CITY COUNCIL
Revised Meeting Agenda

Tuesday, June 10, 2025

1:30 PM

City Hall Council Chamber

44950 Eldorado Drive, Indian Wells, CA 92210

Welcome to a meeting of the Indian Wells City Council.

Live Stream: *Regular meetings held in the City Hall Council Chamber are streamed live. You can watch the meeting on any device or computer. Members of the public who wish to listen or watch the meeting may access the livestream during the regular meetings. LIVE STREAM CLICK HERE.*

Public Comments: *Members of the Public who wish to speak should fill out a blue slip and submit it to the City Clerk, comments are limited to three minutes. In accordance with State Law, remarks during public comment are to be limited to subjects within the City's jurisdiction. If you are unable to provide comments during meeting, written comments on agenda or non-agenda items or both, may be submitted at CityClerk@indianwells.com an hour prior to the start of the meeting.*

Notification: *If you are an individual with a disability and need a reasonable modification or accommodation pursuant to the Americans with Disabilities Act (ADA) please contact the City Clerk at 760-346-2489, 48 hours prior to the meeting.*

Please turn off all communication devices (phones) or put them on non-audible mode (vibrate) during Council proceedings. All documents for public review are available for public inspection at City Hall reception, 44-950 Eldorado Drive, Indian Wells during normal business hours.

Pages

A. CONVENE THE INDIAN WELLS CITY COUNCIL, PLEDGE OF ALLEGIANCE AND ROLL CALL

MAYOR BRUCE WHITMAN
MAYOR PRO TEM DANA REED
COUNCIL MEMBER TOPER TAYLOR
COUNCIL MEMBER BRIAN PENNA
COUNCIL MEMBER GREG SANDERS

B. APPROVAL OF THE FINAL AGENDA

C. PROCLAMATIONS AND PRESENTATIONS

C.1 Introduction of Special Enforcement Team Deputy Marco Castaneda

C.2 Joslyn Senior Center Update by Executive Director Dr. Jay Seller

C.3 Update on Expansion of Eisenhower Health Facilities

D. PUBLIC COMMENTS

Members of the Public who wish to speak on consent items and items not listed on the agenda may do so at this time. Public Comments are limited to three minutes. Speakers will be alerted when their time is up.

Please note that while the City Council values your comments, the Council cannot respond nor take action on matters not listed on the agenda until the matter may appear on the forthcoming agenda.

E. CITY MANAGER'S REPORTS

The City Manager or Department Heads may make brief announcements, informal comments, or brief the Council on items of interest.

F. CITY ATTORNEY REPORTS AND COMMENTS

G. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered to be routine and will be approved by one motion. Reading of text of Ordinances is waived and Ordinances are adopted as second reading, by title only. There will be no separate discussion of these items unless members of the Council request specific items be removed from the Consent Calendar for separate discussion and action.

G.1 Player's Course Renovation Improvements 12

RECOMMENDED ACTIONS:
Council **APPROVES** the proposed enhancements to the Player's Golf Course, including landscaping improvements and the relocation of the putting green; and

APPROVES the allocation of $400,000 from the existing Golf Course Renovation contingency fund to fund said improvements; and

FINDS that the proposed enhancements are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

G.2 Resolution Establishing Appropriations Limitation for Fiscal Year 2025-26 14

RECOMMENDED ACTIONS:
Council **ADOPTS** Resolution establishing the Appropriations Limitation for fiscal year 2025-26; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

G.3 Indian Wells Celebrity Course Repairs to the Pump Vault and Water Feature at Hole #18 20

RECOMMENDED ACTIONS:
Council **APPROVES** Repairs to the Pump Vault and Water Feature at Hole #18 – Celebrity Course; and

APPROVES a Supplemental Appropriation of $160,000 from the Golf Resort Fund; and

FINDS that the proposed enhancements are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

G.4 Three-Year Sheriff Services Agreement with Riverside County Sheriff's Department 22

RECOMMENDED ACTIONS:

Council **APPROVES** three-year Services Agreement with Riverside County Sheriff's Department to provide municipal police protection and enforcement services for the City of Indian Wells from July 1, 2025, through June 30, 2028; and

AUTHORIZES and **DIRECTS** the City Manager to execute the Agreement and future renewals for the same, except when a change in service level is required; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

G.5 Memorandum of Understanding with Indian Wells City Employees Association and Resolution for Non-Represented City Employees 36

RECOMMENDED ACTIONS:

Council **APPROVES** the three-year Memorandum of Understanding (MOU) with Indian Wells City Employees Association (Association) effective July 1, 2025, through June 30, 2028; and

ADOPTS the six-year Resolution establishing the compensation and benefit plan for Non-Represented positions (Non-Represented) effective July 1, 2025, through June 30, 2031; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

G.6 Annual Appointments to the Various Commission,Committees, and Boards Vacancies 68

RECOMMENDED ACTIONS:
Council **APPROVES** the Council Ad Hoc Committee recommendations for a two-year term beginning on July 1, 2025, through June 30, 2027; and

APPOINTS Carina De Los Reyes, Dorothy Hamilton, and Kerri Sullivan on the Community Activities Committee; and

APPOINTS Ron Hendersen to serve on the Golf Resort Advisory Committee; and

APPOINTS Peter Rammer and James Lee to serve on the Grants In Aid Committee; and

APPOINTS Koanda Worden to serve on the Housing Authority Commission; and

APPOINTS Phil Valdez to serve on the Palms Springs International Commission; and

RE-APPOINTS Marcie Maxwell on the Golf Resort Advisory Committee for a second term ending June 30, 2027; and

RE-APPOINTS Jon O'Hea on the Housing Authority Commission until the vacancy is filled; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

G.7 Council Member Taylor Event Attendance 70

RECOMMENDED ACTIONS:
Council **APPROVES** Councilmember Taylor attendance at the Martinis and Bellinis Garden Tea Party on June 14, 2025, benefiting Hanson House Foundation and the Children's Discovery Museum; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

G.8 Fire Access Maintenance District No. 1 (FAMD) May 6, 2025, All-Mail Ballot Special Parcel Tax Election 73

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution declaring the results of the May 6, 2025 All-Mail Ballot Special Parcel Tax Election held within the territory within the Fire Access Maintenance District No. 1 for security, street, maintenance and repair, and entrance landscaping services; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

G.9 Annual Update to Local California Environmental Quality Act (CEQA) Guidelines 84

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution updating the local guidelines for implementing the California Environmental Quality Act for the City of Indian Wells; and

FINDS the action is not a Project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5).

G.10 Supplemental Appropriation for Drainage Repair on Fred Waring Drive 303

RECOMMENDED ACTIONS:

Council **APPROVES** a supplemental appropriation of $65,000 for the repair of a storm drain line in Fred Waring Drive; and

DIRECTS Staff to adjust the project budget accordingly; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 15061 (b)(3).

G.11 Supplemental Appropriation for City-wide Street Sweeping 306

RECOMMENDED ACTIONS:
Council **AWARDS** the Street Sweeping Contract with SCA of CA, LLC in the amount of $96,592.08 per year for a three-year term for city wide street sweeping services; and

APPROVES a supplemental appropriation of $21,592 per year to fund the street sweeping services contract; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

G.12 City Treasurer's Report for March 2025 332

RECOMMENDED ACTIONS:
Council **RECEIVES** and **FILES** the City Treasurer's Report for March 2025; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

H. PUBLIC HEARINGS

For each of the items listed under PUBLIC HEARING ITEMS, the public will be provided an opportunity to speak. After a staff report is provided, the Mayor will open the public hearing. Applicants will be allowed five minutes to make a presentation on the matter.

After presentations, members of the public will be allowed three minutes each to speak, unless there are a number of person's wishing to speak and then the Mayor will allow only two minutes, to accommodate for more persons.

H.1 Resolution Ordering the Levy and Collection of Assessments in the Fire Access Maintenance District No. 1 for Fiscal Year 2025-26 351

RECOMMENDED ACTIONS:
Council **OPENS** the Public Hearing, takes any public testimony, **CLOSES** the Public Hearing; and

ADOPTS Resolution approving the annual levy of the Fire Access Maintenance District No. 1 for the Fiscal Year 2025-26; and

ORDERS the Fire Access Maintenance District No. 1 levy on the Fiscal Year 2025-26 Riverside County tax roll; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

I. GENERAL BUSINESS

The Mayor will call upon the members of the public to address the Council regarding the agenda item being considered. After the public has provided comment, the item is closed to further comment and brought to the Council for discussion and action.

I.1 Selection of Design Components for Safer Streets Program Along Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street 356

RECOMMENDED ACTIONS:
Council **REVIEWS** the Planning Commission recommended Right-of-Way improvements along Fairway Drive, Eldorado Drive, Cook Street and Rancho Palmeras; and

PROVIDES individual motions for design improvements for each of the four corridors; and

AUTHORIZE staff to solicit proposals for a design consultant; and

FINDS the action exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code section 21080.20, and Section 15301, Class 1 (c) of Title 14 of the California Code of Regulations.

I.2 Ordinance Adopting the Fire Hazard Severity Zone Map Published by the Office of the State Fire Marshall in Compliance with California Fire Code and Government Code Section 51179 374

RECOMMENDED ACTIONS:

Council **INTRODUCES** Ordinance designating Moderate, High and Very High Fire Hazard Severity Zones (VHFHSZ) in the Local Responsibility Areas (LRA) as recommended by the Office of the State Fire Marshal, in accordance with the California Fire Code and Government Code section 51179; and

FINDS the project not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060, 15061(b)(3), and 15378.

I.3 Ordinance Requiring Emergency Access Preemption Systems on New and Existing Gated Community Access Points 395

RECOMMENDED ACTIONS:

Council **INTRODUCES** Ordinance requiring the installation of emergency access preemption systems compatible with the emergency vehicle equipment currently in use by the City's emergency service providers (e.g., infrared-based sensor systems such as Opticom) at all existing and future gated vehicular access points in the City of Indian Wells; and

FINDS the ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines sections 15060(c)(3) and 15061(b)(3).

I.4 Discussion on the Formation of the Coachella Valley Coalition for Clean Air 405

RECOMMENDED ACTIONS:

Council **DISCUSSES** and provides **DIRECTION** on the formation of the Coachella Valley Coalition for Clean Air, led by Councilmember Taylor; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

J. COUNCIL MEMBER'S REPORTS AND COMMENTS

On their own initiative, Council Members may make a brief announcement or a brief report on their own activities. Council Members may ask a question for clarification, make a referral to staff, or take action to have staff place a matter of business on a future agenda. The Council may take action on items listed on the Agenda.

J.1 COUNCIL MEMBER SANDERS

Coachella Valley Animal Campus
Cove Communities Service Commission
Desert Sands Unified School District
Desert Recreation District
Indian Wells Marketing Committee
Indian Wells Finance & Legal Oversight Committee
Indian Wells Public Safety

J.2 COUNCIL MEMBER PENNA

Coachella Valley Mountain Conservancy
Indian Wells Preservation Foundation
Visit Greater Palm Springs
Indian Wells Community Activities Committee
Indian Wells Grants In Aid Committee
Indian Wells Public Safety Committee

J.3 COUNCIL MEMBER TAYLOR

CVAG Homelessness Committee
CVAG Public Safety Committee
CVAG Transportation Committee
Indian Wells Golf Resort Advisory Committee
Riverside County Transportation Commission
Southern California Association of Governments

J.4 MAYOR PRO TEM REED

CVAG Conservation Commission
CVAG Energy & Sustainability Committee
Desert Recreation District
Indian Wells Marketing Committee
Indian Wells Finance & Legal Oversight Committee
Indian Wells Personnel Committee
Indian Wells Tee Committee

J.5 MAYOR WHITMAN

California Joint Power Insurance Authority (JPIA)
Coachella Valley Economic Partnership
CVAG Executive Committee
Cove Communities Services Commission
Desert Sands Unified School District
Indian Wells Golf Advisory Committee
Indian Wells Personnel Committee
Indian Wells Tee Committee
Sunline Transit Agency

K. ADJOURNMENT

To a special meeting of the City Council to be held at 1:30 p.m. on July 2, 2025 in the City Hall Council Chamber.

Affidavit of Posting,

I, Angelica Avila, certify that on June 6, 2025 I caused to be posted a notice of a City Council Meeting to be held on June 10, 2025 at 1:30 p.m. in the City Hall Council Chamber.
Notices were posted at Indian Wells Civic Center and City's Website [www.cityofindianwells.org]

Angelica Avila
Angelica Avila, MMC, City Clerk

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Finance Department
Prepared by:	Kevin McCarthy, City Finance Director
Subject:	**Player's Course Renovation Improvements**

RECOMMENDED ACTIONS:

Council **APPROVES** the proposed enhancements to the Player's Golf Course, including landscaping improvements and the relocation of the putting green; and

APPROVES the allocation of $400,000 from the existing Golf Course Renovation contingency fund to fund said improvements; and

FINDS that the proposed enhancements are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

DISCUSSION:

The renovation of the Player's Golf Course is proceeding according to schedule and remains under budget. With the completion of the mass grading phase, the project has progressed to irrigation installation and finish grading. This is the final step before sprigging the golf course and growing grass. Sprigging is a method used in golf course maintenance to establish new grass. It involves planting small sections of grass stems, known as sprigs, onto prepared soil.

During this stage, Troon and Landscapes Unlimited—both serving as on-site project management and construction contractors—identified opportunities to enhance the overall player experience. These include implementing improved landscaping throughout the course and relocating the putting green to a site adjacent to the first hole of the Celebrity Golf Course. The original intent was to place the putting green in an area adjacent to the Fairway Grill. However, Troon and the City agree that moving the putting green to an alternate location can allow the Golf Resort to maintain the existing grass area as a revenue-generating event space. The construction cost estimate for these enhancements is $400,000.

As part of the original project award, the City Council approved a $700,000 contingency fund to accommodate unforeseen needs or potential value-added improvements. To date, $42,000 of this contingency has been utilized, resulting in a remaining balance of

$658,000. In accordance with the City Council's adopted expenditure authorization thresholds, any individual allocation from the contingency fund exceeding $25,000 requires Council approval.

Executing the proposed improvements at this time provides a cost-efficient opportunity due to the presence of Landscapes Unlimited on-site. As the general contractor currently mobilized for the main renovation effort, Landscapes Unlimited is equipped with the labor, equipment, and project infrastructure necessary to perform the additional improvements without incurring typical startup, mobilization, or scheduling costs that would apply if these enhancements were deferred to a later date. Delaying the work would likely require the City to re-initiate procurement, remobilize construction resources, and pay additional administrative and coordination expenses, thereby increasing the total project cost.

OPTIONS:

The City Council has the following options available:

1. Approve the proposed course enhancements and allocate funds from the renovation contingency;
2. Defer the proposed improvements for consideration at a future time;
3. Direct staff to evaluate alternative course enhancements.

FISCAL IMPACT:

The proposed enhancements are estimated at $400,000. No new appropriation is required, as sufficient funds are available within the Golf Course Renovation contingency.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that the ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Finance Department
Prepared by:	Kevin McCarthy, City Finance Director
Subject:	**Resolution Establishing Appropriations Limitation for Fiscal Year 2025-26**

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution establishing the Appropriations Limitation for fiscal year 2025-26; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

DISCUSSION:

This report presents the City's appropriations limit for Fiscal Year 2025–26, in accordance with Article XIIIB of the California Constitution—commonly known as the "Gann Limit." For FY 2025–26, the appropriations limit is calculated at $129,346,625, while estimated proceeds from taxes total $27,523,398. As a result, the City will utilize only 21.28% of its allowable limit. Adoption of this limit confirms the City's compliance with constitutional spending constraints and demonstrates its commitment to transparent and fiscally responsible governance.

In November 1979, California voters approved Proposition 4, which added Article XIIIB to the State Constitution. Known as the "Gann Limit" after co-author Paul Gann, this constitutional amendment established annual limits on the amount of tax revenues that state and local governments may appropriate. The appropriations limit is adjusted each year based on inflation (measured by the California per capita personal income) and population growth.

Although enacted more than four decades ago, the Gann Limit remains a critical fiscal control mechanism. It ensures responsible use of taxpayer funds by capping governmental spending and helps guard against excessive taxation. If a jurisdiction exceeds its appropriations limit without voter approval, it may be required to return the excess revenue to taxpayers.

FISCAL IMPACT:

For Fiscal Year 2025–26, the City's appropriations limit has been calculated at $129,346,625. Based on estimated tax proceeds of $27,523,398, the City is projected to utilize only 21.28% of its limit. This substantial margin reflects the City's prudent financial management and provides flexibility to address future needs while remaining in full compliance with state law.

The City calculates its appropriations limit using the methodology and adjustment factors established by the California Department of Finance. Furthermore, the City's independent auditors review this calculation annually as part of the financial audit. This independent oversight helps ensure accuracy and reinforces public confidence in the City's fiscal stewardship.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that this resolution is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ATTACHMENTS:

1. Resolution
2. Price Factor and Population Information Letter

ATTACHMENT #1

RESOLUTION NO. 2025-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, APPROVING AND ADOPTING THE ANNUAL APPROPRIATION LIMIT FOR THE FISCAL YEAR ENDING JUNE 30, 2025

WHEREAS, on November 6, 1979, the voters in California added Article XIII B to the State Constitution, placing various limitations on the appropriations of the state and local governments and

WHEREAS, Article XIII B provides that the appropriations limit for the new Fiscal Year is calculated by adjusting the base Fiscal Year 1978-79 appropriations by the lower of (1) U.S. CPI or California Per Capita Income, or (2) City Population Growth; and

WHEREAS, in June of 1990, the voters in California modified Article XIII B to the State Constitution by approving Proposition III and SB 88 which allows cities to choose between the following adjustment factors when adjusting the base year appropriations: (1) either the growth in the California per capita income and City (or County) population growth, or (2) the growth in the non-residential assessed valuation due to new construction within the City and City (or County) population growth; and

WHEREAS, the City chooses to use the growth in California per capita income and City population growth as the factor for calculating the appropriations limit; and

WHEREAS, the City of Indian Wells has complied with the provisions of Article XIII B in determining the appropriations limit for Fiscal Year 1990-91, Fiscal Year 1991-92, Fiscal Year 1992-93, Fiscal Year 1993-94, Fiscal Year 1994-95, Fiscal Year 1995-96, Fiscal Year 1996-97, Fiscal Year 1997-98, Fiscal Year 1998-99, Fiscal Year 1999-00, Fiscal Year 2000-01, Fiscal Year 2001-02, Fiscal Year 2002-03, Fiscal Year 2003-04, Fiscal Year 2004-05, Fiscal Year 2005-06, Fiscal Year 2006-07, Fiscal Year 2007-08, Fiscal Year 2008-09; Fiscal Year 2009-10; Fiscal Year 2010-11; Fiscal Year 2011-12; Fiscal Year 2012-13; Fiscal Year 2013-14; Fiscal Year 2014-15; Fiscal Year 2015-16; Fiscal Year 2016-17; Fiscal Year 2017-18; Fiscal Year 2018-19; Fiscal Year 2019-20; Fiscal Year 2020-21; Fiscal Year 2021-22; Fiscal Year 2022-23, Fiscal Year 2023-24, Fiscal Year 2024-25, and Fiscal Year 2025-26.

NOW, THEREFORE, the City Council of the City of Indian Wells **DOES HEREBY RESOLVE** that the appropriations limitation in Fiscal Year 2025-26 is hereby adopted at $129,346,625 for the City of Indian Wells on a provisional basis using the alternative factor of California Per Capita Income for the inflationary adjustment.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at an adjourned regular meeting held on this 10th day of June 2025.

_____

BRUCE WHITMAN
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2025-

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing resolution was duly and regularly passed and adopted at an adjourned regular meeting of the City Council of the City of Indian Wells the 10th day of June 2025, by the following vote:

AYES:
NOES:

ATTEST:

ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

TODD LEISHMAN FOR
BEST, BEST, & KRIEGER
CITY ATTORNEY

DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

Gavin Newsom ▪ Governor
1021 O Street, Suite 3110 ▪ Sacramento CA 95814 ▪ www.dof.ca.gov

May 2025

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit
California Revenue and Taxation Code Section 2227 requires the Department of Finance to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2025, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2025-26. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2025-26 appropriations limit. Attachment B provides the city and unincorporated county population percentage change along with the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts
Some special districts must establish an annual appropriations limit. California Revenue and Taxation Code Section 2228 provides additional information regarding the appropriations limit. Article XIII B, Section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The code section and the California Constitution can be accessed at the following website: http://leginfo.legislature.ca.gov/faces/codes.xhtml.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification
The population certification program applies only to cities and counties. California Revenue and Taxation Code Section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2025**.

Please Note: The prior year's city population estimates may be revised. The per capita personal income change is based on historical data.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

JOE STEPHENSHAW
Director
By:

ERIKA LI
Chief Deputy Director

Attachment

A. **Price Factor**: Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2025-26 appropriation limit is:

Per Capita Personal Income

Fiscal Year (FY)	Percentage change over prior year
2025-26	6.44

B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2025-26 appropriation limit.

2025-26:

Per Capita Cost of Living Change = 6.44 percent
Population Change = 0.28 percent

Per Capita Cost of Living converted to a ratio: $\frac{6.44 + 100}{100} = 1.0644$

Population converted to a ratio: $\frac{0.28 + 100}{100} = 1.0028$

Calculation of factor for FY 2025-26: $1.0644 \times 1.0028 = 1.0674$

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Finance Department
Prepared by:	Kevin McCarthy, City Finance Director
Subject:	**Indian Wells Celebrity Course Repairs to the Pump Vault and Water Feature at Hole #18**

RECOMMENDED ACTIONS:

Council **APPROVES** Repairs to the Pump Vault and Water Feature at Hole #18 – Celebrity Course; and

APPROVES a Supplemental Appropriation of $160,000 from the Golf Resort Fund; and

FINDS that the proposed enhancements are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

DISCUSSION:

For over a year, the pumps responsible for regulating water flow in the lake and water feature adjacent to Hole #18 on the Celebrity Course have experienced ongoing operational issues. During this period, Troon has performed a series of intermittent repairs, which have provided temporary water circulation; however, the water feature remains non-functional.

In addition to mechanical issues, the existing pump vault near the tee box has proven vulnerable to flooding during storm events. This flooding has compromised electrical components and dry pumps, creating unsafe conditions and increasing the likelihood of long-term system failure. Therefore, a long-term solution is necessary to address both the mechanical and structural deficiencies while minimizing the risk of electrocution to repair workers.

Troon has consulted with internal maintenance staff and external contractors to assess the conditions and develop a comprehensive plan to restore functionality and mitigate future risks.

The recommended scope of work includes the following elements:

1. Conversion of the existing pump vault into a wet well to support the water feature;

2. Installation of two new electrical pumps and motors;
3. Replacement and rerouting of PVC discharge piping, including new valves and check valves;
4. Completion of required trenching and installation of new electrical conduit.

These improvements aim to restore full functionality to the water feature, mitigate flooding risks, and ensure the long-term reliability of the system.

OPTIONS:

The City Council has the following options available:

1. Approve the proposed repairs and authorize funding from the Golf Resort Fund;
2. Defer the proposed improvements for future consideration;
3. Direct staff to explore alternative interim repair measures to restore partial functionality.

FISCAL IMPACT:

The total estimated cost of the project is $160,000. This estimate includes a contingency allowance to address unforeseen issues that may arise during the repair process. Funding would be provided through a supplemental appropriation from the Golf Resort Fund (Account 5606702 54400).

No impact to the General Fund is anticipated, as sufficient funds are available within the Golf Resort Fund to cover the full cost. Upon City Council approval, the project is expected to commence within 30 days and be completed within 6 to 8 weeks, depending on the contractor's availability.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that the ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	City Manager Department
Prepared by:	Kristen Nelson, Administrative Services Manager
Subject:	**Three-Year Sheriff Services Agreement with Riverside County Sheriff's Department**

RECOMMENDED ACTIONS:

Council **APPROVES** three-year Services Agreement with Riverside County Sheriff's Department to provide municipal police protection and enforcement services for the City of Indian Wells from July 1, 2025, through June 30, 2028; and

AUTHORIZES and **DIRECTS** the City Manager to execute the Agreement and future renewals for the same, except when a change in service level is required; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

BACKGROUND:

Since incorporation, the City of Indian Wells has received law enforcement services from the Riverside County Sheriff's Office ("Sheriff"). Indian Wells continues to maintain some of the lowest crime rates in the state, benefitting from high quality services provided by the Sheriff.

The current three-year contract for law enforcement services, July 1, 2022, through its expiration on June 30, 2025, provides for 36 supported hours per day of Deputy Sheriff personnel for specific purposes of patrol, call for service response, and suspicious activity investigation. 36 hours per day equates to approximately seven full-time Sheriff Deputies, at 1,884 hours per Deputy per year.

In addition to patrol, the City also received various dedicated support and specialized law enforcement services from the prior contract. These included two Deputy Sheriff positions for burglary suppression ("SET Team"), one Deputy Sheriff position for motorcycle traffic enforcement ("Motor Officer"), four Community Service Officer II ("CSO") positions for various support activities, one Forensic Technician II position that provides investigative and analytical support, and one Sheriff Lieutenant position to act as the Indian Wells

Police Chief. Additionally, the City pays for 0.2046 of a Crime Analyst who helps to conduct intelligence-led policing and analytical research for both Indian Wells and Rancho Mirage. The City bills Rancho Mirage at the conclusion of the Fiscal Year for their proportional share of use of the Forensic Technician position.

In order to continue receiving law enforcement services from the Sheriff, the City desires to execute a new three-year service agreement. The proposed three-year agreement, effective July 1, 2025, through June 30, 2028 (**Attachment 1**), provides for a continuation of law enforcement services at the same level provided under the previous agreement and represents a $570,000 (8.5%) increase over the prior fiscal year's adopted budget.

In addition to direct services provided by the Sheriff for personnel, the new agreement would also continue to provide various other services on a reimbursable or cost-allocation basis. These services include blood and urinalysis for detecting alcohol and drug intoxication, California Law Enforcement Telecommunications ("CLETS") and electronic Records Management Systems ("RMS"), and allocated costs that include vehicle maintenance, insurance, risk management, and facilities operations and maintenance. These costs are charged to the City on an as-needed and/or allocated basis, which means the City pays either direct expense or the proportional share of the total costs borne by the Sheriff in providing services to all of their contract agencies.

The City will continue to receive law enforcement services at the level provided in the previous year, however the City and the Sheriff's Department agree that modifications to service levels can be implemented should the Council determine that such modification is in the best interest of the community. Ongoing oversight will ensure that services received match community service needs in order to maintain high quality law enforcement in the City of Indian Wells.

City Council Strategic Goal: This effort aligns with the City Council's strategic goal to continue reviewing public safety deployment models.

OPTIONS:

The City Council may choose to:

1. Approve the three-year services agreement as recommended; or
2. Provide alternative direction.

FISCAL IMPACT:

During the recent Contract Partners meeting hosted by the Riverside County Sheriff's Office, City staff met with senior Sheriff's Department officials to review anticipated rate adjustments for law enforcement services. The discussion included proposed changes to

the fully supported rate, which now reflects a comprehensive cost allocation model encompassing both direct service delivery and indirect administrative and support services.

In addition, City staff and Sheriff's Department representatives reviewed recent amendments to the Memorandum of Understanding (MOU) between the County and the deputies' labor union. These MOU changes are expected to affect overall service costs in the future.

Based on these discussions and in anticipation of increased personnel and operational expenses, the City has conservatively budgeted $6.7 million for law enforcement services in Fiscal Year 2025. This represents an 8.5% increase over the prior fiscal year's adopted budget. The proposed contract amount has been fully incorporated into the City's approved budget. Therefore, no additional appropriations are necessary.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly; and that the action is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. (15061(b)(3).)

ATTACHMENTS:

1. 2025-28 Services Agreement

ATTACHMENT #1

AGREEMENT FOR LAW ENFORCEMENT SERVICES

BETWEEN THE CITY OF INDIAN WELLS

AND THE COUNTY OF RIVERSIDE

THIS AGREEMENT FOR LAW ENFORCEMENT SERVICES ("Agreement") is made and entered into by and between the CITY OF INDIAN WELLS, a California Charter City, hereinafter "City," and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of the Riverside County Sheriff's Office, hereinafter "County", sometimes collectively referred to herein as the "parties" and individually as a "party".

IT IS THEREFORE AGREED AS FOLLOWS:

1. TERM

1.1 Effective Dates. This Agreement shall be effective from July 1, 2025 through June 30, 2028.

1.2 Renewal. In the event City desires to terminate this Agreement at the end of any current three (3) year period, the City Council, not later than twelve (12) months preceding the expiration date of the current term of this Agreement, shall notify the Sheriff and the Board of Supervisors that it wishes to terminate the same.

1.3 Termination. Notwithstanding the provisions of Paragraphs 1.1 and 1.2 herein, either party may terminate this Agreement upon notice in writing to the other party of not less than twelve (12) months prior to the effective termination date.

2. SCOPE OF SERVICE

2.1 Services. The County agrees, through Sheriff thereof, to provide municipal police protection within the corporate limits of City to the extent and in the manner hereinafter set forth. It is understood that the Sheriff's Office shall be the sole provider of general and specialized law enforcement services within the corporate limits of City. City shall not hire any other persons or company to provide general and specialized law enforcement services within the corporate limits of City. However, City is not precluded by any language in this section from hiring an unarmed code enforcement unit. The Sheriff's services shall encompass duties and functions of the type falling under the jurisdiction of and customarily rendered by a police department of the City under State statutes. Such services shall include the enforcement of State Criminal Codes and all pertinent City criminal codes and ordinances. Services shall also include traffic enforcement and related services to the extent possible given the size of the force provided for in this Agreement. County agrees to provide all investigative support necessary to complete criminal investigations conducted hereunder. However, all investigator overtime will be charged to City at the Board of Supervisors approved hourly overtime rate.

2.2 California Identification System (CAL-ID) and Records Management System. (RMS) City agrees as a condition of receiving services hereunder to participate in CAL-ID and RMS under the terms and conditions set forth in this Section and to pay for these services under separate billings.

2.2A Definitions. For purposes of this Agreement the following are some of the more common definitions which shall apply, but shall not be limited by this reference:

a) Records Management System (RMS) Functions shall mean the software functions provided to City by County, which are supplied by the RMS. These functions shall include inquiry and case entry into the RMS, access to the Master Name Index, Warrant and Master Location Index and Jail Locator databases.

b) The California Law Enforcement Telecommunications System Access (CLETS) shall mean that access to the Department of Justice computers provided by County to City.

c) Work Station shall mean those County devices and software, which are used by City to access RMS functions and the CLETS.

d) LAWNET shall mean the County's law enforcement telecommunications network consisting of County provided data circuits, digital service units, routers, hubs and other County provided hardware and software that is used by City to connect work stations to RMS services as defined below.

e) County Services shall mean the collective hardware and software, work LAWNET, stations, RMS functions and CLETS.

2.2B Scope of RMS Services. County agrees to provide to City full access to the RMS and CLETS systems. CLETS access will be provided within the scope of CLETS access rules and regulations as established by the California State Department of Justice.

2.2C Provision of RMS Supervision, Labor and Equipment. Supervision over the provision of County Services, the standards of performance and other matters incident to the performance of such services, shall remain with County. Security of the host system and control of LAWNET shall remain with County. The County shall furnish all labor and equipment for the host system necessary to maintain the level of service rendered hereunder. In the event City chooses to provide PC-based equipment for services defined herein, the equipment must be configured in accordance with County specifications. Further, City shall not alter the configuration of any PC-based equipment used to provide services herein without the permission of Sheriff's Information Technology Officer.

2.2D Establishment of RMS Rates and Payment of Costs. Establishment of RMS rates and payments for provided services shall be as specified in Sections 7.2 and 7.4 of this Agreement.

3. LEVEL OF SERVICE

3.1 Level of Service Specified. County shall provide all enforcement services at the level specified in Attachment A, attached hereto and incorporated herein by this reference.

3.2 Variation in Level of Service. Variations in the level of service shall be made by amendment, as provided for in Section 11 of this Agreement, and under the following terms:

If City requests an increase in the level of service to be provided under this Agreement, County agrees to provide such increased level of service as soon as is practicable, consistent with the ability of the Sheriff to hire and train recruits.

If City elects to reduce the level of service provided herein by ten percent (10%) or greater, City must give notice in writing to County not less than twelve (12) calendar months prior to the effective date of such reduction. If City elects to reduce the level of service provided herein by less than ten percent (10%), County agrees to reduce the level of service accordingly as soon as it is practicable. The level of service, however, may not be reduced to below the minimum level, as determined by County, required to ensure public and officer safety.

4. CHIEF OF POLICE

The Sheriff will, to the extent practical, coordinate appointment of a Police Chief with City and consult with City on final selection for the position.

5. PROVISION OF SUPERVISION, LABOR, AND EQUIPMENT

5.1 Supervision. Supervision over the rendition of law enforcement services, the standards of performance, the discipline of officers, and other matters incident to the performance of such services and the control of personnel so employed, shall remain with County. The Sheriff or a designated representative will meet and confer with the City Manager or a designated representative on questions related to the provision of services.

5.2 Labor and Equipment. For the purpose of performing said services, County shall furnish and supply all labor, supervision, equipment, communication services, and supplies necessary to maintain the level of service to be rendered hereunder. Location of the above will not necessarily be within City limits. Notwithstanding anything herein contained, it is agreed that in all instances where specific equipment used solely to support specialized enforcement activities within the City not normally provided by the Sheriff is to be used, or where special supplies, stationery, notices, forms, and the like related to law enforcement are to be issued in the name of City, such equipment and materials shall be supplied by City at its own cost and expense. Any such special equipment or materials so purchased by City shall meet with the Sheriff's specifications shall remain within the City limits, and ownership title thereto shall remain with City.

However, under no circumstances shall City purchase or otherwise provide general patrol vehicles for services provided pursuant to this Agreement without permission of Sheriff. The County shall provide all marked general Patrol vehicles to City and shall charge City for their use on a per mile basis.

5.3 City-Owned Motorcycles and Specialized Support Vehicles. In the event City chooses to provide motorcycles or specialized support vehicles for use in providing services hereunder, the

motorcycles or specialized support vehicles shall meet minimum specifications furnished by County, shall be adequately equipped and ready for use, and shall be registered in the name of City. It is further understood that City is providing motorcycles or specialized support vehicles to Sheriff expressly for law enforcement services and shall only be operated by Sheriff's personnel, or persons authorized by the Sheriff.

City shall bear the cost of maintenance, fuel, licensing, and any and all expenses associated with use of the motorcycles and specialized support vehicles for the provision of services hereunder, which is inclusive of responsibility for any and all cost for physical damage to the City-owned motorcycles or specialized support vehicles. However, County shall be responsible for the cost of all third party liability caused by the operation of the City-owned motorcycles or specialized support vehicles, including the property damage caused by the negligence or wrongful acts of County officers and employees while operating City-owned motorcycles and specialized support vehicles. Motorcycles and specialized support vehicles shall be used only for city-approved functions.

5.4 Vehicle Insurance. City shall maintain insurance for any physical damage to the City-owned vehicles in an amount equal to the replacement value of all vehicles provided to the County under this Agreement. Policy shall, by endorsement, name the County of Riverside, its Departments, Districts, Agencies and Special Districts, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, or representatives as Additional Insureds. Such insurance may be provided through a program of self-insurance.

General Insurance Provisions - All lines:

a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

b. The City shall cause their insurance carrier(s) to furnish the County of Riverside with 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that shall provide no less than thirty (30) days written notice be given to the County of Riverside prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages and the insurance required herein are in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance. If County is utilizing City-owned vehicles, operations shall not commence until the County of Riverside has been furnished original Certificate (s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Section.

c. It is understood and agreed by the parties hereto and the City's insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

6. EMPLOYMENT STATUS OF PERSONNEL

6.1 Employment Status. Any persons employed by County for the performance of services and functions pursuant to this Agreement shall remain employees of County on special assignment to City for the purposes of this Agreement, and shall not be considered employees of City. No such County employee shall have any entitlement to compensation, workers' compensation coverage, pension, or civil service benefits from City.

6.2 Labor Shortage. In the event of a work slow-down, strike, or any other form of job action by those individuals assigned to City, County agrees to provide only that level of service which may be available through mutual aid, pursuant to Government Code Section 8615, et seq. City shall be billed only for the actual hours of service received.

7. COMPENSATION

7.1 Payment Basis. City shall reimburse County the cost of rendering services hereunder at rates established by the County Board of Supervisors, which rates shall include all items of cost and expense to the Sheriff for providing the services hereunder. Such cost of services shall be established by the County Board of Supervisors in the form of hourly rates for Sheriff's Office personnel, vehicle mileage rates, facility use rates, RMS transaction fees and CAL-ID fees. "Cost" as used herein shall not include items of expense attributable to services normally provided or available to all territory within the County as part of County's obligation to enforce State law. In addition to any other fees or costs set forth herein, County may impose on City, and City shall pay upon receipt of an invoice from County, a criminal justice administrative fee consistent with Government Code Section 29550 with respect to arrests made by County employees pursuant to this Agreement just as if such arrests had been made by City employees. Pursuant to Government Code Section 51350, County shall not charge City for services it would provide to any city in the County free of charge. These services, which are provided at the discretion of County, could typically include the services of the Sheriff's Special Investigations Bureau, Emergency Services Team and Aviation Unit.

7.2 Establishment of Costs. The rates to be charged City shall be adjusted periodically, but not more than once each fiscal year, to reflect any changes in the cost to County for providing services hereunder. City shall be notified of any change in the rates to be charged City prior to submittal of the proposed change to the County Board of Supervisors for adoption, and City shall be given the opportunity to review the proposed change with County personnel. City shall, thereafter, be notified of adoption by County of the rates to be charged City, and said new rates shall take effect on the same date as County incurs the associated costs. Should City, subsequent to a rate adjustment, choose not to appropriate or expend any additional monies needed to support the level of service theretofore supplied, County reserves the right to reduce the level of service in accordance with the amount City is willing to expend.

7.3 Facility Rate Charges. City shall reimburse County for the costs incurred by the Sheriff's Office at County-owned or leased facilities. Costs are prorated according to the facility's square footage occupied by a Sheriff's Office Bureau or Unit.

7.3A Calculation of Facility Rates. The total of the facility's cost components is divided by the appropriate variable number of positions (number of station funded, sworn department funded or total Department funded employees depending on the facility in question and the Department population served). This cost per funded position is then applied to the number of positions chargeable to the contract city to arrive at each contract city's share of the facility cost.

The County agrees that Facility Rate Station charges to City will not be increased due to the Sheriff's decision to move Contract or unincorporated County Patrol positions from the Station.

7.4 Payment of Costs. County, through the Sheriff's Office, shall provide to City within thirty (30) days of the conclusion of each billing period, an itemized statement of the costs for services being charged for said billing period. Billing statements for RMS services will be provided quarterly for services being charged for said quarter. City shall remit payment to the invoicing department within thirty (30) days after receipt of such statements. If such payment is not received by the County within thirty (30) days after presentation of billing, County may satisfy such indebtedness from any funds of the City on deposit with County as provided by law pursuant to Government Code Section 907.

7.5 Field Training Costs. Should City elect to add additional Deputy Sheriff positions to the level of service described herein, there will be an associated field training cost for each additional position. City will be billed, on a separate invoice, up to a maximum of sixteen (16) weeks of training on a one-time basis for each additional Deputy position. Said cost will be charged at the Unsupported Deputy hourly rate as approved by the County Board of Supervisors. Billing will be provided for field training costs in conjunction with the rate adjustment billing. Field training costs will not apply to supervisory or classified positions added to the level of service.

7.6 Miscellaneous Costs. There are a number of other service costs that City shall be responsible for paying as they are incurred. These costs are not included as the support or service and materials cost components in the fully supported Deputy hourly rate, nor any other such rates established by the County Board of Supervisors. These service costs may include, but are not limited to, charges from vendors for: crime scene clean-up, blood draws, rape exams, polygraph exams, specialized printing jobs exclusive to City and training for personnel requested by City for specialized law enforcement.

8. INDEMNIFICATION AND HOLD HARMLESS

8.1 Indemnification by City. City shall indemnify and hold harmless the County, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability, claim, damage or action whatsoever, based or asserted upon any act or omission of City, its officers, employees, contractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death. City shall defend, at its sole cost and expense, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, the County, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives in any such action or claim. With respect to any action or claim subject to indemnification herein by

City, City shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes City's indemnification of County. City's obligations hereunder shall be satisfied when City has provided to County the appropriate form of dismissal (or similar document) relieving the County from any liability for the action or claim involved. Any insurance coverage shall in no way limit or circumscribe City's obligations to indemnify and hold harmless the County.

8.2 Indemnification by County. County shall indemnify and hold harmless the City, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives from any liability, claim, damage or action whatsoever, based or asserted upon any act or omission of County, its officers, employees, contractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death. County shall defend, at its sole cost and expense, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, the City, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives in any such action or claim. With respect to any action or claim subject to indemnification herein by County, County shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of City; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes County's indemnification of City. County's obligations hereunder shall be satisfied when County has provided to City the appropriate form of dismissal (or similar document) relieving the City from any liability for the action or claim involved. Any insurance coverage shall in no way limit or circumscribe County's obligations to indemnify and hold harmless the City.

9. ADMINISTRATION

The City Manager of City shall administer this Agreement on behalf of City, and the Sheriff shall administer this Agreement on behalf of County.

10. RECORDS

County shall maintain adequate records to discharge its responsibilities under this Agreement, and shall permit inspection of County’s appropriate records that relate to City services under this Agreement, as allowed by law. County shall provide City access to appropriate records pertaining to City services for approval, funding or auditing services, upon reasonable notice. County shall maintain such records for periods of time as provided by law or records retention schedules duly adopted by the appropriate legislative body. Covenants under this Section shall survive the termination of this Agreement.

11. ALTERATION OF TERMS

No addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement which is formally approved and executed by both parties. No waiver of any term or condition of this Agreement by either party shall be a continuing waiver thereof.

12. NOTICES

Any notices required or desired to be served by either party upon the other shall be addressed to the respective parties as set forth below:

County	City
Chad Bianco, Sheriff	City of Indian Wells
Riverside County Sheriff's Office	44-950 Eldorado Drive
Post Office Box 512	Indian Wells, California 92210
Riverside, California 92502	Attn: City Manager

or to such other addresses as from time to time may be designated by the respective parties. An information copy of any notice to County shall also be sent to:

Clerk of the Board of Supervisors
County of Riverside
4080 Lemon Street, 1st Floor
Riverside, California 92501

Notice shall be deemed given when in writing and delivered personally or mailed with confirming delivery receipt addressed as set out above.

13. SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

14. STANDARD OF CARE

In performing the police services required by this Agreement, County agrees to use that degree of care and skill ordinarily exercised under similar circumstances by law enforcement officers in performance of the duties required by this Agreement. All Sheriff's personnel who provide general and specialized law enforcement services to City pursuant to this Agreement shall have met the minimum qualifications designated for their specific classification, including a background investigation.

15. JURISDICTION AND VENUE

This Agreement shall be construed under the laws of the State of California. In the event any action or proceeding is filed to interpret, enforce, challenge, or invalidate any term of this Agreement, venue shall lie only in the state or federal courts in or nearest to Riverside County.

16. ENTIRE AGREEMENT

This Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions

thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith.

17. ELECTRONIC/DIGITAL SIGNATURES

This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ((“CUETA”) Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The Parties further agree that the electronic signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (h) of Section 1633.2 of the Civil Code.

[Signatures on Following Page]

IN WITNESS WHEREOF, the City of Indian Wells, by minute order or resolution duly adopted by its City Council, has caused this Agreement to be signed by its Mayor and attested and sealed by its Clerk, and the County of Riverside, by order of its Board of Supervisors, has caused this Agreement to be subscribed by the Chair of said Board and sealed and attested by the Clerk of said Board, all on the dates indicated below.

CITY OF INDIAN WELLS

Dated:_____

By:_____
Christopher Freeland, City Manager

ATTEST:
Name:
Title:

By:_____

COUNTY OF RIVERSIDE,
a political subdivision of the State of California

Dated:_____

By:_____
V. Manuel Perez
Chair of the Board of Supervisors
Riverside County Board of Supervisors

ATTEST:
Kimberly Rector
Clerk of the Board

By:_____
Deputy

APPROVED AS TO FORM:
Minh C. Tran
County Counsel

By:_____
Amrit P. Dhillon
Deputy County Counsel

ATTACHMENT A

CITY OF INDIAN WELLS

LEVEL OF SERVICE

Average Patrol Services

36 supported hours per day (Approximate equivalent of seven (7) Deputy Sheriff positions @ 1,884 annual productive hours per position standard.)

Nondedicated Positions

One (1) Deputy Sheriff Position (COP Deputy)-Supported

One (1) Deputy Sheriff Positions (Burglary Suppression)-Supported

Dedicated Positions

One (1) Sheriff's Lieutenant Position

One (1) Deputy Sheriff Position (Motor Officer)-Supported

One (1) Forensic Technician II Position

Four (4) Community Service Officer II Positions

.2046 of a Crime Analyst Position

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	City Manager Department
Prepared by:	Kristen Nelson, Administrative Services Manager
Subject:	**Memorandum of Understanding with Indian Wells City Employees Association and Resolution for Non-Represented City Employees**

RECOMMENDED ACTIONS:

Council **APPROVES** the three-year Memorandum of Understanding (MOU) with Indian Wells City Employees Association (Association) effective July 1, 2025, through June 30, 2028; and

ADOPTS the six-year Resolution establishing the compensation and benefit plan for Non-Represented positions (Non-Represented) effective July 1, 2025, through June 30, 2031; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

BACKGROUND:

The Meyers-Millias-Brown Act recognizes the right of employees to participate in, and be represented by, an employee organization. It also requires the City to meet and confer with Association representatives to provide them with a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment. Upon reaching an agreement, both the Association and the City must memorialize the actions in a Memorandum of Understanding (MOU) (Attachment 1), approved by the Council.

Not all City employees are represented by Association members, including those employees classified as Executive Management, Management, Professional, and Confidential. The City desires to provide clear documentation of rights, salaries, and benefits to these Non-Represented employees. The Resolution (**Attachment 2**) for these Non-Represented employees mirrors the MOU except as outlined below.

DISCUSSION:

MOU Resolution

City Management, at the direction of City Council, negotiated the terms of the MOU with the Association. The City and Association have come to an agreement on negotiated terms for a new three-year MOU with the Association ending on June 30, 2028.

The negotiated MOU includes:

1. Term – Three (3) year term.

2. Bargaining Unit Additions – The following positions are added to the Indian Wells Employees Association Bargaining Unit:

    i. Management Analyst

3. Bargaining Unit Changes – The following positions are no longer part of the Indian Wells Association Bargaining Unit:

    i. Public Works Superintendent
    ii. Building Official/ Code Enforcement Manager
    iii. Accounting Technician III/ Payroll

4. Safety Shoes – Any unused portion of the $200 annual allowance for safety shoes/boots from FY 2025-2026 will be allowed to have a one-time rollover into FY 2026-2027 for a not-to-exceed expenditure of $400.

All other provisions in the current agreement shall remain in effect during the term of the new MOU, unless amended.

Non-Represented Resolution

The Non-Represented Resolution includes:

1. Term – Six (6) year term.

2. Safety Shoes – Any unused portion of the $200 annual allowance for safety shoes/boots from FY 2025-2026 will be allowed to have a one-time rollover into FY 2026-2027 for a not-to-exceed expenditure of $400.

All other provisions in the current agreement are to remain in effect during the term of this new Non-Represented resolution unless amended.

OPTIONS:

The Council can choose to:

1. Adopt the MOU for the Association and resolution for the Non-Represented Staff as recommended; or
2. Provide alternative direction.

FISCAL IMPACT:

None of the negotiated terms of the MOU or the Resolution creates any additional fiscal impact on the adopted budget for Fiscal Years 2025-26 and 2026-27.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that this resolution is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ATTACHMENTS:

1. Association MOU
2. Resolution – Non-represented

ATTACHMENT #1

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into by and between the CITY OF INDIAN WELLS (the "City") and the INDIAN WELLS CITY EMPLOYEES ASSOCIATION (the "Association"), herein referred to as "The Parties."

WHEREAS, the City and the Association have met and conferred in good faith with respect to the wages, hours, and terms and conditions of employment of City employees and all other subjects within the scope of bargaining under the Meyers-Milias-Brown Act (Government Code Section 3500, et seq.), and have reached an agreement that they wish to set forth in writing in the form of this MOU;

NOW, THEREFORE, the City and the Association agree as follows:

SECTION 1: TERM.

This MOU shall take effect on July 1, 2025 and shall remain in effect through and including June 30, 2028.

SECTION 2: RECOGNITION OF THE ASSOCIATION.

The City formally recognizes the Association as the exclusive representative of employees in the bargaining unit. The City and the Association agree that the bargaining unit shall consist only of employees in the following positions:

Accounting Technician I	Planning Technician I
Accounting Technician II	Permit Technician I
Management Assistant	Permit Technician II
Management Analyst	Maintenance Worker I
Senior Administrative Assistant	Maintenance Worker II
Receptionist	
Building Inspector I/ Code Enforcement Officer	

The bargaining unit shall exclude all other positions, management and confidential employees, Department Heads, and the City Manager.

SECTION 3: SALARY.

The Authorized Positions & Salary Schedule (the "Schedule"), which is attached hereto as Exhibit "A" and by this reference made a part hereof, shall remain in effect during the term (July 1, 2025 through June 30, 2028) of this MOU. Any update to the Schedule will become the new Exhibit "A" upon adoption by the City Council.

The Parties agree that annual Merit Based Pay reviews shall impact employee salaries per the following rating chart.

Overall Rating	**MBP Percent Increase**
38 or Below	0.0%
39-41	1.0%
42-44	1.5%
45-47	2.0%
48-50	2.5%
51-53	3.0%
54-56	3.5%
57-59	4.0%
60-62	4.5%
63 or Above	5.0%

MBP pay percentage increases will be determined by adding the sum of all MBP category scores. Any aggregate score of (38) or below forfeits any Merit Based Pay increase or bonus and triggers the creation of a Performance Improvement Plan (PIP). Quarterly Reviews provide a regularly scheduled opportunity for you and your Supervisor to discuss feedback, expectations, and opportunities for improvement over time. An aggregate score of (38) or below at the conclusion of the review period showcases the need for more formal action.

Any employee whose salary would exceed their assigned Council approved salary range as a result of a salary increase will receive a cash equivalent payout for any amount above the top of the salary range.

A. Overtime: Overtime is defined as hours worked by any employee subject to the provisions of the Fair Labor Standards Act ("FLSA") (non-exempt employee). All overtime must have prior approval of the appropriate supervisor and/or department head and be recorded on the employee's bi-weekly time report. Unauthorized overtime is cause for discipline. Non-exempt employees shall be compensated for overtime in accordance with the applicable FLSA provisions.

Any hours worked which are eligible for overtime compensation as defined herein may be taken as compensatory time (or "comp time") off in accordance with these or any department rules. The earning of such "comp time" must receive prior approval of the Department Head or his/her designee. Compensatory time off is earned at the rate of one and one-half (1-1/2) times the number of hours worked and may be accrued to a maximum of eighty (80) hours. Any "comp time" accrued at date of separation shall be paid at straight time the hourly rate of pay then in effect.

Certain positions of employment may be designated as "exempt" from such provisions of the FLSA. Any such designations shall conform to the guidelines and criteria set forth in the FLSA pertaining to such designation. Persons employed in those positions shall not be eligible for overtime pay but shall instead be entitled to paid administrative leave as set forth in the Personnel Rules and Regulations and Personnel Policies.

B. Salary Range Increase: As provided in the Council Approved Personnel Manual, the approved salary ranges shall be adjusted automatically each year based on the on LA/Riverside/Orange County Consumer Price Index (CPI) for non-seasonally adjusted increase from the prior year (i.e. annual % increase from 2012 to 2013 would take effect for FY14/15) in an amount not to exceed 2.5%. The CPI adjustment shall be automatically set and will establish the top of range for all positions.

C. Base Salary Review: The City agrees to conduct a study of bargaining unit base salaries no less than once every three (3) years during the term of this MOU and thereafter, subject to budgetary constraints. The purpose of the study shall be to review the market base pay rate for classifications represented by the Association in relation to the following Coachella Valley cities previously designated by the Association: City of Palm Desert, City of Rancho Mirage, City of La Quinta, City of Palm Springs, and City of Indio. The City agrees to calculate the median of these city comparators and adjust bargaining unit base salary ranges so the maximum salary for any given classification is the result of ten percent (10%) above the median of the comparators.

The City shall retain full and exclusive discretion to determine the scope, methodology, and process by which the base salary review is conducted. This includes, but is not limited to, discretion over the selection of any consultant, contractor, or third-party entity to conduct or assist in conducting the review.

SECTION 4: MEDICAL, DENTAL, VISION, AND LIFE INSURANCE COVERAGE.

A. Group Insurance: The City shall make available single party and dependent's hospitalization, major medical, dental, optical, long term disability, State Disability and life insurance to all permanent full-time employees in the City and to such other City officials as may be designated by the City Council. The specific coverage and/or options available are set forth in the Insurance Plan Summary.

The City shall pay 100% of premiums for Tier A, B, and C employees as defined by the established tier system. Such premiums shall be paid only to the company or companies with whom the City has contracted for such insurance coverage. Per Resolution No. 2020-23, for employees hired after February 1, 2009 (Tier B & C employees), the City will pay 100% for employee and dependents for HMO plan only. If employee opts for the PPO plan, employee will be responsible for the difference between the two plans.

B. Deductibles: Each January, the City will put $1,000 into an HRA (Health Reimbursement Arrangement) for each full-time employee to cover deductibles, prescriptions, and other medical necessities covered by the HRA plan guidelines.

SECTION 5: MANAGEMENT RIGHTS.

Except as limited by the terms of the MOU and State law, the City retains sole and exclusive right to manage its operations and direct its work force using any or all of the powers and authority previously exercised or possessed by the City or traditionally reserved to management, including but not limited to the right to determine its organization and the kinds and levels of services to be provided; to direct the work of its employees; to assign work from one classification of employees to another, including work currently performed by employees in the classifications covered by this MOU; to establish work standards and levels of required performance; to utilize part-time or temporary employees; to pay wages and benefits in excess of those required by this MOU; to select, modify, alter, abandon, or modernize methods of conducting its operations; to build, move, modify, close, or modernize facilities, machinery, processes, and equipment; to establish budgetary procedures and allocations; to determine methods of raising revenues; to sublet and subcontract work; to take all necessary action in the event of an emergency; to establish and amend rules of conduct and to impose discipline and discharge; to establish and amend rules for safety and health; to select, hire, classify, reclassify, assign, evaluate, transfer, promote, demote, upgrade, downgrade, reprimand, discipline, suspend, discharge, lay off, and rehire employees; to determine job content and to create, combine or modify job classifications and rates or classes of pay; and to exercise all other customary powers and authority of management, regardless of whether the City has exercised such power previously. Nothing in this provision shall be construed to restrict grievances concerning any part of this MOU. In the event of an emergency, the City may amend, modify or rescind any provision of the MOU. Such amendment, modification or rescission shall remain in force only for the period of the emergency. The City shall have the sole and complete discretion to declare that an emergency exists for the purposes of the Section.

SECTION 6: HOURS, ATTENDANCE & STANDBY PAY.

A. Hours: The regular work schedule is 8:00 A.M. to 5:00 P.M. Department Heads may designate special working schedules for the employees of their departments to carry out the work required. The Department Heads may alter the schedule, from time to time, as the needs of the department may require with a two weeks' notice. All non-exempt employees shall adhere to the work schedule. Employees that work hours other than their regular work schedule must have approval from their Department Head.

B. 9/80 Alternative Work Schedule: Employees on a 9/80 schedule are scheduled to work 8 nine-hour days and 1 alternating eight-hour day every two weeks, totaling eighty scheduled work hours over nine shifts per two-week period. For purposes

of FLSA overtime, the workweek applicable to employees on a 9/80 schedule begins four hours into their alternating eight hour day and ends 168 consecutive hours later. Employees on a 9/80 schedule are not permitted to flex their alternating eight-hour day off or flex their hours on their alternating eight-hour workday. Employees on a 9/80 schedule are not permitted to work hours outside their schedule without prior approval.

Team A's alternating day off will be the first and alternating Fridays of the month. For illustration purposes, Team A's designated FLSA 7-day workweek is described as follows:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Off	9	9	9	9	0 (end) 0 (start)	Off
Off	9	9	9	9	4 (end) 4 (start)	Off
Off	9	9	9	9	0 (end) 0 (start)	Off
Off	9	9	9	9	4 (end) 4 (start)	Off

Team A will include employees chosen by the City to ensure adequate coverage at City Hall.

Team B's alternating day off will be the second and alternating Fridays of the month. For illustration purposes, Team B's designated FLSA 7-day workweek is described as follows:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Off	9	9	9	9	4 (end) 4 (start)	Off
Off	9	9	9	9	0 (end) 0 (start)	Off
					4 (end)	

Off	9	9	9	9	4 (start)	Off
Off	9	9	9	9	0 (end) 0 (start)	Off

Team B will include employees chosen by the City to ensure adequate coverage at City Hall.

Bargaining unit employees have the option of choosing to work a 9/80 schedule, and if they choose to forego this option, they will remain on a 5/40 schedule and remain in their already existing designated workweek. Bargaining unit employees who decide to work on a 9/80 schedule have the option of deciding whether they will work a schedule from 7:00am – 5:00pm, 7:30am – 5:30pm, or 8:00am – 6:00pm for Monday through Thursday of the workweek. Once chosen, employees will not have the option of modifying their work schedule or their Team A or B designated FLSA work week without City approval.

The City's Receptionist classification will not be included in either Team A or B, and will remain on a 5/40 schedule.

The City retains the right to eliminate the 9/80 alternative work schedule due to operational needs if, for example, it negatively affects the workload or productivity of the City or its workers either by shifting burdens or creating delays and additional steps in the workflow. The City also retains the right to eliminate the 9/80 work schedule if the City must take steps to address a state of emergency or comply with any applicable law or national, state or local directive affecting workload, schedules and personnel.

C. Attendance: Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves of absence. Each full-time employee is to receive a regularly scheduled meal period of not less than thirty (30) minutes nor more than sixty (60) minutes prior to the completion of a working period of six (6) consecutive hours within his/her eight (8) hour or nine (9) hour regularly scheduled work day. Meal time is not compensated. Special provisions may be made in temporary situations with prior approval of the City Manager or under emergency contingencies. Each regular employee working eight (8) hours or nine (9) hours a day is permitted mid-morning and mid-afternoon rest periods of fifteen (15) minutes each. The rest periods may not be combined for a single thirty (30) minute rest period, unless authorized by the supervisor when extreme conditions do not allow for the taking of a rest period within the designated time frame.

The exact time of and duration of meal and rest period is within the discretion of the supervisor. Lunches and rest periods may not be used to make up time off from work. In no case will an employee receive credit for rest periods not taken. An employee shall

not be absent from work for any reason without making prior arrangements with his/her supervisor at least at start of shift if sick or injured. Unless such prior arrangements are made, an employee who, for any reason, fails to report to work shall make a sincere effort to immediately notify his/her supervisor of his/her absence and reason for being absent. If an employee's absence from work continues beyond the first day, the employee shall notify the supervisor on a daily basis unless other arrangements have been made with the supervisor. Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be cause for disciplinary action. Absence without leave for more than three (3) consecutive work days is deemed to be a break in service abandonment of the positions and may result in termination of employment.

D. Standby Pay: The Public Works/Maintenance staff are designated as emergency standby employees. If a Public Works/Maintenance employee is designated as a standby employee for after-hours, weekend, and/or holiday response, the employee shall remain within a forty-five (45) minute drive of the City during standby hours, carry a cellular phone, and maintain a condition to work. The designated standby employee will receive standby duty pay of $25.00 per day on weekdays, and $35.00 per day on weekends. If called on call-back, the employee will receive a minimum of two hours overtime pay or the actual time worked at overtime pay, whichever is greater, or may elect to take compensatory time ("comp time") off at time and a half. This pay is inclusive of any travel time to and from the worksite.

SECTION 7: HOLIDAYS.

All officers and employees of the City shall be entitled to the following holidays:

1.	JANUARY 1	NEW YEAR'S DAY
2.	THIRD MONDAY IN JANUARY	MARTIN LUTHER KING DAY
3.	THIRD MONDAY IN FEBRUARY	PRESIDENT'S DAY
4.	LAST MONDAY IN MAY	MEMORIAL DAY
5.	JULY 4	INDEPENDENCE DAY
6	FIRST MONDAY IN SEPTEMBER	LABOR DAY
7.	AS DESIGNATED	VETERANS DAY
8.	FOURTH THURSDAY IN NOVEMBER	THANKSGIVING DAY
9.	FOURTH FRIDAY IN NOVEMBER	THANKSGIVING DAY AFTER
10.	DECEMBER 24	CHRISTMAS EVE
11.	DECEMBER 25	CHRISTMAS DAY
12.	DECEMBER 31	NEW YEAR'S EVE
13.	FLOATING HOLIDAY	

Actual days may change if modified by State or Federal action.

A. Holidays on Saturdays and Sundays: If any holiday falls on a Saturday, it shall be observed on the preceding Friday. If any holiday falls on a Sunday,

it shall be observed on the following Monday. In matters of compensation, a holiday is the date of designated observance.

B. Holiday Pay: Taking into consideration that some employees have elected a 9/80 work schedule pursuant to Section 6.B of this MOU, if an observed holiday falls on an employee's regular day off, the employee will be able to observe the holiday on the preceding business day and will be paid 8 hours of holiday time. Employees on 9/80 work schedules will receive nine (9) hours of holiday pay for any City observed holiday falling on a nine (9) hour workday, and eight (8) hours of holiday pay for any City observed holiday falling on an eight (8) hour workday. If an employee is scheduled to work on a holiday and takes the day off, the City will deduct from the employee's leave bank in an amount equal to the total number of hours the employee was scheduled to work on that particular day. If an employee is required to work on a designated holiday, they shall be compensated at the rate of one and one-half (1-1/2) times the regular hourly rate, plus eight (8) hours pay or nine (9) hours pay for said holiday depending on the number of hours the employee would have worked on a regularly scheduled workday.

C. Floating Holiday: For purposes of payroll accounting, the floating holiday will be added to the employee's vacation and accrued on a bi-weekly basis to the employee's vacation time.

D. Christmas: An additional holiday on the preceding Monday or the following Friday will be observed when Christmas is officially recognized on Tuesday or Thursday, respectively.

SECTION 8: VACATION.

A. Accrual Rate: Each permanent full-time employee in the City shall accrue vacation leave with pay on the following basis:

YEARS OF SERVICE	REGULAR DAYS OF VACATION	ADDITIONAL DAYS OF VACATION	TOTAL DAYS OF VACATION
1	10	0	10
2	10	2	12
3	10	3	13
4	10	4	14
5	10	5	15
6	10	6	16
7	10	7	17

8	10	8	18
9	10	9	19
10	10	10	20
11	10	11	21
12	10	12	22
13	10	13	23
14	10	14	24
15	10	15	25

B. Probationary Employees: An employee during his/her initial probation period accrues vacation; however, the employee must successfully complete the Probationary Period to be eligible to take vacation leave with pay unless approved by the City Manager for unique and special circumstances. The probationary period will be one year, or pursuant to Section 11.F of this MOU.

C. Scheduling of Vacations: The time at which an employee takes vacation leave shall be determined by the department head, primarily with particular regard for the needs of the City and, secondly, insofar as possible, with regard to the wishes of the employee.

D. Leave of Absence: An employee continues to accrue vacation during any authorized and compensated leave. The employee does not accrue vacation during any leave without pay.

E. Holiday During Vacation: If a City holiday occurs while an employee is on vacation, accrued vacation time shall not be deducted for said holiday.

F. Maximum Accrual: Vacation leave may be accumulated to a maximum of three (3) times the employee's annual accrual rate under Section 8.A.

G. Surplus Accrual: On January 15th of each year, any vacation leave accumulated in excess of the maximum shall be compensated at the employee's regular rate of pay.

H. Vacation Pay Upon Separation: Upon separation, a regular or probationary employee shall receive compensation at his/her current salary rate for all unused vacation accrued up to and including the date of separation. Such compensation shall be considered in calculating benefits other than salary.

SECTION 9: SICK LEAVE.

A. Sick Leave: The City provides a sick leave program for the purpose of minimizing the economic hardships that may result from an unexpected illness or injury.

Sick leave should not be viewed as a right but rather it is a privilege of paid time away from work duties where such absence is necessary.

1. **Accrual:** All permanent full-time employees in the City shall accrue one (1) day, eight (8) hours, of sick leave for each calendar month of continuous service to a maximum of sixty (60) days accrual.

2. **Use:** An employee eligible for sick leave may utilize such accrued leave for the following reasons:

    a. The diagnosis, care, treatment of an existing health condition, or preventative care for, an employee.
    b. The diagnosis, care, treatment of an existing health condition, or preventive care for a qualified family member. A qualified family member is defined as a: parent (including step, foster and in-law), child (including biological, step, adopted, foster, grand, acting as loco parentis, in-law, grand in-law, or any form of legal guardianship), spouse, grandparent (including in-law), sibling (including in- law), registered domestic partner, any other person related to the unit employee by blood or marriage, who has been living in the unit employee's household for at least six (6) consecutive months, and a designated person. A designated person is a person identified by the employee at the time the employee requests sick leave. The employee is limited to one designated person per 12-month period;
    c. Being subject to quarantine or being exposed to a contagious disease which would endanger the health of other employees.
    d. To attend an appointment for a medical, psychiatric, dental or optical examination or treatment.
    e. Any other type of leave that an employee may use paid sick time for under the law.

4. **Abuse Not Permitted**: The use of sick leave in a manner inconsistent with the above use parameters is not permitted. Misuse of sick leave shall be cause for disciplinary action.

5. **Proof Required:** After 5 consecutive days absent, the City may require evidence in the form of a physician's certificate, or other substantiating evidence, to determine the adequacy of the reasons for any of the employee's absences during which sick leave time is requested. At its discretion, the City shall have the right to require an employee to undergo, at the City's expense, a medical examination and tests related to an employee's sick leave utilization to determine if the employee is capable of performing their essential job functions and the City determines that such medical examination and tests are necessary for the City's business operations.

6. **Medical Certification**: An employee who has been absent from work due to illness or injury for more than 5 days or 40 hours shall be required to provide a certification from the employee's health care provider stating the employee is able to return to work and any restrictions the employee may have. At the sole discretion of the City Manager or his/her designee and based on operational need, an employee may be allowed to return to a light duty assignment consistent with the restrictions set forth in a certification issued by the employee's health care provider.

   Any light duty granted may be withdrawn by Human Resources at any time based on operational need. In the event of any such withdrawal of approval of limited duty, the employee shall be returned to sick leave status consistent with and subject to the requirements stated herein.

7. **Holiday During Sick Leave:** In the event that a paid holiday occurs when the employee is on sick leave, accrued sick leave shall not be deducted for said holiday.

8. **Exhaustion of Sick Leave**: In the event an employee uses all of the sick leave he/she has accrued, the employee may use any other paid leave accrued for each day, or portion thereof, of the approved absence due to illness or injury as defined herein. This option may be exercised by the employee only when all accrued sick leave has been exhausted. The deduction of other accrued leave, so designated by the employee, will continue until the employee either returns to work or uses all such designated leave accrual. In the event all other accrued paid leave becomes exhausted, the employee shall be on unpaid leave.

9. **Donation of Sick Leave:** Employees may donate up to 50% of annual sick leave accrual (48 hours) to other employees who have exhausted all leave due to a major injury or illness. Donations of sick leave will be eligible for employees in good standing (no disciplinary issues). Employees donating sick leave must maintain at least 80 hours of sick leave balance after donation occurs. All catastrophic illness/injury donations must be approved by the City Manager.

10. **Surplus Accrual:** All employees accruing sick leave beyond the sixty (60) day maximum shall receive a pay out of any additional sick leave accrued at twenty-five (25%) percent of the employee's then regular rate of pay. This accrual and payment will coincide with the employee's anniversary date.

