, as necessary for the Project, and shall relocate them within underground joint trench facilities. The Applicant shall prepare composite joint trench plans for all phases of development. The Applicant shall provide a complete set of PG&E approved joint trench composite plans with the each improvement plan submission. The joint trench composite plans shall be fully coordinated with the project improvement plans, landscape plans, and Stormwater Control Plan, so that no conflict with the proposed improvements occurs. All utility relocations and their associated costs required as a part of this development shall be the responsibility of the Applicant. All utility relocations necessary to complete all phases of the project shall be completed prior to recordation of a Notice of Completion and Acceptance for the public improvements and the issuance of a certificate of occupancy for the first unit of the first phase.
7. Public Utility Easements: The Applicant shall provide a Public Utility Easement ("PUE") along all street frontages. The PUE shall be of sufficient width to accommodate all public utilities outside the public right-of-way that may be required by PG&E, Comcast, AT&T, etc, but excluding storm water, sanitary

sewer, potable water, and their associated service laterals. The PUE shall be shown on all Final Maps and Improvement Plans for the Project.

8. Ground Level Utility Equipment & Boxes: Utility equipment and/or boxes, fire suppression equipment, and the like shall not occupy public rights-of-way. Said utilities shall be located within Public Utility Easements (the "PUE"). The PUE shall be of sufficient width to accommodate all public utilities that may be required by PG&E, Comcast, AT&T, etc., excluding storm water, sanitary sewer, potable water and their associated service laterals. The PUE shall be shown on all Final Maps and Improvement Plans for the Project. Any variance from this requirement shall be subject City Engineer review and approval. Any such meters, boxes, and/or equipment above ground may occupy landscape areas, excluding drainage areas identified on the Project's Stormwater Control Plan, subject to City Planner and City Engineer approval; however such meters, boxes, and/or equipment shall employ visual screening utilizing the same materials/colors as approved for the primary buildings of each Parcel while maintaining accessibility. Landscaping shall not be considered a sufficient or satisfactory screening method. Any standpipes or back flow preventers in landscape areas shall have, at a minimum, a metal cage enclosure for safety and security. Accessibility to utility and fire suppression equipment shall be maintained in accordance with utility company and Fire Department requirements. The location of all utility meters and equipment shall be identified on civil improvement and site plan construction drawings for this Parcel, subject to Planning, Engineering, and Fire Departments review and approval. The general contractor shall be responsible for coordinating the placement and installation of all utility meters (gas, electric, phone, cable, etc.) in accordance with City approved civil improvement construction plans for the Project. Non-compliant installations may impede issuance of a certificate of occupancy/completion by the City until corrected to the satisfaction of the City and/or involved utility company/agency.

9. Photometric Analysis: The Applicant shall prepare a Photometric Analysis for all street lighting to be installed within the public right-of-way. The Applicant shall prepare a separate Photometric Analysis for all on-site exterior lighting to be installed within each parcel of the development. The Photometric Analysis shall be prepared by a qualified professional. The Photometric Analysis shall show the illumination dispersal based on the proposed fixtures, heights, and locations of all proposed lights. The Photometric Analysis for lighting within the public right-of-way shall consider the effect and/or impact of proposed on-site lighting. The Photometric Analysis for lighting within the on-site parcels shall consider the effect and/or impact of lighting within abutting public right-of-way. The Photometric Analysis for all lighting within the public right-of-way shall be submitted to the City for review and approval prior to the issuance of any encroachment permits.

10. Street Lights: All street lights to be installed within the public right-of-way shall meet the City's standard decorative light pole, Universe Collection Medium Light Emitting Diode (LED) – UCM, with concrete poles, and shall meet City specifications. The locations and heights of all street lights to be installed within the public right-of-way shall be subject to review and approval by the City Engineer.
11. On-Site Lighting: All exterior lighting to be installed within each parcel of the development shall be in accordance with the approved land entitlement permits issued for each parcel. Pole lights for outdoor parking and/or pedestrian areas on any of the development pads (H1, H1A, H2, H2A, R1, and R2) within this Project shall consist of LED energy efficient fixtures that performs and distributes light similar to the High Pressure Sodium 1,000 watt 480 volt parking lot lights at the Edgewater Shopping Center, and subject to final City Engineer review and approval. The placement and number of such lights shall be subject to civil improvement plan review and approval by the City Engineer. Final approval of exterior parking lot pedestrian light pole fixture designs and styles shall be subject to final Design Review Committee review and approval of design permits for each of the development pads of this Project. Civil improvement plans shall identify all such exterior light poles, their specifications to the satisfaction of the City Engineer and City Planner.
12. Monument/Sign Lighting: Light fixtures for the illumination of any/all monument signs within the Project area shall be subject to the Design Review Committee's review and approval of a design permit, sign permit, and/or uniform sign program.

E. Public Improvements

1. Demolition Plan and Phase 2 Environmental Site Assessment ("P2 ESA"): The Applicant shall prepare final demolition plans for the project. The demolition plans shall be prepared by a licensed Civil Engineer. The demolition plans shall address the demolition and removal of all existing features including, but not limited to; structures, hardscape, curb, gutter, sidewalk, driveways, signs, fences, walls, landscaping, vegetation, trees, and shall identify any items that are to be protected or remain in place. The demolition plans shall incorporate any requirements for the safe handling, removal, and disposal of any hazardous material encountered and shall include the relevant recommendations contained in the P2 ESA report (see Mitigation Measures below). The demolitions plans shall incorporate and be consistent with all applicable mitigation measures contained in the final, certified EIR for the project. The Applicant shall coordinate with the owners of any properties adjacent to the development envelope to identify any lighting circuits and/or subsurface utilities needing to remain in service. These facilities shall be shown to be re-established to the satisfaction of the adjacent property owners and the City, prior to approval of the demolition plans. The demolition plans shall be submitted to the City for review and approval

concurrent with the improvement plan package for the first phase of development. The demolitions plans shall be approved by the City prior to the issuance of demolition permit for any portion of the project.

The P2 ESA shall include representative sampling of all areas of the project site proposed for development, and shall specifically address the following:

- a. Documented/Undocumented underground storage tanks and surrounding soils conditions;
- b. Documented/Undocumented subgrade structures and surrounding soils conditions;
- c. Areas of impacted soil from surface spills and/or hazardous material storage;
- d. Soil vapor intrusion;
- e. Presence of lead-based paint, pesticides, and related metals in soils surrounding the existing buildings;
- f. Asbestos-containing building materials; and
- g. The plugged oil and natural gas production well and surrounding soils conditions.

2. Signing and Striping Plan: The Applicant shall prepare signing and striping plans per City standards and requirements. Signing and striping plans shall show street names, street name signs, stop signs, stop bars, lane lines, and channelization as necessary, and any other regulatory signage appropriate for the project. The signing and striping plans shall distinguish between existing striping to be removed and new striping to be installed. All striping shall be thermoplastic. All signing and striping shall be installed by the Applicant at the Applicant's sole expense. Signing and striping plans shall be reviewed and approved by the City's Police Department and the City Engineer.
3. Stopping Sight Distance: Intersections, fencing, and landscaping shall be designed to allow for adequate stopping sight distance. A sight distance assessment shall be performed at all intersections by the project Civil Engineer and shown on the improvement and landscape plans, or included as an exhibit to the improvement and landscape plans.
4. Public Improvement Plans: Prior to recordation of the first Final Map for any phase of development, the Applicant shall prepare public improvement plans for the construction of improvements along Tioga Avenue, California Avenue, East Avenue, and Road "A". The improvement plans shall be prepared by a licensed Civil Engineer and shall be submitted to the City's Engineering and Public Works Department for review and approval prior to the issuance of any building and/or encroachment permits for the work. The improvement plans shall identify all public improvements, such as street and utility infrastructure (water, sewer, storm drainage gas, electric, CATV, etc.), grading and drainage, landscaping, lighting, etc., required by the project. At minimum, asphalt pavement along Tioga Avenue and California Avenue shall be rehabilitated and/or reconstructed to centerline.

Based on field conditions, the final limits of pavement rehabilitation and/or reconstruction shall be determined by the City Engineer. The public improvement plans shall be fully coordinated with the Project's SCP and landscaping plans. All project post-construction SCMs shall be constructed in conformance with the final approved SCP and the final approved improvement plans prior to issuance of any certificates of occupancy for the project or any section thereof. All public improvements along Tioga Avenue, California Avenue, East Avenue, Scott Street, and Road "A" shall be constructed and accepted by the City prior to the issuance of a building permit for any building pad within the development.

5. Merle Street Improvements Abutting Parcel R1: The Applicant of Parcel R1 shall be responsible for 50% of the cost of frontage improvements for that portion of Merle Street abutting Parcel R1 at such time that Merle Street is developed.
6. Merle Street Improvements Abutting Parcel R2: The Applicant of Parcel R2 shall be responsible for 50% of the cost of frontage improvements for that portion of Merle Street abutting Parcel R2 at such time that Merle Street is developed.
7. Engineer's Estimate: The Applicant shall prepare an engineer's estimate for the public improvements along Tioga Avenue, California Avenue, East Avenue, and Road "A". The engineer's estimate shall be prepared by a licensed Civil Engineer and submitted concurrent with the improvement plans.
8. Engineering Reports and Technical Documents: All engineering reports, technical studies and/or memorandums, maps, and supporting documents necessary to support the Project shall be submitted to the City for review and approval concurrent with submittal of Project improvement plans and prior to the issuance of building permits for any phase of the Project.
9. Development Agreement: The Applicant shall enter into a Development Agreement with the City for the Project and/or property identified on the VTM. The Development Agreement shall be prepared in accordance with the applicable provisions of Government Code Title 7 Planning and Land Use, Division 1 Planning and Zoning, Chapter 4 Zoning Regulations, Article 2.5 Development Agreements. The Development Agreement shall include, but not be limited to; provisions regarding the duration of the agreement, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public resources, permitted uses, the obligation to construct improvements, the extent and timing of improvements, the required securities for all improvements, the release of securities, alterations to improvement plans, the timing for inspections, warranty, and the maintenance and management of all areas within the project, etc. The Development Agreement shall be executed between the Applicant and the City and shall be recorded by the City prior to recordation of any Final Map for any portion of the Project.

10. Encroachment Permits: An encroachment permit is required for any work within the public ROW. An encroachment permit shall be issued based upon final, approved improvement plans and an engineer's estimate for the work to be performed. The Applicant shall pay all fees associated with the review and processing of all encroachment permits for the Project.
11. East Avenue Access. Applicant shall maintain continuous access on East Avenue to the Salvation Army property during grading and construction.
12. Street Access. Prior to acceptance of public improvements, all streets shall be barricaded to prevent the public from entering the construction site. The developer and assigned contractors shall keep all streets clear of obstructions, whether not yet accepted or within the public right-of-way, and provide for clean up on a daily basis.
13. Park Improvements and Easements. An easement shall be recorded with the final map to provide public access to and over park facilities provided on private parcels and intended for public access, use, and enjoyment. Property owner shall be responsible for construction and maintenance of improvements on private property.

F. Grading and Drainage

1. Geotechnical Report: The Applicant shall submit a final geotechnical report for all phases of the project to the City. The report shall be prepared by a licensed geotechnical engineer and shall be signed and stamped. The report shall be submitted concurrent with the improvement plan package. The report shall ensure that the Project is designed and constructed in accordance with the most current and applicable standards of the City's building code. The report shall include a geotechnical evaluation and recommendations for all necessary aspects of the Project including, but not limited to; Geologic Hazards, Site Preparation, Earthwork, Grading, and Drainage, Foundations, Special Treatment at cut/fill interfaces, Retaining Walls, Street Pavement Sections, etc. The report shall include site specific soils infiltration/percolation testing at locations where structural stormwater control measures are proposed to be constructed, in order to support the design of said measures. The recommendations contained in the report shall be incorporated into the design of the Project.
2. Grading and Drainage Plans: The Applicant shall prepare grading and drainage plans for all phases of development. The grading and drainage plans shall be prepared by a licensed Civil Engineer and shall be approved by the City Engineer prior to the issuance of any building permits for any phase of the Project. The grading and drainage plan shall be prepared in accordance with City requirements and standards. At minimum, the grading and drainage plans shall contain the following information; existing and proposed contours, existing and proposed elevations, existing and proposed infrastructure, cut/fill interfaces and

limits of grading, lot/parcel boundaries and road rights-of-way, existing trees to be saved in place or removed, furnish all necessary details to clearly convey recommendations contained in the Project geotechnical investigation, proposed pad elevations and lot/parcel detail grading details, cross-sections as needed to show the areas of cut, fill, and grading, perimeter cross-sections along all sides of the Project to show the Project's interface with abutting streets and properties, plan view of proposed drainage facilities including storm drains, catch basins, manholes, underdrains, and stormwater control measures/water quality improvements. The grading and drainage plans shall be reviewed and approved by the Project Geotechnical Engineer and copies of said approval shall be provided to the City prior to approval of the Grading and Drainage Plans.

