



City of Sand City

Memorandum

TO: Consolidated Oversight Board for the County of Monterey Chair and Board Members

FROM: Vibeke Norgaard, Successor Agency Counsel

DATE: December 20, 2021 (for January 14, 2022 Consolidated Oversight Board meeting)

SUBJECT: Resolution of the Consolidated Oversight Board for the County of Monterey, Confirming Reinstatement of a Loan Agreement Between the City of Sand City and the Former Sand City Redevelopment Agency, Finding the Loan was Made for Legitimate Redevelopment Purposes and is an Enforceable Obligation Within the Meaning of Health & Safety Code Sections 34171(d)(2) and 34191.4(b)(2), and Approving Adjustments to the Repayment Schedule

Background:

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

- 1) "Agreement Regarding Future Impacts on the Provision of Public Services" dated May 18, 1989 with the City of Seaside (the "**Seaside Agreement**"); and
- 2) "Owner Participation Agreement" dated May 31, 1989 with Costco Wholesale Corporation (the "**Costco Agreement**").

To enable the Former Agency to meet its payment obligations under the Seaside Agreement (the "**Seaside Loan**") and the Costco Agreement (the "**Costco Loan**"), the City agreed to financially assist the Former Agency by loaning City Sales and Use Taxes generated in the Redevelopment Project Area on an "as needed" basis pursuant to an "Agreement Between the City of Sand City and the Redevelopment Agency of the City of Sand City Concerning Certain Sales and Use Taxes" dated July 18, 1989 (the "**Loan Agreement**").

Under the terms of the Loan Agreement, the Former Agency agreed to repay the City from future property tax increment funds. Pursuant to that repayment obligation and prior to dissolution, the Former Agency did in fact make payments to the City under the Seaside Loan in the aggregate amount of \$1,920,908 from available property tax increment funds.

Although the Loan Agreement has been included on the Successor Agency's annual ROPS as Items #13 (Seaside Loan) and Item #28 (Costco Loan), the Successor Agency first requested an allocation of Real Property Tax Trust Funds ("**RPTTF**") on its Amended

ROPS 21-22B. At that time, the Successor Agency also adopted Resolution SA 21-02 approving reinstatement of the Loan Agreement, finding the loan was made for legitimate redevelopment purposes and approving a revised Schedule For Repayment for the Seaside Loan. By Resolution No. 21-09 adopted on September 16, 2021, the Consolidated Oversight Board for the County of Monterey (“**Oversight Board**”) also approved the reinstatement of the Loan Agreement, found that the loan was made for legitimate redevelopment purposes and approved the repayment schedule for the Seaside Loan.

By letter dated October 28, 2021, the Department of Finance (“**DOF**”) notified the Successor Agency and the Oversight Board of its determination that the Loan Agreement did not meet the definition of an “enforceable obligation” under Health & Safety Code Section 34191.4(b)(2)(A). As discussed below, based on the City and Successor Agency documentation relating to the Loan Agreement and applicable law, the Successor Agency approved Resolution SA 21-04 at its December 21, 2021 meeting confirming its findings and approvals set forth in Resolution SA 21-02 and finding that the Loan Agreement also qualifies as an enforceable obligation under Health & Safety Code Section 34171(d). Successor Agency staff requests that the Oversight Board make the same findings by approval of the attached Oversight Board Resolution (Attachment 1).

Discussion:

In accordance with the **Dissolution Act** (AB1x 26 as amended by AB 1484 and further amended by SB 107), certain pre-dissolution loan agreements between a city and its redevelopment agency qualify as “enforceable obligations” and are eligible for repayment from an allocation of RPTTF through the Successor Agency Recognized Obligation Payment Schedule (“**ROPS**”). The Loan Agreement qualifies as an enforceable obligation under two sections of the Health & Safety Code; Section 34171(d) and Section 34191.4(b)(2)(A).

Health & Safety Code Section 34171(d)

Under Health & Safety Code Section 34171(d)(1)(B), “enforceable obligations” include “loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.” Health & Safety Code Section 34171(d)(2) extends this definition to written agreements between a city and its redevelopment agency entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations.

The Seaside Agreement established an indebtedness of the Former Agency. To meet the Former Agency’s financial obligations to Seaside, the Seaside Agreement required the Former Agency and the City adopt sales and use tax ordinances. On July 18, 1989, in compliance with this requirement and as authorized by Revenue & Taxation Code

section 7202.6, the Former Agency adopted Ordinance No. RA-1 imposing a 1% sales and use tax within the Redevelopment Project Area boundaries. The City simultaneously opted out of its rights to receive a 1% sales and use tax in an amount equal to the sales and use taxes paid in the Redevelopment Project Area. At the time the Ordinances were adopted, the City and the Former Agency concurrently entered into the Loan Agreement.

Under the terms of the Loan Agreement, the Sales and Use Taxes from the Redevelopment Project Area were “pledged to the payment due under the Seaside Agreement and as pledged in the Costco... Agreement” and to be used solely for these purposes. Any sales and use taxes generated within the Redevelopment Project Area that were not necessary to meet the Former Agency’s financial obligations under the Seaside and Costco agreements were to be paid to the City. Sales and use taxes used by the Former Agency to pay Seaside and Costco constituted a loan from the City to the Former Agency to be repaid from future tax increment.