11. **Extended Medical Leave.**

Subject to the Family Medical Leave Act (FMLA), a leave of absence without pay (as defined in the Personnel Rules) for reasons of extended illness or injury:

a. **Duration:** After an employee exhaust his/her FMLA leave, the City will engage in the interactive process with the employee regarding any request for additional medical leave, as long as the additional medical leave is reasonable and does not cause an undue hardship to the City.

12. Bereavement Leave: Employees are entitled to up to five (5) days of bereavement leave upon the death of a family member. The leave does not need to be taken consecutively but must be completed within three (3) months of the date of death. The City will provide three (3) days of paid bereavement leave. The employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee for the remaining two (2) days of bereavement leave. The City will provide an additional two (2) days leave of absence for employees who must travel more than 500 miles to attend services. For the purposes of this MOU, family member shall be defined as an employee's spouse, domestic partner, children, stepchildren, parents, stepparents, siblings, siblings-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparents, grandparents-in-law, or grand-children.

13. Leave of Absence Without Pay: The City Manager, in his/her unrestricted discretion, may grant a regular or probationary employee leave of absence without pay for a period not to exceed three (3) months, unless the leave of absence without pay is granted to the employee as a reasonable accommodation under the California Fair Housing and Employment Act and the federal Americans with Disability Act, or under any other statutory leave. After three (3) months, the leave of absence may be extended if so authorized or the employee must return to work. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. Any such approval by the City Manager shall be in writing. During the period of any such leave of absence without pay, the employee shall not accrue any vacation or sick leave and shall not be entitled to any holiday pay. Upon expiration of any such approved leave of absence without pay or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted.

Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be considered a resignation by said employee. and the City will take steps to separate the employee from

employment. The depositing in the United States mail of first class letter, postage paid, addressed to the employee's last known place of address shall be reasonable notice.

Employees will be responsible for continuing their employee contributions to maintain their employee benefits. Failure to do so will lead to the termination of coverage.

SECTION 11: OTHER EMPLOYEE BENEFITS.

A. Uniforms: Field personnel shall be furnished uniforms and safety equipment in accordance with policies established by their department head and approved by the City Manager. Employees working outside or in hazardous conditions will be allowed to purchase one pair of safety shoes up to $200.00 per year. This $200 allocation will roll over into a second year for a maximum two-year safety show allowance of $400. After the second year, any funds remaining are forfeit and the safety shoe allowance goes back to $200.

B. Social Security Reimbursement: The City will pay the employee's portion of Social Security up to the Social Security maximum established by law each calendar year.

C. 401A: All employees who are permanent full-time and permanent part-time will receive 2.5% of their salary in a 401A retirement program, fully funded by the City. An optional MissionSquare 457 Deferred Compensation plan is also available to all employees.

D. Life Insurance: All employees who are permanent full-time and permanent part-time will receive 1½ times their annual salary in a life insurance policy up to $100,000.

E. Employee Assistance Program: The Employee Assistance Program provides confidential, professional consultation and referral services to employees and their immediate families.

F. Promotional Probation Period: Employees who receive a promotional appointment to positions in the classified service that are not designated as management, confidential employees, Department Heads, or the City Manager shall be subject to a probationary period of six (6) months.

G. Severance Pay: The City will provide four (4) week's severance pay for any employees laid off.

I. Termination Hearing Procedure: Association members may elect, at their sole expense, to submit their termination cases to binding arbitration rather than follow the post-Skelly procedures set forth in the Personnel Rules. Should an Association member elect binding arbitration, then the Association member will provide their own representation and pay the arbitrator's fee and, and if the employee orders the transcript, then the court reporters and transcript fee. Once the Association member elects to submit their termination

case to arbitration, the Association will not represent the member at the arbitration, will have no further involvement in the case, and will not be responsible for any costs or fees related to the arbitration.

SECTION 12: BARGANING UNIT.

The City agrees to meet and confer with the Association regarding any newly created or newly vacated positions that are not yet in the bargaining unit.

SECTION 13: SOLE AND ENTIRE AGREEMENT.

It is the intent of the Parties hereto that the provisions of this MOU shall supersede all prior agreements, memoranda of agreement or memoranda of understanding, or contrary salary and/or personnel rules and regulations, administrative codes, provisions of the City (other than the Municipal Code), whether oral or written, expressed or implied, between the parties, and shall govern the entire relationship and be the sole source of any and all rights which may be asserted hereunder. This MOU is not intended to conflict with federal or state law. On any subject or condition of employment that is not expressly covered by this MOU, the City's Personnel Manual shall govern.

SECTION 14: WAIVER OF BARGAINING DURING TERM OF THIS AGREEMENT.

During the term of this MOU, the Association agrees that it will not initiate or require the City to undergo the meet and confer process with respect to wages, hours, and terms and condition of employment, whether or not contained in this MOU or in the City's Personnel Rules and Regulations, except as required by specific Provisions of this MOU. The City also agrees that it will not initiate or require the Association to undergo the meet and confer process with respect to wages, hours, and terms and conditions of employment contained in this MOU. The City reserves the right to modify terms in the Personnel Rules and Regulations that are not contained in this MOU, subject to any applicable meet and confer obligations.

This MOU is hereby executed by the parties hereto as set forth below.

CITY OF INDIAN WELLS

DATED: June ____, 2025

_____	_____
Chris Freeland City Manager	Kevin McCarthy Finance Director

_____
Kristen Nelson
Administrative Services Manager

INDIAN WELLS CITY EMPLOYEES ASSOCIATION

DATED: June ____, 2025

_____	_____
VACANT President, IWCEA	Shane Hyduke Vice President, IWCEA
_____	_____
Maria Alvarez Secretary, IWCEA	Brian Pelletier At Large Member, IWCEA

_____
Mirian Fulson
Treasurer, IWCEA

ATTACHMENT #2

RESOLUTION NO. 2025-##

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ESTABLISHING THE COMPENSATION AND BENEFIT PLAN FOR EXECUTIVE MANAGEMENT, MANAGEMENT, PROFESSIONAL, CONFIDENTIAL AND NON-REPRESENTED POSITIONS, EFFECTIVE JULY 1, 2025 THROUGH JUNE 30, 2031

WHEREAS, the Government Code of the State of California prescribes a procedure for discussing and resolving matters regarding wages, hours and other terms and conditions of employment; and

WHEREAS, the City Personnel System Rules provided for a Compensation Plan; and

WHEREAS, the City desires to set forth salaries and benefits for Executive Management, Management, Professional, Confidential, and Non-Represented positions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Indian Wells that the Executive Management, Management, Professional, Confidential, and Non-Represented positions Compensation and Benefit Plan is hereby established as follows:

SECTION 1: POSITIONS

The following positions are included in this Resolution. The City Manager has an individual employment agreement, which includes any amendments, that define other terms and conditions of employment not described herein.

Executive Management Positions:

City Manager
Assistant City Manager
Finance Director
Community Development Director
Public Works Director
City Clerk

Professional/ Managerial Positions:

Information Technology & Risk Manager
Assistant Finance Director
Assistant Public Works Director
Building Official & Code Enforcement Manager
Public Works Inspector I
Public Works Superintendent
Senior Planner
Accountant

Confidential Positions: (Includes only designated positions within the classifications)

Senior Executive Assistant
Management Assistant
Administrative Services Manager
Accounting Technician III/ Payroll

Non-Represented Positions:

Senior Management Analyst

SECTION 2: SALARY.

The Authorized Positions & Salary Schedule (the "Schedule"), which is attached hereto as Exhibit "A" and by this reference made a part hereof, shall remain in effect during the term (July 1, 2025 through June 30, 2031) of this Resolution. This Salary Schedule will provide the salary range for the associated positions, effective after this resolution has been duly approved by the City Council ("Effective Date"). The below table describes an employee's earned wage increases, based upon the individual employee's Merit Based Pay ("MBP") score for the fiscal year ending June 30, 2025, and each subsequent fiscal year until July 1, 2031:

Overall Rating	**MBP Percent Increase**
38 or Below	0.0%
39-41	1.0%
42-44	1.5%
45-47	2.0%
48-50	2.5%
51-53	3.0%
54-56	3.5%
57-59	4.0%
60-62	4.5%
63 or Above	5.0%

MBP pay percentage increases will be determined by adding the sum of all MBP category scores. Any aggregate score of (38) or below forfeits any Merit Based Pay increase or bonus and triggers the creation of a Performance Improvement Plan (PIP). Quarterly Reviews provide a regularly scheduled opportunity for the employee and the employee's Supervisor to discuss feedback, expectations, and opportunities for improvement over time. An aggregate score of (38) or below at the conclusion of the review period showcases the need for more formal action to improve the employee's performance, up to and including disciplinary action where applicable under the City's Personnel Manual.

Any employee who receives a salary increase that exceeds the designated salary range of the employee's position will receive a cash equivalent payout for any amount above the top of the salary range.

A Manager or Supervisor's eligibility for an MBP increase or bonus depends on a pre-requisite evaluation by the City Manager or the assigned Department Head. This evaluation reviews the Manager or Supervisor's performance in the areas of Staff Development, Leadership, Supervision and Management/ Administration. This Management/Supervisor Rating has an aggregate score of (4) minimum to (12) maximum. Managers and Supervisors are required to earn at least an (8) to be eligible for Merit Based Pay.

A score of (7) will result in a reduction of MBP to 50% of the final score (e.g., if the final score equates to a 3% increase, the Manager or Supervisor will receive 1.5%). Scores of (6) or below forfeit the MBP increase for the year and will result in a (PIP).

The City Manager is not subject to the MBP review process. The City Manager shall receive adjustments to salary as adopted by the City Council through a publicly adopted resolution.

A. Overtime: Overtime is defined as hours worked by any employee subject to the provisions of the Fair Labor Standards Act ("FLSA") (non-exempt employee). All overtime must have prior approval of the appropriate supervisor and/or department head and be recorded on the employee's bi-weekly time report. Unauthorized overtime is cause for discipline. Non-exempt employees shall be compensated for overtime in accordance with the applicable FLSA provisions.

Any hours worked which are eligible for overtime compensation as defined herein may be taken as compensatory time (or "comp time") off in accordance with these or any department rules. The earning of such "comp time" must receive prior approval of the Department Head or his/her designee. Compensatory time off is earned at the rate of one and one-half (1-1/2) times the number of hours worked and may be accrued to a maximum of eighty (80) hours. Any "comp time" accrued at date of separation shall be paid at straight time the hourly rate of pay then in effect.

Certain positions of employment may be designated as "exempt" from such provisions of the FLSA. Any such designations shall conform to the guidelines and criteria set forth in the FLSA pertaining to such designation. Persons employed in those positions shall not be eligible for overtime pay but shall instead be entitled to paid administrative leave as set forth in the Personnel Rules and Regulations and Personnel Policies.

B. Salary Range Increase: As provided in the Council Approved Personnel Manual, the approved salary ranges shall be adjusted automatically each year based on the on LA/Riverside/Orange County Consumer Price Index (CPI) for non-seasonally

adjusted increase from the prior year (i.e. annual % increase from 2012 to 2013 would take effect for FY14/15) in an amount not to exceed 2.5%. The CPI adjustment shall be automatically set and will establish the top of range for all positions.

C. Base Salary Review: The City agrees to conduct a study of bargaining unit base salaries no less than once every three (3) years during the term of this MOU and thereafter, subject to budgetary constraints. The purpose of the study shall be to review the market base pay rate for classifications represented by the Association in relation to the following Coachella Valley cities previously designated by the Association: City of Palm Desert, City of Rancho Mirage, City of La Quinta, City of Palm Springs, and City of Indio. The City agrees to calculate the median of these city comparators and adjust bargaining unit base salary ranges so the maximum salary for any given classification is the result of ten percent (10%) above the median of the comparators.

The City shall retain full and exclusive discretion to determine the scope, methodology, and process by which the base salary review is conducted. This includes, but is not limited to, discretion over the selection of any consultant, contractor, or third-party entity to conduct or assist in conducting the review.

SECTION 3: MEDICAL, DENTAL, VISION, AND LIFE INSURANCE COVERAGE.

A. Group Insurance: The City shall make available single party and dependent's hospitalization, major medical, dental, optical, long term disability, State Disability and life insurance to all permanent full-time employees in the City and to such other City officials as may be designated by the City Council. The specific coverage and/or options available are set forth in the Insurance Plan Summary.

The City shall pay 100% of premiums for Tier A, B, and C employees as defined by the established tier system. Such premiums shall be paid only to the company or companies with whom the City has contracted for such insurance coverage. Per Resolution No. 2020-23, for employees hired after February 1, 2009 (Tier B & C employees), the City will pay 100% for employee and dependents for HMO plan only. If employee opts for the PPO plan, employee will be responsible for the difference between the two plans.

B. Deductibles: Each January, the City will put $1,000 into an HRA (Health Reimbursement Arrangement) for each full-time employee to cover deductibles, prescriptions, and other medical necessities covered by the HRA plan guidelines.

SECTION 4: HOURS, ATTENDANCE & EMERGENCY STANDBY PAY.

A: Hours: The regular work schedule is 8:00 A.M. to 5:00 P.M. Department Heads may designate special working schedules for the employees of their departments to carry out the work required. The Department Heads may alter the schedule, from time to time, as the needs of the department may require with a two weeks' notice. All non-exempt employees shall adhere to the work schedule. Employees that work hours other than their regular work schedule must have approval from their Department Head.

B. 9/80 Alternative Work Schedule: Employees on a 9/80 schedule are scheduled to work 8 nine-hour days and 1 alternating eight-hour day every two weeks, totaling eighty scheduled work hours over nine shifts per two-week period. For purposes of FLSA overtime, the workweek applicable to employees on a 9/80 schedule begins four hours into their alternating eight hour day and ends 168 consecutive hours later. Employees on a 9/80 schedule are not permitted to flex their alternating eight-hour day off or flex their hours on their alternating eight-hour workday. Employees on a 9/80 schedule are not permitted to work hours outside their schedule without prior approval.

Team A's alternating day off will be the first and alternating Fridays of the month. For illustration purposes, Team A's designated FLSA 7-day workweek is described as follows:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Off	9	9	9	9	0 (end) 0 (start)	Off
Off	9	9	9	9	4 (end) 4 (start)	Off
Off	9	9	9	9	0 (end) 0 (start)	Off
Off	9	9	9	9	4 (end) 4 (start)	Off

Team A will include employees chosen by the City to ensure adequate coverage at City Hall.

Team B's alternating day off will be the second and alternating Fridays of the month. For illustration purposes, Team B's designated FLSA 7-day workweek is described as follows:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Off	9	9	9	9	4 (end) 4 (start)	Off
Off	9	9	9	9	0 (end) 0 (start)	Off
Off	9	9	9	9	4 (end) 4 (start)	Off
Off	9	9	9	9	0 (end) 0 (start)	Off

Team B will include employees chosen by the City to ensure adequate coverage at City Hall.

Non-represented employees have the option of choosing to work a 9/80 schedule, and if they choose to forego this option, they will remain on a 5/40 schedule and remain in their already existing designated workweek. Non-represented employees who decide to work on a 9/80 schedule have the option of deciding whether they will work a schedule from 7:00am – 5:00pm, 7:30am – 5:30pm, or 8:00am – 6:00pm for Monday through Thursday of the workweek. Once chosen, employees will not have the option of modifying their work schedule or their Team A or B designated FLSA work week without City approval.

The City's Receptionist classification will not be included in either Team A or B, and will remain on a 5/40 schedule.

The City retains the right to eliminate the 9/80 alternative work schedule due to operational needs if, for example, it negatively affects the workload or productivity of the City or its workers either by shifting burdens or creating delays and additional steps in the workflow. The City also retains the right to eliminate the 9/80 work schedule if the City must take steps to address a state of emergency or comply with any applicable law or national, state or local directive affecting workload, schedules and personnel.

C. Attendance: Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves of absence. Each full-time employee is to receive a regularly scheduled meal period of not less than thirty (30) minutes nor more than sixty (60) minutes prior to the completion of a working period of six (6) consecutive hours within his/her eight (8) hour or nine (9) hour regularly scheduled

work day. Meal time is not compensated. Special provisions may be made in temporary situations with prior approval of the City Manager or under emergency contingencies. Each regular employee working eight (8) hours or nine (9) hours a day is permitted mid-morning and mid-afternoon rest periods of fifteen (15) minutes each. The rest periods may not be combined for a single thirty (30) minute rest period, unless authorized by the supervisor when extreme conditions do not allow for the taking of a rest period within the designated time frame.

The exact time of and duration of meal and rest period is within the discretion of the supervisor. Lunches and rest periods may not be used to make up time off from work. In no case will an employee receive credit for rest periods not taken. An employee shall not be absent from work for any reason without making prior arrangements with his/her supervisor at least at start of shift if sick or injured. Unless such prior arrangements are made, an employee who, for any reason, fails to report to work shall make a sincere effort to immediately notify his/her supervisor of his/her absence and reason for being absent. If an employee's absence from work continues beyond the first day, the employee shall notify the supervisor on a daily basis unless other arrangements have been made with the supervisor. Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be cause for disciplinary action. Absence without leave for more than three (3) consecutive work days is deemed to be a break in service abandonment of the positions and may result in termination of employment.

SECTION 5: HOLIDAYS

All officers and employees of the City shall be entitled to the following holidays:

1.	JANUARY 1	NEW YEAR'S DAY
2.	THIRD MONDAY IN JANUARY	MARTIN LUTHER KING DAY
3.	THIRD MONDAY IN FEBRUARY	PRESIDENT'S DAY
4.	LAST MONDAY IN MAY	MEMORIAL DAY
5.	JULY 4	INDEPENDENCE DAY
6	FIRST MONDAY IN SEPTEMBER	LABOR DAY
7.	AS DESIGNATED	VETERANS DAY
8.	FOURTH THURSDAY IN NOVEMBER	THANKSGIVING DAY
9.	FOURTH FRIDAY IN NOVEMBER	THANKSGIVING DAY AFTER
10.	DECEMBER 24	CHRISTMAS EVE
11.	DECEMBER 25	CHRISTMAS DAY
12.	DECEMBER 31	NEW YEAR'S EVE
13.	FLOATING HOLIDAY	

Actual days may change if modified by State or Federal action.

A. Holidays on Saturdays and Sundays: If any holiday falls on a Saturday, it shall be observed on the preceding Friday. If any holiday falls on a Sunday, it shall be observed on the following Monday. In matters of compensation, a holiday is the date of designated observance.

B. Holiday Pay: Taking into consideration that some employees have elected a 9/80 work schedule pursuant to Section 6.B of this MOU, if an observed holiday falls on an employee's regular day off, the employee will be able to observe the holiday on the preceding business day and will be paid 8 hours of holiday time. Employees on 9/80 work schedules will receive nine (9) hours of holiday pay for any City observed holiday falling on a nine (9) hour workday, and eight (8) hours of holiday pay for any City observed holiday falling on an eight (8) hour workday. If an employee is scheduled to work on a holiday and takes the day off, the City will deduct from the employee's leave bank in an amount equal to the total number of hours the employee was scheduled to work on that particular day. If an employee is required to work on a designated holiday, they shall be compensated at the rate of one and one-half (1-1/2) times the regular hourly rate, plus eight (8) hours pay or nine (9) hours pay for said holiday depending on the number of hours the employee would have worked on a regularly scheduled workday.

C. Floating Holiday: For purposes of payroll accounting, the floating holiday will be added to the employee's vacation and accrued on a bi-weekly basis to the employee's vacation time.

D. Christmas: An additional holiday on the preceding Monday or the following Friday will be observed when Christmas is officially recognized on Tuesday or Thursday, respectively.

SECTION 8: VACATION.

A. Accrual Rate: Each permanent full-time employee in the City shall accrue vacation leave with pay on the following basis:

YEARS OF SERVICE	REGULAR DAYS OF VACATION	ADDITIONAL DAYS OF VACATION	TOTAL DAYS OF VACATION
1	10	0	10
2	10	2	12
3	10	3	13

4	10	4	14
5	10	5	15
6	10	6	16
7	10	7	17
8	10	8	18
9	10	9	19
10	10	10	20
11	10	11	21
12	10	12	22
13	10	13	23
14	10	14	24
15	10	15	25

B. Probationary Employees: An employee during his/her initial probation period accrues vacation; however, the employee must successfully complete the Probationary Period to be eligible to take vacation leave with pay unless approved by the City Manager for unique and special circumstances. The probationary period will be one year or pursuant to Section 9.F of this Resolution.

C. Scheduling of Vacations: The time at which an employee takes vacation leave shall be determined by the department head, primarily with particular regard for the needs of the City and, secondly, insofar as possible, with regard to the wishes of the employee.

D. Leave of Absence: An employee continues to accrue vacation during any authorized and compensated leave. The employee does not accrue vacation during any leave without pay.

E. Holiday During Vacation: If a City holiday occurs while an employee is on vacation, accrued vacation time shall not be deducted for said holiday.

F. Maximum Accrual: Vacation leave may be accumulated to a maximum of three (3) times the employee's annual accrual rate pursuant to Section 8.A.

G. Surplus Accrual: On January 15th of each year, any vacation leave accumulated in excess of the maximum shall be compensated at the employee's regular rate of pay.

H. Vacation Pay Upon Separation: Upon separation, a regular or probationary employee shall receive compensation at his/her current salary rate for all unused vacation accrued up to and including the date of separation. Such compensation shall be considered in calculating benefits other than salary.

J. Administrative Leave: City Manager at his sole discretion may grant up to ten (10) days of administrative leave per year. The employee may cash out all or any portion of the employee's Administrative Leave each year on January 15th. The maximum accrual for Administrative Leave is thirty (30) days.

SECTION 7: SICK LEAVE.

A. Sick Leave: The City provides a sick leave program for the purpose of minimizing the economic hardships that may result from an unexpected illness or injury. Sick leave should not be viewed as a right but rather it is a privilege of paid time away from work duties where such absence is necessary.

1. **Accrual:** All permanent full-time employees in the City shall accrue one (1) day, eight (8) hours, of sick leave for each calendar month of continuous service to a maximum of sixty (60) days accrual.
2. **Use:** An employee eligible for sick leave may utilize such accrued leave for the following reasons:

    a. The diagnosis, care, treatment of an existing health condition, or preventative care for, an employee.
    b. The diagnosis, care, treatment of an existing health condition, or preventive care for a qualified family member. A qualified family member is defined as a: parent (including step, foster and in-law), child (including biological, step, adopted, foster, grand, acting as loco parentis, in-law, grand in-law, or any form of legal guardianship), spouse, grandparent (including in-law), sibling (including in- law), registered domestic partner, any other person related to the unit employee by blood or marriage, who has been living in the unit employee's household for at least six (6) consecutive months, and a designated person. A designated person is a person identified by the employee at the time the employee requests sick leave. The employee is limited to one designated person per 12-month period;
    c. Being subject to quarantine or being exposed to a contagious disease which would endanger the health of other employees.
    d. To attend an appointment for a medical, psychiatric, dental or optical examination or treatment.
    e. Any other type of leave that an employee may use paid sick time for under the law.

4. Abuse Not Permitted: The use of sick leave in a manner inconsistent with the above use parameters is not permitted. Misuse of sick leave shall be cause for disciplinary action.

5. **Proof Required:** After 5 consecutive days absent, the City may require evidence in the form of a physician's certificate, or other substantiating evidence, to determine the adequacy of the reasons for any of the employee's absences during which sick leave time is requested. At its discretion, the City shall have the right to require an employee to undergo, at the City's expense, a medical examination and tests related to an employee's sick leave utilization to determine if the employee is capable of performing their essential job functions and the City determines that such medical examination and tests are necessary for the City's business operations.

6. **Medical Certification**: An employee who has been absent from work due to illness or injury for more than 5 days or 40 hours shall be required to provide a certification from the employee's health care provider stating the employee is able to return to work and any restrictions the employee may have. At the sole discretion of the City Manager or his/her designee and based on operational need, an employee may be allowed to return to a light duty assignment consistent with the restrictions set forth in a certification issued by the employee's health care provider.

   Any light duty granted may be withdrawn by Human Resources at any time based on operational need. In the event of any such withdrawal of approval of limited duty, the employee shall be returned to sick leave status consistent with and subject to the requirements stated herein.

7. **Holiday During Sick Leave:** In the event that a paid holiday occurs when the employee is on sick leave, accrued sick leave shall not be deducted for said holiday.

8. **Exhaustion of Sick Leave**: In the event an employee uses all of the sick leave he/she has accrued, the employee may use any other paid leave accrued for each day, or portion thereof, of the approved absence due to illness or injury as defined herein. This option may be exercised by the employee only when all accrued sick leave has been exhausted. The deduction of other accrued leave, so designated by the employee, will continue until the employee either returns to work or uses all such designated leave accrual. In the event all other accrued paid leave becomes exhausted, the employee shall be on unpaid leave.

9. **Donation of Sick Leave:** Employees may donate up to 50% of annual sick leave accrual (48 hours) to other employees who have exhausted all

leave due to a major injury or illness. Donations of sick leave will be eligible for employees in good standing (no disciplinary issues). Employees donating sick leave must maintain at least 80 hours of sick leave balance after donation occurs. All catastrophic illness/injury donations must be approved by the City Manager.

10. **Surplus Accrual:** All employees accruing sick leave beyond the sixty (60) day maximum shall receive a pay out of any additional sick leave accrued at twenty-five (25%) percent of the employee's then regular rate of pay. This accrual and payment will coincide with the employee's anniversary date.

11. **Extended Medical Leave.**

Subject to the Family Medical Leave Act (FMLA), a leave of absence without pay (as defined in the Personnel Rules) for reasons of extended illness or injury:

a. **Duration:** After an employee exhaust his/her FMLA leave, the City will engage in the interactive process with the employee regarding any request for additional medical leave, as long as the additional medical leave is reasonable and does not cause an undue hardship to the City.

12. **Bereavement Leave:** Employees are entitled to up to five (5) days of bereavement leave upon the death of a family member. The leave does not need to be taken consecutively but must be completed within three (3) months of the date of death. The City will provide three (3) days of paid bereavement leave. The employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee for the remaining two (2) days of bereavement leave. The City will provide an additional two (2) days leave of absence for employees who must travel more than 500 miles to attend services. For the purposes of this MOU, family member shall be defined as an employee's spouse, domestic partner, children, stepchildren, parents, stepparents, siblings, siblings-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparents, grandparents-in-law, or grand-children.

13. **Leave of Absence Without Pay:** The City Manager, in his/her unrestricted discretion, may grant a regular or probationary employee leave of absence without pay for a period not to exceed three (3) months, unless the leave of absence without pay is granted to the employee as a reasonable accommodation under the

California Fair Housing and Employment Act and the federal Americans with Disability Act, or under any other statutory leave. After three (3) months, the leave of absence may be extended if so authorized or the employee must return to work. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. Any such approval by the City Manager shall be in writing. During the period of any such leave of absence without pay, the employee shall not accrue any vacation or sick leave and shall not be entitled to any holiday pay. Upon expiration of any such approved leave of absence without pay or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted.

Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be considered a resignation by said employee. and the City will take steps to separate the employee from employment. The depositing in the United States mail of first class letter, postage paid, addressed to the employee's last known place of address shall be reasonable notice.

Employees will be responsible for continuing their employee contributions to maintain their employee benefits. Failure to do so will lead to the termination of coverage.

SECTION 9: OTHER EMPLOYEE BENEFITS.

A. Uniforms: Field personnel shall be furnished uniforms and safety equipment in accordance with policies established by their department head and approved by the City Manager. Employees working outside or in hazardous conditions will be allowed to purchase one pair of safety shoes up to $200.00 per year. This $200 allocation will roll over into a second year for a maximum two-year safety show allowance of $400. After the second year, any funds remaining are forfeit and the safety shoe allowance goes back to $200.

B. Social Security Reimbursement: The City will pay the employee's portion of Social Security up to the Social Security maximum established by law each calendar year.

C. 401A: All employees who are permanent full-time and permanent part-time will receive 2.5% of their salary in a 401A retirement program, fully funded by the City. An optional MissionSquare 457 Deferred Compensation plan is also available to all employees.

D. Life Insurance: All employees who are permanent full-time and permanent part-time will receive 1½ times their annual salary in a life insurance policy up to $100,000.

E. Employee Assistance Program: The Employee Assistance Program provides confidential, professional consultation and referral services to employees and their immediate families.

F. Promotional Probation Period: Employees who receive a promotional appointment to positions in the classified service that are not designated as management, confidential employees, Department Heads, or the City Manager shall be subject to a probationary period of six (6) months.

G. Severance Pay: The City will provide four (4) week's severance pay for any employees laid off.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this 10TH day of June 2025.

_____
BRUCE WHITMAN
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2025-___

I, Angelica Avila, City Clerk of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on the 10th day of June 2025 by the following vote:

AYES:
NOES:
EXCUSED:

ATTEST:

_____
ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

_____
TODD LEISHMAN
CITY ATTORNEY

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	City Manager Department
Prepared by:	Angelica Avila, City Clerk
Subject:	**Annual Appointments to the Various Commission, Committees, and Boards Vacancies**

RECOMMENDED ACTIONS:

Council **APPROVES** the Council Ad Hoc Committee recommendations for a two-year term beginning on July 1, 2025, through June 30, 2027; and

APPOINTS Carina De Los Reyes, Dorothy Hamilton, and Kerri Sullivan on the Community Activities Committee; and

APPOINTS Ron Hendersen to serve on the Golf Resort Advisory Committee; and

APPOINTS Peter Rammer and James Lee to serve on the Grants In Aid Committee; and

APPOINTS Koanda Worden to serve on the Housing Authority Commission; and

APPOINTS Phil Valdez to serve on the Palms Springs International Commission; and

RE-APPOINTS Marcie Maxwell on the Golf Resort Advisory Committee for a second term ending June 30, 2027; and

RE-APPOINTS Jon O'Hea on the Housing Authority Commission until the vacancy is filled; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

BACKGROUND:

Annually the City Council appoints residents ("Members") to serve on various Commissions, Committees and Boards ("Committee"). Serving on a Committee provides an opportunity for residents to volunteer and serve their community. The selection

process includes an application and interview by a City Councilmember(s), who make recommendations to the full City Council.

Selected Members serve for a two-year term unless they fill an unexpired vacancy on any one Committee. Members may serve two consecutive terms, up to a maximum of four years, on any one Committee. Members are required to complete an application after the completion of their first term to seek reappointment or to apply for a different Committee. The Council Ad Hoc Committee has recommended one resident member who re-applied for reappointment be appointed for another two-year term.

The City received 33 applications from interested residents to fill vacancies, with terms beginning on **July 1, 2025**, and ending on **June 30, 2027.** Candidate applications remain valid and are kept for 6 months should any unexpected vacancies occur. Applications received are available for public review at City Hall, City Clerk Department, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday (excluding holidays).

FISCAL IMPACT:

There is no fiscal impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly; and that the action is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. (14 CCR 15061(b)(3).)

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	City Manager Department
Prepared by:	Angelica Avila, City Clerk
Subject:	**Council Member Taylor Event Attendance**

RECOMMENDED ACTIONS:

Council **APPROVES** Councilmember Taylor attendance at the Martinis and Bellinis Garden Tea Party on June 14, 2025, benefiting Hanson House Foundation and the Children's Discovery Museum; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

DISCUSSION:

The City Council adopted a ticket policy for pre-approval of Council Member attendance at events which serve a valid governmental or public purpose (Resolution No. 2022-36).

The Council Policy Manual Section 2.11.010 states the consent calendar staff report will include a description of the event, including the date and location, the Council Member/s attending, the total cost for each Council Member, and the City's governmental or public purpose for attending the event. Once the Council has confirmed its attendance for the 2025 listed events, a report will be issued to the Council in a future agenda.

The Hanson House Foundation's mission is to provide Coachella Valley residents with an affordable 'Home away from Home" for their families or loved ones visiting them for trauma, cancer or critical care treatment at our local hospitals. Hanson House has been serving families of the Coachella Valley and beyond for over 20 years. In partnership with the Children's Discovery Museum, the event will provide summer activities and programs at the Hanson House Foundation and museum.

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PRE-APPROVAL OF EVENT:

Description (Date and Location)	Council Member	Total Cost	Public Purpose
Martini & Bellinis- Garden Tea Party- Saturday, June 14, 2025, at 3:00 p.m.- 5:00 p.m.	Taylor	$150	Section F (13)

Resolution No. 2022-36 Section F (13) – Promote community resources and private facilities, including charitable and non-profit organizations facilities, available for use by city residents.

FISCAL IMPACT:

The Fiscal Year 2024-25 budget allocates up to $2,500 per Council Member for participation in governmental or public-purpose events. The Finance Department will monitor this expenditure and provide detailed monthly reports to the Senior Executive Assistant. The events outlined above are accounted for within the existing budget and do not result in any additional financial impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly; and that the action is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. (14 CCR 15061(b)(3).)

ATTACHMENTS:

1. 2025 Martini and Bellinis Invitation

MARTINIS AND BELLINIS

GARDEN COCKTAIL AND TEA PARTY

CELEBRATING CHILDREN & FAMILIES WITH HANSON HOUSE AND CHILDREN'S DISCOVERY MUSEUM OF THE DESERT



Hanson House FOUNDATION

CDMD CHILDREN'S DISCOVERY MUSEUM OF THE DESERT



JUNE 14 | 3-5PM

AT THE EXCLUSIVE CACHE ESTATE
80800 50TH AVENUE IN INDIO



CACHE ESTATE

INDIO, CA

TICKETS ARE $75/PERSON

LITE BITES AND DESSERTS
AND BEVERAGES WILL BE SERVED

YOUR TICKET ALSO GIVES YOU A CHANCE TO WIN A LAB-GROWN DIAMOND SET IN A BEAUTIFUL GOLD NECKLACE VALUED AT $1500, DONATED BY GEORGE'S FINE JEWELRY

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Finance Department
Prepared by:	Kevin McCarthy, Finance Director
Subject:	**Fire Access Maintenance District No. 1 (FAMD)** **May 6, 2025, All-Mail Ballot Special Parcel Tax Election**

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution declaring the results of the May 6, 2025 All-Mail Ballot Special Parcel Tax Election held within the territory within the Fire Access Maintenance District No. 1 for security, street, maintenance and repair, and entrance landscaping services; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

DISCUSSION:

The Fire Access Maintenance District No. 1 (FAMD) formally requested that the City conduct a Special Municipal Election by all-mail ballot on May 6, 2025. The purpose of the election was to present voters residing within the boundaries of FAMD with a proposed increase to the annual special parcel tax. The additional revenue generated by the proposed increase would be allocated specifically to support essential services within the district, including private security, street maintenance and repair, and entrance landscaping.

Pursuant to the authority granted under California Elections Code Section 9222, the City Council adopted a resolution submitting the proposed measure to the registered voters residing within FAMD No. 1. The measure was placed on the ballot for consideration at the duly noticed Special Municipal Election held on May 6, 2025.

Shall Ordinance Bill No. 2025-XX be adopted to adopt a Special Parcel Tax to take the place of the current fee for security, maintenance and repair of streets and entrance landscape services within FAMD No. 1?	YES	
	NO	

The ballots were received by mail and in person until 5:00 p.m. on May 6, 2025, at City Hall, with the canvass of the ballots shortly thereafter. The City also counted any validly signed and executed mailed ballots that arrived in the mail after Election Day, as required by the California Elections Code.

Percentage of Votes

The results of the May 6, 2025, Special Tax ballot election are as follows:

FAMD Ballot	Results
Total Ballots Mailed	616
Total Ballots Received	272
Total Ballots - Disqualified	12
Total Ballots - Pending	-
Total Ballots - Certified	260
Total Ballots - In Favor	193
Total Ballots - Opposed	67
Total Ballots - Certified	260
Percentage - In Favor	74.2%
Percentage - Opposed	25.8%
Total %	100.0%

Since the ballot measure received the necessary two-thirds (66.7%) voter approval, which is required under Proposition 218 for a new or increased special tax, the Ordinance levying the increase in the special tax has been adopted. The City needs to adopt the voter-approved FAMD special tax amount by Resolution.

FISCAL IMPACT:

This action has no fiscal impact on the General Fund. Instead, these funds are dedicated to the FAMD purposes outlined above. The annual levy is anticipated to generate sufficient revenue to fully fund the FAMD's operations, ensuring that no supplemental allocation from the General Fund is necessary.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's

environmental regulations. The City, acting as the Lead Agency, determined that the ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ATTACHMENTS:

1. Resolution

ATTACHMENT #1

RESOLUTION NO. 2025-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, DECLARING THE RESULTS OF THE SPECIAL MUNICIPAL ELECTION HELD ON THE 6TH DAY OF MAY 2025 CONCERNING PROPOSED ORDINANCE (A SPECIAL TAX WITHIN THE TERRITORY LOCATED WITHIN FIRE ACCESS MAINTENANCE DISTRICT NO. 1 FOR SECURITY, STREET MAINTENANCE AND REPAIR AND ENTRANCE LANDSCAPING SERVICES)

WHEREAS, a special municipal election for the submission to the voters of the Fire Access Maintenance District No. 1 ("FAMD No. 1") relative to the question of proposing an increase in special tax within the territory located within FAMD No. 1 pursuant to Government Code Section 53724 for security, street maintenance and repair and entrance landscaping services was conducted in the City of Indian Wells, County of Riverside, State of California, on Tuesday, the 6th day of May 2025, as required by law; and

WHEREAS, pursuant to the requirements of the laws of the State of California relating to cities, the City Council of the City of Indian Wells called and ordered said election, was held and conducted and the votes cast thereat, received and canvassed, and the returns made and declared in on time, form and manner required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, the City Clerk of the City of Indian Wells has canvassed the returns of said election and has certified the results to this City Council. Said results are attached and made a part hereof as Exhibit "A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, DOES RESOLVE AS FOLLOWS:

SECTION 1. Said special municipal election was held for the purpose of determining the position of the voters in the City of Indian Wells on the following measure:

> **"Shall Ordinance be adopted to adopt a Special Parcel Tax to take the place of the current fee for security, maintenance and repair of streets and entrance landscape services within FAMD No. 1."**

Ordinance is attached and made a part hereof as Exhibit "B."

SECTION 2. The mail and hand delivered ballots were returned to the elections official from whom they were obtained by 5:00 p.m. on election day, Tuesday; May 6, 2025. As soon as reasonably possible after said closing time, the votes in favor and the votes against said measure were counted.

SECTION 3. The whole number of votes cast was 272 out of an eligible total of 616 voters.

SECTION 4. The vote was as follows: 193 voted YES and 67 voted NO.

SECTION 5. The City Council does declare and determine that as a result of the Special Parcel Tax Election, Ordinance No. 763 was approved by the eligible voters in the Fire Access Maintenance District of the City of Indian Wells.

SECTION 6. The City Clerk shall enter on the records of the City Council a statement of the results of said election.

SECTION 7. The City Clerk shall certify that the Ordinance was passed and adopted,

SECTION 8. The City Clerk shall certify the passage and adoption of this resolution; and shall enter the same in the book of original resolutions of the City.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, this 10th day of June 2025.

_____
BRUCE WHITMAN
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2025-__

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DOES HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at an adjourned regular meeting of the City Council of the City of Indian Wells on the 10h day of June 2025, by the following vote:

AYES:
NOES:

ATTEST:

_____
ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

_____
TODD LEISHMAN FOR
BEST BEST & KRIEGER LLP
CITY ATTORNEY

EXHIBIT "A"

**CERTIFICATE OF CITY CLERK'S OFFICE
TO THE RESULTS OF THE CANVASS OF ELECTION RETURNS**

I, Angelica Avila, City Clerk of City of Indian Wells, do hereby certify that, in pursuance of the provisions of Sections 307 and 15301 of the California Elections Code and the resolution adopted by the City Council, I did canvass the returns of the vote cast as part of the FIRE ACCESS MAINTENANCE DISTRICT NO. 1 (FAMD) Special Tax Election of May 6, 2025, in the

CITY OF INDIAN WELLS

and I further certify that the statement of votes cast, to which this certificate is attached, shows the whole number of votes cast for and against this Special Tax submitted to a vote of the voters of the FIRE ACCESS MAINTENANCE DISTRICT NO. 1 (FAMD) in said City and that the totals as shown for and against said election are full, true, and correct.

Dated this 6 day of May 2025.

Angelica Avila
_____

**ANGELICA AVILA
CITY CLERK
CITY OF INDIAN WELLS**

STATEMENT OF VOTES CAST
FIRE ACCESS MAINTENANCE DISTRICT NO. 1
SPECIAL ELECTION MAY 6, 2025

	Registered	Ballots Cast	Turnout %	Yes	No	% Yes
Mail Ballots	616	272	44 %	193	67	74.2 %

EXHIBIT "B"

ORDINANCE NO. 763

AN ORDINANCE OF THE CITY OF INDIAN WELLS, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN FAMD NO. 1 FOR SECURITY, STREET MAINTENANCE AND REPAIR AND ENTRANCE LANDSCAPE SERVICES AND AMENDING THE INDIAN WELLS MUNICIPAL CODE

THE PEOPLE OF THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1, CITY OF INDIAN WELLS, CALIFORNIA, DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.17 of the Indian Wells Municipal Code is amended to read as follows:

CHAPTER 3.17

SPECIAL PARCEL TAX WITHIN FAMD NO. 1

3.17.010 Title and Purpose. The special tax imposed by this Chapter shall be known as the "FAMD No. 1 Special Parcel Tax." The purpose of the tax is to replace in its entirety the parcel fee which has been levied annually to finance security, street maintenance and repair and entrance landscape services within Fire Access Maintenance District No. 1 within the City.

3.17.020 Definitions.

3.17.020(a) District. "District" as used in this Chapter means the territory located within the Fire Access Maintenance District No. 1 as described in the Fire Access Maintenance District Boundary Map dated April, 1996.

3.17.020(b) FAMD No. 1. "FAMD No. 1" as used in this Chapter means Fire Access Maintenance District No 1.

3.17.020(c) Fiscal Year. "Fiscal year" as used in this Chapter means the period starting on July 1 and ending the following June 30.

3.17.020(d) GOLF CLUB / GOLF COURSE. "Golf Club/Golf Course" as used in this Chapter shall mean a parcel or parcels under common use as a golf course and club house, which according to the records of the Riverside County Assessor as of March 1 of the preceding fiscal year, is designated for golf course or clubhouse uses or non-residential use.

3.17.020 (e) Parcel. "Parcel" as used in this Chapter shall mean each assessor parcel of improved or unimproved real property including but not limited to any single family residence or any other unit of real property subject to the Subdivision Map Act (Government Code Sections 66410 et seq.) that is within the boundaries of Fire Access Maintenance District No. 1 within the City, based on the Riverside County equalized tax roll.

3.17.020(f) Residential Dwelling Unit. "Residential dwelling unit" as used in this Chapter shall mean any single family residence.

3.17.020(g) Residential Parcel. "Residential parcel" as used in this Chapter shall mean a parcel, which, according to the records of the Riverside County Assessor as March 1 of the preceding fiscal year, is designated for residential use.

3.17.030 Imposition of Special Tax. Pursuant to the authority of Article XI, Section 7 of the California Constitution and Government Code Section 53724, a special tax is hereby imposed on each and every parcel of property located within the boundaries of Fire Access Maintenance District No. 1 within the City of Indian Wells for each fiscal year, commencing with fiscal year 2025-2026. The tax shall be imposed annually by resolution of the City Council in amounts deemed necessary by the City Council, upon recommendation of the board of Directors of FAMD No. 1, to generate sufficient revenue to furnish security, street maintenance and repair and entrance landscape services within the District, but in no event shall the tax exceed the maximum amounts permitted in this Chapter without approval of two-thirds (2/3) of the voters of the District voting on the question.

3.17.040 Maximum Amount of Tax

3.17.040(a) Residential Parcels. The amount of the tax imposed for fiscal year 2025/2026 on residential parcels shall be as follows:

Land Use	Assessment
Each improved residential parcel that has a residential dwelling unit.	$1,514.00/Annually
Each unimproved residential parcel that is one acre or less in size.	$1029.00/Parcel Annually
Each unimproved residential parcel that is more than one acre in size.	$809.00/Acre Annually

Each year following fiscal year 2025/2026 the special parcel tax shall increase between a maximum 3% or the annual change from January of the preceding year to January of the current year in the consumer price index (CPI) for Riverside-San Bernardino-Ontario Area for All Urban Consumers.

3.17.040(b) Golf Club / Golf Course. The amount of the tax imposed for fiscal year 2025/2026 for the Golf Club / Golf Course shall be $279,300.00. Each year following fiscal year 2025/2026 the special parcel tax shall increase between a maximum 3% or the annual change from January of the preceding year to January of the current year in the consumer price index (CPI) for Riverside-San Bernardino-Ontario Area for All Urban Consumers.

3.17.050 Method of Collection. The Special tax imposed by this Chapter shall be collected in the same manner, on the same dates, and shall be subject to the same penalties and interest as other charges and taxes fixed and collected by the county of Riverside on behalf of the City of Indian Wells.

Said special tax, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and said special tax, together with all penalties and interest thereon, shall, until paid, constitute a personal obligation to the City of Indian Wells by the persons who own the parcel on the date the tax is due.

3.17.060 Special Fund; Use of Tax Proceeds. The revenue raised by the special tax imposed by this Chapter shall be placed in a special fund to be used by FAMD No. 1 or any successor entity providing services for the territory located within the District only for the purposes of obtaining, providing, operating and maintaining the gate houses and gate house grounds, security, street maintenance and repair, including the cleaning of storm drains and the purposes described in Section 2 of Resolution No. 73-18, including equipment acquisition, costs of labor and materials, and administrative expenses incurred by FAMD No. 1 in connection therewith.

3.17.070 Amendments to this Chapter. The City Council shall be empowered to amend this Chapter by three (3) affirmative votes of the members thereof for the purposes of carrying out the general purposes of this Chapter in order to conform to State law that permits the County Tax Collector, or other proper official, to collect a special tax such as is levied by this Chapter in conjunction with County taxes or in order to assign duties pursuant to the ordinance to other officers. However, in no event shall any such amendment result in an increase in the maximum amount of the tax as set forth in Section 3.17.040 or a change in the use to which the tax revenue is put as set forth in Section 3.17.060.

3.17.080 Exemptions. The special tax imposed by this Chapter shall not be imposed upon a federal or State governmental agency or another local governmental agency or upon any parcel of property that is exempt from the special tax imposed by this Chapter pursuant to any provision of the Constitution or any paramount law.

3.17.090 Disposition of Surplus Revenues. Unexpended revenues raised by the special tax imposed by this Chapter may only be used in the succeeding year for the purposes stated in this Chapter by lowering the next year's tax by the amount unexpended or returned to the taxpayers on the same pro rata basis as originally levied.

3.17.100 Transfer of Powers under this Chapter. The authority and duties of the City Council set forth in this Chapter may by resolution of the City Council be transferred or delegated to the governing body of a successor entity to FAMD No.1, if any, authorized by statute to impose special taxes.

SECTION 2. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable. The City Council, and the electorate by referendum, do hereby declare that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof, be declared invalid or unconstitutional.

SECTION 3. This ordinance, or any provisions thereof other than those provisions, if any, which provide for modification by the City Council of the City of Indian Wells, may only be amended or repealed by approval of two-thirds (2/3) of the voters voting on the ordinance or provisions thereof at any initiative or referendum election.

SECTION 4. This ordinance shall be referred to, and shall be effective only if approved by two-thirds (2/3) of the voters residing within FAMD No. 1 voting at an election to be held on May 6, 2025 and shall go into effect ten (10) days after the City Council has, be resolution, declared that this ordinance was approved by two-thirds (2/3) of the voters voting thereon.

SECTION 5. The Mayor shall certify to the passage and adoption of this ordinance by the electorate voting thereon on the 6th day of May, 2025.

I hereby certify that the foregoing ordinance was **PASSED, APPROVED AND ADOPTED** by the people of the City of Indian Wells residing in FAMD No. 1 on the 6th day of May 2025.

Dated: _____

_____
BRUCE WHITMAN
MAYOR

ATTEST:

_____
ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

_____
TODD LEISHMAN FOR
BEST, BEST & KRIEGER
CITY ATTORNEY

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Community Development Department
Prepared by:	Jon Berg, Community Development Director
Subject:	**Annual Update to Local California Environmental Quality Act (CEQA) Guidelines**

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution updating the local guidelines for implementing the California Environmental Quality Act for the City of Indian Wells; and

FINDS the action is not a Project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5).

BACKGROUND:

The California Environmental Quality Act ("CEQA"), codified at Public Resources Code section 21000, et seq., is California's most comprehensive environmental law. It generally requires public agencies to evaluate the environmental effects of their actions before they are taken. CEQA also aims to prevent significant environmental effects from occurring as a result of agency actions by requiring agencies to avoid or reduce, when feasible, the significant environmental impacts of their decisions.

To this end, State CEQA Guidelines require local agencies to adopt "objectives, criteria and procedures" to implement the requirements of CEQA and the State CEQA Guidelines. (State CEQA Guidelines [14 Cal. Code Regs.] section 15022.) The 2025 Local Guidelines for Implementing the California Environmental Quality Act for the City of Indian Wells reflect recent changes to CEQA.

DISCUSSION:

The City of Indian Wells has prepared a proposed updated set of Local CEQA Guidelines for 2025 which reflect recent changes to CEQA. These Local CEQA Guidelines also provide instructions and forms for preparing all environmental documents required under CEQA.

CEQA is California's comprehensive environmental law, contained in Public Resources Code sections 21000 et seq. CEQA seeks to protect the environment by requiring government agencies within the state to analyze and publicly disclose impacts of proposed projects, and adopt feasible mitigating measures to reduce those impacts. Annually, the City Attorney's Office prepares a memorandum outlining needed changes to the Local CEQA Guidelines (Attachment 1) and Staff is recommending City Council adopt a Resolution updating the City's local CEQA Guidelines for 2025 (Attachment 2).

The City of Indian Wells Local CEQA Guidelines were revised and amended to reflect recent changes to the State CEQA Guidelines, the Public Resources Code and relevant court opinions. A summary of the updates follows (refer to Attachment 1 for a comprehensive review):

- Exemption for Residential or Mixed-Use Housing Projects: A new amendment section has been added to the Local CEQA Guidelines as a result of the passing of Assembly Bill 2199. CEQA does not apply to residential or mixed-use housing projects located in unincorporated areas of a county that meet the requirements outlined in Section 3.17.

- Transit Prioritization Projects: Pursuant to Assembly Bill 2503, a new subsection (6) was added to Section 3.21 regarding a public project for the institution or increase of passenger rail service, including the construction or rehabilitation of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission trains.

- Routine Maintenance of Stormwater Facilities: Pursuant to Assembly Bill 3227, a new Section 3.24 was added to the Guidelines pursuant to a change to Public Resources Code Section 21080.61. This new section provides that CEQA does not apply to routine maintenance of public stormwater facilities that are fully concrete or have a conveyance capacity of less than 100-year storm event in certain specified conditions are met.

- Reproductive Services Community Clinic: Pursuant to Assembly Bill 2085, Section 3.29 was added to the Guidelines to provide that CEQA does not apply to the approval of an application of a community clinic providing reproductive health services if the application meets objective planning standard and is subject to the ministerial review process set forth in Government Code section 65914.900.

- A Responsible Agency's Provision of Financial Assistance or Insurance for the Development and Construction of Affordable Housing: New language was added to Section 9.10 pursuant to Senate Bill 1361, which clarifies that CEQA does not apply to a local agency's approval of contracts that provide residential, counseling, and security services for people experiencing homelessness, as set forth in greater detail in Section 9.10.

- Office of Land Use and Climate Innovation: Effective July 1, 2024, the Office of Planning and Research changed its name to the Office of Land Use and Climate Innovation (LCI). This change is reflected throughout the Local CEQA Guidelines. Additionally, effective April 8, 2025, LCI has a new CEQAnet URL and CEQASubmit URL. The new office name and URLs: (https://ceqasusbmit.lci.ca.gov/) and (https://ceqanet.lci.ca.gov/) have been updated in the City's Local CEQA Guidelines. Further, LCI has established a new deadline for processing environmental notices. Notices must be submitted to CEQASubmit no later than 2:30p.m. PST in order to have a same filing date.

- CEQA Document Filing Fees: Effective January 1, 2025, the Department of Fish and Wildlife has increased its fees. For a Negative Declaration or a Mitigated Negative Declaration, the new filing fee is $2,968.75: for an EIR, the new filing fee is $4,123.50: and for an environmental document prepared pursuant to a Certified Regulatory Program, the new filing fee is $1,401.75.

FISCAL IMPACT:

No fiscal impact is anticipated from amending the Local CEQA Guidelines.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The City of Indian Wells adoption of the attached Resolution is not a Project under State CEQA Guidelines section 15378(b)(5), because organizational or administrative activities of governments that will not result in direct or indirect physical changes to the environment are not considered a Project.

ATTACHMENTS:

1. BB&K Memorandum
2. Resolution

ATTACHMENT #1

Memorandum

TO: Project 5 City Client

FROM: Best Best & Krieger LLP

DATE: April 1, 2025

RE: Summary of Changes to Local CEQA Guidelines

In 2024, the California Legislature revised the California Environmental Quality Act ("CEQA") through passage of certain Assembly Bills and Senate Bills. As a result, we have revised the City's Local Guidelines for Implementing CEQA ("Local Guidelines") to account for these CEQA developments. This memorandum summarizes the substantive amendments to the City's 2025 Local CEQA Guidelines ("Local Guidelines").

The Local Guidelines and this memorandum are designed to help the City comply with CEQA when considering a project subject to CEQA. We still recommend, however, that you consult with an attorney when you have specific questions on major, controversial, or unusual projects or activities.

The Local Guidelines, the related CEQA forms, and other important legal alerts may be accessed via the Best Best & Krieger LLP CEQA client portal. For technical support, please contact Tammy Ingram at tammy.ingram@bbklaw.com.

REVISIONS TO LOCAL GUIDELINES

3.17 Exemption for Residential or Mixed-Use Housing Project.

This is a new section that was added to your Guidelines as a result of the passing of Assembly Bill 2199. CEQA does not apply to residential or mixed-used housing projects, as defined, located in unincorporated areas of a county, that meet the requirements set forth in Section 3.17.

3.21 Transit Prioritization Projects.

Pursuant to Assembly Bill 2503, a new subsection (6) was added to Section 3.21 regarding a public project for the institution or increase of passenger rail service, including the construction or rehabilitation of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission trains.

3.24 Routine Maintenance of Stormwater Facilities.

Pursuant to Assembly Bill 3227, a new Section 3.24 was added to the Guidelines pursuant to a change to Public Resources Code section 21080.61. This new section provides that CEQA does not apply to routine maintenance of public stormwater facilities that are fully concrete or have a conveyance capacity of less than a 100-year storm event if certain specified conditions are met.

3.29 Reproductive Services Community Clinic.

Pursuant to Assembly Bill 2085, Section 3.29 was added to the Guidelines to provide that CEQA does not apply to the approval of an application of a community clinic providing reproductive health services if the application meets objective planning standards and is subject to the ministerial review process set forth in Government Code section 65914.900.

9.10 A Responsible Agency's Provision of Financial Assistance or Insurance for the Development and Construction of Affordable Housing.

New language was added to Section 9.10 pursuant to Senate Bill 1361, which clarifies that CEQA does not apply to a local agency's approval of contracts that provide residential, counseling, and security services for people experiencing homelessness, as set forth in greater detail in Section 9.10.

Other Changes

Office of Land Use and Climate Innovation

Effective July 1, 2024, the Office of Planning and Research changed its name to the Office of Land Use and Climate Innovation (LCI). This change is reflected throughout your Local CEQA Guidelines. Additionally, effective April 8, 2025, LCI has a new CEQAnet URL and CEQASubmit URL. In order to access LCI's websites, please use these new URLs:

- https://ceqasubmit.lci.ca.gov/
- https://ceqanet.lci.ca.gov/

Additionally, LCI has established a new deadline for processing environmental notices. Notices must be submitted to CEQASubmit no later than 2:30 p.m. PST in order to have a same day filing date.

CEQA Document Filing Fees

Effective January 1, 2025, the Department of Fish and Wildlife has increased its fees. For a Negative Declaration or a Mitigated Negative Declaration, the new filing fee is $2,968.75; for an EIR, the new filing fee is $4,123.50; and for an environmental document prepared pursuant to a Certified Regulatory Program, the new filing fee is $1,401.75.

Conclusion

As always, CEQA remains complicated and, at times, challenging to apply. The only constant in this area of law is how quickly the rules change. Should you have questions about any of the provisions discussed above, please contact a BB&K attorney for assistance.

BEST BEST & KRIEGER LLP

ATTACHMENT #2

RESOLUTION NO. 2025 - ___

A RESOLUTION OF THE CITY COUNCIL OF CITY OF INDIAN WELLS, CALIFORNIA, AMENDING AND ADOPTING LOCAL GUIDELINES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUBLIC RESOURCES CODE §§ 21000 ET SEQ.)

WHEREAS, the California Legislature has amended the California Environmental Quality Act ("CEQA") (Pub. Resources Code §§ 21000 et seq.), the Natural Resources Agency has amended the State CEQA Guidelines (Cal. Code Regs, tit. 14, §§ 15000 et seq.), and the California courts have interpreted specific provisions of CEQA; and

WHEREAS, Public Resources Code section 21082 requires all public agencies to adopt objectives, criteria, and procedures for the evaluation of public and private projects undertaken or approved by such public agencies, and the preparation, if required, of environmental impact reports and negative declarations in connection with that evaluation; and

WHEREAS, the City of Indian Wells ("City") must revise its local guidelines for implementing CEQA to make them consistent with the current provisions and interpretations of CEQA and the State CEQA Guidelines; and

WHEREAS, adoption of the Resolution is not a project under State CEQA Guidelines section 15378(b)(5) because it is an administrative activity involving process only and would not result in any environmental impacts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council **ADOPTS** this Resolution approving the 2025 revisions to "2025 Local Guidelines for Implementing the California Environmental Quality Act," attached hereto as Exhibit "A" and further made available at the offices of the City and is available for inspection by the public.

SECTION 2. All prior actions of the City enacting earlier guidelines are hereby repealed.

SECTION 3. This Resolution shall take effect upon adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at an adjourned regular meeting held on the 10TH day of June 2025.

_____

BRUCE WHITMAN
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2025-__

I, Angelica Avila, City Clerk of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at An adjourned regular meeting of the City Council of the City of Indian Wells on the 10H day of June 2025, by the following vote:

AYES:
NOES:

ATTEST:

ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

TODD LEISHMAN FOR
BEST, BEST & KRIEGER
CITY ATTORNEY

EXHIBIT "A"

2025 Guidelines for Implementing CEQA

(*following this page*)

2025

LOCAL GUIDELINES

FOR IMPLEMENTING THE

CALIFORNIA ENVIRONMENTAL QUALITY ACT

FOR

CITY OF INDIAN WELLS

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LOCAL GUIDELINES
FOR IMPLEMENTING THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

(2025)

1. GENERAL PROVISIONS, PURPOSE AND POLICY.

1.01 GENERAL PROVISIONS.

These Local Guidelines ("Local Guidelines") are to assist the City of Indian Wells ("City") in implementing the provisions of the California Environmental Quality Act ("CEQA"). These Local Guidelines are consistent with the Guidelines for the Implementation of CEQA ("State CEQA Guidelines"), which have been promulgated by the California Natural Resources Agency for the guidance of state and local agencies in California. These Local Guidelines have been adopted pursuant to California Public Resources Code section 21082.

1.02 PURPOSE.

The purpose of these Local Guidelines is to help the City accomplish the following basic objectives of CEQA:

(a) To enhance and provide long-term protection for the environment, while providing a decent home and satisfying living environment for every Californian;
(b) To provide information to governmental decision-makers and the public regarding the potential significant environmental effects of the proposed project;
(c) To provide an analysis of the environmental effects of future actions associated with the project to adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project;
(d) To identify ways that environmental damage can be avoided or significantly reduced;
(e) To prevent significant avoidable environmental damage through utilization of feasible project alternatives or mitigation measures; and
(f) To disclose and demonstrate to the public the reasons why a governmental agency approved the project in the manner chosen. Public participation is an essential part of the CEQA process. Each public agency should encourage wide public involvement, formal and informal, in order to receive and evaluate public reactions to environmental issues related to a public agency's activities. Such involvement should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

1.03 APPLICABILITY.

These Local Guidelines apply to any activity that constitutes a "project," as defined in Local Guidelines Section 11.58, for which the City is the Lead Agency or a Responsible Agency. These Local Guidelines are also intended to assist the City in determining whether a proposed

activity constitutes a project that is subject to CEQA review, or whether the activity is exempt from CEQA.

1.04 REDUCING DELAY AND PAPERWORK.

The State CEQA Guidelines encourage local governmental agencies to reduce delay and paperwork by, among other things:

(a) Integrating the CEQA process into early planning review; to this end, the project approval process and these procedures, to the maximum extent feasible, are to run concurrently, not consecutively;
(b) Identifying projects which fit within categorical or other exemptions and are therefore exempt from CEQA processing;
(c) Using initial studies to identify significant environmental issues and to narrow the scope of Environmental Impact Reports (EIRs);
(d) Using a Negative Declaration when a project, not otherwise exempt, will not have a significant effect on the environment;
(e) Consulting with state and local responsible agencies before and during the preparation of an EIR so that the document will meet the needs of all the agencies which will use it;
(f) Allowing applicants to revise projects to eliminate possible significant effects on the environment, thereby enabling the project to qualify for a Negative Declaration rather than an EIR;
(g) Integrating CEQA requirements with other environmental review and consultation requirements;
(h) Emphasizing consultation before an EIR is prepared, rather than submitting adverse comments on a completed document;
(i) Combining environmental documents with other documents, such as general plans;
(j) Eliminating repetitive discussions of the same issues by using EIRs on programs, policies or plans and tiering from statements of broad scope to those of narrower scope;
(k) Reducing the length of EIRs by means such as setting appropriate page limits;
(l) Preparing analytic, rather than encyclopedic, EIRs;
(m) Mentioning insignificant issues only briefly;
(n) Writing EIRs in plain language;
(o) Following a clear format for EIRs;
(p) Emphasizing the portions of the EIR that are useful to decision-makers and the public and reducing emphasis on background material;
(q) Incorporating information by reference; and
(r) Making comments on EIRs as specific as possible.

1.05 COMPLIANCE WITH STATE LAW.

These Local Guidelines are intended to implement the provisions of CEQA and the State CEQA Guidelines, and the provisions of CEQA and the State CEQA Guidelines shall be fully complied with even though they may not be set forth or referred to herein.

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1.06 TERMINOLOGY.

The terms "must" or "shall" identify mandatory requirements. The terms "may" and "should" are permissive, with the particular decision being left to the discretion of the City.

1.07 PARTIAL INVALIDITY.

In the event any part or provision of these Local Guidelines shall be determined to be invalid, the remaining portions that can be separated from the invalid unenforceable provisions shall continue in full force and effect.

1.08 ELECTRONIC DELIVERY OF COMMENTS AND NOTICES.

Individuals may file a written request to receive copies of public notices provided for under these Local Guidelines or the State CEQA Guidelines. The requestor may elect to receive these notices via email rather than regular mail. Notices sent by email are deemed delivered when the staff person sending the email sends it to the last email address provided by the requestor to the City. Any request to receive public notices shall be in writing and shall be renewed annually.

Individuals may also submit comments on the CEQA documentation for a project via email. Comments submitted via email shall be treated as written comments for all purposes. Comments sent to the City via email are deemed received when they actually arrive in an email account of a staff person who has been designated or identified as the point of contact for a particular project.

The City must also post certain environmental documents (such as Draft and Final Environmental Impact Reports, Draft Negative Declarations and Draft Mitigated Negative Declarations) and CEQA notices (such as Notices of Preparation, Notices of Availability, Notices of Intent to Adopt a Negative Declaration, Notices of Exemption, and Notices of Determination) on its website, if any.

(Reference: Pub. Resources Code, §§ 21082.1, 21091(d)(3), 21092.2.)

1.09 THE CITY MAY CHARGE REASONABLE FEES FOR REPRODUCING ENVIRONMENTAL DOCUMENTS.

A public agency may charge and collect a reasonable fee from members of the public that request a copy of an environmental document, so long as the fee does not exceed the cost of reproduction. The kinds of "environmental documents" that CEQA specifically allows public agencies to seek reimbursement for include: initial studies, negative declarations, mitigated negative declarations, draft and final EIRs, and documents prepared as a substitute for an EIR, negative declaration, or mitigated negative declaration.

The City shall make CEQA-related documents (e.g., Negative Declarations, Mitigated Negative Declarations, Draft EIRs, Final EIRs, and notices relating to these documents) available to the public-at-large on its website. Requests for documents made pursuant to the California Public Records Act must comply with the Government Code. (See, for example, Government Code section 7922.570 for information regarding providing documents in electronic format.)

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1.10 TIME OF PREPARATION

Before granting any approval of a non-exempt project subject to CEQA, the Lead Agency or Responsible Agency shall consider either (1) a Final EIR, (2) a Negative Declaration, (3) a Mitigated Negative Declaration, or (4) another document authorized by the State CEQA Guidelines to be used in the place of an EIR or Negative Declaration (e.g., an Addendum, a Supplemental EIR, a Subsequent EIR, etc.).

Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs, Negative Declarations, and Mitigated Negative Declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.

With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project.

To implement the above principles, the City shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, the City shall not:

(A) Formally make a decision to proceed with the use of a site for facilities which would require CEQA review, regardless of whether the City has made any final purchase of the site for these facilities, except that the City may designate a preferred site for CEQA review and may enter into land acquisition agreements when the City has conditioned its future use of the site on CEQA compliance.

(B) Otherwise take any action that gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.

With private projects, the City shall encourage the project proponent to incorporate environmental considerations into project conceptualization, design, and planning at the earliest feasible time.

While mere interest in, or inclination to support, a project does not constitute approval, a public agency entering into preliminary agreements regarding a project prior to approval shall not, as a practical matter, commit the agency to the project. For example, the City shall not grant any vested development entitlements prior to compliance with CEQA. Further, any such pre-approval agreement should, for example:

(A) Condition the agreement on compliance with CEQA;
(B) Not bind any party, or commit any party, to a definite course of action prior to CEQA compliance;

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(C) Not restrict the Lead Agency from considering any feasible mitigation measures and alternatives, including the "no project" alternative; and

(D) Not restrict the Lead Agency from denying the project.

The City's environmental document preparation and review should be coordinated in a timely fashion with the City's existing planning, review, and project approval processes. These procedures, to the maximum extent feasible, are to run concurrently, not consecutively.

(See State CEQA Guidelines, § 15004; *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.)

1.11 STATE AGENCY FURLOUGHS.

Due to budget concerns, the State may institute mandatory furlough days for state government agencies. Local agencies may also change their operating hours.

Because state and local agencies may enact furloughs that limit their operating hours, if the City has time-sensitive materials or needs to consult with a state agency, the City should check with the applicable state agency office or with the City's attorney to ensure compliance with all applicable deadlines.

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2. LEAD AND RESPONSIBLE AGENCIES

2.01 LEAD AGENCY PRINCIPLE.

The City will be the Lead Agency if it will have principal responsibility for carrying out or approving a project. Where a project is to be carried out or approved by more than one public agency, only one agency shall be responsible for the preparation of environmental documents. This agency shall be called the Lead Agency.

(Reference: State CEQA Guidelines, §§ 15050, 15367.)

2.02 SELECTION OF LEAD AGENCY.

Where two or more public agencies will be involved with a project, the Lead Agency shall be designated according to the following criteria:

(a) If the project will be carried out by a public agency, that agency shall be the Lead Agency even if the project will be located within the jurisdiction of another public agency; or

(b) If the project will be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising and approving the project as a whole.

The Lead Agency will normally be the agency with general governmental powers, rather than an agency with a single or limited purpose. (For example, a city that will provide a public service or utility to the project serves a limited purpose.) If two or more agencies meet this criteria equally, the agency that acts first on the project will normally be the Lead Agency.