3. Overland Release: For each phase of development, the Applicant shall provide a detailed grading plan of the entire development showing an overland release path for runoff occurring during 24-hour rainfall events with annual return frequencies greater than 10%, individual parcel grading showing all post-construction stormwater management and control features, with area calculations in accordance with the approved Stormwater Control Plan and all finish floor elevations.
4. Slope Grading: All slope grading shall comply with the project geotechnical report. Slopes greater than 2 horizontal units to 1 vertical unit (2H:1V) shall not be allowed within the public ROW. Slopes greater than 2 horizontal units to 1 vertical unit (2H:1V) shall not be allowed on-site, unless written approval is provided by the City Engineer.
5. Grading at Abutting Properties: Proposed grading may affect adjacent and/or abutting properties. The Applicant shall coordinate details with adjoining property owners and to the satisfaction of the City Engineer.
6. Retaining Walls: Retaining walls over 4 feet tall shall be designed by a Civil or Structural Engineer. Retaining wall design shall incorporate all applicable recommendations contained within the Project's final geotechnical report. All retaining wall calculations and reports shall be submitted to the City's Engineering and Building Departments for review and approval, prior to the issuance of any permit for construction of said walls.
7. Site Grading: If the Applicant desires to grade prior to the City's approval of the improvement plans, the Applicant shall obtain a grading permit from the City's Engineering and Public Works Department. The Applicant shall pay all fees associated with the review and processing of the grading permit(s).
8. Wet Season Grading: No grading activities within the project site shall occur between October 15 and April 15, unless a written request is submitted by the applicant and an Erosion and Sediment Control Plan identifying site specific construction best management practices to prevent storm water pollution and to

protect water quality is submitted to the City Engineer for review and approval prior to the commencement of grading.

G. Landscape and Irrigation

1. Landscape and Irrigation Plans: The Applicant is required to install landscaping and irrigation along the frontages of the project along Tioga Avenue, California Avenue, East Avenue, and Road "A". The Applicant of each parcel is required to install on-site landscaping and irrigation concurrent with the development of that parcel. The Applicant shall prepare Landscape and Irrigation Plans for all phases of the Project. The Landscape and Irrigation Plans shall be prepared by a licensed Landscape Architect. All Landscape and Irrigation Plans shall be fully coordinated with the off-site and on-site improvement plans and the Project's SCP. Landscape and Irrigation Plans shall meet City requirements and the Model Water Efficient Landscape Ordinance (MWELO), as applicable to the Project, subject to review by the City. Landscape and Irrigation Plans shall be submitted to the City for review and approval prior to the issuance of building permits for any phase of the Project. All planting areas and planter pots shall be connected to an irrigation system.
2. Landscape and Irrigation Maintenance: The developer shall be responsible for the cost of maintenance, servicing and operation of landscaping and irrigation within the public right of way. This obligation may be satisfied by formation of a special financing district, deposit of an annuity that provides sufficient funding for the annual maintenance or other mechanism as agreed to by the City. Maintenance of all landscape and irrigation within the public right-of-way shall be the responsibility of the Community Facilities District. Maintenance of all landscape and irrigation within the private parcels shall be the responsibility of the owner(s) of each parcel at the time the maintenance is performed and the costs for such maintenance shall be paid for by the owner(s) of each parcel. Should maintenance of the on-site landscape and irrigation systems not be maintained to the satisfaction of the City, the City may take measures to correct the deficiencies and seek compensation from owner(s) of each parcel.
3. Weed Control: Keep weed growth no taller than 18 inches and site free of litter or debris prior to or during construction.
4. Landscape Plan Review: Complete landscape plans for each development pad, all new/improved public streets, parking areas, and exterior podium areas of the Project shall be reviewed and approved by the Design Review Committee in the issuance of a Design permit for each development pad prior to the issuance of a building permit and the City's acceptance of the new public street rights-of-way. This landscape plan shall provide complete information, to the satisfaction of the City Planner, regarding ground covers, plants, shrubs, and trees in regard to species, sizes, location, placement, and numbers. Landscape plans shall include:
 - a. Irrigation plan(s) with details;

- b. Tree planting and staking details; and
 - c. Consistency with all storm water control plans and improvement plans.
5. Landscape Installation: All required landscaping shall be installed to the satisfaction of the City Planner's interpretation of the approved Landscape Plan for each development pad and public areas prior to final issuance of a certificate of occupancy for that development pad and City acceptance of new public rights-of-way within the Project. To the satisfaction of the City Planner, all trees shall be no less than double staked with 2-inch diameter wood stakes, and possibly triple staked and/or wind screened where trees are susceptible to high winds until established.
 6. Plant Materials: Trees, shrubs, and ground covers shall be drought resistant. Trees shall be tolerant of coastal sea winds and sandy soil.
 7. Drainage to Landscaping: All ground level planting areas (not including the residential podium areas) shall not include raised curbs; rather, they are to be flush with adjacent pavement. Raised planter boxes and planter pots may be incorporated into the Project; however, they shall incorporate those materials and colors consistent with the Project's approved architecture.
 8. Signs: Prior to the installation/establishment of any commercial and/or site identification sign(s) (monument and/or wall mounted) on any development pad within the Project, a design permit, sign permit, and/or a uniform sign program, as determined appropriate by the City Planner, for that corresponding development pad shall be approved by the City's Design Review Committee.
 9. Temporary Construction Signs: Temporary construction signs may be placed within the Project and/or individual development pads of the Project during construction activities without approval from the City's Design Review Committee. However, said construction signs shall be subject to the terms/condition of approved land use entitlement permit(s), and only erected within those areas with construction activity.

H. Additional Requirements

1. Monuments: Centerline monuments shall be set within the street pavement at all intersections, angle points, and curve points. The locations of said monuments shall be shown on the Final Map and the Improvement Plans. The engineer/surveyor of record shall provide certification to the City's Engineering and Public Works Department when the monuments have been set.
2. Exterior Corners: The Applicant's engineer/surveyor of record shall monument all exterior corners with 1 1/2" or larger pipe marked with the surveyor of record license number.

3. Parcel Corners: The Applicant's engineer/surveyor of record shall set permanent monuments at all parcel corners.
4. Benchmark: The Applicant's engineer/surveyor of record shall set a permanent benchmark within the project limits. The permanent benchmark shall be either a brass disk in the sidewalk or another suitable monument, as approved by the City prior to installation.
5. Property Corner at Sidewalk: If a property corner falls in the back of sidewalk, the Applicant shall either construct the sidewalks 4.5 feet wide in this location or set the corner reference points in the top of curb.
6. Monuments on Final Map: The Final Map shall show all monuments found and set for the Subject Property and those that were used to establish the boundaries of the Subject Property.
7. Construction Signs: The type and location of all construction signs shall be subject to review and approval by the City prior to use.
8. Infrastructure Operation: Subject to provisions regarding funding by the CFD described in these Conditions of Approval, all infrastructure improvements that are installed within the public right-of-way shall be operated and maintained by the City.

I. Fees

1. Payment of Fees. For all phases of development, the Applicant shall pay all City fees associated with the processing and review of the Project. The Applicant shall pay all fees associated with the issuance of permits for any phase of the Project, or portion thereof, including all other pertinent agency fees.
2. Parkland or Fees. The applicant shall provide on-site parkland or a fee in lieu of parkland dedication, or combination thereof, in accordance with Municipal Code Chapter 17.68. Based on a Project of 356 residential units and an average per unit occupancy of 2.27 persons, the total Project population would be about 808 persons. The resulting parkland requirement, based on 130 square feet per each resident, is 2.4 acres. Park or recreation area provided by the applicant within the Project that qualifies under the provisions of Chapter 17.68 shall be credited toward this requirement as determined by the City Planner. Remaining park requirements shall be compensated through an in-lieu payment the amount to be determined prior to recording of the first Final Map by the City in accordance with the provisions of Chapter 17.86. Fees may be used for recreational amenities within the City's public rights-of-way within or adjacent to the Project, or for an off-site community or cultural center within the Sand City municipal limits. An in-kind contribution toward rent or facilities may be used in place of fees at the discretion of the City Administrator. One-half of the fee shall be paid prior to

recording of the final map, or as otherwise agreed by the City Administrator in the case of in-kind contributions, and one-quarter of the fee shall be paid prior to issuance of the first building permit for each parcel.

J. Mandatory Mitigation Measures

1. (AQ-1) Prior to occupancy of any residential units on the project site, the applicant shall construct a sidewalk to complete a gap on the existing sidewalk within or abutting to the railroad right-of-way on the south side of Tioga Avenue.
2. (AQ-2) To reduce dust emissions from demolition, grading, and construction activities on the project site, specific language shall be included in all grading and construction plans for these projects prior to the issuance of a building permit.

Dust control measures shall be employed to reduce visible dust leaving the project site. The following measures or equally effective substitute measures shall be used:

- a. Use recycled water to add moisture to the areas of disturbed soils twice a day, every day, to prevent visible dust from being blown by the wind;
 - b. Use recycled water to prevent visible dust from building demolition;
 - c. Apply chemical soil stabilizers or dust suppressants on disturbed soils that will not be actively graded for a period of four or more consecutive days;
 - d. Apply non-toxic binders and/or hydro seed disturbed soils where grading is completed, but on which more than four days will pass prior to paving, foundation construction, or placement of other permanent cover;
 - e. Cover or otherwise stabilize stockpiles that will not be actively used for a period of four or more consecutive days, or water at least twice daily as necessary to prevent visible dust leaving the site, using raw or recycled water when feasible;
 - f. Maintain at least two feet of freeboard and cover all trucks hauling dirt, sand, or loose materials;
 - g. Install wheel washers at all construction site exit points, and sweep streets if visible soil material is carried onto paved surfaces;
 - h. Stop demolition, grading, and earth moving if winds exceed 15 miles per hour;
 - i. Pave roads, driveways, and parking areas at the earliest point feasible within the construction schedule;
 - j. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours of receiving the complaint. The phone number of the Monterey Bay Air Resources District shall also be visible to ensure compliance with Rule 402 (Nuisance); and
 - k. Limit the area under construction at any one time
3. (AQ-3) The Applicant shall prepare a Construction Staging Management Plan to be reviewed and approved by the City Planner and City Engineer, prior to

issuance of grading or demolition permits. The plan shall include the following restrictions:

- a. On-site staging and loading areas for off-haul trucks during demolition, grading, and excavation activities shall be located no farther than thirty feet (30') feet south or west of Street "A;"
 - b. Offsite staging, if allowed, shall not be located on Tioga Avenue between Metz Road and Sand Dunes Drive, or at any location within five-hundred (500') feet of a residence; and
 - c. Construction equipment and off-haul trucks shall not idle in excess of five (5) minutes.
4. (AQ-4) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. All non-road diesel construction equipment shall, at a minimum, meet Tier 3 emission standards listed in the Code of Federal Regulations Title 40, Part 89, Subpart B, §89.112. The developer shall provide evidence of compliance prior to issuance of a grading permit.
5. (BIO-1) To compensate for the permanent loss of Monterey spineflower individuals and Smith's blue butterfly habitat, and to avoid impacts to Monterey gilia individuals, the applicant shall record a conservation easement over 0.9 acre of Monterey spineflower/Monterey gilia and Smith's blue butterfly coastal dune scrub habitat, including the existing 0.1 acre sandy trail. The area proposed for preservation shall be expanded from that proposed in the Draft EIR as illustrated in Figure 7-3 to avoid direct impacts to all known on-site Monterey gilia locations. Granting and conveyance of the easement will be subject to the conditions developed during consultation with the USFWS to secure an Incidental Take Permit. The conservation easement shall be recorded prior to issuance of the first grading permit for the project, subject to review and approval by the City Planner, City Attorney, and City Administrator. Conditions may include, but not be limited to, the following:
- a. The 0.9 acre will be expanded slightly in two locations, one to the south and one to the north, and preserved and protected in perpetuity, by an entity other than the applicant, per a conservation easement, which will prohibit any activity that is incompatible with the preservation efforts;
 - b. Invasive iceplant will be carefully removed by hand with the intent to minimize disturbance to the native seed bank, and this area will be maintained to support expanded growth of Smith's blue butterfly host plants and Monterey spineflower/Monterey gilia following completion of the project;
 - c. The existing 0.1-acre sandy trail (leading to Merle Street right-of-way) will be maintained by installing roped fencing, or other method deemed appropriate by the City, on both sides of the trail and from the trail to Tioga Avenue to guide foot traffic away from adjacent habitat areas;