Under the legal principle referred to as the 'end result test,' separate transactions are amalgamated as a single transaction when it appears that they were really component parts of a single transaction intended from the outset to be taken for the purpose of reaching the ultimate result. (*Shuwa Investments Corp. v. County of Los Angeles* (1991) 1 Cal.App.4th 1635, 1650, 2 Cal. Rptr. 2d 783.) Under this principle, the July 18, 1989 Sale and Use Tax Ordinances and Loan Agreement are intrinsically part of the overall structure of the indebtedness created by the Seaside Agreement approved on May 18, 1989 and therefore constitute a single transaction entered into “at the same time” solely for the purpose of securing the Former Agency’s repayment of funds borrowed from the City to meet the Former Agency’s indebtedness obligations to Seaside.

Health & Safety Code Section 34191.4(b)(2)(A)

Health & Safety Code Section 34191.4(b)(2)(A) provides that after receiving a Finding of Completion from the DOF, loan agreements between a former redevelopment agency and a city are eligible for repayment provided that the Oversight Board makes a finding that the loan was for legitimate redevelopment purposes.

The Successor Agency received a Finding of Completion from the DOF on August 1, 2013. A copy of the Finding of Completion is attached to this Report as Attachment 2. In addition, based on the Memorandum from the Successor Agency to the Oversight Board, the Oversight Board found that the Loan Agreement was entered into for legitimate redevelopment purposes. A copy of the Memorandum and Oversight Board Resolution 21-09 are attached to this Report as Attachment 3 and Attachment 4, respectively.

The DOF acknowledges the Successor Agency’s Finding of Completion and does not dispute that the Loan Agreement was entered into for legitimate redevelopment purposes. Despite these qualifications under Health & Safety Code Section 34191.4, the DOF determined that the Loan Agreement “did not include a loan amount, interest rate, repayment terms or a requirement for the loan to be repaid.”

Loan Amount

Under the Loan Agreement, the City agreed to loan the Former Agency sales tax revenues necessary to meet the Former Agency's financial obligations to Seaside. That amount was calculated annually based on sales tax generated in the Redevelopment Project Area. Consequently, at the time the Loan Agreement was entered into, the parties could not know the precise amount of the loan itself. The loan amount was, however, sufficiently certain based on an objective formula that was calculated in accordance with the terms of the Loan Agreement and reflected in the City and Former Agency's records, including Annual Financial Statements and Audited Financial Reports, Statements of Indebtedness, and copies of checks from the City to the Former Agency and from the Former Agency to Seaside.

Sales and use taxes are paid quarterly by the state to the City. As required by the Loan Agreement, the Former Agency's consultant prepared a quarterly Sale & Use Tax Report of the sales and use tax revenues generated in the two shopping centers in the Redevelopment Project Area. This report was used to calculate the amounts due to Seaside under the Seaside Agreement. The City then made a loan in that amount by writing a check to the Former Agency and accounting for the payment as a City Advance. The Former Agency deposited the City check, booking the amount as long-term debt to be repaid by the Former Agency to the City, and, in turn, cut a check to Seaside in that exact amount. Commencing in 1992 when the first payment was made, the journal entries consistently demonstrate this flow of funds as a City Loan to be repaid by the Former Agency.

The City and the Former Agency maintained accurate accounting records of the loan amount since its inception. Upon dissolution, the loan amount was recalculated in accordance with statutory requirements described below. Attached as Exhibit "B" to the proposed Oversight Board Resolution is a true and correct accounting of all funds the Former Agency borrowed from the City under the Loan Agreement for the Seaside Loan, all payments made by the Former Agency from available tax increment prior to dissolution to reduce the outstanding principal amount and recalculation of the total amount due from the Successor Agency to the City for the Seaside Loan in accordance with Health & Safety Code Section 34191.4(b)(3). As of December 31, 2021, the unpaid balance of the funds borrowed by the Former Agency from the City under the Loan Agreement for the Seaside Loan was \$6,308,551.99.

Interest Rate

As permitted under the Loan Agreement and reported in the City and Agency Annual Financial Statements and Audited Financial Reports, the outstanding loan amount accrued interest at 7%. However, in accordance with Health & Safety Code Section 34191.4(b)(3), interest on the outstanding principal of amounts due to the City pursuant the Loan Agreement has been recalculated from the date of origination of the City Loan on a quarterly basis at 3% simple interest.

Repayment Terms

The Loan Agreement specifies future available tax increment as the source of funds for the Former Agency's obligation to repay the City. In 1989, it was impossible for the City or the Former Redevelopment Agency to predict how much tax increment would be generated in the Redevelopment Project Area and available for repayment. However, just as the amounts loaned by the City to the Former Agency were calculated and disbursed annually in accordance with the formula set forth in the Seaside Agreement, the availability of tax increment and the repayment schedule was determined and recalculated annually. The annual repayment schedule is documented in the Former Agency's Annual Audited Financial Statements which reflect the Former Agency's Long-Term Debt, including "loans from the city to pay non-tax-increment borrowings." Each year, the Financial Statement included the calculation of the current loan balance and amortized repayment schedule demonstrating the city loan(s) would be retired by 2037 (the expiration of the Former Agency's allocation of tax increment under the Redevelopment Plan).