If two or more public agencies have a substantial claim to be the Lead Agency under either (a) or (b), they may designate one agency as the Lead Agency by agreement. An agreement may also provide for cooperative efforts by contract, joint exercise of powers, or similar devices. If the agencies cannot agree which agency should be the Lead Agency for preparing the environmental document, any of the disputing public agencies or the project applicant may submit the dispute to the Office of Land Use and Climate Innovation ("LCI"), formerly Office of Planning and Research. Within 21 days of receiving the request, the LCI will designate the Lead Agency. The Office of Land Use and Climate Innovation shall not designate a Lead Agency in the absence of a dispute. A "dispute" means a contested, active difference of opinion between two or more public agencies as to which of those agencies shall prepare any necessary environmental document. A dispute exists when each of those agencies claims that it either has or does not have the obligation to prepare that environmental document.

(Reference: State CEQA Guidelines, § 15051.)

2.03 DUTIES OF A LEAD AGENCY.

As a Lead Agency, the City shall decide whether a Negative Declaration, Mitigated Negative Declaration or an EIR will be required for a project and shall prepare, or cause to be prepared, and consider the document before making its decision on whether and how to approve

the project. The documents may be prepared by Staff or by private consultants pursuant to a contract with the City. However, the City shall independently review and analyze all draft and final EIRs or Negative Declarations prepared for a project and shall find that the EIR or Negative Declaration reflects the independent judgment of the City prior to approval of the document. If a Draft EIR or Final EIR is prepared under a contract with the City, the contract must be executed within forty-five (45) days from the date on which the City sends a Notice of Preparation. The City, however, may take longer to execute the contract if the project applicant and the City mutually agree to an extension of the 45-day time period. (Pub. Resources Code, § 21151.5; see also Local Guidelines Section 7.02.)

During the process of preparing an EIR, the City, as Lead Agency, shall have the following duties:

(a) If a California Native American tribe has requested consultation, within 14 days after determining that an application for a project is complete or a decision to undertake a project, the City shall begin consultation with the California Native American tribes (see Local Guidelines Section 7.07);
(b) Immediately after deciding that an EIR is required for a project, the City shall send to the Office of Land Use and Climate Innovation and each Responsible Agency a Notice of Preparation (Form "G") stating that an EIR will be prepared (see Local Guidelines Section 7.03);
(c) Prior to release of an EIR, if the California Native American tribe that is culturally affiliated with the geographic area of a project requests in writing to be informed of any proposed project, the City shall begin consultation with the tribe consistent with California law and Local Guidelines Section 7.07;
(d) The City shall prepare or cause to be prepared the Draft EIR for the project (see Local Guidelines Sections 7.06 and 7.18);
(e) Once the Draft EIR is completed, the City shall file a Notice of Completion (Form "H") with the Office of Land Use and Climate Innovation (see Local Guidelines Section 7.25);
(f) The City shall consult with state, federal and local agencies that exercise authority over resources that may be affected by the project for their comments on the completed Draft EIR (see, e.g., Local Guidelines Sections 5.02, 5.16, Section 7.26);
(g) The City shall provide public notice of the availability of a Draft EIR (Form "K") at the same time that it sends a Notice of Completion to the Office of Land Use and Climate Innovation (see Local Guidelines Section 7.25);
(h) The City shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare or cause to be prepared a written response to all comments that raise significant environmental issues and that were timely received during the public comment period. A written response must be provided to all public agencies who commented on the project during the public review period at least ten (10) days prior to certifying an EIR (see Local Guidelines Section 7.30);
(i) The City shall prepare or cause to be prepared a Final EIR before approving the project (see Local Guidelines Section 7.31);
(j) The City shall certify that the Final EIR has been completed in compliance with CEQA and has been reviewed by the City Council (see Local Guidelines Section 7.33); and

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(k) The City shall include in the Final EIR any comments received from a Responsible Agency on the Notice of Preparation or the Draft EIR (see Local Guidelines Sections 2.07, 7.30 and 7.31).

2.04 CEQA DETERMINATIONS MADE BY NON-ELECTED BODY; PROCEDURE TO APPEAL SUCH DETERMINATIONS.

As Lead Agency, the City may charge a non-elected decisionmaking body with the responsibility of making a finding of exemption or adopting, certifying or authorizing environmental documents. Any such determination, however, shall be subject to the City's procedures allowing for the appeal of the CEQA determination of any non-elected body to the City Council. In the absence of a procedure governing such appeal, any CEQA determination made by a non-elected decisionmaker shall be appealable to the City Council within ten (10) days of the non-elected decisionmaker's determination. If the non-elected decisionmaker's CEQA determination is not timely appealed as set forth herein, the non-elected decisionmaker's determination shall be final.

In the event the City Council has delegated authority to a subsidiary board or official to approve a project, the City hereby delegates to that subsidiary board or official the authority to make all necessary CEQA determinations, including whether an EIR, Negative Declaration, Mitigated Negative Declaration or exemption shall be required for any project. A subsidiary board or official's CEQA determination shall be subject to appeal as set forth above.

(Reference: State CEQA Guidelines, §§ 15061(e), 15074(f), 15090(b).)

2.05 PROJECTS RELATING TO DEVELOPMENT OF HAZARDOUS WASTE AND OTHER SITES.

An applicant for a development project must submit a signed statement to the City, as Lead Agency, stating whether the project and any alternatives are located on a site that is included in any list compiled by the Secretary for Environmental Protection of the California Environmental Protection Agency ("California EPA") listing hazardous waste sites and other specified sites located in the City's boundaries. The applicant's statement must contain the following information:

(a) The applicant's name, address, and phone number;
(b) Address of site, and local agency (city/county);
(c) Assessor's book, page, and parcel number; and
(d) The list which includes the site, identification number, and date of list.

Before accepting as complete an application for any development project as defined in Local Guidelines Section 11.16, the City, as Lead Agency, shall consult lists compiled by the Secretary for Environmental Protection of the California EPA pursuant to Government Code section 65962.5 listing hazardous waste sites and other specified sites located in the City's boundaries. When acting as Lead Agency, the City shall notify an applicant for a development project if the project site is located on such a list and not already identified. In the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (see Local Guidelines Section 6.04) or the Notice of Preparation of Draft EIR (see Local Guidelines Section 7.03), the City shall

specify the California EPA list, if any, that includes the project site, and shall provide the information contained in the applicant's statement.

(Reference: Gov. Code, § 65962.5.)

2.06 RESPONSIBLE AGENCY PRINCIPLE.

When a project is to be carried out or approved by more than one public agency, all public agencies other than the Lead Agency that have discretionary approval power over the project shall be identified as Responsible Agencies.

2.07 DUTIES OF A RESPONSIBLE AGENCY.

When it is identified as a Responsible Agency, the City shall consider the environmental documents prepared or caused to be prepared by the Lead Agency and reach its own conclusions on whether and how to approve the project involved. The City shall also both respond to consultation and attend meetings as requested by the Lead Agency to assist the Lead Agency in preparing adequate environmental documents. The City should also review and comment on Draft EIRs, Negative Declarations, and Mitigated Negative Declarations. Comments shall be limited to those project activities that are within the City's area of expertise or are required to be carried out or approved by the City or are subject to the City's powers.

As a Responsible Agency, the City may identify significant environmental effects of a project for which mitigation is necessary. As a Responsible Agency, the City may submit to the Lead Agency proposed mitigation measures that would address those significant environmental effects. If mitigation measures are required, the City should submit to the Lead Agency complete and detailed performance objectives for such mitigation measures that would address the significant environmental effects identified, or refer the Lead Agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the Lead Agency by the City, when acting as a Responsible Agency, shall be limited to measures that mitigate impacts to resources that are within the City's authority. For private projects, the City, as a Responsible Agency, may require the project proponent to provide such information as may be required and to reimburse the City for all costs incurred by it in reporting to the Lead Agency.

(Reference: State CEQA Guidelines, § 15096.)

2.08 RESPONSE TO NOTICE OF PREPARATION BY RESPONSIBLE AGENCIES.

Within thirty (30) days of receipt of a Notice of Preparation of an EIR, the City, as a Responsible Agency, shall specify to the Lead Agency the scope and content of the environmental information related to the City's area of statutory responsibility in connection with the proposed project. At a minimum, the response shall identify the significant environmental issues and possible alternatives and mitigation that the City, as a Responsible Agency, will need to have explored in the Draft EIR. Such information shall be specified in writing, shall be as specific as possible, and shall be communicated to the Lead Agency, by certified mail, email, or any other method of transmittal that provides it with a record that the response was received. The Lead Agency shall incorporate this information into the EIR.

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(Reference: Pub. Resources Code, § 21080.4; State CEQA Guidelines, § 15103.)

2.09 USE OF FINAL EIR OR NEGATIVE DECLARATION BY RESPONSIBLE AGENCIES.

The City, as a Responsible Agency, shall consider the Lead Agency's Final EIR or Negative Declaration before acting upon or approving a proposed project. As a Responsible Agency, the City must independently review and consider the adequacy of the Lead Agency's environmental documents prior to approving any portion of the proposed project. In certain instances, the City, in its role as a Responsible Agency, may require that a Subsequent EIR or a Supplemental EIR be prepared to fully address those aspects of the project over which the City has approval authority. Mitigation measures and alternatives deemed feasible and relevant to the City's role in carrying out the project shall be adopted. Findings that are relevant to the City's role as a Responsible Agency shall be made. After the City decides to approve or carry out part of a project for which an EIR or negative declaration has previously been prepared by the Lead Agency, the City, as Responsible Agency, should file a Notice of Determination with the County Clerk within five (5) days of approval, but need not state that the Lead Agency's EIR or Negative Declaration complies with CEQA. The City, as Responsible Agency, should state that it considered the EIR or Negative Declaration as prepared by a Lead Agency.

(Reference: State CEQA Guidelines, § 15096.)

2.10 SHIFT IN LEAD AGENCY RESPONSIBILITIES.

The City, as a Responsible Agency, shall assume the role of the Lead Agency if any one of the following three conditions is met:

(a) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency;

(b) The Lead Agency prepared environmental documents for the project, and all of the following conditions apply:

  (1) A Subsequent or Supplemental EIR is required;

  (2) The Lead Agency has granted a final approval for the project; and

  (3) The statute of limitations has expired for a challenge to the action of the appropriate Lead Agency; or

(c) The Lead Agency prepared inadequate environmental documents without providing public notice of a Negative Declaration or sending Notice of Preparation of an EIR to Responsible Agencies and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(Reference: State CEQA Guidelines, § 15052.)

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3. ACTIVITIES EXEMPT FROM CEQA

3.01 ACTIONS SUBJECT TO CEQA.

CEQA applies to discretionary projects proposed to be carried out or approved by public agencies such as the City. If the proposed activity does not come within the definition of "project" contained in Local Guidelines Section 11.58, it is not subject to environmental review under CEQA.

The term "project," as defined by CEQA, does not include:

(a) Proposals for legislation to be enacted by the State Legislature;
(b) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, and general policy and procedure making (except as provided in Local Guidelines Section 11.58);
(c) The submittal of proposals to a vote of the people in response to a petition drive initiated by voters, or the enactment of a qualified voter-sponsored initiative under California Constitution Art. II, Section 11(a) and Election Code section 9214;
(d) The creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project that may have a potentially significant physical impact on the environment. Government funding mechanisms may include, but are not limited to, assessment districts and community facilities districts;
(e) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment; and
(f) Activities that do not result in a direct or reasonably foreseeable indirect physical change in the environment.

(Reference: State CEQA Guidelines, §§ 15060(c), 15378.)

3.02 MINISTERIAL ACTIONS.

Ministerial actions are not subject to CEQA review. A ministerial action is one that is approved or denied by a decision that a public official or a public agency makes that involves only the use of fixed standards or objective measurements without personal judgment or discretion.

When a project involves an approval that contains elements of both a ministerial and discretionary nature, the project will be deemed to be discretionary and subject to the requirements of CEQA. The decision whether the approval of a proposed project or activity is ministerial in nature may involve or require, to some extent, interpretation of the language of the legal mandate, and should be made on a case-by-case basis. The following is a non-exclusive list of examples of ministerial activities:

(a) Issuance of business licenses;
(b) Approval of final subdivision maps and final parcel maps;
(c) Approval of individual utility service connections and disconnections;
(d) Issuance of licenses;
(e) Issuance of a permit to do street work;

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(f) Issuance of building permits where the Lead Agency does not retain significant discretionary power to modify or shape the project; and

(g) Until January 1, 2024, approval of an application to install an emergency standby generator to serve a macro cell tower where conditions set forth in Government Code section 65850.75 are met.

(Reference: State CEQA Guidelines, § 15268.)

3.03 EXEMPTIONS IN GENERAL.

CEQA and the State CEQA Guidelines exempt certain activities and provide that local agencies should further identify and describe certain exemptions. The requirements of CEQA and the obligation to prepare an EIR, Negative Declaration, or Mitigated Negative Declaration generally do not apply to the exempt activities that are set forth in CEQA, the State CEQA Guidelines, and Chapter 3 of these Local Guidelines.

(Reference: State CEQA Guidelines, §§ 15260 – 15332.)

3.04 NOTICE OF EXEMPTION.

After approval of an exempt project, a "Notice of Exemption" (Form "A") may be filed by the City or its representatives with the County Clerk of each county in which the activity will be located. A Notice of Exemption must be filed electronically with the County Clerk if that option is offered by the County Clerk. When the Lead Agency files a Notice of Exemption with the County Clerk, it must also file the Notice of Exemption with the State Clearinghouse via the Office of Land Use and Climate Innovation's CEQASubmit portal at https://ceqasubmit.lci.ca.gov, link effective as of April 8, 2025. After filing, the City must additionally post the Notice of Exemption on the City's website, if any. The City is generally not required to file a Notice of Exemption after approving a project that it finds exempt from CEQA, though there are circumstances where a Notice of Exemption must be filed. Please see Local Guidelines Section 3.12 for certain circumstances in which the Lead Agency is required to file a Notice of Exemption.

If the Lead Agency exempts an agricultural housing, affordable housing, or residential infill project under State CEQA Guidelines sections 15193, 15194 or 15195 and approves or determines to carry out that project, it must also file a notice with the Office of Land Use and Climate Innovation identifying the exemption.

The filing of a Notice of Exemption, when appropriate, is recommended for City actions because it shortens the statute of limitations to challenge the City's exemption determination under CEQA from 180 days to 35 days. The County Clerk must post a Notice of Exemption within twenty-four (24) hours of receipt, and the Notice must remain posted for thirty (30) days. The 30-day posting requirement excludes the first day of posting and includes the last day of posting. On the 30th day, the Notice of Exemption must be posted for the entire day. Although no California Department of Fish and Wildlife ("DFW") filing fee is applicable to exempt projects, most counties customarily charge a documentary handling fee to pay for record keeping on behalf of the DFW. Refer to the Index in the County Clerk Memo to determine if such a fee will be required for the project.

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The Notice of Exemption must, among other things, identify the person undertaking the project, including any person undertaking an activity that receives financial assistance from the City as part of the project or the person receiving a lease, permit, license, certificate, or other entitlement for use from the City as part of the project. Certain counties require the name and address of an applicant to be included in the "Project Applicant" box of the Notice of Exemption, even when the only project proponent is the City; in these counties, if the City is the only project proponent, the City's name and address should be provided in the "Project Applicant" box of the Notice of Exemption. Check the county's requirements before submitting the Notice of Exemption for filing and posting.

The Notice of Exemption may be filed by the project applicant, rather than the Lead Agency, in certain circumstances. Specifically, the Lead Agency may direct the project applicant to file the Notice of Exemption where the activity that the Lead Agency has determined is exempt from CEQA either:

(a) is undertaken by a *person* (not a public agency) and is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; or

(b) involves the issuance to a *person* (not a public agency) of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(See Public Resources Code, §§ 21065(b)-(c), 21152). Where the Notice of Exemption is filed by a project applicant rather than the Lead Agency, the applicant must attach a Certificate of Determination to the Notice of Exemption to be filed. The Certificate of Determination may be in the form of a certified copy of an existing document or record of the Lead Agency. Alternatively, the Lead Agency may prepare a Certificate of Determination (see Form "B") stating that the activity is exempt from CEQA, and the Lead Agency may provide the Certificate of Determination to the applicant. The applicant must attach the Certificate of Determination to the Notice of Exemption to be filed.

The filing of a Notice of Exemption, when appropriate, is recommended for City actions because it starts a 35-day statute of limitations on legal challenges to the City's determination that the activity is exempt from CEQA. If a Notice of Exemption is not filed, a 180-day statute of limitations will apply. Please see Local Guidelines Section 3.12 for certain circumstances in which the Lead Agency is required to file a Notice of Exemption.

When a request is made for a copy of the Notice prior to the date on which the City determines the project is exempt, the Notice must be mailed, first class postage prepaid, within five (5) days after the City's determination. If such a request is made following the City's determination, then the copy should be mailed in the same manner as soon as possible.

(Reference: Pub. Resources Code, § 21152; State CEQA Guidelines, § 15062.)

3.05 DISAPPROVED PROJECTS.

CEQA does not apply to projects that the Lead Agency rejects or disapproves.

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Even if a project for which an EIR, Negative Declaration, or Mitigated Negative Declaration has been prepared is ultimately disapproved, the project applicant shall not be relieved of its obligation to pay the costs incurred to prepare the EIR, Negative Declaration, or Mitigated Negative Declaration for the project.

(Reference: State CEQA Guidelines, §§ 15061(b)(4), 15270.)

3.06 PROJECTS WITH NO POSSIBILITY OF SIGNIFICANT EFFECT.

Where it can be seen with absolute certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA.

3.07 EMERGENCY PROJECTS.

The following types of emergency projects are exempt from CEQA (the term "emergency" is defined in Local Guidelines Section 11.20):

(a) Work in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter a historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of the Public Resources Code.

(b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare. Emergency repairs include those that require a reasonable amount of planning to address an anticipated emergency.

(c) Projects necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term, but this exclusion does not apply (i) if the anticipated period of time to conduct an environmental review of such a long-term project would create a risk to public health, safety, or welfare, or (ii) if activities (such as fire or catastrophic risk mitigation or modifications to improve facility integrity) are proposed for existing facilities in response to an emergency at a similar existing facility.

(d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. Highway shall have the same meaning as defined in Section 360 of the Vehicle Code. This exemption does not apply to highways designated as official state scenic highways, nor to any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(e) Seismic work on highways and bridges pursuant to Streets and Highways Code section 180.2.

(Reference: State CEQA Guidelines, § 15269.)

3.08 FEASIBILITY AND PLANNING STUDIES.

A project that involves only feasibility or planning studies for possible future actions which the City has not yet approved, adopted or funded is exempt from CEQA.

(Reference: State CEQA Guidelines, § 15262.)

3.09 RATES, TOLLS, FARES, AND CHARGES.

The establishment, modification, structuring, restructuring or approval of rates, tolls, fares, or other charges by the City that the City finds are for one or more of the purposes listed below are exempt from CEQA.

(a) Meeting operating expenses, including employee wage rates and fringe benefits;
(b) Purchasing or leasing supplies, equipment or materials;
(c) Meeting financial reserve needs and requirements; or
(d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

When the City determines that one of the aforementioned activities pertaining to rates, tolls, fares, or charges is exempt from the requirements of CEQA, it shall incorporate written findings setting forth the specific basis for the claim of exemption in the record of any proceeding in which such an exemption is claimed.

(Reference: State CEQA Guidelines, § 15273.)

3.10 PIPELINES WITHIN A PUBLIC RIGHT-OF-WAY AND LESS THAN ONE MILE IN LENGTH.

Projects that are for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline and that are:

(a) in a public street or highway or any other public right-of-way; and
(b) less than one mile in length

shall be exempt from CEQA requirements.

“Pipeline” includes subsurface facilities but does not include any surface facility related to the operation of the underground facility.

(Reference: Public Resources Code, § 21080.21.)

3.11 PIPELINES OF LESS THAN EIGHT MILES IN LENGTH.

Projects that are for the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing pipeline, or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline shall be exempt from CEQA requirements if all of the following conditions are met:

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(a) The project is less than eight miles in length.
(b) Notwithstanding the project length, actual construction and excavation activities undertaken to achieve the maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing pipeline are not undertaken over a length of more than one-half mile at any one time.
(c) The project consists of a section of pipeline that is not less than eight miles from any section of pipeline that has been subject to an exemption pursuant to CEQA in the past 12 months.
(d) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials, and, to the extent not otherwise expressly required by law, the party undertaking the project immediately informs the lead agency of the discovery of contaminated soil.
(e) To the extent not otherwise expressly required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if determined to be necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project.
(f) Project activities are undertaken within an existing right-of-way and the right-of-way is restored to its condition prior to the project.
(g) The project applicant agrees to comply with all conditions otherwise authorized by law, imposed by the city or county planning department as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and to otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and other applicable state laws, and with all applicable federal laws.

If a project meets all of the requirements for this exemption, the person undertaking the project shall do all of the following:

(a) Notify, in writing, any affected public agency, including, but not limited to, any public agency having permit, land use, environmental, public health protection, or emergency response authority of this exemption.
(b) Provide notice to the public in the affected area in a manner consistent with paragraph (3) of Public Resources Code section 21092(b).
(c) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.
(d) Comply with all conditions otherwise authorized by law, imposed by the city or county planning department as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and other applicable state laws, and with all applicable federal laws.

This exemption does not apply to a project in which the diameter of the pipeline is increased or to a project undertaken within the boundaries of an oil refinery.

For purposes of this exemption, the following definitions apply:

(a) "Pipeline" includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in the state. "Pipeline" does not include the following:

(1) An interstate pipeline subject to Part 195 of Title 49 of the Code of Federal Regulations.
(2) A pipeline for the transportation of a hazardous liquid substance in a gaseous state.
(3) A pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.
(4) Transportation of petroleum in onshore gathering lines located in rural areas.
(5) A pipeline for the transportation of a hazardous liquid substance offshore located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.
(6) Transportation of a hazardous liquid by a flow line.
(7) A pipeline for the transportation of a hazardous liquid substance through an onshore production, refining, or manufacturing facility, including a storage or in plant piping system associated with that facility.
(8) Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between those modes of transportation.

3.12 CERTAIN RESIDENTIAL HOUSING PROJECTS.

CEQA does not apply to the construction, conversion, or use of residential housing if the project meets all of the general requirements described in Section A below and satisfies the specific requirements for any one of the following three categories: (1) agricultural housing (Section B below), (2) affordable housing projects in urbanized areas (Section C below), or (3) affordable housing projects near major transit stops (Section D below).

A. General Requirements. The construction, conversion, or use of residential housing units affordable to low-income households (as defined in Local Guidelines Section 11.36) located on an infill site in an urbanized area is exempt from CEQA if all of the following general requirements are satisfied:

(1) The project is consistent with:

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(a) Any applicable general plan, specific plan, or local coastal program, including any mitigation measures required by such plan or program, as that plan or program existed on the date that the application was deemed complete; and

(b) Any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete. However, the project may be inconsistent with zoning if the zoning is inconsistent with the general plan and the project site has not been rezoned to conform to the general plan;

(2) Community level environmental review has been adopted or certified;

(3) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees;

(4) The project site meets all of the following four criteria relating to biological resources:

(a) The project site does not contain wetlands;

(b) The project site does not have any value as a wildlife habitat;

(c) The project does not harm any species protected by the federal Endangered Species Act of 1973, the Native Plant Protection Act, or the California Endangered Species Act; and

(d) The project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete;

(5) The site is not included on any list of facilities and sites compiled pursuant to Government Code section 65962.5;

(6) The project site is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps must have been taken in response to the results of this assessment:

(a) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements; or

(b) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements;

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(7) The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code (see Local Guidelines Section 11.28);

(8) The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection; unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard;

(9) The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties;

(10) The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency;

(11) Either the project site is not within a delineated earthquake fault zone, or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard;

(12) Either the project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood;

(13) The project site is not located on developed open space;

(14) The project site is not located within the boundaries of a state conservancy;

(15) The project site has not been divided into smaller projects to qualify for one or more of the exemptions for affordable housing, agricultural housing, or residential infill housing projects found in the subsequent sections; and

(16) The project meets the requirements set forth in either Public Resources Code sections 21159.22, 21159.23 or 21159.24.

(Reference: State CEQA Guidelines, § 15192.)

B. Specific Requirements for Agricultural Housing. CEQA does not apply to the construction, conversion, or use of residential housing for agricultural employees that meets all of the general requirements described above in Section A and meets the following additional criteria:

(1) The project either:

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(a) Is affordable to lower income households, lacks public financial assistance, and the developer has provided sufficient legal commitments to ensure the continued availability and use of the housing units for lower income households for a period of at least fifteen (15) years; or

(b) If public financial assistance exists for the project, then the project must be housing for very low-, low-, or moderate-income households and the developer of the project has provided sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households for a period of at least fifteen (15) years;

(2) The project site is adjacent on at least two sides to land that has been developed and the project consists of not more than forty-five (45) units or provides dormitories, barracks, or other group-living facilities for a total of forty-five (45) or fewer agricultural employees, and either:

(a) The project site is within incorporated city limits or within a census-defined place with a minimum population density of at least five thousand (5,000) persons per square mile; or

(b) The project site is within incorporated city limits or within a census-defined place and the minimum population density of the census-defined place is at least one thousand (1,000) persons per square mile, unless the Lead Agency determines that there is a reasonable possibility that the project, if completed, would have a significant effect on the environment due to unusual circumstances or that the cumulative effects of successive projects of the same type in the same area would, over time, be significant;

(3) If the project is located on a site zoned for general agricultural use, it must consist of twenty (20) or fewer units, or, if the housing consists of dormitories, barracks, or other group-living facilities, the project must not provide housing for more than twenty (20) agricultural employees; and

(4) The project is not more than two (2) acres in area if the project site is located in an area with a population density of at least one thousand (1,000) persons per square mile, and is not more than five (5) acres in area for all other project sites.

(Reference: Pub. Resources Code, §§ 21084, 21159.22; State CEQA Guidelines, §§ 15192, 15193.)

C. Specific Requirements for Affordable Housing Projects in Urbanized Areas. CEQA does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of one hundred (100) or fewer

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units that are affordable to low-income households if all of the general requirements described in Section A above are satisfied and the following additional criteria are also met:

(1) The developer of the project provides sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least thirty (30) years, at monthly housing costs deemed to be "affordable rent" for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code;

(2) The project site meets one of the following conditions:

(a) Has been previously developed for qualified urban uses;
(b) Is immediately adjacent to parcels that are developed with qualified urban uses; or
(c) At least 75% of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25% of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, the site has not been developed for urban uses and no parcel within the site has been created within ten (10) years prior to the proposed development of the site;

(3) The project site is not more than five (5) acres in area; and

(4) The project site meets one of the following requirements regarding population density:

(a) The project site is within an urbanized area or within a census-defined place with a population density of at least five thousand (5,000) persons per square mile;
(b) If the project consists of fifty (50) or fewer units, the project site is within an incorporated city with a population density of at least twenty-five hundred (2,500) persons per square mile and a total population of at least twenty-five thousand (25,000) persons; or
(c) The project site is within either an incorporated city or a census-defined place with a population density of one thousand (1,000) persons per square mile, unless there is a reasonable possibility that the project would have a significant effect on the environment due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

(Reference: Pub. Resources Code, §§ 21083, 21159.23; State CEQA Guidelines, § 15194.)

D. Specific Requirements for Affordable Housing Projects Near Major Transit Stops.

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(a) Except as provided in subdivision (b), CEQA does not apply to a project if all of the following criteria are met:

1. The project is a residential project on an infill site.

2. The project is located within an urbanized area.

3. The project satisfies the criteria of Public Resources Code section 21159.21, described in Section A above.

4. Within five years of the date that the application for the project is deemed complete pursuant to Section 65943 of the Government Code, community-level environmental review was certified or adopted.

5. The site of the project is not more than four acres in total area.

6. The project does not contain more than 100 residential units.

7. Either of the following criteria (subdivision (a) or subdivision (b)) are met:

   a. (1) At least 10 percent of the housing is sold to families of moderate income, or not less than 10 percent of the housing is rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income; and

      (2) The project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low-, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of the subdivision (h) of Section 65589.5 of the Government Code.

   b. The project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph 7.a above.

8. The project is within one-half mile of a major transit stop.

9. The project does not include any single level building that exceeds 100,000 square feet.

10. The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of

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the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.

(b) Notwithstanding subdivision (a) above, the Exemption for Affordable Housing Projects near Major Transit Stops does not apply if any one of the following criteria is met:

1. There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances;
2. Substantial changes have occurred since community-level environmental review was adopted or certified with respect to the circumstances under which the project is being undertaken, and those changes are related to the project; or
3. New information regarding the circumstances under which the project is being undertaken has become available, and that new information is related to the project and was not known and could not have been known at the time of the community-level environmental review.

(c) If a project satisfies the criteria described above in Section 3.12D(a), but is not exempt from CEQA as a result of satisfying the criteria described in Section 3.12D(b), the analysis of the environmental effects of the project in the EIR or the negative declaration for the project shall be limited to an analysis of the project-specific effects of the project and any effects identified pursuant to Paragraph 2 or 3 of Section 3.12D(b), above.

(Reference: Pub. Resources Code, §§ 21083, 21159.24; State CEQA Guidelines, § 15195.)

E. Whenever the Lead Agency determines that a project is exempt from environmental review based on Public Resources Code sections 21159.22 [Section 3.12B of these Local Guidelines], 21159.23 [Section 3.12C of these Local Guidelines], or 21159.24 [Section 3.13D of these Local Guidelines], Staff and/or the proponent of the project shall file a Notice of Exemption with the Office of Land Use and Climate Innovation within five (5) working days after the approval of the project.

(Reference: State CEQA Guidelines, § 15196.)

3.13 MINOR ALTERATIONS TO FLUORIDATE WATER UTILITIES.

Minor alterations to water utilities made for the purpose of complying with the fluoridation requirements of Health and Safety Code sections 116410 and 116415 or regulations adopted thereunder are exempt from CEQA.

(Reference: State CEQA Guidelines, § 15282(m).)

3.14 BALLOT MEASURES.

The definition of project in the State CEQA Guidelines specifically excludes the submittal of proposals to a vote of the people of the state or of a particular community. This exemption does not apply to the public agency that sponsors the initiative. When a governing body makes a decision to put a measure on the ballot, that decision may be discretionary and therefore subject to CEQA. In contrast, the enactment of a qualified voter-sponsored initiative under California Constitution Art. II, Section 11(a) and Election Code section 9214 is not a project and therefore is not subject to CEQA review.

(Reference: Local Guidelines Section 3.01; State CEQA Guidelines, § 15378(b)(3).)

3.15 TRANSIT PRIORITY PROJECT.

Exemption: Transit Priority Projects (see Local Guidelines Section 11.75) that are consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a Sustainable Community Strategy or an alternative planning strategy may be exempt from CEQA. To qualify for the exemption, the decision-making body must hold a hearing and make findings that the project meets all of Public Resources Code section 21155.1's environmental, housing, and public safety conditions and requirements.

Streamlined Review: A Transit Priority Project that has incorporated all feasible mitigation measures, performance standards or criteria set forth in a prior environmental impact report, may be eligible for streamlined environmental review. For a complete description of the requirements for this streamlined review see Public Resources Code section 21155.2. Similarly, the environmental review for a residential or mixed use residential project may limit, or entirely omit, its discussion of growth-inducing impacts or impacts from traffic on global warming under certain limited circumstances. Note, however, that impacts from other sources of greenhouse gas emissions would still need to be analyzed. For complete requirements see Public Resources Code section 21159.28.

Note that neither the exemption nor the streamlined review will apply until: (1) the applicable Metropolitan Planning Organization prepares and adopts a Sustainable Communities Strategy or alternative planning strategy for the region; and (2) the California Air Resources Board has accepted the Metropolitan Planning Organization's determination that the Sustainable Communities Strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets adopted for the region.

(Reference: Pub. Resources Code, §§ 21155.1, 21151.2, 21159.28.)

3.16 CERTAIN INFILL PROJECTS

(a) (1) If an environmental impact report was certified for a planning level decision of the city or county, the application of CEQA to the approval of an infill project shall be limited to the effects on the environment that (A) are specific to the project or to the project site and were not addressed as significant effects in the prior environmental impact report or (B) substantial new information shows the effects will be more significant than described in the prior environmental

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impact report. The attached Form "S" shall be used for this determination. A lead agency's determination pursuant to this section shall be supported by substantial evidence.

(2) An effect of a project upon the environment shall not be considered a specific effect of the project or a significant effect that was not considered significant in a prior environmental impact report, or an effect that is more significant than was described in the prior environmental impact report if uniformly applicable development policies or standards adopted by the city, county, or the lead agency, would apply to the project and the lead agency makes a finding, based upon substantial evidence, that the development policies or standards will substantially mitigate that effect.

(b) If an infill project would result in significant effects that are specific to the project or the project site, or if the significant effects of the infill project were not addressed in the prior environmental impact report, or are more significant than the effects addressed in the prior environmental impact report, and if a mitigated negative declaration or a sustainable communities environmental assessment could not be otherwise adopted, an environmental impact report prepared for the project analyzing those effects shall be limited as follows:

(1) Alternative locations, densities, and building intensities to the project need not be considered.

(2) Growth inducing impacts of the project need not be considered.

(c) This section applies to an infill project that satisfies both of the following:

(1) The project satisfies any of the following:

A) Is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(B) Consists of a small walkable community project located in an area designated by a city for that purpose.

(C) Is located within the boundaries of a metropolitan planning organization that has not yet adopted a sustainable communities strategy or alternative planning strategy, and the project has a residential density of at least 20 units per acre or a floor area ratio of at least 0.75.

(2) Satisfies all applicable statewide performance standards contained in the guidelines adopted pursuant to Public Resources Code section 21094.5.5 (Form "R").

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(d) This section applies after the Secretary of the Natural Resources Agency adopts and certifies the guidelines establishing statewide standards pursuant to Public Resources Code section 21094.5.5.

(e) For the purposes of this section, the following terms mean the following:

(1) "Infill project" means a project that meets the following conditions:

(A) Consists of any one, or combination, of the following uses:

(i) Residential.

(ii) Retail or commercial, where no more than one-half of the project area is used for parking.

(iii) A transit station.

(iv) A school.

(v) A public office building.

(B) Is located within an urban area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(2) "Planning level decision" means the enactment or amendment of a general plan, community plan, specific plan, or zoning code.

(3) "Prior environmental impact report" means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents.

(4) "Small walkable community project" means a project that is in an incorporated city, which is not within the boundary of a metropolitan planning organization and that satisfies the following requirements:

(A) Has a project area of approximately one-quarter mile diameter of contiguous land completely within the existing incorporated boundaries of the city.

(B) Has a project area that includes a residential area adjacent to a retail downtown area.

(C) The project has a density of at least eight dwelling units per acre or a floor area ratio for retail or commercial use of not less than 0.50.

(5) "Urban area" includes either an incorporated city or an unincorporated area that is completely surrounded by one or more incorporated cities that meets both of the following criteria:

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(A) The population of the unincorporated area and the population of the surrounding incorporated cities equal a population of 100,000 or more.

(B) The population density of the unincorporated area is equal to, or greater than, the population density of the surrounding cities.

(Reference: Pub. Resources Code, § 21094.5.)

3.17 EXEMPTION FOR RESIDENTIAL OR MIXED-USE HOUSING PROJECTS

CEQA does not apply to residential or mixed-used housing projects, located in unincorporated areas of a county, that meet the requirements set forth below. For purposes of this section, "residential or mixed-use housing project" means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

This exemption shall apply to a residential or mixed-use housing project if all of the following conditions are met:

(1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

(2) (A)The public agency approving or carrying out the project determines, based upon substantial evidence, that the density of the residential portion of the project is not less than the greater of the following:

a. The average density of the residential properties that adjoin, or are separated only by an improved public right-of-way from, the perimeter of the project site, if any.

b. The average density of the residential properties within 1,500 feet of the project site.

c. Six dwelling units per acre.

(B) The residential portion of the project is a multifamily housing development that contains six or more residential units.

(3) The proposed development occurs within an unincorporated area of a county on a project site of no more than five acres substantially surrounded by qualified urban uses. "Substantially surrounded" means (1) at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses; and (2) the remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified.

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(4) The project site has no value as habitat for endangered, rare, or threatened species.

(5) Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality.

(6) The site can be adequately served by all required utilities and public services.

(7) The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

The exemption does not apply to the project if any of the following conditions exist: (1) the cumulative impact of successive projects of the same type in the same place over time is significant; (2) there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances; (3) the project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway; (4) the project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code; (5) the project may cause a substantial adverse change in the significance of a historical resource; or (6) the project may cause a substantial adverse impact to tribal cultural resources.

If the lead agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out the project, the lead agency shall file a notice of exemption with the Office of Land Use and Climate Innovation and with the county clerk in the county in which the project will be located.

This section shall remain in effect only until January 1, 2032, and as of that date is repealed.

(Reference: Pub. Resources Code, § 21159.25.)

3.18 EXEMPTION FOR INFILL PROJECTS IN TRANSIT PRIORITY AREAS

A residential or mixed-use project, or a project with a floor area ratio of at least 0.75 on commercially-zoned property, including any required subdivision or zoning approvals, is exempt from CEQA if the project satisfies the following criteria:

- The project is located within a transit priority area as defined in Section 11.74 below;
- The project is consistent with an applicable specific plan for which an environmental impact report was certified; and
- The project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board has accepted the determination that the sustainable communities strategy or the

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alternative planning strategy would achieve the applicable greenhouse gas emissions reduction targets.

Further environmental review shall be required for a project meeting the above criteria only if one of the events specified in Section 8.04 below occurs.

(Reference: State CEQA Guidelines, § 15182(b).)

3.19 EXEMPTION FOR RESIDENTIAL PROJECTS UNDERTAKEN PURSUANT TO A SPECIFIC PLAN

Where a public agency has prepared an EIR for a specific plan after January 1, 1980, a residential project undertaken pursuant to and in conformity with that specific plan is generally exempt from CEQA. Residential projects covered by this section include, but are not limited to, land subdivisions, zoning changes, and residential planned unit developments.

Further environmental review shall be required for a project meeting the above criteria only if, after the adoption of the specific plan, one of the events specified in Section 8.04 below occurs. In that circumstance, this exemption shall not apply until the city or county which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. The exemption provided by this section shall again be available to residential projects after the Lead Agency has filed a Notice of Determination on the specific plan as reconsidered by the subsequent EIR or supplement to the EIR.

(Reference: State CEQA Guidelines, § 15182(c).)

3.20 TRANSFER OF LAND FOR THE PRESERVATION OF NATURAL CONDITIONS

CEQA does not apply to the acquisition, sale, or other transfer of interest in land by the City for the purpose of fulfilling any of the following purposes: (1) preservation of natural conditions existing at the time of transfer, including plant and animal habitats, (2) restoration of natural conditions, including plant and animal habitats, (3) continuing agricultural use of the land; (4) prevention of encroachment of development into flood plains; (5) preservation of historical resources; or (6) preservation of open space or lands for park purposes. CEQA similarly does not apply to the granting or acceptance of funding by the City for the foregoing purposes.

The foregoing applies even if physical changes to the environment or changes in the use of the land are a reasonably foreseeable consequence of the acquisition, sale, or other transfer of the interests in land, or of the granting or acceptance of funding, provided that environmental review otherwise required by CEQA occurs before any project approval that would authorize physical changes being made to that land.

The City must file a Notice of Exemption with the State Clearinghouse and the County Clerk should it find a project exempt under this provision.

(Reference: Pub. Resources Code, § 21080.28.)

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3.21 TRANSIT PRIORITIZATION PROJECTS.

CEQA exempts the following projects when (i) the project is carried out by a local agency that is the lead agency for the project; (ii) the project does not induce single-occupancy vehicle trips, add additional highway lanes, widen highways, or add physical infrastructure or striping to highways except for minor modifications needed for efficient and safe movement of transit vehicles, bicycles, or high-occupancy vehicles, such as extended merging lanes, shoulder improvements, or improvements to the roadway within the existing right of way; (iii) the project does not include the addition of any auxiliary lanes; and (iv) the construction of the project shall not require the demolition of affordable housing units:

(1) Pedestrian and bicycle facilities—including bicycle parking, bicycle sharing facilities, and bikeways as defined in Section 890.4 of the Streets and Highways Code—that improve safety, access, or mobility, including new facilities, within the public right-of-way;

(2) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians within the public right-of-way;

(3) Transit prioritization projects, which are defined to mean any of the following transit project types on highways or in the public right-of-way:

(a) Signal and sign changes, such as signal coordination, signal timing modifications, signal modifications or the installation of traffic signs or new signals;

(b) The installation of wayside technology and onboard technology;

(c) The installation of ramp meters;

(d) The conversion to dedicated transit lanes, including transit queue jump or bypass lanes, shared turning lanes and turn restrictions, the narrowing of lanes to allow for dedicated transit lanes or transit reliability improvements, or the widening of existing transit travel lanes by removing or restricting street parking; and

(e) Transit stop access and safety improvements, including, but not limited to, the installation of transit bulbs and the installation of transit boarding islands.

(4) A project for the designation and conversion of general purpose lanes to high-occupancy vehicle lanes or bus-only lanes, or highway shoulders to part-time transit lanes, for use either during peak congestion hours or all day on highways with existing public transit service or where a public transit agency will be implementing public transit service as identified in a short range transit plan.

(5) A project for the institution or increase of bus rapid transit, bus, or light rail service, including the construction or rehabilitation of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission, near-zero emission, low oxide of nitrogen engine, compressed natural gas fuel, fuel cell, or

hybrid powertrain buses or light rail vehicles, on existing public rights-of-way or existing highway rights-of-way, whether or not the right-of-way is in use for public mass transit. The project shall be located on a site that is wholly within the boundaries of an urbanized area or urban cluster, as designated by the United State Census Bureau.

(6) A public project for the institution or increase of passenger rail service, other than light rail service eligible under paragraph (5), including the construction or rehabilitation of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission trains. The project shall be located entirely within an existing rail right-of-way or existing highway right-of-way, whether or not the right-of-way is in use for passenger rail transit.

(7) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, provided the project is carried out by a public transit agency that is subject to, and in compliance with, the State Air Resources Board's Innovative Clean Transit regulations (Article 4.3 (commencing with Section 2023) of Chapter 1 of Division 3 of Title 13 of the California Code of Regulations) and the project is located on property owned by the transit agency or within an existing public right-of-way.

A lead agency applying an exemption pursuant to this paragraph for hydrogen refueling infrastructure or facilities necessary to refuel or maintain zero-emission public transit buses, trains, or ferries shall hold a noticed public hearing and give notice of the meeting consistent with Public Resources Code section 21080.25(b)(6)(B).

(8) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project identified in paragraphs (1) to (6), inclusive.

(9) A project that consists exclusively of a combination of any of the components of a project identified in paragraphs (1) to (7), inclusive.

(10) A planning decision carried out by a local agency to reduce or eliminate minimum parking requirements or institute parking maximums, remove or restrict parking, or implement transportation demand management requirements or programs.

Additional conditions apply to a project otherwise exempt under this section if the project exceeds fifty million dollars ($50,000,000), as set forth in Public Resources Code section 21080.25(d)-(e).

Moreover, a project exempt under this section may be subject to certain labor requirements, including that the project be completed by a skilled and trained workforce, as set forth in Public Resources Code section 21080.25(f).

If the City determines that a project is not subject to CEQA pursuant to this section and approves that project, the City must file a Notice of Exemption with both the Office of Land Use and Climate Innovation and the County Clerk of the county in which the project is located.

This exemption shall remain in effect only until January 1, 2030, and as of that date it will be repealed. (Reference: Pub. Resources Code, § 21080.25.)

3.22 TRANSPORTATION PLANS, PEDESTRIAN PLANS, AND BICYCLE TRANSPORTATION PLANS.

CEQA does not apply to an active transportation plan, a pedestrian plan, or a bicycle transportation plan for restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles. An active transportation plan or pedestrian plan is encouraged to include the consideration of environmental factors, but that consideration does not inhibit or preclude the application of this section.

An individual project that is part of an active transportation plan or pedestrian plan remains subject to CEQA unless another exemption applies to that project.

Before determining that a project is exempt pursuant to this section, the Lead Agency must hold noticed public hearings in areas affected by the project to hear and respond to public comments. Publication of the notice must comply with Government Code section 6061 and be in a newspaper of general circulation in the area affected by the proposed project.

If the City determines that a project is not subject to CEQA pursuant to this section and approves that project, the City must file a Notice of Exemption with both the Office of Land Use and Climate Innovation and the County Clerk of the county in which the project is located.

For purposes of this section, the following definitions apply:

(1) "Active transportation plan" means a plan developed by a local jurisdiction that promotes and encourages people to choose walking, bicycling, or rolling through the creation of safe, comfortable, connected, and accessible walking, bicycling, or rolling networks, and encourages alternatives to single-occupancy vehicle trips.

(2) "Pedestrian plan" means a plan developed by a local jurisdiction that establishes a comprehensive, coordinated approach to improving pedestrian infrastructure and safety.

This exemption shall remain in effect only until January 1, 2030, and as of that date it will be repealed. (Reference: Pub. Resources Code, § 21080.20.)

3.23 WATER SYSTEM WELLS AND DOMESTIC WELL PROJECTS

CEQA does not apply to the construction, maintenance, repair, or replacement of a well or a domestic well that meets all of the following conditions:

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(1) The domestic well or water system to which the well is connected has been designated by the State Water Resources Control Board ("State Board") as high risk or medium risk in the State Board's drinking water needs assessment;

(2) The well project is designed to mitigate or prevent a failure of the well or the domestic well that would leave residents that rely on the well, the water system to which the well is connected, or the domestic well without an adequate supply of safe drinking water;

(3) The lead agency determines all of the following:

(a) The well project is not designed primarily to serve irrigation or future growth.

(b) The well project does not affect wetlands or sensitive habitats.

(c) Unusual circumstances do not exist that would cause the well project to have a significant effect on the environment.

(d) The well project is not located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(e) The well project does not have the potential to cause a substantial adverse change in the significance of a historical resource.

(f) The well project's construction impacts are fully mitigated consistent with applicable law.

(g) The cumulative impact of successive reasonably anticipated projects of the same type as the well project, in the same place, over time, is not significant.

Before determining that a well project is exempt pursuant to this section, a lead agency must contact the State Board to determine whether claiming the exemption under this section will affect the ability of the well project to receive federal financial assistance or federally capitalized financial assistance.

A lead agency that determines that a well project is exempt under this section must file a notice of exemption with both the Land Use and Climate Innovation and the County Clerk. The notice of exemption must explain whether the project is additionally exempt from CEQA under Public Resources Code section 21080 (e.g., whether it is a ministerial project, an emergency repair necessary to maintain service, or an action necessary to prevent or mitigate an emergency), Public Resources Code section 21080.47 (see Section 3.24 of these Local Guidelines, below), or under the Class 1 (Existing Facilities) or Class 2 (Replacement or Reconstruction) categorical exemptions (see Section 3.31 of these Local Guidelines, below). If none of the exemptions referenced in this paragraph apply to a project that is otherwise exempt under this section, the notice of exemption must explain why the exemptions referenced in this paragraph do not apply to the project.

For purposes of this section, the following definitions apply:

A "well" is defined as a wellhead that provides drinking water to a "water system."

A "domestic well" is defined as a groundwater well used to supply water for the domestic needs of an individual residence or a water system that is not a public water system and that has no more than four service connections.

A "water system" is defined to mean a "public water system" as that term is defined in Health and Safety Code section 116275(h) (i.e., a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year), a "state small water system" as that term is defined in Health and Safety Code section 116275(n) (i.e., a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year), or a tribal water system.

(Pub. Resources Code, § 21080.31 [in effect until January 1, 2028].)

3.24 ROUTINE MAINTENANCE OF STORMWATER FACILITIES

CEQA does not apply to routine maintenance of public stormwater facilities that are fully concrete or have a conveyance capacity of less than a 100-year storm event if all of the following conditions are met:

(1) The project does not increase the designed conveyance capacity of the stormwater facility.

(2) The project is undertaken or approved by a public agency that has adopted, by ordinance, procedures that apply to the project to minimize the impacts of construction equipment, debris, sediment, and other pollutants.

(3) The project is not likely to result in adverse impacts to tribal cultural resources.

Under this bill, if a nonelected decision making body of a city with a population of at least 1,000,000 determines that such a routine maintenance project is exempt from CEQA, that determination may not be appealed to the agency's elected decision making body.

This section will remain in effect until January 1, 2030, and as of that date, is repealed.

(Reference: Pub. Resources Code, § 21080.61.)

3.25 SMALL DISADVANTAGED COMMUNITY WATER SYSTEM AND STATE SMALL WATER SYSTEM.

CEQA does not apply to certain water infrastructure projects that primarily benefit a "small disadvantaged community water system" or a "state small water system," as these terms are

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defined in Public Resources Code section 21080.47. If certain labor requirements and other conditions are met as set forth in Public Resources Code section 21080.47, the installation, repair, or construction of the following for the benefit of a small disadvantaged community water system or state small water system is exempt from CEQA:

(1) Drinking water groundwater wells with a maximum flow rate of up to 250 gallons per minute;

(2) Drinking water treatment facilities with a footprint of less than 2,500 square feet that are not located in an environmentally sensitive area;

(3) Drinking water storage tanks with a capacity of up to 250,000 gallons;

(4) Booster pumps and hydropneumatic tanks;

(5) Pipelines of less than one mile in length in a road right-of-way or up to seven miles in length in a road right-of-way when the project is required to address threatened or current drinking water violations;

(6) Water services lines; and

(7) Minor drinking water system appurtenances, including, but not limited to, system and service meters, fire hydrants, water quality sampling stations, valves, air releases and vacuum break valves, emergency generators, backflow prevention devices, and appurtenance enclosures.

(Reference: Pub. Resources Code, § 21080.47.)

3.26 CONSERVATION AND RESTORATION OF CALIFORNIA NATIVE FISH AND WILDLIFE.

(a) CEQA does not apply to a project that is exclusively one of the following (though a project may exclusively be one of the following even if it has incidental public benefits, such as public access or recreation) and meets the criteria set forth in subdivision (b) of this section:

(1) A project to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend.

(2) A project to restore or provide habitat for California native fish and wildlife.

(b) This section does not apply to a project unless the project does both of the following:

(1) Results in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery; and

(2) Includes procedures and ongoing management for the protection of the environment.

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(c) This section does not apply to a project that includes construction activities, except for construction activities solely related to habitat restoration.

(d) The lead agency shall obtain the concurrence of the Director of Fish and Wildlife for the determinations required pursuant to subdivisions (a) through (c) above.

(e) Within 48 hours of making a determination that a project is exempt pursuant to this section, the lead agency shall file a Notice of Exemption with the Office of Land Use and Climate Innovation, and the Department of Fish and Wildlife must post the concurrence of the Director of Fish and Wildlife on the department's website.

This exemption is in effect until January 1, 2025. (Pub. Resources Code, § 21080.56.)

3.27 LINEAR BROADBAND DEPLOYMENT IN A RIGHT-OF-WAY.

(a) CEQA does not apply to a project that consists of linear broadband deployment in a right-of-way if the project meets all of the following conditions:

(1) The project is located in an area identified by the Public Utilities Commission as a component of the statewide open-access middle-mile broadband network pursuant to Section 11549.54 of the Government Code.

(2) The project is constructed along, or within 30 feet of, the right-of-way of any public road or highway.

(3) The project is either deployed underground where the surface area is restored to a condition existing before the project or placed aerially along an existing utility pole right-of-way.

(4) The project incorporates, as a condition of project approval, measures developed by the Public Utilities Commission or the Department of Transportation to address potential environmental impacts. At a minimum, the project shall be required to include monitors during construction activities and measures to avoid or address impacts to cultural and biological resources.

(5) The project applicant agrees to comply with all conditions otherwise authorized by law, imposed by the planning department of a city or county as part of a local agency permit process, that are required to mitigate potential impacts of the proposed project, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

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(b) If a project meets all of the requirements of subdivision (a), the project applicant shall do all of the following:

(1) Notify, in writing, any affected public agency, including, but not limited to, any public agency having permit, land use, environmental, public health protection, or emergency response authority, of the exemption of the project pursuant to this section.

(2) File a Notice of Exemption.

(3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.

(4) Comply with all conditions authorized by law imposed by the planning department of a city or county as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

(Pub. Resources Code, § 21080.51.)

3.28 NEEDLE AND SYRINGE EXCHANGE SERVICES.

The Legislature has authorized cities and counties meeting certain requirements to apply to the State Department of Public Health for authorization to provide hypodermic needle and syringe exchange services consistent with state standards in any location where the State Department of Public Health determines that the conditions exist for the rapid spread of human immunodeficiency virus (HIV), viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes. (Health and Safety Code, § 121349.) Needle and syringe exchange services application submissions, authorizations, and operations performed pursuant to Health and Safety Code section 121349 are exempt from review under CEQA. (Health and Safety Code, § 121349(h).)

3.29 REPRODUCTIVE SERVICES COMMUNITY CLINIC

CEQA does not apply to the approval of an application of a community clinic providing reproductive health services if the application meets objective planning standards and is subject to the ministerial review process set forth in Government Code section 65914.900. The following objective planning standards must be satisfied for the development project to qualify for the ministerial approval:

(1) the development must be on a parcel that is within a zone where office, retail, health care, or parking are a principally permitted use;

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(2) the development must be for a community clinic licensed pursuant to Section 1204 of the Health and Safety Code that provides reproductive health services as defined in subdivision (f) of Section 423.1 of the Penal Code;

(3) the development must comply with minimum construction standards of adequacy and safety for the physical plant of primary care clinics found in the Building Standards Code;

(4) the development must meet all of the local agency's objective design review standards;

(5) the development must not require the demolition of a historic structure;

(6) the development must not be located on a site described in paragraph (6) of subdivision (a) of Section 65913.4 of the Government Code;

(7) the project must not bet likely to result in adverse impacts to tribal cultural resources; and

(8) the development must not require the demolition of housing.

A local agency, within 60 calendar days of receiving an application pursuant to these provisions, must approve or deny the application subject to specified requirements, including that, among other things, if the local agency determines that the development is in conflict with any of the above-described standards, the local agency is required to provide the development proponent written documentation of which standard or standards the development conflicts with, as specified.

For more information about these requirements, consult Government Code, section 65914.900.

3.30 OTHER SPECIFIC EXEMPTIONS.

CEQA and the State CEQA Guidelines exempt many other specific activities, including early activities related to thermal power plants, ongoing projects, transportation improvement programs, family day care homes, congestion management programs, railroad grade separation projects, restriping of streets or highways to relieve traffic congestion, hazardous or volatile liquid pipelines, and the installation of solar energy systems, including, but not limited to solar panels. Specific statutory exemptions are listed in the Public Resources Code, including Sections 21080 through 21080.35, and in the State CEQA Guidelines, including Sections 15260 through 15285. In addition, other titles of the California Codes provide statutory exemptions from CEQA, including, for example, Government Code section 12012.70.

3.31 CATEGORICAL EXEMPTIONS.

The State CEQA Guidelines establish certain classes of categorical exemptions. These apply to classes of projects which have been determined not to have a significant effect on the environment and which, therefore, are generally exempt from CEQA. For any project that falls

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within one of these classes of categorical exemptions, the preparation of environmental documents under CEQA is not required. The classes of projects are briefly summarized below. (Reference to the State CEQA Guidelines for the full description of each exemption is recommended.)

The exemptions for Classes 3, 4, 5, 6, and 11 below are qualified in that such projects must be considered in light of the location of the project. A project that is ordinarily insignificant in its impact on the environment may, in a particularly sensitive environment, be significant. Therefore, these classes are considered to apply in all instances except when the project may impact an environmental resource of hazardous or critical concern that has been designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

All classes of categorical exemptions are qualified. None of the categorical exemptions are applicable if any of the following circumstances exist:

(1) The cumulative impact of successive projects of the same type in the same place over time is significant;

(2) There is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances;

(3) The project may result in damage to a scenic resource or may result in a substantial adverse change to a historical resource; or

(4) The project is located on a site which is included on any hazardous waste site or list compiled pursuant to Government Code section 65962.5.

However, a project's greenhouse gas emissions do not, in and of themselves, cause an exemption to be inapplicable if the project otherwise complies with all applicable regulations or requirements adopted to implement statewide, regional, or local plans consistent with State CEQA Guidelines section 15183.5.

With the foregoing limitations in mind, the following classes of activity are generally exempt from CEQA:

Class 1: Existing Facilities. Activities involving the operation, repair, maintenance, permitting, leasing, licensing, minor alteration of—or legislative activities to regulate—existing public or private structures, facilities, mechanical equipment or other property, or topographical features, provided the activity involves negligible or no expansion of existing or former use. The types of "existing facilities" itemized in State CEQA Guidelines section 15301 are not intended to be all-inclusive of the types of projects which might fall within the Class 1 categorical exemption. The key consideration is whether the project involves negligible or no expansion of use. (State CEQA Guidelines, § 15301.)

Class 2: Replacement or Reconstruction. Replacement or reconstruction of existing facilities, structures, or other property where the new facility or structure will be located on the same site as the replaced or reconstructed facility or structure and will have substantially the same purpose and capacity as the replaced or reconstructed facility or structure. (State CEQA Guidelines, § 15302.)

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Class 3: New Construction or Conversion of Small Structures. Construction of limited numbers of small new facilities or structures; installation of small new equipment or facilities in small structures; and the conversion of existing small structures from one use to another, when only minor modifications are made in the exterior of the structure. This exemption includes structures built for both residential and commercial uses. (State CEQA Guidelines, § 15303 outlines, among other things, the maximum number of structures allowable under this exemption.)

Class 4: Minor Alterations to Land. Minor alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry or agricultural purposes. (State CEQA Guidelines, § 15304.)

Class 5: Minor Alterations in Land Use Limitations. Minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density. (State CEQA Guidelines, § 15305.)

Class 6: Information Collection. Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. (State CEQA Guidelines, § 15306.)

Class 7: Actions by Regulatory Agencies for Protection of Natural Resources. Actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. (State CEQA Guidelines, § 15307.)

Class 8: Actions By Regulatory Agencies for Protection of the Environment. Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment. (State CEQA Guidelines, § 15308.)

Class 9: Inspection. Inspection activities, including, but not limited to, inquiries into the performance of an operation and examinations of the quality, health or safety of a project. (State CEQA Guidelines, § 15309.)

Class 10: Loans. Loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. (State CEQA Guidelines, § 15310.)

Class 11: Accessory Structures. Construction or replacement of minor structures accessory or appurtenant to existing commercial, industrial, or institutional facilities, including, but not limited to, on-premise signs; small parking lots; and placement of seasonal or temporary use items, such as lifeguard towers, mobile food units, portable restrooms or similar items in generally the same locations from time to time in publicly owned parks, stadiums or other facilities designed for public use. (State CEQA Guidelines, § 15311.)

Class 12: Surplus Government Property Sales. Sales of surplus government property, except for certain parcels of land located in an area of statewide, regional or area-wide concern

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identified in State CEQA Guidelines section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

(a) The property does not have significant values for wildlife or other environmental purposes; and
(b) Any one of the following three conditions is met:
    1. The property is of such size, shape, or inaccessibility that it is incapable of independent development or use;
    2. The property to be sold would qualify for an exemption under any other class of categorical exemption in the State CEQA Guidelines; or
    3. The use of the property and adjacent property has not changed since the time of purchase by the public agency.

(State CEQA Guidelines, § 15312.)

Class 13: Acquisition of Lands for Wildlife Conservation Purposes. Acquisition of lands for fish and wildlife conservation purposes, including preservation of fish and wildlife habitat, establishment of ecological preserves under Fish and Game Code section 1580, and preservation of access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition. (State CEQA Guidelines, § 15313.)

Class 14: Minor Additions to Schools. Minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten (10) classrooms, whichever is less. The addition of portable classrooms is included in this exemption. (State CEQA Guidelines, § 15314.)

Class 15: Minor Land Divisions. Division(s) of property in urbanized areas zoned for residential, commercial or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20%. (State CEQA Guidelines, § 15315.)

Class 16: Transfer of Ownership of Land in Order to Create Parks. Acquisition, sale, or other transfer of land in order to establish a park where the land is in a natural condition or contains historical or archaeological resources and either:

(a) The management plan for the park has not been prepared, or
(b) The management plan proposes to keep the area in a natural condition or preserve the historic or archaeological resources.

CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource. (State CEQA Guidelines, § 15316.)

Class 17: Open Space Contracts or Easements. Establishment of agricultural preserves, making and renewing of open space contracts under the Williamson Act, or acceptance of easements or fee interests in order to maintain the open space character of the area. (The

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cancellation of such preserves, contracts, interests or easements is not included in this exemption.) (State CEQA Guidelines, § 15317.)

Class 18: Designation of Wilderness Areas. Designation of wilderness areas under the California Wilderness System. (State CEQA Guidelines, § 15318.)

Class 19: Annexations of Existing Facilities and Lots for Exempt Facilities. This exemption applies only to the following annexations:

(a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or prezoning of either the gaining or losing governmental agency, whichever is more restrictive; provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities; and
(b) Annexations of individual small parcels of the minimum size for facilities exempted by Class 3, New Construction or Conversion of Small Structures.

(State CEQA Guidelines, § 15319.)

Class 20: Changes in Organization of Local Agencies. Changes in the organization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. Examples include but are not limited to:

(a) Establishment of a subsidiary district;
(b) Consolidation of two or more districts having identical powers; and
(c) Merger with a city of a district lying entirely within the boundaries of the city.

(State CEQA Guidelines, § 15320.)

Class 21: Enforcement Actions by Regulatory Agencies. Actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate or other entitlement for use issued, adopted or prescribed by the regulatory agency or enforcement of a law, general rule, standard or objective administered or adopted by the regulatory agency; or law enforcement activities by peace officers acting under any law that provides a criminal sanction. The direct referral of a violation of lease, permit, license, certificate, or entitlement to the City Attorney for judicial enforcement is exempt under this Class. (Construction activities undertaken by the public agency taking the enforcement or revocation action are not included in this exemption.) (State CEQA Guidelines, § 15321.)

Class 22: Educational or Training Programs Involving No Physical Changes. The adoption, alteration or termination of educational or training programs which involve no physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. Examples include but are not limited to:

(a) Development of or changes in curriculum or training methods; or
(b) Changes in the trade structure in a school which do not result in changes in student transportation. (State CEQA Guidelines, § 15322.)

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Class 23: Normal Operations of Facilities for Public Gatherings. Continued or repeated normal operations of existing facilities for public gatherings for which the facilities were designed, where there is past history, of at least three years, of the facility being used for the same or similar purposes. Facilities included within this exemption include, but are not limited to, race tracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools and amusement parks. (State CEQA Guidelines, § 15323.)

Class 24: Regulation of Working Conditions. Actions taken by the City to regulate employee wages, hours of work or working conditions where there will be no demonstrable physical changes outside the place of work. (State CEQA Guidelines, § 15324.)

Class 25: Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources. Transfers of ownership of interest in land in order to preserve open space, habitat, or historical resources. Examples include, but are not limited to, acquisition, sale, or other transfer of areas to: preserve existing natural conditions, including plant or animal habitats; allow continued agricultural use of the areas; allow restoration of natural conditions; preserve open space or lands for natural park purposes; or prevent encroachment of development into floodplains. This exemption does not apply to the development of parks or park uses. (State CEQA Guidelines § 15325.)

Class 26: Acquisition of Housing for Housing Assistance Programs. Actions by a redevelopment agency, housing authority or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units, provided the housing units are either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units. (State CEQA Guidelines, § 15326.)

Class 27: Leasing New Facilities. Leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency when the City determines that the proposed use of the facility:

(a) Conforms with existing state plans and policies and with general, community, and specific plans for which an EIR or Negative Declaration has been prepared;
(b) Is substantially the same as that originally proposed at the time the building permit was issued;
(c) Does not result in a traffic increase of greater than 10% of front access road capacity; and
(d) Includes the provision of adequate employee and visitor parking facilities.

(State CEQA Guidelines, § 15327.)

Class 28: Small Hydroelectric Projects as Existing Facilities. Installation of certain small hydroelectric-generating facilities in connection with existing dams, canals and pipelines, subject to the conditions in State CEQA Guidelines section 15328. (State CEQA Guidelines, § 15328.)

Class 29: Cogeneration Projects at Existing Facilities. Installation of cogeneration equipment with a capacity of 50 megawatts or less at existing facilities meeting certain conditions listed in State CEQA Guidelines, § 15329. (State CEQA Guidelines section 15329.)

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Class 30: Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances. Any minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing $1 million or less.

(a) No cleanup action shall be subject to this Class 30 exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code section 25123.6, except for small scale in situ soil vapor extraction and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, off-site disposal, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site;

(b) Examples of such minor cleanup actions include but are not limited to:

1. Removal of sealed, non-leaking drums of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;
2. Maintenance or stabilization of berms, dikes, or surface impoundments;
3. Construction or maintenance or interim of temporary surface caps;
4. Onsite treatment of contaminated soils or sludge provided treatment system meets Title 22 requirements and local air district requirements;
5. Excavation and/or offsite disposal of contaminated soils or sludge in regulated units;
6. Application of dust suppressants or dust binders to surface soils;
7. Controls for surface water run-on and run-off that meets seismic safety standards;
8. Pumping of leaking ponds into an enclosed container;
9. Construction of interim or emergency ground water treatment systems; or
10. Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

(State CEQA Guidelines, § 15330.)

Class 31: Historical Resource Restoration/Rehabilitation. Maintenance, repairs, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer. (State CEQA Guidelines, § 15331.)

Class 32: Infill Development Projects. Infill development meeting the following conditions:

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(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
(c) The project site has no value as habitat for endangered, rare or threatened species;
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
(e) The site can be adequately served by all required utilities and public services.

(State CEQA Guidelines, § 15332.)

Class 33: Small Habitat Restoration Projects.

This exemption applies to projects to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife, provided that such projects meet the following criteria:

(a) The project does not exceed five acres in size;

(b) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to Section 15065 of the State CEQA Guidelines;

(c) There are no hazardous materials at or around the project site that may be disturbed or removed; and

(d) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Examples of small habitat restoration projects include, but are not limited to: revegetation of disturbed areas with native plant species; wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat; stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish; projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment; stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and culvert replacement conducted in accordance with published guidelines of DFW or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

(State CEQA Guidelines, § 15333.)

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4. TIME LIMITATIONS

4.01 REVIEW OF PRIVATE PROJECT APPLICATIONS.

Staff shall determine whether the application for a private project is complete within thirty (30) days of receipt of the application. No application may be deemed incomplete based on an applicant's refusal to waive the time limitations set forth in Local Guidelines Sections 4.03 and 4.04.

Accepting an application as complete does not limit the authority of the City, acting as Lead Agency or Responsible Agency, to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application.

(Reference: State CEQA Guidelines, § 15101.)

4.02 DETERMINATION OF TYPE OF ENVIRONMENTAL DOCUMENT.

Except as provided in Local Guidelines Sections 4.05 and 4.06, Staff's initial determination as to whether a Negative Declaration, Mitigated Negative Declaration or an EIR should be prepared shall be made within thirty (30) days from the date on which an application for a project is accepted as complete by the City. This period may be extended fifteen (15) days with consent of the applicant and the City.

(Reference: State CEQA Guidelines, § 15102.)

4.03 COMPLETION AND ADOPTION OF NEGATIVE DECLARATION.

For private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the Negative Declaration/Mitigated Negative Declaration shall be completed and approved within one hundred eighty (180) days from the date when the City accepted the application as complete. In the event that compelling circumstances justify additional time and the project applicant and Lead Agency consent thereto, Staff may provide that the 180-day time limit may be extended once for a period of not more than 90 days.

(Reference: State CEQA Guidelines, § 15107.)

4.04 COMPLETION AND CERTIFICATION OF FINAL EIR.

For private projects, the Final EIR shall be completed and certified by the City within one (1) year after the date the City accepted the application as complete. In the event that compelling circumstances justify additional time and the project applicant consents thereto, the City may provide a one-time extension up to ninety (90) days for completing and certifying the EIR.

(Reference: State CEQA Guidelines, § 15108.)

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4.05 PROJECTS SUBJECT TO THE PERMIT STREAMLINING ACT.