- d. Permanent fencing will be installed between the project development area and the preserved area to prevent access to Smith's blue butterfly and Monterey spineflower/Monterey gilia habitat (except pedestrian access through the area using the roped/fenced path on the existing sandy trail);
 - e. Signage will be installed to notify the public that the area is protected and that special-status species may be present;
 - f. A U.S. Fish and Wildlife Service-approved native plant specialist will plant Smith's blue butterfly buckwheat host plants/seeds and Monterey spineflower seeds in the preserved area, with seeds/plants relocated/collected from the site impact areas prior to demolition or grading within the impact areas;
 - g. A monitoring and reporting program will be developed in detail in the project Habitat Conservation Plan. The monitoring program will include pre- and post-treatment vegetation sample plot or transect surveys to record the percent cover of invasive plants, Monterey spineflower, Monterey gilia, and buckwheat plants prior to and after treatment. The plots/transects will be surveyed during the appropriate blooming period for Monterey spineflower/Monterey gilia to allow for positive identification. Non-native and invasive weed cover will be no more than 10 percent in the restoration areas. Monitoring shall be conducted for a period of five years. If the restoration is not successful after five years, the project proponent will consult with the U.S. Fish and Wildlife Service and Sand City to define alternative measures. Brief written reports will be submitted annually to the property owner(s), conservation easement holder, and U.S. Fish and Wildlife Service; and
 - h. A fund will be created by the project applicant through a one-time endowment to carry out management of the habitat preservation area in perpetuity (including monitoring and weeding as necessary). Management activities will be conducted by a third party approved by the U.S. Fish and Wildlife Service.
6. (BIO-2) At least 15 days prior to ground disturbance, the applicant shall submit the names and credentials of biologists who will conduct activities specified in mitigation measures BIO-1 through BIO-5 ("qualified biologist"). No project activities shall begin until the applicant has received written approval from the U.S. Fish and Wildlife Service that the biologists are qualified to conduct the work. Written approval is required prior to issuance of the first grading and demolition permits, subject to review and approval by the City Planner. The qualified biologists shall supervise and/or implement all species protection measures.
7. (BIO-3) Prior to issuance of a grading permit and during construction, the following measures to avoid or minimize impacts to Monterey spineflower and Monterey gilia shall be implemented:
- a. Prior to grading and construction and during the appropriate identification period, Monterey spineflower and Monterey gilia surveys shall be

conducted by a U.S. Fish and Wildlife Service-approved, qualified biologist in areas where spineflower or gilia were previously identified or have potential to occur.

- b. The boundaries of Monterey spineflower and Monterey gilia populations near project work areas, or the limits of project work areas or access roads/routes near Monterey spineflower and Monterey gilia populations that are to be avoided shall be delineated with clearly visible flagging or fencing, which shall be checked weekly by the qualified biologist or designated site representative and repaired as needed.
 - c. The populations that are to be impacted shall be recorded using a submeter-accurate global positioning system ("GPS") unit, and the total acreage of temporary and permanent impacts shall be calculated.
 - d. In project work areas where Monterey spineflower is present, initial ground disturbance activities shall be conducted in late summer or early fall to avoid impacting these plants before they have set seed. If this is not feasible and it is possible to collect seed prior to the start of construction, seed shall be collected by a qualified biologist from the impact area. Monterey spineflower individuals shall be used during restoration following the completion of Phase 1 construction activities. Alternatively, a U.S. Fish and Wildlife Service-approved, qualified biologist can proceed with the relocation of the top layer of substrate containing the spineflower seeds to previously identified and approved locations.
8. (BIO-4) The project proponent shall conduct an education program for all persons employed or otherwise working at the project site before performing any demolition, grading, or excavation work. The program shall consist of a presentation from a U.S. Fish and Wildlife Service-approved biologist that includes photos of special-status species with the potential to occur on the project site in all life history stages, and a discussion of the biology and general behavior of each species in each life history stage, information about the distribution and habitat needs of the special-status species in each life history stage, sensitivity of the special-status species to human activities in each life history stage, and its status pursuant to the Federal Endangered Species Act, including legal protection, recovery efforts, penalties for violations, and project-specific protective measures. The project proponent shall prepare and distribute wallet-sized cards or a fact sheet handout containing illustrations and summarized information for workers to carry at the project site. Upon completion of the education program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be engaged in ground disturbance activities at the project site.

The project proponent shall be responsible for implementation of these mitigation measures with oversight by the City of Sand City. Compliance with these measures shall be documented and submitted to the City.

9. (BIO-5) Prior to issuance of a grading permit and during construction, the following measures to avoid or minimize impacts to Smith's blue butterfly will be implemented:
 - a. Any vegetation removal or grading work in proximity to buckwheat plants should avoid the period of June 15 to September 15 (Smith's blue butterfly flight season) unless otherwise authorized by the qualified biologist after review of current Smith's blue butterfly activity.
 - b. The boundaries of buckwheat populations near project work areas, or the limits of project work areas or access roads/routes near buckwheat populations that will be avoided shall be delineated with clearly visible flagging or fencing. Fencing shall be checked weekly by the qualified biologist or designated site representative and repaired as needed.
 - c. Buckwheat populations that will be impacted shall be recorded using a submeter-accurate global positioning system ("GPS") unit, and the total acreage and/or number of individuals disturbed shall be calculated.
 - d. The qualified biologist will monitor activities on a regular basis during grading and construction, including all areas where Smith's blue butterflies may be present. Monitoring during the summer butterfly flight period will occur on a daily basis.
 - e. The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City.

10. (BIO-6) Prior to issuance of a grading permit and during demolition, site clearing, grading, excavation, and construction, a list of measures to avoid or minimize impacts to legless lizards and coast horned lizard will be implemented:
 - a. Not less than three months prior to the start of grading activities (including staging and mobilization), a qualified biologist shall place coverboards in impact areas with suitable habitat (coastal dune scrub and disturbed maritime chaparral mixed with coastal dune scrub) for legless lizards and coast horned lizard. The coverboards shall be at least four feet by four feet and constructed of untreated plywood placed flat on the ground. The coverboards shall be checked by the biologist once per week for each week after placement up until the start of vegetation removal. All legless lizards and coast horned lizards found under the coverboards shall be captured and placed in five-gallon buckets for transportation to relocation sites. If areas are left undisturbed for a period of three months or longer, the coverboards will be replaced and relocation efforts will be repeated prior to the re-initiation of ground disturbance activities.
 - b. All relocation sites shall be approved by Sand City and/or the implementing entity and shall consist of suitable habitat. Relocation sites shall be as close to the capture site as possible but far enough away to ensure the animal(s) is/are not harmed by construction of the project. Relocation shall occur on the same day as capture. California Department of Fish and Wildlife California Natural Diversity Database Native Species

Field Survey Forms shall be submitted to the California Department of Fish and Wildlife for all special-status species observed.

- c. During all initial ground vegetation removal activities, a qualified biologist shall be on the site to recover any legless lizards and coast horned lizards that may be excavated/unearthed. If the animals are in good health, they shall be immediately moved to relocation sites. If they are injured, the animals shall be released to a wildlife recovery specialist until they are in a condition to be released into relocation sites.
- d. A report of all preconstruction survey efforts and monitoring during initial ground vegetation removal shall be submitted to the implementing entity within 30 days of completion of the survey/monitoring efforts to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report shall also include for each captured special-status animal, the Universal Transverse Mercator coordinates and habitat descriptions of the capture and release sites, the length of time between capture and release, and the general health of the individual(s).
- e. The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City.

11. (BIO-7) To avoid/minimize potential impacts to burrowing owls occurring within or adjacent to the project site, individual project developers will retain a qualified biologist to conduct a two-visit (i.e. morning and evening) presence/absence survey at areas of suitable habitat on and adjacent to the project site no less than 14 days prior to the start of any construction activities. Surveys shall be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife 2012). If these pre-construction "take avoidance" surveys performed during the breeding season (February through August) or the non-breeding season (September through January) locate occupied burrows in or near construction areas, consultation with the California Department of Fish and Wildlife would be required to interpret survey results and develop a plan for project-specific avoidance, minimization, and compensation.

Where there is insufficient habitat for permanent protection on, adjacent to, or near project sites where burrowing owls will be impacted, acquisition of off-site mitigation lands with occupied burrowing owl habitat may be required in consultation with the California Department of Fish and Wildlife. Compensation may take the form of (a) acquiring and dedicating lands into conservation easements; (b) purchasing mitigation credits at compensation ratios that have been approved by the California Department of Fish and Wildlife; or (c) preserving area contiguous or near the acreage lost.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City prior to ground disturbance.

12. (BIO-8) Prior to tree removal or structure demolition activities, the project proponent shall retain a qualified biologist to conduct a focused survey for bats and potential roosting sites in trees to be removed, in trees within 250 feet of the disturbance/ development footprint, within structures (when accessible), and surrounding any structures that may be demolished by the project. These surveys shall be conducted no more than 15 days prior to the start of tree removal or building demolition. The surveys can be conducted by visual identification and assumptions can be made by the biologist on what species is present due to observed visual characteristics along with habitat use, or the bats can be identified to the species level with the use of a bat echolocation detector such as an "Anabat" unit.

If no roosting sites or bats are found, a letter report confirming absence shall be submitted to the City of Sand City and no further mitigation is required.

If bats or roosting sites are found, a letter report and supplemental documents shall be provided to the City of Sand City prior to grading or demolition permits being issued and the following monitoring, exclusion, and habitat replacement measures shall be implemented:

- a. If bats are found roosting outside of the nursery season (May 1 through October 1), they shall be evicted as described under (b) below. If bats are found roosting during the nursery season, they shall be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. If the roost is determined to not be a maternal roost, then the bats shall be evicted as described under (b) below. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 250-foot buffer zone (or different size if determined in consultation with the California Department of Fish and Wildlife) shall be established around the roosting site within which no construction activities including tree removal or structure demolition shall occur until after the nursery season.
- b. If a non-breeding bat hibernaculum is found in a tree or snag scheduled for removal or on any structures scheduled to be demolished by project activities, the individuals will be safely evicted, under the direction of a qualified bat biologist and in consultation with the California Department of Fish and Wildlife. Methods could include: carefully opening the roosting area in a tree or snag by hand to expose the cavity, and opening doors/windows on structures or creating openings in walls to allow light into the structures. Removal of any trees or snags and demolition of any structures shall be conducted no earlier than the following day (i.e., at least one night will be provided between initial roost eviction disturbance and tree removal/structure demolition). This action will allow bats to leave

during dark hours, which increases their chance of finding new roosts with a minimum of potential predation.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City prior to vegetation removal, ground disturbance, or building demolition.

13. (BIO-9) To avoid possible impacts to nesting birds on and adjacent to the project site, if noise generation, ground disturbance, vegetation removal, or other construction activities begin during the nesting bird season (February 1 to September 15), or if construction activities are suspended for at least two weeks and recommence during the nesting bird season, then the project proponent shall retain a qualified biologist to conduct a pre-construction survey for nesting birds. The survey shall be performed within suitable nesting habitat areas on and adjacent to the site to ensure that no active nests would be disturbed during project implementation. This survey shall be conducted no more than one week prior to the initiation of disturbance or construction activities.