Requirement for the Loan to be Repaid

The Loan Agreement specifically references that the City is making a "loan" to the Former Agency and obligates the former Agency to repay the City. However, any ambiguity relied on by the DOF to conclude otherwise is refuted by the laws governing the interpretation of contracts in California.

Civil Code section 1636 provides that contracts "must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of the contracting, so far as the same is ascertainable and lawful." In construing contract terms, the courts have held that "[T]he conduct of the parties after execution of the contract and before any controversy has arisen as to its effect affords the most reliable evidence of the parties' intentions" (*Kennecott Corp. v. Union Oil Co. of California* (1987) 196 Cal.App.3d 1179, 1189). "This rule of practical construction is predicated on the common sense concept that 'actions speak louder than words.' Words are frequently but an imperfect medium to convey thought and intention. When the parties to a contract perform under it and demonstrate by their conduct that they knew what they were talking about the courts should enforce that intent" (*Crestview Cemetery Assn. v. Dieden* (1960) 54 Cal.2d 744, 754).

Applying these principles to the Loan Agreement, there is no stronger or more compelling evidence of the parties' mutual understanding that the Former Agency was obligated to repay the City than the actual payment from available tax increment in accordance with the terms of the Loan Agreement. The City and the Former Agency's conduct in implementing the Loan Agreement and the precision of the recordkeeping in accordance with its terms demonstrate that the sales and use taxes from the Redevelopment Project Area transferred by the City to the Agency were a loan by the City to be repaid by the Former Agency. In fact, commencing in June 2005, the Former Agency repaid a total of

\$1,920,908.14 over a series of 15 payments prior to the dissolution of the Former Agency and prior to the current dispute with the DOF.

Updated Repayment Schedule.

By Resolution No. SA 21-01 adopted on September 7, 2021, the Successor Agency approved a repayment schedule for the Seaside Loan in accordance with the Dissolution Act requirements that interest on the outstanding principal be recalculated from the date of origination of the loan on a quarterly basis at 3% simple interest. (Health & Safety Code Section 34191.4(b)(3).) The Oversight Board approved the Repayment Schedule by its Resolution 21-09.

The Repayment Schedule has been updated in accordance with Resolution SA 21-01 and Oversight Board Resolution No. 2021-09 to reflect available residual revenues based on the 2021-22 Assessed Valuation and to eliminate the January 2022 payment requested by the Successor Agency and rejected by the DOF on the Amended ROPS 21-22B. The first payment of \$500,000 is reflected on Item #13 of the proposed ROPS 22-23 and the projected amortization schedule illustrates repayment in full as of July 1, 2037. The updated Repayment Schedule is attached as Exhibit "C" to the proposed Oversight Board Resolution. This Repayment Schedule was approved by the Successor Agency on December 21, 2021 by Resolution SA 21-04.

CEQA:

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

Recommendation:

Based on the evidence presented, the Successor Agency seeks the Consolidated Oversight Board approval of the attached Resolution Confirming Reinstatement of a Loan Agreement Between the City of Sand City and the Former Sand City Redevelopment Agency, Finding the Loan was Made for Legitimate Redevelopment Purposes and is an Enforceable Obligation Within the Meaning of Health & Safety Code Sections 34171(d)(2) and 34191.4(b)(2), and Approving Adjustments to the Repayment Schedule

Consolidated Oversight Board for the County of Monterey

Meeting Date January 14, 2022

Re: Sand City Loan

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Attachments:

1. Resolution
 - A. Loan Agreement
 - B. Seaside Loan – Seaside Monetary Loan
 - C. Loan Repayment Schedule – Seaside Monetary Loan
2. Finding of Completion
3. Memorandum To Oversight Board (September 16, 2021 Meeting)
4. Oversight Board Resolution 21-09

**BEFORE THE CONSOLIDATED OVERSIGHT BOARD
FOR THE COUNTY OF MONTEREY**

RESOLUTION NO. 2021- __

**RESOLUTION OF THE CONSOLIDATED OVERSIGHT BOARD FOR THE COUNTY
OF MONTEREY CONFIRMING REINSTATEMENT OF A LOAN AGREEMENT
BETWEEN THE CITY OF SAND CITY AND THE FORMER SAND CITY
REDEVELOPMENT AGENCY, FINDING THE LOAN WAS MADE FOR LEGITIMATE
REDEVELOPMENT PURPOSES AND IS AN ENFORCEABLE OBLIGATION WITHIN
THE MEANING OF HEALTH & SAFETY CODE SECTIONS 34171(d)(2) AND
34191.4(b)(2), AND APPROVING ADJUSTMENTS TO THE REPAYMENT
SCHEDULE**

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

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

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

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

WHEREAS, on July 18, 1989, pursuant to the requirements of the Seaside Agreement and as authorized by Revenue & Taxation Code section 7202.6, the Former Agency adopted Ordinance No. RA-1 imposing a 1% sales and use tax within the Redevelopment Project Area boundaries and the City of Sand City simultaneously opted out of its rights to receive the 1% sales and use tax under its Municipal Code in an amount equal to the sales and use taxes from the Redevelopment Project Area; and

WHEREAS, at the time the above-referenced Ordinances were adopted, the City and the Former Agency concurrently entered into that certain “Agreement Between the City of Sand City and the Redevelopment Agency of the City of Sand City Concerning Certain Sales and Use Taxes”, a copy of which is attached hereto marked Exhibit “A” and by this reference incorporated herein (the “**Loan Agreement**”); and

