



SEASIDE COUNTY SANITATION DISTRICT

440 HARCOURT AVENUE SEASIDE, CA 93955

SPECIAL MEETING BOARD OF DIRECTORS

Tuesday, January 23, 2024, 12:00 PM
CITY OF SEASIDE CONFERENCE ROOM

BOARD MEMBERS

Jerry Blackwelder
Chair

City of Sand City
1 Pendergrass Way
Sand City, CA 93955
(831) 394-3054

John Uy

First Vice Chair

City of Del Rey Oaks
650 Canyon Del Rey
Del Rey Oaks, CA 93940
(831) 394-8511

Ian N. Oglesby
Second Vice Chair

City of Seaside
440 Harcourt Ave
Seaside, CA 93955
(831) 899-6825

DISTRICT STAFF

Jaime M. Fontes

District Manager
440 Harcourt Avenue
Seaside, CA 93955
(831) 899-6701

Nisha Patel

District Engineer
440 Harcourt Avenue
Seaside, CA 93955
(831) 899-6884

Reed W. Gallogly

Legal Counsel
County Counsel
168 West Alisal Street
Third Floor
Salinas, CA 93901
(831) 755-5266

Dominique L. Davis

District Clerk
440 Harcourt Avenue
Seaside, CA 93955
(831) 899-6707

1. **CALL TO ORDER**

2. **ROLL CALL - SANITATION DISTRICT BOARD OF DIRECTORS**

Jerry Blackwelder

John Uy

Ian N. Oglesby

Chair

First Vice Chair

Second Vice Chair

3. **REVIEW OF AGENDA**

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

4. **PUBLIC COMMENT**

Members of the public wishing to address the Seaside County Sanitation District on matters within the jurisdiction of the Board, but not on this agenda, may do so during Public Comment period for up to two minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

5. **NEW BUSINESS**

A. DISCUSSION AND POSSIBLE AUTHORIZATION AND DIRECTION TO THE DISTRICT MANAGER TO ENTER INTO DRAFT ESCROW AGREEMENT UNDER WHICH EKN DEVELOPMENT WILL PAY THE ENTIRE AMOUNT OF REQUESTED SEWER FEES WHILE THE DISPUTED AMOUNT OF THOSE FEES ARE HELD IN ESCROW BY MONTEREY ONE WATER UNTIL THE BOARD RESOLVES THE APPEAL ON THE AMOUNT OF THE FEES.

PURPOSE: This item, as stated above, was requested by Chair Blackwelder.

RECOMMENDATION: Staff recommends no action, discussion and/or possible authorization and/or direction to the District Manager regarding the attached escrow agreement until adequate legal and administrative due diligence has been performed lest the District is exposed to all manner of known and unknown legal risks.

6. STAFF REPORTS

Staff reports include items for which verbal reports/presentations will be provided. If a specific Seaside County Sanitation District presentation is planned, it will be listed and information included with the Agenda. Brief oral reports may be provided for items arising after the Agenda was prepared. The Board may wish to ask questions or discuss a staff report, but no action is appropriate other than referral to staff, or request that a matter be set as a future Agenda item.

7. BOARD MEMBERS COMMENTS

8. ADJOURNMENT

Next Regularly Scheduled Meeting:
February 13, 2024
9:30 AM

In compliance with the Americans with Disabilities Act (ADA), the Seaside County Sanitation District (SCSD) does not discriminate against persons with disabilities. Any person with a disability who requires a modification or accommodation to be able to participate in this meeting is asked to contact the office of the District Clerk at cityclerk@ci.seaside.ca.us 831-899-6707, no fewer than two business days prior to the meeting to allow for reasonable arrangements. This agenda is posted in compliance with Pursuant to Governor Newsom's Executive Orders [N-29-20](#) and [N-33-20](#) Agenda related writings or documents provided to the Board are available for public inspection during the meeting or may be requested from the office of the District Clerk.



**SEASIDE COUNTY SANITATION DISTRICT
STAFF REPORT**

Item No.: 6.A.

TO: Seaside County Sanitation District

FROM: Jaime M. Fontes, District Manager

DATE: January 23, 2024

SUBJECT: **DISCUSSION AND POSSIBLE AUTHORIZATION AND DIRECTION TO THE DISTRICT MANAGER TO ENTER INTO DRAFT ESCROW AGREEMENT UNDER WHICH EKN DEVELOPMENT WILL PAY THE ENTIRE AMOUNT OF REQUESTED SEWER FEES WHILE THE DISPUTED AMOUNT OF THOSE FEES ARE HELD IN ESCROW BY MONTEREY ONE WATER UNTIL THE BOARD RESOLVES THE APPEAL ON THE AMOUNT OF THE FEES.**

PURPOSE

This item, as stated above, was requested by Chair Blackwelder.

RECOMMENDATION

Staff recommends no action, discussion and/or possible authorization and/or direction to the District Manager regarding the attached escrow agreement until adequate legal and administrative due diligence has been performed lest the District is exposed to all manner of known and unknown legal risks.