The Permit Streamlining Act requires agencies to make decisions on certain development project approvals within specified time limits. If a project is subject to the Permit Streamlining Act, the City cannot require the project applicant to submit the informational equivalent of an EIR or prove compliance with CEQA as a prerequisite to determining whether the project application is complete. In addition, if requested by the project applicant, the City must begin processing the project application prior to final CEQA action, provided the information necessary to begin the process is available.

(Reference: Gov. Code §§ 65941, 65944.)

Under the Permit Streamlining Act, the Lead Agency must approve or disapprove the development project application within one hundred eighty (180) days from the date on which it certifies the EIR, or within ninety (90) days of certification if an extension for completing and certifying the EIR was granted. If the Lead Agency adopts a Negative Declaration/Mitigated Negative Declaration or determines the development project is exempt from CEQA, it shall approve or disapprove the project application within sixty (60) days from the date on which it adopts the Negative Declaration/Mitigated Negative Declaration or determines that the project is exempt from CEQA.

(Reference: Gov. Code §§ 65950, 65950.1; see also State CEQA Guidelines, § 15107.)

Except for waivers of the time periods for preparing a joint Environmental Impact Report/Environmental Impact Statement (as outlined in Government Code sections 65951 and 65957), the City cannot require a waiver of the time limits specified in the Permit Streamlining Act as a condition of accepting or processing a development project application. In addition, the City cannot disapprove a development project application in order to comply with the time limits specified in the Permit Streamlining Act.

(Reference: Gov. Code §§ 65940.5, 65952.2.)

4.06 PROJECTS, OTHER THAN THOSE SUBJECT TO THE PERMIT STREAMLINING ACT, WITH SHORT TIME PERIODS FOR APPROVAL.

A few statutes require agencies to make decisions on project applications within time limits that are so short that review of the project under CEQA would be difficult. To enable the City as Lead Agency to comply with both the enabling statute and CEQA, the City shall deem a project application as not received for filing under the enabling statute until such time as the environmental documentation required by CEQA is complete. This section applies where all of the following conditions are met:

(a) The enabling statute for a program, other than development projects under Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, requires the City to take action on an application within a specified period of time of six (6) months or less;
(b) The enabling statute provides that the project is approved by operation of law if the City fails to take any action within the specified time period; and

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(c) The project application involves the City's issuance of a lease, permit, license, certificate or other entitlement for use.

In any case, the environmental document shall be completed or certified and the decision on the application shall be made within the period established by the Permit Streamlining Act (Government Code sections 65920, et seq.).

(Reference: State CEQA Guidelines, § 15111.)

4.07 WAIVER OR SUSPENSION OF TIME PERIODS.

These deadlines may be waived by the applicant if the project is subject to both CEQA and the National Environmental Policy Act ("NEPA").

An unreasonable delay by an applicant in meeting the City's requests necessary for the preparation of a Negative Declaration, Mitigated Negative Declaration, or an EIR shall suspend the running of the time periods described in Local Guidelines Sections 4.03 and 4.04 for the period of the unreasonable delay. Alternatively, the City may disapprove a project application where there is unreasonable delay in meeting requests. The City may also allow a renewed application to start at the same point in the process where the prior application was when it was disapproved.

(Reference: State CEQA Guidelines, §§ 15109, 15110, and 15224; see Section 5.04 of these Local Guidelines for information about projects that are subject to both CEQA and NEPA.)

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5. INITIAL STUDY

5.01 PREPARATION OF INITIAL STUDY.

If the City determines that it is the Lead Agency for a project which is not exempt, the City will normally prepare an Initial Study to ascertain whether the project may have a substantial adverse effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial. All phases of project planning, implementation and operation must be considered in the Initial Study. An Initial Study may rely on expert opinion supported by facts, technical studies or other substantial evidence. However, an Initial Study is neither intended nor required to include the level of detail included in an EIR.

The City, as Lead Agency, may use any of the following arrangements or combination of arrangements to prepare an Initial Study:

(1) Preparing the Initial Study directly with the City's own staff.

(2) Contracting with another entity, public or private, to prepare the Initial Study.

(3) Accepting a draft Initial Study prepared by the applicant, a consultant retained by the applicant, or any other third person.

(4) Executing a third party contract or memorandum of understanding with the applicant to govern the preparation of an Initial Study by an independent contractor.

(5) Using a previously prepared Initial Study.

The Initial Study sent out for public review, however, must reflect the independent judgment of the Lead Agency.

For private projects, the person or entity proposing to carry out the project shall complete Form "I" of these Local CEQA Guidelines, submit the completed Form "I" to the City, and submit all other data and information as may be required by the City to determine whether the proposed project may have a significant effect on the environment. All costs incurred by the City in reviewing the data and information submitted, or in conducting its own investigation based upon such data and information, or in preparing an Initial Study for the project shall be borne by the person or entity proposing to carry out the project.

(Reference: State CEQA Guidelines, §§ 15063, 15084.)

5.02 INFORMAL CONSULTATION WITH OTHER AGENCIES.

When more than one public agency will be involved in undertaking or approving a project, the Lead Agency shall consult with all Responsible and any Trustee Agencies. Such consultation shall be undertaken in compliance with the notice procedures applicable to the type of CEQA document being prepared. See Section 6.04, Negative Declarations, and Sections 7.03 and 7.25, EIRs.

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When the City is acting as Lead Agency, the City may choose to engage in early consultation with Responsible and Trustee Agencies before the City begins to prepare the Initial Study. This early consultation may be done quickly and informally and is intended to ensure that the EIR, Negative Declaration or Mitigated Negative Declaration reflects the concerns of all Responsible Agencies that will issue approvals for the project and all Trustee Agencies responsible for natural resources affected by the project. The City's early consultation process may include consultation with other individuals or organizations with an interest in the project, if the City so desires. The Office of Land Use and Climate Innovation ("LCI"), upon request of the City or a private project applicant, shall assist in identifying the various Responsible Agencies for a proposed project and ensure that the Responsible Agencies are notified regarding any early consultation. In the case of a project undertaken by a public agency, the LCI, upon request of the City, shall ensure that any Responsible Agency or public agency that has jurisdiction by law with respect to the project is notified regarding any early consultation.

If, during the early consultation process it is determined that the project will clearly have a significant effect on the environment, the City, as Lead Agency, may immediately dispense with the Initial Study and determine that an EIR is required.

(Reference: State CEQA Guidelines, § 15063.)

5.03 CONSULTATION WITH PRIVATE PROJECT APPLICANT.

During or immediately after preparation of an Initial Study for a private project, the City may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study. If the project can be revised to avoid or mitigate effects to a level of insignificance and there is no substantial evidence before the City that the project, as revised, may have a significant effect on the environment, the City may prepare and adopt a Negative Declaration or Mitigated Negative Declaration. If any significant effect may still occur despite alterations of the project, an EIR must be prepared.

(Reference: State CEQA Guidelines, § 15063(g).)

5.04 PROJECTS SUBJECT TO NEPA.

Projects that are carried out, financed, or approved in whole or in part by a federal agency are subject to the provisions of NEPA in addition to CEQA. To the extent possible, the State CEQA Guidelines encourage the City, when it is a Lead Agency under CEQA, to use the federally-prepared Environmental Impact Statement ("EIS") or Finding of No Significant Impact ("FONSI") or to prepare a joint CEQA/NEPA document instead of preparing separate NEPA and CEQA documents for a project that is subject to both NEPA and CEQA. (State CEQA Guidelines, § 15220.)

For example, the City should attempt to work in conjunction with the federal agency involved in the project to prepare a combined EIR-EIS or Negative Declaration-FONSI. (State CEQA Guidelines, § 15222.) To avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the joint document. The Lead Agency may also enter into a Memorandum of Understanding with the federal agency to ensure that both federal and state requirements are met.

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The City is required to cooperate with the federal agency and to utilize joint planning processes, environmental research and studies, public hearings, and environmental documents to the fullest extent possible. (State CEQA Guidelines, § 15226.) However, since NEPA does not require an examination of mitigation measures or growth-inducing impacts, analysis of mitigation measures and growth-inducing impacts will need to be added before NEPA documents may be used to satisfy CEQA. (State CEQA Guidelines, § 15221.)

For projects that are subject to NEPA, a scoping meeting held pursuant to NEPA satisfies the CEQA scoping requirement as long as notice is provided to the agencies and individuals listed in Local Guidelines Section 7.10, and provided in accordance with these Local Guidelines.

If the federal agency refuses to cooperate with the City with regard to the preparation of joint documents, the City should attempt to involve a state agency in the preparation of the EIR, Negative Declaration, or Mitigated Negative Declaration. Since federal agencies are explicitly permitted to utilize environmental documents prepared by agencies of statewide jurisdiction, it is possible that the federal agency will reuse the state-prepared CEQA documents instead of requiring the applicant to fund a redundant set of federal environmental documents. (State CEQA Guidelines, § 15228.)

Where the federal agency has circulated the EIS or FONSI and the circulation satisfied the requirements of CEQA and any other applicable laws, the City, when it is a Lead Agency under CEQA, may use the EIS or FONSI in place of an EIR or Negative Declaration without having to recirculate the federal documents. The City's intention to adopt the previously circulated EIS or FONSI must be publicly noticed in the same way as a Notice of Availability of a Draft EIR.

Special rules may apply when the environmental documents are prepared for projects involving the reuse of military bases. (See State CEQA Guidelines, § 15225.)

5.05 AN INITIAL STUDY.

The Initial Study shall be used to determine whether a Negative Declaration, Mitigated Negative Declaration or an EIR shall be prepared for a project. It provides written documentation of whether the City found evidence of significant adverse impacts which might occur. The purposes of an Initial Study are to:

(a) Identify environmental impacts;
(b) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is written;
(c) Focus an EIR, if one is required, on potentially significant environmental effects;
(d) Facilitate environmental assessment early in the design of a project;
(e) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
(f) Eliminate unnecessary EIRs; and
(g) Determine whether a previously prepared EIR could be used for the project.

(Reference: State CEQA Guidelines, § 15063.)

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5.06 CONTENTS OF INITIAL STUDY.

An Initial Study shall contain in brief form:

(a) A description of the project, including the location of the project. The project description must be consistent throughout the environmental review process;
(b) An identification of the environmental setting. The environmental setting is usually the existing physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation is published, or if no Notice of Preparation is published, such as in the case of a Negative Declaration or Mitigated Negative Declaration, at the time environmental analysis begins. The environmental setting should describe both the project site and surrounding properties. The description should include, but not necessarily be limited to, a discussion of existing structures, land use, energy supplies, topography, water usage, soil stability, plants and animals, and any cultural, historical, or scenic aspects. This environmental setting will normally constitute the baseline physical conditions against which a Lead Agency may compare the project to determine whether an impact is significant;
(c) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries are briefly explained to show the evidence supporting the entries. The brief explanation may be through either a narrative or a reference to other information such as attached maps, photographs, or an earlier EIR or Negative Declaration or Mitigated Negative Declaration. A reference to another document should include a citation to the page or pages where the information is found;
(d) A discussion of ways to mitigate any significant effects identified;
(e) An examination of whether the project is consistent with existing zoning and local land use plans and other applicable land use controls;
(f) The name of the person or persons who prepared or participated in the Initial Study; and
(g) Identification of prior EIRs or environmental documents that could be used with the project.

(Reference: State CEQA Guidelines, § 15063(d).)

5.07 USE OF A CHECKLIST INITIAL STUDY.

When properly completed, the Environmental Checklist (Form "J") will meet the requirements of Local Guidelines Section 5.05 for an Initial Study provided that the entries on the checklist are explained. Either the Environmental Checklist (Form "J") should be expanded or a separate attachment should be prepared to describe the project, including its location, and to identify the environmental setting.

California courts have rejected the use of a bare, unsupported Environmental Checklist as an Initial Study. An Initial Study must contain more than mere conclusions. It must disclose supporting data or evidence upon which the Lead Agency relied in conducting the Initial Study. The Lead Agency must augment checklists with supporting factual data and reference information sources when completing the forms. Explanation of all "potential impact" answers should be provided on attached sheets. For controversial projects, it is advisable to state briefly why "no"

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answers were checked. If practicable, attach a list of reference materials, such as prior EIRs, plans, traffic studies, air quality data, or other supporting studies.

5.08 EVALUATING SIGNIFICANT ENVIRONMENTAL EFFECTS.

In evaluating the environmental significance of effects disclosed by the Initial Study, the Lead Agency shall consider:

(a) Whether the Initial Study and/or any comments received informally during consultations indicate that a fair argument can be made that the project may have a significant adverse environmental impact that cannot be mitigated to a level of insignificance. Even if a fair argument can be made to the contrary, an EIR should be prepared;

(b) Whether both primary (direct) and reasonably foreseeable secondary (indirect) consequences of the project were evaluated. Primary consequences are immediately related to the project, while secondary consequences are related more to the primary consequences than to the project itself. For example, secondary impacts upon the resources base, including land, air, water and energy use of an area, may result from population growth, a primary impact;

(c) Whether adverse social and economic changes will result from a physical change caused by the project. Adverse economic and social changes resulting from a project are not, in themselves, significant environmental effects. However, if such adverse changes cause physical changes in the environment, those consequences may be used as the basis for finding that the physical change is significant;

(d) Whether there is serious public controversy or disagreement among experts over the environmental effects of the project. However, the existence of public controversy or disagreement among experts does not, without more, require preparation of an EIR in the absence of substantial evidence of significant effects;

(e) Whether the cumulative impact of the project is significant and whether the incremental effects of the project are "cumulatively considerable" (as defined in Local Guidelines Section 11.13) when viewed in connection with the effects of past projects, current projects, and probable future projects. The City may conclude that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) that provides specific requirements that will avoid or substantially lessen the cumulative problem. To be used for this purpose, such a plan or program must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process. In relying on such a plan or program, the City should explain which requirements apply to the project and ensure that the project's incremental contribution is not cumulatively considerable; and

(f) Whether the project may cause a substantial adverse change in the significance of an archaeological or historical resource.

The City may use a threshold of significance (as that term is defined in State CEQA Guidelines section 15064.7) to determine whether a project may cause a significant environmental

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impact. When using a threshold of significance, the City should briefly explain how compliance with the threshold means that the project's impacts are less than significant. Compliance with the threshold, however, does not relieve the City of the obligation to consider substantial evidence indicating that a project's environmental effects may still be significant.

(Reference: State CEQA Guidelines, § 15064(b)(2).)

5.09 DETERMINING THE SIGNIFICANCE OF TRANSPORTATION IMPACTS

On or about December 28, 2018, the California Natural Resources Agency added a new section to the State CEQA Guidelines—Section 15064.3, entitled "Determining the Significance of Transportation Impacts."

Section 15064.3 provides:

> (a) Purpose.
>
> This section describes specific considerations for evaluating a project's transportation impacts. Generally, vehicle miles traveled is the most appropriate measure of transportation impacts. For the purposes of this section, "vehicle miles traveled" refers to the amount and distance of automobile travel attributable to a project. Other relevant considerations may include the effects of the project on transit and non-motorized travel. Except as provided in subdivision (b)(2) below (regarding roadway capacity), a project's effect on automobile delay shall not constitute a significant environmental impact.
>
> (b) Criteria for Analyzing Transportation Impacts.
>
> (1) Land Use Projects. Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less than significant transportation impact.
>
> (2) Transportation Projects. Transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact. For roadway capacity projects, agencies have discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements. To the extent that such impacts have already been adequately addressed at a programmatic level, such as in a regional transportation plan EIR, a lead agency may tier from that analysis as provided in Section 15152.
>
> (3) Qualitative Analysis. If existing models or methods are not available to estimate the vehicle miles traveled for the particular project being considered, a lead agency

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may analyze the project's vehicle miles traveled qualitatively. Such a qualitative analysis would evaluate factors such as the availability of transit, proximity to other destinations, etc. For many projects, a qualitative analysis of construction traffic may be appropriate.

(4) Methodology. A lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled, and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section.

(c) Applicability.

The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide.

(Reference: State CEQA Guidelines, § 15064.3.)

5.10 MANDATORY FINDINGS OF SIGNIFICANT EFFECT.

Whenever there is substantial evidence, in light of the whole record, that any of the conditions set forth below may occur, the Lead Agency shall find that the project may have a significant effect on the environment and thereby shall require preparation of an EIR:

(a) The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of major periods of California history or prehistory;

(b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals;

(c) The project has possible environmental effects which are individually limited but cumulatively considerable, as defined in Local Guidelines Section 11.13. That is, the City, when acting as Lead Agency, is required to determine whether the incremental impacts of a project are cumulatively considerable by evaluating them against the back-drop of the environmental effects of the other projects; or

(d) The environmental effects of a project will cause substantial adverse effects on humans either directly or indirectly.

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If, before the release of the CEQA document for public review, the potential for triggering one of the mandatory findings of significance is avoided or mitigation measures or project modifications reduce the potentially significant impacts to a point where clearly the mandatory finding of significance is not triggered, preparation of an EIR is not mandated. If the project's potential for triggering one of the mandatory findings of significance cannot be avoided or mitigated to a point where the criterion is clearly not triggered, an EIR shall be prepared, and the relevant mandatory findings of significance shall be used:

(1) as thresholds of significance for purposes of preparing the EIR's impact analysis;

(2) in making findings on the feasibility of alternatives or mitigation measures;

(3) when found to be feasible, in making changes in the project to lessen or avoid the adverse environmental impacts; and

(4) when necessary, in adopting a statement of overriding considerations.

Although an EIR prepared for a project that triggers one of the mandatory findings of significance must use the relevant mandatory findings as thresholds of significance, the EIR need not conclude that the impact itself is significant. Rather, the City, as Lead Agency, must exercise its discretion and determine, on a case-by-case basis after evaluating all of the relevant evidence, whether the project's environmental impacts are avoided or mitigated below a level of significance or whether a statement of overriding considerations is required.

With regard to a project that has the potential to substantially reduce the number or restrict the range of a protected species, the City, as Lead Agency, does not have to prepare an EIR solely due to that impact, provided the project meets the following three criteria:

(a) The project proponent must be bound to implement mitigation requirements relating to such species and habitat pursuant to an approved habitat conservation plan and/or natural communities conservation plan;
(b) The state or federal agency must have approved the habitat conservation plan and/or natural community conservation plan in reliance on an EIR and/or EIS; and
(c) The mitigation requirements must either avoid any net loss of habitat and net reduction in number of the affected species, or preserve, restore, or enhance sufficient habitat to mitigate the reduction in habitat and number of the affected species below a level of significance.

(Reference: State CEQA Guidelines, § 15065.)

5.11 MANDATORY PREPARATION OF AN EIR FOR WASTE-BURNING PROJECTS.

Lead Agencies shall prepare or cause to be prepared and certify the completion of an EIR, or, if appropriate, an Addendum, Supplemental EIR, or Subsequent EIR, for any project involving the burning of municipal wastes, hazardous waste or refuse-derived fuel, including, but not limited to, tires, if the project consists of any of the following:

(a) The construction of a new facility;

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(b) The expansion of an existing hazardous waste burning facility which would increase its permitted capacity by more than 10%;
(c) The issuance of a hazardous waste facilities permit to a land disposal facility, as defined in Local Guidelines Section 11.32; or
(d) The issuance of a hazardous waste facilities permit to an offsite large treatment facility, as defined in Local Guidelines Sections 11.33 and 11.53.

This section does not apply to projects listed in subsections (c) and (d), immediately above, if the facility only manages hazardous waste that is identified or listed pursuant to Health and Safety Code section 25140 or 25141 or only conducts activities which are regulated pursuant to Health and Safety Code sections 25100, et seq.

The Lead Agency shall calculate the percentage of expansion for an existing facility by comparing the proposed facility's capacity with either of the following, as applicable:

(a) The facility capacity authorized in the facility's hazardous waste facilities permit pursuant to Health and Safety Code section 25200, or its grant of interim status pursuant to Health and Safety Code section 25200.5, or the facility capacity authorized in any state or local agency permit allowing the construction or operation of the facility for the burning of hazardous waste granted before January 1, 1990; or
(b) The facility capacity authorized in the facility's original hazardous facilities permit, grant of interim status, or any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

This section does not apply to any project over which the State Energy Resources Conservation and Development Commission has assumed jurisdiction per Health and Safety Code sections 25500 et seq.

The EIR requirement is also subject to a number of exceptions for specific types of waste-burning projects. (Public Resources Code section 21151.1 and State CEQA Guidelines section 15081.5.) Even if preparation of an EIR is not mandatory for a particular type of waste-burning project, those projects are not exempt from the other requirements of CEQA, the State CEQA Guidelines, or these Local Guidelines. In addition, waste-burning projects are subject to special notice requirements under Public Resources Code section 21092. Specifically, in addition to the standard public notices required by CEQA, notice must be provided to all owners and occupants of property located within one-fourth mile of any parcel or parcels on which the waste-burning project will be located. (Public Resources Code section 21092(c); see Local Guidelines Sections 6.12 and 7.27.)

5.12 DEVELOPMENT PURSUANT TO AN EXISTING COMMUNITY PLAN AND EIR.

Before preparing a CEQA document, Staff should determine whether the proposed project involves development consistent with an earlier zoning or community plan to accommodate a particular density for which an EIR has been certified. If an earlier EIR for the zoning or planning action has been certified, and if the proposed project concerns the approval of a subdivision map or development, CEQA applies only to the extent the project raises environmental effects peculiar to the parcel which were not addressed in the earlier EIR. Off-site and cumulative effects not

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discussed in the general plan EIR must still be considered. Mitigation measures set out in the earlier EIR should be implemented at this stage.

Environmental effects shall not be considered peculiar to the parcel if uniformly applied development policies or standards have been previously adopted by a city or county with a finding based on substantial evidence that the policy or standard will substantially mitigate the environmental effect when applied to future projects. Examples of uniformly applied development policies or standards include, but are not limited to: parking ordinances; public access requirements; grading ordinances; hillside development ordinances; flood plain ordinances; habitat protection or conservation ordinances; view protection ordinances; and requirements for reducing greenhouse gas emissions as set forth in adopted land use plans, policies or regulations. Any rezoning action consistent with the Community Plan shall be subject to exemption from CEQA in accordance with this section. "Community Plan" means part of a city's general plan which: (1) applies to a defined geographic portion of the total area included in the general plan; (2) complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code by referencing each of the mandatory elements specified in Government Code section 65302; and (3) contains specific development policies adopted for the area in the Community Plan and identifies measures to implement those policies, so that the policies which will apply to each parcel can be determined.

(Reference: State CEQA Guidelines, § 15183.)

5.13 LAND USE POLICIES.

When a project will amend a general plan or another land use policy, the Initial Study must address how the change in policy and its expected direct and indirect effects will affect the environment. When the amendments constitute substantial changes in policies that result in a significant impact on the environment, an EIR may be required.

5.14 EVALUATING IMPACTS ON HISTORICAL RESOURCES.

Projects that may cause a substantial adverse change in the significance of a historical resource, as defined in Local Guidelines Section 11.28 are projects that may have a significant effect on the environment, thus requiring consideration under CEQA. Particular attention and care should be given when considering such projects, especially projects involving the demolition of a historical resource, since such demolitions have been determined to cause a significant effect on the environment.

Substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation or alteration of the resource or its immediate surroundings, such that the significance of a historical resource would be materially impaired.

The significance of a historical resource is materially impaired when a project:

(a) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register of Historical Resources;

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(b) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources or its identification in a historical resources survey, unless the Lead Agency establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(c) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by the Lead Agency for purposes of CEQA.

Generally, a project that follows either one of the following sets of standards and guidelines will be considered mitigated to a level of less than significant: (a) the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings; or (b) the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer.

In the event of an accidental discovery of a possible historical resource during construction of the project, the City may provide for the evaluation of the find by a qualified archaeologist or other professional. If the find is determined to be a historical resource, the City should take appropriate steps to implement appropriate avoidance or mitigation measures. Work on non-affected portions of the project, as determined by the City, may continue during the process. Curation may be an appropriate mitigation measure for an artifact that must be removed during project excavation or testing.

(Reference: State CEQA Guidelines, § 15064.5.)

5.15 EVALUATING IMPACTS ON ARCHAEOLOGICAL SITES.

When a project will impact an archaeological site, the City shall first determine whether the site is a historical resource, as defined in Local Guidelines Section 11.28 If the archaeological site is a historical resource, it shall be treated and evaluated as such, and not as an archaeological resource. If the archaeological site does not meet the definition of a historical resource, but does meet the definition of a unique archaeological resource set forth in Public Resources Code section 21083.2, the site shall be treated in accordance with said provisions of the Public Resources Code. The time and cost limitations described in Section 21083.2(c-f) do not apply to surveys and site evaluation activities intended to determine whether the project site contains unique archaeological resources.

If the archaeological resource is neither a unique archaeological resource nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

In the event of an accidental discovery of a possible unique archaeological resource during construction of the project, the City may provide for the evaluation of the find by a qualified archaeologist. If the find is determined to be a unique archaeological resource, the City should

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take appropriate steps to implement appropriate avoidance or mitigation measures. Work on non-affected portions of the project, as determined by the City, may continue during the process. Curation may be an appropriate mitigation measure for an artifact that must be removed during project excavation or testing.

When an Initial Study identifies the existence of, or the probable likelihood of, Native American human remains within the Project, the City shall comply with the provisions of State CEQA Guidelines section 15064.5(d). In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall comply with the provisions of State CEQA Guidelines section 15064.5(e).

(Reference: State CEQA Guidelines, § 15064.5(c).)

5.16 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

(a) Projects Subject to Consultation Requirements.

For certain development projects, cities and counties must consult with water agencies. If the City is a municipal water provider, the city or county may request that the City prepare a water supply assessment to be included in the relevant environmental documentation for the project. The City may refer to this section when preparing such an assessment or when reviewing projects in its role as a Responsible Agency. This section applies only to water demand projects as defined by Local Guidelines Section 11.83. Program level environmental review may not need to be as extensive as project level environmental review. (See Local Guidelines Sections 8.03 and 8.08.)

(b) Water Supply Assessment.

When a city or county as Lead Agency determines the type of environmental document that will be prepared for a water demand project or any project that includes a water demand project, the city or county must identify any public water system (as defined in Local Guidelines Sections 11.59 and 11.83) that may supply water for the project. The city or county must also request that the public water system determine whether the projected demand associated with the project was included in the most recently adopted Urban Water Management Plan. The city or county must also request that the public water system prepare a specified water supply assessment for approval at a regular or special meeting of the public water system governing body. A sample request for a water supply assessment is provided as Form "N" of these Local CEQA Guidelines.

If no public water system is identified that may supply water for the water demand project, the city or county shall prepare the water supply assessment. The city or county shall consult with any entity serving domestic water supplies whose service area includes the site of the water demand project, the local agency formation commission, and the governing body of any public water system adjacent to the site of the water demand project. The city council or county board of supervisors must approve the water assessment prepared pursuant to this paragraph at a regular or special meeting.

As per Water Code section 10910, the water assessment must include identification of existing water supply entitlements, water rights, or water service contracts relevant to the water

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supply for the proposed project and water received in prior years pursuant to those entitlements, rights, and contracts, and further information is required if water supplies include groundwater. The water assessment must determine the ability of the public water system to meet existing and future demands along with the demands of the proposed water demand project in light of existing and future water supplies. This supply demand analysis is to be conducted via a twenty-year projection, and must assess water supply sufficiency during normal year, single dry year, and multiple dry year hydrology scenarios. If the public water agency concludes that the water supply is, or will be, insufficient, it must submit plans for acquiring additional water supplies.

The city or county may grant the public water agency a thirty (30) day extension of time to prepare the assessment if the public water agency requests an extension within ninety (90) days of being asked to prepare the assessment. If the governing body of the public water system fails to request and receive an extension of time, or fails to submit the water assessment notwithstanding the thirty (30) day extension, the city or county may seek a writ of mandamus to compel the governing body of the public water system to comply.

If a water-demand project has been the subject of a water assessment, no additional water assessment shall be required for subsequent water-demand projects that were included in the larger water-demand project if all of the following criteria are met:

(1) The entity completing the water assessment concluded that its water supplies are sufficient to meet the projected water demand associated with the larger water-demand project, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses; and

(2) None of the following changes has occurred since the completion of the water assessment for the larger water-demand project:

(A) Changes in the larger water-demand project that result in a substantial increase in water demand for the water-demand project;

(B) Changes in the circumstances or conditions substantially affecting the ability of the public water system identified in the water assessment to provide a sufficient supply of water for the water demand project; and

(C) Significant new information becomes available which was not known and could not have been known at the time when the entity had reached its assessment conclusions.

(3) The city or county shall include the water assessment, and any water acquisition plan in the EIR, negative declaration, or mitigated negative declaration, or any supplement thereto, prepared for the project, and may include an evaluation of the water assessment and water acquisition plan information within such environmental document. A discussion of water supply availability should be included in the main text of the environmental document. Normally, this discussion should be based on the data and information included in the water supply assessment. In making its required findings under CEQA, the city or county shall determine, based on the entire record, whether projected water supplies will be

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sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If a city or county determines that water supplies will not be sufficient, the city or county shall include that determination in its findings for the project.

The degree of certainty regarding the availability of water supplies will vary depending on the stage of project approval. A Lead Agency should have greater confidence in the availability of water supplies for a specific project than might be required for a conceptual plan (i.e. general plan, specific plan). An analysis of water supply in an environmental document may incorporate by reference information in a water supply assessment, urban water management plan, or other publicly available sources. The analysis shall include the following:

(1) Sufficient information regarding the project's proposed water demand and proposed water supplies to permit the Lead Agency to evaluate the pros and cons of supplying the amount of water that the project will need.

(2) An analysis of the reasonably foreseeable environmental impacts of supplying water throughout all phases of the project.

(3) An analysis of circumstances affecting the likelihood of the water's availability, as well as the degree of uncertainty involved. Relevant factors may include but are not limited to, drought, salt-water intrusion, regulatory or contractual curtailments, and other reasonably foreseeable demands on the water supply.

(4) If the Lead Agency cannot determine that a particular water supply will be available, it shall conduct an analysis of alternative sources, including at least in general terms the environmental consequences of using those alternative sources, or alternatives to the project that could be served with available water.

For complete information on these requirements, consult Water Code sections 10910, et seq. For other CEQA provisions applicable to these types of projects, see Local Guidelines Sections 7.03 and 7.25.

5.17 SUBDIVISIONS WITH MORE THAN 500 DWELLING UNITS.

Cities and counties must obtain written verification (see Form "O" for a sample) from the applicable public water system(s) that a sufficient water supply is available before approving certain residential development projects. If the City is a municipal water provider for a project, the city or county may request such a verification from the City. The City should also be aware of these requirements when reviewing projects in its role as a Responsible Agency.

Cities and counties are prohibited from approving a tentative map, parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwellings units, unless:

(1) The City Council, Board of Supervisors, or the advisory agency receives written verification from the applicable public water system that a sufficient water supply is available; or

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(2) Under certain circumstances, the City Council, Board of Supervisors or the advisory agency makes a specified finding that sufficient water supplies are, or will be, available prior to completion of the project.

For complete information on these requirements, consult Government Code section 66473.7.

(Reference: Pub. Resources Code, § 21083.4.)

5.18 IMPACTS TO OAK WOODLANDS.

When a county prepares an Initial Study to determine what type of environmental document will be prepared for a project within its jurisdiction, the county must determine whether the project may result in a conversion of oak woodlands that will have a significant effect on the environment. Normally, this rule will not apply to projects undertaken by the City. However, if the City is a Responsible Agency on such a project, the City should endeavor to ensure that the county, as Lead Agency, analyzes these impacts in accordance with CEQA.

(Reference: State CEQA Guidelines, § 21083.4.)

5.19 CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS.

A. Estimating or Calculating the Magnitude of the Project's Greenhouse Gas Emissions.

The City shall analyze the greenhouse gas emissions of its projects as required by State CEQA Guidelines section 15064.4. For projects subject to CEQA, the City shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project.

In performing analysis of greenhouse gas emissions, the City, as Lead Agency, shall have discretion to determine, in the context of a particular project, whether to:

(1) Quantify greenhouse gas emissions resulting from a project; and/ or

(2) Rely on a qualitative analysis or performance-based standards.

B. Factors in Determining Significance.

In determining the significance of a project's greenhouse gas emissions, the City, when acting as Lead Agency, should focus its analysis on the reasonably foreseeable incremental contribution of the project's emissions to the effects of climate change. A project's incremental contribution may be cumulatively considerable even if it appears relatively small compared to statewide, national, or global emissions. The City's analysis should consider a timeframe that is appropriate for the project. The City's analysis also must reasonably reflect evolving scientific knowledge and state regulatory schemes.

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Once the amount of a project's greenhouse gas emissions have been described, estimated, or calculated, the City should consider the following factors, among others, to determine whether those emissions are significant:

(1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting. Physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation is published or the time when the environmental analysis is commenced, will normally constitute the baseline. All project phases, including construction and operation, should be considered in determining whether a project will cause emissions to increase or decrease as compared to the baseline;

(2) Whether the project emissions exceed a threshold of significance that the Lead Agency determines applies to the project. The Lead Agency may rely on thresholds of significance developed by experts or other agencies, provided that application of the threshold and the significance conclusion is supported with substantial evidence. When relying on thresholds developed by other agencies, the Lead Agency should ensure that the threshold is appropriate for the project and the project's location; and

(3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions (see, e.g., State CEQA Guidelines section 15183.5(b)). Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project. In determining the significance of impacts, the Lead Agency may consider a project's consistency with the State's long-term climate goals or strategies, provided that substantial evidence supports the agency's analysis of how those goals or strategies address the project's incremental contribution to climate change and its conclusion that the project's incremental contribution is not cumulatively considerable.

The Lead Agency may use a model or methodology to estimate greenhouse gas emissions resulting from a project. The Lead Agency has discretion to select the model or methodology it considers most appropriate to enable decision makers to intelligently take into account the project's incremental contribution to climate change. The Lead Agency must support its selection of a model or methodology with substantial evidence. The Lead Agency should explain the limitations of the particular model or methodology selected for use.

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C. Consistency with Applicable Plans.

When an EIR is prepared, it must discuss any inconsistencies between the proposed project and any applicable general plan, specific plans, and regional plans. This includes, but is not limited to, any applicable air quality attainment plans, regional blueprint plans, or plans for the reduction of greenhouse gas emissions.

D. Mitigation Measures Related to Greenhouse Gas Emissions.

Lead Agencies must consider feasible means of mitigating the significant effects of greenhouse gas emissions. Any such mitigation measure must be supported by substantial evidence and be subject to monitoring or reporting. Potential mitigation will depend on the particular circumstances of the project, but may include the following, among others:

(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the Lead Agency's decision;

(2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in State CEQA Guidelines Appendix F;

(3) Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions;

(4) Measures that sequester greenhouse gases; and

(5) In the case of the adoption of a plan, such as a general plan, long range development plan, or plan for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

E. Streamlined Analysis of Greenhouse Gas Emissions.

Under certain limited circumstances, the legislature has specifically declared that the analysis of greenhouse gas emissions or climate change impacts may be limited. Public Resources Code sections 21155, 21155.2, and 21159.28 provide that if certain residential, mixed use and transit priority projects meet specified ratios and densities, then the lead agencies for those projects may conduct a limited review of greenhouse gas emissions or may be exempted from analyzing global warming impacts that result from cars and light duty trucks, if a detailed list of requirements is met. However, unless the project is exempt from CEQA, the Lead Agency must consider whether such projects will result in greenhouse gas emissions from other sources, including, but not limited to, energy use, water use, and solid waste disposal.

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F. Tiering.

The City may analyze and mitigate the significant effects of greenhouse gas emissions at a programmatic level. Later project-specific environmental documents may then tier from and/or incorporate by reference that existing programmatic review.

G. Plans for the Reduction of Greenhouse Gas Emissions.

Public agencies may choose to analyze and mitigate greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions or in a similar document. A plan for the reduction of greenhouse gas emissions should:

(1) Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;

(2) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;

(3) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;

(4) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;

(5) Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels; and

(6) Be adopted in a public process following environmental review.

A plan for the reduction of greenhouse gas emissions, once adopted following certification of an EIR, or adoption of another environmental document, may be used in the cumulative impacts analysis of later projects. An environmental document that relies on a plan for the reduction of greenhouse gas emissions for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project. If there is substantial evidence that the effects of a particular project may be cumulatively considerable notwithstanding the project's compliance with the specified requirements in the plan for reduction of greenhouse gas emissions, an EIR must be prepared for the project.

H. Analyzing the Effects of Climate Change on the Project.

Where an EIR is prepared for a project, the EIR shall analyze any significant environmental effects the project might cause by bringing development and people into the project area that may be affected by climate change. In particular, the EIR should evaluate any potentially significant impacts of locating development in areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in

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land use plans addressing such hazards areas. The analysis may be limited to the potentially significant effects of locating the project in a potentially hazardous location. Further, this analysis may be limited by the project's life in relation to the potential of such effects to occur and the availability of existing information related to potential future effects of climate change. Further, the EIR need not include speculation regarding such future effects.

5.20 ENERGY CONSERVATION.

Potentially significant energy implications of a project must be considered in an EIR to the extent relevant and applicable to the project. Therefore, the project description should identify the following as applicable or relevant to the particular project:

(1) Energy consuming equipment and processes which will be used during construction, operation and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project;

(2) Total energy requirements of the project by fuel type and end use;

(3) Energy conservation equipment and design features;

(4) Identification of energy supplies that would serve the project; and

(5) Total estimated daily vehicle trips to be generated by the project and the additional energy consumed per trip by mode.

As described in Local Guidelines Section 5.06, above, an initial study must include a description of the environmental setting. The discussion of the environmental setting may include existing energy supplies and energy use patterns in the region and locality. The City may also consider the extent to which energy supplies have been adequately considered in other environmental documents. Environmental impacts may include:

(1) The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed;

(2) The effects of the project on local and regional energy supplies and on requirements for additional capacity;

(3) The effects of the project on peak and base period demands for electricity and other forms of energy;

(4) The degree to which the project complies with existing energy standards;

(5) The effects of the project on energy resources; and/or

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(6) The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

As discussed above in Section 5.06, the Initial Study must identify the potential environmental effects of the proposed activity. That discussion must include the unavoidable adverse effects. Unavoidable adverse effects may include wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

When discussing energy conservation, alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy.

5.21 ENVIRONMENTAL IMPACT ASSESSMENT.

The Initial Study identifies which environmental impacts may be significant. Based upon the Initial Study, Staff shall determine whether a proposed project may or will have a significant effect on the environment. Such determination shall be made in writing on the Environmental Impact Assessment Form (Form "C"). If Staff finds that a project will not have a significant effect on the environment, it shall recommend that a Negative Declaration be prepared and adopted by the decision-making body. If Staff finds that a project may have a significant effect on the environment, but the effects can be mitigated to a level of insignificance, it shall recommend that a Mitigated Negative Declaration be prepared and adopted by the decision-making body. If Staff finds that a project may have a significant effect on the environment, it shall recommend that an EIR be prepared and certified by the decision-making body.

5.22 FINAL DETERMINATION.

The City Council shall have the final responsibility for determining whether an EIR, Negative Declaration or Mitigated Negative Declaration shall be required for any project. The City Council's determination shall be final and conclusive on all persons, including Responsible Agencies and Trustee Agencies, except as provided in Section 15050(c) of the State CEQA Guidelines. Additionally, in the event the City Council has delegated authority to a subsidiary board or official to approve a project, the City Council also hereby delegates to that subsidiary board or official the authority to make all necessary CEQA determinations, including whether an EIR, Negative Declaration, Mitigated Negative Declaration or exemption shall be required for any project. A subsidiary board or official's CEQA determination shall be subject to appeal consistent with the City's established procedures for appeals.

(Reference: Pub. Resources Code, § 21151.)

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6. NEGATIVE DECLARATION

6.01 DECISION TO PREPARE A NEGATIVE DECLARATION.

A Negative Declaration (Form "E") shall be prepared for a project subject to CEQA when the Initial Study shows that there is no substantial evidence in light of the whole record that the project may have a significant or potentially significant adverse effect on the environment. (See Local Guidelines Sections 11.65 and 11.71.)

(Reference: State CEQA Guidelines, § 15070(a).)

6.02 DECISION TO PREPARE A MITIGATED NEGATIVE DECLARATION.

A Mitigated Negative Declaration (Form "E") shall be prepared for a project subject to CEQA when the Initial Study identifies potentially significant effects on the environment, but:

(a) The project applicant has agreed to revise the project or the City can revise the project to avoid these significant effects or to mitigate the effects to a point where it is clear that no significant effects would occur; or
(b) There is no substantial evidence in light of the whole record before the City that the revised project may have a significant effect.

It is insufficient to require an applicant to adopt mitigation measures after final adoption of the Mitigated Negative Declaration or to state that mitigation measures will be recommended on the basis of a future study. The City must know the measures at the time the Mitigated Negative Declaration is adopted in order for them to be evaluated and accepted as adequate mitigation. Evidence of agreement by the applicant to such mitigation should be in the record prior to public review. Except where noted, the procedural requirements for the preparation and approval of a Negative Declaration and Mitigated Negative Declaration are the same.

(Reference: State CEQA Guidelines, § 15070(b).)

6.03 CONTRACTING FOR PREPARATION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

The City, when acting as Lead Agency, is responsible for preparing all documents required pursuant to CEQA. The documents may be prepared by Staff or by private consultants pursuant to a contract with the City, but they must be the City's product and reflect the independent judgment of the City.

6.04 NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

When, based upon the Initial Study, it is recommended to the decision-making body that a Negative Declaration or Mitigated Negative Declaration be adopted, a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (Form "D") shall be prepared. In addition to being provided to the public through the means set forth in Local Guidelines Section 6.07, this Notice shall also be provided to:

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(a) Each Responsible and Trustee Agency;
(b) Any other federal, state, or local agency that has jurisdiction by law or exercises authority over resources affected by the project, including:

(1) Any water supply agency consulted under Local Guidelines Section 5.16;

(2) Any city or county bordering on the project area;

(3) For a project of statewide, regional, or area-wide significance, to any transportation agencies or public agencies which have major local arterials or public transit facilities within five (5) miles of the project site or freeways, highways, or rail transit service within ten (10) miles of the project site which could be affected by the project; and

(4) For a subdivision project located within one mile of a facility of the State Water Resources Development System, to the California Department of Water Resources;

(c) The last known name and address of all organizations and individuals who have previously filed a written request with the City to receive these Notices;
(d) For certain projects that may impact a low-level flight path, military impact zone, or special use airspace and that meet the other criteria of Local Guidelines Section 6.05, to the specified military services contact;
(e) For certain projects that involve the construction or alteration of a facility anticipated to include hazardous air emissions or handle hazardous substances within one-quarter mile of a school and that meet the other requirements of Local Guidelines Section 6.06, to any potentially affected school district;
(f) For certain waste-burning projects that meet the requirements of Local Guidelines Section 5.11 (regarding mandatory preparation of EIR) (see also Local Guidelines Section 7.27), to the owners and occupants of property within one-fourth mile of any parcel on which the project will be located; and
(g) For a project that establishes or amends a redevelopment plan that contains land in agricultural use, notice shall be provided to the agricultural and farm agencies and organizations specified in Health and Safety Code section 33333.3.

The Notice of Intent must also be posted to the Lead Agency's website, if any. (Pub. Resources Code, § 21092.2(d).) Additionally, for a project of statewide, regional, or area-wide significance, the Lead Agency should also consult with public transit agencies with facilities within one-half mile of the proposed project.

A copy of the proposed Negative Declaration or Mitigated Negative Declaration and the Initial Study shall be attached to the Notice of Intent to Adopt that is sent to every Responsible Agency and Trustee Agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project.

The public review period for a Negative Declaration or Mitigated Negative Declaration shall not be less than twenty (20) days; the public review period shall be at least thirty (30) days where the Negative Declaration or Mitigated Negative Declaration is for a proposed project where

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(1) a state agency is the lead agency, a responsible agency, or a trustee agency; (2) a state agency otherwise has jurisdiction by law with respect to the project; or (3) the proposed project is of sufficient statewide, regional, or area-wide significance as determined pursuant to State CEQA Guidelines section 15206. The Lead Agency shall give notice of the public review period by filing and posting a Notice of Intent to Adopt a Negative Declaration (Form "D") with the County Clerk before commencement of the public review period; where a public review period of at least 30 days is required, the Lead Agency shall also electronically submit the Notice of Intent to the State Clearinghouse. (Pub. Resources Code, § 21091.)

For purposes of calculating the length of the public review period, the last day of the public review period cannot fall on a weekend, a legal holiday, or other day on which the lead agency's offices are closed.[1] (Reference: *Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690, 708.)

The City requires requests for notices to be in writing and to be renewed annually. If the City is not otherwise required by CEQA or another regulation to provide notice, the City may charge a fee for providing notices to individuals or organizations that have submitted written requests to receive such notices, unless the request is made by another public agency.

If the Negative Declaration or Mitigated Negative Declaration has been submitted to the State Clearinghouse for review by state agencies, the public review period shall be at least as long as the period of review and comment by state agencies as established by the State Clearinghouse. (See Local Guidelines Section 6.10.) Day one of the state agency review period shall be the date that the State Clearinghouse distributes the Negative Declaration or Mitigated Negative Declaration to state agencies.

The Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration shall contain the following information:

(a) The period during which comments shall be received;
(b) The date, time and place of any public meetings or hearings on the proposed project;
(c) A brief description of the proposed project and its location;
(d) The address where copies of the proposed Negative Declaration or Mitigated Negative Declaration and all documents incorporated by reference in the proposed Negative Declaration or Mitigated Negative Declaration are available for review;
(e) A description of how the proposed Negative Declaration or Mitigated Negative Declaration can be obtained in electronic format;
(f) The Environmental Protection Agency ("EPA") list on which the proposed project site is located, if applicable, and the corresponding information from the applicant's statement (see Local Guidelines Section 2.04); and
(g) The significant effects on the environment, if any, anticipated as a result of the proposed project.

[1] A public agency's "offices are closed" for purposes of this section on days in which the agency is formally closed for business (for example, due to a weekend, a legal holiday, or a formal furlough affecting the entire office). A public agency's office is not considered closed for purposes of this section where the agency's office may be physically closed, but the agency is nonetheless open for business and is operating remotely or virtually (for example, in response to the Covid-19 pandemic).

(Reference: Pub. Resources Code, §§ 21082.1, 21091, 21161; State CEQA Guidelines, §§ 15072, 15105, 15205.)

6.05 PROJECTS AFFECTING MILITARY SERVICES; DEPARTMENT OF DEFENSE NOTIFICATION.

CEQA imposes additional requirements to provide notice to potentially affected military agencies when:

(a) The project meets one of the following three criteria:

(1) The project includes a general plan amendment;

(2) The project is of statewide, regional, or area-wide significance; or

(3) The project relates to a public use airport or certain lands surrounding a public use airport; and

(b) A "military service" (defined in Section 11.42 of these Local Guidelines) has provided its contact office and address and notified the Lead Agency of the specific boundaries of a "low-level flight path" (defined in Section 11.37 of these Local Guidelines), "military impact zone" (defined in Section 11.41 of these Local Guidelines), or "special use airspace" (defined in Section 11.67 of these Local Guidelines).

When a project meets these requirements, the City must provide the military service's designated contact with a copy of the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration that has been prepared for the project, unless the project involves the remediation of lands contaminated with hazardous wastes and meets certain other requirements. (Reference: Pub. Resources Code §§ 21080.4 and 21092; Health & Safety Code §§ 25300, et seq., 25396, and 25187.)

The City must provide the military service with sufficient notice of its intent to adopt a Negative Declaration or Mitigated Negative Declaration to ensure that the military service has no fewer than twenty (20) days to review the documents before they are approved, provided that the military service shall have a minimum of thirty (30) days to review the environmental documents if the documents have been submitted to the State Clearinghouse.

(Reference: State CEQA Guidelines, §§ 15105(b), 15190.5(c).)

6.06 SPECIAL FINDINGS REQUIRED FOR FACILITIES THAT MAY EMIT HAZARDOUS AIR EMISSIONS NEAR SCHOOLS.

Special procedural rules apply to projects involving the construction or alteration of a facility within one-quarter mile of a school/schools when: (1) the facility might reasonably be anticipated to emit hazardous air emissions or to handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the threshold specified in Health and Safety Code section 25532(j), and (2) the emissions or substances may pose a health or safety hazard to persons who would attend or would be employed at the

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school. If the project meets both of those criteria, a Lead Agency may not approve a Negative Declaration or a Mitigated Negative Declaration unless both of the following have occurred:

(a) The Lead Agency consulted with the affected school district or districts having jurisdiction over the school regarding the potential impact of the project on the school; and
(b) The school district(s) was given written notification of the project not less than thirty (30) days prior to the proposed approval of the Negative Declaration.

When the City is considering the adoption of a Negative Declaration or Mitigated Negative Declaration for a project that meets these criteria, it can satisfy this requirement by providing the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration, the proposed Negative Declaration or Mitigated Negative Declaration, and the Initial Study to the potentially affected school district at least thirty (30) days before the decision-making body will consider the adoption of the Negative Declaration or Mitigated Negative Declaration. See also Local Guidelines Section 6.04.

Implementation of this Guideline shall be consistent with the definitions and terms utilized in State CEQA Guidelines section 15186.

6.07 CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES.

Prior to the release of a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration for a project, the Lead Agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if:

(a) The California Native American tribe requested to the Lead Agency, in writing, to be informed by the Lead Agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe; and

(b) The California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. The California Native American tribe shall designate a lead contact person when responding to the Lead Agency. If a lead contact is not designated by the California Native American tribe, or it designates multiple lead contact people, the Lead Agency shall defer to the individuals listed on the contact list maintained by the Native American Heritage Commission. Consultation is defined in Local Guidelines Section 11.11.

To expedite the requirements of this section, the Native American Heritage Commission shall assist the Lead Agency in identifying the California American Native tribes that are traditionally and culturally affiliated with the project area.

Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the Lead Agency shall provide formal notification to the designated contact of, or a trial representative of, traditionally and culturally affiliated California Native America tribes that have requested notice, which shall be accomplished by at least one written notification that includes a brief description of the proposed project and its

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location, the Lead Agency contact information, and a notification that the California Native American tribe has 30 days to request consultation. Where the application for a housing development project is deemed to be complete on or after March 4, 2020 and before December 31, 2021, the California Native American tribe shall have 60 days to respond to the Lead Agency and request consultation. (Reference: Gov. Code, § 65583(i).)

The Lead Agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.

If consultation is requested, the parties may propose mitigation measures, including those set forth in Public Resources Code section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommend to the Lead Agency.

The consultation shall be considered concluded when either of the following occurs:

(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

The California Native American tribe is not limited in its ability to submit information to the lead agency regarding the significance of the tribal cultural resources, the significance of the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impacts. Additionally, the lead agency or project proponent is not limited in its ability to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

(Reference: Pub. Resources Code, §§ 21080.3.1, 21080.3.2.)

6.08 IDENTIFICATION OF TRIBAL CULTURAL RESOURCES AND PROCESSING OF INFORMATION AFTER CONSULTATION WITH THE CALIFORNIA NATIVE AMERICAN TRIBE

After consultation with the California Native American tribe listed above in Local Guidelines Section 6.07, any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the Mitigated Negative Declaration and in an adopted mitigation monitoring and reporting program, if the mitigation measures are determined to avoid or lessen the proposed project’s impacts on tribal cultural resources, and if the mitigation measures are enforceable.

If a project may have a significant impact on a tribal cultural resource, the Lead Agency's Mitigated Negative Declaration shall discuss both of the following:

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(a) Whether the proposed project has a significant impact on an identified tribal cultural resource;

(b) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to during the consultation, avoid or substantially lessen the impact on the identified tribal cultural resource.

Any information provided regarding the location, description and use of the tribal cultural resource that is submitted by a California Native American tribe during the environmental review process shall not be included in the Negative Declaration or Mitigated Negative Declaration or otherwise disclosed by the Lead Agency or any other public agency to the public, consistent with Government Code section 7927.005, and State CEQA Guidelines section 15120(d), without the prior consent of the tribe that provided the information. If the Lead Agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the Negative Declaration or Mitigated Negative Declaration unless the tribe provides consent, in writing, to the disclosure of some or all of the information to the public. This does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the Negative Declaration or the Mitigated Negative Declaration.

The exchange of confidential information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the Lead Agency, the California Native American tribe, the project applicant, or the project applicant's agent is not prohibited by Public Resources Code section 21082.3. The project applicant and the project applicant's legal advisers must use a reasonable degree of care and maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding the cultural resource unless the California Native American tribe providing the information consents in writing to the public disclosure of such information.

Public Resources Code section 21082.3 does not prevent a Lead Agency or other public agency from describing the information in general terms in the Negative Declaration or Mitigated Negative Declaration so as to inform the public of the basis of the Lead Agency's or other public agency's decision without breaching the confidentiality required. In addition, a Lead Agency may adopt a Mitigated Negative Declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(a) The consultation process between the California Native American tribe and the Lead Agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(b) The California Native American tribe has requested consultation pursuant to Public Resources Code section 21080.3.1 and has failed to provide comments to the Lead agency, or otherwise failed to engage, in the consultation process.

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(c) The Lead Agency has complied with subdivision (d) of Section 21080.3.1 of the Public Resources Code and the California Native American tribe has failed to request consultation within 30 days.

If substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource but the decision-makers do not include the mitigation measures recommended by the staff in the Mitigated Negative Declaration, or if there are no agreed upon mitigation measures at the conclusion of the consultation; or if no consultation has occurred, the Lead Agency must still consider the adoption of feasible mitigation.

(Reference: Pub. Resources Code, § 21082.3.)

6.09 SIGNIFICANT ADVERSE IMPACTS TO TRIBAL CULTURAL RESOURCES

Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. If the Lead Agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Public Resources Code section 21080.3.2 and as set forth in Local Guidelines Section 6.07, the following examples of mitigation measures, if feasible, may be considered to avoid or minimize the significant adverse impacts:

(a) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

(b) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

(1) Protecting the cultural character and integrity of the resource.

(2) Protecting the traditional use of the resource.

(3) Protecting the confidentiality of the resource.

(c) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

(d) Protecting the resource.

(Reference: Pub. Resources Code, § 21084.3.)

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6.10 POSTING AND PUBLICATION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

The City shall have a copy of the Notice of Intent to Adopt, the Negative Declaration or Mitigated Negative Declaration, and the Initial Study posted at the City's offices and on the City's website, if any, and shall make these documents available for public inspection. The Notice must be provided either twenty (20) or thirty (30) days prior to final adoption of the Negative Declaration or Mitigated Negative Declaration. The public review period for a Negative Declaration or Mitigated Negative Declaration prepared for a project subject to state agency review, as set forth in Local Guidelines Section 6.11, must be circulated for at least as long as the review period established by the State Clearinghouse, usually no less than thirty (30) days. Under certain circumstances, a shortened review period of at least twenty (20) days may be approved by the State Clearinghouse as provided for in State CEQA Guidelines section 15105. See the Shortened Review Request Form "P." The state review period will commence on the date the State Clearinghouse distributes the document to state agencies. The State Clearinghouse will distribute the document within three (3) days of receipt if the Negative Declaration or Mitigated Negative Declaration is deemed complete.

The Notice must also be posted in the office of the Clerk in each county in which the project is located and must remain posted throughout the public review period. The County Clerk is required to post the Notice within twenty-four (24) hours of receiving it.

Notice shall be provided as stated in Local Guidelines Section 6.04. In addition, Notice of the Intent to Adopt shall be given to the last known name and address of all organizations and individuals who have previously requested notice; by posting the notice on the website of the lead agency; and by at least one of the following procedures:

(a) Publication at least once in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas;
(b) Posting of notice on and off site in the area where the project is to be located; or
(c) Direct mailing to owners and occupants of property contiguous to the project, as shown on the latest equalized assessment roll.

The City, when acting as Lead Agency, shall consider all comments received during the public review period for the Negative Declaration or Mitigated Negative Declaration. For a Negative Declaration or Mitigated Negative Declaration, the City is not required to respond in writing to comments it receives either during or after the public review period. However, the City may provide a written response to all comments if it will not delay action on the Negative Declaration or Mitigated Negative Declaration, since any comment received prior to final action on the Negative Declaration or Mitigated Negative Declaration can form the basis of a legal challenge. A written response that refutes the comment or adequately explains the City's action in light of the comment will assist the City in defending against a legal challenge. The City shall notify any public agency that comments on a Negative Declaration or Mitigated Negative Declaration of the public hearing or hearings, if any, on the project for which the Negative Declaration or Mitigated Negative Declaration was prepared.

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(Reference: Pub. Resources Code, § 21092; State CEQA Guidelines, §§ 15072-15073.)

6.11 SUBMISSION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION TO STATE CLEARINGHOUSE.

A Negative Declaration or Mitigated Negative Declaration must be submitted to the State Clearinghouse, in an electronic form as required by the Office of Land Use and Climate Innovation, regardless of whether the document must be circulated for review and comment by state agencies under State CEQA Guidelines section 15205 and 15206. The Negative Declaration or Mitigated Negative Declaration must be submitted via the Office of Land Use and Climate Innovation's CEQASubmit website (https://ceqasubmit.lci.ca.gov/). The CEQASubmit website differentiates between environmental documents that do require review and comment by state agencies and those that do not. In particular, the website provides a "Local Review Period" tab for submitting documents that do not require review and comment by state agencies, and a "State Review Period" tab for submitting documents that do require review and comment by state agencies.

A Negative Declaration or Mitigated Negative Declaration must be submitted to the State Clearinghouse for review and comment by state agencies (i.e., a Negative Declaration or Mitigated Negative Declaration must be submitted through the CEQASubmit website under the "State Review Period" tab) in the following situations:

(a) The Negative Declaration or Mitigated Negative Declaration is prepared by a Lead Agency that is a state agency;
(b) The Negative Declaration or Mitigated Negative Declaration is prepared by a public agency where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law with respect to the project; or
(c) The Negative Declaration or Mitigated Negative Declaration is for a project identified in State CEQA Guidelines section 15206 as being of statewide, regional, or area-wide significance.

State CEQA Guidelines section 15206 identifies the following types of projects as being examples of projects of statewide, regional, or area-wide significance that require submission to the State Clearinghouse for circulation:

(1) Projects that have the potential to cause significant environmental effects beyond the city or county where the project would be located, such as:

(a) Residential development of more than 500 units;
(b) Commercial projects employing more than 1,000 persons or covering more than 500,000 square feet of floor space;
(c) Office building projects employing more than 1,000 persons or covering more than 250,000 square feet of floor space;
(d) Hotel or motel development of more than 500 rooms; or
(e) Industrial projects housing more than 1,000 persons, occupying more than 40 acres of land, or covering more than 650,000 square feet of floor area;

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(2) Projects for the cancellation of a Williamson Act contract covering 100 or more acres;

(3) Projects in one of the following Environmentally Sensitive Areas:

(a) Lake Tahoe Basin;
(b) Santa Monica Mountains Zone;
(c) Sacramento-San Joaquin River Delta;
(d) Suisun Marsh;
(e) Coastal Zone, as defined by the California Coastal Act;
(f) Areas within one-quarter mile of a river designated as wild and scenic; or
(g) Areas within the jurisdiction of the San Francisco Bay Conservation and Development Commission;

(4) Projects that would affect sensitive wildlife habitats or the habitats of any rare, threatened, or endangered species;

(5) Projects that would interfere with water quality standards; and

(6) Projects that would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

A Negative Declaration or Mitigated Negative Declaration may also be submitted to the State Clearinghouse for circulation if a state agency has special expertise with regard to the environmental impacts involved.

The public review period for a Negative Declaration or a Mitigated Negative Declaration shall not be less than twenty (20) days. The review period, however, shall be at least thirty (30) days if the Negative Declaration or Mitigated Negative Declaration is for a proposed project where a state agency is the lead agency, a responsible agency, or a trustee agency; a state agency otherwise has jurisdiction by law with respect to the project; or the proposed project is of sufficient statewide, regional, or areawide significance as determined pursuant to the guidelines certified and adopted pursuant to State CEQA Guidelines section 15206.

When the Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse for state agency review, the review period begins (day one) on the date that the State Clearinghouse distributes the Negative Declaration or Mitigated Negative Declaration to state agencies. The State Clearinghouse is required to distribute the Negative Declaration or Mitigated Negative Declaration to state agencies within three (3) working days from the date the State Clearinghouse receives the document, as long as the Negative Declaration or Mitigated Negative Declaration is complete when submitted to the State Clearinghouse. If the document submitted to the State Clearinghouse is not complete, the State Clearinghouse must notify the Lead Agency. The review period for the public and all other agencies may run concurrently with the state agency review period established by the State Clearinghouse, but the public review period cannot conclude before the state agency review period does. The review period for the public shall be at least as long as the review period established by the State Clearinghouse.

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A shorter review period by the State Clearinghouse for a Negative Declaration or Mitigated Negative Declaration can be requested by the decision-making body. The shortened review period shall not be less than twenty (20) days. Such a request must be made in writing by the Lead Agency to the LCI. The decision-making body may designate by resolution or ordinance an individual authorized to request a shorter review period. (See Form "P"). Any approval of a shortened review period must be given prior to, and reflected in, the public notice. However, a shortened review period shall not be approved by the LCI for any proposed project of statewide, regional or area-wide environmental significance, as defined by State CEQA Guidelines section 15206.

When the City completes its Negative Declaration or Mitigated Negative Declaration for a proposed project, the City must also cause a Notice of Completion (Form "H") to be filed with the Office of Land Use and Climate Innovation via the Office of Land Use and Climate Innovation's CEQASubmit website. The Notice of Completion should briefly identify the project, indicate that an environmental document has been prepared for the project, and identify the project location by latitude and longitude.

The City must post the Notice of Intent, Notice of Completion, and Negative Declaration or Mitigated Negative Declaration on its website, if any.

(Reference: Pub. Resources Code, §§ 21082.1, 21161; State CEQA Guidelines, §§ 15205, 15206.)

6.12 SPECIAL NOTICE REQUIREMENTS FOR WASTE- AND FUEL-BURNING PROJECTS.

For any project that involves the burning of municipal waste, hazardous waste, or refuse-derived fuel (such as tires) and that does not require an EIR, as defined in Local Guidelines Section 5.11, a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration shall be given to all organizations and individuals who have previously requested it and shall also be given by all three of the procedures listed in Local Guidelines Section 6.07. In addition, Notice shall be given by direct mailing to the owners and occupants of property within one-quarter mile of any parcel or parcels on which such a project is located.

These notice requirements apply only to those projects described in Local Guidelines Section 5.11. These notice requirements do not preclude the City from providing additional notice by other means if desired.

(Reference: Pub. Resources Code, § 21092(c).)

6.13 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

Under specific circumstances a city or county acting as Lead Agency must consult with the public water system that will supply the project to determine whether the public water system can adequately supply the water needed for the project. As a Responsible Agency, the City should be aware of these requirements. See Local Guidelines Section 5.16 for more information on these requirements. (Reference: State CEQA Guidelines, § 15155.)

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6.14 CONTENT OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

A Negative Declaration must be prepared directly by or under contract to the City and should generally resemble Form "E." It shall contain the following information:

(a) A brief description of the project proposed, including any commonly used name for the project;
(b) The location of the project and the name of the project proponent;
(c) A finding that the project as proposed will not have a significant effect on the environment; and
(d) An attached copy of the Initial Study documenting reasons to support the finding.

For a Mitigated Negative Declaration, feasible mitigation measures included in the project to substantially lessen or avoid potentially significant effects must be fully enforceable through permit conditions, agreements, or other measures. Such permit conditions, agreements, and measures must be consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law.

The proposed Negative Declaration or Mitigated Negative Declaration must reflect the independent judgment of the City.

(Reference: State CEQA Guidelines, § 15071.)

6.15 TYPES OF MITIGATION.

The following is a non-exhaustive list of potential types of mitigation the City may consider:

(a) Avoidance;
(b) Preservation;
(c) Rehabilitation or replacement. Replacement may be on-site or off-site depending on the particular circumstances; and/or
(d) Participation in a fee program.

(Reference: State CEQA Guidelines, § 15370.)

6.16 ADOPTION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

Following the publication, posting or mailing of the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration, but not before the expiration of the applicable twenty (20) or thirty (30) day public review period, the Negative Declaration or Mitigated Negative Declaration may be presented to the decision-making body at a regular or special meeting. Prior to adoption, the City shall independently review and analyze the Negative Declaration or Mitigated Negative Declaration and find that the Negative Declaration or Mitigated Negative Declaration reflects the independent judgment of the City.

If new information is added to the Negative Declaration or Mitigated Negative Declaration after public review, the City should determine whether recirculation is warranted. (See Local

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Guidelines Section 6.19). If the decision-making body finds that the project will not have a significant effect on the environment, it shall adopt the Negative Declaration or Mitigated Negative Declaration. If the decision-making body finds that the proposed project may have a significant effect on the environment that cannot be mitigated or avoided, it shall order the preparation of a Draft EIR and the filing of a Notice of Preparation of a Draft EIR.

When adopting a Negative Declaration or Mitigated Negative Declaration, the City shall specify the location and custodian of the documents or other material that constitute the record of proceedings upon which it based its decision. If adopting a Negative Declaration for a project that may emit hazardous air emissions within one-quarter mile of a school and that meets the other requirements of Local Guidelines Section 6.06, the decision-making body must also make the findings required by Local Guidelines Section 6.06.

As Lead Agency, the City may charge a non-elected official or body with the responsibility of independently reviewing the adequacy of and adopting a Negative Declaration or a Mitigated Negative Declaration. Any final CEQA determination made by a non-elected decisionmaker, however, is appealable to the City Council within either (a) the time period set forth in the City's established process to appeal the non-elected decisionmaker's CEQA determination; or, if no such process exists, (2) ten (10) days of the non-elected decisionmaker's determination. If the non-elected decisionmaker's CEQA determination is not timely appealed as set forth herein, the non-elected decisionmaker's determination shall be final.

(Reference: State CEQA Guidelines, § 15074.)

6.17 MITIGATION REPORTING OR MONITORING PROGRAM FOR MITIGATED NEGATIVE DECLARATION.

When adopting a Mitigated Negative Declaration pursuant to Local Guidelines Section 6.13, the City shall adopt a reporting or monitoring program to assure that mitigation measures, which are required to mitigate or avoid significant effects on the environment, will be fully enforceable through permit conditions, agreements, or other measures and implemented by the project proponent or other responsible party in a timely manner, in accordance with conditions of project approval. The City shall also specify the location and the custodian of the documents that constitute the record of proceedings upon which it based its decision. There is no requirement that the reporting or monitoring program be circulated for public review; however, the City may choose to circulate it for public comments along with the Mitigated Negative Declaration. The mitigation measures required to mitigate or avoid significant effects on the environment must be adopted as conditions of project approval.

This reporting or monitoring program shall be designed to assure compliance during the implementation or construction of a project and shall otherwise comply with the requirements described in Local Guidelines Section 7.38. If a Responsible Agency or Trustee Agency has required that certain conditions be incorporated into the project, the City may request that agency to prepare and submit a proposed reporting or monitoring program. The City shall also require that, prior to the close of the public review period for a Mitigated Negative Declaration (see Local Guidelines Section 6.04), the Responsible or Trustee Agency submit detailed performance objectives for mitigation measures, or refer the City to appropriate, readily available guidelines or

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reference documents. Any mitigation measures submitted to the City by a Responsible or Trustee Agency shall be limited to measures that mitigate impacts to resources that are within the Responsible or Trustee Agency's authority.

Local agencies have the authority to levy fees sufficient to pay for this program. Therefore, the City can charge the project proponent a fee to cover actual costs of program processing and implementation.

Transportation information resulting from the reporting or monitoring program required to be adopted by the City shall be submitted to the regional transportation planning agency where the project is located and to the Department of Transportation for a project of statewide, regional or area-wide significance according to State CEQA Guidelines section 15206. The transportation planning agency and the Department of Transportation are required by law to adopt guidelines for the submittal of these reporting or monitoring programs, so the City may wish to tailor its submittal to such guidelines.

(Reference: State CEQA Guidelines, §§ 15074, 15097.)