WHEREAS, under the terms of the Loan Agreement the City agreed to loan sufficient funds to the Former Agency to enable the Former Agency to meet its obligations to make payments under the Seaside Agreement (the “**Seaside Loan**”) and the Costco Agreement (the “**Costco Loan**”) and the Former Agency agreed to repay such loans from future property tax increment funds received by the Former Agency; and

WHEREAS, on February 1, 2012 the Former Agency was dissolved pursuant to Assembly Bill 1X 26 as later amended by AB 1484 and further amended by SB 107 (the “**Dissolution Act**”) and its rights, powers, duties and obligations were transferred to a successor agency; and

WHEREAS, the City Council of the City elected to act as the Former Agency’s successor agency (“**Successor Agency**”) under Section 34173 of the Dissolution Act, and, as such, is charged with implementing the enforceable obligations and winding down the affairs of the Former Agency; and

WHEREAS, pursuant to Health & Safety Code Section 34171(d)(1)(B) of the Dissolution Act “enforceable obligations” include “loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms” and Health & Safety Code Section 34171(d)(2) extends this definition to written agreements between a city and its redevelopment agency entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations; and

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

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

WHEREAS, by Resolution No. 21-09 adopted on September 16, 2021, the Consolidated Oversight Board for the County of Monterey ("**Oversight Board**") approved the reinstatement of the Loan Agreement, found that the loan was made for legitimate redevelopment purposes and approved the repayment schedule for the Seaside Loan; and

WHEREAS, in accordance with the Loan Agreement, the City and the Former Agency maintained accurate and precise records that were updated annually in the Annual Financial Statements and Independent Auditor's Reports and which are summarized in the attached Exhibit "B" incorporated herein by reference as a true and correct accounting of (i) all funds the Former Agency borrowed from the City under the Loan Agreement for the Seaside Loan which amount is \$5,853,839.93, plus interest; (ii) all payments made by the Former Agency from available tax increment in the aggregate amount of \$1,920,908.14 prior to dissolution to reduce the outstanding principal amount, and (iii) recalculation of the total amount due from the Successor Agency to the City for the Seaside Loan in accordance with Health & Safety Code Section 34191.4(b)(3) which amount as of June 30, 2022 will be \$6,367,545.96; and

WHEREAS, by Resolution No. 2021-09 the Oversight Board approved the revised and recalculated Loan Repayment Schedule (Seaside Monetary Loan) which Loan Repayment Schedule has been updated to reflect available residual revenues based on the 2021-22 Assessed Valuation and to eliminate the January 1, 2022 payment requested by the Successor Agency on its Amended ROPS 21-22B as set forth in the updated Loan Repayment Schedule (Seaside Monetary Loan) attached as Exhibit "C" and by this reference incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by the Consolidated Oversight Board that:

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

2. The Consolidated Oversight Board hereby finds and determines, based on all of the evidence presented, that the Loan Agreement was a proper and legally authorized loan agreement that constitutes an enforceable obligation of the Successor Agency pursuant to Health & Safety Code section 34171(d)(2) in that: (A) the Loan Agreement and the related sales and use tax ordinances adopted by the Former Agency and the City were required by the Seaside Agreement, (B) the Loan Agreement pledged the sales and use taxes from the Redevelopment Project Area to the payment due under the Seaside Agreement and the Costco Agreement and restricted the use of those funds solely for these purposes, and (C) the Loan Agreement was a requisite component part of the indebtedness established by the Seaside Agreement such that the Loan Agreement, the ordinances and the Seaside Agreement constitute a single transaction entered into "at the same time" and intended from the outset to be taken for the purpose of reaching the ultimate result of securing the Former Agency's repayment of funds borrowed from the City to meet the Former Agency's indebtedness obligations to Seaside and to Costco.

3. The Consolidated Oversight Board confirms its findings, based on all of the evidence presented, that the Loan Agreement and the funds borrowed by the Former Agency from the City thereunder were for legitimate redevelopment purposes in that such funds were used to satisfy the Former Agency's obligations under the Seaside Agreement and the Costco Agreement which agreements were entered into to effectuate the Redevelopment Plan and mitigate the impacts of the redevelopment activities in the Project Area on the City of Seaside in accordance with the CRL.

4. The Consolidated Oversight Board further confirms, finds and determines, based on all of the evidence presented, that the Seaside Loan as reinstated pursuant to the Loan Agreement constitutes a loan agreement within the meaning of Section 34191.4(b)(2)(A) and is an enforceable obligation within the meaning of Section 34171(d) of the Dissolution Act eligible for payment through the ROPS from RPTTF in accordance with the formula set forth in Health & Safety Code Section 34191.4(b) providing for the recalculation of interest at a 3% simple interest rate from the date of origination on a quarterly basis.