BACKGROUND

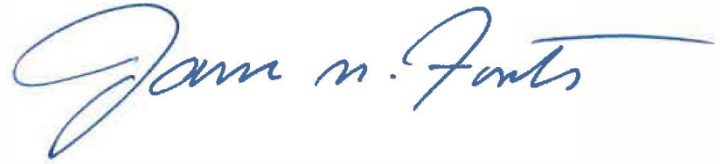
On January 19, 2024, Chair Blackwelder requested a special Seaside County Sanitation District (SCSD) meeting be scheduled for Tuesday, January 23, 2024 to allow payment of the South of Tioga Marriot Hotel SCSD fees by EKN Development to an escrow account established in accordance with the attached escrow agreement.

FISCAL IMPACT

ATTACHMENTS

1. EKN-MontereyEscrow

Reviewed for Submission to the
Board by:

A handwritten signature in blue ink, reading "Jaime M. Fontes". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Jaime M. Fontes, District Manager

JOINT ESCROW INSTRUCTIONS

This Joint Escrow Instructions (“**Escrow Instructions**”) is executed on January __, 2024 (the “**Effective Date**”) by and among Sand City Lodging, LLC, a Delaware limited liability company (“**Owner**”), Seaside County Sanitation District, a Special District governed by the applicable general laws of the State of California (“**Seaside**”), and Monterey One Water, a joint powers agency formed under California Government Code section 6500, *et seq.*, (“**Escrow Holder**”). The Escrow Instructions are entered into with reference to the following facts:

RECITALS

- A. Whereas, Owner is the owner of 4.04 acres of property described in Exhibit “A” in Sand City, California (“**Property**”);
- B. Whereas, Owner is in the process of obtaining a building permit from the City of Sand City (“**Building Permit**”) for the construction of a hotel and associated improvements which includes one hundred twenty-seven (127) standard hotel rooms and eighty-eight (88) extended-stay hotel rooms;
- C. Whereas, the Property is within the jurisdiction of Seaside and Escrow Holder and a prerequisite of the issuance of the Building Permit is the payment of a capacity fee to Seaside for connection into the existing sewer system (“**Capacity Fee**”);
- D. Whereas, Owner has submitted an appeal to Seaside regarding the classification of the Capacity Fee for the 88 extended-stay rooms which include a dishwasher and sink (“**Extended-Stay Capacity Fee**”);
- E. Whereas, Owner believes the Extended-Stay Capacity Fee should be \$283,624 for a total Capacity Fee of \$749,076 (“**Initial Fee**”) and Seaside staff believes the Extended-Stay Capacity Fee should be \$445,720 for a total Capacity Fee of \$911,172.00, a difference of \$162,096 (“**Escrow Amount**”);
- F. Whereas, the Seaside Board is scheduled to review the appeal of the Extended-Stay Capacity Fee at its regularly scheduled February 13, 2024 Board meeting (“**Board Meeting**”);
- G. Whereas, Owner is willing to deposit the Initial Fee and Escrow Amount with the Escrow Holder to hold in escrow (“**Escrow**”) pending the determination of the appeal at the Board Meeting under the terms and conditions set forth in these Escrow Instructions;
- H. Whereas, Seaside is willing to accept the Initial Fee, authorize the City of Sand City to issue the Building Permit, and re-issue a will-serve letter for the Property (“**Will Serve Letter**”) under the terms and conditions set forth below in these Escrow Instructions;

NOW, THEREFORE, the parties agree on the following instructions:

A. Escrow Holder will receive from Sand City Lodging, LLC (“Owner”) the following funds on or before January 26, 2024:

1. Immediately available funds in an amount equal to the Initial Fee.
2. Immediately available funds in the amount equal to the Escrow Amount.

B. Escrow Holder will receive from Seaside County Sanitation District (“Seaside”) the following documents and items within three (3) business days of the Effective Date of these Escrow Instructions:

1. The Will Serve Letter in the form acceptable to the City of Sand City.
2. Authorization to issue the Building Permit in the form acceptable to the City of Sand City (“**Building Permit Authorization**”).

Upon receipt of the Initial Fee, the Escrow Amount, the Will Serve Letter or the Building Permit Authorization, Escrow Holder is authorized to perform the following:

1. Release the Will Serve Letter to the City of Sand City.
2. Release the Building Permit Authorization to the City of Sand City.
3. Release the Initial Fee to Seaside in accordance with wiring instructions received from Seaside.

Within three (3) business days following the Board Meeting, Escrow Holder is authorized to perform the following:

1. Release the Escrow Amount to Owner or to Seaside, or if directed a portion of the Escrow Amount to each entity, according to the directions given by the Seaside Board and contained in the minutes of the Board Meeting.

As soon as the foregoing instructions have been satisfied, Escrow may be closed. Please contact Mr. Davies by telephone at (714) 398-7150 to confirm the close of Escrow.

The Escrow Instructions may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute on instrument.

[Signatures on following page.]

The undersigned acknowledges receipt of these Joint Escrow Instructions and agrees to proceed in strict accordance therewith:

ESCROW HOLDER
Monterey One Water

By: _____
Name: _____
Its: _____
Date: _____

OWNER
Sand City Lodging, LLC

By: _____
Name: _____
Its: _____
Date: _____

SEASIDE
Seaside County Sanitation District

By: _____
Name: _____
Its: _____
Date: _____

Exhibit "A"
Description of Owner Property

The Property located at 880 Tioga Avenue, Sand City, the southwest corner of California Avenue and Tioga Avenue also known in the County of Monterey Assessor's office as assessor's parcel numbers: 0116-010-03, 0116-010-04, 0116-010-05, 0116-010-06.

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