If no active bird nests are detected during the survey, then project activities can proceed as scheduled. However, if an active bird nest of a native species is detected during the survey, then a plan for bird nest avoidance shall be prepared by the qualified biologist to determine and clearly delineate an appropriately sized, temporary protective buffer area around each active nest, depending on the nesting bird species, existing site conditions, and type of proposed disturbance or construction activities. The protective buffer area around an active bird nest is typically 75-250 feet, determined at the discretion of the qualified biologist.

To ensure that no inadvertent impacts to an active bird nest will occur, no disturbance and/or construction activities shall occur within the protective buffer area(s) until the juvenile birds have fledged (left the nest), and there is no evidence of a second attempt at nesting, as determined by the qualified biologist.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with this measure shall be documented and submitted to the City prior to vegetation removal, demolition, or ground disturbance.

14. (BIO-10) Prior to demolition, site clearing, grading, excavation, and construction, and in coordination with mitigation measures BIO-3 and BIO-5, which require the delineation of areas where Monterey spineflower/Monterey gilia and Smith's blue butterfly buckwheat host plants occur, the boundaries of coastal dune scrub located near project work areas, or the limits of project work areas or access roads/routes near coastal dune scrub that are to be avoided shall be delineated with clearly visible flagging or fencing, or otherwise marked for avoidance. The

flagging, fencing, and/or other marking shall be maintained in place for the duration of construction at each location until work is completed at the site. Fencing shall be checked weekly by the qualified biologist or designated site representative and repaired as needed.

15. (BIO-11) In coordination with mitigation measure BIO-1, a conservation easement over 0.9 acre of coastal dune scrub shall be recorded. This area will be managed for special-status species and include invasive iceplant removal, planting of native coastal dune scrub species, and mitigation and monitoring subject to the conditions developed during consultation with the USFWS to secure an Incidental Take Permit for impacts to federally listed species.

The project proponent shall be responsible for implementation of these mitigation measures with oversight by the City of Sand City. Compliance with these measures shall be documented and submitted to the City prior to ground disturbance.

16. (BIO-12) Prior to construction, the project proponent shall retain a certified arborist to survey all significant trees on the project site (those with a diameter at breast height of 10 inches or more). For proposed significant tree removals, a permit from the City shall be obtained. The permit may require replacement plantings, but not necessarily of the same species. The project proponent shall install replacement trees in accordance with all mitigation, maintenance, and monitoring requirements specified in the tree removal permit(s) or otherwise required by the City for project approvals.

The project proponent shall be responsible for implementation of this mitigation measure with oversight by the City of Sand City. Compliance with these measures shall be documented and submitted to the City prior to ground disturbance.

17. (CR-1) Due to the possibility that unique buried archeological or paleontological resources might be found during construction activities, the following language shall be included in all construction documents and on any grading or building permits:

“In the event that evidence of historical, archaeological and/or paleontological resources is uncovered during excavation and/or grading, all work shall stop in the area of the subject property until an appropriate data recovery program can be developed and implemented by a qualified historian, archaeologist and/or paleontologist. The City Planner shall ensure that the permit language has been included and shall ensure that the appropriate data recovery program is implemented should historical, archaeological and/or paleontological resources be uncovered.”

18. (CR-2) Due to the potential that human remains may be uncovered during construction activities, the following language shall be included in all construction documents and on grading and building permits:

"If human remains are found during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within twenty-four (24) hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within forty-eight (48) hours after being notified by the Commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner."

19. (CR-3) Due to the possibility that unique tribal resources might be found during construction activities, the following language shall be included in all construction documents and on any permits issued for the project site, including, but not limited to, grading, and conditional use building permits for the proposed project:

"The City Planner shall ensure that the permit language has been included and that the appropriate resource recovery program is implemented should any tribal resources be uncovered. In the event that evidence of tribal resources is uncovered during excavation and/or grading, all work shall stop in the area of the subject property until an appropriate data recovery program can be developed and implemented by a qualified archaeologist."

The applicant shall notify the Ohlone/Costanoan-Esselen Nation, with a copy to the Sand City Planning Department, no less than 14 days prior to initiation of grading and excavation activities to provide an opportunity for provision of a Tribal Monitor to be present during rough grading and excavation activities. All cultural items found during construction activities shall be returned to the Ohlone/Costanoan-Esselen Nation.

20. (GEO-1) After demolition activities, the project developer(s) shall remove, stockpile under cover, and/or compact all disturbed soils that will remain inactive for more than fourteen days, subject to the review of the City Engineer and the Monterey Building Department inspectors.
21. (GEO-2) During grading activities, exposed soils shall be kept continuously moist or otherwise stabilized prior to placement of subsequent fill on the project site, subject to the review of the City Engineer and the Monterey Building Department inspectors.
22. (GEO-3) A Geotechnical Engineer shall monitor mass grading operations weekly (on weeks when such activities occur) in order to guarantee acceptable compaction of material and performance of the appropriate stability requirements of development, and shall report monthly to the City Engineer. The Geotechnical Engineer shall specifically monitor removal and replacement of the area of loose prior fill.
23. (GEO-4) If the period of post-grading and pre-construction extends for longer than 30 days, the developer(s) shall present the City Engineer with updated documentation and a report within the following 30 days, and on October 15th of each subsequent year, identifying their continued compliance with storm water prevention measures until construction of the development has commenced.
24. (GEO-5) No earthwork activities will occur when winds exceed sustained speeds over 20 miles per hour.
25. (GEO-6) Subject to the review and approval of the City of Monterey Building Department and prior to the construction of any building, the developer(s) is (are) required to over-excavate and compact the soil within the proposed building areas to a depth of no less than 24 inches below the bottom of the footing elevation to minimize soil movement due to settlement and to provide uniform support for the proposed buildings.
26. (GEO-7) The developer(s) is (are) required to compact any uncertified fill material remaining after foundation excavation activities in accordance with the recommendations contained in the final project geotechnical report to prevent future compaction concerns to the fill material. Alternatively, uncertified fill material may be removed from beneath building foundations and replaced with engineered fill.
27. (GEO-8) Prior to the issuance of a building permit, developer(s) is (are) required to provide a shoring plan using slopes, benches, or protective structures, for review and approval by the City of Monterey Building Department for excavations exceeding five feet in total depth from the reference top-of-cut soil level.

28. (HAZ-1) The developer shall prepare a Phase II Environmental Site Assessment prior to the issuance of a permit for building demolition or site clearance activities. The Phase II Environmental Site Assessment shall be reviewed by the City Planner, the City Engineer, and the City of Monterey Fire Department. The City may opt to refer the Phase II Environmental Site Assessment to the Monterey County Environmental Health Department for review.

The Phase II Environmental Site Assessment shall include representative sampling of all areas of the project site proposed for development, and shall specifically address the following:

- a. Documented/Undocumented underground storage tanks and surrounding soils conditions;
- b. Documented/Undocumented subgrade structures and surrounding soils conditions;
- c. Areas of impacted soil from surface spills and/or hazardous material storage;
- d. Soil vapor intrusion;
- e. Presence of lead-based paint, pesticides, and related metals in soils surrounding the existing buildings;
- f. Asbestos-containing building materials; and
- g. The plugged oil and natural gas production well and surrounding soils conditions.

29. (HAZ-2) A geophysical survey shall be required during the Phase II Environmental Site Assessment in order to address the potential presence for improper closure of the oil and natural gas production well.

30. (HAZ-3) The developer shall prepare a Site Management Plan to describe all of the measures that will be taken to address the concerns identified in the Phase II Environmental Site Assessment, including any soil contamination subject to remediation. If a remediation plan for outside agency oversight is required, that may be attached, with only a summary included in the Site Management Plan. The Site Management Plan shall include provisions for adequate monitoring by a qualified professional during site grading and excavation activities. The Site Management Plan shall be reviewed by the City Planner, City Engineer, and the City of Monterey Fire Department. The City may opt to refer the Site Management Plan to the Monterey County Environmental Health Department for review, and in the event of the need for outside agency oversight, shall coordinate review of the Site Management Plan with that agency. The Site Management Plan shall be approved prior to the issuance of a permit for building demolition or site clearance activities.

31. (HAZ-4) Prior to the demolition of buildings, the developer shall conduct an asbestos survey and lead-based paint survey that include management of these hazardous materials during demolition of buildings. An abatement plan shall be

developed for approval by the City Planner, City Engineer, and/or City of Monterey Fire Department prior to the issuance of a demolition permit for any existing building within the project site. The developer shall notify the Monterey Bay Unified Air Resources District at least ten days prior to demolition activities. In the event underground pipes are discovered during excavation activities, those pipes shall be assessed for the potential to contain lead or asbestos.

The surveys shall include abatement measures and appropriate management during demolition of the buildings identified as containing these hazardous materials.

32. (DR-1) Refer to Section B. Stormwater Quality and Erosion Control, paragraph 3 "Stormwater Control Plan", above.
33. (N-1) The developer shall include the following language on any grading, site work, and construction plans issued for the proposed project, prior to the issuance of grading and building permits. This restriction shall not apply to work, such as painting, that does not cause significant noise.

"During earth-moving, grading, and construction activities, the developer shall implement the following measures at the construction site:

- a. Limit outdoor construction activity to weekdays between 7:00 a.m. and 6:00 p.m., and on Saturdays between 10:00 a.m. and 5:00 p.m. Construction noise is prohibited on Sundays and City-observed holidays;
 - b. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area and/or provide an effective acoustical barrier or insulation;
 - c. Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment;
 - d. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists; and
 - e. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem."
34. (T-1) Prior to issuance of a building permit for either the hotel(s) and residential buildings, the project developer, or developers, shall be responsible for their fair share of the costs of constructing a half signal to control the eastbound Fremont Boulevard approach and the northbound Del Monte Boulevard approach and provide a continuous green light on the westbound Fremont Boulevard approach.

The exiting westbound left turn movement could remain prohibited. The Military Avenue leg could remain with its current configuration and stop control.

This intersection is not included in the City of Seaside CIP and implementation of the improvements is not within the City of Sand City's jurisdictional authority. Should the City of Seaside not accept the fair share contribution, the project developer would be relieved from having to pay the fair share fee due to the infeasibility of the mitigation measure to reduce the proposed project's impact to the intersection of Fremont Boulevard / Del Monte Boulevard / Military Avenue, and the proposed project's impact would be potentially significant and unavoidable.

35. (T-2) Prior to issuance of a certificate of occupancy for either the hotel or residential buildings, the project developer shall pay its proportionate share of costs to re-stripe the eastbound leg of the intersection of State Route 218 / State Route 1 Southbound Ramp to add a southbound right turn lane from State Route 218. The recommended improvement is not identified in the AMBAG regional transportation plan and TAMC regional transportation impact fee program. Should Caltrans and TAMC not accept the developers fair share contribution toward improvements to the intersection, the project developer would be relieved from having to pay the fair share fee due to the infeasibility of the mitigation approach and the proposed project's impact to the intersection of State Route 1 Southbound Ramps / State Route 218 would be potentially significant and unavoidable.
36. (T-3) Prior to issuance of building permits for either the hotel(s) and residential structures, the project developer shall pay the TAMC Regional Traffic Impact fee.
37. (CUMT-1) Prior to final sign-off of any certificate of occupancy, the project developer shall either construct the signal improvement at the intersection of California Avenue and Playa Avenue, or, if the intersection has already been signalized or is in the process of being signalized, shall pay a pro-rata fee for the project's fair share of the cost of signalization of the intersection. Intersection improvement plans or payment of fees are subject to review and approval by the City Engineer.
38. (CUMT-2) Prior to final sign-off of any certificate of occupancy, the project developer shall pay its proportionate share of costs to modify the signal to add right turn overlaps (right turn green arrows) on the four approaches of the intersection of State Route 218 / Del Monte Boulevard. Should Caltrans not accept the developers fair share contribution toward the improvement, the project developer would be relieved from having to pay the fair share fee due to the infeasibility of the mitigation approach and the project's contribution to cumulative impacts to the intersection of State Route 218 / Del Monte Boulevard would be potentially significant and unavoidable.

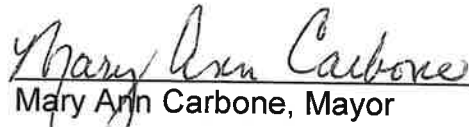
39. (WS-1) The City shall ensure that sufficient new intake wells for the desalination facility, already approved by the City, will be constructed to ensure sufficient water from the desal facility is available to supply to the project.