5. The Consolidated Oversight Board hereby approves the updated Revised Repayment Schedule (Seaside Loan) attached hereto as Exhibit "C" and incorporated herein by reference ("**Repayment Schedule**") and authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to include repayment of the Seaside Loan on the ROPS to meet its obligation to repay the City the sum of \$6,367,545.96 (as of June 30, 2022), together with simple interest at the rate of 3% per annum, recalculated quarterly, on any outstanding balance of the Seaside Loan from its RPTTF until repaid in full in accordance with the Repayment Schedule

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

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

PASSED AND ADOPTED this 14th day of January, 2022 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

Chairperson, Consolidated Oversight
Board County of Monterey

ATTEST:

By: _____
Clerk of the Consolidated Oversight
Board County of Monterey

RESOLUTION NO. (SC) 42 1989

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

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

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

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

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

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

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

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

1. The City Council approves the Agreement attached as Exhibit "A" and authorizes that Mayor to sign said agreement.
2. The Redevelopment Agency shall prepare and maintain all necessary books of accounts to keep clear, concise and accurate records of the use of City sales and use taxes.
3. The Redevelopment Agency shall prepare an annual audited statement for review and approval of the City Council.
4. The Redevelopment Agency shall return any unused portions of said sales and use taxes back to the City on a periodic basis as determined by the Council as necessary to continue normal city operations.

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

AYES: Ritter, Francini and Mayor Pendergrass

NOES: None

ABSENT: None



David K. Pendergrass, Mayor

ATTEST: 

City Clerk

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

City Clerk

Date

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

EXHIBIT "A" TO RESOLUTION NO. SC-421989

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

RECITALS

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

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

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

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

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

NOW THEREFORE, the parties agree as follows:

SECTION 1. Pledge of Transferred Sales and Use Taxes

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

SECTION 2. Use of transferred Sales and Use Taxes

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

SECTION 3. Payment to City.

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

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

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

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

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

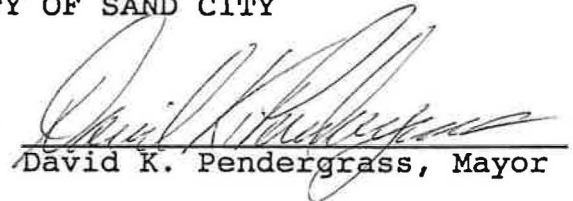
IN WITNESS WHEREOF, the City and Agency have caused this Agreement to be executed on this 18th day of July, 1989.

ATTEST:

CITY OF SAND CITY

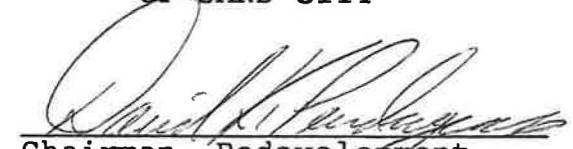


City Clerk

BY: 

David K. Pendergrass, Mayor

REDEVELOPMENT AGENCY OF THE CITY
OF SAND CITY

BY: 

Chairman, Redevelopment
Agency of the City of
Sand City

Sand City Successor Agency
City Loan - Seaside Monetary Loan

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

Sand City Successor Agency
City Loan - Seaside Monetary Loan

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

Sand City Successor Agency
City Loan - Seaside Monetary Loan

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

Sand City Successor Agency
City Loan - Seaside Monetary Loan

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

Sand City Successor Agency
City Loan - Seaside Monetary Loan

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

Sand City Successor Agency
City Loan - Seaside Monetary Loan

	Principal	Interest	Payment	Ending Balance	Principal Balance
12/31/2018		\$29,496.99		\$5,954,588.13	\$3,932,931.79
3/31/2019		\$29,496.99		\$5,984,085.11	\$3,932,931.79
6/30/2019		\$29,496.99		\$6,013,582.10	\$3,932,931.79
9/30/2019		\$29,496.99		\$6,043,079.09	\$3,932,931.79
12/31/2019		\$29,496.99		\$6,072,576.08	\$3,932,931.79
3/31/2020		\$29,496.99		\$6,102,073.07	\$3,932,931.79
6/30/2020		\$29,496.99		\$6,131,570.06	\$3,932,931.79
9/30/2020		\$29,496.99		\$6,161,067.04	\$3,932,931.79
12/31/2020		\$29,496.99		\$6,190,564.03	\$3,932,931.79
3/31/2021		\$29,496.99		\$6,220,061.02	\$3,932,931.79
6/30/2021		\$29,496.99		\$6,249,558.01	\$3,932,931.79
9/30/2021		\$29,496.99		\$6,279,055.00	\$3,932,931.79
12/31/2021		\$29,496.99		\$6,308,551.99	\$3,932,931.79
3/31/2022		\$29,496.99		\$6,338,048.97	\$3,932,931.79
6/30/2022		\$29,496.99		\$6,367,545.96	\$3,932,931.79
	<u>\$5,853,839.93</u>	<u>\$2,434,614.17</u>	<u>\$1,920,908.14</u>		