6.18 APPROVAL OR DISAPPROVAL OF PROJECT.

At the time of adoption of a Negative Declaration or Mitigated Negative Declaration, the decision-making body may consider the project for purposes of approval or disapproval. Prior to approving the project, the decision-making body shall consider the Negative Declaration or Mitigated Negative Declaration, together with any written comments received and considered during the public review period, and shall approve or disapprove the Negative Declaration or Mitigated Negative Declaration. In making a finding as to whether there is any substantial evidence that the project will have a significant effect on the environment, the factors listed in Local Guidelines Section 5.08 should be considered. (See Local Guidelines Section 6.06 for approval requirements for facilities that may emit hazardous pollutants or that may handle extremely hazardous substances within one-quarter mile of a school site.)

(Reference: State CEQA Guidelines, § 15092.)

6.19 RECIRCULATION OF A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

A Negative Declaration or Mitigated Negative Declaration must be recirculated when the document must be substantially revised after the public review period but prior to its adoption. A "substantial revision" occurs when the City has identified a new and avoidable significant effect for which mitigation measures or project revisions must be added in order to reduce the effect to a level of insignificance, or when the City determines that the proposed mitigation measures or project revisions will not reduce the potential effects to less than significant and new measures or revisions must be required.

Recirculation is not required under the following circumstances:

(a) Mitigation measures are replaced with equal or more effective measures, and the City makes a finding to that effect;

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(b) New project revisions are added after circulation of the Negative Declaration or Mitigated Negative Declaration or in response to written or oral comments on the project's effects, but the revisions do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect;
(c) Measures or conditions of project approval are added after circulation of the Negative Declaration or Mitigated Negative Declaration, but the measures or conditions are not required by CEQA, do not create new significant environmental effects, and are not necessary to mitigate an avoidable significant effect; or
(d) New information is added to the Negative Declaration or Mitigated Declaration which merely clarifies, amplifies, or makes insignificant modifications to the Negative Declaration or Mitigated Negative Declaration.

If, after preparation of a Negative Declaration or Mitigated Negative Declaration, the City determines that the project requires an EIR, it shall prepare and circulate the Draft EIR for consultation and review and advise reviewers in writing that a proposed Negative Declaration or Mitigated Declaration had previously been circulated for the project.

(Reference: State CEQA Guidelines, § 15073.5.)

6.20 NOTICE OF DETERMINATION ON A PROJECT FOR WHICH A PROPOSED NEGATIVE OR MITIGATED NEGATIVE DECLARATION HAS BEEN APPROVED.

After final approval of a project for which a Negative Declaration or Mitigated Negative Declaration has been prepared, Staff shall cause to be prepared, filed, and posted a Notice of Determination (Form "F"). The Notice of Determination shall contain the following information:

(a) An identification of the project, including the project title as identified on the proposed Negative Declaration or Mitigated Negative Declaration, location, and the State Clearinghouse identification number for the proposed Negative Declaration or Mitigated Negative Declaration if the Notice of Determination is filed with the State Clearinghouse;
(b) For private projects, identification of the person undertaking a project that is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, license, certificate, or other entitlement for use from one or more public agencies;
(c) A brief description of the project;
(d) The name of the City and the date on which the City approved the project;
(e) The determination of the City that the project will not have a significant effect on the environment;
(f) A statement that a Negative Declaration or Mitigated Negative Declaration was adopted pursuant to the provisions of CEQA;
(g) A statement indicating whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted; and
(h) The address where a copy of the Negative Declaration or Mitigated Negative Declaration may be examined.

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The Notice of Determination shall be filed with the Clerk of each county in which the project will be located within five (5) working days of project approval and submitted to the Office of Land Use and Climate Innovation's State Clearinghouse through the CEQASubmit portal.

The City must also post the Notice of Determination on its website. Such electronic notice is in addition to the posting requirements of the State CEQA Guidelines and the Public Resources Code. The Clerk must post the Notice of Determination within twenty-four (24) hours of receipt. The Notice must be posted in the office of the Clerk for a minimum of thirty (30) days. Thereafter, the Clerk shall return the notice to the City with a notation of the period it was posted. The City shall retain the notice for not less than twelve (12) months. If the project requires discretionary approval from any State agency, the Notice of Determination shall also be filed with LCI within five (5) working days of project approval along with proof of payment of the DFW fee or a no effect determination form from the DFW (see Local Guidelines Section 6.24). Simultaneously with the filing of the Notice of Determination with the Clerk, Staff shall cause a copy of the Notice of Determination to be posted at City Offices.

If a written request has been made for a copy of the Notice of Determination prior to the date on which the City adopts the Negative Declaration or Mitigated Negative Declaration, the copy must be mailed, first class postage prepaid, within five (5) days of the City's determination. If such a request is made following the City's determination, then the copy should be mailed in the same manner as soon as possible. The recipients of such documents may be charged a fee reasonably related to the cost of providing the service.

For projects with more than one phase, Staff shall file a Notice of Determination for each phase requiring a discretionary approval.

The filing and posting of the Notice of Determination with the County Clerk, and, if necessary, with LCI, usually starts a thirty (30) day statute of limitations on court challenges to the approval under CEQA. When separate notices are filed for successive phases of the same overall project, the thirty (30) day statute of limitations to challenge the subsequent phase begins to run when the second notice is filed. Failure to file the Notice may result in a one hundred eighty (180) day statute of limitations.

(Reference: State CEQA Guidelines, § 15075.)

6.21 ADDENDUM TO NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

The City may prepare an addendum to an adopted Negative Declaration or Mitigated Negative Declaration if only minor technical changes or additions are necessary. The City may also prepare an addendum to an adopted Negative Declaration or Mitigated Negative Declaration when none of the conditions calling for a subsequent Negative Declaration or Mitigated Negative Declaration have occurred. (See Local Guidelines Section 6.22 below.) An addendum need not be circulated for public review but can be attached to the adopted Negative Declaration or Mitigated Negative Declaration. The City shall consider the addendum with the adopted Negative Declaration or Mitigated Negative Declaration prior to project approval.

(Reference: State CEQA Guidelines, § 15164.)

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6.22 SUBSEQUENT NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

When a Negative Declaration or Mitigated Negative Declaration has been adopted for a project, or when an EIR has been certified, no subsequent Negative Declaration, Mitigated Negative Declaration, or EIR shall be prepared for that project unless the Lead Agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(a) Substantial changes are proposed in the project which will require major revisions of the previous EIR, Negative Declaration, or Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(b) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR, Negative Declaration, or Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(c) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or the Negative Declaration was adopted which shows any of the following:

(1) The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration;

(2) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(3) Mitigation measure(s) or alternative(s) previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents declined to adopt the mitigation measure(s) or alternative(s); or

(4) Mitigation measure(s) or alternative(s) which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure(s) or alternative(s).

The City, as Lead Agency, would then determine whether a Subsequent EIR, Supplemental EIR, Subsequent Negative Declaration, Subsequent Mitigated Negative Declaration, or Addendum would be applicable. Subsequent Negative Declarations and Mitigated Negative Declarations must be given the same notice and public review period as other Negative Declarations. The Subsequent Negative Declaration shall state where the previous document is available and can be reviewed.

(Reference: State CEQA Guidelines, § 15162.)

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6.23 PRIVATE PROJECT COSTS.

For private projects, the person or entity proposing to carry out the project shall bear all costs incurred by the City in preparing the Initial Study and in preparing and filing the Negative Declaration or Mitigated Negative Declaration and Notice of Determination.

6.24 FILING FEES FOR PROJECTS THAT AFFECT WILDLIFE RESOURCES.

At the time a Notice of Determination for a Negative Declaration or Mitigated Negative Declaration is filed with the County or Counties in which the project is located, a fee of $2,968.75, or the then applicable fee, shall be paid to the Clerk for projects that will adversely affect fish or wildlife resources. These fees are collected by the Clerk on behalf of DFW pursuant to Fish and Game Code section 711.4.

Only one filing fee is required for each project unless the project is tiered or phased and separate environmental documents are prepared. (Fish & Game Code section 711.4(g).) For projects where Responsible Agencies file separate Notices of Determination, only the Lead Agency is required to pay the fee.

Note: County Clerks are authorized to charge a documentary handling fee for each project in addition to the Fish and Game Code fees specified above. Refer to the Index in the Staff Summary to help determine the correct total amount of fees applicable to the project.

For private projects, the City may pass these costs on to the project applicant.

Fish and Game Code fees may be waived for projects with "no effect" on fish or wildlife resources or for certain projects undertaken by the DFW and implemented through a contract with a non-profit entity or local government agency; however, the Lead Agency must obtain a form showing that the DFW has determined that the project will have "no effect" on fish and wildlife. (Fish and Game Code section 711.4(c)(2)(A)). Projects that are statutorily or categorically exempt from CEQA are also not subject to the filing fee, and do not require a no effect determination. (State CEQA Guidelines sections 15260 through 15333; Fish and Game Code section 711.4(d)(1)). The applicable DFW Regional Office's environmental review and permitting staff are responsible for determining whether a project within their region will qualify for a no effect determination and if the CEQA filing fee will be waived.

The request should be submitted when the CEQA document is released for public review, or as early as possible in the public comment period. Documents submitted in digital format are preferred (e.g. compact disk). If insufficient documentation is submitted to DFW for the proposed project, a no effect determination will not be issued.

If the City believes that a project for which it is Lead Agency will have "no effect" on fish or wildlife resources, it should contact the appropriate DFW Regional Office. The project's CEQA document may need to be provided to the appropriate DFW Regional Office along with a written request. Documentation submitted to the appropriate DFW Regional Office should set forth facts in support of the fee exemption. Previous examples of projects that have qualified for a fee exemption include: minor zoning changes that did not lead to or allow new construction, grading,

or other physical alterations to the environment; and minor modifications to existing structures, including addition of a second story to single or multi-family residences.

The fee exemption requirement that the project have "no" impact on fish or wildlife resources is more stringent than the former requirement that a project have only "de minimis" effects on fish or wildlife resources. DFW may determine that a project would have no effect on fish and wildlife if all of the following conditions apply:

- The project would not result in or have the potential to result in harm, harassment, or take of any fish and/or wildlife species.

- The project would not result in or have the potential to result in direct or indirect destruction, ground disturbance, or other modification of any habitat that may support fish and/or wildlife species.

- The project would not result in or have the potential to result in the removal of vegetation with potential to support wildlife.

- The project would not result in or have the potential to result in noise, vibration, dust, light, pollution, or an alteration in water quality that may affect fish and/or wildlife directly or from a distance.

- The project would not result in or have the potential to result in any interference with the movement of any fish and/or wildlife species.

Any request for a fee exemption should include the following information:

(1) the name and address of the project proponent and applicant contact information;

(2) a brief description of the project and its location;

(3) site description and aerial and/or topographic map of the project site;

(4) State Clearinghouse number or county filing number;

(5) a statement that an Initial Study has been prepared by the City to evaluate the project's effects on fish and wildlife resources, if any; and

(6) a declaration that, based on the City's evaluation of potential adverse effects on fish and wildlife resources, the City believes the project will have no effect on fish or wildlife.

If insufficient documentation is submitted to DFW for the proposed project, a no effect determination will not be issued. (A sample Request for Fee Exemption is attached as Form "L".) DFW will review the City's finding, and if DFW agrees with the City's conclusions, DFW will provide the City with written confirmation. Retain DFW's determination as part of the administrative record; the City is required to file a copy of this determination with the County after project approval and at the time of filing of the Notice of Determination.

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The Lead Agency must have written confirmation of DFW's finding of "no impact" at the time the Lead Agency files its Notice of Determination with the County. The County cannot accept the Notice of Determination unless it is accompanied by the appropriate fee or a written no effect determination from DFW.

7. ENVIRONMENTAL IMPACT REPORT

7.01 DECISION TO PREPARE AN EIR.

An EIR shall be prepared whenever there is substantial evidence in light of the whole record which supports a fair argument that the project may have a significant effect on the environment. (See Local Guidelines Sections 11.65 and 11.71.) The record may include the Initial Study or other documents or studies prepared to assess the project's environmental impacts.

(Reference: Pub. Resources Code, § 21151.)

7.02 CONTRACTING FOR PREPARATION OF EIRS.

If an EIR is prepared under a contract with the City, the contract must be executed within forty-five (45) days from the date on which the City sends a Notice of Preparation. The City may take longer to execute the contract if the project applicant and the City mutually agree to an extension of the 45-day time limit. (Reference: Pub. Resources Code, § 21151.5.)

The EIR prepared under contract must be the City's product. Staff, together with such consultant help as may be required, shall independently review and analyze the EIR to verify its accuracy, objectivity and completeness prior to presenting it to the decision-making body. The EIR made available for public review must reflect the independent judgment of the City. Staff may require such information and data from the person or entity proposing to carry out the project as Staff deems necessary for completion of the EIR. (Reference: State CEQA Guidelines, §§ 15084, 15090.)

7.03 NOTICE OF PREPARATION OF DRAFT EIR.

After determining that an EIR will be required for a proposed project, the Lead Agency shall prepare and submit a Notice of Preparation (Form "G") to the Office of Land Use and Climate Innovation through its CEQASubmit website and to each of the following:

(a) Each Responsible Agency and Trustee Agency involved with the project;
(b) Any other federal, state, or local agency which has jurisdiction by law or exercises authority over resources affected by the project, including:

(1) Any water supply agency consulted under Local Guidelines Section 5.16;

(2) Any city or county bordering on the project area;

(3) For a project of statewide, regional, or area-wide significance, to any transportation agencies or public agencies which have major local arterials or public transit facilities within five (5) miles of the project site or freeways, highways, or rail transit service within ten (10) miles of the project site which could be affected by the project; and

(4) For a subdivision project located within one mile of a facility of the State Water Resources Development System, the California Department of Water Resources;

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(c) The last known name and address of all organizations and individuals who have previously filed a written request with the City to receive these Notices;
(d) For certain projects that may impact a low-level flight path, military impact zone, or special use airspace and that meet the other criteria in Local Guidelines Section 7.04, the specified military services contact;
(e) For certain projects that involve the construction or alteration of a facility anticipated to emit hazardous air emissions or handle hazardous substances within one-quarter mile of a school and that meet the other requirements of Local Guidelines Section 7.36, any potentially affected school district;
(f) For certain waste-burning projects that meet the requirements of Local Guidelines Section 5.11 (See also Local Guidelines Section 7.27), the owners and occupants of property within one-fourth mile of any parcel on which the project will be located; and
(g) For a project that establishes or amends a redevelopment plan that contains land in agricultural use, the agricultural and farm agencies and organizations specified in Health and Safety Code section 33333.3.

Additionally, for a project of statewide, regional, or area-wide significance, the Lead Agency should also consult with public transit agencies with facilities within one-half mile of the proposed project.

The Notice of Preparation must also be filed and posted in the office of the Clerk in each county in which the project is located for thirty (30) days. The County Clerk must post the Notice within twenty-four (24) hours of receipt.

When submitting the Notice of Preparation to LCI, a Notice of Completion (Form "H") should be used as a cover sheet. Responsible and Trustee Agencies, the State Clearinghouse, and the state agencies contacted by the State Clearinghouse have thirty (30) days to respond to the Notice of Preparation in writing via certified mail, email, or an equivalent procedure. Agencies that do not respond within thirty (30) days shall be deemed not to have any comments on the Notice of Preparation.

At a minimum, the Notice of Preparation shall include:

(a) A description of the project;
(b) The location of the project indicated either on an attached map (preferably a copy of the USGS 15' or 7½' topographical map identified by quadrangle name) or by a street address and cross street in an urbanized area;
(c) The probable environmental effects of the project;
(d) The name and address of the consulting firm retained to prepare the Draft EIR, if applicable; and
(e) The Environmental Protection Agency ("EPA") list on which the proposed site is located, if applicable, and the corresponding information from the applicant's statement. (See Local Guidelines Section 2.04.)

(Reference: Pub. Resources Code, § 21080.4; State CEQA Guidelines, § 15082.)

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7.04 SPECIAL NOTICE REQUIREMENTS FOR AFFECTED MILITARY AGENCIES

CEQA imposes additional requirements to provide notice to potentially affected military agencies when:

(a) A "military service" (defined in Section 11.42 of these Local Guidelines) has provided the City with its contact office and address and notified the City of the specific boundaries of a "low-level flight path" (defined in Section 11.37 of these Local Guidelines), "military impact zone" (defined in Section 11.41 of these Local Guidelines), or "special use airspace" (defined in Section 11.67 of these Local Guidelines); and

(b) The project meets one of the following criteria:

(1) The project is within the boundaries specified pursuant to subsection (a) of this guideline;

(2) The project includes a general plan amendment;

(3) The project is of statewide, regional, or area-wide significance; or

(4) The project relates to a public use airport or certain lands surrounding a public use airport.

When a project meets these requirements, the City must provide the military service's designated contact with any Notice of Preparation, and/or Notice of Availability of Draft EIRs that have been prepared for a project, unless the project involves the remediation of lands contaminated with hazardous wastes and meets certain other requirements.

The City must provide the military service with sufficient notice of its intent to certify an EIR to ensure that the military service has no fewer than thirty (30) days to review the document; or forty-five (45) days to review the environmental documents before they are approved if the documents have been submitted to the State Clearinghouse.

It should be noted that the effect, or potential effect, a project may have on military activities does not itself constitute an adverse effect on the environment pursuant to CEQA.

(Reference: Pub. Resources Code, §§ 21080.4, 21092; Health & Safety Code, §§ 25300, et seq., 25396, 25187; State CEQA Guidelines, § 15082(a).)

7.05 ENVIRONMENTAL LEADERSHIP DEVELOPMENT PROJECT.

Under certain circumstances, a project applicant may choose to apply to the Governor of the State of California to have the project certified as an Environmental Leadership Development Project. A project may qualify as an Environmental Leadership Development Project if it is one of the following:

(1) A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that meets the following standards:

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- The project is certified as Leadership in Energy and Environmental Design (LEED) gold or better by the United States Green Building Council; and

- The project, where applicable, achieves a 15 percent greater standard for transportation efficiency than comparable projects; and

- The project is located on an infill site; and

- For a project that is within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning organization's determination, under subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(2) A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.

(3) A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.

(4) A housing development project—i.e., a project that entails either residential units only; mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; or transitional housing or supportive housing—that meets all of the following conditions:

- The housing development project is located on an infill site.

- For a housing development project that is located within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning organization's determination, under subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

- Notwithstanding paragraph (1) of subdivision (a) of Section 21183, the housing development project will result in a minimum investment of fifteen million

dollars ($15,000,000), but less than one hundred million dollars ($100,000,000), in California upon completion of construction.

- At least 15 percent of the housing development project is dedicated as housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Upon completion of a housing development project that is qualified under this paragraph and is certified by the Governor, the lead agency or applicant of the project shall notify the Office of Land Use and Climate Innovation of the number of housing units and affordable housing units established by the project. Notwithstanding the foregoing, if a local agency has adopted an inclusionary zoning ordinance that establishes a minimum percentage for affordable housing within the jurisdiction in which the housing development project is located that is higher than 15 percent, the percentage specified in the inclusionary zoning ordinance shall be the threshold for affordable housing.

- Except for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code, no part of the housing development project shall be used for a rental unit for a term shorter than 30 days, or designated for hotel, motel, bed and breakfast inn, or other transient lodging use. Moreover, no part of the housing development project shall be used for manufacturing or industrial uses.

The Governor may certify a leadership project for streamlining before the lead agency certifies an EIR for the project if various conditions set forth in Public Resources Code section 21182 are met. The conditions include but are not limited to the following: (1) except as set forth above, the project will result in a minimum investment of one hundred million dollars ($100,000,000) in California upon completion of construction; (2) the project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provide construction jobs and permanent jobs for Californians, helps reduce unemployment, and promotes apprenticeship training; and (3) the project will not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation.

If the Governor certifies a project as an Environmental Leadership Development Project, any lawsuit challenging the project—including any potential appeals to the court of appeal or the California Supreme Court—must be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the trial court.

This section shall remain in effect until January 1, 2026. This section does not comprehensively set forth the rules governing Environmental Leadership Development projects. For more information, please see Chapter 6.5 of the Public Resources Code, starting with Public Resources Code section 21178.

7.06 PREPARATION OF DRAFT EIR.

The Lead Agency is responsible for preparing a Draft EIR. The Lead Agency may begin preparation of the Draft EIR without awaiting responses to the Notice of Preparation. However,

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information communicated to the Lead Agency not later than thirty (30) days after receipt of the Notice of Preparation shall be included in the Draft EIR.

(Reference: State CEQA Guidelines, § 15084.)

7.07 CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES.

Prior to the release of a Draft EIR for a project, the Lead Agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if:

(a) The California Native American tribe requested to the Lead Agency, in writing, to be informed by the Lead Agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe; and

(b) The California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. The California Native American tribe shall designate a lead contact person when responding to the Lead Agency. If a lead contact is not designated by the California Native American tribe, or if it designates multiple lead contact people, the Lead Agency shall defer to the individuals listed on the contact list maintained by the Native American Heritage Commission. Consultation is defined in Local Guidelines Section 11.11.

To expedite the requirements of this section, the Native American Heritage Commission shall assist the Lead Agency in identifying the California American Native tribes that are traditionally and culturally affiliated with the project area.

Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the Lead Agency shall provide formal notification to the designated contact of, or a trial representative of, traditionally and culturally affiliated California Native America tribes that have requested notice, which shall be accomplished by at least one written notification that includes a brief description of the proposed project and its location, the Lead Agency contact information, and a notification that the California Native American tribe has 30 days to request consultation.

The Lead Agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.

If consultation is requested, the parties may propose mitigation measures, including those set forth in Public Resources Code section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommend to the lead agency.

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The consultation shall be considered concluded when either of the following occurs:

(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

The California Native American tribe is not limited in its ability to submit information to the Lead Agency regarding the significance of the tribal cultural resources, the significance of the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impacts. Additionally, the Lead Agency or project proponent is not limited in its ability to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

(Reference: Pub. Resources Code, §§ 21080.3.1, 21080.3.2.)

7.08 IDENTIFICATION OF TRIBAL CULTURAL RESOURCES AND PROCESSING OF INFORMATION AFTER CONSULTATION WITH THE CALIFORNIA NATIVE AMERICAN TRIBE

After consultation with the California Native American tribe listed above in Local Guidelines Section 7.07, any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the EIR and in an adopted mitigation monitoring and reporting program, if the mitigation measures are determined to avoid or lessen the proposed project’s impacts on tribal cultural resources, and if the mitigation measures are enforceable.

If a project may have a significant impact on a tribal cultural resource, the Lead Agency's EIR shall discuss both of the following:

(a) Whether the proposed project has a significant impact on an identified tribal cultural resource;

(b) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to during the consultation, avoid or substantially lessen the impact on the identified tribal cultural resource.

Any information provided regarding the location, description and use of the tribal cultural resource that is submitted by a California Native American tribe during the environmental review process shall not be included in the EIR or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code section 7927.005, and State CEQA Guidelines section 15120(d), without the prior consent of the tribe that provided the information. If the Lead Agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the EIR unless the tribe provides consent, in writing, to the disclosure of some or all of the information to the public. This does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the EIR.

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The exchange of confidential information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the Lead Agency, the California Native American tribe, the project applicant, or the project applicant's agent is not prohibited by Public Resources Code section 21082.3. The project applicant and the project applicant's legal advisers must use a reasonable degree of care and maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding the cultural resource unless the California Native American tribe providing the information consents in writing to the public disclosure of such information.

Public Resources Code section 21082.3 does not prevent a Lead Agency or other public agency from describing the information in general terms in the EIR so as to inform the public of the basis of the Lead Agency's or other public agency's decision without breaching the confidentiality required. In addition, a Lead Agency may certify an EIR for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(a) The consultation process between the California Native American tribe and the Lead Agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(b) The California Native American tribe has requested consultation pursuant to Public Resources Code section 21080.3.1 and has failed to provide comments to the Lead Agency, or otherwise failed to engage, in the consultation process.

(c) The Lead Agency has complied with subdivision (d) of Section 21080.3.1 of the Public Resources Code and the California Native American tribe has failed to request consultation within 30 days.

If substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource but the decision-makers do not include the mitigation measures recommended by the staff in the Draft EIR, or if there are no agreed upon mitigation measures at the conclusion of the consultation, or if no consultation has occurred, the Lead Agency must still consider the adoption of feasible mitigation.

(Reference: Pub. Resources Code, § 21082.3.)

7.09 SIGNIFICANT ADVERSE IMPACTS TO TRIBAL CULTURAL RESOURCES

Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. If the Lead Agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Public Resources Code section 21080.3.2 as set forth in Local Guidelines Section 7.07, the following examples of mitigation measures, if feasible, may be considered to avoid or minimize the significant adverse impacts:

(a) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural

context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

(b) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to the following:

(1) Protecting the cultural character and integrity of the resource.

(2) Protecting the traditional use of the resource.

(3) Protecting the confidentiality of the resource.

(c) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

(d) Protecting the resource.

(Reference: Pub. Resources Code, § 21084.3.)

7.10 CONSULTATION WITH OTHER AGENCIES AND PERSONS.

To expedite consultation in response to the Notice of Preparation, the Lead Agency, a Responsible Agency, or a project applicant may request a meeting among the agencies involved to assist in determining the scope and content of the environmental information that the involved agencies may require. For any project that may affect highways or other facilities under the jurisdiction of the State Department of Transportation, the Department of Transportation can request a scoping meeting. When acting as Lead Agency, the City must convene the meeting as soon as possible but no later than thirty (30) days after a request is made. When acting as a Responsible Agency, the City should make any requests for consultation as soon as possible after receiving a Notice of Preparation.

Prior to completion of the Draft EIR, the Lead Agency shall consult with each Responsible Agency and any public agency that has jurisdiction by law over the project.

When acting as a Lead Agency, the City may fulfill this obligation by distributing the Notice of Preparation in compliance with Local Guidelines Section 7.03 and soliciting the comments of Responsible Agencies, Trustee Agencies, and other affected agencies. The City may also consult with any individual who has special expertise with respect to any environmental impacts involved with a project. The City may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project, including any interested individuals and organizations of which the City is reasonably aware. The purpose of this consultation is to "scope" the EIR's range of analysis. When a Negative Declaration or Mitigated Negative Declaration will be prepared for a project, no scoping meeting need be held, although the City may hold one if it so chooses. For private projects, the City as Lead Agency may charge and collect from the applicant a fee not to exceed the actual cost of the consultations.

In addition to soliciting comments on the Notice of Preparation, the Lead Agency may be required to conduct a scoping meeting to gather additional input regarding the impacts to be analyzed in the EIR. The Lead Agency is required to conduct a scoping meeting when:

(a) The meeting is requested by a Responsible Agency, a Trustee Agency, the Office of Land Use and Climate Innovation, or a project applicant;
(b) The project is one of "statewide, regional or area wide significance" as defined in State CEQA Guidelines section 15206; or
(c) The project may affect highways or other facilities under the jurisdiction of the State Department of Transportation, and the Department of Transportation has requested a scoping meeting.

When acting as Lead Agency, the City shall provide notice of the scoping meeting to all of the following:

(a) Any county or city that borders on a county or city within which the project is located, unless the City has a specific agreement to the contrary with that county or city;
(b) Any Responsible Agency;
(c) Any public agency that has jurisdiction by law over the project;
(d) A transportation planning agency, or any public agency that has transportation facilities within its jurisdiction, that could be affected by the project; and
(e) Any organization or individual who has filed a written request for the notice.

The requirement for providing notice of a scoping meeting may be met by including the notice of the public scoping meeting in the public meeting notice.

Government Code section 65352 requires that before a legislative body may adopt or substantially amend a general plan, the planning agency must refer the proposed action to any city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action. CEQA allows that referral procedure to be conducted concurrently with the scoping meeting required pursuant to this section of the Local CEQA Guidelines.

For projects that are also subject to NEPA, a scoping meeting held pursuant to NEPA satisfies the CEQA scoping requirement as long as notice is provided to the agencies and individuals listed above, and in accordance with these Local Guidelines. (See Local Guideline 5.04 for a discussion of NEPA.)

The City shall call the scoping meeting as soon as possible but not later than 30 days after the meeting was requested. If the scoping meeting is being conducted concurrently with the procedure in Government Code section 65352 for the consideration of adoption or amendment of general plans, each entity receiving a proposed general plan or amendment of a general plan should have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified. The commenting entity may submit its comments at the scoping meeting.

A Responsible Agency or other public agency shall only make comments regarding those activities that are within its area of expertise or that are required to be carried out or approved by

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the Responsible Agency. These comments must be supported by specific documentation. Any mitigation measures submitted to the City by a Responsible or Trustee Agency shall be limited to measures that mitigate impacts to resources that are within the Responsible or Trustee Agency's authority.

For projects of statewide, area-wide, or regional significance, consultation with transportation planning agencies or with public agencies that have transportation facilities within their jurisdictions shall be for the purpose of obtaining information concerning the project's effect on major local arterials, public transit, freeways, highways, overpasses, on-ramps, off-ramps, and rail transit services. Moreover, the Lead Agency should also consult with public transit agencies with facilities within one-half mile of the proposed project. Any transportation planning agency or public agency that provides information to the Lead Agency must be notified of, and provided with, copies of any environmental documents relating to the project.

(Reference: State CEQA Guidelines, §§ 15082, 15083.)

7.11 EARLY CONSULTATION ON PROJECTS INVOLVING PERMIT ISSUANCE.

When the project involves the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the City, upon request of the applicant, shall meet with the applicant regarding the range of actions, potential alternatives, mitigation measures and significant effects to be analyzed in depth in the EIR. The City may also consult with concerned persons identified by the applicant and persons who have made written requests to be consulted. Such requests for early consultation must be made not later than thirty (30) days after the City's decision to prepare an EIR.

7.12 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

For certain development projects, cities and counties must consult with water agencies. If the City is a water provider for the project, the city or county may request consultation with the City. (See Local Guidelines Sections 5.16 and 5.17 for more information on these requirements.)

(Reference: State CEQA Guidelines, § 15155.)

7.13 AIRPORT LAND USE PLAN.

When the City prepares an EIR for a project within the boundaries of a comprehensive airport land use plan, or, if such a plan has not been adopted, for a project within two (2) nautical miles of a public airport or public use airport, the City shall utilize the Airport Land Use Planning Handbook published by Caltrans' Division of Aeronautics to assist in the preparation of the EIR relative to potential airport or related safety hazards and noise problems.

(Reference: State CEQA Guidelines, § 15154.)

7.14 GENERAL ASPECTS OF AN EIR.

Both a Draft and Final EIR must contain the information outlined in Local Guidelines Sections 7.17 and 7.18. Each element must be covered, and when elements are not separated into distinct sections, the document must state where in the document each element is covered.

The body of the EIR shall include summarized technical data, maps, diagrams and similar relevant information. Highly technical and specialized analyses and data should be included in appendices. Appendices may be prepared in separate volumes, but must be equally available to the public for examination. All documents used in preparation of the EIR must be referenced. An EIR shall not include "trade secrets," locations of archaeological sites and sacred lands, or any other information subject to the disclosure restrictions of the Public Records Act (Government Code section 7920.000, et seq.).

The EIR should discuss environmental effects in proportion to their severity and probability of occurrence. Effects dismissed in the Initial Study as clearly insignificant and unlikely to occur need not be discussed.

The Initial Study should be used to focus the EIR so that the EIR identifies and discusses only the specific environmental problems or aspects of the project that have been identified as potentially significant or important. A copy of the Initial Study should be attached to the EIR or included in the administrative record to provide a basis for limiting the impacts discussed.

The EIR shall contain a statement briefly indicating the reason for determining that various effects of a project that could possibly be considered significant were not found to be significant and consequently were not discussed in detail in the EIR. The City should also note any conclusion by it that a particular impact is too speculative for evaluation.

The EIR should omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

7.15 USE OF REGISTERED CONSULTANTS IN PREPARING EIRS.

An EIR is not a technical document that can be prepared only by a registered consultant or professional. However, state statutes may provide that only registered professionals can prepare certain technical studies that will be used in an EIR, or that will control the detailed design, construction, or operation of the proposed project and that will be prepared in support of an EIR.

(Reference: State CEQA Guidelines, § 15149.)

7.16 INCORPORATION BY REFERENCE.

An EIR, Negative Declaration, or Mitigated Negative Declaration may incorporate by reference all or portions of another document that is a matter of public record or is generally available to the public. Any incorporated document shall be considered to be set forth in full as part of the text of the environmental document. When all or part of another document is incorporated by reference, that document shall be made available to the public for inspection at

the City's offices. The environmental document shall state where incorporated documents will be available for inspection.

When incorporation by reference is used, the incorporated part of the referenced document shall be briefly summarized, if possible, or briefly described if the data or information cannot be summarized. The relationship between the incorporated document and the EIR, Negative Declaration, or Mitigated Negative Declaration shall be described. When information from an environmental document that has previously been reviewed through the state review system ("State Clearinghouse") is incorporated by the City, the state identification number of the incorporated document should be included in the summary or text of the EIR.

(Reference: State CEQA Guidelines, § 15150.)

7.17 STANDARDS FOR ADEQUACY OF AN EIR.

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that takes into account the environmental consequences of the project. The evaluation of environmental effects need not be exhaustive, but must be within the scope of what is reasonably feasible. The EIR should be written and presented in such a way that it can be understood by governmental decision-makers and members of the public. A good faith effort at completeness is necessary. The adequacy of an EIR is assessed in terms of what is reasonable in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a Lead Agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters, but CEQA does require the Lead Agency to make a good faith, reasoned response to timely comments raising significant environmental issues.

There is no need to unreasonably delay adoption of an EIR in order to include results of studies in progress, even if those studies will shed some additional light on subjects related to the project.

(Reference: State CEQA Guidelines, § 15151.)

7.18 FORM AND CONTENT OF EIR.

The text of the EIR should normally be less than 150 pages. For proposals of unusual scope or complexity, the EIR may be longer than 150 pages but should normally be less than 300 pages. The required contents of an EIR are set forth in Sections 15122 through 15132 of the State CEQA Guidelines. In brief, the EIR must contain:

(a) A table of contents or an index;
(b) A brief summary of the proposed project, including each significant effect with proposed mitigation measures and alternatives, areas of known controversy and issues to be resolved including the choice among alternatives, how to mitigate the significant effects and whether there are any significant and unavoidable impacts (generally, the summary should be less than fifteen (15) pages);

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(c) A description of the proposed project, including its underlying purpose and a list of permit and other approvals required to implement the project (see Local Guidelines Section 7.24 regarding analysis of future project expansion);

(d) A description of the environmental setting, which includes the project's physical environmental conditions from both a local and regional perspective at the time the Notice of Preparation is published, or if no Notice of Preparation is published, at the time environmental analysis begins. (State CEQA Guidelines section 15125.) This environmental setting will normally constitute the baseline physical conditions by which the Lead Agency determines whether an impact is significant. However, the City, when acting as Lead Agency, may choose any baseline that is appropriate as long as the City's choice of baseline is supported by substantial evidence;

(e) A discussion of any inconsistencies between the proposed project and applicable general, specific and regional plans. Such plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation, regional blueprint plans, plans for the reduction of greenhouse gas emissions, habitat conservation plans, natural community conservation plans and regional land use plans;

(f) A description of the direct and indirect significant environmental impacts of the proposed project explaining which, if any, can be avoided or mitigated to a level of insignificance, indicating reasons that various possible significant effects were determined not to be significant and denoting any significant effects that are unavoidable or could not be mitigated to a level of insignificance. Direct and indirect significant effects shall be clearly identified and described, giving due consideration to both short-term and long-term effects;

(g) Potentially significant energy implications of a project must be considered to the extent relevant and applicable to the project (see Local Guidelines Section 5.20);

(h) An analysis of a range of alternatives to the proposed project that could feasibly attain the project's objectives as discussed in Local Guidelines Section 7.23;

(i) A description of any significant irreversible environmental changes that would be involved in the proposed action should it be implemented if, and only if, the EIR is being prepared in connection with:

(1) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;

(2) The adoption by a Local Agency Formation Commission of a resolution making determinations; or

(3) A project that will be subject to the requirement for preparing an Environmental Impact Statement pursuant to NEPA;

(j) An analysis of the growth-inducing impacts of the proposed action. The discussion should include ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Growth-inducing impacts may include the estimated energy consumption of growth induced by the project;

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(k) A discussion of any significant, reasonably anticipated future developments and the cumulative effects of all proposed and anticipated action as discussed in Local Guidelines Section 7.24;

(l) In certain situations, a regional analysis should be completed for certain impacts, such as air quality;

(m) A discussion of any economic or social effects, to the extent that they cause, or may be used to determine, significant environmental impacts;

(n) A statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and, therefore, were not discussed in the EIR;

(o) The identity of all federal, state or local agencies or other organizations and private individuals consulted in preparing the EIR, and the identity of the persons, firm or agency preparing the EIR, by contract or other authorization. To the fullest extent possible, the City should integrate CEQA review with these related environmental review and consultation requirements;

(p) A discussion of those potential effects of the proposed project on the environment that the City has determined are or may be significant. The discussion on other effects may be limited to a brief explanation as to why those effects are not potentially significant; and

(q) A description of feasible measures, as set forth in Local Guidelines Section 7.22, which could minimize significant adverse impacts.

(Reference: State CEQA Guidelines, §§ 15120-15148.)

7.19 CONSIDERATION AND DISCUSSION OF SIGNIFICANT ENVIRONMENTAL IMPACTS.

An EIR must identify and focus on the significant effects of the proposed project on the environment. In assessing the proposed project's potential impacts on the environment, the City should normally limit its examination to comparing changes that would result from the project as compared to the existing physical conditions in the affected area as they exist when the Notice of Preparation is published. If a Notice of Preparation is not published for the project, the City should compare the proposed project's potential impacts to the physical conditions that exist at the time environmental review begins. Direct and indirect significant effects of the project on the environment must be clearly identified and described, considering both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the project that may impact resources in the project area, such as water, historical resources, scenic quality, and public services. The EIR must also analyze any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area. If applicable, an EIR should also evaluate any potentially significant direct, indirect, or cumulative environmental impacts of locating development in areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas), including both short-term and long-term conditions, as identified on authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.

If analysis of the project's energy use reveals that the project may result in significant environmental effects due to wasteful, inefficient, or unnecessary use of energy, or wasteful use

of energy resources, the EIR shall mitigate that energy use. This analysis should include the project's energy use for all project phases and components, including transportation-related energy, during construction and operation. In addition to building code compliance, other relevant considerations may include, among others, the project's size, location, orientation, equipment use and any renewable energy features that could be incorporated into the project. This analysis is subject to the rule of reason and shall focus on energy use that is caused by the project. This analysis may be included in related analyses of air quality, greenhouse gas emissions, transportation or utilities in the discretion of the Lead Agency.

The EIR must describe all significant impacts, including those that can be mitigated but not reduced to a level of insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described.

The EIR must also discuss any significant irreversible environmental changes that would be caused by the project. For example, use of nonrenewable resources during the initial and continued phases of a project may be irreversible if a large commitment of such resources makes removal or nonuse thereafter unlikely. Additionally, irreversible commitment of resources may include a discussion of how the project preempts future energy development or future energy conservation. Irretrievable commitments of resources to the proposed project should be evaluated to assure that such current consumption is justified.

(Reference: Pub. Resources Code, § 21100.)

7.20 ENVIRONMENTAL SETTING

An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which the Lead Agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.

(1) Generally, the Lead Agency should describe physical environmental conditions as they exist at the time the Notice of Preparation is published, or if no Notice of Preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, the Lead Agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence. In addition, the Lead Agency may also use baselines consisting of both existing conditions and projected future conditions that are supported by reliable projections based on substantial evidence in the record.

(2) The Lead Agency may use projected future conditions (beyond the date of project operations) as the sole baseline for analysis only if it demonstrates with substantial evidence that use of existing conditions would be either misleading or without informative value to decision-

makers and the public. Use of projected future conditions as the only baseline must be supported by reliable projections based on substantial evidence in the record.

(3) An existing conditions baseline shall not include hypothetical conditions—such as those that might be allowed, but have never actually occurred, under existing permits or plans—as the baseline.

(State CEQA Guidelines, § 15125.)

7.21 ANALYSIS OF CUMULATIVE IMPACTS.

An EIR must discuss cumulative impacts when the project's incremental effect is "cumulatively considerable" as defined in Local Guidelines Section 11.13. When the City is examining a project with an incremental effect that is not "cumulatively considerable," it need not consider that effect significant, but must briefly describe the basis for this conclusion. A project's contribution may be less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure designed to alleviate the cumulative impact. When relying on a fee program or mitigation measure(s), the City must identify facts and analysis supporting its conclusion that the cumulative impact is less than significant.

The City may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program that provides specific requirements that will avoid or substantially lessen the cumulative problem in the geographic area in which the project is located. Such plans and programs may include, but are not limited to:

(1) Water quality control plans;

(2) Air quality attainment or maintenance plans;

(3) Integrated waste management plans;

(4) Habitat conservation plans;

(5) Natural community conservation plans; and/or

(6) Plans or regulations for the reduction of greenhouse gas emissions.

When relying on such a regulation, plan, or program, the City should explain how implementing the particular requirements of the plan, regulation or program will ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable.

A cumulative impact consists of an impact that is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts that do not result in part from the project evaluated in the EIR.

The discussion of cumulative impacts in an EIR must focus on the cumulative impacts to which the identified other projects contribute, rather than on the attributes of other projects that do

not contribute to the cumulative impact. The discussion of significant cumulative impacts must include either of the following:

(1) A list of past, present, and probable future projects causing related or cumulative impacts including, if necessary, those projects outside the control of the City; or

(2) A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or a plan for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Documents used in creating a summary of projections must be referenced and made available to the public.

When utilizing a list, as suggested above, factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined and the location and type of project. Location may be important, for example, when water quality impacts are involved since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

Public Resources Code section 21094 also states that if a Lead Agency determines that a cumulative effect has been adequately addressed in an earlier EIR, it need not be examined in a later EIR if the later project's incremental contribution to the cumulative effect is not cumulatively considerable. A cumulative effect has been adequately addressed in the prior EIR if:

(1) it has been mitigated or avoided as a result of the prior EIR; or

(2) the cumulative effect has been examined in a sufficient level of detail to enable the effect to be mitigated or avoided by site-specific revisions, the imposition of conditions, or other means in connection with the approval of the later project.

Public Resources Code section 21094 only applies to earlier projects that (1) are consistent with the program, plan, policy, or ordinance for which an environmental impact report has been prepared and certified, (2) are consistent with applicable local land use plans and zoning of the city, county, or city and county in which the later project would be located and (3) are not subject to Public Resources Code section 21166.

If the Lead Agency determines that the cumulative effect has been adequately addressed in a prior EIR, the Lead Agency should clearly explain the basis for its determination in the current environmental documentation for the project.

The City should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(Reference: State CEQA Guidelines, § 15130.)

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7.22 ANALYSIS OF MITIGATION MEASURES.

The discussion of mitigation measures in an EIR must distinguish between measures proposed by project proponents and other measures proposed by Lead, Responsible or Trustee Agencies. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

Where several measures are available to mitigate an impact, each should be disclosed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the Lead Agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.

If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be disclosed but in less detail than the significant effects of the project itself.

If a project includes a housing development, the City may not reduce the project's proposed number of housing units as a mitigation measure or project alternative if the City determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation without reducing the number of housing units.

Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design. Mitigation measures must also be consistent with all applicable constitutional requirements such as the "nexus" and "rough proportionality" standards—i.e., there must be an essential nexus between the mitigation measure and a legitimate governmental interest, and the mitigation measure must be "roughly proportional" to the impacts of the project.

Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of a historical resource will be conducted in a manner consistent with the Secretary of the Interior's "Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings" (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus not significant.

The City should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following must be considered and discussed in an EIR for a project involving an archaeological site:

(a) Preservation in place is the preferred manner of mitigating impacts to archaeological sites; and

(b) Preservation in place may be accomplished by, but is not limited to, the following:

(1) Planning construction to avoid archaeological sites;

(2) Incorporation of sites within parks, green space, or other open spaces;

(3) Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site; and/or

(4) Deeding the site into a permanent conservation easement.

When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to excavation. Such studies must be deposited with the California Historical Resources Regional Information Center.

Data recovery shall not be required for a historical resource if the City determines that existing testing or studies have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

(Reference: State CEQA Guidelines, § 15126.4.)

7.23 ANALYSIS OF ALTERNATIVES IN AN EIR.

The alternatives analysis must describe and evaluate the comparative merits of a range of reasonable alternatives to the project or to the location of the project which would feasibly attain most of the basic objectives of the project, but which would avoid or substantially lessen any of the significant effects of the project. An EIR need not consider every conceivable alternative to a project, and it need not consider alternatives that are infeasible. Rather, an EIR must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.

Purpose of the Alternatives Analysis: An EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment. For this reason, a discussion of alternatives must focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effect of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly.

Selection of a Range of Reasonable Alternatives: The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects, even if those alternatives would be more costly or would impede to some degree the attainment of the project's objectives. The EIR should briefly describe the rationale for selecting the alternatives to

be discussed. The EIR should also identify any alternatives that were considered by the Lead Agency and rejected as infeasible during the scoping process, and it should briefly explain the reasons for rejecting those alternatives. Additional information explaining the choice of alternatives should be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (a) failure to meet most of the basic project objectives; (b) infeasibility; or (c) inability to avoid significant environmental impacts.

Evaluation of Alternatives: The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. The matrix may also identify and compare the extent to which each alternative meets project objectives. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed but in less detail than the significant effects of the project as proposed.

The Rule of Reason: The range of alternatives required in an EIR is governed by a "rule of reason" which courts have held means that an alternatives discussion must be reasonable in scope and content. Therefore, the EIR must set forth only those alternatives necessary to permit public participation, informed decision-making, and a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones the City determines could feasibly attain most of the basic objectives of the project. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

Feasibility of Alternatives: The factors that may be taken into account when addressing the feasibility of alternatives include: site suitability; economic viability; availability of infrastructure; general plan consistency; other plans or regulatory limitations; jurisdictional boundaries (projects with a regionally significant impact should consider the regional context); and whether the proponent already owns the alternative site or can reasonably acquire, control or otherwise have access to the site. No one factor establishes a fixed limit on the scope of reasonable alternatives.

Alternative Locations: The first step in the alternative location analysis is to determine whether any of the significant effects of the project could be avoided or substantially lessened by putting the project in another location. This is the key question in this analysis. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

The second step in this analysis is to determine whether any of the alternative locations are feasible. If the City concludes that no feasible alternative locations exist, it must disclose its reasons, and it should include them in the EIR. When a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for a project with the same basic purpose, the City should review the previous document and incorporate the previous document by reference. To the extent the circumstances have remained substantially the same

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with respect to an alternative, the EIR may rely on the previous document to help it assess the feasibility of the potential project alternative.

The "No Project" Alternative: The specific alternative of "no project" must be evaluated along with its impacts. The purpose of describing and analyzing the no project alternative is to allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative may be different from the baseline environmental conditions. The no project alternative will be the same as the baseline only if it is identical to the existing environmental setting and the Lead Agency has chosen the existing environmental setting as the baseline.

A discussion of the "no project" alternative should proceed along one of two lines:

(a) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future. Typically, this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan; or

(b) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed. This discussion would compare the environmental effects of the property remaining in its existing state against environmental effects that would occur if the project is approved. If disapproval of the project would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed.

After defining the "no project" alternative, the City should proceed to analyze the impacts of the "no project" alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the "no project" alternative is the environmentally superior alternative, the EIR must also identify another environmentally superior alternative among the remaining alternatives.

Remote or Speculative Alternatives: An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

(Reference: State CEQA Guidelines, § 15126.6.)

7.24 ANALYSIS OF FUTURE EXPANSION.

An EIR must include an analysis of the environmental effects of future expansion (or other similar future modifications) if there is credible and substantial evidence that:

(a) The future expansion or action is a reasonably foreseeable consequence of the initial project; and

(b) The future expansion or action is likely to change the scope or nature of the initial project or its environmental effects.

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Absent these two circumstances, future expansion of a project need not be discussed. CEQA does not require speculative discussion of future development that is unspecific or uncertain. However, if future action is not considered now, it must be considered and environmentally evaluated before it is actually implemented.

(Reference: *Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 47 Cal.3d 376, 396.)

7.25 NOTICE OF COMPLETION OF DRAFT EIR; NOTICE OF AVAILABILITY OF DRAFT EIR.

Notice of Completion. When the Draft EIR is completed, a Notice of Completion (Form "H") must be filed with the Office of Land Use and Climate Innovation in an electronic form via the Office of Land Use and Climate Innovation's CEQASubmit website, which is located at the following web address: https://ceqasubmit.lci.ca.gov/. The Notice of Completion shall contain:

(a) A brief description of the proposed project;
(b) The location of the proposed project including the proposed project's latitude and longitude;
(c) An address where copies of the Draft EIR are available and a description of how the Draft EIR can be provided in an electronic format; and
(d) The review period during which comments will be received on the Draft EIR.

The Office of Land Use and Climate Innovation has developed a model form Notice of Completion. Form H follows LCI's model. To ensure that the documents are accepted by LCI staff, this form should be used when documents are transmitted to the State Clearinghouse.

Notice of Availability. At the same time it sends a Notice of Completion to the LCI, the City shall provide public notice of the availability of the Draft EIR by distributing a Notice of Availability of Draft EIR (Form "K"). The Notice of Availability shall include at least the following information:

(a) A brief description of the proposed project and its location;
(b) The starting and ending dates for the review period during which the City will receive comments, the manner in which the City will receive those comments, and whether the review period has been shortened;
(c) The date, time, and place of any scheduled public meetings or hearings to be held by the City on the proposed project, if the City knows this information when it prepares the Notice;
(d) A list of the significant environmental effects anticipated as a result of the project;
(e) The address where copies of the EIR and all documents incorporated by reference in the EIR will be available for public review, and a description of how the Draft EIR can be obtained in electronic format. This location shall be readily accessible to the public during the City's normal working hours; and
(f) A statement indicating whether the project site is included on any list of hazardous waste facilities, land designated as hazardous waste property, or hazardous waste disposal site, and, if so, the information required in the Hazardous Waste and Substances Statement pursuant to Government Code section 65962.5.

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The Notice of Availability shall be provided to:

(a) Each Responsible and Trustee Agency;
(b) Any other federal, state, or local agency that has jurisdiction by law or exercises authority over resources affected by the project, including:

(1) Any water supply agency consulted under Local Guidelines Section 5.16;

(2) Any city or county bordering on the project area;

(3) For a project of statewide, regional, or area-wide significance, any transportation agencies or public agencies that have major local arterials or public transit facilities within five (5) miles of the project site; or freeways, highways, or rail transit service within ten (10) miles of the project site that could be affected by the project;

(4) For a subdivision project located within one mile of a facility of the State Water Resources Development System, the California Department of Water Resources; and

(5) For a general plan amendment, a project of statewide, regional, or area-wide significance, or a project that relates to a public use airport, to any "military service" (defined in Section 11.42 of these Local Guidelines) that has provided the City with its contact office and address and notified the City of the specific boundaries of a "low-level flight path" (defined in Section 11.37 of these Local Guidelines), "military impact zone" (defined in Section 11.41 of these Local Guidelines), or "special use airspace" (defined in Section 11.67 of these Local Guidelines;

(c) The last known name and address of all organizations and individuals who have previously filed a written request with the City to receive these Notices;
(d) For certain projects that may impact a low-level flight path, military impact zone, or special use airspace and that meet the other criteria of Local Guidelines Section 7.04, the specified military services contact;
(e) For certain projects that involve the construction or alteration of a facility anticipated to emit hazardous air emissions or handle hazardous substances within one-quarter mile of a school and that meet the other requirements of Local Guidelines Section 7.36, any potentially affected school district;
(f) For certain waste-burning projects that meet the requirements of Local Guidelines Section 5.11 (see also Local Guidelines Section 7.27), the owners and occupants of property within one-fourth mile of any parcel on which the project will be located; and
(g) For a project that establishes or amends a redevelopment plan that contains land in agricultural use, notice and a copy of the Draft EIR shall be provided to the agricultural and farm agencies and organizations specified in Health and Safety Code section 33333.3.

The City requires requests for copies of these Notices to be in writing and to be renewed annually; moreover, the City may charge a fee for the reasonable cost of providing these Notices. A project will not be invalidated due to a failure to send a requested Notice provided there has been substantial compliance with these notice provisions.

Staff may also consult with and obtain comments from any person known to have special expertise or any other person or organization whose comments relative to the Draft EIR would be desirable.

Notice shall be given to the last known name and address of all organizations and individuals who have previously requested notice; by posting the notice on the website of the lead agency; and by at least one of the following :

(a) Publication of the Notice of Completion and/or the Notice of Availability at least once in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas;
(b) Posting of the Notice of Completion and/or the Notice of Availability on and off site in the area where the project is to be located; or
(c) Direct mailing of the Notice of Completion and/or the Notice of Availability to owners and occupants of property contiguous to the project, as identified on the latest equalized assessment roll.

The Notice of Completion and Notice of Availability shall be posted in the office of the Clerk in each county in which the project is located for at least thirty (30) days. If the public review period for the Draft EIR is longer than thirty (30) days, the City may wish to leave the Notice posted until the public review period for the Draft EIR has expired.

Copies of the Draft EIR shall also be made available at the City office for review by members of the general public. The City may require any person obtaining a copy of the Draft EIR to reimburse the City for the actual cost of its reproduction. Copies of the Draft EIR should also be furnished to appropriate public library systems.

The City shall also post an electronic copy of the Notice of Completion, Notice of Availability, and Draft EIR on its website, if any.

(Reference: Pub. Resources Code, § 21082.1; State CEQA Guidelines, §§ 15085, 15087.)

7.26 SUBMISSION OF DRAFT EIR TO STATE CLEARINGHOUSE.

A Draft EIR must be submitted to the State Clearinghouse, at the same time as the Notice of Completion, in an electronic form as required by the Office of Land Use and Climate Innovation, regardless of whether the document must be circulated for review and comment by state agencies under State CEQA Guidelines section 15205 and 15206. The Draft EIR must be submitted via the LCI's CEQASubmit website (https://ceqasubmit.lci.ca.gov/). The CEQASubmit website differentiates between environmental documents that do require review and comment by state agencies and those that do not. In particular, the website provides a "Local Review Period" tab for submitting documents that do not require review and comment by state agencies, and a "State Review Period" tab for submitting documents that do require review and comment by state agencies.

A Draft EIR must be submitted to the State Clearinghouse for review and comment by state agencies (i.e., the Draft EIR must be submitted through the CEQASubmit website under the "State Review Period" tab) in the following situations:

(a) A state agency is the Lead Agency for the Draft EIR;
(b) A state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law over resources potentially affected by the project; or
(c) The Draft EIR is for a project identified in State CEQA Guidelines section 15206 as being a project of statewide, regional, or area-wide significance.

State CEQA Guidelines section 15206 identifies the following types of projects as being examples of projects of statewide, regional, or area-wide significance that require submission to the State Clearinghouse for circulation:

(1) General plans, elements, or amendments for which an EIR was prepared;

(2) Projects that have the potential for causing significant environmental effects beyond the city or county where the project would be located, such as:

(a) Residential development of more than 500 units;
(b) Commercial projects employing more than 1,000 persons or covering more than 500,000 square feet of floor space;
(c) Office building projects employing more than 1,000 persons or covering more than 250,000 square feet of floor space;
(d) Hotel or motel development of more than 500 rooms; and
(e) Industrial projects housing more than 1,000 persons, occupying more than 40 acres of land, or covering more than 650,000 square feet of floor area;

(3) Projects for the cancellation of a Williamson Act contract covering more than 100 acres;

(4) Projects in one of the following Environmentally Sensitive Areas:

(a) Lake Tahoe Basin;
(b) Santa Monica Mountains Zone;
(c) Sacramento-San Joaquin River Delta;
(d) Suisun Marsh;
(e) Coastal Zone, as defined by the California Coastal Act;
(f) Areas within one-quarter mile of a river designated as wild and scenic; or
(g) Areas within the jurisdiction of the San Francisco Bay Conservation and Development Commission;

(5) Projects that would affect sensitive wildlife habitats or the habitats of any rare, threatened, or endangered species;

(6) Projects that would interfere with water quality standards; and

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(7) Projects that would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

A Draft EIR may also be submitted to the State Clearinghouse for review and comment by state agencies when a state agency has special expertise with regard to the environmental impacts involved.

Submission of the Draft EIR to the State Clearinghouse affects the timing of the public review period as set forth in Local Guidelines Section 7.28.

(Reference: Pub. Resources Code, § 21091; State CEQA Guidelines, §§ 15205, 15206.)

7.27 SPECIAL NOTICE REQUIREMENTS FOR WASTE- AND FUEL-BURNING PROJECTS.

For any waste-burning project, as defined in Local Guidelines Section 5.11, in addition to the notice requirements specified in Local Guidelines Sections 7.25 and 7.26, Notice of Availability of the Draft EIR shall be given by direct mailing or any other method calculated to provide delivery of the notice to the owners and occupants of property within one-fourth mile of any parcel or parcels on which the project is located.

(Reference: Pub. Resources Code, § 21092(c).)

7.28 TIME FOR REVIEW OF DRAFT EIR; FAILURE TO COMMENT.

A period of between thirty (30) and sixty (60) days from the filing of the Notice of Completion of the Draft EIR shall be allowed for review of and comment on the Draft EIR, except in unusual situations.

If the Draft EIR is for a proposed project where a state agency is the lead agency, a responsible agency, or a trustee agency; a state agency otherwise has jurisdiction by law with respect to the project; or the proposed project is of sufficient statewide, regional, or area-wide significance as determined pursuant to State CEQA Guidelines section 15206, the review period shall be at least forty-five (45) days (unless a shorter period is approved as set forth below), and the lead agency shall provide the document in an electronic form, as required by the Office of Land Use and Climate Innovation, to the State Clearinghouse for review and comment by state agencies.

For purposes of calculating the length of the public review period, the last day of the public review period cannot fall on a weekend, a legal holiday, or other day on which the lead agency's offices are closed.[2] (Reference: *Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690, 708.)

If a state agency is a Responsible Agency, or if the Draft EIR is submitted to the State Clearinghouse for review and comment by state agencies, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and

[2] A public agency's "offices are closed" for purposes of this section on days in which the agency is formally closed for business (for example, due to a weekend, a legal holiday, or a formal furlough affecting the entire office). A public agency's office is not considered closed for purposes of this section where the agency's office may be physically closed, but the agency is nonetheless open for business and is operating remotely or virtually (for example, in response to the Covid-19 pandemic).

the state agency review period may, but are not required to, begin and end at the same time. The state agency review period begins (day one) on the date that the State Clearinghouse distributes the Draft EIR to state agencies. The State Clearinghouse is required to distribute the Draft EIR to state agencies within three (3) working days from the date the State Clearinghouse receives the document, as long as the Draft EIR is complete when submitted to the State Clearinghouse. If the document submitted to the State Clearinghouse is not complete, the State Clearinghouse must notify the Lead Agency. The review period for the public and all other agencies may run concurrently with the state agency review period established by the State Clearinghouse.

Under certain circumstances, a shorter review period of the Draft EIR by the State Clearinghouse can be requested by the City; however, a shortened review period shall not be less than thirty (30) days for a Draft EIR. Any request for a shortened review period must be made in writing by the City to LCI. The City may designate a person to make these requests. The City must contact all Responsible and Trustee agencies and obtain their agreement prior to obtaining a shortened review period. (See the Shortened Review Request Form "P.")

A shortened review period is not available for any proposed project of statewide, regional or area-wide environmental significance as determined pursuant to State CEQA Guidelines section 15206. Any approval of a shortened review period shall be given prior to, and reflected in, the public notices.

In the event a public agency, group, or person whose comments on a Draft EIR are solicited fails to comment within the required time period, it shall be presumed that such agency, group, or person has no comment to make, unless the Lead Agency has received a written request for a specific extension of time for review and comment and a statement of reasons for the request.

Continued planning activities concerning the proposed project, short of formal approval, may continue during the period set aside for review and comment on the Draft EIR.

(Reference: Pub. Resources Code, § 21091; State CEQA Guidelines, §§ 15203, 15205(d).)

7.29 PUBLIC HEARING ON DRAFT EIR.

CEQA does not require formal public hearings for certification of an EIR; public comments may be restricted to written communications. (However, a hearing is required to utilize the limited exemption for Transit Priority Projects as explained in Local Guidelines Section 3.15; to adopt a bicycle transportation plan as explained in Local Guidelines Section 3.19; and for certain other actions involving the replacement or deletion of mitigation measures under State CEQA Guidelines section 15074.1.) However, if the City provides a public hearing on its consideration of a project, the City should include the project's environmental review documents as one of the subjects of the hearing. Notice of the time and place of the hearing shall be given in a timely manner in accordance with any legal requirements applicable to the proposed project. Generally, the requirements of the Ralph M. Brown Act will provide the minimum requirements for the inclusion of CEQA matters on agendas and at hearings. (Gov. Code, § 54950 et seq.) At a minimum, agendas for meetings and hearings before commissions, boards, councils, and other agencies must be posted in a location that is freely accessible to members of the public at least seventy-two (72) hours prior to a regular meeting. The agenda must contain a brief general

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description of each item to be discussed and the time and location of the meeting. (Gov. Code, § 54954.2.) Additionally, any legislative body or its presiding officer must post an agenda for each regular or special meeting on the local agency's Internet Web site, if the local agency has one.

(Reference: State CEQA Guidelines, § 15202.)

7.30 RESPONSE TO COMMENTS ON DRAFT EIR.

The Lead Agency shall evaluate any comments on environmental issues received during the public review period for the Draft EIR and shall prepare a written response to those comments that raise significant environmental issues.

As stated below, the City, as Lead Agency, should also consider evaluating and responding to any comments received after the public review period. The written responses shall describe the disposition of any significant environmental issues that are raised in the comments. The responses may take the form of a revision of the Draft EIR, an attachment to the Draft EIR, or some other oral or written response that is adequate under the circumstances. If the City's position is at variance with specific recommendations or suggestions raised in the comment, the City's response must detail the reasons why such recommendations or suggestions were not accepted. The level of detail contained in the response, however, may correspond to the level of detail provided in the comment (i.e., responses to general comments may be general). A general response may be appropriate when a comment does not contain or specifically refer to readily available information, or does not explain the relevance of evidence submitted with the comment.

Moreover, the City shall respond to any specific suggestions for project alternatives or mitigation measures for significant impacts, unless such alternatives or mitigation measures are facially infeasible. The response shall contain recommendations, when appropriate, to alter the project as described in the Draft EIR as a result of an analysis of the comments received.

At least ten (10) days prior to certifying a Final EIR, the Lead Agency shall provide its proposed written response, either in printed copy or in an electronic format, to any public agency that has made comments on the Draft EIR during the public review period. The City, as Lead Agency, is not required to respond to comments received after the public review period. However, the City, as Lead Agency, should consider responding to all comments if it will not delay action on the Final EIR, since any comment received before final action on the EIR can form the basis of a legal challenge. A written response that addresses the comment or adequately explains the City's action in light of the comment may assist in defending against a legal challenge.

(Reference: State CEQA Guidelines, § 15088.)

7.31 PREPARATION AND CONTENTS OF FINAL EIR.

Following the receipt of any comments on the Draft EIR as required herein, such comments shall be evaluated by Staff and a Final EIR shall be prepared.

The Final EIR shall meet all requirements of Local Guidelines Section 7.18 and shall consist of the Draft EIR or a revision of the Draft, a section containing either verbatim or in

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summary the comments and recommendations received through the review and consultation process, a list of persons, organizations and public agencies commenting on the Draft, and a section containing the responses of the City to the significant environmental points raised in the review and consultation process.

(Reference: State CEQA Guidelines, §§ 15089, 15132.)

7.32 RECIRCULATION WHEN NEW INFORMATION IS ADDED TO EIR.

When significant new information is added to the EIR after notice and consultation but before certification, the Lead Agency must recirculate the Draft EIR for another public review period. The term "information" can include changes in the project or environmental setting as well as additional data or other information.

New information is significant only when the EIR is changed in a way that would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of a project or a feasible way to mitigate or avoid such an effect, including a feasible project alternative, that the project proponents decline to implement. Recirculation is required, for example, when:

(1) New information added to an EIR discloses:

(a) A new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented; or

(b) A significant increase in the severity of an environmental impact (unless mitigation measures are also adopted that reduce the impact to a level of insignificance); or

(c) A feasible project alternative or mitigation measure that clearly would lessen the significant environmental impacts of the project, but which the project proponents decline to adopt; or

(2) The Draft EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required when the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. If the revision is limited to a few chapters or portions of the EIR, the City as Lead Agency need only recirculate the chapters or portions that have been modified. A decision to not recirculate an EIR must be supported by substantial evidence in the record.

When the City determines to recirculate a Draft EIR, it shall give Notice of Recirculation (Form "M") to every agency, person, or organization that commented on the prior Draft EIR. The Notice of Recirculation must indicate whether new comments must be submitted and whether the City has exercised its discretion to require reviewers to limit their comments to the revised chapters or portions of the recirculated EIR. The City shall also consult again with those persons contacted pursuant to Local Guidelines Section 7.25 before certifying the EIR. When the EIR is substantially revised and the entire EIR is recirculated, the City may require that reviewers submit new comments and need not respond to those comments received during the earlier circulation period.

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In those cases, the City should advise reviewers that, although their previous comments remain part of the administrative record, the final EIR will not provide a written response to those comments, and new comments on the revised EIR must be submitted. The City need only respond to those comments submitted in response to the revised EIR.

When the EIR is revised only in part and the City is recirculating only the revised chapters or portions of the EIR, the City may request that reviewers limit their comments to the revised chapters or portions. The City need only respond to: (1) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (2) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated.

When recirculating a revised EIR, either in whole or in part, the City must, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

(Reference: State CEQA Guidelines, § 15088.5.)

7.33 CERTIFICATION OF FINAL EIR.

Following the preparation of the Final EIR, Staff shall review the Final EIR and make a recommendation to the decision-making body regarding whether the Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines and the City's Local Guidelines. The Final EIR and Staff recommendation shall then be presented to the decision-making body. The decision-making body shall independently review and consider the information contained in the Final EIR and determine whether the Final EIR reflects its independent judgment. Before it approves the project, the decision-making body must certify and find that: (1) the Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines and the City's Local Guidelines; (2) the Final EIR was presented to the decision-making body and the decision-making body reviewed and considered the information contained in the Final EIR before approving the project; and (3) the Final EIR reflects the City's independent judgment and analysis.

Except in those cases in which the City Council is the final decision-making body for the project, any interested person may appeal the certification or denial of certification of a Final EIR to the City Council. Appeals must follow the procedures prescribed by the City.

(Reference: State CEQA Guidelines, § 15090.)

7.34 CONSIDERATION OF EIR BEFORE APPROVAL OR DISAPPROVAL OF PROJECT.

Once the decision-making body has certified the EIR, it may then proceed to consider the proposed project for purposes of approval or disapproval.

(Reference: State CEQA Guidelines, § 15092.)

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7.35 FINDINGS.

The decision-making body shall not approve or carry out a project if a completed EIR identifies one or more significant environmental effects of the project unless it makes one or more of the following written findings for each such significant effect, accompanied by a brief explanation of the rationale supporting each finding. For impacts that have been identified as potentially significant, the possible findings are:

(a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment as identified in the Final EIR, such that the impact has been reduced to a less-than-significant level;
(b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City. Such changes have been, or can and should be, adopted by that other agency; or
(c) Specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR. The decision-making body must make specific written findings stating why it has rejected an alternative to the project as infeasible.

The findings required by this Section shall be supported by substantial evidence in the record. Measures identified and relied on to mitigate environmental impacts identified in the EIR to below a level of significance should be expressly adopted or rejected in the findings. The findings should include a description of the specific reasons for rejecting any mitigation measures or project alternatives identified in the EIR that would reduce the significant impacts of the project. Any mitigation measures that are adopted must be fully enforceable through permit conditions, agreements, or other measures.