PASSED AND ADOPTED, by the City Council of the City of Sand City this 5th day of June, 2018 by the following vote:

AYES: Council Members Blackwelder, Carbone, Hawthorne, Hubler, McDaniel
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

ATTEST:



Mary Ann Carbone, Mayor



Linda K. Scholink, City Clerk

CITY OF SAND CITY

Report for:

Fiscal Impact Analysis for the South of Tioga Project - DRAFT

June 2018

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Section 1. INTRODUCTION

The City of Sand City ("City") is undertaking a comprehensive review of the net fiscal impact that would be placed upon the City due to the proposed development of an area, currently within the City's existing boundaries, known as the South of Tioga Project ("Project Area"). When reviewing the anticipated revenues to be generated from the development, as compared to the additional cost burden placed upon the City to provide the public services, development of the Project Area produces an overall positive fiscal impact for the City. However, it should be noted that the Project Area is proposing multiple land uses including residential, hotel and restaurant development. Individually, the proposed residential development produces a large negative fiscal impact, but the significant positive fiscal impact generated from the hotel development produces a net positive fiscal impact for the entire development.

This fiscal impact report is laid out to provide a background of the project, financial information, and recommended actions for the City's consideration. To accomplish this objective, the report includes the following information:

- **Background information.** The introductory portion of the report focuses on the City, as well as the public services and operations under review. Proposed development information is also addressed in this section.
- **Revenues.** This section of the report identifies the various revenue sources and the potential recurring revenues produced from the proposed development.
- **Expenditures.** The expenditure section of the report identifies the estimated cost burden placed upon City operations as a result of the proposed development.
- **Fiscal Impact.** Using the previously identified revenues and allocated expenditures, this section of the report identifies the positive or negative fiscal impact to City operations as a result of the proposed development. Fiscal impacts are addressed in both aggregate and using a per unit factor. Depending on the objectives of the analysis, the per unit factor may be on a per person served, per dwelling unit, per parcel, and/or per acre basis.
- **Recommendations.** Finally, the report concludes with a summary of findings and recommendations for the City to consider.

Section 2. BACKGROUND

New development can provide a significant benefit to a public agency. As part of the overall decision-making process to move forward with the proposed development, it is important to evaluate the contributions and demands that the development will place upon the public agency's general fund. In this particular situation, the City needs to determine and ensure that developing property in the Project Area pay their fair share of any additional fiscal burdens placed upon the City's operational budget as a result of development. To determine the potential positive or negative fiscal impacts placed upon the City from the proposed development, this fiscal impact analysis is designed to quantify the approximate cost of services provided by the City in order to serve the proposed population within the City's Project Area. This fiscal impact analysis assumes that the proposed development will impact current City services in a similar manner that the existing development within the City impacts those public services. This fiscal impact analysis assumes that the same level of public service that is currently provided throughout the City will also be provided to the proposed development. Any enhanced level of public services desired or services not currently provided by the City that may be provided to the proposed development are not addressed in this fiscal analysis. Costs to provide enhanced levels or service or new services to the proposed development are in addition to the costs identified in this analysis.

To determine the proposed development's overall positive or negative fiscal impact, this fiscal analysis focuses on the recurring revenue produced from the proposed development at full buildout, compared to the increased demands placed upon the City's operational budget. Revenue estimates for this fiscal analysis do not include one-time development impact fees that are paid to offset the additional burden placed upon public infrastructure. Similarly, the expenditures exclude any capital allocations to public infrastructure.

Analysis Methodology

The revenue portion of the fiscal impact analysis primarily focuses on various taxes, fees, and other City revenues. The expenditures portion of the fiscal impact analysis includes general government activities, public protection, community development, and other City expenditures.

There are several industry-accepted methods for allocating revenues and expenditures to the proposed development. This analysis primarily focuses on two industry standard approaches: the case study approach and the multiplier approach. Both of the approaches are summarized below.

CASE STUDY APPROACH

When data used in a fiscal impact analysis is specific to the analysis itself, and is not dependent upon a generalized multiplier such as the number of residents, employees, etc., the case study approach is utilized. The case study approach relies on development-specific data to estimate the fiscal impacts of the proposed development of the project. Data used in the case study approach may include assessed valuations, property turnover rates, residential and employee populations, household incomes, estimated sales, and retail expenditures.

MULTIPLIER APPROACH

The multiplier approach is used in a fiscal impact analysis when the relationship of the revenue or expenditures generated from the proposed project are difficult to measure. This approach anticipates that certain revenues and expenditures are indicators of future anticipated revenues and expenditures, which can be quantified based upon changes in the number of persons served. To apply this approach, the analysis determines an average revenue or expenditure amount on a persons served basis. Depending on the type of revenue or expenditure, the persons served can include residents, employees, or both.

City Persons Served

In order to best utilize the multiplier approach in the fiscal impact analysis, and to allocate revenues and expenditures, the City’s existing residential and employee service populations need to be identified.

RESIDENTIAL POPULATION

Currently, there is a small residential population living within the City’s boundaries. According to the most recent information obtained from the State of California’s Department of Finance, the January 2017 total estimated population for the City is 384 residents.

EMPLOYEE POPULATION

While the City may have a limited residential population, the City does have a robust commercial presence. The City’s commercial activities serve a sizeable commercial base that attracts anywhere from 40,000 to 50,000 shoppers daily. Per the City’s website, in order to serve this large commercial base, there are approximately 3,000 employees.

PERSONS SERVED

Using the residential and employee population estimates established above, the total number of persons served within the City can be determined. When making this determination, it should be noted that the employee population does not have the same service demands on a public agency when compared to the residential population. While the exact service demand relationship between an employee and a resident is often difficult to measure, an industry standard of one-half employee to one resident is common practice. This 50% adjustment suggests that a resident will have twice the demand on a public agency’s services than that of an employee. Applying this 50% adjustment to the City’s existing employee population, the total number of persons served within the City is provided in the table below.

TABLE 1. CITY PERSONS SERVED

Residential Population	Employee Population(1)	Persons Served
384	1,500	1,884

(1) Adjusted to reflect 50% of the total employee population of 3,000.

Based upon the City’s residential and adjusted employee population, the total number of persons currently served within the City is 1,884 persons.



Project Area Description

Pursuant to information obtained from the Draft Environmental Impact Report¹ (“South of Tioga Draft EIR”), the site for the Project Area encompasses approximately 10 acres and is located within the City’s existing boundaries. The Project Area is generally bordered by Tioga Avenue to the northeast, California Avenue to the southeast, East Avenue to the southwest, and the Merle Street right-of-way to the northwest. The Project Area site currently includes some light industrial/warehouse uses, commercial uses, residential uses, and undeveloped areas. Recently, the development plan for the Project Area was amended. The revised development plan is anticipated to include one hotel with 216 rooms, two multi-family residential developments that will provide up to 356 multi-family residential units, parking, a rooftop restaurant, landscaping, and a dune area to be set aside within a conservation easement. Further details regarding the specific land uses for the revised Project Area development are provided below.

HOTEL

The hotel development will be situated on 2.18 acres within the Project Area and is anticipated to include 216 guest rooms. Development of the hotel site will include a building not to exceed four stories and the development plans will also provide hotel parking, recreational facilities, meeting and dining room, kitchen, office, laundry, and other back-of-house facilities to serve hotel guests. A portion of the hotel development is anticipated to operate as an extended stay hotel, with 135 guest rooms allocated for extended-stay purposes.

RESIDENTIAL 1

There are two multi-family residential developments planned for the Project Area. One of the residential developments is situated on 1.78 acres and will include up to 125 residential units (“Residential 1”). In addition, the Residential 1 development is proposed to include parking in a partly below-grade structure, recreational facilities, meeting rooms, office and storage areas, and a rooftop restaurant. The current development plan is that approximately 50% of the residential units within the Residential 1 building will be developed as “for sale” condominium properties and the other 50% of the residential units will be developed as rental properties. The Residential 1 development may also include up to 10 affordable housing units.

RESIDENTIAL 2

The other residential development is situated on 3.70 acres and will include up to 231 residential units (“Residential 2”). The Residential 2 development will include a parking garage, recreational facilities, meeting rooms, and office and storage areas. The current development plan anticipates that all of the residential units will be developed as rental properties and the Residential 2 development will not include any “for sale” condominiums. Further, the entire residential development for the Project Area is to include 52 affordable housing units. It is expected that most, if not all, of the affordable housing units will be located within the Residential 2 development.

¹ Draft Environmental Impact Report, South of Tioga, State Clearinghouse #2017061066, March 1, 2018

RESTAURANT

The Project Area development will also include a 4,000 square foot rooftop restaurant situated on the Residential 1 building. It is estimated that approximately half of the restaurant space would be used for customer seating and the other half of the space would be utilized for restaurant operations.

PROJECT AREA DEVELOPMENT SUMMARY

The following table provides a summary of the proposed development, excluding parking, open spaces and right-of-ways, for the Project Area:

TABLE 2. PROJECT AREA DEVELOPMENT

Land Use Description	Development Plan
Hotel	216 Rooms
Residential 1 and Residential 2	356 Units
Restaurant	4,000 Square Feet

PROJECT AREA POPULATION

To assign certain revenue and cost estimates to the Project Area, the estimated service population for the Project Area needs to be established. Utilizing the 2.27 persons per household information and employee estimates from the South of Tioga EIR, population information for the revised Project Area is provided in Table 3 below. It is worth noting that the South of Tioga EIR did not include employee estimates for the rooftop restaurant. Without specific details and plans for the restaurant, employee estimates were determined by using average employment data obtained from Statista. According to Statista, the approximate number of employees per restaurant establishment is 15 employees. After increasing the employee population to include these additional employees, the total population for the revised Project Area is 1,026 persons. As previously noted, to account for the reduced service demands of the employee population, a 50% adjustment is applied to the employee population to determine the total number of persons served within the Project Area. The total number of persons served within the Project Area is provided in the table below.

TABLE 3. PROJECT AREA POPULATION AND PERSONS SERVED

Description	Project Area Population	Persons Served
Residential Population(1)	808	808
Employee Population(2)(3)	218	109
Estimated Project Area Residential Population	1,026	917

- (1) 356 residential units multiplied by 2.27 persons per household.
- (2) Includes 194 hotel employees, nine residential development employees, and 15 restaurant employees.
- (3) Employee persons served adjusted to reflect 50% of the employee population.

Based upon the Project Area’s residential and employee population estimates, the total number of persons served within the revised Project Area is 917 persons.

PROPOSED PROJECT SPECIFIC SERVICES

The primary goal of this fiscal impact analysis is to determine the positive or negative fiscal impacts that the proposed development of the Project Area will place upon existing City provided services. Any enhanced levels of service desired, or the inclusion of additional services specific to the Project Area, are not included. These services would be in addition to fiscal impacts identified in providing the City's baseline level of service. Funding for these enhanced and/or additional recurring public service costs, including repairs and replacements, reserves and administration are more fully addressed in Section 6 of this report.

Section 3. PROJECT AREA REVENUE ESTIMATE

To carry out the goals and objectives of the City provided services, the City relies on revenues received from a variety of sources. City revenue sources include property tax revenue, property tax in lieu of vehicle license fee, sales tax revenue, transaction and use tax revenue, and revenues from other taxes, fines, forfeitures, charges for services, grants, and other sources. To determine the estimated revenue generated from the Project Area at full buildout, the case study approach is primarily used in this analysis. The multiplier approach is used to estimate revenues when specific case study data is not readily available to calculate those specific revenue amounts for the Project Area.

The revenue section of this analysis relies, in part, on information contained within the Sand City West End Proposed Development Report (“West End Analysis”) prepared by ECONsolutions by HdL. The West End Analysis evaluated a portion of the potential revenues to be generated from the Project Area based upon the original development plans. The revenue section of this report relies on some of the information contained in the West End Analysis, especially information related transient occupancy tax estimates, to determine the overall fiscal impact of the Project Area. It should be noted that the West End Analysis was based upon the original development plan for the Project Area, which included a total of 420 residential units. The development plan for the Project Area was recently amended to reduce the total number of residential units from 420 residential units to 356 residential units.