**Sand City Successor Agency
Proposed Loan Repayment Schedule**

Seaside Monetary Loan

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

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

Pmt No	Payment Date	Beginning Balance	Interest	Scheduled Payment	Extra Payment	Total Payment	Ending Balance	Principal Balance
								3,932,932
	1/1/2022	6,308,552	29,497			0	6,338,049	3,932,932
	4/1/2022	6,338,049	29,497			0	6,367,546	3,932,932
1	7/1/2022	6,367,546	29,497	500,000		500,000	5,897,043	3,432,932
	10/1/2022	5,897,043	25,747			0	5,922,790	3,432,932
	1/1/2023	5,922,790	25,747			0	5,948,537	3,432,932
	4/1/2023	5,948,537	25,747			0	5,974,284	3,432,932
2	7/1/2023	5,974,284	25,747	121,021		121,021	5,879,010	3,311,911
	10/1/2023	5,879,010	24,839			0	5,903,849	3,311,911
	1/1/2024	5,903,849	24,839			0	5,928,689	3,311,911
	4/1/2024	5,928,689	24,839			0	5,953,528	3,311,911
3	7/1/2024	5,953,528	24,839	108,273		108,273	5,870,094	3,203,637
	10/1/2024	5,870,094	24,027			0	5,894,121	3,203,637
	1/1/2025	5,894,121	24,027			0	5,918,148	3,203,637
	4/1/2025	5,918,148	24,027			0	5,942,176	3,203,637
4	7/1/2025	5,942,176	24,027	144,773		144,773	5,821,430	3,058,864
	10/1/2025	5,821,430	22,941			0	5,844,371	3,058,864
	1/1/2026	5,844,371	22,941			0	5,867,313	3,058,864
	4/1/2026	5,867,313	22,941			0	5,890,254	3,058,864
5	7/1/2026	5,890,254	22,941	142,880		142,880	5,770,315	2,915,984
	10/1/2026	5,770,315	21,870			0	5,792,185	2,915,984
	1/1/2027	5,792,185	21,870			0	5,814,055	2,915,984
	4/1/2027	5,814,055	21,870			0	5,835,925	2,915,984
6	7/1/2027	5,835,925	21,870	315,800		315,800	5,541,995	2,600,184
	10/1/2027	5,541,995	19,501			0	5,561,496	2,600,184
	1/1/2028	5,561,496	19,501			0	5,580,998	2,600,184
	4/1/2028	5,580,998	19,501			0	5,600,499	2,600,184
7	7/1/2028	5,600,499	19,501	647,030		647,030	4,972,971	1,953,154
	10/1/2028	4,972,971	14,649			0	4,987,620	1,953,154
	1/1/2029	4,987,620	14,649			0	5,002,268	1,953,154
	4/1/2029	5,002,268	14,649			0	5,016,917	1,953,154
8	7/1/2029	5,016,917	14,649	559,808		559,808	4,471,758	1,393,347
	10/1/2029	4,471,758	10,450			0	4,482,208	1,393,347
	1/1/2030	4,482,208	10,450			0	4,492,658	1,393,347
	4/1/2030	4,492,658	10,450			0	4,503,108	1,393,347
9	7/1/2030	4,503,108	10,450	621,344		621,344	3,892,214	772,003
	10/1/2030	3,892,214	5,790			0	3,898,004	772,003
	1/1/2031	3,898,004	5,790			0	3,903,794	772,003
	4/1/2031	3,903,794	5,790			0	3,909,584	772,003
10	7/1/2031	3,909,584	5,790	608,859		608,859	3,306,515	163,143
	10/1/2031	3,306,515	1,224			0	3,307,739	163,143
	1/1/2032	3,307,739	1,224			0	3,308,962	163,143
	4/1/2032	3,308,962	1,224			0	3,310,186	163,143
11	7/1/2032	3,310,186	1,224	633,751		633,751	2,677,658	0
	10/1/2032	2,677,658	0			0	2,677,658	0
	1/1/2033	2,677,658	0			0	2,677,658	0
	4/1/2033	2,677,658	0			0	2,677,658	0
12	7/1/2033	2,677,658	0	640,328		640,328	2,037,331	0
	10/1/2033	2,037,331	0			0	2,037,331	0
	1/1/2034	2,037,331	0			0	2,037,331	0
	4/1/2034	2,037,331	0			0	2,037,331	0
13	7/1/2034	2,037,331	0	656,442		656,442	1,380,889	0
	10/1/2034	1,380,889	0			0	1,380,889	0
	1/1/2035	1,380,889	0			0	1,380,889	0
	4/1/2035	1,380,889	0			0	1,380,889	0

	Payment Date	Beginning Balance	Interest	Scheduled Payment	Extra Payment	Total Payment	Ending Balance	Principal Balance
14	7/1/2035	1,380,889	0	668,176		668,176	712,713	0
	10/1/2035	712,713	0			0	712,713	0
	1/1/2036	712,713	0			0	712,713	0
	4/1/2036	712,713	0			0	712,713	0
15	7/1/2036	712,713	0	682,495		682,495	30,218	0
	10/1/2036	30,218	0			0	30,218	0
	1/1/2037	30,218	0			0	30,218	0
	4/1/2037	30,218	0			0	30,218	0
16	7/1/2037	30,218	0	30,218		30,218	0	0
	10/1/2037	0	0			0	0	0
	1/1/2038	0	0			0	0	0
	4/1/2038	0	0			0	0	0
17	7/1/2038	0	0	0		0	0	0
	10/1/2038	0	0			0	0	0
	1/1/2039	0	0			0	0	0
	4/1/2039	0	0			0	0	0
18	7/1/2039	0	0	0		0	0	0
	10/1/2039	0	0			0	0	0
	1/1/2040	0	0			0	0	0
	4/1/2040	0	0			0	0	0
19	7/1/2040	0	0	0		0	0	0
	10/1/2040	0	0			0	0	0
	1/1/2041	0	0			0	0	0
	4/1/2041	0	0			0	0	0
20	7/1/2041	0	0	0		0	0	0
	10/1/2041	0	0			0	0	0
	1/1/2042	0	0			0	0	0
	4/1/2042	0	0			0	0	0
21	7/1/2042	0	0	0		0	0	0

Loan Terms

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



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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

August 1, 2013

RECEIVED

AUG 02 2013

CITY OF SAND CITY

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

Dear Mr. Matarazzo:

Subject: Request for a Finding of Completion

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

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

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

- Place loan agreements between the former redevelopment agency and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes per HSC section 34191.4 (b) (1). Loan repayments will be governed by criteria in HSC section 34191.4 (a) (2).
- Utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants per HSC section 34191.4 (c).