If any of the proposed alternatives could avoid or lessen an adverse impact for which no mitigation measures are proposed, the City shall analyze the feasibility of such alternative(s). If the project is to be approved without including such alternative(s), the City shall find that specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Final EIR and shall list such considerations before such approval.

The decision-making body shall not approve or carry out a project as proposed unless: (1) the project as approved will not have a significant effect on the environment; or (2) the project's significant environmental effects have been eliminated or substantially lessened (as determined through one or more of the findings indicated above), and any remaining unavoidable significant effects have been found acceptable because of facts and circumstances described in a Statement of Overriding Considerations (see Local Guidelines Section 7.37). Statements in the Draft EIR or comments on the Draft EIR are not determinative of whether the project will have significant effects.

When making the findings required by this Section, the City as Lead Agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which it based its decision.

(Reference: State CEQA Guidelines, § 15091.)

7.36 SPECIAL FINDINGS REQUIRED FOR FACILITIES THAT MAY EMIT HAZARDOUS AIR EMISSIONS NEAR SCHOOLS.

Special procedural rules apply to projects involving the construction or alteration of a facility within one-quarter mile of a school when: (1) the facility might reasonably be anticipated to emit hazardous air emissions or to handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the threshold specified in Health and Safety Code section 25532(j); and (2) the emissions or substances may pose a health or safety hazard to persons who would attend or would be employed at the school. If the project meets both of those criteria, the Lead Agency may not certify an EIR or approve a Negative Declaration or Mitigated Negative Declaration unless it makes a finding that:

(a) The Lead Agency consulted with the affected school district or districts having jurisdiction over the school regarding the potential impact of the project on the school; and
(b) The school district was given written notification of the project not less than thirty (30) days prior to the proposed certification of the EIR or approval of the Negative Declaration or Mitigated Negative Declaration.

Implementation of this Local Guideline shall be consistent with the definitions and terms utilized in State CEQA Guidelines section 15186.

Additionally, in its role as a Responsible Agency, the City should be aware that for projects involving the acquisition of a school site or the construction of a secondary or elementary school by a school district, the Negative Declaration, Mitigated Negative Declaration, or EIR prepared for the project may not be adopted or certified unless there is sufficient information in the entire record to determine whether any boundary of the school site is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

If it is determined that the project involves the acquisition of a school site that is within 500 feet of the edge of the closest traffic lane of a freeway, or other busy traffic corridor, the Negative Declaration, Mitigated Negative Declaration, or EIR may not be adopted or certified unless the school board determines, through a health risk assessment pursuant to Section 44360(b)(2) of the Health and Safety Code and after considering any potential mitigation measures, that the air quality at the proposed project site does not present a significant health risk to pupils.

(Reference: State CEQA Guidelines, § 15186.)

7.37 STATEMENT OF OVERRIDING CONSIDERATIONS.

Before a project that has unmitigated significant adverse environmental effects can be approved, the decision-making body must adopt a Statement of Overriding Considerations. If the decision-making body finds in the Statement of Overriding Considerations that specific benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

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Accordingly, the Statement of Overriding Considerations allows the decision-making body to approve a project despite one or more unmitigated significant environmental impacts identified in the Final EIR. A Statement of Overriding Considerations can be made only if feasible project alternatives or mitigation measures do not exist to reduce the environmental impact(s) to a level of insignificance and the benefits of the project outweigh the adverse environmental effect(s). The feasibility of project alternatives or mitigation measures is determined by whether the project alternative or mitigation measure can be accomplished within a reasonable period of time, taking into account economic, environmental, social, legal and technological factors.

Project benefits that are appropriate to consider in the Statement of Overriding Considerations include the economic, legal, environmental, technological and social value of the project. The City may also consider region-wide or statewide environmental benefits.

Substantial evidence in the entire record must justify the decision-making body's findings and its use of the Statement of Overriding Considerations. If the decision-making body makes a Statement of Overriding Considerations, the Statement must be included in the record of the project approval and it should be referenced in the Notice of Determination.

(Reference: State CEQA Guidelines, § 15093.)

7.38 MITIGATION MONITORING OR REPORTING PROGRAM FOR EIR.

When making findings regarding an EIR, the City must do all of the following:

(a) Adopt a reporting or monitoring program to assure that mitigation measures that are required to mitigate or avoid significant effects on the environment will be implemented by the project proponent or other responsible party in a timely manner, in accordance with conditions of project approval;
(b) Make sure all conditions and mitigation measures are feasible and fully enforceable through permit conditions, agreements, or other measures. Such permit conditions, agreements, and measures must be consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law; and
(c) Specify the location and the custodian of the documents which constitute the record of proceedings upon which the City based its decision in the resolution certifying the EIR.

There is no requirement that the reporting or monitoring program be circulated for public review; however, the City may choose to circulate it for public comments along with the Draft EIR. Any mitigation measures required to mitigate or avoid significant effects on the environment shall be adopted and made fully enforceable, such as by being imposed as conditions of project approval.

The adequacy of a mitigation monitoring program is determined by the "rule of reason." This means that a mitigation monitoring program does not need to provide every imaginable measure. It needs only to provide measures that are reasonably feasible and that are necessary to avoid significant impacts or to reduce the severity of impacts to a less-than-significant level.

The mitigation monitoring or reporting program shall be designed to assure compliance with the mitigation measures during the implementation and construction of the project. If a

Responsible Agency or Trustee Agency has required that certain conditions be incorporated into the project, the City may request that agency to prepare and submit a proposed reporting or monitoring program. The City shall also require that, prior to the close of the public review period for a Draft EIR, the Responsible or Trustee Agency submit detailed performance objectives for mitigation measures, or refer the City to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the City by a Responsible or Trustee Agency shall be limited to measures that mitigate impacts to resources that are within the Responsible or Trustee Agency's authority.

When a project is of statewide, regional, or area-wide significance, any transportation information resulting from the reporting or monitoring program required to be adopted by the City shall be submitted to the regional transportation planning agency where the project is located and to the Department of Transportation. The transportation planning agency and the Department of Transportation are required by law to adopt guidelines for the submittal of these reporting or monitoring programs, so the City may wish to tailor its submittal to such guidelines.

Local agencies have the authority to levy fees sufficient to pay for this program. Therefore, the City may impose a program to charge project proponents fees to cover actual costs of program processing and implementation.

The City may delegate reporting or monitoring responsibilities to an agency or to a private entity that accepts the delegation; however, until mitigation measures have been completed, the City remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The City may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" is defined as a written compliance review that is presented to the Board or an authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. Reporting is suited to projects that have readily measurable or quantitative mitigation measures or that already involve regular review. "Monitoring" is generally an ongoing or periodic process of project oversight. Monitoring is suited to projects with complex mitigation measures that may exceed the expertise of the City to oversee, are expected to be implemented over a period of time, or require careful implementation to assure compliance.

At its discretion, the City may adopt standardized policies and requirements to guide individually adopted programs.

Standardized policies or requirements for monitoring and reporting may describe, but are not limited to:

(a) The relative responsibilities of various departments within the City for various aspects of the program;
(b) The responsibilities of the project proponent;
(c) Guidelines adopted by the City to govern preparation of programs;
(d) General standards for determining project compliance with the mitigation measures and related conditions of approval;

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(e) Enforcement procedures for noncompliance, including provisions for administrative appeal; and/or
(f) A process for informing the Board and staff of the relative success of mitigation measures and using those results to improve future mitigation measures.

When a project is of statewide, regional, or area-wide importance, any transportation information generated by a mitigation monitoring or reporting program must be submitted to the transportation planning agency in the region where the project is located, as well as to the Department of Transportation.

(Reference: State CEQA Guidelines, § 15097.)

7.39 NOTICE OF DETERMINATION.

After approval of a project for which the City is the Lead Agency, Staff shall cause a Notice of Determination (Form "F") to be prepared, filed, and posted. The Notice of Determination shall include the following information:

(a) An identification of the project, including its common name, where possible, and its location. If the notice of determination is filed with the State Clearinghouse, the State Clearinghouse identification number for the draft EIR shall be provided.
(b) A brief description of the project;
(c) The City's name and the applicant's name (if any). If different from the applicant, the Notice of Determination shall further provide, if applicable, the identity of the person undertaking the project that is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies, or the identity of the person receiving a lease, permit, license, certificate, or other entitlement for use from one or more public agencies.
(d) The date when the City approved the project;
(e) Whether the project in its approved form with mitigation will have a significant effect on the environment;
(f) A statement that an EIR was prepared and certified pursuant to the provisions of CEQA;
(g) Whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted;
(h) Whether findings were made and/or whether a Statement of Overriding Considerations was adopted for the project; and
(i) The address where a copy of the EIR (with comments and responses) and the record of project approval may be examined by the general public.

The Notice of Determination shall be filed with (1) the Clerk of each county in which the project will be located within five (5) working days of project approval; and (2) with the State Clearinghouse in the Office of Land Use and Climate Innovation. (To determine the fees that must be paid with the filing of the Notice of Determination, see Local Guidelines Section 7.42 and the Staff Summary of the CEQA Process.) The County Clerk is required to post the Notice of Determination within twenty-four (24) hours of receipt. The Notice must be posted in the office of the Clerk for a minimum of thirty (30) days. Thereafter, the Clerk shall return the notice to the

City with a notation of the period it was posted. The City shall retain the notice for not less than twelve (12) months.

Simultaneously with the filing of the Notice of Determination with the Clerk, Staff shall cause a copy of such Notice to be posted at City Offices. If the project requires discretionary approval from a state agency, the Notice of Determination shall also be filed electronically with the Office of Land Use and Climate Innovation within five (5) working days of project approval, along with proof that the City has paid the County Clerk the DFW fee or a completed form from DFW documenting DFW's determination that the project will have no effect on fish and wildlife. (If the City submits the Notice of Determination in person, the City may bring an extra copy to be date stamped by LCI.)

When a request is made for a copy of the Notice of Determination prior to the date on which the City approves the project, the copy must be mailed, first class postage prepaid, within five (5) days of the City's approval. If such a request is made following the City's approval of the project, then the copy should be mailed in the same manner as soon as possible. The recipients of such documents may be charged a fee reasonably related to the cost of providing the service.

The City, when acting as lead agency, must post its Notice of Determination for a project on its website.

For projects with more than one phase, Staff shall file a Notice of Determination for each phase requiring a discretionary approval. The filing and posting of a Notice of Determination with the Clerk, and, if necessary, with LCI, usually starts a thirty (30) day statute of limitations on court challenges to the approval under CEQA. When separate notices are filed for successive phases of the same overall project, the thirty (30) day statute of limitation to challenge the subsequent phase begins to run when the second notice is filed. Failure to file the Notice may result in a one hundred eighty (180) day statute of limitations.

(Reference: Pub. Resources Code, §§ 21092.2, 21108; State CEQA Guidelines, § 15094.)

7.40 DISPOSITION OF A FINAL EIR.

The City shall file a copy of the Final EIR with the appropriate planning agency of any city or county where significant effects on the environment may occur. The City shall also retain one or more copies of the Final EIR as a public record for a reasonable period of time. Finally, for private projects, the City may require that the project applicant provide a copy of the certified Final EIR to each Responsible Agency.

(Reference: State CEQA Guidelines, § 15095.)

7.41 PRIVATE PROJECT COSTS.

For private projects, the person or entity proposing to carry out the project shall be charged a reasonable fee to recover the estimated costs incurred by the City in preparing, circulating, and filing the Draft and Final EIRs, as well as all publication costs incident thereto.

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7.42 FILING FEES FOR PROJECTS THAT AFFECT WILDLIFE RESOURCES.

At the time a Notice of Determination for an EIR is filed with the County or Counties in which the project is located, a fee of $4,123.50, or the then applicable fee, shall be paid to the Clerk for projects that will adversely affect fish or wildlife resources. These fees are collected by the Clerk on behalf of DFW.

Only one filing fee is required for each project unless the project is tiered or phased and separate environmental documents are prepared. For projects where Responsible Agencies file separate Notices of Determination, only the Lead Agency is required to pay the fee.

Note: County Clerks are authorized to charge a documentary handling fee for each project in addition to the Fish and Wildlife fees specified above. Refer to the Index in the Staff Summary to help determine the correct total amount of fees applicable to the project.

For private projects, the City should pass these costs on to the project applicant.

No fees are required for projects with "no effect" on fish or wildlife resources or for certain projects undertaken by the DFW and implemented through a contract with a non-profit entity or local government agency. (See Local Guidelines Section 6.24 for more information regarding a "no effect" determination.)

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8. TYPES OF EIRS

8.01 EIRs Generally.

This chapter describes a number of examples of various EIRs tailored to different situations. All of these types of EIRs must meet the applicable requirements of Chapter 7 of these Local Guidelines.

8.02 Tiering.

(a) Tiering Generally.

"Tiering" refers to using the analysis of general matters contained in a previously certified broader EIR in later EIRs, Negative Declarations, or Mitigated Negative Declarations prepared for narrower projects. The later EIR, Negative Declaration, or Mitigated Negative Declaration may incorporate by reference the general discussions from the broader EIR and may concentrate solely on the issues specific to the later project.

An Initial Study shall be prepared for the later project and used to determine whether a previously certified EIR may be used and whether new significant effects should be examined. Tiering does not excuse the City from adequately analyzing reasonably foreseeable significant environmental effects of a project, nor does it justify deferring analysis to a later tier EIR, Negative Declaration, or Mitigated Negative Declaration. However, the level of detail contained in a first-tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed. When the City is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan, specific plan or community plan), the development of detailed, site-specific information may not be feasible. Such site-specific information can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.

(b) Identifying New Significant Impacts.

When assessing whether there is a new significant cumulative effect for purposes of a subsequent tier environmental document, the Lead Agency shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present, and probable future projects.

A Lead Agency may use only a valid CEQA document as a first-tier document. Accordingly, the City, in its role as Lead Agency, should carefully review the first-tier environmental document to determine whether or not the statute of limitations for challenging the document has run. If the statute of limitations has not expired, the City should use the first-tier document with caution and pay careful attention to the legal status of the document. If the first-tier document is subsequently invalidated, any later environmental document may also be defective.

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(c) Infill Projects and Tiering.

Certain "infill" projects may tier off of a previously certified EIR. An "infill" project is defined as a project with residential, retail, and/or commercial uses, a transit station, a school, or a public office building. It must be located in an urban area on a previously developed site or on an undeveloped site that is surrounded by developed uses. The project must be either consistent with land use planning strategies that achieve greenhouse gas ("GHG") emission reduction targets, feature a small walkable community project, or where a sustainable communities or alternative planning strategy has not yet been adopted for the area, include a residential density of at least 20 units per acre or a floor area ratio of at least 0.75. The project must also meet a number of standards related to energy efficiency that are not yet defined but which SB 226 directs the Office of Land Use and Climate Innovation to prepare.

If an EIR was certified for a planning level decision by a city or county (such as a General Plan or Specific Plan), the scope of the CEQA review for a later "infill" project can be limited to those effects on the environment that: 1) are specific to the project or to the project site and were not addressed as significant effects in the prior EIR; or 2) substantial new information shows will be more significant than described in the prior EIR.

When a project meets the definition of "infill" and either of the above conditions exist but a Mitigated Negative Declaration cannot be adopted, then the subsequent EIR for such a project need not consider alternative locations, densities, and building intensities or growth-inducing impacts.

(d) Statement of Overriding Considerations.

A Lead Agency may also tier off of a previously prepared Statement of Overriding Considerations if certain conditions are met. (See Local Guidelines Section 7.37.)

(Reference: State CEQA Guidelines, § 15152.)

8.03 PROJECT EIR.

The most common type of EIR examines the environmental impacts of a specific development project and focuses primarily on the changes in the environment that would result from the development project. This type of EIR must examine all phases of the project, including planning, construction, and operation.

If the EIR for a redevelopment plan is a Project EIR, all public and private activities or undertakings pursuant to or in furtherance of the Redevelopment Plan shall constitute a single project, which shall be deemed approved at the time of the adoption of the Redevelopment Plan. Although the City will probably not act as a Lead Agency for a Redevelopment Plan, the City may act as a Responsible Agency.

(Reference: State CEQA Guidelines, §§ 15161, 15180.)

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8.04 SUBSEQUENT EIR.

A Subsequent EIR is required when a previous EIR has been prepared and certified, or a Negative Declaration or Mitigated Negative Declaration has been adopted, for a project and at least one of the three following situations occur:

(a) Substantial changes are proposed in the project which will require major revisions of a previous EIR due to the identification of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(b) Substantial changes occur with respect to the circumstances under which the project is to be undertaken which will require major revisions of a previous EIR due to the identification of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(c) New information, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration/Mitigated Negative Declaration was adopted, becomes available and shows any of the following:

(1) the project will have one or more significant effects not discussed in a previous EIR, Negative Declaration, or Mitigated Negative Declaration;

(2) significant effects previously examined will be substantially more severe than shown in a previous EIR;

(3) mitigation measures or alternatives previously found not to be feasible are in fact feasible and would substantially reduce one or more significant effects, but the project proponent declines to adopt the mitigation measures or alternatives; or

(4) mitigation measures or alternatives which were not considered in a previous EIR would substantially lessen one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

A Subsequent EIR must receive the same circulation and review as the previous EIR received. As a potential tool to determine whether a Subsequent EIR is required, see Form J-1 of these Local Guidelines.

In instances where the City is evaluating a modification or revision to an existing use permit, the City may consider only those environmental impacts related to the changes between what was allowed under the old permit and what is requested under the new permit. Only if these differential impacts fall within the categories described above may the City require additional environmental review.

When the City is considering approval of a development project that is consistent with a general plan for which an EIR was completed, another EIR is required only if the project causes environmental effects peculiar to the parcel which were not addressed in the prior EIR or substantial new information shows the effects peculiar to the parcel will be more significant than described in the prior EIR. (Reference: State CEQA Guidelines, § 15162.)

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8.05 SUPPLEMENTAL EIR.

The City may choose to prepare a Supplemental EIR, rather than a Subsequent EIR, if any of the conditions described in Local Guidelines Section 8.04 have occurred but only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. To assist the City in making this determination, the decision-making body should request an Initial Study and/or a recommendation by Staff. The Supplemental EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

A Supplemental EIR shall be given the same kind of notice and public review as is given to a Draft EIR but may be circulated by itself without recirculating the previous EIR.

When the decision-making body decides whether to approve the project, it shall consider the previous EIR as revised by the Supplemental EIR. Findings shall be made for each significant effect identified in the Supplemental EIR.

(Reference: State CEQA Guidelines, § 15163.)

8.06 ADDENDUM TO AN EIR.

The City shall prepare an Addendum to a previously certified EIR, rather than a Subsequent or Supplemental EIR, only if changes or additions to the EIR are necessary, but none of the conditions described in Local Guidelines Section 8.04 or 8.05 calling for preparation of a Subsequent or Supplemental EIR have occurred. Since significant effects on the environment were addressed by findings in the original EIR, no new findings are required in the Addendum.

An Addendum to an EIR need not be circulated for public review but should be included in or attached to the Final EIR. The decision-making body shall consider the Addendum with the Final EIR prior to making a decision on a project. A brief explanation of the decision not to prepare a Subsequent EIR or a Supplemental EIR should be included in the Addendum, the Lead Agency's findings on the project, or elsewhere in the record. This explanation must be supported by substantial evidence.

(Reference: State CEQA Guidelines, § 15164.)

8.07 STAGED EIR.

When a large capital project will require a number of discretionary approvals from governmental agencies and one of the approvals will occur more than two years before construction will begin, a Staged EIR may be prepared. The Staged EIR covers the entire project in a general form or manner. A Staged EIR should evaluate a proposal in light of current and contemplated plans and produce an informed estimate of the environmental consequences of an entire project. The particular aspect of the project before the City for approval shall be discussed with a greater degree of specificity.

When a Staged EIR has been prepared, a Supplemental EIR shall be prepared when a later approval is required for the project and the information available at the time of the later approval

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would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project.

(Reference: State CEQA Guidelines, § 15167.)

8.08 PROGRAM EIR.

A Program EIR is an EIR that may be prepared on an integrated series of actions that are related either:

(a) Geographically;
(b) As logical parts in a chain of contemplated actions;
(c) In connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
(d) As individual projects carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated in similar ways.

An advantage of using a Program EIR is that it can "[a]llow the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts." (State CEQA Guidelines section 15168(b)(4).) A Program EIR is distinct from a Project EIR, as a Project EIR is prepared for a specific project and must examine in detail site-specific considerations. Program EIRs are commonly used in conjunction with the process of tiering.

Tiering is the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs. (State CEQA Guidelines section 15385; see also Local Guidelines Sections 8.02 and 11.73.) Tiering is proper "when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports." (Pub. Res. Code, § 21093(a).) For example, the California Supreme Court has ruled that "CEQA does not mandate that a first-tier program EIR identify with certainty particular sources of water for second-tier projects that will be further analyzed before implementation during later stages of the program. Rather, identification of specific sources is required only at the second-tier stage when specific projects are considered." (*In re Bay-Delta etc*. (2008) 43 Cal. 4th 1143.)

Subsequent activities in the program must be examined in light of the Program EIR to determine whether additional environmental documents must be prepared. Additional environmental review documents must be prepared if the proposed later project may arguably cause significant adverse effects on the environment.

(Reference: State CEQA Guidelines, § 15168.)

8.09 USE OF A PROGRAM EIR WITH SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS.

A Program EIR can be used to simplify the task of preparing environmental documents on later activities in the program. The Program EIR can:

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(a) Provide the basis for an Initial Study to determine whether the later activity may have any significant effects;
(b) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives and other factors that apply to the program as a whole; or
(c) Focus an EIR on a later activity to permit discussion solely of new effects which had not been considered before.

If a Program EIR is prepared for a redevelopment plan, subsequent activities in the redevelopment program will be subject to review if they would have effects that were not examined in the Program EIR. Where the later activities involve site-specific operations, the City should use a written checklist or similar device to document the evaluation of the site and the proposed activity to determine whether the environmental effects of the operation were within the scope of the Program EIR. If a later activity would have effects that were not examined in the Program EIR, a new Initial Study would need to be prepared leading to an EIR, Negative Declaration, or Mitigated Negative Declaration. That later analysis may tier from the Program EIR as provided in State CEQA Guidelines section 15152.

If the City finds that no Subsequent EIR would be required, the City can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document is required. (See Local Guidelines Section 8.04.) Whether a later activity is within the scope of a Program EIR is a factual question that the Lead Agency determines based on substantial evidence in the record. Factors that the Lead Agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the Program EIR.

(Reference: State CEQA Guidelines, § 15168.)

8.10 USE OF AN EIR FROM AN EARLIER PROJECT.

A single EIR may be used to describe more than one project when the projects involve substantially identical environmental impacts. Any environmental impacts peculiar to one of the projects must be separately set forth and explained.

(Reference: State CEQA Guidelines, § 15165.)

8.11 MASTER EIR.

A Master EIR is an EIR which may be prepared for:

(a) A general plan (including elements and amendments);
(b) A specific plan;
(c) A project consisting of smaller individual projects to be phased;
(d) A regulation to be implemented by subsequent projects;
(e) A project to be carried out pursuant to a development agreement;
(f) A project pursuant to or furthering a redevelopment plan;
(g) A state highway or mass transit project subject to multiple reviews or approvals; or

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(h) A regional transportation plan or congestion management plan.

A Master EIR must do both of the following:

(a) Describe and present sufficient information about anticipated subsequent projects within its scope, including their size, location, intensity, and scheduling; and
(b) Preliminarily describe potential impacts of anticipated subsequent projects for which insufficient information is available to support a full impact assessment.

The City and Responsible Agencies identified in the Master EIR may use the Master EIR to limit environmental review of subsequent projects. However, the Lead Agency for the subsequent project must prepare an Initial Study to determine whether the subsequent project and its significant environmental effects were included in the Master EIR. If the Lead Agency for the subsequent project finds that the subsequent project will have no additional significant environmental effect and that no new mitigation measures or alternatives may be required, it may prepare written findings to that effect without preparing a new environmental document. When the Lead Agency makes this finding, it must provide public notice of the availability of its proposed finding for public review and comment in the same manner as if it were providing public notice of the availability of a draft EIR. (See Sections 15177(d) and 15087 of the State CEQA Guidelines and Section 7.25 of these Local Guidelines.)

A previously certified Master EIR cannot be relied upon to limit review of a subsequent project if:

(a) A project not identified in the certified Master EIR has been approved and that project may affect the adequacy of the Master EIR for the subsequent project now under consideration; or
(b) The Master EIR was certified more than five (5) years before the filing of an application for the subsequent project, unless the City reviews the adequacy of the Master EIR and:

(1) Finds that, since the Master EIR was certified, no substantial changes have occurred that would cause the subsequent project to have significant environmental impacts, and there is no new information that the subsequent project would have significant environmental impacts; or

(2) Prepares an Initial Study and either certifies a Subsequent or Supplemental EIR or adopts a Mitigated Negative Declaration that addresses any substantial changes or new information that would cause the subsequent project to have potentially significant environmental impacts. The certified subsequent or supplemental EIR must either be incorporated into the previously certified Master EIR or the City must identify any deletions, additions or other modifications to the previously certified Master EIR in the new document. The City may include a section in the subsequent or supplemental EIR that identifies these changes to the previously certified Master EIR.

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When the Lead Agency cannot find that the subsequent project will have no additional significant environmental effect and no new mitigation measures or alternatives will be required, it must prepare either a Mitigated Negative Declaration or an EIR for the subsequent project.

(Reference: State CEQA Guidelines, § 15175.)

8.12 FOCUSED EIR.

A Focused EIR is an EIR for a subsequent project identified in a Master EIR. It may be used only if the City finds that the Master EIR's analysis of cumulative, growth-inducing, and irreversible significant environmental effects is adequate for the subsequent project. The Focused EIR must incorporate by reference the Master EIR.

The Focused EIR must analyze additional significant environmental effects not addressed in the Master EIR and any new mitigation measures or alternatives not included in the Master EIR. "Additional significant effects on the environment" means those project-specific effects on the environment that were not addressed as significant effects on the environment in the Master EIR.

The Focused EIR must also examine the following:

(a) Significant effects discussed in the Master EIR for which substantial new information exists that shows those effects may be more significant than described in the Master EIR;
(b) Those mitigation measures found to be infeasible in the Master EIR for which substantial new information exists that shows the effects may be more significant than described in the Master EIR; and
(c) Those mitigation measures found to be infeasible in the Master EIR for which substantial new information exists that shows those measures may now be feasible.

The Focused EIR need not examine the following effects:

(a) Those that were mitigated through Master EIR mitigation measures; or
(b) Those that were examined in the Master EIR in sufficient detail to allow project-specific mitigation or for which mitigation was found to be the responsibility of another agency.

A Focused EIR may be prepared for a multifamily residential project not exceeding 100 units or a mixed use residential project not exceeding 100,000 square feet even though the project was not identified in a Master EIR, if the following conditions are met:

(a) The project is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an EIR was prepared within five (5) years of the Focused EIR's certification;
(b) The project does not require the preparation of a Subsequent or Supplemental EIR; and
(c) The parcel is surrounded by immediately contiguous urban development, was previously developed with urban uses, or is within one-half mile of a rail transit station.

A Focused EIR for these projects should be limited to potentially significant effects that are project-specific and/or which substantial new information shows will be more significant than

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described in the Master EIR. No discussion shall be required of alternatives to the project, cumulative impacts of the project, or the growth-inducing impacts of the project.

(Reference: State CEQA Guidelines, § 15179.5.)

8.13 SPECIAL REQUIREMENTS FOR REDEVELOPMENT PROJECTS.

An EIR for a redevelopment plan may be a Master EIR, Program EIR or Project EIR. An EIR for a redevelopment plan must specify whether it is a Master EIR, a Program EIR or a Project EIR. Normally, the City will not be a Lead Agency for a redevelopment plan. However, if the City is a Responsible Agency on such a project, the City should endeavor to ensure that the county and/or applicable city as the case may be, as Lead Agency, analyzes these impacts in accordance with CEQA.

If a Program EIR is prepared for a redevelopment plan, subsequent activities in the redevelopment program will be subject to review if they would have effects that were not examined in the Program EIR. The Lead Agency should use a written checklist or similar device to document the evaluation of the site and the proposed activity to determine whether the environmental effects of the operation were indeed covered in the Program EIR. If the Lead Agency finds that no new effects could occur, no new mitigation measures would be required or that State CEQA Guidelines sections 15162 and 15163 do not otherwise apply, the Lead Agency can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document is required.

If the EIR for a redevelopment plan is a Project EIR, all public and private activities or undertakings pursuant to or in furtherance of the Redevelopment Plan shall constitute a single project, which shall be deemed approved at the time of the adoption of the Redevelopment Plan. Once certified, no subsequent EIRs will be needed unless required by State CEQA Guidelines sections 15162 or 15163. If a Master EIR is prepared for a redevelopment plan, subsequent projects will be subject to review if they would have effects that were not examined in the Master EIR. If no new effects could occur or no new mitigation measures would be required, the Lead Agency can approve the activity as being within the scope of the project covered by the Master EIR, and no new environmental document is required.

(Reference: State CEQA Guidelines, § 15180.)

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9. AFFORDABLE HOUSING

9.01 STREAMLINED, MINISTERIAL APPROVAL PROCESS FOR AFFORDABLE HOUSING PROJECTS

The legislature has provided reforms and incentives to facilitate and expedite the approval and construction of affordable housing.

(a) An applicant may submit an application for a development that is subject to the streamlined, ministerial approval process and is not subject to a conditional use permit or any other non-legislative discretionary approval if the development satisfies all of the following objective planning standards:

(i) The development is a multifamily housing development that contains two or more residential units.

(ii) The development is located on a site that satisfies the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C))(1) A site that meets the requirements of clause (2) and satisfies any of the following:

(I) The site is zoned for residential use or residential mixed-use development.

(II) The site has a general plan designation that allows residential use or a mix of residential and nonresidential uses.

(III) The site is zoned for office or retail commercial use and meets the requirements of Gov. Code section 65852.24.

(2) At least two-thirds of the square footage of the development designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Government Code section 65915 shall be included in the square footage calculation. The square footage of the development shall not include underground space, such as basements or underground parking garages.

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(iii) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land use restriction or covenant providing that any lower or moderate income housing units required pursuant to subparagraph B of Paragraph (iv) of this Subsection shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for the following applicable minimum durations:

(A) Fifty-five years for units that are rented.

(B) Forty-five years for units that are owned.

(iv) The development satisfies subparagraphs (A) and (B) below:

(A) The development is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period. A locality shall be subject to this subparagraph if it has not submitted an annual housing element report to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval under this section.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(1) The locality did not submit its latest production report to the department by the time period required by Government Code section 65400, or that production report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does either of the following:

A. The project dedicates a minimum of 10 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

B. If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (A), dedicates 20 percent of the total number of units, before calculating any density bonus, to

housing affordable to households making below 120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 120 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the area median income shall not exceed 30 percent of the gross income of the household. For purposes of this subclause, "San Francisco Bay area" means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(2) The locality did not submit its latest production report to the department by the time period required by Government Code section 65400, or that production report reflects that there were fewer units of housing affordable to households making at or below 80 percent of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the area median income, that ordinance applies.

(3) The locality did not submit its latest production report to the department by the time period required by Government Code section 65400, or if the production report reflects that there were fewer units of housing affordable to any income level described in clause (i) or (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(C)(i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in Government Code section 65915, provided that the development proponent complies with the applicable requirements in the state or local law.

(C)(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also

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satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).

(C)(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).

(v) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Government Code section 65915, is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning standards pursuant to this section if the development is consistent with the standards set forth in the general plan.

(C) A project that satisfies the requirements of Government Code section 65852.24 shall be deemed consistent with objective zoning standards, objective design standards, and objective subdivision standards if the project is consistent with the provisions of subdivision (b) of Government Code section 65852.24 and if none of the square footage in the project is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel. For purposes of this subdivision, "residential hotel" shall have the same meaning as defined in Section 50519 of the Health and Safety Code.

(vi) The development is not located on a site that is any of the following:

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(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual.

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Government Code section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Government Code section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:

(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Government Code section 65962.5; or

(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.

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(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards

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adopted by the California Building Standards Commission under the California Building Standards Law, Health and Safety Code section 18901, and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

(G) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Code of Federal Regulations section 59.1.

(H) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Code of Federal Regulations section 60.3(d)(3).

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, Fish and Game Code section 2800, habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act, Fish and Game Code section 2050, or the Native Plant Protection Act, Fish and Game Code section 1900.

(K) Lands under conservation easement.

(vii) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(1) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(2) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(3) Housing that has been occupied by tenants within the past 10 years.

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(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(viii) The applicant has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(1) The entirety of the development is a public work for purposes of Labor Code section 1720.

(2) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Labor Code sections 1773 and 1773.9, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subsection (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Labor Code section 1776 and make those records available for inspection and copying as provided in therein.

(IV) Except as provided in subsection (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Labor Code section 1741, which may be reviewed pursuant to Labor Code section 1742, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Labor Code section 1771.2. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Labor Code section 1742.1.

(V) Subsections (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in Public Contract Code section 2500(b)(1).

(VI) Notwithstanding Labor Code section 1773.1, subdivision (c), the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Labor Code section 511 or 514.

(B)(1) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2023, until December 31, 2025, the development consists of 50 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

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(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2023, until December 31, 2025, the development consists of more than 25 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal bay county.

(2) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in the Public Contract Code section 2600.

(3) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subdivision (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Public Contract Code section 2600. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act. (Government Code section 7920.000, et seq.) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Public Contract Code section 2600 shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for

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issuance of civil wage and penalty assessments pursuant to Labor Code section 1741, and may be reviewed pursuant to the same procedures in Labor Code section 1742. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subdivision (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in Public Contract Code section 2500(b)(1).

(C) Notwithstanding subparagraphs (A) and (B) above, a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(1) The project includes 10 or fewer units.

(2) The project is not a public work for purposes of Labor Code section 1720.

(ix) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Government Code section 66410, et seq.) or any other applicable law authorizing the subdivision of land, unless either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (viii).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (h).

(x) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law, Civil Code section 798, the Recreational Vehicle Park Occupancy Law, Civil Code section 799.20, the Mobilehome Parks Act, Health and Safety Code section 18200, or the Special Occupancy Parks Act, Health and Safety Code section 18860.

(b)(i)(A)(1) Before submitting an application for a development subject to the streamlined, ministerial approval process described in this section, the development proponent shall submit to the local government a notice of its intent to submit an application. The notice of intent shall be in the form of a preliminary application that includes all of the information described in Section 65941.1 of the Government Code, as that section read on January 1, 2020.

(2) Upon receipt of a notice of intent to submit an application, the local government shall engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area, as described in Section 21080.3.1 of the Public Resources Code, of the proposed development. In order to expedite compliance with this subdivision, the local government shall contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development.

(3) The timeline for noticing and commencing a scoping consultation in accordance with this subdivision shall be as follows:

A. The local government shall provide a formal notice of a development proponent's notice of intent to submit an application to each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development within 30 days of receiving that notice of intent. The formal notice provided pursuant to this subclause shall include all of the following:

1. A description of the proposed development.
2. The location of the proposed development.
3. An invitation to engage in a scoping consultation in accordance with this subdivision.

B. Each California Native American tribe that receives a formal notice pursuant to this clause shall have 30 days from the receipt of that notice to accept the invitation to engage in a scoping consultation.

C. If the local government receives a response accepting an invitation to engage in a scoping consultation pursuant to this subdivision, the local government shall commence the scoping consultation within 30 days of receiving that response.

(B) The scoping consultation shall recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the resource to the culturally affiliated California Native American tribe.

(C) The parties to a scoping consultation conducted pursuant to this subdivision shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development may participate in the scoping consultation. However, the local government, upon the request of any California Native American tribe

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traditionally and culturally affiliated with the geographic area of the proposed development, shall engage in a separate scoping consultation with that California Native American tribe. The development proponent and its consultants may participate in a scoping consultation process conducted pursuant to this subdivision if all of the following conditions are met:

(1) The development proponent and its consultants agree to respect the principles set forth in this subdivision.

(2) The development proponent and its consultants engage in the scoping consultation in good faith.

(3) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping consultation, either for the duration of the scoping consultation or with respect to any particular meeting or discussion held as part of the scoping consultation.

(D) The participants to a scoping consultation pursuant to this subdivision shall comply with all of the following confidentiality requirements: (1) Government Code sections 7927.000 and 7927.005; Public Resources Code section 21083.3, subdivision (c); (4) State CEQA Guidelines section 15120, subdivision (d); and any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.

(E) CEQA does not apply to the scoping consultation conducted pursuant to this subdivision.

(b)(ii)(A) If, after concluding the scoping consultation, the parties find that no potential tribal cultural resource would be affected by the proposed development, the development proponent may submit an application for the proposed development that is subject to the streamlined, ministerial approval process described in this section

.

(B) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal cultural resource treatment, the development proponent may submit the application for a development subject to the streamlined, ministerial approval process described in this section. The local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

(C) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local

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government regarding methods, measures, and conditions for tribal cultural resource treatment, the development shall not be eligible for the streamlined, ministerial approval process described in this section.

(D) For purposes of this paragraph, a scoping consultation shall be deemed to be concluded if either of the following occur:

(1) The parties to the scoping consultation document an enforceable agreement concerning methods, measures, and conditions to avoid or address potential impacts to tribal cultural resources that are or may be present.

(2) One or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to tribal cultural resources that are or may be present cannot be reached.

(E) If the development or environmental setting substantially changes after the completion of the scoping consultation, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe.

(b)(iii) A local government may only accept an application for streamlined, ministerial approval pursuant to this section if one of the following applies:

(A) A California Native American tribe that received a formal notice of the development proponent's notice of intent to submit an application pursuant to this section did not accept the invitation to engage in a scoping consultation.

(B) The California Native American tribe accepted an invitation to engage in a scoping consultation pursuant to this section but substantially failed to engage in the scoping consultation after repeated documented attempts by the local government to engage the California Native American tribe.

(C) The parties to a scoping consultation pursuant to this subdivision find that no potential tribal cultural resource will be affected by the proposed development.

(D) A scoping consultation between a California Native American tribe and the local government has occurred and resulted in an agreement.

(b)(iv) A project shall not be eligible for the streamlined, ministerial process described in this section if any of the following apply:

(A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

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(B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation conducted pursuant to this subdivision do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in this section.

(C) The parties to a scoping consultation conducted pursuant to this subdivision do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(b)(v)(A) If, after a scoping consultation conducted pursuant to this subdivision, a project is not eligible for the streamlined, ministerial process described in this section for any or all of the following reasons, the local government shall provide written documentation of that fact, and an explanation of the reason for which the project is not eligible, to the development proponent and to any California Native American tribe that is a party to that scoping consultation:

(1) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

(2) The parties to the scoping consultation have not documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment.

(3) The parties to the scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(b)(v)(B) The written documentation provided to a development proponent pursuant to this paragraph shall include information on how the development proponent may seek a conditional use permit or other discretionary approval of the development from the local government.

(b)(vi) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under state and federal law, or the ability of a California Native American tribe to submit information to the local government or participate in any process of the local government.

(b)(vii) For purposes of this subdivision:

(A) “Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty.

Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the "State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines" prepared by the Office of Land Use and Climate Innovation.

(B) "Scoping" means the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential tribal cultural resource, as defined in Section 21074 of the Public Resources Code, or California Native American tribe, as defined in Section 21073 of the Public Resources Code.

(b) (viii) This subdivision (b) shall not apply to any project that has been approved under the streamlined, ministerial approval process provided under this section before September 25, 2020.

(c) (i) If a local government determines that a development submitted pursuant to this section is consistent with the objective planning standards specified in subdivision (a) and pursuant to paragraph (iii) of this subdivision, it shall approve the development. If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(ii) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(iii) For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards. The local government shall not determine that a development, including an application for a modification under subdivision (g), is in conflict with the objective planning standards on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

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(d) (i) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed, and if the development is consistent with all objective standards, the local government shall approve the development as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(ii) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (ix) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Government Code section 66410)) shall be exempt from the requirements of CEQA and shall be subject to the public oversight timelines set forth in paragraph (i).

(iii) If a local government determines that a development submitted pursuant to this section is in conflict with any of the standards imposed pursuant to paragraph (i), it shall provide the development proponent written documentation of which objective standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that objective standard or standards consistent with the timelines described in paragraph (i) of subdivision (c).

(e) (i) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing parking requirements in multifamily developments, shall not impose parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

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(D) When there is a car share vehicle located within one block of the development.

(ii) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(f) (i) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project satisfies both of the following requirements:

(A) The project includes public investment in housing affordability, beyond tax credits.

(B) At least 50 percent of the units are affordable to households making at or below 80 percent of the area median income.

(ii) If a local government approves a development pursuant to this section and the project does not satisfy the requirements of subparagraphs (A) and (B) of paragraph (f)(i), that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided construction activity, including demolition and grading activity, on the development site has begun pursuant to a permit issued by the local jurisdiction and is in progress. For purposes of this subdivision, "in progress" means one of the following:

(A) The construction has begun and has not ceased for more than 180 days.

(B) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.

(C) Notwithstanding subparagraph (ii), a local government may grant a project a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

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(iii) If the development proponent requests a modification pursuant to subdivision (g), then the time during which the approval shall remain valid shall be extended for the number of days between the submittal of a modification request and the date of its final approval, plus an additional 180 days to allow time to obtain a building permit. If litigation is filed relating to the modification request, the time shall be further extended during the pendency of the litigation. The extension required by this paragraph shall only apply to the first request for a modification submitted by the development proponent.

(g) (i)(A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (b) if that request is submitted to the local government before the issuance of the final building permit required for construction of the development.

(i)(B) Except as provided in paragraph (g)(iiii), the local government shall approve a modification if it determines that the modification is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.

(i)(C) The local government shall evaluate any modifications requested pursuant to this subdivision for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved for streamlined, ministerial approval pursuant to subdivision (b).

(i)(D) A guideline that is adopted or amended by the Department of Housing and Community Development after a development is approved through the streamlined, ministerial approval process described in subdivision (b) shall not be used as a basis to deny proposed modifications.

(ii) Upon receipt of the development proponent's application requesting a modification, the local government shall determine if the requested modification is consistent with the objective planning standard and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

(iii) Notwithstanding paragraph (g)(i), the local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

(A) The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent

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or more. The calculation of the square footage of construction changes shall not include underground space.

(B) The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Government Code section 65589.5, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact. The calculation of the square footage of construction changes shall not include underground space.

(C) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical fire, and grading codes, may be applied to all modification applications that are submitted prior to the first building permit application. Those standards may be applied to modification applications submitted after first building permit application if agreed to by the development proponent.

(iv) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(h) (i) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(ii) A local government shall issue a subsequent permit required for a development approved under this section if the application substantially complies with the development as it was approved pursuant to subdivision (b). Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved pursuant to this section. The local government shall consider the application for subsequent permits based upon the objective standards specified in any state or local laws that were in effect when the original development application was submitted, unless the development

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proponent agrees to a change in objective standards. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this paragraph, a "subsequent permit" means a permit required subsequent to receiving approval under subdivision (b), and includes, but is not limited to, demolition, grading, and building permits and final maps, if necessary.

(i) (i) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of Government Code section 65583.2(i).

(ii) This section shall not prevent a development from also qualifying as a housing development project entitled to the protections of Government Code section 65589.5. This paragraph does not constitute a change in, but is declaratory of, existing law.

(j) CEQA does not apply to actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to:

(i) Lease, convey, or encumber land owned by the local government or the San Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible TOD project, as defined pursuant to Section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(ii) Approve improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(k) For purposes of this section the following definitions shall apply:

(1) "Affordable housing cost" has the same meaning as set forth in section 50052.5 of the Health and Safety Code.

(2) (A) Subject to the qualification provided by subparagraph (B),

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"affordable rent" has the same meaning as set forth in Section 50063 of the Health and Safety Code.

(B) For a development for which an application pursuant to this section was submitted prior to January 1, 2019, that includes 500 units or more of housing, and that dedicates 50 percent of the total number of units to housing affordable to households making at, or below, 80 percent of the area median income, affordable rent for at least 30 percent of these units shall be set at an affordable rent as defined in subparagraph (k)(1), and "affordable rent" for the remainder of these units shall mean a rent that is consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(3) "Department" means the Department of Housing and Community Development.

(4) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(5) "Completed entitlements" means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(7) "Moderate income housing units" means housing units with an affordable housing cost or affordable rent for persons and families of moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(8) "Production report" means the information reported pursuant to `subparagraph (D) of paragraph (2) of subdivision (a) of Government Code section 65400.

(9) "State agency" includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(10) "Subsidized" means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

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(11) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(12) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(l) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (b) is not a "project" under CEQA.

(m) This section shall remain in effect until January 1, 2026.

(Reference: Gov. Code, § 65913.4.)

9.02 MINISTERIAL APPROVAL PROCESS FOR URBAN LOT SPLITS AND HOUSING DEVELOPMENTS WITH NO MORE THAN TWO RESIDENTIAL UNITS WITHIN A SINGLE-FAMILY RESIDENTIAL ZONE (SB 9)

(a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, and shall therefore not be subject to CEQA, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel is not located on a site that is any of the following:

(A) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction;

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993);

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(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code—unless the parcel is a site excluded from the specified hazard zone by a local agency, or is a site that has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development;

(D) A hazardous waste site that is listed pursuant to Government Code section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law, and by any local building department;

(F) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency;

(G) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification;

(H) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan pursuant to the federal Endangered Species Act of 1973, or other adopted natural resources protection plan;

(I) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act; or lands under conservation easement; or

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(J) Lands under conservation easement.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power;

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows; or

(B) The site has not been occupied by a tenant in the last three years

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

Other regulations governing the approval of a housing development under this section are set forth in Government Code section 65852.21(a).

(b) Notwithstanding any other provision of local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split—and such urban lot split shall therefore not be subject to CEQA—only if the local agency determines that the parcel map for the urban lot split meets all of the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

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(2) Both newly created parcels are no smaller than 1,200 square feet, except that a local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval.

(3) The parcel being subdivided meets all of the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel is not located on a site enumerated in Paragraph (a)(2) above.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an

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adjacent parcel using an urban lot split as provided for in this section.

Other regulations governing the approval of an urban lot split under this section are set forth in Government Code section 65852.21(b).

9.03 APPROVAL OF ORDINANCE TO ZONE ANY PARCEL FOR UP TO 10 UNITS OF RESIDENTIAL DENSITY PER PARCEL IN CERTAIN CIRCUMSTANCES (SB 10)

(a) A local government may adopt an ordinance to zone a parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area or an urban infill site. This subsection shall not apply to either of the following:

(1) Parcels located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This paragraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(2) Any local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land, as defined in subdivision (h) of Section 65560, or for park or recreational purposes.

(b) An ordinance adopted in accordance with this section, and any resolution to amend the jurisdiction's General Plan, ordinance, or other local regulation adopted to be consistent with that zoning ordinance, shall not constitute a "project" under CEQA.

(c) Notwithstanding any other law that allows ministerial or by right approval of a development project or that grants an exemption from CEQA, a residential or mixed-use residential project consisting of more than 10 new residential units on one or more parcels that are zoned pursuant to an ordinance adopted under this section shall not be approved ministerially or by right and shall not be exempt from CEQA. This subdivision, however, shall not apply to a project located on a parcel or parcels that are zoned pursuant to an ordinance adopted under this section, but subsequently rezoned without regard to this section. A subsequent ordinance adopted to rezone the parcel or parcels shall not be exempt from CEQA. Any environmental review conducted to adopt the subsequent ordinance shall consider the change in the zoning applicable to the parcel or parcels before they were zoned or rezoned pursuant to the ordinance adopted under this section.

Other regulations governing the approval of an ordinance under this section are set forth in Government Code section 65913.5.

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9.04 HOUSING SUSTAINABILITY DISTRICTS.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries. The general plan must contain seven mandatory elements, including a housing element. Existing law provides for various reforms and incentives intended to facilitate and expedite the construction of affordable housing. Senate Bill 73 authorizes a city, county, or city and county, including a charter agency, to establish by ordinance a housing sustainability district that meets specified requirements, including authorizing residential use within the district through the ministerial issuance of a permit. The agency is authorized to apply to the Department of Housing and Community Development for approval of a zoning incentive payment and requires the agency to provide specified information about the proposed housing sustainability district ordinance. The department is required to approve a zoning incentive payment if the ordinance meets the above-described requirements and the agency's housing element is in compliance with specified law.

A city, county, or city and county with a housing sustainability district would be entitled to a zoning incentive payment, subject to appropriation of funds for that purpose, and require that one-half of the amount be paid when the department approves the zone and one-half of the amount be paid when the department verifies that permits for the construction of the units have issued within the zone, provided that the city, county, or city and county has received a certificate of compliance for the applicable year. If the agency reduces the density of sites within the district from specified levels set forth in the Senate Bill 73, the agency would be required to return the full amount of zoning incentive payments it has received to the department. The bill also authorizes a developer to develop a project in a housing sustainability district in accordance with the already existing land use approval procedures that would otherwise apply to the parcel in the absence of the establishment of the housing sustainability district pursuant to its provisions, as provided.

As it relates specifically to CEQA, a Lead Agency designating a housing sustainability district is required to prepare an EIR pursuant to Government Code section 66201 to identify and mitigate, to the extent feasible, environmental impacts resulting from the designation. The EIR shall identify mitigation measures that may be undertaken by housing projects in the housing sustainability district to mitigate the environmental impacts identified in the EIR. Housing projects undertaken in the housing sustainability districts that meet specified requirements, including if the project satisfies certain design review standards applicable to development projects within the district provided the project is "complementary to adjacent buildings and structures and is consistent with the [agency's] general plan," are exempt under CEQA.

9.05 INTERIM MOTEL HOUSING PROJECTS.

"Interim motel housing projects" are statutorily exempt from CEQA. A project is exempt from CEQA as an "interim motel housing project" where the project consists of the conversion of a structure with a certificate of occupancy as a motel, hotel, residential hotel, or hostel to supportive or transitional housing and the conversion meets at least one of the following conditions: (1) the conversion does not result in the expansion of more than 10 percent of the floor area of any individual living unit in the structure; and (2) the conversion does not result in any significant effects relating to traffic, noise, air quality, or water quality.

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If the City determines that a project is exempt from CEQA as an interim motel housing project, it must file a Notice of Exemption with the State Clearinghouse.

(Reference: Pub. Resources Code, § 21080.50 [in effect until January 1, 2025].)

9.06 SUPPORTIVE HOUSING AND "NO PLACE LIKE HOME" PROJECTS.

A decision by the City to seek funding from, or the Department of Housing and Community Development's awarding of funds pursuant to, the "No Place Like Home Program" (set forth in Part 3.9 of Division 5 of the Welfare and Institutions Code, commencing with Section 5849.1) does not constitute a "project" under CEQA.

"Supportive housing" in areas where multifamily and mixed uses are permitted may be a "use by right" and thus exempt from CEQA if the supportive housing project meets certain criteria set forth in Government Code section 65651. A "supportive housing" project is a project that provides housing with no limit on length of stay, that is occupied by persons within the target population—i.e., persons with disabilities, families who are homeless, or homeless youth—and that is linked to onsite or offsite services that assist the supportive housing resident to retain housing, improve their health status, and maximize their ability to live and, when possible, work in the community. A policy by a city or county to approve as a use by right proposed housing developments with a limit higher than 50 units does not constitute a "project" under CEQA. To see the requirements of the exemptions relating to supportive housing, please see Government Code section 65651.

If a No Place Like Home project is not exempt from CEQA under Government Code section 65651, the development applicant may request, within 10 days after the City determines the type of environmental documentation required for the project under CEQA, that the City prepare and certify the record of proceeding for the environmental review of the No Place Like Home project in accordance with Public Resources Code section 21186.

If the City approves or determines to carry out a No Place Like Home project that is subject to CEQA, the City shall file a notice of that approval or determination in accordance with the requirements of Public Resources Code section 21151, subdivision (a), except that the Notice of Determination shall be filed within two working days after the approval or determination becomes final. Likewise, if the City approves or determines to carry out a No Place Like Home project that is not subject to CEQA, the City shall file a Notice of Exemption in accordance with the requirements of Public Resources Code section 21152, subdivision (b), except that the Notice of Exemption shall be filed within two working days after the approval or determination becomes final.

(Reference: Pub. Resources Code, § 21163, *et seq.*; Gov. Code, § 65651; Health & Safety Code, § 50675.14.)

9.07 SHELTER CRISIS AND EMERGENCY HOUSING.

An action taken by certain cities, counties, or state agencies to lease, convey, or encumber land owned by a city or county—or an action to facilitate the lease, conveyance, or encumbrance of land owned by the local government—for, or to provide financial assistance to, a homeless

shelter constructed pursuant to the provisions of Government Code section 8698.4 is statutorily exempt from CEQA. This narrow exception applies to specified efforts to assist specified cities or counties that have declared a shelter crisis and seek to build a homeless shelter. To see all the requirements of this exemption, please see Government Code section 8698.4.

(Reference: Gov. Code, § 8698.4 [in effect until January 1, 2023].)

9.08 AFFORDABLE HOUSING DEVELOPMENTS IN COMMERCIAL ZONES.

A proposed affordable multifamily housing development project is subject to streamlined, ministerial review and is not subject to CEQA if it meets the following requirements:

1. One hundred percent of the units within the development project, excluding managers' units, must be dedicated to lower income households at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units must be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

2. The proposed development must meet applicable objective zoning standards, objective subdivision standards, and objective design review standards as further defined in Government Code section 65912.113(f) & (g).

3. The proposed housing development must meet certain density requirements set forth in Government Code section 65583.2(c)(3).

4. The project must be located in a zone where office, retail, or parking are a principally permitted use.

5. At least 75 percent of the perimeter of the project site must adjoin parcels that are developed with urban uses. Parcels that are only separated by a street or highway shall be considered adjoined.

6. The project may not be located on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use.

7. The project site must be located on a legal parcel or parcels that are either (a) in a city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau; or (b) in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

8. None of the proposed housing may be located within 500 feet of a freeway.

9. None of the proposed housing may be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

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10. The project may not be located on a site that qualifies as either prime farmland or farmland of statewide importance.

11. The project site may not be located in wetlands.

12. The project site may not be located in a very high fire hazard severity zone.

13. The project site may not be located on a hazardous waste site, with limited exceptions as set forth in Government Code section 65913.4(a)(6)(E).

14. The project site may not be located within a delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards as set forth in Government Code section 65913.4(a)(6)(F).

15. The project may not be located within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency ("FEMA").

16. The project site may not be located within a regulatory floodway as determined by FEMA, with limited exceptions as set forth in Government Code section 65913.4(a)(6)(H).

17. The project site may not be located on lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan pursuant to the federal Endangered Species Act, or other adopted natural resource protection plan.

18. The project site may not be located on habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act.

19. The project site may not be located on lands under conservation easement.

20. The project site may not be located on an existing parcel of land or site that is governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.

21. For a project proposed on a site within a neighborhood plan area, the applicable neighborhood plan must permit multifamily housing development on the site. Additional requirements apply to projects within a neighborhood plan area as of January 1, 2024, as set forth in Government Code section 65912.113(i).

22. For a project proposed on a vacant site, the project may not result in significant and unavoidable impacts to tribal cultural resources on the site.

23. The development proponent must complete a Phase I Environmental Site Assessment, and the proponent must undertake additional measures if a

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recognized environmental condition is found as set forth in Government Code section 65912.113(c).

A project approved under this section must meet certain labor standards, as set forth in Government Code section 65912.130, et seq. For example, a private housing development project under this section is subject to a requirement that all construction workers employed in the execution of the development be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations.

(Reference: Gov. Code, § 65912.110, et seq.)

9.09 MIXED-INCOME HOUSING DEVELOPMENTS ALONG COMMERCIAL CORRIDORS.

A proposed multifamily housing development project is subject to streamlined, ministerial review and is not subject to CEQA if it meets the following requirements:

1. The proposed development project must meet all of the following affordability criteria, as set forth in greater detail in Government Code section 65912.122:

   (a)(1) A rental housing development shall include either of the following:

   (A) Eight percent of the units for very low income households and 5 percent of the units for extremely low income households; or

   (B) Fifteen percent of the units for lower income households.

   (2) The development proponent must agree to, and the local government must ensure, the continued affordability of all affordable rental units included pursuant to this section for 55 years.

   (b)(1) An owner-occupied housing development shall include either of the following:

   (A) Thirty percent of the units must be offered at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to moderate-income households; or

   (B) Fifteen percent of the units must be offered at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to lower income households.

   (2) The development proponent must agree to, and the local government must ensure, the continued affordability of all affordable rental units included pursuant to this section for 45 years.

   (c) If the local government has a local affordable housing requirement, the housing development project shall comply with all of the following:

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(1) The development project shall include the percentage of affordable units required by this section or the local requirement, whichever is higher.

(2) The development project shall meet the lowest income targeting in either policy.

(3) If the local affordable housing requirement requires greater than 15 percent of the units to be dedicated for lower income households and does not require the inclusion of units affordable to very low and extremely low income households, then the rental housing development shall do both of the following:

(A) Include 8 percent of the units for very low income households and 5 percent of the units for extremely low income households; and

(B) Fifteen percent of units affordable to lower income households shall be subtracted from the percentage of units required by the local policy at the highest required affordability level.

(d) Affordable units in the development project shall have the same bedroom and bathroom count ratio as the market rate units, be equitably distributed within the project, and have the same type or quality of appliances, fixtures, and finishes.

2. The project site must abut a commercial corridor and have frontage along the commercial corridor of at least 50 feet.

3. The project site may not be greater than 20 acres.

4. The project must be located in a zone where office, retail, or parking are a principally permitted use.

5. At least 75 percent of the perimeter of the project site must adjoin parcels that are developed with urban uses. Parcels that are only separated by a street or highway shall be considered adjoined.

6. The project may not be located on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use.

7. The project site must be located on a legal parcel or parcels that are either (a) in a city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau; or (b) in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

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8. The proposed development must meet applicable objective zoning standards, objective subdivision standards, and objective design review standards as further explained in Government Code section 65912.123(j).

9. The proposed housing development must meet certain density requirements set forth in Government Code section 65912.123(b).

10. The proposed housing development must meet certain height and setback requirements set forth in Government Code section 65912.123(c)-(d).

11. The project may not be located on a site where any of the following would apply:

    (a) The development would require the demolition of the following types of housing: (i) housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; (ii) housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; (iii) or housing that has been occupied by tenants within the past 10 years, excluding any manager's units.

    (b) The site was previously used for permanent housing that was occupied by tenants, excluding any manager's units, that was demolished within 10 years before the development proponent submitted its application for the development.

    (c) The site would require the demolition of a historic structure that was placed on a national, state, or local historic register.

    (d) The property contains one to four dwelling units.

    (e) The property is vacant and zoned for housing but not for multifamily residential use.

    (f) The existing parcel of land or site is governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act

12. None of the proposed housing may be located within 500 feet of a freeway.

13. None of the proposed housing may be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

14. The project may not be located on a site that qualifies as either prime farmland or farmland of statewide importance.

15. The project site may not be located in wetlands.

16. The project site may not be located in a very high fire hazard severity zone.

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17. The project site may not be located on a hazardous waste site, with limited exceptions as set forth in Government Code section 65913.4(a)(6)(E).

18. The project site may not be located within a delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards as set forth in Government Code section 65913.4(a)(6)(F).

19. The project may not be located within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency ("FEMA").

20. The project site may not be located within a regulatory floodway as determined by FEMA, with limited exceptions as set forth in Government Code section 65913.4(a)(6)(H).

21. The project site may not be located on lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan pursuant to the federal Endangered Species Act, or other adopted natural resource protection plan.

22. The project site may not be located on habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act.

23. The project site may not be located on lands under conservation easement.

24. For a project proposed on a site within a neighborhood plan area, the applicable neighborhood plan must permit multifamily housing development on the site. Additional requirements apply to projects within a neighborhood plan area as of January 1, 2024, as set forth in Government Code section 65912.121(i).

25. For a project proposed on a vacant site, the project may not result in significant and unavoidable impacts to tribal cultural resources on the site.

26. The development proponent must complete a Phase I Environmental Site Assessment, and the proponent must undertake additional measures if a recognized environmental condition is found as set forth in Government Code section 65912.123(f).

A project approved under this section must meet certain labor standards, as set forth in Government Code section 65912.130, et seq. For example, a private housing development project under this section is subject to a requirement that all construction workers employed in the execution of the development be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations.

(Reference: Gov. Code, § 65912.120, et seq.)

9.10 A RESPONSIBLE AGENCY'S PROVISION OF FINANCIAL ASSISTANCE OR INSURANCE FOR THE DEVELOPMENT AND CONSTRUCTION OF AFFORDABLE HOUSING.

Action taken by a local agency that is acting as a responsible agency – not as a lead agency – to provide financial assistance or insurance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, is exempt from CEQA if the project that is the subject of the application for financial assistance or insurance will be subject to CEQA review by another public agency. This includes a local agency's approval of contracts that provide residential, counseling, and security services for people experiencing homelessness.

(Reference: Pub. Resources Code, § 21080.10.)

9.11 EXEMPTION FOR SPECIFIED AFFORDABLE HOUSING PROJECTS.

If the conditions and requirements set forth in Public Resources code section 21080.40 are met, the following public agency action relating to an "affordable housing project" shall be exempt from CEQA :

1. The issuance of an entitlement by a public agency for an affordable housing project.

2. An action to lease, convey, or encumber land owned by a public agency for an affordable housing project.

3. An action to facilitate the lease, conveyance, or encumbrance of land owned or to be purchased by a public agency for an affordable housing project.

4. Rezoning, specific plan amendments, or general plan amendments required specifically and exclusively to allow the construction of an affordable housing project.

5. An action to provide financial assistance in furtherance of implementing an affordable housing project.

Section 21080.40 of the Public Resources Code defines "affordable housing project" as a project that meets the following requirements:

- The project consists of multifamily residential uses only or a mix of multifamily residential and nonresidential uses;

- At least two-thirds of the square footage of the project is designated for residential use;

- All of the project's residential units, excluding managers' units, are dedicated to lower income households, as defined by Health & Safety Code section 50079.5;

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- The project meets the labor requirements set forth in Government Code section 65912.130, or Government Code section 65912.131 if the project has 50 or more residential units;

- The project is located on a parcel in any of the following locations: (i) an urbanized area or urban cluster, as designated by the United States Census Bureau, (ii) within one-half mile walking distance to either a high-quality transit corridor or a major transit stop, (iii) a very low vehicle travel area (defined as an urbanized area where existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita), or (iv) proximal to six or more certain specified amenities, including within one-half mile of a bus station or ferry terminal, or within one mile (or two miles if in a rural area) of a supermarket or grocery store, public park, community center, pharmacy or drugstore, medical clinic or hospital, public library, or a school; and

- Parcels that are developed with urban uses must adjoin at least 75 percent of the perimeter of the project site or at least three sides of a four-sided project site.

To qualify for this exemption, the affordable housing project must meet a series of requirements set forth in Public Resources Code section 21080.40. The requirements include that the affordable housing project be subject to a recorded California Tax Credit Allocation Committee regulatory agreement for at least 55 years upon completion of construction, and that the project site must be adequately served by existing utilities or extensions. In addition, the public agency must confirm that the project is not built on environmentally sensitive or hazardous land; that the project will not have significant and unavoidable tribal cultural resource impacts; that a Phase I environmental assessment was prepared and any hazardous substances on the site have been remediated; and if the project site is not permitted for multifamily housing, that none of the housing is located within 500 feet of a freeway or within 3,200 feet of a facility that actively extracts or refines soil or natural gas; and that the project site is not within a very high fire hazard severity zone.

If a lead agency determines that the affordable housing project is exempt from CEQA pursuant to this provision, it must file a notice of exemption with the Office of Land Use and Climate Innovation and the county clerk of each county in which the project is located.

(Reference: Pub. Resources Code, § 21080.40.)

9.12 MINISTERIAL APPROVAL OF HOUSING DEVELOPMENTS ON LAND OWNED BY INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION AND RELIGIOUS INSTITUTIONS.

A "housing development project" is not subject to CEQA if it meets the criteria and requirements set forth in Government Code section 65913.16. To qualify for the exemption, a housing development project must, among other things, meet the following requirements:

1. The housing development project must be located on land owned on or before January 1, 2024 by an independent institution of higher education or a religious institution, including ownership through an affiliated or associated nonprofit public

benefit corporation organized pursuant to the Nonprofit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

2. The housing development project must consist of residential units only; constitute a mixed-use development consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use; or consist of transitional housing or supportive housing.

3. The housing development project must meet certain affordability requirements. One hundred percent of the development project's total units, exclusive of a manager's unit or units, must be for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50052 of the Health and Safety Code, and 5 percent of the units may be for staff of the independent institution of higher education or religious institution that owns the land.

4. The project must be subject to specified labor and prevailing wage requirements.

The exemption is subject to a lengthy series of locational and other requirements, set forth in Government Code section 65913.16.

(Reference: Gov. Code, § 65913.16.)

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10. CEQA LITIGATION

10.01 TIMELINES.

When a CEQA lawsuit is filed, there are numerous and complex time requirements that must be met. Pressing deadlines begin to run in the days immediately after a CEQA lawsuit has been filed with the Court. For example, within ten (10) business days of the public agency being served with a petition or complaint alleging a violation of CEQA, the City, if it was the Lead Agency, must provide the petitioner with a list of Responsible Agencies and public agencies with jurisdiction by law over any natural resource affected by the project at issue. There are a variety of other deadlines that apply in CEQA litigation.

If a CEQA lawsuit is filed, CEQA counsel should be contacted immediately in order to ensure that all the applicable deadlines are met.

10.02 MEDIATION AND SETTLEMENT.

After Litigation Has Been Filed. The parties in a CEQA lawsuit are required to meet and discuss settlement. Within twenty (20) days of being served with a CEQA legal challenge, the public agency named in the lawsuit must file a notice with the court setting forth the time and place for a settlement meeting. The meeting must be scheduled and held not later than forty-five (45) days from the date of service of the petition or complaint upon the public agency. Usually the main parties to the litigation (such as the Lead Agency, the developer of the project if there is one, and those challenging the project and their respective attorneys) meet to discuss settlement; there is no requirement to hire a professional mediator. The settlement meeting is usually subject to a confidentiality agreement.

If the parties in a CEQA lawsuit are in settlement or mediation, that attempt is intended to occur concurrently with the litigation. This means that the respondent public agency will be required to comply with all existing litigation timelines and requirements (for example, preparing and lodging the administrative record discussed below) while simultaneously conducting settlement or mediation, unless the parties enter into an alternate agreement to stay the litigation and that agreement is approved by the court.

10.03 ADMINISTRATIVE RECORD.

A. Contents of Administrative Record.

When the Lead Agency's CEQA finding(s) and/or action is challenged in a lawsuit, the Lead Agency must certify the administrative record that formed the basis of the Lead Agency's decision. To the extent the documents listed below exist and are not subject to a privilege that exempts them from disclosure, the following items should be included in the administrative record:

(1) All project application materials;

(2) All staff reports and related documents prepared by the public agency with respect to its compliance with the substantive and procedural requirements of CEQA and with respect to the action on the project;

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(3) All staff reports and related documents prepared by the public agency and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the public agency pursuant to CEQA or these Local Guidelines;

(4) Any transcript or minutes of the proceedings at which the decision-making body of the public agency heard testimony on or considered any environmental document on the project, and any transcript or minutes of proceedings before any advisory body to the respondent public agency that were presented to the decision-making body prior to action on the environmental documents or on the project;

(5) All notices issued by the public agency to comply with CEQA or with any other law governing the processing and approval of the project;

(6) All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the notice of preparation;

(7) All written evidence or correspondence submitted to, or transferred from, the public agency with respect to compliance with CEQA or with respect to the project;

(8) Any proposed decisions or findings submitted to the decision-making body of the public agency by its staff or the project proponent, project opponents, or other persons, to the extent such documents are subject to public disclosure;

(9) The documentation of the final public agency decision, including the final environmental impact report, mitigated negative declaration, or negative declaration, and all documents, in addition to those referenced in paragraph (3) above, cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;

(10) Any other written materials relevant to the respondent public agency's compliance with CEQA or to its decision on the merits of the project, including the initial study; any drafts of any environmental document, or portions thereof, that were released for public review; copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the public agency's files on the project; and internal agency communications related to the project or to compliance with CEQA, to the extent such documents are subject to public disclosure; and

(11) The full written record before any inferior administrative decision-making body whose decision was appealed prior to the filing of the lawsuit.