Property Tax Revenue

Under California law, non-exempt property pays an ad valorem property tax equal to 1% of the assessed value of the property. Any additional voter approved taxes or assessments will result in a total property tax rate burden that can exceed 1%. The tax revenues received from the 1% ad valorem property tax rate are allocated to various entities based upon the percentage allocation for each tax rate area (“TRA”). While the percentage allocated to the City is not the same for all of the TRAs assigned to the City, the average City allocation is approximately 22.26% of the 1% ad valorem property tax revenue. The West End Analysis estimated that the annual property tax revenue generated from the Project Area would be \$355,136. Again, this property tax revenue amount was based upon the original development plan of 420 residential units. The amended development plan is now proposing 356 residential units, or 15% fewer units. To account for this reduction in residential development, the estimated values assigned to the residential development have also been reduced by 15%. After applying the reduction to the residential development, the adjusted property tax revenue for the Project Area is \$311,816, as shown on the following page.

TABLE 4. WEST END ANALYSIS PROJECT AREA PROPERTY TAX REVENUE

Land Use Description	West End Analysis Original Estimated Value(1)	West End Analysis Original Property Tax Revenue	Revised Development Plan Estimated Value	Revised Development Plan Property Tax Revenue
Hotel	\$27,000,000	\$60,102	\$27,000,000	\$60,102
Residential(2)	113,608,800	252,893	96,567,480	214,959
Residential Parking(2)	16,131,120	35,908	13,711,452	30,522
Restaurant	2,800,000	6,233	2,800,000	6,233
Totals:	\$159,539,920	\$355,136	\$140,078,932	\$311,816

- (1) Provided in the West End Analysis. The Residential 1 and Residential 2 developments have been combined for analysis purposes.
- (2) The residential development and residential parking estimated values reflect a 15% reduction as a result of project amendments that decreased the number of residential units from 420 to 356.

Further, the City indicated that a portion of the Residential 1 development will include some “for sale” condominium units. The West End Analysis did not reflect this information in the estimated values for the residential development. Instead, the West End Analysis provided a bulk value for the residential development, which results in an estimate value of approximately \$271,260 per residential unit. Based on the most recent development plans for the Project Area, approximately 50%, or 63 residential units, within the Residential 1 development, will be “for sale” condominiums. To account for these “for sale” condominiums, the estimated value of the residential development needs to be adjusted to reflect this change in value. Using sales information obtained from Trulia.com, the average price for a condominium sold within the last six months near the City is approximately \$506,000. Applying this average sales price information, the estimated value and secured property tax revenue for a portion of the Residential 1 development is updated in the table below.

TABLE 5. “FOR SALE” RESIDENTIAL SECURED PROPERTY TAX REVENUE

Description	Amount
Estimated Condominium Sales Price	\$506,000
Less: Homeowner’s Exemption	(7,000)
Estimated Value per Condominium	\$499,000
Number of “For Sale” Condominiums	63
Total “For Sale” Residential Estimated Value	\$31,437,000
1% Ad Valorem Property Tax	\$314,370
City Share of 1% Ad Valorem	22.26%
“For Sale” Residential Secured Property Tax Revenue	\$69,979

Based on the City’s share of the 1% ad valorem property tax revenue, the “for sale” condominiums will generate approximately \$70,000 in secured property tax revenue for the City. By designating 63 units in the residential development as “for sale” condominiums, the total revised residential development estimated

value increases to almost \$110,900,000. This increase in the estimated value for a portion of the residential units, increases the overall revised property tax revenue for the Project Area by approximately \$32,000, as shown below.

TABLE 6. PROJECT AREA ADJUSTED PROPERTY TAX REVENUE

Land Use Description	Adjusted Estimated Value	Adjusted Property Tax Revenue
Hotel	\$27,000,000	\$60,102
Residential(1)	110,915,291	246,897
Residential Parking	13,711,452	30,522
Restaurant	2,800,000	6,233
Totals:	\$154,426,743	\$343,754

(1) Value adjusted to reflect the additional estimated value of the 63 “for sale” condominiums. Previous value was \$96,567,480.

Property Tax in Lieu of Vehicle License Fee (“VLF”) Revenue

Property tax in lieu of VLF is revenue that the City receives in addition to the City’s share of property tax revenues. In 2004, the California Legislature permanently reduced the VLF rate from two percent to 0.65% and compensated cities and counties for their revenue loss with a like amount of property taxes, dollar-for-dollar. A public agency’s property tax in lieu of VLF revenue allocation increases in proportion to the growth in gross assessed valuation for that public agency. Therefore, to determine the anticipated amount of property tax in lieu of VLF to be generated from the Project Area, ratio of the budgeted property tax in lieu of VLF to the City’s total secured assessed value is determined. Using information from the Adopted City Budget FY 17-18 (“City’s 2017/18 Budget”) and the Monterey County Tax Rates for Fiscal Year 2017-2018, the estimated property tax in lieu of VLF ratio for the Project Area is calculated below:

TABLE 7. PROJECT AREA PROPERTY TAX IN LIEU OF VLF

Description	Amount
2017/18 Total Secured Assessed Value	\$249,389,663
2017/18 Budgeted Property Tax in Lieu of VLF	27,000
Property Tax in Lieu of VLF Ratio	0.0108%

This property tax in lieu of VLF ratio can then be applied to the adjusted estimated values presented in Table 6 above to determine the amount of property tax in lieu of VLF that the Project Area will potentially generate. Based on the total adjusted estimated value, the Project Area will generate approximately \$16,700 in property tax in lieu of VLF revenue as shown below.

TABLE 8. PROJECT AREA PROPERTY TAX IN LIEU OF VLF REVENUE

Land Use Description	Adjusted Estimated Value	Property Tax in Lieu of VLF Revenue(1)
Hotel	\$27,000,000	\$2,916
Residential	110,915,291	11,979
Residential Parking	13,711,452	1,481
Restaurant	2,800,000	302
Totals:	\$154,426,743	\$16,678

(1) Adjusted estimated value multiplied by 0.0108%

Documentary Transfer Tax

When property is sold, a documentary transfer tax is charged. The documentary transfer tax is charged at a rate of \$1.10 per \$1,000 of assessed value. This transfer tax is then split between the County and the City. To determine the annual documentary transfer tax, the estimated property turnover rate must be considered. The industry average for property to be sold is approximately every seven years, which results in an annual turnover rate of about 14%. This analysis assumes that property ownership of the hotel development and most of the residential development will have minimal, if any, turnover. Therefore, only the “for sale” condominiums will be considered in the documentary transfer tax calculation. Based upon the adjusted estimated value of the “for sale” condominiums and an annual turnover rate of 14%, the City’s share of the documentary transfer tax is calculated below.

TABLE 9. PROJECT AREA DOCUMENTARY TRANSFER TAX

Description	Amount
Total “For Sale” Residential Estimated Value	\$31,437,000
Estimated Annual Turnover Rate	14%
Annual Turnover Assessed Value	\$4,401,180
Annual Turnover Assessed Value / \$1,000	\$4,401
Documentary Transfer Tax Rate per \$1,000(1)	\$0.55
Project Area Documentary Transfer Tax	\$2,421

(1) The \$1.10 tax rate is split \$0.55 to Monterey County and \$0.55 to the City.

The documentary transfer tax from the “for sale” condominiums will generate approximately \$2,400 in revenue from the Project Area.

Sales Tax and Transaction and Use Tax Revenue

The West End Analysis provided sales tax estimates for the proposed restaurant, as well as recognizing that employees in the Project Area would generate a certain amount of taxable sales within the City. However, the total sales tax and transaction and use tax revenue estimates should also include taxable sales estimates from the Project Area’s future residents and hotel guests. The base sales tax rate in California is 7.25% and sales tax revenue is allocated to state and local jurisdictions, with the City receiving 1% of the base sales tax

rate. As a result of voter-approved measures, the actual sales tax rate for the City is 8.75%. Of this increased sales tax, the City receives an additional 1% transaction and use tax.

HOTEL SALES TAX AND TRANSACTION AND USE TAX REVENUE

Visitors staying at the hotel will generate a certain amount of sales tax revenue for the City. To determine the estimated amount of taxable sales per year from hotel guests, the number of annual guests needs to be identified. Per the West End Analysis, the average occupancy rate for the hotel will be 77%. Applying this occupancy rate to the proposed number of guest rooms and then multiplying this figure by an average occupancy per room, the total number of annual guests can be determined. Based upon information obtained from the FY 2017-2018 Visitor Profile Study prepared by Destination Analysts for the MCCVB Marketing Intelligence Report FY 17-18, the average number of occupants per room is 2.8 persons. Further, this visitor profile noted that hotel guests spend approximately \$86 per day on food and beverage and retail purchases. While the City does have a significant commercial presence, 100% of the hotel guest’s spending will not occur within City limits. While the exact spending percentages are unavailable, a conservative estimate of 50% is applied to this analysis to account for the taxable purchases that hotel guests will make outside of the City’s boundaries.

TABLE 10. PROJECT AREA HOTEL GUESTS SALES TAX AND TRANSACTION AND USE TAX REVENUE

Description	Amount
Number of Hotel Rooms	216
Average Occupancy Rate	77%
Average Number of Guests per Room	2.8
Number of Annual Hotel Guests	169,979
Average Taxable Sales per Guest	\$86
Estimated % of Taxable Sales within City	50%
Project Area Hotel Taxable Sales	\$7,309,097
City Sales Tax @ 1%	\$73,091
City Transaction and Use Tax @ 1%	\$73,091
Total Project Area Sales Tax and Transaction and Use Tax Revenue from Hotel Guests	\$146,182

It is estimated that the hotel guests within the Project Area will generate almost \$146,000 in sales tax and transaction and use tax revenue for the City.

RESIDENTIAL SALES TAX AND TRANSACTION AND USE TAX REVENUE

To determine the amount of potential sales and transaction and use tax revenue that will be generated from the residential population, the household income needs to be determined. Based on U.S. Census information, the average household income for the City is \$65,975². In addition, information from the State

² U.S. Census Bureau, 2012-2106 American Community Survey 5-Year Estimates, Sand City, California.

Board of Equalization noted that the approximate household spending for California taxable goods was 29.5%³ of household income. Applying this household spending percentage to the proposed residential development within the Project Area, the total amount of sales tax and transaction and use tax revenue generated from the residential development is calculated. Again, this analysis recognizes that 100% of the residential population’s taxable sales will not occur within the City. A conservative estimate of 50% is applied to reflect taxable sales that will occur outside of the City.

TABLE 11. PROJECT AREA RESIDENTIAL SALES TAX AND TRANSACTION AND USE TAX REVENUE

Description	Amount
Average Household Income	\$65,975
% of Household Income Spent on Taxable Goods	29.5%
Taxable Sales per Household	\$19,463
Number of Residential Units	356
Estimated % of Taxable Sales within City	50%
Project Area Residential Taxable Sales within City	\$3,464,347
City Sales Tax @ 1%	\$34,643
City Transaction and Use Tax @ 1%	\$34,643
Total Project Area Sales Tax and Transaction and Use Tax Revenue from Residential	\$69,286

The Project Area’s residential population will generate approximately \$69,000 in sales tax and transaction and use tax revenue for the City.

RESTAURANT SALES TAX AND TRANSACTION AND USE TAX REVENUE

The West End Analysis estimated that the restaurant would generate \$1,600,000 in taxable sales per year. It is anticipated that much of the restaurant’s taxable sales will be generated from the Project Area’s residential population, hotel guests, and employee population. In an effort to not double-count sales tax and transaction and use tax revenue, it is estimated that 25% of the restaurant’s taxable sales will come from a population base that is located outside of the Project Area. The remaining 75% of the restaurant’s taxable sales will come from the Project Area population. The taxable sales for the Project Area population are quantified in Tables 10, 11 and 13 of this report. The restaurant’s taxable sales coming from the population located outside of the Project Area is presented in the following table.

³ State Board of Equalization, *Economic Perspective, Discussion of Recent Economic Developments, December 2016.*

TABLE 12. PROJECT AREA RESTAURANT SALES TAX AND TRANSACTION AND USE TAX REVENUE

Description	Amount
Estimated Annual Taxable Sales	\$1,600,000
Estimated % of Taxable Sales Outside of Project Area(1)	25%
Restaurant Taxable Sales Outside of Project Area	\$400,000
City Sales Tax @ 1%	\$4,000
City Transaction and Use Tax @ 1%	\$4,000
Total Project Area Sales Tax and Transaction and Use Tax Revenue from Restaurant	\$8,000

(1) 75% of taxable sales are estimated to come from the Project Area's residential, employee and hotel population. That taxable sales information is quantified in Tables 10, 11 and 13.