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

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

Sincerely,

 for

STEVE SZALAY
Local Government Consultant

Mr. Steve Matarazzo

August 1, 2013

Page 2

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



City of Sand City

Memorandum

TO: Consolidated Oversight Board for the County of Monterey Chair and Board Members

FROM: Aaron Blair, Executive Director, Sand City Successor Agency

DATE: August 27, 2021 (for September 16, 2021 Consolidated Oversight Board meeting)

SUBJECT: Resolution of the Consolidated Oversight Board for the City of Sand City, County of Monterey, approving reinstatement of a loan agreement between the City of Sand City and the former Sand City Redevelopment Agency, finding the loan was made for legitimate redevelopment purposes and approving a schedule for repayment by the Successor Agency of the amount of the loan used to fund payments under the Seaside Agreement

Background:

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

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

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

- 1) “Agreement Regarding Future Impacts on the Provision of Public Services” dated May 18, 1989 with the City of Seaside to mitigate and provide a funding mechanism for the mitigation of the impacts on streets located within the City of Seaside resulting from the Former Agency’s redevelopment activities within the Redevelopment Project Area pursuant to and in furtherance of the Redevelopment Plan (the “**Seaside Agreement**”); and
- 2) “Owner Participation Agreement” dated May 31, 1989 with Costco Wholesale Corporation pursuant to which the Former Agency agreed to reimburse Costco for certain property acquisition costs associated with the Costco project in order to facilitate and expedite the financing and construction of public and infrastructure improvements and to stimulate

redevelopment and revitalization within the Redevelopment Project Area pursuant to and in furtherance of the Redevelopment Plan (the “**Costco Agreement**”).

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

Discussion:

The Successor Agency received a Finding of Completion from the Department of Finance on August 1, 2013. A copy of the Finding of Completion is attached to this Report as Attachment 2. Pursuant to Health & Safety Code Section 34191.4, the Successor Agency is now eligible to request Oversight Board approval to repay amounts due to the City of Sand City pursuant to the Loan Agreement. Loans from the City to the Former Agency are eligible for repayment pursuant to Health & Safety Code Section 34191.4 provided that the Oversight Board determines that the loans were for legitimate redevelopment purposes.

The Former Agency was authorized to borrow from the City.

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

The Loan proceeds were used for legitimate redevelopment purposes.

CRL Section 33020 defines “redevelopment” as the “planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, or all or part of a survey area, and the provision of those residential commercial, industrial,

public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them...”.

The Costco Loan

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

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

“1.2 Purpose of Agreement

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

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

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

The Seaside Loan

The Seaside Agreement was entered into by the Former Agency to effectuate three major commercial redevelopment projects and related on-site and off-site improvements (Phase I – Sand Dollar Center; Phase II – Edgewater Center; and Phase III – Sand City’s coastal zone west of Highway One) located in the Sand City Redevelopment Project Area and to mitigate the impacts of those redevelopment activities on the City of Seaside. The Seaside Agreement recites that the parties to the agreement found the future redevelopment projects would have impacts within Seaside and that the parties desired to enter into the agreement for the mitigation of all such impacts and to provide a funding mechanism for such mitigation costs. These mitigation costs were integral to implementing these redevelopment projects and effectuating the Redevelopment Plan.

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

Repayment of the loans.

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

On January 16, 2018, the Successor Agency adopted Resolution No. SA 18-02 approving a repayment schedule for the Seaside Loan. Resolution SA 18-02 was repealed by the adoption of Resolution No. SA 21-02 on September 7, 2021 approving a revised and

recalculated Loan Repayment Schedule (Seaside Monetary Loan) attached to the proposed Resolution marked Exhibit "C." Under the revised and recalculated Seaside Loan Repayment Schedule (Exhibit "C") the unpaid balance was reduced from \$6,448,068 to \$6,308,551.99 as of December 31, 2021 and the projected amortized repayment schedule was shortened from 26 years to 16 years. The first payment of \$440,858 in accordance with the Repayment Schedule is reflected as a requested adjustment for the allocation of RPTTF on the Successor Agency's Amended ROPS 20-21B, Item #13.

CEQA:

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

Recommendation:

Based on the evidence presented, the Successor Agency seeks the Consolidated Oversight Board approval of the attached Resolution approving reinstatement of the Loan Agreement, finding the loan by the City of the Former Agency pursuant thereto was made for legitimate redevelopment purposes, and approving a schedule for repayment by the Successor Agency of the amount of the loan used to fund payments under the Seaside Agreement.