B. Organization of Administrative Record.

The administrative record should be organized as follows:

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(1) Index. A detailed index must be included at the beginning of the administrative record listing each document in the order presented. Each entry must include the document's title, date, brief description, and the volume and page where the document begins;

(2) The Notice of Determination;

(3) The resolutions or ordinances adopted by the Lead Agency approving the project;

(4) The findings required by Public Resources Code section 21081, including any statement of overriding considerations;

(5) The Final EIR, including the Draft EIR or a revision of the draft, all other matters included in the Final EIR (such as traffic studies and air quality studies), or other types of environmental documents prepared under CEQA, such as a negative declaration, mitigated negative declaration, or addenda;

(6) The initial study;

(7) Staff reports prepared for the administrative bodies providing subordinate approvals or recommendations to the Lead Agency, in chronological order;

(8) Transcripts and minutes of hearings, in chronological order; and

(9) All other documents appropriate for inclusion in the administrative record, in chronological order.

Each section listed above must be separated by tabs or marked with electronic bookmarks. Oversized documents (such as building plans and maps) must be presented in a manner that allows them to be easily unfolded and viewed.

The court may issue an order allowing the documents to be organized in a different manner.

C. Preparation of Administrative Record.

The administrative record can be prepared: (1) by the petitioner, if the petitioner elects to do so, or (2) by the Lead Agency. The petitioner and the Lead Agency can also agree on any alternative method of preparing the record. However, when a third party such as the project applicant prepares or assists with the preparation of the administrative record, the Lead Agency may not be able to recover fees incurred by the third party unless petitioner has agreed to this method of preparation.

Notwithstanding the above, upon the written request of a project applicant received no later than 30 days after the date that the Lead Agency makes a determination pursuant to Public Resources Code section 21080.1, 21094.5, or Chapter 4.2 (commencing with Public Resources Code section 21155) and with the written consent of the Lead Agency sent within 10 business days from receipt of the written request, the Lead Agency may prepare the administrative record concurrently with the administrative process. Should the Lead Agency and the project applicant

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so desire to pursue concurrent record preparation, the parties must comply with the provisions of Public Resources Code section 21167.6.2.

D. Special Circumstances For Environmental Leadership Projects.

Special timing considerations and requirements apply if the Project is certified by the Governor as an Environmental Leadership Project pursuant to the "Jobs and Economic Improvement Through Environmental Leadership Act of 2021." For example, the administrative record must be finished and certified within five (5) days of project approval. See Public Resources Code section 21186 for a complete discussion of the special requirements related to the preparation of an administrative record for an Environmental Leadership Project.

11. DEFINITIONS

Whenever the following terms are used in these Local Guidelines, they shall have the following meaning unless otherwise expressly defined:

11.01 "Agricultural Employee" means a person engaged in agriculture, which includes farming in all its branches, and, among other things, includes: (1) the cultivation and tillage of the soil, (2) dairying, (3) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, (4) the raising of livestock, bees, furbearing animals, or poultry, and (5) any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

This definition does not include any person covered by the National Labor Relations Act as agricultural employees pursuant to Section 2(3) of the Labor Management Relations Act (Section 152(3), Title 29, United States Code) and Section 3(f) of the Fair Labor Standards Act (Section 203(f), Title 29, United States Code). This definition does not apply to employees who perform work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 United States Code section 158(e)) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above. As used in this definition, "land leveling" shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation. (State CEQA Guidelines section 15191(a).)

11.02 "Applicant" means a person who proposes to carry out a project that requires a lease, permit, license, certificate, or other entitlement for use, or requires financial aid from one or more public agencies when applying for governmental approval or assistance.

11.03 "Approval" means a decision by the decision-making body or other authorized body or officer of the City which commits the City to a definite course of action with regard to a particular project. With regard to any project to be undertaken directly by the City, approval shall be deemed to occur on the date when the decision-making body adopts a motion or resolution determining to proceed with the project, which in no event shall be later than the date of adoption of plans and specifications. As to private projects, approval shall be deemed to have occurred upon the earliest commitment to provide service or the issuance by the City of a discretionary contract, subsidy, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project. The mere acquisition of land by the City shall not, in and of itself, be deemed to constitute approval of a project.

For purposes of these Local Guidelines, all environmental documents must be completed as of the time of project approval.

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11.04 "Baseline" refers to the pre-project environmental conditions. By comparing the project's potential impacts to the baseline, the Lead Agency determines whether the project's impacts are substantial enough to be significant under the relevant thresholds of significance. Generally, the baseline is the environmental conditions existing on the date the environmental analysis begins, such as the date the Notice of Preparation is published for an EIR or the date the Notice of Intent to Adopt a Negative Declaration is published. However, in certain circumstances, an earlier or later date may provide a more accurate environmental analysis. The City may establish any baseline that is appropriate, including an earlier or later date, as long as the choice of baseline can be supported by substantial evidence.

11.05 "California Native American Tribe" means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004.

11.06 "Categorical Exemption" means an exemption from CEQA for a class of projects based on a finding by the Secretary of the Resources Agency that the class of projects does not have a significant effect on the environment.

11.07 "Census-Defined Place" means a specific unincorporated land area within boundaries determined by the United States Census Bureau in the most recent decennial census.

11.08 "CEQA" means the California Environmental Quality Act, codified at California Public Resources Code sections 21000, et seq.

11.09 "City" means the City of Indian Wells.

11.10 "Clerk" means either the "Clerk of the Board" or the "County Clerk" depending upon the county. Please refer to the "Index to Environmental Filing by County" in the Staff Summary to determine which applies.

11.11 "Community-Level Environmental Review" means either (1) or (2) below:

(1) An EIR certified for any of the following:

(a) A general plan;
(b) A revision or update to the general plan that includes at least the land use and circulation elements;
(c) An applicable community plan;
(d) An applicable specific plan; or
(e) A housing element of the general plan, if the Environmental Impact Report analyzed the environmental effects of the density of the proposed project;

(2) A Negative Declaration or Mitigated Negative Declaration adopted as a subsequent environmental review document, following and based upon an EIR on a general plan, an applicable community plan or specific plan, provided that the subsequent environmental review document is allowed by CEQA following

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a Master EIR or a Program EIR or is required pursuant to Public Resource Section 21166.

11.12 "Consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

11.13 "Cumulative Impacts" means two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects, whether past, present or future.

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

11.14 "Cumulatively Considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

11.15 "Decision-Making Body" means the body within the City, e.g. the City Council, which has final approval authority over the particular project.

11.16 "Developed Open Space" means land that meets each of the following three criteria:

(1) Is publicly owned, or financed in whole or in part by public funds;

(2) Is generally open to, and available for use by, the public; and

(3) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ball fields, enclosed child play areas, and picnic facilities.

Developed Open Space may include land that has been designated for acquisition by a public agency for developed open space purposes, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

11.17 "Development Project" means any project undertaken for the purpose of development, including any project involving the issuance of a permit for construction or reconstruction but not a permit to operate. It does not include any ministerial projects proposed to be carried out or approved by public agencies. (Government Code section 65928.)

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11.18 "Discretionary Project" means a project for which approval requires the exercise of independent judgment, deliberation, or decision-making on the part of the City. To determine whether a project is discretionary, the key question is whether the public agency can use its subjective judgment to decide whether and how to carry out or approve a project.

11.19 "EIR" means Environmental Impact Report, a detailed written statement setting forth the environmental effects and considerations pertaining to a project. EIR may mean a Draft or a Final version of an EIR, a Project EIR, a Subsequent EIR, a Supplemental EIR, a Tiered EIR, a Staged EIR, a Program EIR, a Redevelopment EIR, a Master EIR, or a Focused EIR.

11.20 "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, landslide or other natural disaster, as well as such occurrences as riot, war, terrorist incident, accident or sabotage.

11.21 "Endangered, Rare or Threatened Species" means certain species or subspecies of animals or plants. A species or subspecies of animal or plant is "Endangered" when its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. A species or subspecies of animal or plant is "Threatened" when it is listed as a threatened species pursuant to the California Endangered Species Act or the Federal Endangered Species Act. A species or subspecies of animal or plant is "Rare" when either:

(1) Although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or

(2) The species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and many be considered "threatened" as that term is used in the Federal Endangered Species Act.

For purposes of analyzing impacts to biological resources, a species of animal or plant shall be presumed to be endangered, rare or threatened if it is listed under the California Endangered Species Act or the Federal Endangered Species Act.

This definition shall not include any species of the Class Insecta which is a pest whose protection under the provisions of CEQA would present an overwhelming and overriding risk to man as determined by the Director of Food and Agriculture (with regard to economic pests) or the Director of Health Services (with regard to health risks).

11.22 "Environment" means the physical conditions which exist in the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. The area involved shall

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be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

11.23 "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

11.24 "Final EIR" means an EIR containing the information contained in the Draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the City to the comments received.

11.25 "Greenhouse Gases" include, but are not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

11.26 "Guidelines" or "Local Guidelines" means the City's Local Guidelines for implementing the California Environmental Quality Act.

11.27 "Highway" shall have the same meaning as defined in Section 360 of the Vehicle Code.

11.28 "Historical Resources" include:

Resources listed in, or eligible for listing in, the California Register of Historical Resources shall be considered historical resources.

A resource may be listed in the California Register if it meets any of the following National Register of Historic Places criteria:

(a) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
(b) Is associated with the lives of persons important in our past;
(c) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
(d) Has yielded, or may be likely to yield, information important in prehistory or history.

A resource may also be listed in the California Register if it is identified as significant in an historical resource survey that meets all of the following criteria:

(a) The survey has been or will be included in the State Historic Resources Inventory;
(b) The survey and the survey documentation were prepared in accordance with office procedures and requirements; and
(c) The resource is evaluated and determined by the office to have a significance rating of Category 1 to 5 on DPR Form 523.

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Resources included on a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution, or identified as significant in a historical resource survey (as described above) are presumed to be historically or culturally significant, unless a preponderance of evidence demonstrates that they are not historically or culturally significant.

Any of the following may be considered historically significant: any object, building, structure, site, area, place, record or manuscript which a Lead Agency determines, based upon substantial evidence in light of the whole record, to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military or cultural annals of California.

The Lead Agency is not precluded from determining that a resource is a historical resource, as defined in Public Resources Code sections 5020.1(j) or 5024.1, even if it is: (a) not listed in, or is not determined to be eligible for listing in, the California Register of Historical Resources; (b) not included in a local register of historical resources; or (c) not identified in a historical resources survey.

11.29 "Infill Site" means a site in an urbanized area that meets either of the following criteria:

(1) The site has been previously developed for qualified urban uses; or

(2) The site has not been previously developed for qualified urban uses and both (a) and (b) are met:

(a) the site is immediately adjacent to parcels that are developed with qualified urban uses, or

1. at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with existing qualified urban uses at the time the Lead Agency receives an application for an approval; and
2. the remaining 25 percent of the perimeter of the site adjoins parcels that had been previously developed for qualified urban uses;

(b) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(Public Resources Code section 21061.3.)

11.30 "Initial Study" means a preliminary analysis conducted by the City to determine whether an EIR, a Negative Declaration, or a Mitigated Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

11.31 "Jurisdiction by Law" means the authority of any public agency to grant a permit or other entitlement for use, to provide funding for the project in question or to exercise authority over resources which may be affected by the project.

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The City will have jurisdiction by law over a project when the City has primary and exclusive jurisdiction over the site of the project, the area in which the major environmental effects will occur, or the area in which reside those citizens most directly concerned by any such environmental effects.

11.32 "Land Disposal Facility" means a hazardous waste facility where hazardous waste is disposed in, on, or under land. (Health and Safety Code section 25199.1(d).)

11.33 "Large Treatment Facility" means a treatment facility which treats or recycles one thousand (1,000) or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991. (Health and Safety Code section 25205.1(d).)

11.34 "LCI" refers to the Governor's Office of Land Use and Climate Innovation (formerly known as the Office of Planning and Research, or OPR).

11.35 "Lead Agency" means the public agency which has the principal responsibility for preparing environmental documents and for carrying out or approving a project when more than one public agency is involved with the same underlying activity.

11.36 "Low- and Moderate-Income Households" means persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code—i.e., persons and families whose income does not exceed 120% of area median income, adjusted for family size by the Department of Housing and Community Development, in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. (Public Resources Code section 21159.20(d); State CEQA Guidelines section 15191(f).)

11.37 "Low-Income Households" means households of persons and families of very low and low income. Low-income persons or families are those eligible for financial assistance from governmental agencies for occupants of state-funded housing. Very low income persons are those whose incomes do not exceed the qualifying limits for very low income families as established and amended pursuant to Section 8 of the United States Housing Act of 1937. Such limits are published and updated in the California Code of Regulations. (Public Resources Code section 21159.20(c); Health and Safety Code sections 50105 and 50106; State CEQA Guidelines section 15191(g).)

11.38 "Low-Level Flight Path" means any flight path for any aircraft owned, maintained, or under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)" published by the United States National Imagery and Mapping Agency or its successor.

11.39 "Lower Income Households" is defined in Health and Safety Code section 50079.5 to mean any of the following:

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(1) "Lower income households" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937;

(2) "Very low income households" means persons and families whose incomes do not exceed the qualifying limits for very low income families as defined in Health and Safety Code 50105; or

(3) "Extremely low income households" means persons and families whose incomes do not exceed the qualifying limits for extremely low income families as defined in Health and Safety Code section 50106.

11.40 "Major Transit Stop" means a site containing an existing rail or bus rapit transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of twenty (20) minutes or less during the morning and afternoon peak commute periods. (Pub. Resources Code, § 21064.3; see also Pub. Resources Code, § 21060.2; State CEQA Guidelines section 15191(i).)

11.41 "Metropolitan Planning Organization" or "MPO" means a federally-designated agency that provides transportation planning and programming in metropolitan areas. A MPO is designated for each urban area that has been defined in the most recent federal census as having a population of more than 50,000 people. There are 18 federally-designated MPOs in California. Non-urbanized (rural) areas do not have a designated MPO.

11.42 "Military Impact Zone" means any area, including airspace, that meets both of the following criteria:

(1) Is located within two miles of a military installation, including, but not limited to, any base, military airport, camp, post, station, yard, center, homeport facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense; and

(2) Covers greater than 500 acres of unincorporated land, or greater than 100 acres of city incorporated land.

11.43 "Military Service" means the United States Department of Defense or any branch of the United States Armed Forces.

11.44 "Ministerial" describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and marriage licenses. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows

the structure to be built in the requested location, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid his fee. (Public Resources Code section 21080(b)(1).)

11.45 "Mitigated Negative Declaration" or "MND" means a Negative Declaration prepared for a Project when the Initial Study has identified potentially significant effects on the environment, but: (1) revisions in the project plans or proposals made, or agreed to, by the applicant before the proposed Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

11.46 "Mitigation" includes avoiding the environmental impact altogether by not taking a certain action or parts of an action, minimizing impacts by limiting the degree or magnitude of the action and its implementation, rectifying the impact by repairing, rehabilitating or restoring the impacted environment, reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, or compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

11.47 "Negative Declaration" or "ND" means a written statement by the City briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and, therefore, does not require the preparation of an EIR.

11.48 "Notice of Completion" means a brief report filed with the Office of Land Use and Climate Innovation by the City when it is the Lead Agency as soon as it has completed a Draft EIR and is prepared to send out copies for review.

11.49 "Notice of Determination" means a brief notice to be filed by the City when it approves or determines to carry out a project which is subject to the requirements of CEQA.

11.50 "Notice of Exemption" means a brief notice which may be filed by the City when it has approved or determined to carry out a project, and it has determined that the project is exempt from the requirements of CEQA. Such a notice may also be filed by an applicant where such a determination has been made by a public agency which must approve the project.

11.51 "Notice of Preparation" means a brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, the Office of Land Use and Climate Innovation, and involved federal agencies that the Lead Agency plans to prepare an EIR for a project. The purpose of this notice is to solicit guidance from those agencies as to the scope and content of the environmental information to be included in the EIR. Public agencies are free to develop their own formats for this notice.

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11.52 "Oak" means a native tree species in the genus Quercus, not designated as Group A or Group B commercial species pursuant to regulations adopted by the State Board of Forestry and Fire Protection pursuant to Public Resources Code section 4526, and that is five (5) inches or more in diameter at breast height. (Public Resources Code section 21083.4(a).)

11.53 "Oak Woodlands" means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover. (Fish & Game Code section 1361(h).)

11.54 "Offsite Facility" means a facility that serves more than one generator of hazardous waste. (Public Resources Code section 21151.1(h).)

11.55 "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, company, city, county, city and county, town, the state, and any of the agencies which may be political subdivisions of such entities, and, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions**.**

11.56 "Pipeline" as defined in these Local Guidelines depends on the context. Please see Local Guidelines Sections 3.10 and 3.11 for specific definitions.

11.57 "Private Project" means a project which will be carried out by a person other than a governmental agency, but which will need a discretionary approval from the City. Private projects will normally be those listed in subsections (2) and (3) of Local Guidelines Section 11.58.

11.58 "Project" means the whole of an action or activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment, and is any of the following:

(1) A discretionary activity directly undertaken by the City including but not limited to public works construction and related activities, clearing or grading of land, or improvements to existing public structures;

(2) A discretionary activity which involves a public agency's issuance to a person of a lease, permit, license, certificate, or other entitlement for use, or which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance by the City; or

(3) A discretionary project proposed to be carried out or approved by public agencies, including but not limited to the enactment and amendment of local General Plans or elements thereof, the enactment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps.

The presence of any real degree of control over the manner in which a project is completed makes it a discretionary project.

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The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

11.59 "Project-Specific Effects" means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects. (Public Resources Code section 21065.3; State CEQA Guidelines section 15191(j).)

11.60 "Public Water System" means a system for the provision of piped water to the public for human consumption that has 3,000 or more service connections. A public water system includes all of the following: (A) Any collection, treatment, storage, and distribution facility under control of the operator of the system which is used primarily in connection with the system; (B) Any collection or pretreatment storage facility not under the control of the operator that is used primarily in connection with the system; (C) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption. (State CEQA Guidelines section 15155.)

11.61 "Qualified Urban Use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. (Public Resources Code section 21072; State CEQA Guidelines section 15191(k).)

11.62 "Residential" means a use consisting of either residential units only or residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15% of the total floor area of the project. (State CEQA Guidelines section 15191(l).) Residential, pursuant to Public Resources Code section 21159.24, shall mean a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 25 percent of the total building square footage of the project.

11.63 "Responsible Agency" means a public agency which proposes to carry out or approve a project for which a Lead Agency has prepared the environmental documents. For the purposes of CEQA, the term "Responsible Agency" includes all federal, state, regional and local public agencies other than the Lead Agency which have discretionary approval power over the project.

11.64 "Riparian areas" mean those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

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11.65 "Roadway" means a roadway as defined pursuant to Section 530 of the Vehicle Code and the previously graded and maintained shoulder that is within a roadway right-of-way of no more than five feet from the edge of the roadway.

11.66 "Significant Effect" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the activity including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

11.67 "Significant Value as a Wildlife Habitat" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

11.68 "Special Use Airspace" means the land area underlying the airspace that is designated for training, research, development, or evaluation for a military service, as that land area is established by the United States Department of Defense Flight Information Publication, "Area Planning: Special Use Airspace: North and South America (AP/1A)" published by the United States National Imagery and Mapping Agency or its successor.

11.69 "Staff" means the City Manager or his or her designee**.**

11.70 "Standard" means a standard of general application that is all of the following:

(1) A quantitative, qualitative or performance requirement found in a statute, ordinance, resolution, rule, regulation, order, or other standard of general application;

(2) Adopted for the purpose of environmental protection;

(3) Adopted by a public agency through a public review process;

(4) Governs the same environmental effect which the change in the environment is impacting; and

(5) Governs the jurisdiction where the project is located.

The definition of "standard" includes any thresholds of significance adopted by the City which meet the requirements of this Section.

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If there is a conflict between standards, the City shall determine which standard is appropriate based upon substantial evidence in light of the whole record.

11.71 "State CEQA Guidelines" means the Guidelines for Implementation of the California Environmental Quality Act as adopted by the Secretary of the California Natural Resources Agency as they now exist or hereafter may be amended. (California Administrative Code, Title 14, Sections 15000, et seq.)

11.72 "Substantial Evidence" means reliable information on which a fair argument can be based to support an inference or conclusion, even though another conclusion could be drawn from that information. "Substantial evidence" includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. "Substantial evidence" does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment.

11.73 "Sustainable Communities Strategy" is an element of a Regional Transportation Plan, which must be adopted by the Metropolitan Planning Organization for the region. (See Local Guidelines Section 11.40.) The Sustainable Communities Strategy is an integrated land use and transportation plan intended to reduce greenhouse gases. The Sustainable Communities Strategy includes various components such as: consideration of existing densities and uses within the region, identification of areas within the region that can accommodate an eight-year projection of the region's housing needs, development of projections for growth in the region, identification of existing transportation networks, and preparation of a forecast for development pattern for the region that can be integrated with transportation networks.

11.74 "Tiering" means the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs or ultimately site-specific EIRs incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared. Tiering is appropriate when the sequence of EIRs is:

(a) From a general plan, policy, or Program EIR to a program, plan, or policy EIR of lesser scope or to a site-specific EIR; or

(b) From an EIR on a specific action at an early stage to a subsequent EIR or a supplement to an EIR at a later stage. Tiering in such cases is appropriate when it helps the Lead Agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

(Public Resources Code sections 21003, 21061 and 21100.)

11.75 "Transit Priority Area" means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the

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planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

11.76 "Transit Priority Project" means a mixed use project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the California Air Resources Board has accepted a Metropolitan Planning Organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets. Such a project may be exempt from CEQA if a detailed laundry list of requirements is met. To qualify for the exemption, the Transit Priority Project must:

(1) contain at least 50 percent residential use based on total building square footage;

(2) if the project contains between 26 percent and 50 percent non-residential uses, the floor-to-area ratio (FAR) must be at least 0.75;

(3) have a minimum net density of 20 dwelling units per acre;

(4) be located within a half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan; and

(5) meet all the requirements of Public Resources Code section 21155.1.

11.77 "Transportation Facilities" includes major local arterials and public transit within five (5) miles of the project site, and freeways, highways, and rail transit service within ten (10) miles of the project site.

11.78 "Tribal Cultural Resources" are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(a) Included or determined to be eligible for inclusion in the California Register of Historical Resources.
(b) Included in a local register of historic resources as defined in subdivision (k) of Public Resources Code section 5020.1.

(2) A resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this definition, the Lead Agency shall consider the significance of the resource to a California Native American tribe.

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A cultural landscape that meets the criteria set forth above is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

A historic resource described in Public Resources Code section 21084.1, a unique archaeological resource as defined in subdivision (g) of Public Resources Code section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Public Resources Code section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of Tribal cultural resources.

11.79 "Trustee Agency" means a State agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. Trustee Agencies may include, but are not limited to, the following:

(a) The California Department of Fish and Wildlife ("DFW") with regard to the fish and wildlife of the state, designated rare or endangered native plants, and game refuges, ecological reserves, and other areas administered by DFW;
(b) The State Lands Commission with regard to state owned "sovereign" lands such as the beds of navigable waters and state school lands;
(c) The State Department of Parks and Recreation with regard to units of the State Park System;
(d) The University of California with regard to sites within the Natural Land and Water Reserve System; and/or
(e) The State Water Resources Control Board with respect to surface waters.

11.80 "Urban Growth Boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side of the boundary.

11.81 "Urbanized Area" means either of the following:

(1) An incorporated city that either by itself or in combination with two contiguous incorporated cities has a population of at least one hundred thousand (100,000) persons;

(2) An unincorporated area that meets both of the following requirements:

(a) The unincorporated area is either:
(i) completely surrounded by one or more incorporated cities, has a population of at least 100,000 persons either by itself or in combination with the surrounding incorporated city or cities, and has a population density that at least equals the population density of the surrounding city or cities; or
(ii) located within an urban growth boundary and has an existing residential population of at least five thousand (5,000) persons per square mile. An "urban growth boundary" means a

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provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.

(b) The board of supervisors with jurisdiction over the unincorporated area has taken all three of the following steps:

1. Prepared a draft document by which the board would find that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing, and protects the environment, open space and agricultural areas;
2. Submitted the draft document to the Office of Land Use and Climate Innovation and allowed LCI thirty (30) days to submit comments on the draft finding to the board; and
3. At least thirty (30) days after submitting the draft document to LCI, the board has adopted a final finding in substantial conformity with the draft finding described in the draft document.

(Public Resources Code sections 21083, 21159.20-21159.24; State CEQA Guidelines section 15191(m).)

11.82 "Water Acquisition Plans" means any plans for acquiring additional water supplies prepared by the public water system or a city or county Lead Agency pursuant to subdivision (a) of section 10911 of the Water Code.

11.83 "Water Assessment" or "Water Supply Assessment" means the water supply assessment that must be prepared by the governing body of a public water system, or a city or county, pursuant to and in compliance with sections 10910 to 10915 of the Water Code, and that includes, without limitation, the elements of the assessment required to comply with subdivisions (d), (e), (f), and (g) of section 10910 of the Water Code.

11.84 "Water Demand Project" means any one of the following:

(A) A residential development of more than 500 dwelling units;

(B) A shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;

(C) A commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;

(D) A hotel or motel, or both, having more than 500 rooms;

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(E) An industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;

Except, a proposed photovoltaic or wind energy generation facility approved on or after October 8, 2011, is not a Water Demand Project if the facility would demand no more than 75 acre-feet of water annually.

(F) A mixed-use project that includes one or more of the projects specified in subdivisions (A); (B), (C), (D), (E), or (G) of this section;

(G) A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project; or

(H) For public water systems with fewer than 5,000 service connections, a project that meets the following criteria:

(1) A proposed residential, business, commercial, hotel or motel, or industrial development that would account for an increase of 10 percent or more in the number of a public water system's existing service connections; or

(2) A mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by residential development that would represent an increase of 10 percent or more in the number of the public water system's existing service connections.

(State CEQA Guidelines section 15155.)

11.85 "Waterway" means a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline.

11.86 "Wetlands" has the same meaning as that term is construed in the regulations issued by the United States Army Corps of Engineers pursuant to the Clean Water Act. Thus, "wetlands" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Public Resources Code section 21159.21(d), incorporating Title 33, Code of Federal Regulations, Section 328.3.)

11.87 "Wildlife Habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection. (Public Resources Code section 21159.21.)

11.88 "Zoning Approval" means any enactment, amendment, or appeal of a zoning ordinance; granting of a conditional use permit or variance; or any other form of land

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use, subdivision, tract, or development approval required from the city or county having jurisdiction to permit the particular use of the property.

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12. FORMS

See forms A – S which accompany these Guidelines.

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13. COMMON ACRONYMS

A. **********

ADEIR – Administrative Draft Environmental Impact Report
AQMD – Air Quality Management District
AQMP – Air Quality Management Plan
AR – Administrative Record
ARB – Air Resources Board

B. **********

BMP – Best Management Practices
BO – Biological Opinion

C. **********

Cal EPA – California Environmental Protection Agency
CAP – Climate Action Plan
CCAA – California Clean Air Act
CCR – California Code of Regulations (Title 14 Sections 15000 et seq. are also known as the State CEQA Guidelines.)
CE – Categorical Exclusion (NEPA)
CESA – California Endangered Species Act
CEQA – California Environmental Quality Act
CFR – Code of Federal Regulations
CMP – Congestion Management Plan
CRWQCB – California Regional Water Quality Control Board

D. **********

DEIR – Draft Environmental Impact Report
DFW – Department of Fish and Wildlife

E. **********

EA – Environmental Assessment (NEPA term)
EIR – Environmental Impact Report
EIS – Environmental Impact Statement (NEPA term)
EPA – Environmental Protection Agency
ESA – Endangered Species Act; Environmental Site Assessment

F. **********

FCAA – Federal Clean Air Act
FEIR – Final Environmental Impact Report
FOIA – Freedom of Information Act (Federal)
FONSI – Finding of No Significant Impact (NEPA term)
FWS – Fish and Wildlife Service

G. **********

GHG – Greenhouse Gas
GW – Ground Water

H. **********

HH&E – Human Health and Environment
HRA – Health Risk Assessment
HS – Hazardous Substance

I. **********

IS – Initial Study

J. **********

K. **********

L. **********

LADD – Lifetime Average Daily Dose; Lowest Acceptable Daily Dose
LCI - Office of Land Use and Climate Innovation formerly Office of Planning and Research
LEA – Local Enforcement Agency
LESA – Land Evaluation and Site Assessment
LUFT – Leaking Underground Fuel Tank
LUST – Leaking Underground Storage Tanks. Reference Part 213 of Public Act 451 of 1994.

M. **********

MEIR – Master Environmental Impact Report
MMRP – Mitigation Monitoring and Reporting Plan
MPO – Metropolitan Planning Organization
MND – Mitigated Negative Declaration

N. **********

ND – Negative Declaration
NEPA – National Environmental Policy Act
NOA – Notice of Availability
NOC – Notice of Completion
NOD – Notice of Determination
NOE – Notice of Exemption
NOI – Notice of Intent
NOP – Notice of Preparation
NOV – Notice of Violation

O. **********

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P. **********

PEIR – Program Environmental Impact Report. Sometimes also used to describe a Project Environmental Impact Report
PM – Particulate Matter
PRA – Public Records Act
PSA – Permit Streamlining Act

Q. **********

R. **********

RCRA – Resource Conservation and Recovery Act (1976) Governs definition, handling, and disposal of hazardous waste.

S. **********

SCH – State Clearinghouse
SEIR – Supplemental or Subsequent Environmental Impact Report
SMARA – Surface Mining and Reclamation Act
SWMP – Stormwater Monitoring Program
SWPPP – Stormwater Pollution Prevention Program

T. **********

TCM – Transportation Control Measure
TCP – Transportation Control Plan
TDS – Total Dissolved Solids
TMP – Transportation Management Plan
Title V – refers to Title V of the Clean Air Act related to ambient air quality provisions
TLV – Threshold Limit Value

U. **********

UBC – Uniform Building Code
UFC – Uniform Fire Code
UGST – Underground Storage Tank
USDW – Underground Source of Drinking Water
UWMP – Urban Water Management Plan

V. **********

VOC – Volatile Organic Compounds (Health & Safety Code, Section 25123.6.)
VOS – Vehicle Operating Survey

W. **********

WQS – Water Quality Standard
WSA – Water Supply Assessment

WTP – Water Treatment Plant. A facility designed to provide treatment to water.
WWTP – Wastewater Treatment Plan

X. **********

Y. **********

Z. **********

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Public Works Department
Prepared by:	Ken Seumalo, Public Works Director
Subject:	**Supplemental Appropriation for Drainage Repair on Fred Waring Drive**

RECOMMENDED ACTIONS:

Council **APPROVES** a supplemental appropriation of $65,000 for the repair of a storm drain line in Fred Waring Drive; and

DIRECTS Staff to adjust the project budget accordingly; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 15061 (b)(3).

BACKGROUND:

During this past winter the City of Palm Desert discovered a sinkhole in the Westbound lanes of Fred Waring Drive. After a brief investigation, it was discovered that a storm drainpipe extending from Alaska Street in Palm Desert to the Indian Wells Golf Resort had failed. The broken pipe caused erosion of the roadbed resulting in the sinkhole. The City of Palm Desert is starting a project to repair the northern half of the storm drain within their City Limits and wishes to collaborate on a joint repair of the storm drain, rather than doing the repairs individually. The cost opportunity to repair both segments of the storm drainpipe will be divided proportionately based on the linear footage of the repair.

Staff are seeking Council approval to participate in the repair of the whole storm drainpipe with the City of Palm Desert and generate project savings from doing the project individually.

FISCAL IMPACT:

Staff is recommending approval of a supplemental appropriation of $65,000 from the Capital Improvement reserves and create a Capital Improvement Project for the repair of a storm drainpipe repair within the City of Indian Wells' Right-of-Way.

CITY COUNCIL STRATEGIC GOAL:

Approval of this project is consistent with the City Council goal of Fiscal Responsibility and Sustainability by expanding partnerships with other communities that improve the City's fiscal efficiency.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

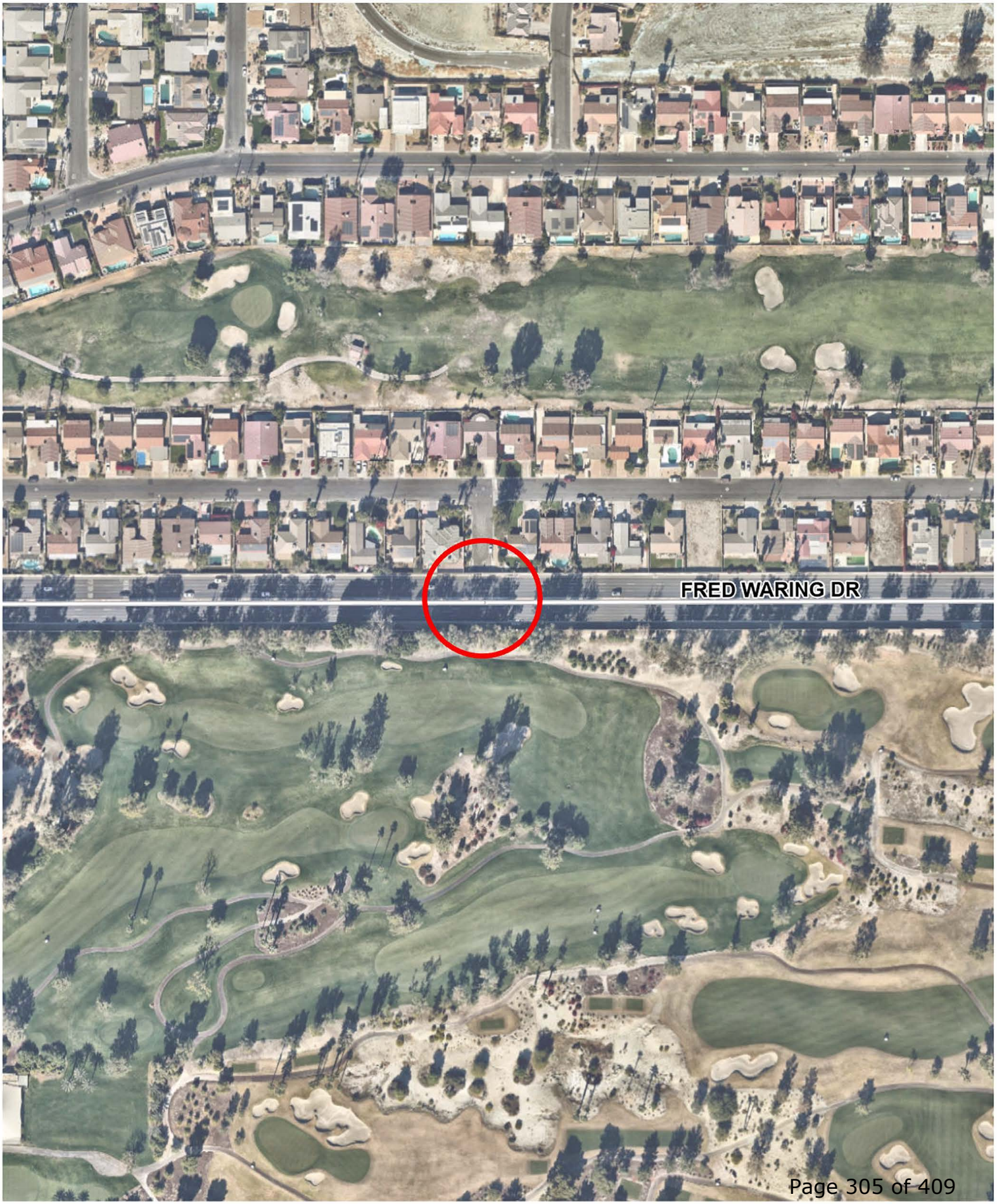
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City acting as Lead Agency, has determined the project qualifies as being Categorically Exempt from CEQA pursuant to Section 15061(b)(3).

ATTACHMENTS:

1. Attachment A – Location Map

ATTACHMENT #1

Exhibit A



INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Public Works Department
Prepared by:	Dina Purvis, Assistant Public Works Director
Subject:	**Supplemental Appropriation for City-wide Street Sweeping**

RECOMMENDED ACTIONS:

Council **AWARDS** the Street Sweeping Contract with SCA of CA, LLC in the amount of $96,592.08 per year for a three-year term for city wide street sweeping services; and

APPROVES a supplemental appropriation of $21,592 per year to fund the street sweeping services contract; and

FINDS the action exempt from CEQA review under CEQA Guidelines section 15061(b)(3).

DISCUSSION:

The City contracts for weekly street sweeping services on all public streets not included in the Coachella Valley Association of Governments (CVAG) Regional Street Sweeping Program. The current City contract for street sweeping services with M&M Sweeping expires June 30, 2025.

Analysis:

Street sweeping is an important service to the City of Indian Wells. For obvious reasons, sweeping maintains the "Indian Wells Quality" look of the City streets; but sweeping is a Clean Water requirement because it minimizes the amount of dirt and debris that migrates into the storm drain system.

On April 9, 2025, staff distributed a Request for Proposal (RFP) for Street and Curb Sweeping Services to coincide with the conclusion of the current contract. Four proposals were submitted to the City, the results are listed below:

FIRM	ANNUAL PROPOSAL AMOUNT
DC Carr Enterprises LLC	$323,505.52

M&M Professional Sweeping	$57,475.60
Road Services	$101,403.64
SCA of CA, LLC	$96,592.08

Each bid complies with the prevailing wage requirement.

Staff reviewed all proposals and determined, through a scoring system, that interviewing the two low bidders would provide valuable insight into the level of service each company would provide. The service providers were asked a series of questions, like, "how do you handle special calls for service?", "do you use GPS to monitor your vehicle's sweeping routes?", and "What is the timing and level of response to complaints?". Upon conclusion of the interview process, Staff is recommending the City enter into a contract with SCA of CA, LLC to provide street sweeping services for the next three (3) years.

FISCAL IMPACT:

The weekly charge for this service will be $1,857.54, or $96,592.08 annually. There are sufficient funds in the FY 2025/2026 Public Works Infrastructure Operating Budget, Account No. 1018301 545000. A requisition in the amount of $96,592.08 will be issued to SCA of CA, LLC for street sweeping services.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly; and that the action is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. (15061(b)(3).)

ATTACHMENTS:

1. Street Sweeping Contract with SCA of CA, LLC.

ATTACHMENT #1



CITY OF INDIAN WELLS
MAINTENANCE SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered as of June 5, 2025 by and between the City of Indian Wells, a municipal corporation organized under the laws of the State of California with its principal place of business at 44-950 Eldorado Drive, Indian Wells, CA 92210 ("City") and **SCA of CA, LLC**, a **Limited Liability Company** with its principal place of business at **4141 Rockside Road, Ste. 100, Seven Hills, OH 44131 ("**Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

2. RECITALS.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing maintenance services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that Contractor is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

City desires to engage Contractor to render such services for the **citywide street and curb sweeping** project ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the **street and curb sweeping maintenance services** necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **July 1, 2025** to **June 30, 2030,** unless earlier terminated as provided herein.

3.2 Fees and Payments.

3.2.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **One Hundred Thousand Four Hundred Ninety-Two and 08/100 Dollars ($100,492.08)** without written approval of City's Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2.2 Payment of Compensation. Contractor shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.2.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.2.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.2.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.2.6 California Labor Code Requirements

a. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects . If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more,

Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.2.7 Insurance.

3.2.7.1 Time for Compliance. Contractor shall not commence Services under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this Section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this Section.

3.2.7.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. The policy shall not contain any exclusion contrary to the Agreement, including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 29); or (2) cross liability for claims or suits by one insured against another.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability:* **$5,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* **$5,000,000** per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **$1,000,000** per accident for bodily injury or disease. Defense costs shall be paid in addition to the limits.

(C) Notices; Cancellation or Reduction of Coverage. At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or materially reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the City will be promptly reimbursed by Contractor or the City may withhold amounts sufficient to pay premium from Contractor payments. In the alternative, the City may suspend or terminate this Agreement.

(D) Additional Insured. The City of Indian Wells, its officials, officers, employees, agents, and volunteers shall be named as additional insureds on Contractor's and its subcontractors' policies of commercial general liability and automobile liability insurance using the endorsements and forms specified herein or exact equivalents.

3.2.7.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) using ISO CG forms 20 10 and 20 37, or endorsements providing the exact same coverage, the City of Indian Wells, its officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Services or ongoing and complete operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) using ISO form 20 01, or endorsements providing the exact same coverage, the insurance coverage shall be primary insurance as respects the City, its officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any excess insurance shall contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City, before the City's own primary insurance or self-insurance shall be called upon to protect it as a named insured. Any insurance or self-insurance maintained by the City, its officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.3(A).

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.3(B).

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days (10 days for nonpayment of premium) prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, officers, employees, agents, and volunteers. Any

failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officials, officers, employees, agents and volunteers, or any other additional insureds.

3.2.7.4 Separation of Insureds; No Special Limitations; Waiver of Subrogation. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, officers, employees, agents, and volunteers. All policies shall waive any right of subrogation of the insurer against the City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

3.2.7.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, officers, employees, agents, and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.7.6 Subcontractor Insurance Requirements. Contractor shall not allow any subcontractors to commence work on any subcontract relating to the work under the Agreement until they have provided evidence satisfactory to the City that they have secured all insurance required under this Section. If requested by Contractor, the City may approve different scopes or minimum limits of insurance for particular subcontractors. The Contractor and the City shall be named as additional insureds on all subcontractors' policies of Commercial General Liability using ISO form 20 38, or coverage at least as broad.

3.2.7.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.7.8 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.7.9 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Services under this Agreement.

3.2.8 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Responsibilities of Contractor.

3.3.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.3.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.3.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.3.4 City's Representative. The City hereby designates **Public Works Director**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.3.5 Contractor's Representative. Contractor hereby designates **Patrick Bobo** or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent

and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.3.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.3.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.8 Period of Performance and Liquidated Damages.

3.3.8.1 Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of **Five Hundred and 00/100 Dollars ($500.00)** per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.3.8.2 Neither City nor Contractor shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's

performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the Services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the Services, only to the extent such strikes and other organized labor action are beyond the control of Contractor and its subconsultants, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the Services and Agreement.

3.3.8.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Contractor to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.3.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Agreement, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.3.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.3.10.1 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state

and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.3.10.2 Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.3.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.3.10.4 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.3.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.3.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing Services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.3.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency, the State Water Resources Control Board and the Colorado River Regional Water Quality Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or City to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, City will provide Contractor with a list of training programs that meet the requirements of this paragraph.

~~3.3.11 Bonds.~~

3.3.12 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.3.13 Work Site.

3.3.13.1 Inspection Of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.3.13.2 Field Measurements. Contractor shall make field measurements, verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Agreement, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.3.14 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.3.15 Warranty. Contractor warrants all Services under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and

replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor:
SCA of CA, LLC
4141 Rockside Road, Ste. 100
Seven Hills, OH 44131

City:
City of Indian Wells
44-950 Eldorado Drive
Indian Wells, CA 92210
Attn: **Public Works Director**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity**.** To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, employees, agents and volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to such loss or damage which is caused by the sole or active negligence or willful misconduct of the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against City or its officials, employees, agents and volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, employees, agents and volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, employees, agents and volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its officials, employees, agents and volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County, California. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et

seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to City include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Attorneys' Fees and Costs. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover from the losing party attorney's fees and costs in an amount determined to be reasonable by a court of competent jurisdiction.

3.5.16 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.17 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.18 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.19 Federal Provisions.

[SIGNATURES ON NEXT PAGE]

SIGNATURE PAGE FOR MAINTENANCE SERVICES AGREEMENT BETWEEN THE CITY OF INDIAN WELLS AND SCA OF CA, LLC

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF INDIAN WELLS	**SCA OF CA, LLC**
By:	By:
_____	_____
Ken A. Seumalo Pubic Work Director	Jonathan Sisler Chief Executive Officer
_____	
Christopher J. Freeland City Manager	

ATTEST:

By: _____
Angelica Avila
City Clerk

APPROVED AS TO FORM:

By: _____ FOR
Best Best & Krieger LLP
City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

The Contractor shall provide all materials, labor and equipment necessary for the sweeping of various City streets and curbs. The work to be done consists of vacuum sweeping all designated improved public streets including curb returns and medians within the City of Indian Wells on a uniform schedule as outlined below. No street and curb sweeping shall be performed during rainstorms, when there is running water in the gutter or street, or for any other reason that makes sweeping impractical as determined by the Public Works Director.

1. **Completion of Project and Scheduling.**

The Contractor shall begin sweeping streets and curbs designated by plans and as repeated below.
SCHEDULE OF WORK – The Contractor's schedule for carrying out the work specified shall be submitted to the City for review and approval at the time of acceptance of the contract by the City. The regularly scheduled street sweeping and curbs shall be adhered to by the Contractor. All deviations from this schedule shall be approved by the Public Works Director in advance of the requested deviation.
City Field Work Hours (for daytime work):

a. 7:00 am to 5:00 pm Monday – Friday
b. 8:00 am to 5:00 pm Saturday
c. No work on Sunday or National holidays

ADDITIONAL WORK – In the event the City desires to extend the street and curb sweeping program to include new streets constructed after the effective date of this contract, or new alleys, then any such additional sweeping which is required of the Contractor shall be paid for at the then current unit prices for compensation specified by the contract and subsequent contract amendments to it.

2. **Liquidated Damages for Delay**

Failure of Contractor to complete sweeping zones during days and hours posted for notices of violation, except on holidays or due to rain, shall result in a deduction of $500.00 from payment otherwise due Contractor for each incomplete sweep day to reimburse City for losses sustained. Liquidated damages shall also apply to any noncompliance with the performance of street sweeping, including dust violations, and NPDES violations, etc.

3. **Conduct of Work**

The Project shall be carried out as quietly as possible to prevent possible annoyance to adjacent residential property and according to the ordinance for hours of work. The work finished shall be performed once per week, and on Friday of each week. In the event of a National Holiday occurring on a Friday, no work shall be allowed to be completed. The Project shall be completed on the following Monday and shall not eliminate the regular work scheduled for the following Friday.

Unnecessary noise should be always avoided. The Contractor shall comply with the requirements of all local anti-noise ordinances.
Unless otherwise specified, the Contractor shall execute street sweeping during the hours specified in Section 100.14 "Hours of Sweeping" of these specifications. Work at other times and work on holidays will be permitted only with the prior approval or direction of the Public Works Director or Designee.

4. Water

The Contractor shall provide water needed for the street sweeping operation under this Contract. The Contractor shall, at its own expense, convey the water, in each case, to the point of use. Water shall be fresh water only and the source of supply shall be approved by the Public Works Director prior to its use. No residual tracking is permitted. Any residual tracking will require pressure washing and removal of wastewater and debris in compliance with NPDES regulations. Alternative methods for cleanup shall require approval by City's Representative. The proper volume and pressure of water shall be supplied by the sweeper at all times to adequately control dust during the sweeping operation. The contractor shall comply with all current South Coast Air Quality Management District requirements for dust control during the course of the contract.

5. Environmental Compliance

All street sweeping activities shall comply with the Whitewater River Region Storm Water Management Plan and the National Pollutant Discharge Elimination System MS4 Permit. In accordance with South Coast Air Quality Management District regulation Rule 1186 (see AQMD.gov) contractor shall mitigate for air born dust.

6. Disposal of Waste Material

All cleared and waste material shall become the property of the Contractor and shall be disposed of by the Contractor outside the Project area at the Contractor's expense in accordance with the applicable ordinances and regulations of governmental agencies having jurisdiction. Contractor shall provide a waste disposal ticket from a certified disposal site with monthly invoicing.
Sweepings may be deposited at temporary dump sites with the prior approval of the Public Works Director. Sweepings shall not be deposited in City streets or alleys. It shall be the responsibility of the Contractor to identify locations and obtain all necessary approvals for utilizing the site as a temporary dump site. Contractor shall remove sweepings within 48 hours and shall be responsible for all costs related to pick up and removal of all sweepings. After each removal and before the next one, Contractor shall sweep the temporary dump site. City shall retain the right to demand abandonment of any temporary dump site and may request Contractor to establish different temporary dump sites, the location of which will be approved by the Public Works Director prior to dumping.

7. Statement Required

The Contractor shall submit a monthly statement indicating number of curb miles swept on a regular schedule and additional ones swept by call back or extra work request. The monthly statement shall also include waste disposal weight ticket(s) and water use verification.

8. Reduction of Service Level

The City of Indian Wells reserves the right to reduce the frequency of street sweeping services and/or the number of areas being swept. When a reduction of the service level is desired, the Public Works Director will advise the Contractor of the changes in writing and their effective date. The Contractor shall then proceed with the work as reduced on the effective date of the notice.

9. Storage of Equipment

The Contractor must provide his own storage for equipment such as sweepers, brooms, tires, gas, oil, and other required parts and materials.

10. Speed of Vehicles

The Contractor shall operate the sweepers between 4 and 5 miles per hour when sweeping, unless it can be proven to the satisfaction of the Public Works Director or Designee that the sweeper can operate at a higher speed and still meet expectations of the contract.

11. Complaints

Complaints regarding the street sweeping operations, which the Public Works Director or Designee considers justifiable and the responsibility of the Contractor, will be referred to the Contractor for immediate attention. A report of the action taken on each complaint shall be submitted by the Contractor within one (1) day after receiving the complaint to the Public Works Director on a standard complaint form, supplied by the Public Works Department.

12. Tracking System

City shall have access to contractor's vehicle tracking system. Positioning device equipped sweeping vehicles are required for this contract for monitoring and communication purposes.

13. Quality of Work

The standards of performance which the Contractor is obligated to perform hereunder are those standards which are considered to be good street sweeping practices and which are subject to approval by the Public Works Director or designated representative. In the event that obstructions, excessive amount (i.e. more than 3 flat shovels) of sand and or debris on the gutter that can create tracking, shall immediately be reported to Public Works Superintendent.

14. Hours of Sweeping

All scheduled street sweeping shall be performed only during the working hours allowed in the City's municipal code. The hours and weekday the sweeping occurs each week shall be approved by the Public Works Director or Designee.

15. Equipment

All sweeping shall be performed with alternate fuel powered air sweepers. Equipment not suitable to produce the quality of work required shall not be permitted to operate on the contract work. All equipment shall be subject to the Public Works Director approval prior to use. All sweeping equipment shall have appropriate safety markings consisting of all highway lighting, flashing, and warning lights, clearance lights, and warning flags, all in accordance with the California Vehicle Code and approved by the Public Works Director or Designee.

16. Inclement Weather

A scheduled sweep shall not be canceled for inclement weather by the Street Sweeping Contractor without approval of the Public Works Director or Designee. During inclement weather a two (2) hour standby period between 7:00 a.m. and 9:00 a.m. will be observed before a scheduled residential sweep will be canceled.

17. Permits

All work performed shall be in accordance with the permit requirement of the agencies having jurisdiction. The City will issue a no charge encroachment permit for the course of the contract.

18. Level of Service

Contractor shall provide a high level of service consistent with the requirements outlined throughout the Special Provisions and to the satisfaction of the Public Works Director or Designee.

19. Extra Work

Unforeseen work will be classified as extra work when determined by the Public Works Director that such work is not covered by these Special Provisions. Extra work also includes work specifically designated as extra work in the plans and specifications.
The Contractor shall specify in his bid cost per curb mile for extra work added to the regular schedule during the year and the cost per hour for special on-call work of an extraordinary nature, including but not limited to construction spillage, accidents, sandblasting, paving preparation, and special events which may require sweeping services during the year.
The Contractor shall do such extra work in accordance with the provisions of these specifications and shall furnish all labor, materials, and equipment.

20. Map and Schedule of Services

Contractor will provide a map and schedule of services that is available to all residents and the City of Indian Wells. The map and schedule is subject to approval by the city.

EXHIBIT "B"
SCHEDULE OF SERVICES

The term of this Agreement shall be from **July 1, 2025** to **June 30, 2030,** unless earlier terminated as provided herein.

EXHIBIT "C"
COMPENSATION

The total compensation shall not exceed **One Hundred Thousand Four Hundred Ninety-Two and 08/100 Dollars ($100,492.08)** without written approval of City's Representative based on the following rates:

A	B	C	D	E
Total Curb Miles	**Unit Cost Per Curb Mile**	**Weekly Rate (A * B)**	**Monthly Rate (C * 52) ÷ 12**	**Yearly Rate (C * 52)**
31.58	$ 58.82	$ 1,857.54	$ 8,049.34	$ 96,592.08

ITEM	MEDIANS	Lump Sum Yearly Cost
1	Includes a yearly lump sum of the cost to sweep: Indian Wells Lane, Eldorado Drive South, Osage Trail, Rancho Palmeras, Cook Street South	$ 3,900.00

Extra Work Cost Per Hour for Special On-Call Work
Our proposed pricing for extra work is:

- $55.00 per curb mile

PERFORMANCE/PAYMENT BONDS ARE NOT REQUIRED

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Finance Department
Prepared by:	Amy Dallosta, Accountant
Subject:	**City Treasurer's Report for March 2025**

RECOMMENDED ACTIONS:

Council **RECEIVES** and **FILES** the City Treasurer's Report for March 2025; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

DISCUSSION:

This report comprehensively analyzes the City of Indian Wells' cash and investment position as of March 31, 2025. The city maintains a robust investment strategy, focusing on prudence, liquidity, and compliance with legal requirements. The Treasurer's certification ensures adherence to the city's investment policy and compliance with the State of California Government Code section 53600.

Financial Snapshot:

As of March 31, 2025:

- Total cash and investments: $88,224,865.93
- Portfolio rate of return: 3.507%

Treasurer's Certification:

The City Treasurer certifies:

- Compliance with the city's investment policy and legal requirements.
- Adequate liquidity to meet financial obligations for the next six months, ensuring static and dynamic liquidity.

Fiscal Prudence:

Aligned with fiduciary duty, the city adheres to a prudent investment approach, considering economic conditions and anticipated needs. Investments are guided by a written policy emphasizing safety, liquidity, and yield.

BACKGROUND:

The Treasurer's Report provides a monthly update on cash activity and the investment portfolio, ensuring reconciliation with the General Ledger. Investments align with the city's investment policy and State legislation, covering U.S. treasuries, federal agency securities, corporate notes, municipal bonds, CDs, and overnight cash investments.

Investment Strategy:

The city's investment portfolio is designed to achieve a market rate of return within risk constraints. Diversification across institutions, security types, and maturities maximizes safety and yield amid changing market conditions.

FISCAL IMPACT:

The investment portfolio generated $131,551.98 in earnings for March 2025. The investment strategy aims for consistent returns throughout budgetary and economic cycles, reflecting prudent risk management. Moreover, the strategy's success in consistently generating returns reflects its adaptability to changing market conditions. As economic cycles fluctuate, the city's investment approach remains resilient, adjusting to dynamic financial landscapes to optimize safety and yield.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that this resolution is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ATTACHMENTS:

1. City Treasurer's Report

City of Indian Wells
Bank Reconciliation Report - City Held Cash **ATTACHMENT#1**
Finance Department

MONTH: **March 31, 2025**

Investment #	Investment Type	Investment Description	Book Value	
	Bank Checking & Sweep			
1		Pacific Western Bank - Sweep **-**1117	967,990.87	
2		Pacific Western Bank - Accts. Payable **-**3411	0.00	
3		Pacific Western Bank - Payroll **-**1752	0.00	
6		Pacific Western Bank - Ambulance **-****7937	0.00	
7		Pacific Western Bank - Public Funds MMA **-****5064	16,408.43	
8		US Bank Money Market - Investment	0.00	
9		US Bank Money Market - 4590	10,345,493.75	
10		US Bank Money Market - 4591	14,521,063.51	
19		Petty Cash	2,000.00	
				25,852,956.56
	Managed Pool Accounts			
21		Local Agency Investment Fund - City 98-33-385	3,448,288.55	
				3,448,288.55
	Certificates of Deposit			
516		Certificate of Deposit-State Bank of India 856285TF8	248,000.00	
517		Certificate of Deposit-First Natl Bank of McGregor TX 32112UDR9	249,000.00	
518		Certificate of Deposit-Centerstate Bank 15201QDE4	248,000.00	
519		Certificate of Deposit-Northwest Bank 66736ABV0	249,000.00	
522		Certificate of Deposit-Pacific Western Bank 69506YRL5	248,000.00	
525		Certificate of Deposit-Bank of Baroda 06063HMS9	249,000.00	
548		Certificate of Deposit-Toyota Financial Sgs Bank 89235MKY6	250,000.00	
550		Certificate of Deposit-Greenstate Credit Union 39573LBL1	250,000.00	
557		Certificate of Deposit-Pentagon Federal Credit Union 70962LAS1	249,000.00	
558		Certificate of Deposit-Nelnet Bank, Inc 64034KAG6	250,000.00	
561		Certificate of Deposit-Beal Bank 07371AYE7	250,000.00	
562		Certificate of Deposit-Beal Bank USA 07371CE88	250,000.00	
573		Certificate of Deposit-Capital One NA 14042RUJ8	250,000.00	
574		Certificate of Deposit-Austin Telco Fed Credit Union 052392BT3	250,000.00	
575		Certificate of Deposit-Synchrony Bank 87164XR65	250,000.00	
585		Certificate of Deposit-Liberty First Credit Union 530520AK1	249,000.00	
586		Certificate of Deposit-First Guaranty Bank Hammond LA	249,000.00	
587		Certificate of Deposit-Medallion Bank Utah 58404DSW2	249,000.00	
588		Certificate of Deposit-Pitney Bowes Bank 724468AG8	244,000.00	
589		Certificate of Deposit-Bank Five Nine 062119CD2	249,000.00	
590		Certificate of Deposit-First Foundation Bank 32026UW51	244,000.00	
591		Certificate of Deposit-Summit National Bank 86616RAG0	249,000.00	
592		Certificate of Deposit-First National Bank of America 32110YD93	249,000.00	
597		Certificate of Deposit-Morgan Stanley Private Bank 61768ET29	244,000.00	
598		Certificate of Deposit-Cross River Bank 227563EX7	244,000.00	
599		Certificate of Deposit-Universal Bank and Trust Co 91527PCF2	249,000.00	
607		Certificate of Deposit-Sallie Mae 795451DM2	244,000.00	
609		Certificate of Deposit-Leaders Credit Union 52171MAN5	249,000.00	
612		Certificate of Deposit-Pacific Premier Bank 4800121693	256,217.98	
				7,208,217.98
	Medium Term Corporate Notes			
524		Bank of New York Mellon Corp 06406RAN7	1,000,243.31	
526		Montebello CA Pens Oblig AA 612285AE6	1,002,727.02	
533		JP Morgan Chase Bank NA 46632FRU1	2,000,000.00	
538		JP Morgan Chase 48128G2Q2	1,000,000.00	
549		Bank of America MTN 06048WM31	1,000,000.00	
556		Bank of America MTN 06048WM72	1,000,000.00	
576		John Deere Capital Corp 24422EWR6	1,015,356.96	
611		Toyota Motor Credit Corp 89236TMK8	997,528.55	
				9,015,855.84
	Federal Agency Issues			
542		Fed. Farm Credit Bank 3130ALJ62	1,000,000.00	
544		Fed. Farm Credit Bank 3130ALMM3	2,000,000.00	
546		Fed. Farm Credit Bank 3130ALW67	1,000,000.00	
551		Fed. Farm Credit Bank 3130AMW57	2,000,000.00	
559		Fed. Home Loan Bank 3130AQWF6	1,000,000.00	
560		Fed. Home Loan Bank 3130AQWJ8	1,000,000.00	
563		Fed. Home Loan Bank 3130AQZ55	1,000,000.00	
566		Fed. Home Loan Bank 3130ARGE5	1,000,000.00	
567		Fed. Home Loan Mtg Corp 3134GXQP2	1,000,000.00	
571		Fed. Home Loan Bank 3130ASS67	1,000,000.00	
572		Fed. Home Loan Bank 3130ASS91	1,000,000.00	
605		Fed.Home Loan Bank 3130B1UH8	2,000,000.00	
613		Fed.Home Loan Bank 3130B4RS2	2,000,000.00	
				17,000,000.00
	Municipal Bonds			
531		Natomas CA School District 63877NMM6	300,000.00	
				300,000.00
	Treasury Securities			
593		United States Treasury Bill 91282CFU0	9,946,005.11	
594		United States Treasury Bill 912810FF0	13,442,266.07	
610		United States Treasury Bill 91282CLK5	2,011,275.82	
				25,399,547.00
		Total Pooled Cash and Investments		**$ 88,224,865.93**
		Fair Value Increase (over cost)		(1,692,721.02)
Outstanding items		Warrants/Wire Transfers Oustanding (Bank)	(780,471.75)	
		Outgoing ACH Payments Outstanding (GL)	31,856.84	
		Credit Card in Transit	4,271.91	
Total Outstanding Items				(744,343.00)
		Reconciled Bank Balance		**$ 85,787,801.91**
		General Ledger Balance		**$ 85,787,801.91**
				0.00

NET CASH & INVESTMENT SUMMARY MARCH 2025

	March 2025	March 2024
UNRESTRICTED FUNDS		
GENERAL FUND		
101- GENERAL	$ 17,829,319.33	$ 14,181,224.60
TOTAL GENERAL FUND	**17,829,319.33**	**14,181,224.60**
RESTRICTED FUNDS		
SPECIAL REVENUE FUNDS		
202 - TRAFFIC SAFETY	0.00	11,409.17
203 - PUBLIC SAFETY 1/2 CENT SALES TAX	0.00	6,945.88
204 - MEASURE "A"	0.00	37,046.45
209 - F.A.M.D. #1	702,594.51	945,536.63
210 - SCAQMD (VEHICLE REG.)	19,387.00	16,365.93
211 - AB 3229 COPS FUNDING	0.00	11,157.04
214 - GAS TAX 2103 MAINTENANCE	0.00	21.60
215 - GAS TAX 2105 MAINTENANCE	0.00	0.00
216 - GAS TAX 2106 CONSTRUCT/MAINT	0.00	0.00
217 - GAS TAX 2107 MAINTENANCE	0.00	0.00
218 - GAS TAX 2107.5 ENG./ADMIN	0.00	0.00
219 - GAS TAX RMRA	0.00	192,806.78
228 - EMERG. UPGRADE SERVICES	5,888,519.33	4,664,849.59
247 - AB 939 RECYCLING FUND	270,135.53	272,323.96
248 - SOLID WASTE	56,342.39	94,538.54
251 - STREET LIGHTING DISTRICT 2000-1	20,913.74	17,405.75
253- INDIAN WELLS VILLAS OPERATIONS	43,676.18	106,610.55
254- MOUNTAIN VIEW VILLAS OPERATIONS	256,610.94	347,385.38
256- HOUSING AUTHORITY	390,273.44	1,224,299.19
271 - ELDORADO DRIVE LLMD	121,700.43	79,611.57
272 - MONTECITO/STARDUST LLMD	22,307.11	11,219.06
273 - CASA DORADO LLMD	1,532.00	17,973.24
274 - THE COVE LLMD	1,525.00	14,546.40
275 - SH 111/IWGR (ENTRANCE) LLMD	368,658.33	204,902.25
276 - CLUB/IW LANE LLMD	57,283.12	31,222.68
277 - COLONY LLMD	124,687.66	98,142.09
278 - COLONY COV ESTATES LLMD	56,487.19	49,639.48
279 - DESERT HORIZONS LLMD	1,985.00	327,606.52
280 - MOUNTAIN GATE LLMD	120,758.78	103,818.53
281 - MOUNTAIN GATE ESTATES LLMD	50,701.50	47,599.73
282 - VILLAGIO LLMD	280,724.99	246,436.89
283 - VAIDYA LLMD	42,424.43	35,854.51
284 - CLUB, SOUTH OF 111 LLMD	40,860.38	33,934.56
285 - MONTELENA LLMD	119,974.57	90,760.05
286 - SUNDANCE LLMD	1,547.00	1,587.00
287 - PROVINCE LLMD	100,491.31	99,367.00
288 - PROVINCE DBAD	607,925.39	555,714.53
TOTAL SPECIAL REVENUE FUNDS	**9,770,027.25**	**9,998,638.53**
CAPITAL PROJECT FUNDS		
310 - PARK FACILITIES FEES	0.00	0.00
311 - TRANSPORTATION FACILITIES FEES	0.00	0.00
313 - RECREATION FACILITIES FEES	0.00	0.00
314 - PARK-IN-LIEU FEES	0.00	0.00
315 - CITYWIDE PUBLIC IMPROVEMENT FEE	0.00	0.00
316 - CAPITAL IMPROVEMENT	14,377,489.85	11,986,856.58
319 - ART IN PUBLIC PLACES	739,476.30	744,566.24
321 - HIGHWAY 111 CIRCULATION IMP FEE	0.00	36,460.70
TOTAL CAPITAL PROJECT FUNDS	**15,116,966.15**	**12,767,883.52**

RESTRICTED FUNDS (Cont.)	**March 2025**	**March 2024**
REPLACEMENT FUNDS		
326 - BUILDINGS CAPITAL RESERVE	2,453,504.80	2,113,012.80
327 - BRIDGES CAPITAL RESERVE	2,240,412.00	1,916,148.00
328 - MEDIANS & PARKWAYS CAPITAL RESERVE	1,852,553.07	1,557,830.07
329 - STORM DRAINS CAPITAL RESERVE	1,103,483.00	865,812.00
330 - TRAFFIC SIGNALS CAPITAL RESERVE	966,632.00	739,387.00
331 - TECHNOLOGY CAPITAL RESERVE	912,151.00	689,055.00
332 - CITY STREETS CAPITAL RESERVE	18,578,839.00	17,010,165.00
333 - CITY VEHICLES CAPITAL RESERVE	470,270.00	280,826.00
350 - DISASTER RECOVERY RESERVE	622,863.00	433,619.00
TOTAL REPLACEMENT FUNDS	**29,200,707.87**	**25,605,854.87**
SUCCESSOR AGENCY FUNDS		
453 - DEBT SERVICE	4,857,133.93	5,352,411.68
456 - RDA OBLIGATION RETIREMENT	0.00	(661,303.00)
TOTAL SUCCESSOR AGENCY FUNDS	**4,857,133.93**	**4,691,108.68**
FINANCING AUTHORITY FUNDS		
460 - INDIAN WELLS FINANCING AUTHORITY	15,370.40	0.93
TOTAL FINANCING AUTHORITY FUNDS	**15,370.40**	**0.93**
ENTERPRISE FUNDS		
560 - INDIAN WELLS GOLF RESORT	6,108,100.68	1,202,632.77
TOTAL ENTERPRISE FUNDS	**6,108,100.68**	**1,202,632.77**
INTERNAL SERVICE FUNDS		
601 - INTERNAL TRUST FUND	2,326,815.36	1,571,089.11
TOTAL INTERNAL SERVICE FUNDS	**2,326,815.36**	**1,571,089.11**
RESERVE FUNDS		
602 - COMPENSATED ABSENCES	0.00	613,149.00
TOTAL RESERVE FUNDS	**0.00**	**613,149.00**
TRUST & AGENCY FUNDS		
732 - SPECIAL DEPOSITS	563,360.94	796,085.58
TOTAL TRUST & AGENCY FUNDS	**563,360.94**	**796,085.58**
TOTAL ALL FUNDS	**85,787,801.91**	**71,427,667.59**
FISCAL AGENTS		
253 - INDIAN WELLS VILLAS	120,275.08	83,048.38
254 - MOUNTAIN VIEW VILLAS	269,887.69	413,127.66
453 - US BANK TRUSTEE - SUCCESSOR AGENCY DEBT SERVICE	5,200.60	582.62
460 - US BANK - INDIAN WELLS FINANCE AUTHORITY	3,017,472.76	7,414,887.88
560 - INDIAN WELLS GOLF RESORT	1,898,663.23	5,269,965.51
601 - INTERNAL TRUST FUND	11,323,336.26	1,632,115.22
TOTAL FISCAL AGENTS	**16,634,835.62**	**14,813,727.27**
TOTAL ALL FUNDS & FISCAL AGENTS	**$ 102,422,637.53**	**$ 86,241,394.86**
UNRESTRICTED FUNDS	**17,829,319.33**	**14,181,224.60**
RESTRICTED FUNDS	**84,593,318.20**	**72,060,170.26**
	$ 102,422,637.53	**$ 86,241,394.86**

INDIAN WELLS
CALIFORNIA

The City of Indian Wells
Portfolio Management
Portfolio Summary
March 31, 2025

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Managed Pool Accounts - LAIF	3,448,288.55	3,448,288.55	3,448,288.55	3.91	1	1	4.254	4.313
Money Market Sweep/Checking Account	25,852,956.56	25,852,956.56	25,852,956.56	29.30	1	1	4.057	4.114
Negotiable CD's	6,952,000.00	6,918,042.45	6,952,000.00	7.88	1,825	843	2.514	2.549
Medium Term Corporate Notes	9,000,000.00	8,814,080.00	9,015,855.84	10.22	1,796	504	1.695	1.718
Federal Agency Issues - Callables	17,000,000.00	16,695,800.00	17,000,000.00	19.27	1,781	799	2.725	2.763
Treasury Securities	25,000,000.00	25,610,930.00	25,399,547.00	28.79	1,650	1,198	4.146	4.204
Miscellaneous Securities - Coupon	300,000.00	296,913.00	300,000.00	0.34	1,765	122	1.085	1.100
Componding Certificates of Deposit	256,217.98	256,217.98	256,217.98	0.29	365	156	3.521	3.570
Investments	**87,809,463.09**	**87,893,228.54**	**88,224,865.93**	**100.00%**	**1,153**	**618**	**3.459**	**3.507**

Total Earnings	March 31	Month Ending
Current Year	260,830.46	
Average Daily Balance	**88,025,399.87**	
Effective Rate of Return	**3.49%**	

The above investments are consistant with the City's investment policy and allowable under current legislation of the State of California. Investments were purchased using safety, liquidity, and yield as criteria. In addition, cash flow from revenue and maturing investments will be sufficient to cover expenditures for the next six months. All securities are "Marked-to-Market" on a monthly basis.