The Project Area's restaurant will generate approximately \$8,000 in additional sales tax and transaction and use tax revenue for the City.

EMPLOYEE SALES TAX AND TRANSACTION AND USE TAX REVENUE

It is anticipated that about 218 employees are needed to serve the Project Area in order to support hotel, restaurant and residential operations. Further, some of the Project Area employees will most likely live in the Project Area's residential development. To account for employees that may reside in the Project Area, and their taxable sales already quantified in Table 11, the employee population has been reduced by 50%. The West End Analysis provided information related to the spending habits of the suburban workforce. In the analysis, it noted that the average annual spending per employee is \$7,300. This amount includes both taxable and non-taxable purchases. While personal spending is unique to each individual, this analysis assumes that approximately half of the employees annual spending is taxable. Further, the employee sales tax calculation also uses a conservative estimate of 50% to recognize that some of the employee's annual taxable sales will occur outside of the City.

TABLE 13. PROJECT AREA EMPLOYEE SALES TAX AND TRANSACTION AND USE TAX REVENUE

Description	Amount
Number of Employees(1)	109
Average Annual Taxable Spending per Employee(2)	\$3,650
Estimated % of Taxable Sales within City	50%
Project Area Employee Taxable Sales	\$198,925
City Sales Tax @ 1%	\$1,989
City Transaction and Use Tax @ 1%	\$1,989
Total Project Area Sales Tax and Transaction and Use Tax Revenue from Employees	\$3,978

(1) 218 total employees, with 50% of the employees estimated to live in the Project Area. Their taxable sales have been accounted for, as part of the residential population in Table 11.

(2) Average annual spending is \$7,300 and taxable sales estimated to equal 50%.

Employees within the Project Area will generate almost \$4,000 in sales tax and transaction and use tax revenue for the City.

SALES TAX AND TRANSACTION AND USE TAX REVENUE SUMMARY

The total sales tax revenue generated from the Project Area is approximately \$113,600 and the total transaction and use tax generated from the Project Area is approximately \$113,600. In total, the Project Area will generate just over \$227,000 in additional revenue for the City. The sales tax and transaction and use tax revenue amounts are summarized by Project Area land use in the table below.

TABLE 14. PROJECT AREA SALES TAX AND TRANSACTION AND USE TAX REVENUE

Land Use Description	Sales Tax(1)	Transaction and Use Tax(1)	Total Sales and Transaction and Use Tax Revenue
Hotel	\$74,861	\$74,861	\$149,722
Residential	34,725	34,725	69,450
Restaurant	4,137	4,137	8,274
Total Sales Tax and Transaction and Use Tax Revenue:	\$113,723	\$113,723	\$227,446

(1) Includes the employee sales tax and transaction and use tax amounts. The \$3,978 amount is allocated to each land use by the number of employees with 194 hotel employees, nine residential development employees, and 15 restaurant employees.

Transient Occupancy Tax (“TOT”) Revenue

The revised Project Area development plan includes a hotel with 216 guest rooms. The West End Analysis provided a detailed analysis of the estimated TOT revenue that would be generated from the hotel development. The analysis assumes a 77% occupancy rate, with an average daily rate of \$188. It should be noted that while the analysis assumes a 77% occupancy rate, a portion of the hotel development is intended to serve as an extended stay hotel. Once a hotel guest has stayed for 30 consecutive days, the subsequent days are no longer subject to TOT. The West End analysis assumed that of the 135 occupied rooms, designated as extended stay, 36% of the rooms will actually be used for extended stay purposes. Applying the City’s 12% TOT rate to the estimated hotel revenue, the hotel development will generate approximately \$1,061,000 in TOT revenue as shown below.

TABLE 15. PROJECT AREA TOT REVENUE

Hotel Description	Rooms	Average Daily Rate	Occupancy Rate(1)	Annual Revenue	Total TOT Revenue
Extended Stay	135	\$188	49.28%	\$4,565,151	\$547,818
Standard Stay	81	188	77%	4,279,829	513,579
Total TOT Revenue:	216				\$1,061,397

(1) The West End Analysis estimates that 64% of the occupancy will be TOT eligible. (77% x 64%).

Business License Tax

All persons transacting or carrying on business within the City are required to have a business license and pay an annual business license tax. The business license tax is a minimum of \$150, plus an additional business license tax based upon the annual gross receipts. The tax is 0.11% of annual gross receipts in excess of \$100,000. However, there are certain businesses that pay an annual business license tax that is based upon a flat amount and hotels fall within this category. Pursuant to the City’s Municipal Code Section 5.04.260(H), hotels shall pay a quarterly business license tax of \$0.40, or \$1.60 annually, per room for which the maximum rental charge is greater than \$1.50 per day. Applying the business license tax formulas to the Project Area, the estimated annual business license tax for the hotel and restaurant developments is as follows:

TABLE 16. PROJECT AREA BUSINESS LICENSE TAX REVENUE

Land Use Description	Number of Rooms or Gross Receipts	Annual Tax Rate	Total Business License Tax
Hotel	216	\$1.60 per room	\$346
Restaurant	\$1,600,000	\$150 + Gross Receipts Tax(1)	1,800
Total Business License Tax Revenue:			\$2,146

(1) 0.11% of gross receipts in excess of \$100,000. $(\$1,600,000 - \$100,000) \times .0011$

The Project Area will generate approximately \$2,100 in business license tax revenue for the City.

Other City Revenue

The City also generates revenue from sources that were not previously quantified via the case study approach above. Other City revenues include fees, fines, penalties, property rentals, charges for services, and other revenues. For purposes of this fiscal impact analysis, revenues that are not allocated to the Project Area include one-time building and planning permits, interest from City investments, ROPS residual, Successor Agency administration reimbursement, lease payments from other entities, special project funds, and grants. Using revenue information from the City’s 2017/18 budget, the table below presents other City revenues to be allocated to the Project Area.

TABLE 17. OTHER CITY REVENUE

Description	Amount
Franchise/Users Tax	\$231,800
Rentals	15,000
Miscellaneous revenues	204,410
Total Other City Revenue:	\$451,210

To allocate these other City revenues to the Project Area, the multiplier approach is utilized. Table 1 previously identified that the numbers of persons served within the City is 1,884 persons. The new population from the Project Area will increase the ongoing amount of other revenues that the City receives

to fund recurring City operations. However, the increase in City revenues from the development of the Project Area will not result in a direct 1:1 relationship. Some of the City's other revenues will have limited increases, regardless of the population served. Therefore, to account for a relationship that is less than 1:1, the other revenue amounts have been adjusted by 50% to reflect a conservative increase in revenue as a result of Project Area development. It should be recognized that the adjustment is only an estimate that is based upon industry averages and the nature of the proposed project. The original budgeted amount, the adjusted amount, and the amount per person served are presented in the table below.

TABLE 18. ADJUSTED OTHER CITY REVENUE PER PERSON

Description	City's 2017/18 Budget Amount	Adjusted City's 2017/18 Budget Amount(1)	Persons Served	Amount per Person Served
Franchise/Users Tax	\$231,800	\$115,900	1,884	\$61.52
Rentals	15,000	7,500	1,884	3.98
Miscellaneous Revenues	204,410	102,205	1,884	54.25
Totals:	\$451,210	\$225,605		\$119.75

(1) City's 2017/18 budget amount adjusted by 50%.

The total other revenue amount allocated per person is \$119.75. In order to determine the amount of other revenue allocated to the Project Area, the other revenue amount per person is multiplied by the number of persons served within the Project Area. As previously determined in Table 3, the total persons served in the Project Area is 917 and results in a total other revenue amount of almost \$110,000 as shown in the table below.

TABLE 19. PROJECT AREA OTHER CITY REVENUE

Land Use Description	Persons Served(1)	Amount per Person Served	Total Other Revenue
Hotel	97	\$119.75	\$11,616
Residential	812.5	119.75	97,297
Restaurant	7.5	119.75	898
Total Other City Revenue:	917		\$109,811

(1) Employee population weighted at 50% of a resident with 194 hotel employees, nine residential development employees, and 15 restaurant employees.

Project Area Revenue Summary

The Project Area will generate revenues from several different sources. Some of the anticipated revenues were calculated based upon the case study approach and others were allocated to the Project Area on a multiplier approach. A summary of the estimated Project Area revenues, by land use, is presented below:

TABLE 20. TOTAL PROJECT AREA REVENUE

Description	Hotel Revenue	Residential Revenue(1)	Restaurant Revenue	Total Revenue
Property Tax Revenue	\$60,102	277,419	6,233	\$343,754
Property Tax In Lieu of VLF Revenue	2,916	13,460	302	16,678
Documentary Transfer Tax Revenue	0	2,421	0	2,421
Sales Tax Revenue	74,861	34,725	4,137	113,723
Transaction and Use Tax Revenue	74,861	34,725	4,137	113,723
Transient Occupancy Tax Revenue	1,061,397	0	0	1,061,397
Business License Tax Revenue	346	0	1,800	2,146
Other City Revenue	11,616	97,297	898	109,811
Total Project Area Revenue	\$1,286,099	\$460,047	\$17,507	\$1,763,653

(1) Includes revenue generated from the residential development and the residential parking, where applicable.

The Project Area is anticipated to generate approximately \$1,764,000 in revenue to support ongoing general City operations.

Section 4. PROJECT AREA EXPENDITURES ESTIMATE

The Project Area revenues identified in Section 3 of this report are used to pay for recurring expenditures related to general City services. The City expenditures that are not considered in this analysis include costs associated with infrastructure improvements, special project expenditures, and other non-recurring expenses. For purposes of determining the overall net fiscal impact of the Project Area, City expenditures are allocated based upon the amounts presented in the City's 2017/18 Budget.

The Project Area will provide significant growth to the City's existing population base, with the residential population increasing approximately 210% to almost 1,200 residents. This population increase will place significant demands upon the existing services provided by the City. In order to account for the cost of the additional demands, the majority of the City expenditures are allocated to the Project Area using the multiplier approach. Similar to the allocation of other City revenues, the demands placed upon the City's recurring expenditures as a result of the proposed development do not necessarily result in a direct 1:1 relationship. Some of the City's recurring expenditures include fixed annual amounts, regardless of the population served. Where appropriate, expenditures have been adjusted to reflect a conservative increase in expenditures as a result of new development within the City. It should be recognized that the adjustments are only estimates based upon industry averages and the nature of the proposed project. The original budgeted amount, the demand adjustment percentage, and the adjusted amount are presented in the table below.

TABLE 21. CITY EXPENDITURES SUMMARY

Description	Recurring City's 2017/18 Budget Amount	Demand Adjustment Percentage	Adjusted Recurring City's 2017/18 Budget Amount
City Council	\$231,760	33%	\$76,481
Administration	533,720	50%	266,860
Finance	529,210	50%	264,605
Attorney	229,860	33%	75,854
Community Development	498,010	33%	164,343
Police	2,583,800	0%(1)	2,583,800
Fire	278,900	0%(1)	278,900
Public Works	893,025	50%	446,513
Parks	46,500	50%	23,250
Government Buildings	38,000	33%	12,540
Community Outreach	129,000	50%	64,500
Non-Departmental	504,067	50%	252,034
Totals	\$6,495,852		\$4,509,680

(1) The police and fire budgets are not adjusted. Expenditures are allocated via the case study method below.

After adjusting the recurring portion of the City’s 2017/18 Budget, the adjusted recurring budget amount is approximately \$4.5 million.

City Expenditure Allocation

Each City expenditure is reviewed to determine whether the expenditure is intended to serve both the residential and employee population, the residential population only, the employee population only, or some other population set. As previously noted in Table 1, the total number of persons served in the City is 1,884 persons and the number of residents served in the City is 384 persons. The table below provides the persons served category for each recurring expenditure category, with the exception of police and fire expenditures. The police and fire expenditures are allocated to the Project Area via the case study approach.