Attachments:

1. Resolution No. 2021-09
 - A. Loan Agreement
 - B. Seaside Loan – Seaside Monetary Loan
 - C. Loan Repayment Schedule – Seaside Monetary Loan
2. Finding of Completion
3. Judgment - Seaside Agreement

**BEFORE THE CONSOLIDATED OVERSIGHT BOARD
SUCCESSOR AGENCY FOR THE CITY OF SAND CITY
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 2021-09

**RESOLUTION OF THE CONSOLIDATED OVERSIGHT BOARD
SUCCESSOR AGENCY FOR THE CITY OF SAND CITY, COUNTY OF MONTEREY,
APPROVING REINSTATEMENT OF A LOAN AGREEMENT BETWEEN THE CITY
OF SAND CITY AND THE FORMER SAND CITY REDEVELOPMENT AGENCY,
FINDING THE LOAN WAS MADE FOR LEGITIMATE REDEVELOPMENT
PURPOSES AND APPROVING A SCHEDULE FOR REPAYMENT BY THE
SUCCESSOR AGENCY OF THE AMOUNT OF THE LOAN USED TO FUND
PAYMENTS UNDER THE SEASIDE AGREEMENT**

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

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

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

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

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

WHEREAS, under the terms of the Loan Agreement the City agreed to loan sufficient funds to the Agency to enable the Agency to meet its obligations to make payments under the Seaside Agreement (the “**Seaside Loan**”) and the Costco Agreement (the “**Costco Loan**”) and the Agency agreed to repay such loans from property tax increment funds received by the Agency; and

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Consolidated Oversight Board that:

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

2. The Consolidated Oversight Board further finds and determines, based on all of the evidence presented, that upon approval by the Consolidated Oversight Board and the DOF, the Loan Agreement shall constitute enforceable obligations within the meaning of Section 34171(d) of the Dissolution Act.

3. The Consolidated Oversight Board further finds and determines, based on all of the evidence presented, that the Seaside Loan as reinstated pursuant to the Loan Agreement constitutes an enforceable obligation eligible for payment through the ROPS from Real Property Tax Trust Funds ("**RPTTF**") in accordance with the formula set forth in Health & Safety Code Section 34191.4(b) providing for the recalculation of interest at a 3% simple interest rate from the date of origination on a quarterly basis.

4. The Consolidated Oversight Board approves the reinstatement of the Seaside Loan pursuant of the Loan Agreement and authorizes and directs the Successor Agency to take all actions necessary under the Dissolution Act to include repayment of the Seaside Loan on the ROPS to meets its obligation to repay the City the sum of \$6,308,551.99 (as of December 31, 2021), together with simple interest at the rate of 3% per annum, recalculated quarterly, on any outstanding balance of the Seaside Loan from its RPTTF until repaid in full in accordance with the Loan Repayment Schedule (Seaside Monetary Loan) attached hereto marked Exhibit "C" and by this reference incorporated herein.

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

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

PASSED AND ADOPTED this 16th day of September, 2021 by the following vote:

AYES: Poitras, LeBarre, Reed, Bousum, Cordiero-Martinez

NOES:

ABSTAIN:

ABSENT: Crow, Gamotan

APPROVED:

DocuSigned by:

Warren "Pete" Poitras

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Chairperson, Consolidated Oversight
Board County of Monterey

ATTEST:

DocuSigned by:

Jennifer Forsyth

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By:

Clerk of the Consolidated Oversight
Board County of Monterey



Gavin Newsom ■ Governor

915 L Street ■ Sacramento CA ■ 95814-3706 ■ www.dof.ca.gov

Transmitted via Email

October 28, 2021

Connie Horca, City Clerk
Sand City
1 Pendergrass Way
Sand City, CA 93955

Objection to Oversight Board Action

The Sand City Successor Agency (Agency) notified the California Department of Finance (Finance) of its September 16, 2021 Oversight Board (OB) resolution on September 17, 2021. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, OB Resolution No. 2021-09, approving reinstatement of a loan agreement between Sand City (City) and the former Sand City Redevelopment Agency (RDA), finding the loan was made for legitimate redevelopment purposes and approving a schedule for repayment by the Agency of the amount of the loan used to fund payments under the Seaside Agreement, is not approved.

In July 1989, RDA entered into the Agreement between the City and RDA Concerning Certain Sales and Use Taxes (Agreement). The purpose of the Agreement was to pledge the City's sales and use tax revenue for payment due under both the Seaside Agreement and the Costco Owner Participation Agreement. Under the Agreement, any use of the City's sales and use tax revenue by the RDA was considered a loan and eligible for repayment for which the City could charge the RDA interest.

HSC section 34191.4 (b) (2) (A) defines a loan as a transfer of money from the city to the redevelopment agency for a lawful purpose and where the redevelopment agency was obligated to repay the money pursuant to a required repayment schedule. However, the Agreement does not meet this loan definition because it did not include a loan amount, interest rate, repayment terms, or a requirement for the loan to be repaid.


As authorized by HSC section 34179 (h), Finance is returning your OB action to the board for reconsideration.

Connie Horca
October 28, 2021
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Please direct inquiries to Joshua Mortimer, Supervisor, or Michael Barr, Staff at
(916) 322-2985.

Sincerely,



 JENNIFER WHITAKER
Program Budget Manager

cc: Cheryl Murase, Principle, HdL Companies
Jennifer Forsyth, Auditor-Controller Analyst, Monterey County