TABLE 22. CITY EXPENDITURES ALLOCATION

Description	Adjusted Recurring City’s 2017/18 Budget Allocation
City Council	Persons Served
Administration	Persons Served
Finance	Persons Served
Attorney	Persons Served
Community Development	Persons Served
Police	Case Study
Fire	Case Study
Public Works	Persons Served
Parks	Residents Served
Government Buildings	Persons Served
Community Outreach	Residents Served
Non-Departmental	Persons Served

City Expenditures per Person Served

Under the multiplier approach, the assigned number of persons within each allocation category is applied to each expenditure line item to determine the estimated expenditure per person. The table below provides the expenditure per person for each summary budget category.

TABLE 23. CITY EXPENDITURES PER PERSON SERVED

Description	Adjusted Recurring City's 2017/18 Budget Amount	Persons Served	Adjusted Recurring City's 2017/18 Budget per Person Served
City Council	\$76,481	1,884	\$40.59
Administration	266,860	1,884	141.65
Finance	264,605	1,884	140.45
Attorney	75,854	1,884	40.26
Community Development	164,343	1,884	87.23
Police	2,583,800	N/A	N/A(1)
Fire	209,175	N/A	N/A(1)
Public Works	669,769	1,884	237.00
Parks	34,875	384	60.55
Government Buildings	12,540	1,884	6.66
Community Outreach	96,750	384	167.97
Non-Departmental	252,034	1,884	133.78
Total per Person Served	\$4,707,086		\$1,056.14

(1) The police and fire budgets are allocated via the case study approach below.

Based on the additional demands anticipated to be placed upon existing City services, the total adjusted expenditure, excluding police and fire expenditures, is \$1,056.14 per person served.

Expenditures per Person Served

The expenditure per person served, identified in Table 23, is based upon one resident. There are expenditures that are intended to serve both the residential and employee population and some expenditures intended to primarily serve the residential population. Further, each employee is weighted at 50% of one resident. The table below provides both the expenditure per resident and the expenditure per employee.

TABLE 24. CITY EXPENDITURES PER RESIDENT AND PER EMPLOYEE

Description	Expenditures per Resident	Expenditures per Employee(1)
City Council	\$40.59	\$20.30
Administration	141.65	70.83
Finance	140.45	70.23
Attorney	40.26	20.13
Community Development	87.23	43.62
Police	0.00	0.00
Fire	0.00	0.00
Public Works	237.00	118.50
Parks(2)	60.55	0.00
Government Buildings	6.66	3.33
Community Outreach(2)	167.97	0.00
Non-Departmental	133.78	66.89
Total Expenditures per	\$1,056.14	\$413.83

(1) An employee is equivalent to 50% of a resident.

(2) Parks and community outreach are primarily intended to serve the residential population.

Exclusive of the police expenditures, the total City expenditures allocated to each residential person within the Project Area is \$1,056.14 per resident and the total City expenditures allocated to each employee within the Project Area is \$413.83 per employee. Applying these rates to the Project Area population, the total City expenditures for the Project Area are presented below.

TABLE 25. PROJECT AREA CITY EXPENDITURES

Land Use Description	Persons Served	Amount per Person Served	Total City Expenditures
Hotel	194	\$413.83	\$80,279
Residential(1)	817	1,056.14	857,079
Restaurant	15	413.83	6,207
Totals:	1,026		\$943,565

(1) 808 residents at \$1,056.14 per resident and nine employees at \$473.08 per employee.

The City expenditures allocated to the Project Area are approximately \$943,500. However, this amount does not include expenditures attributable to police and fire costs. Police and fire costs are assigned to the Project Area via the case study approach, presented in the following sections of this report.

Police Expenditures per Person Served

As previously mentioned, the City has a significant commercial presence that greatly increases the daytime service population for the City. As a result, the City's policy is to provide a level of police service that is

equivalent to one officer per 1,000 in total population. This level of service ratio is used to allocate police expenditures to the Project Area. The South of Tioga EIR notes that there are 11 employees in the Police Department and the City's 2017/18 Budget has a budgeted amount of \$2,583,800. However, the budgeted amount includes certain fixed expenditures that will not change as a result of any adjustments to personnel. To account for those fixed expenditures, the City's budgeted amount has been adjusted by 25%. After applying this adjustment, the police expenditures are approximately \$176,000 per employee as shown below.

TABLE 26. POLICE EXPENDITURES PER EMPLOYEE

Description	Amount
Police Expenditures	\$2,583,800
Adjustment for Fixed Expenditures	25%
Net Police Expenditures	\$1,937,850
Police Department Employees	11
Police Expenditures per Employee	\$176,168

Based on information presented in Table 3, the total residential and employee population for the Project Area is estimated to be 1,026 persons. In addition, hotel guests will increase the total population and place additional demands upon police. Using the information previously presented in the hotel guest sales tax and transaction and use tax analysis, the average daily occupancy is 77% with 2.8 persons per room. Applying this information to the proposed 216 hotel rooms, the daily hotel guest population is 466 people. Adding the hotel guest population to the population estimate from Table 3, the total service population for the Project Area is 1,492 people. Using this total population figure, and applying the one officer per 1,000 of total service population, 1.49 employees will be needed to serve the Project Area. Using the police expenditure per employee information in Table 26, the police expenditure per person is calculated below.

TABLE 27. POLICE EXPENDITURES PER PERSON

Description	Amount
Police Employees Needed to Serve Project Area	1.49
Police Expenditures per Employee	\$176,168
Project Area Police Expenditures	\$262,490
Project Area Total Population	1,492
Project Area Police Expenditure per Person	\$175.97

To police services to the Project Area, the estimated police expenditure is approximately \$262,500 or \$175.97 per person. The police expenditures are allocated to the Project Area land uses as follows:

TABLE 28. POLICE EXPENDITURES BY LAND USE

Land Use Description	Population(1)	Police Expenditure per Person	Total Police Expenditures(2)
Hotel	660	\$175.97	\$116,087
Residential	817	175.97	143,767
Restaurant	15	175.97	2,640
Totals:	1,492		\$262,494

(1) Includes residents, employees and hotel guests.

(2) Totals do not match due to rounding.

Fire Expenditures per Person Served

The City does not provide their own fire department. Instead, the City contracts for fire protection services from the City of Monterey. Based on the proposed development within the Project Area, the City of Monterey has provided a cost estimate to serve the new development. The City of Monterey has indicated that the City’s fire protection services contract will increase by approximately \$200,000 to serve the Project Area. Allocating this contract increase to the proposed population within the Project Area, the total City fire expenditures allocated to each person served within the Project Area is \$218.10 per person as shown below.

TABLE 29. FIRE EXPENDITURES PER PERSON

Description	Amount
Increase in Fire Contract with City of Monterey	\$200,000
Project Area Persons Served(1)	917
Project Area Fire Expenditure per Person	\$218.10

(1) Employee population weighted at 50% of a resident.

The per person City fire expenditures allocated to the Project Area are \$218.10 per resident and \$109.05 per employee. Applying these rates to the Project Area population, the total City fire expenditures for each land use within the Project Area are presented below.

TABLE 30. PROJECT AREA FIRE EXPENDITURES

Land Use Description	Persons Served	Amount per Person Served	Total Fire Expenditures
Hotel	194	\$109.05	\$21,156
Residential(1)	817	218.10	177,208
Restaurant	15	109.05	1,636
Totals:	1,026		\$200,000

(1) 809 residents at \$218.10 per resident and nine employees at \$109.05 per employee.

Project Area Expenditure Summary

Combining the City expenditures calculated in Table 25, the police expenditures in Table 28, and the fire expenditures in Table 30, the total City expenditures calculated for the Project Area is approximately \$1,406,000 as shown in the table below.

TABLE 31. PROJECT AREA TOTAL CITY EXPENDITURES

Land Use Description	Other City Expenditures	Police Expenditures	Fire Expenditures	Total City Expenditures
Hotel	\$80,279	\$116,087	\$21,156	\$217,522
Residential	857,079	143,767	177,208	1,178,054
Restaurant	6,207	2,640	1,636	10,483
Totals:	\$943,565	\$262,494	\$200,000	\$1,406,059

Section 5. PROJECT AREA FISCAL IMPACT

Based on the Project Area revenue presented in Table 20 and the Project Area expenditures presented in Table 31, the development of the Project Area will result in an overall positive fiscal impact for the City. The table below sets forth the total estimated positive fiscal impact.

TABLE 32. PROJECT AREA OVERALL FISCAL IMPACT

Description	Amount
Total Project Area Revenue	\$1,763,653
Total Project Area Expenditures	1,406,059
Project Area Positive / (Negative) Fiscal Impact	\$357,594

The development of the Project Area will produce an overall positive impact of approximately \$357,600. This overall positive fiscal impact represents the collective fiscal impact of each of the land uses proposed within the Project Area. The fiscal impacts for each of the land uses is presented in the table below.

TABLE 33. PROJECT AREA FISCAL IMPACTS BY LAND USE

Description	Hotel Amount	Residential Amount	Restaurant Amount	Total Amount
Project Area Revenue	\$1,286,099	\$460,047	\$17,507	\$1,763,653
Project Area Expenditures	217,522	1,178,054	10,483	1,406,059
Positive / (Negative) Fiscal Impact	\$1,068,577	(\$718,007)	\$7,024	\$357,594

While the hotel and restaurant land uses provide a positive fiscal impact for the City, the residential development has a negative fiscal impact of approximately \$718,000 or almost \$2,017 per residential unit, shown below.

TABLE 34. FISCAL IMPACT PER PROJECT AREA RESIDENTIAL UNIT

Description	Amount
Fiscal Impact of Residential Development	(\$718,007)
Project Area Residential Units	356
Fiscal Impact Per Residential Unit	(\$2,016.87)

Collectively, the Project Area produces positive fiscal impacts for the City. However, since the residential portion produces negative fiscal impacts, the City may consider the establishment of a Community Facilities District to mitigate the negative fiscal impact created from the residential development. In addition, if any enhanced levels of service or additional services are desired for the Project Area, those services can also be included in the Community Facilities District. Section 6 of this report provides additional information.

Section 6. COMMUNITY FACILITIES DISTRICT OPTION

History of Community Facilities Districts (“CFDs”)

A CFD, also referred to as a Mello-Roos District, is a type of special financing district that is established via the Mello-Roos Community Facilities District Act of 1982 (“1982 Act”). Through the levy and collection of a special tax, CFDs provide funding for authorized public improvements and/or public services. The CFD’s Rate and Method of Apportionment sets forth the formula for calculating the annual special tax, the initial maximum special tax rates, and assigning the special tax to taxable property within the CFD.

Since CFDs authorize a special tax, as opposed to a special assessment, there is no requirement to make a finding of special benefit for the property being taxed. However, the special tax should be based on a benefit received by property, the cost of providing the facilities or services, or some other reasonable basis for assigning the special tax, as determined by the legislative body.

In order to establish a CFD, the 1982 Act requires a two-thirds approval of the registered voters, residing within the proposed CFD boundary, voting in the special tax election. If there are less than 12 registered voters within the proposed CFD boundaries, a landowner election can take place. In the case of a landowner election, a two-thirds approval is still required and each landowner receives one vote per acre or portion of an acre of land owned.

It should be noted that if a CFD is approved via a landowner election, the CFD is only authorized to fund additional services. The additional services funded by the CFD shall not replace services already available and provided within the boundaries of the CFD.

Project Area Specific Costs

Overall, the Project Area produces positive fiscal impacts for the City. However, the City may consider establishing a CFD to mitigate the negative fiscal impact created from the residential development.

In addition to funding the negative fiscal impacts from the residential development, the City may need additional funding for project specific costs. Project specific services may include increased landscaping, habitat conservation, park and open space maintenance, increase police services, detention basins, and utilities.

Section 7. CONCLUSION

In order for the City to continue to provide necessary services to their population base, the City needs to ensure that developing property pays their fair share as a result of any additional fiscal burdens placed upon the City's operational budget due to new development. It has been determined that the Project Area provides an overall positive fiscal impact, of approximately \$357,600. This overall positive fiscal impact is an aggregate of the fiscal impacts produced by each land use within the Project Area. While the hotel and restaurant land uses result in positive fiscal impacts, the residential land use has a significant negative fiscal impact of approximately \$2,017 per residential unit. To mitigate the residential negative fiscal impact, the City may consider establishing a CFD for the Project Area. The CFD special tax would generate revenue to offset the residential development's negative fiscal impact, as well as fund any project specific costs desired by the Project Area.