Kevin McCarthy, Finance Director

The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 360	Days to Maturity	Maturity Date
Managed Pool Accounts - LAIF												
SYS21	21	LAIF - City			3,448,288.55	3,448,288.55	3,448,288.55	4.313		4.254	1	
SYS23	23	LAIF - Redevelopment			0.00	0.00	0.00	0.233		0.230	1	
		Subtotal and Average	**6,061,191.78**		**3,448,288.55**	**3,448,288.55**	**3,448,288.55**			**4.254**	**1**	
Money Market Sweep/Checking Account												
SYS1	1	Pacific Western Bank			967,990.87	967,990.87	967,990.87	0.250		0.247	1	
SYS6	6	Pacific Western Bank-Ambulance		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS7	7	Pacific Western-PublicFundsMMA			16,408.43	16,408.43	16,408.43	4.480		4.419	1	
SYS8	8	US Bank Money Market		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS10	10	US Bank Money Market-4591			14,521,063.51	14,521,063.51	14,521,063.51	4.260		4.202	1	
SYS9	9	US Bank Money Market-4590			10,345,493.75	10,345,493.75	10,345,493.75	4.270		4.212	1	
SYS2	2	Pacific Western - Acct Payable		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS3	3	Pacific Western-Payroll		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS4	4	Union Bank-Checking			0.00	0.00	0.00	0.200		0.197	1	
SYS19	19	Petty Cash		07/01/2023	2,000.00	2,000.00	2,000.00			0.000	1	
SYS5	5	WestAmerica Bank		07/01/2023	0.00	0.00	0.00			0.000	1	
		Subtotal and Average	**21,319,781.65**		**25,852,956.56**	**25,852,956.56**	**25,852,956.56**			**4.057**	**1**	
Negotiable CD's												
052392BT3	574	Austin Telco Fed Credit Union		09/21/2022	250,000.00	248,217.50	250,000.00	3.800		3.748	903	09/21/2027
06063HMS9	525	Bank of Baroda		07/22/2020	249,000.00	246,236.10	249,000.00	0.700		0.690	112	07/22/2025
062119CD2	589	Bank Five Nine		07/31/2023	249,000.00	251,905.83	249,000.00	4.500		4.438	1,214	07/28/2028
07371AYE7	561	Beal Bank - Plano TX		02/23/2022	250,000.00	240,232.50	250,000.00	1.900		1.874	687	02/17/2027
07371CE88	562	Beal Bank USA		02/23/2022	250,000.00	240,232.50	250,000.00	1.900		1.874	687	02/17/2027
14042RUJ8	573	Capital One NA		09/21/2022	250,000.00	248,727.50	250,000.00	3.900		0.000	903	09/21/2027
15201QDE4	518	Centerstate Bank NA		04/30/2020	248,000.00	247,357.68	248,000.00	1.250		1.233	29	04/30/2025
227563EX7	598	Cross River Bank		03/07/2024	244,000.00	245,024.80	244,000.00	4.250		4.192	1,436	03/07/2029
320437AD8	586	First Guaranty Bank Hammond LA		08/11/2023	249,000.00	251,920.77	249,000.00	4.500		4.438	1,221	08/04/2028
32110YD93	592	First National Bank of America		08/16/2023	249,000.00	256,407.75	249,000.00	4.450		4.394	1,232	08/15/2028
32026UW51	590	First Foundation Bank		08/16/2023	244,000.00	246,464.40	244,000.00	4.450		0.000	1,226	08/09/2028
32112UDR9	517	First Natl Bank of McGregor TX		04/28/2020	249,000.00	248,422.32	249,000.00	1.350		1.332	27	04/28/2025
39573LBL1	550	Greenstate Credit Union		06/16/2021	250,000.00	240,615.00	250,000.00	0.900		0.888	441	06/16/2026
52171MAN5	609	Leaders Credit Union		08/30/2024	249,000.00	247,817.25	249,000.00	4.000		3.945	1,612	08/30/2029
530520AK1	585	Liberty First Credit Union		08/11/2023	249,000.00	255,065.64	249,000.00	4.700		4.641	1,224	08/07/2028
58404DSW2	587	Medallion Bank Utah		07/31/2023	249,000.00	251,168.79	249,000.00	4.400		4.406	1,217	07/31/2028
61768ET29	597	Morgan Stanley Private Bank		03/06/2024	244,000.00	245,898.32	244,000.00	4.350		4.290	1,435	03/06/2029
64034KAG6	558	Nelnet Bank, Inc.		02/02/2022	250,000.00	238,637.50	250,000.00	1.500		1.479	672	02/02/2027
66736ABV0	519	Northwest Bank		04/30/2020	249,000.00	248,350.11	249,000.00	1.200		1.184	29	04/30/2025

The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 360	Days to Maturity	Maturity Date
Negotiable CD's												
69506YRL5	522	Pacific Western Bank CA CD		04/30/2020	248,000.00	247,357.68	248,000.00	1.250		1.233	29	04/30/2025
70962LAS1	557	Pentagon Federal Credit Union		09/29/2021	249,000.00	237,511.14	249,000.00	0.900		0.888	546	09/29/2026
724468AG8	588	Pitney Bowes Bank Inc.		07/31/2023	244,000.00	246,069.12	244,000.00	4.400		0.000	1,217	07/31/2028
795451DM2	607	Sallie Mae		07/26/2024	244,000.00	245,681.16	244,000.00	4.300		4.241	1,575	07/24/2029
856285TF8	516	State Bank of India NY, NY CD		04/29/2020	248,000.00	247,442.00	248,000.00	1.600		1.578	28	04/29/2025
86616RAG0	591	Summit National Bank		08/16/2023	249,000.00	254,301.21	249,000.00	4.500		4.443	1,227	08/10/2028
87164XR65	575	Synchrony Bank		09/23/2022	250,000.00	249,015.00	250,000.00	3.950		3.896	905	09/23/2027
89235MKY6	548	Toyota Financial Sgs Bk		04/22/2021	250,000.00	241,812.50	250,000.00	0.900		0.888	386	04/22/2026
91527PCF2	599	Universal Bank and Trust Co.		03/13/2024	249,000.00	250,150.38	249,000.00	4.250		4.192	1,442	03/13/2029
		Subtotal and Average	**7,895,548.39**		**6,952,000.00**	**6,918,042.45**	**6,952,000.00**			**2.514**	**843**	
Medium Term Corporate Notes												
06048WM31	549	Bank of America MTN A		05/28/2021	1,000,000.00	963,150.00	1,000,000.00	1.250		1.233	422	05/28/2026
06048WM72	556	Bank of America MTN A		07/30/2021	1,000,000.00	958,510.00	1,000,000.00	1.200		1.184	485	07/30/2026
06406RAN7	524	Bank of New York Mellon Corp		05/14/2020	1,000,000.00	998,110.00	1,000,243.31	1.600		1.190	23	04/24/2025
24422EWR6	576	John Deere Capital Corp		05/18/2023	1,000,000.00	1,014,370.00	1,015,356.96	4.750		4.083	1,024	01/20/2028
48128G2Q2	538	JPMorgan Chase & Co		02/26/2021	1,000,000.00	960,000.00	1,000,000.00	0.800		0.789	331	02/26/2026
46632FRU1	533	JP Morgan Chase Bank NA		01/22/2021	2,000,000.00	1,923,460.00	2,000,000.00	0.700		0.690	296	01/22/2026
612285AE6	526	Montebello CA Pens Oblig AA		07/17/2020	1,000,000.00	996,270.00	1,002,727.02	2.503		0.819	61	06/01/2025
89236TMK8	611	Toyota Motor Credit Corp		11/06/2024	1,000,000.00	1,000,210.00	997,528.55	4.550		4.549	1,591	08/09/2029
		Subtotal and Average	**9,016,833.51**		**9,000,000.00**	**8,814,080.00**	**9,015,855.84**			**1.695**	**504**	
Federal Agency Issues - Callables												
3130ALJ62	542	Fed. Home Loan Bank		03/24/2021	1,000,000.00	968,390.00	1,000,000.00	0.875		0.863	357	03/24/2026
3130ALMM3	544	Fed. Home Loan Bank		03/30/2021	2,000,000.00	1,938,320.00	2,000,000.00	1.000		0.986	363	03/30/2026
3130ALW67	546	Fed. Home Loan Bank		04/22/2021	1,000,000.00	968,360.00	1,000,000.00	1.100		1.085	386	04/22/2026
3130AMW57	551	Fed. Home Loan Bank		06/30/2021	2,000,000.00	1,941,160.00	2,000,000.00	1.250		0.873	455	06/30/2026
3130AQWF6	559	Fed. Home Loan Bank		02/25/2022	1,000,000.00	965,130.00	1,000,000.00	2.150		2.121	695	02/25/2027
3130AQWJ8	560	Fed. Home Loan Bank		02/24/2022	1,000,000.00	963,400.00	1,000,000.00	2.050		2.022	694	02/24/2027
3130AQZ55	563	Fed. Home Loan Bank		03/10/2022	1,000,000.00	971,730.00	1,000,000.00	2.500		2.466	708	03/10/2027
3130ARGE5	566	Fed. Home Loan Bank		04/21/2022	1,000,000.00	978,850.00	1,000,000.00	3.000		2.959	750	04/21/2027
3130ASS67	571	Fed. Home Loan Bank		08/16/2022	1,000,000.00	999,780.00	1,000,000.00	4.500		4.438	867	08/16/2027
3130ASS91	572	Fed. Home Loan Bank		08/10/2022	1,000,000.00	993,630.00	1,000,000.00	4.000		3.945	861	08/10/2027
3130B1UH8	605	Fed. Home Loan Bank		07/03/2024	2,000,000.00	2,004,840.00	2,000,000.00	5.000		4.932	1,547	06/26/2029
3130B4RS2	613	Fed. Home Loan Bank		01/29/2025	2,000,000.00	2,003,220.00	2,000,000.00	5.000		4.932	1,751	01/16/2030
3134GXQP2	567	Fed. Home Loan Mtg Corp		04/28/2022	1,000,000.00	998,990.00	1,000,000.00	3.030		2.988	27	04/28/2025
		Subtotal and Average	**17,774,193.55**		**17,000,000.00**	**16,695,800.00**	**17,000,000.00**			**2.725**	**799**	

The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 360	Days to Maturity	Maturity Date
Treasury Securities												
91282CFU0	593	U.S. Treasury		12/12/2023	10,000,000.00	10,056,600.00	9,946,005.11	4.125		4.294	943	10/31/2027
912810FF0	594	U.S. Treasury		12/14/2023	13,000,000.00	13,579,410.00	13,442,266.07	5.250		4.143	1,324	11/15/2028
91282CLK5	610	U.S. Treasury		09/20/2024	2,000,000.00	1,974,920.00	2,011,275.82	3.625		3.437	1,613	08/31/2029
		Subtotal and Average	**25,403,803.55**		**25,000,000.00**	**25,610,930.00**	**25,399,547.00**			**4.146**	**1,198**	
Miscellaneous Securities - Coupon												
63877NMM6	531	Natomas CA Sch Dist AA Insured		10/01/2020	300,000.00	296,913.00	300,000.00	1.100		1.085	122	08/01/2025
		Subtotal and Average	**300,000.00**		**300,000.00**	**296,913.00**	**300,000.00**			**1.085**	**122**	
Componding Certificates of Deposit												
4800121693	612	Pacific Premier Bank		09/04/2024	256,217.98	256,217.98	256,217.98	3.570		3.521	156	09/04/2025
		Subtotal and Average	**254,047.46**		**256,217.98**	**256,217.98**	**256,217.98**			**3.521**	**156**	
		Total and Average	**88,025,399.87**		**87,809,463.09**	**87,893,228.54**	**88,224,865.93**			**3.459**	**618**	

INDIAN WELLS
CALIFORNIA

2014, 2015, 2016, 2020 Series
Portfolio Management
Portfolio Summary
March 31, 2025

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	5,191.60	5,191.60	5,191.60	100.00	1	1	0.000	0.000
	5,191.60	**5,191.60**	**5,191.60**	**100.00%**	**1**	**1**	**0.000**	**0.000**

Investments

Total Earnings	March 31 Month Ending
Current Year	0.00
Average Daily Balance	**998,135.63**
Effective Rate of Return	**0.00%**

Kevin McCarthy, Agency Treasurer

Reporting period 03/01/2025-03/31/2025

Run Date: 05/28/2025 - 19:42

No fiscal year history available

Portfolio 14A
CP
PM (PRF_PM1) 7.3.11
Report Ver. 7.3.11

2014, 2015, 2016, 2020 Series
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS28	28	2014A Bonds Reserve		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS26	26	All Bond Series Principal		07/01/2023	3,137.99	3,137.99	3,137.99			0.000	1	
SYS25	25	All Bond Series Interest		07/01/2023	2,053.16	2,053.16	2,053.16			0.000	1	
SYS27	27	All Bond Series Debt Svc		07/01/2023	0.45	0.45	0.45			0.000	1	
SYS24	1	Cost Of Issuance Escrow		07/01/2023	0.00	0.00	0.00			0.000	1	
		Subtotal and Average	**998,135.63**		**5,191.60**	**5,191.60**	**5,191.60**			**0.000**	**1**	
		Total and Average	**998,135.63**		**5,191.60**	**5,191.60**	**5,191.60**			**0.000**	**1**	

INDIAN WELLS
CALIFORNIA

2015 A Bonds
Portfolio Management
Portfolio Summary
March 31, 2025

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	1.00	1.00	1.00	100.00	1	1	0.000	0.000
Investments	**1.00**	**1.00**	**1.00**	**100.00%**	**1**	**1**	**0.000**	**0.000**

Total Earnings	March 31 Month Ending
Current Year	0.00
Average Daily Balance	**1.00**
Effective Rate of Return	**0.00%**

Kevin McCarthy, Agency Treasurer

Reporting period 03/01/2025-03/31/2025

Run Date: 05/28/2025 - 19:56

No fiscal year history available

Portfolio 15A
CP
PM (PRF_PM1) 7.3.11
Report Ver. 7.3.11

2015 A Bonds
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS27	27	2015 A Reserve		07/01/2023	1.00	1.00	1.00			0.000	1	
SYS22	22	UBC Cost Of Issuance Escrow		07/01/2023	0.00	0.00	0.00			0.000	1	
		Subtotal and Average	**1.00**		**1.00**	**1.00**	**1.00**			**0.000**	**1**	
		Total and Average	**1.00**		**1.00**	**1.00**	**1.00**			**0.000**	**1**	

INDIAN WELLS
CALIFORNIA

2016 A Bonds
Portfolio Management
Portfolio Summary
March 31, 2025

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	1.00	1.00	1.00	100.00	1	1	0.000	0.000
	1.00	**1.00**	**1.00**	**100.00%**	**1**	**1**	**0.000**	**0.000**

Investments

Total Earnings	March 31 Month Ending
Current Year	0.00
Average Daily Balance	**1.00**
Effective Rate of Return	**0.00%**

Kevin McCarthy, Agency Treasurer

2016 A Bonds
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS28	1	UBC Cost Of Issuance Escrow		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS33	2	Union Bank Reserve Account		07/01/2023	1.00	1.00	1.00			0.000	1	
		Subtotal and Average	**1.00**		**1.00**	**1.00**	**1.00**			**0.000**	**1**	
		Total and Average	**1.00**		**1.00**	**1.00**	**1.00**			**0.000**	**1**	

INDIAN WELLS
CALIFORNIA

2020 A Bonds
Portfolio Management
Portfolio Summary
March 31, 2025

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	1.00	1.00	1.00	100.00	1	1	0.000	0.000
	1.00	**1.00**	**1.00**	**100.00%**	**1**	**1**	**0.000**	**0.000**

Investments

Total Earnings	**March 31 Month Ending**
Current Year	0.00
Average Daily Balance	**1.00**
Effective Rate of Return	**0.00%**

Kevin McCarthy, Agency Treasuer

2020 A Bonds
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS1	1	2020 A Bonds COI		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS2	2	2020 A Bonds Reserve		07/01/2023	1.00	1.00	1.00			0.000	1	
		Subtotal and Average	**1.00**		**1.00**	**1.00**	**1.00**			**0.000**	**1**	
		Total and Average	**1.00**		**1.00**	**1.00**	**1.00**			**0.000**	**1**	

INDIAN WELLS
CALIFORNIA

2022 Bonds
Portfolio Management
Portfolio Summary
March 31, 2025

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	3,017,472.76	3,017,472.76	3,017,472.76	100.00	1	1	0.000	0.000
	3,017,472.76	**3,017,472.76**	**3,017,472.76**	**100.00%**	**1**	**1**	**0.000**	**0.000**

Investments

Total Earnings	March 31 Month Ending
Current Year	0.00
Average Daily Balance	**4,834,211.31**
Effective Rate of Return	**0.00%**

Kevin McCarthy, Agency Treasuer

2022 Bonds
Portfolio Management
Portfolio Details - Investments
March 31, 2025

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS2	2	2022 Bonds COI		07/01/2023	0.00	0.00	0.00			0.000	1	
SYS4	4	2022 Bonds Interest		07/01/2023	235,998.18	235,998.18	235,998.18			0.000	1	
SYS1	1	2022 Bonds Project Fund			2,286,462.39	2,286,462.39	2,286,462.39			0.000	1	
SYS5	5	2022 Bonds Redemption Fund		07/01/2023	495,012.18	495,012.18	495,012.18			0.000	1	
SYS3	3	2022 Bonds Payment Fund		07/01/2023	0.01	0.01	0.01			0.000	1	
		Subtotal and Average	**4,834,211.31**		**3,017,472.76**	**3,017,472.76**	**3,017,472.76**			**0.000**	**1**	
		Total and Average	**4,834,211.31**		**3,017,472.76**	**3,017,472.76**	**3,017,472.76**			**0.000**	**1**	

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Finance Department
Prepared by:	Kevin McCarthy, City Finance Director
Subject:	**Resolution Ordering the Levy and Collection of Assessments in the Fire Access Maintenance District No. 1 for Fiscal Year 2025-26**

RECOMMENDED ACTIONS:

Council **OPENS** the Public Hearing, takes any public testimony, **CLOSES** the Public Hearing; and

ADOPTS Resolution approving the annual levy of the Fire Access Maintenance District No. 1 for the Fiscal Year 2025-26; and

ORDERS the Fire Access Maintenance District No. 1 levy on the Fiscal Year 2025-26 Riverside County tax roll; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

BACKGROUND:

In accordance with annual procedural requirements, the City Council must conduct a duly noticed Public Hearing to receive comments from the public and subsequently adopt a Resolution authorizing the annual collection of levies for the Fire Access Maintenance District (FAMD) Special Parcel Tax. Upon adoption, the Resolution instructs the City's Finance Director to transmit the approved levy to the County for inclusion on the property tax roll.

The Fire Access Maintenance District was established solely for the benefit of residents living within the gated community of the Indian Wells Country Club. In recognition of the specific nature of this benefit, it was determined that the authority to direct spending of District funds should rest with those residing within its boundaries. Governance of the FAMD is maintained through the election of a Board by residents of the District; however, the City Council remains responsible for adopting the annual Resolution to place the levy on the County tax roll, acting on behalf of the FAMD Board.

The funds collected through this levy support services within the district, including private security, street maintenance, landscaping, and capital improvements.

In 1973, the City Council was petitioned to consider converting public streets within the Indian Wells Country Club area to private roads. The Council approved the proposal by formally abandoning the public streets and incorporating them into a newly formed maintenance district. This action granted the City authority to impose a property tax to fund the district's upkeep.

The Indian Wells Fire Access Maintenance District No. 1 (FAMD) is responsible for maintaining and operating access roadways, rights-of-way, and easements necessary for fire protection. Maintenance activities may include grading, paving, planking, macadamizing, graveling, oiling, and re-oiling, and the upkeep of barriers, gates, and other related infrastructure to ensure restricted use is maintained for emergency access.

Request for a Special Election

At its regularly scheduled meeting on January 9, 2025, the FAMD Board formally requested that the Indian Wells City Council authorize a special election to consider an annual FAMD tax levy increase. The Council unanimously approved the FAMD Board's request, scheduling a Special FAMD Election for May 6, 2025.

The increase is intended to ensure the continued provision of operational services within the District. Additionally, it seeks to establish a capital reserve program to address anticipated future capital improvement projects, thereby ensuring the District's long-term sustainability.

The election was conducted as scheduled on May 6, 2025, in accordance with all applicable legal and procedural requirements. Of the ballots received, approximately 74% of participating voters supported the proposed increase to the FAMD special parcel tax, while 26% opposed the measure. The strong voter support reflects broad community recognition of the importance of maintaining high service levels within the District and proactively preparing for future infrastructure needs.

The favorable outcome authorizes the implementation of the proposed tax adjustment, which will allow the District to preserve and enhance core services such as private security, street and landscape maintenance, and emergency access infrastructure. In addition, the increased revenue will establish a dedicated capital reserve fund intended to support long-term capital improvement projects. This financial planning strategy will help ensure the District's continued sustainability, reduce reliance on future emergency funding requests, and enable the Board to address aging infrastructure and other emerging needs in a timely and fiscally responsible manner.

FISCAL IMPACT:

FAMD is supported by two primary revenue sources: (1) property taxes, which generate approximately $465,000 annually, and (2) a voter-approved special assessment, which yields approximately $1,786,000 annually. These funds are deposited into a designated special revenue fund, ensuring expenditures are strictly limited to purposes consistent with the District's mandate.

The FAMD special assessment is as follows:

Land Use	Approved Annual Tax
Residential Improved	$ 1,514
Residential Vacant Lot 1 Acre or less	1,029
Vacant Land greater than 1 acre	809
Golf Club / Golf Course	$ 279,300

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed by the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that the ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ATTACHMENTS:

1. Resolution

ATTACHMENT #1

RESOLUTION NO. 2025-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF A SPECIAL TAX FOR THE CITY OF INDIAN WELLS FIRE ACCESS MAINTENANCE DISTRICT NO. 1

WHEREAS, the City Council of the City of Indian Wells, California (the "City Council"), by Ordinance No. 572 and previous Resolutions, has established procedures to replace in its entirety the parcel fee which has been levied annually against parcels of land within the Indian Wells Fire Access Maintenance District No. 1 (the "FAMD") to finance security, street maintenance and repair, and entrance landscape services within the District; and

WHEREAS, the City Council, by Resolution and pursuant to the requirements of the laws of the State of California, held a Special Municipal Election on May 6, 2025, at which time the qualified electors of the District approved the rates stated in Ordinance No. 572 to finance security, street maintenance, and repair, and entrance landscape services within the FAMD; and

WHEREAS, the City Council has retained Willdan Financial (the "Engineer") to assist the City with the preparation of the annual levy and collection of special taxes by the FAMD; and

WHEREAS, the Engineer has prepared the proposed levy and collection of special taxes upon eligible parcels of land within the FAMD, and the City Council has approved such special taxes; and

WHEREAS, the City Council desires to levy and collect special taxes against parcels of land within the FAMD for the Fiscal Year commencing July 1, 2025, and ending June 30, 2026, to finance security, street maintenance and repair, and entrance landscape services within the FAMD; and

WHEREAS, a Public Hearing Notice was published in a newspaper of general circulation once at least fifteen (15) days before the public hearing on annual levies; a copy of the Public Hearing Notice was posted in three (3) public places within the City.

NOW, THEREFORE, BE RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT AS FOLLOWS:

SECTION 1. The Fire Access Maintenance District No. 1 special taxes be paid by the property owners to the City for the Fiscal Year commencing July 1, 2024, and ending June 30, 2025, shall be placed on the tax rolls for the County of Riverside and shall be as follows:

Residential

Land Use	Assessment
Residential Improved	$1,514 per unit per year
Residential Vacant Lot 1 acre or less	$1,029 per unit per year
Vacant Land greater than 1 acre	$809 per acre per year

Golf Club / Golf Course

The amount of the tax imposed each fiscal year for the Golf Club / Golf Course shall be $279,300.

SECTION 2. The above rates shall be effective July 1, 2025, through June 30, 2026.

SECTION 3. The County Auditor of the County of Riverside shall enter on the County Assessment Roll opposite each eligible parcel of land the amount of levy set forth herein, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at an adjourned regular meeting held on this 10th day of June 2025.

_____
BRUCE WHITMAN
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2025-__

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing resolution was duly and regularly passed and adopted at an adjourned regular meeting of the City Council of the City of Indian Wells the 10th day of June 2025, by the following vote:

AYES:
NOES:

ATTEST:

_____
ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

_____
TODD LEISHMAN FOR
BEST, BEST, & KRIEGER
CITY ATTORNEY

Revised Staff Report
Posted: June 6, 2025

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Public Works Department
Prepared by:	Ken Seumalo, Public Works Director
Subject:	**Selection of Design Components for Safer Streets Program Along Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street**

RECOMMENDED ACTIONS:

Council **REVIEWS** the Planning Commission recommended Right-of-Way improvements along Fairway Drive, Eldorado Drive, Cook Street and Rancho Palmeras; and

PROVIDES individual motions for design improvements for each of the four corridors; and

AUTHORIZE staff to solicit proposals for a design consultant; and

FINDS the action exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code section 21080.20, and Section 15301, Class 1 (c) of Title 14 of the California Code of Regulations.

DISCUSSION:

Over the past few years, the City of Indian Wells has been developing the Safer Streets Program, which was identified to improve pedestrian and bicycle safety, seek opportunities to reduce speeding in the community, and address unsafe vehicular activities in the residential areas. The project is a result of residents expressing concerns about traffic issues in this area of the City, specifically along Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street. These concerns were also reiterated during the community engagement process for the City-Wide Traffic Safety Study and the Safer Streets outreach.

From February 2023 to May 2025, the City conducted 18 meetings related to Safer Streets. This includes City Council, Planning Commission, Strategic Planning, and Community Engagement Meetings to seek community input to receive input from the public and provide feedback on potential improvements.

Initially, the project was separated into two phases with Phase I consisting of Eldorado Drive and Fairway Drive, and Phase II consisting of Rancho Palmeras and Cook Street. At this year's City Council Strategic Planning Session, the City Council combined the two projects to develop a comprehensive project that would provide a clear perspective of the proposed improvements to each corridor. Community feedback was provided via the City's website, public testimony at the meetings, emails, etc.

On May 29, 2025, Planning Commission Meeting, the Planning Commission was presented the combined phases of the project, including a report on stop sign warrants. Based on previous direction to analyze potential stop signs at the intersections on each of the four corridors, a traffic engineer conducted a Stop Warrant Study to determine if additional stop signs were "warranted" under the conditions established under state traffic laws. Based on the preliminary results of the study, none of the 18 intersections qualified for additional stop signs. Once the draft study has been finalized, it will be available on the Safer Streets website.

The following information is presented as follows: Phase I streets from the Public's perspective then the Planning Commission's recommendation followed by Phase II streets with the Public's perspective followed by the Planning Commission's recommendation.

It is important to note that throughout the community meetings, numerous compliments were given to Riverside County Sheriff's Department for their traffic enforcement efforts. However, a common theme from the community was a desire to increase traffic enforcement throughout the community.

Phase I (Fairway Drive and Eldorado Drive):

- **Fairway Drive**

Based on the results from public engagement, Staff understood the community's preference to be:

- Fairway Drive (Staff Presented Design Components):
  - Construct a meandering sidewalk along the south side of Fairway Drive for pedestrian safety.
  - Sidewalk to be constructed out of a colored permeable concrete that looks like decomposed granite versus a conventional concrete sidewalk.
  - Stripe Fairway Drive to accommodate one lane of traffic in each direction, provide a combination bicycle/golfcart lane in each direction (marked in white paint only), and maintain street parking on the north side of Fairway Drive.

- Fairway Drive (Planning Commission Recommendation):

Planning Commission concurred with the Staff Presented Design Components listed above but also included additional recommendations.

  - Specified that the sidewalk should be 8 foot wide.
  - Addition of crosswalks connecting Fairway to Cook Street and Eldorado Drive. The inclusion of crosswalks connecting Fairway to Cook Street and Eldorado Drive are subject to state law for pedestrian safety. Additional research is needed to confirm if crosswalks can be installed that connect pedestrian improvements to non-pedestrian improved areas.

- Fairway Drive (Other Items)

Other items discussed at community meetings but not advanced by the Planning Commission.

  - Discussion on potential to add speed bumps/humps along Fairway, and additional crosswalks on Fairway at Cielito, Williams and Rancho Palmeras.

  - The level of meandering path between Cook and Eldorado will be based upon the level of participation from Eldorado Country Club and Vintage Club. At this time, Eldorado Country Club has been open to having the meandering sidewalk in front of their property, while Vintage Club has expressed concerns. Moving forward, staff will work closely with both clubs to ascertain a willingness to expand beyond the City's right-of-way along Fairway to increase the level of meandering and curb adjacent landscaping into the design.

- **Eldorado Drive**

Based on the results from public engagement, Staff understood the community's preference to be:

- Eldorado Drive (Staff Presented Design Components):
  - Implement a road diet by striping Eldorado Drive to accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
  - No sidewalk on either side of the street nor reduction of pavement along Eldorado. Rather, provide more striping that creates a wide buffer between bicycle/golfcart lane and vehicular traffic.
  - No interest in revisiting pedestrian paths down the middle of the street.

- Eldorado Drive (Planning Commission Recommendation):

Planning Commission eliminated the Staff Presented Design Components listed above but instead included new recommendations.

  - Addition of a meandering sidewalk from Highway 111 to Camino Cielo on the west side of Eldorado to the entrance of the Sundance community to mirror the Montelena Community sidewalk.
  - Examine the addition of a northbound right turn pocket at Highway 111.
  - Install crosswalks at Fairway Drive crossing each leg of the intersection to Fairway Park. Additional research is needed to confirm whether these crosswalks can be installed, as they too connect pedestrian improvements to non-pedestrian improved areas.

- Eldorado Drive (Other Items)

Other items discussed at community meetings but not advanced by the Planning Commission.

- Reduce Eldorado Drive from two lanes in each direction and relocate curbs into existing number 2 travel lane to increase the landscape buffer on each side.
- Construct a meandering sidewalk on the west side of Eldorado Drive.

Phase II (Rancho Palmeras and Cook Street):

- **Rancho Palmeras**

Based on the results from public engagement, Staff understood the community's preference to be:

- Rancho Palmeras (Staff Presented Design Components):
  - Construct a left turn pocket on southbound Rancho Palmeras at the Camino de Plata intersection.
  - Construct a sidewalk on the west side of Rancho Palmeras for pedestrian safety.
  - Stripe Rancho Palmeras to accommodate one lane of traffic in each direction and a combination bicycle/golfcart lane in each direction.

- Rancho Palmeras (Planning Commission Recommendation):

  - Accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
  - Construct a left turn pocket on southbound Rancho Palmeras at the Camino de Plata intersection.

- Construct a right turn pocket on northbound Rancho Palmeras at the Camino de Plata intersection.

- **Cook Street**

Based on the results from public engagement, Staff understood the community's preference to be:

- Cook Street (Staff Presented Design Components):

  - Implement a road diet and add meandering sidewalks on both sides of Cook Street.
  - Striping to accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
    - The final design would include a two-lane to one-lane transition in both north and southbound lanes near Highway 111.

- Cook Street (Planning Commission Recommendation):

  - Implement a road diet and add meandering sidewalk on east side of Cook Street. Curb to be rounded.
  - Striping to accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
  - Camera installation on IW Coffee Building to monitor traffic and speeds.
  - Appropriate signage on northbound and southbound Cook Street providing advanced notice of the upcoming merge from two to one lane.
  - "No U-turn" signage on southbound Cook Street on median noses at Indian Wells Village.
  - Eastbound Highway 111 to southbound Cook Street right turn restriction – No turn on Red

- Cook Street (Other Items)

Additional discussion at community meetings about traffic traveling eastbound along Highway 111 not obeying the right turn-only lane at Cook Street. Staff indicated that this is a separate project that will be examined at a later date.

Further traffic analysis needs to be conducted on additional Planning Commission recommendations for traffic signage on Cook Street and no right turn on red at Highway 111 onto Cook Street.

Addition of a camera at IW Coffee Building needs further discussion on purpose of camera, legal restrictions of placing on private property, costs for storage or footage, etc.

Planning Commission also recommended additional traffic enforcement for traffic violations.

With the completion of community outreach and Planning Commission providing a holistic series of recommendations for Safer Streets, as well as the necessary CEQA and consistency of this project to the City's General Plan Circulation Element, staff is seeking Council's direction on the final design elements for each segment: Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street.

Residents are encouraged to learn more about the Safer Street project, community meetings held, public comments and other documents related to the project at https://www.cityofindianwells.org/city-hall/departments/public-works/safer-streets-indian-wells

OPTIONS:

The City Council has the following options:

- Approve the Planning Commission recommendations as listed above, and direct staff to advertise for a design firm;
- Approve the Planning Commission recommendations with modifications, and direct staff to advertise for a design firm;
- Decide to not move forward with the project; or
- Provide alternative directions.

CITY COUNCIL STRATEGIC GOALS:

At the 2025 Strategic Planning session, the City Council reaffirmed its 2024 directive and instructed staff to continue advancing the Safer Streets initiative as one of the City Council's Strategic Goals.

FISCAL IMPACT:

This report seeks Council approval to solicit a design contract for Safer Streets. Once the design has been completed, staff will return with project costs for separate discussion and approval. Funds to develop the design and initial construction costs totaling $7.5 million have been approved in Fiscal Year 2025-26 Capital Improvement Program budget.

It is important to note that the City has successfully secured approximately $3.5 million in grant funds for the various segments of the project, with additional funding ($9.6 million) being sought. Those grants that have been awarded or recently applied for allow for a change in scope of the project to be completed. Grant funding may be reduced or

increased depending on the final change of scope and subject to approval by the awarding agency.

Street repaving is needed on all four corridors of Safer Streets. If Safer Streets Project does not move forward, staff will seek a preliminary budget of $3 million to design and repave Fairway Drive, Eldorado Drive, Cook Street, and Rancho Palmeras in the coming months.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as Lead Agency, has determined that Under California Public Resources Code section 21080.20, CEQA does not apply to active transportation plans, pedestrian plans and bicycle transportation plans. Furthermore, the proposed improvements within the existing street rights-of-way are categorically exempt under CEQA in accordance with Section 15301, Class 1 (c) of Title 14 of the California Code of Regulations, for Existing Facilities, including streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities.

ATTACHMENTS:

1. Cook Exhibits
2. Fairway Exhibits
3. Eldorado Exhibits
4. Rancho Palmeras Exhibits

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Public Works Department
Prepared by:	Ken Seumalo, Public Works Director
Subject:	**Selection of Design Components for Safer Streets Program Along Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street**

RECOMMENDED ACTIONS:

Council **REVIEWS** the Planning Commission recommended Right-of-Way improvements along Fairway Drive, Eldorado Drive, Cook Street and Rancho Palmeras; and

PROVIDES individual motions for design improvements for each of the four corridors; and

AUTHORIZE staff to solicit proposals for a design consultant; and

FINDS the action exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code section 21080.20, and Section 15301, Class 1 (c) of Title 14 of the California Code of Regulations.

DISCUSSION:

Over the past few years, the City of Indian Wells has been developing the Safer Streets Program, which was identified to improve pedestrian and bicycle safety, seek opportunities to reduce speeding in the community, and address unsafe vehicular activities in the residential areas. The project is a result of residents expressing concerns about traffic issues in this area of the City, specifically along Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street. These concerns were also reiterated during the community engagement process for the City-Wide Traffic Safety Study and the Safer Streets outreach.

From February 2023 to May 2025, the City conducted 18 meetings related to Safer Streets. This includes City Council, Planning Commission, Strategic Planning, and Community Engagement Meetings to seek community input to receive input from the public and provide feedback on potential improvements.

Initially, the project was separated into two phases with Phase I consisting of Eldorado Drive and Fairway Drive, and Phase II consisting of Rancho Palmeras and Cook Street. At this year's City Council Strategic Planning Session, the City Council combined the two projects to develop a comprehensive project that would provide a clear perspective of the proposed improvements to each corridor. Community feedback was provided via the City's website, public testimony at the meetings, emails, etc.

On May 29, 2025, Planning Commission Meeting, the Planning Commission was presented the combined phases of the project, including a report on stop sign warrants. Based on previous direction to analyze potential stop signs at the intersections on each of the four corridors, a traffic engineer conducted a Stop Warrant Study to determine if additional stop signs were "warranted" under the conditions established under state traffic laws. Based on the preliminary results of the study, none of the 18 intersections qualified for additional stop signs. Once the draft study has been finalized, it will be available on the Safer Streets website.

The following information is presented as follows: Phase I streets from the Public's perspective then the Planning Commission's recommendation followed by Phase II streets with the Public's perspective followed by the Planning Commission's recommendation.

It is important to note that throughout the community meetings, numerous compliments were given to Riverside County Sheriff's Department for their traffic enforcement efforts. However, a common theme from the community was a desire to increase traffic enforcement throughout the community.

Phase I (Fairway Drive and Eldorado Drive):

- **Fairway Drive**

Based on the results from public engagement, Staff understood the community's preference to be:

- Fairway Drive (Staff Presented Design Components):
  - Construct a meandering sidewalk along the south side of Fairway Drive for pedestrian safety.
  - Sidewalk to be constructed out of a colored permeable concrete that looks like decomposed granite versus a conventional concrete sidewalk.
  - Stripe Fairway Drive to accommodate one lane of traffic in each direction, provide a combination bicycle/golfcart lane in each direction (marked in white paint only), and maintain street parking on the north side of Fairway Drive.

- Fairway Drive (Planning Commission Recommendation):

Planning Commission concurred with the Staff Presented Design Components listed above but also included additional recommendations.

  - Specified that the sidewalk should be 8 foot wide.
  - Addition of crosswalks connecting Fairway to Cook Street and Eldorado Drive. The inclusion of crosswalks connecting Fairway to Cook Street and Eldorado Drive are subject to state law for pedestrian safety. Additional research is needed to confirm if crosswalks can be installed that do not connect pedestrian improvements to non-pedestrian improved areas.

- Fairway Drive (Other Items)

Other items discussed at community meetings but not advanced by the Planning Commission.

  - Discussion on potential to add speed bumps/humps along Fairway, and additional crosswalks on Fairway at Cielito, Williams and Rancho Palmeras.

  - The level of meandering path between Cook and Eldorado will be based upon the level of participation from Eldorado Country Club and Vintage Club. At this time, Eldorado Country Club has been open to having the meandering sidewalk in front of their property, while Vintage Club has expressed concerns. Moving forward, staff will work closely with both clubs to ascertain a willingness to expand beyond the City's right-of-way along Fairway to increase the level of meandering and curb adjacent landscaping into the design.

- **Eldorado Drive**

Based on the results from public engagement, Staff understood the community's preference to be:

- Eldorado Drive (Staff Presented Design Components):
  - Implement a road diet by striping Eldorado Drive to accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
  - No sidewalk on either side of the street nor reduction of pavement along Eldorado. Rather, provide more striping that creates a wide buffer between bicycle/golfcart lane and vehicular traffic.
  - No interest in revisiting pedestrian paths down the middle of the street.

- Eldorado Drive (Planning Commission Recommendation):

Planning Commission concurred with the Staff Presented Design Components listed above but also included additional recommendations.

  - Addition of a meandering sidewalk from Highway 111 to Camino Cielo on the west side of Eldorado to the entrance of the Sundance community to mirror the Montelena Community sidewalk.
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- Eldorado Drive (Other Items)

Other items discussed at community meetings but not advanced by the Planning Commission.

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- Construct a meandering sidewalk on the west side of Eldorado Drive.

Phase II (Rancho Palmeras and Cook Street):

- **Rancho Palmeras**

Based on the results from public engagement, Staff understood the community's preference to be:

- Rancho Palmeras (Staff Presented Design Components):
  - Construct a left turn pocket on southbound Rancho Palmeras at the Camino de Plata intersection.
  - Construct a sidewalk on the west side of Rancho Palmeras for pedestrian safety.
  - Stripe Rancho Palmeras to accommodate one lane of traffic in each direction and a combination bicycle/golfcart lane in each direction.

- Rancho Palmeras (Planning Commission Recommendation):

  - Accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
  - Construct a left turn pocket on southbound Rancho Palmeras at the Camino de Plata intersection.

- Construct a right turn pocket on northbound Rancho Palmeras at the Camino de Plata intersection.

- **Cook Street**

Based on the results from public engagement, Staff understood the community's preference to be:

- Cook Street (Staff Presented Design Components):

  - Implement a road diet and add meandering sidewalks on both sides of Cook Street.
  - Striping to accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
    - The final design would include a two-lane to one-lane transition in both north and southbound lanes near Highway 111.

- Cook Street (Planning Commission Recommendation):

  - Implement a road diet and add meandering sidewalk on east side of Cook Street. Curb to be rounded.
  - Striping to accommodate one lane of traffic in each direction and provide a combination bicycle/golfcart lane in each direction (marked in white paint only).
  - Camera installation on IW Coffee Building to monitor traffic and speeds.
  - Appropriate signage on northbound and southbound Cook Street providing advanced notice of the upcoming merge from two to one lane.
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Planning Commission also recommended additional traffic enforcement for traffic violations.

With the completion of community outreach and Planning Commission providing a holistic series of recommendations for Safer Streets, as well as the necessary CEQA and consistency of this project to the City's General Plan Circulation Element, staff is seeking Council's direction on the final design elements for each segment: Fairway Drive, Eldorado Drive, Rancho Palmeras, and Cook Street.

Residents are encouraged to learn more about the Safer Street project, community meetings held, public comments and other documents related to the project at https://www.cityofindianwells.org/city-hall/departments/public-works/safer-streets-indian-wells

OPTIONS:

The City Council has the following options:

- Approve the Planning Commission recommendations as listed above, and direct staff to advertise for a design firm;
- Approve the Planning Commission recommendations with modifications, and direct staff to advertise for a design firm;
- Decide to not move forward with the project; or
- Provide alternative directions.

CITY COUNCIL STRATEGIC GOALS:

At the 2025 Strategic Planning session, the City Council reaffirmed its 2024 directive and instructed staff to continue advancing the Safer Streets initiative as one of the City Council's Strategic Goals.

FISCAL IMPACT:

This report seeks Council approval to solicit a design contract for Safer Streets. Once the design has been completed, staff will return with project costs for separate discussion and approval. Funds to develop the design and initial construction costs totaling $7.5 million have been approved in Fiscal Year 2025-26 Capital Improvement Program budget.

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increased depending on the final change of scope and subject to approval by the awarding agency.

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CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as Lead Agency, has determined that Under California Public Resources Code section 21080.20, CEQA does not apply to active transportation plans, pedestrian plans and bicycle transportation plans. Furthermore, the proposed improvements within the existing street rights-of-way are categorically exempt under CEQA in accordance with Section 15301, Class 1 (c) of Title 14 of the California Code of Regulations, for Existing Facilities, including streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities.

ATTACHMENTS:

1. Cook Exhibits
2. Fairway Exhibits
3. Eldorado Exhibits
4. Rancho Palmeras Exhibits

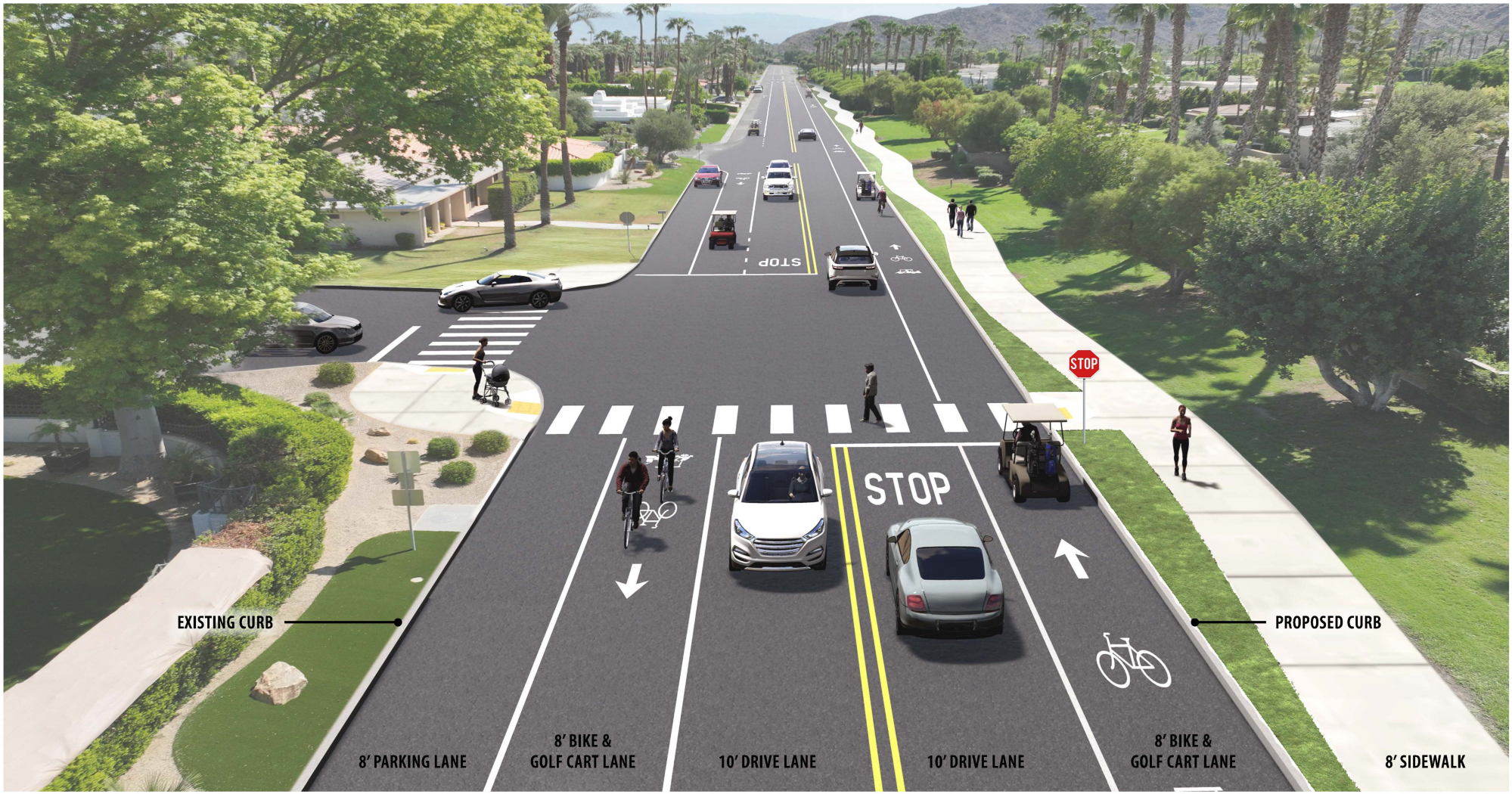


COOK STREET OPTION 2: PROPOSED STREET IMPROVEMENTS

JUNE 4, 2025

INDIAN WELLS SAFER STREETS

ATTACHMENT #1



FAIRWAY DRIVE PROPOSED STREET IMPROVEMENTS

INDIAN WELLS SAFER STREETS

MAY 22, 2025

Michael Baker INTERNATIONAL

COMMUNITY WORKS DESIGN GROUP

ATTACHMENT #2



ELDORADO DRIVE EXISTING CONDITIONS

INDIAN WELLS SAFER STREETS

OCTOBER 8, 2024

Michael Baker INTERNATIONAL

COMMUNITY WORKS DESIGN GROUP EST. 1985

ATTACHMENT #3



RANCHO PALMERAS DRIVE OPTION 1: PROPOSED STREET IMPROVEMENTS

JUNE 4, 2025

INDIAN WELLS SAFER STREETS

ATTACHMENT #4

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	City Manager Department
Prepared by:	Kristen Nelson, Administrative Services Manager
Subject:	**Ordinance Adopting the Fire Hazard Severity Zone Map Published by the Office of the State Fire Marshall in Compliance with California Fire Code and Government Code Section 51179**

RECOMMENDED ACTIONS:

Council **INTRODUCES** Ordinance designating Moderate, High and Very High Fire Hazard Severity Zones (VHFHSZ) in the Local Responsibility Areas (LRA) as recommended by the Office of the State Fire Marshal, in accordance with the California Fire Code and Government Code section 51179; and

FINDS the project not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060, 15061(b)(3), and 15378.

BACKGROUND:

On March 24, 2025, the Office of the State Fire Marshal published new maps identifying Fire Hazard Severity Zones within Local Responsibility Areas (LRA). The updated zones will be applied statewide across all jurisdictions. The City of Indian Wells is required by state law (Government Code section 51179) to adopt the maps within 120 days of their release. This Ordinance would adopt the maps as recommended and does not increase the severity zone of any given area within our jurisdiction.

After the devastating Oakland Hills Fire in 1991, Assembly Bill 337 required the Office of the State Fire Marshal to evaluate fire hazard severity in Local Responsibility Areas (LRAs) and make recommendations to local jurisdictions where Very High Fire Hazard Severity Zones (VHFHSZs) exist. In 2021, the law was amended to include both Moderate and Very High Fire Hazard Severity Zones.

Local Responsibility Areas (LRAs) are areas such as incorporated cities, urban regions, agricultural lands, and portions of the desert where the local government is responsible for wildfire protection. This responsibility is typically handled by city fire departments, fire protection districts, counties, or by CAL FIRE under contract.

According to the State Fire Marshal, the factors considered in determining fire hazard within wildland areas include fire history, flame length, terrain, local weather, and potential fuel over a 50-year period. Outside of wildlands, the model also accounts for factors that may threaten buildings, including terrain, weather, urban vegetation cover, blowing embers, proximity to wildlands, fire history, and fire hazards in nearby wildlands.

The State Fire Marshal's office uses an extension of the State Responsibility Area Fire Hazard Severity Zone model as the basis for evaluating fire hazards in Local Responsibility Areas. The LRA hazard rating reflects the risks of flame and ember intrusion from adjacent wildlands, as well as flammable vegetation within urban areas.

Government code section 51179 requires a local agency to designate moderate, high and very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the State Fire Marshal. Indian Wells is looking to adopt the maps as recommended and is not looking to increase the severity zone of any given area within our jurisdiction.

What Does This Mean for Indian Wells

Impact on the community varies depending on the severity zone identified.

At the April 3, 2025, City Council Meeting, Deputy Fire Marshall Kohl Hetrick presented information about the Map specific to the City of Indian Wells (the Local Responsibility Area) which includes Moderate and High classifications, but no Very High classifications (**ATTACHMENT 1**). In his presentation, he noted that the only impact to residents would be those in High classifications where residents will need to provide hazard disclosure during real estate transactions.

On April 14, 2025, in compliance with state law, an eBlast was sent to residents informing them of today's discussion, inviting public comment, and providing information on what the Maps are, how the classifications are determined, and who to contact with questions (**ATTACHMENT 2**). The eBlast also encourages residents to contact Chief Beverlin to schedule a free home hardening assessment.

How Do These Classifications Impact Insurance

The Fire Hazard Severity Zone Maps will not directly determine a resident's ability to get or keep home insurance, but they may play a role. Insurance companies use their own risk models, which look at a home's vulnerability to fire and other short-term factors. While they may not specifically rely on CAL FIRE's maps, they do use some of the same wildfire risk data. However, insurance companies also consider additional, frequently changing factors that aren't included in CAL FIRE's long-term hazard mapping. Residents should check with their providers to understand how wildfire risk affects their specific policy. The California Department of Insurance put out a Consumer Alert outlining why

CAL FIRE hazard maps do not affect insurance rates or availability (**ATTACHMENT 3**) as well as a review of Frequently Asked Questions (**ATTACHMENT 4**).

FISCAL IMPACT:

There is no fiscal impact on the City to adopt the Fire Hazard Severity Zone Map through Ordinance.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The adoption of the ordinance designating Moderate, High and Very High Fire Hazard Severity Zones in the Local Responsibility Areas as recommended by the Office of the State Fire Marshal is exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment. (State CEQA Guidelines, § 15060, 15061(b)(3), and 15378)

ATTACHMENTS:

1. City of Indian Wells FHSZ Map
2. April 14, 2025, eBlast Informing Residents
3. Consumer Alert
4. Frequently Asked Questions
5. Ordinance
6. Submitted Public Comments

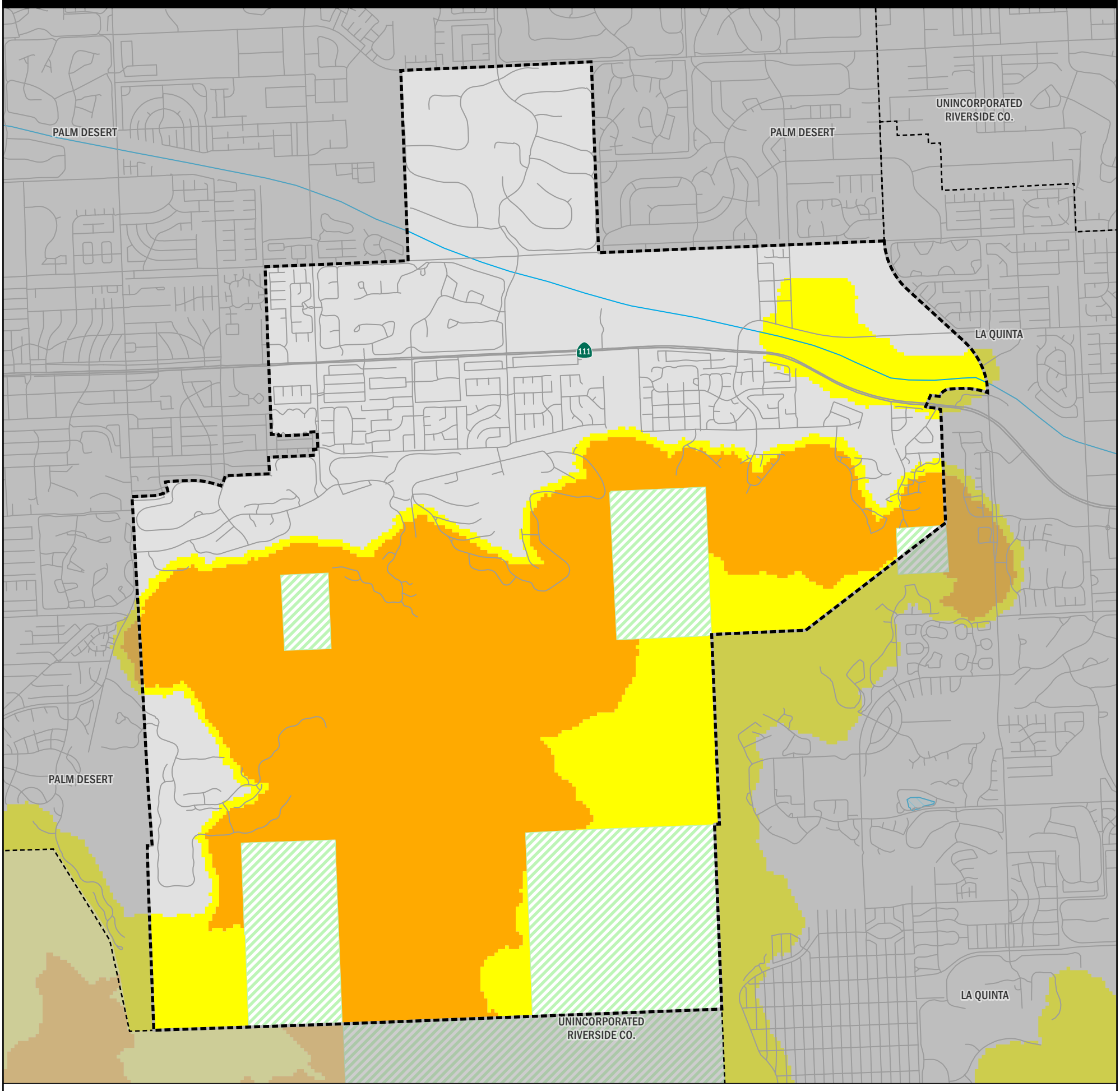
CITY OF INDIAN WELLS – RIVERSIDE COUNTY

ATTACHMENT #1

Local Responsibility Area Fire Hazard Severity Zones

As Identified by the State Fire Marshal

March 24, 2025





Fire Hazard Severity Zones (FHSZ) in Local Responsibility Area (LRA), as Identified by the State Fire Marshal

High Moderate

Fire Hazard Severity Zones in State Responsibility Area (SRA), Effective April 1, 2024

High Moderate

Mi 0 1

Km 0 1 2

Projection: NAD 83 California Teale Albers
Scale: 1:36,000 at 11" x 17"

Incorporated City
Waterbody
Unzoned LRA
Federal Responsibility Area (FRA)

Government Code section 51178 requires the State Fire Marshal to identify areas in the state as moderate, high, and very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.

The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

Gavin Newsom, Governor, State of California
Wade Crowfoot, Secretary for Natural Resources, CA Natural Resources Agency
Joe Tyler, Director/Fire Chief, CA Department of Forestry and Fire Protection
Daniel Berlant, State Fire Marshal, CA Department of Forestry and Fire Protection

Data Sources:
CAL FIRE Fire Hazard Severity Zones (FHSZSRA23_3, FHSZLRA_25_1)
CAL FIRE State Responsibility Areas (SRA25_1)
City and County boundaries as of 10/22/24 (CA Board of Equalization)

Micaela Wilkey

From: City of Indian Wells <community@indianwells.com>
Sent: Monday, April 14, 2025 7:18 AM
To: Micaela Wilkey
Subject: We want your feedback on the updated Fire Hazard Severity Zone Map!

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

INDIAN WELLS
CALIFORNIA



Updated Fire Hazard Severity Zone Map

Hello Micaela,

The City of Indian Wells is seeking your feedback on the CAL FIRE, Fire Hazard Severity Zone (FHSZ) Map.

The FHSZ maps are developed using a science-based, field-tested model that assigns a hazard score based on factors influencing the likelihood and behavior of wildfires. These maps were recently updated to more accurately represent the zones in California that are susceptible to wildfires.

It's important to note that the FHSZ map is based on hazard, not risk, meaning the map identifies areas where wildfires are more likely to spread aggressively based on physical conditions such as slope, wind patterns, vegetation and fire history. It helps planners and safety officials understand how a wildfire could behave in a particular area under extreme conditions.

This map is a long-term planning tool, not a real-time risk assessment, evacuation notice or emergency alert. It is meant to inform building codes and fire safety policies that contribute to making our community more resilient over time.

What does this mean for residents?

If your property is located in the "high" or "very high" zones of the FHSZ map, you must provide a hazard disclosure during real estate transactions.

Additionally, the City would like your feedback regarding the updated map. **To submit a public comment, please email cityclerk@indianwells.com or attend the public hearing on Thursday, May 16, 2025, regularly scheduled Council Meeting to provide your feedback in person.**

The FHSZs won't directly determine your ability to get or keep home insurance, but they may play a role. Insurance companies use their own risk models, which look at a home's vulnerability to fire and other short-term factors. While they may not specifically rely on CAL FIRE's maps, they do use some of the same wildfire risk data. However, insurance companies also consider additional, frequently changing factors that aren't included in CAL FIRE's long-term hazard mapping. If you're concerned about insurance coverage, check with your provider to understand how wildfire risk affects your policy.

Residents can request **free home hardening assessments** to identify how prepared their property is for a wildfire. To schedule an assessment, please contact Chief Beverlin at (760) 902-6972 or Mike.Beverlin@fire.ca.gov.

Additional Resources

- History of FHSZ Maps
- What are FHSZs?
- Frequently Asked Questions
- If you have any questions, please contact the Office of the State Fire Marshal at (916) 633-7655 or FHSZinformation@fire.ca.gov.

View the FHSZ Map

City of Indian Wells
44-950 Eldorado Drive
Indian Wells, CA 92210
(760) 346-2489

Monday - Friday
8:00 a.m. - 5:00 p.m.
(Closed 12:00 - 1:00 p.m.)
Closed major holidays

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CALIFORNIA CONSUMER ALERT

#INSURECA

Insurance Commissioner Ricardo Lara

CAL FIRE hazard maps do not affect insurance rates or availability

Insurance Commissioner Ricardo Lara issued a fact sheet explaining that CAL FIRE hazard maps do not affect insurance rates or availability. A Spanish-language fact sheet is also available.



For many years, insurance companies have been using wildfire risk models for determining where they will write and renew policies, and how much premium to charge a policyholder -- not the Fire Hazard Severity Zone maps. CAL FIRE's maps are required by law and their purpose is to drive local planning decisions, not insurance decisions.

Commissioner's POV: "Let me be clear: The CAL FIRE hazard maps are not used for insurance rates or underwriting decisions. But they will empower communities with more accurate information about the very real hazards we face. The reality is we all need to do more to protect our homes and communities from wildfires. When communities know and understand their risks, they can plan and prepare."

Background: The Department of Insurance is implementing a Sustainable Insurance Strategy aimed at supporting safer communities. Based on feedback gathered from thousands of town halls and meetings with homeowners, businesses, and individual consumers, Commissioner Lara implemented an aggressive approach to modernize insurance regulations to address insurance accessibility challenges for consumers.

Commissioner Lara's new Safer from Wildfires regulation clarifies what actions you should take to reduce wildfire risks and receive an insurance discount.

Insurance companies use computerized wildfire catastrophe models to determine which homes to write based on the risk of loss. Building on the Safer from Wildfires initiative — the nation's first wildfire safety discount program — the strategy requires catastrophe models to account for mitigation efforts by homeowners, businesses, and communities, something not possible even a few months ago under outdated regulations.

Learn More: The Department of Insurance fact sheet is posted at CAL FIRE's Fire Hazard Severity Zone web page where you can learn more about enhancing your property's fire safety and view current versions of maps.



Exciting News! 🌟 The California Department of Insurance (CDI) is proud to introduce the **Community Outreach and Education Partnership Initiative**. This dynamic program is designed to raise consumer awareness about CDI's vital services and expand understanding of key insurance topics and fraud prevention. Become a valued partner and unlock exclusive access to:

- Comprehensive consumer education materials
- Specialized training sessions
- Powerful social media tools

Become a Partner Today: https://www.surveymonkey.com/r/VHGZQHT

RICARDO LARA
INSURANCE COMMISSIONER
California Department of Insurance

Q&A – Insurance and CAL FIRE Fire Hazard Severity Zone Maps

1. **How will the updated CAL FIRE maps affect insurance availability and affordability?**

CAL FIRE's maps are intended to drive local planning decisions, not insurance decisions. Under Commissioner Lara's new regulation finalized in October 2022, insurance companies must provide discounts for wildfire safety actions such as community mitigation and home-hardening, which CAL FIRE's maps do not assess. In addition, insurance companies are already using risk analysis tools and models that go beyond CAL FIRE's proposed maps in determining what properties they will underwrite.

Commissioner Lara's new wildfire safety regulation will help increase access to insurance by promoting wildfire safety across the state. Reducing wildfire risks throughout the state is the primary way we can make insurance more available and affordable, and our regulation is a major step towards that goal. CAL FIRE's maps support that goal through improving public education about hazard and the need for safety preparation.

2. **How will these maps benefit the public?**

Public education about where current wildfire hazards exist is essential to reducing the threat to local communities and maintaining access to available and affordable insurance. When communities know and understand their risks, they can plan and prepare.

In addition, the Department's first-ever report on climate insurance recommended updated wildfire hazard mapping to improve public safety.

3. **If you are a homeowner and your zone changed from High Hazard to Very High Hazard, will this impact your insurance premiums or renewal ability?**

For many years, insurance companies have been using alternate wildfire risk tools for determining where they will write and renew policies, and how much premium to charge a policyholder, not the Fire Hazard Severity Zone maps. Therefore, a change in designation on the maps for a single homeowner is unlikely to affect their insurance. The reality is that more accurate risk information enables homeowners and communities to reduce their wildfire risks, and Commissioner Lara's new wildfire mitigation regulation clarifies what actions you should take to reduce wildfire risks. Once that regulation is fully implemented, if a homeowner or business owner takes those risk mitigation actions, they will be able to see a discount in their insurance premium.

4. **How is the state addressing wildfire mitigation?**

By design, CAL FIRE's maps are focused on long-range wildfire hazard, which includes only certain variables, like wind, vegetation, ember production and movement, climate, topography, and fire history. CAL FIRE's maps will give up to date information to communities about the level of wildfire hazard they face, which could help target resources at the state and local level. Expanded state grant programs and Commissioner Lara's new wildfire safety regulation are aimed at reducing wildfire risks to communities through programs such as Firewise USA and the new Fire Risk Reduction Community designation from the California Board of Forestry and Fire Protection.

ATTACHMENT #5

ORDINANCE NO. __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADOPTING THE FIRE HAZARD SEVERITY ZONES AS RECOMMENDED BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION PURSUANT TO GOVERNMENT CODE SECTION 51178; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTIONS 15060, 15061, AND 15378.

WHEREAS, the California Department of Forestry and Fire Protection (CAL FIRE), pursuant to Government Code Section 51178, has developed updated Fire Hazard Severity Zone (FHSZ) maps for areas within Local Responsibility Areas (LRAs); and

WHEREAS, Government Code Sections 51175 through 51189 require local jurisdictions to adopt the FHSZ maps by ordinance, and to enforce the building standards for new structures in Very High Fire Hazard Severity Zones as established in the California Building Code and California Fire Code; and

WHEREAS, adoption of the FHSZ map will help the City reduce the risk of wildfire through updated planning and building standards and enable better protection of life, property, and natural resources; and

WHEREAS, the City of Indian Wells desires to adopt the FHSZ map as recommended by CAL FIRE to comply with state law and to ensure the health, safety, and welfare of the community.

WHEREAS, notice of a public hearing of the City Council of the City of Indian Wells to consider this Ordinance was given in accordance with applicable law; and

WHEREAS, on May 15, 2025, a public hearing on this Ordinance was held by the City Council; and

WHEREAS, after careful consideration of the staff report and all the information, evidence, and testimony presented at its public hearing, the City Council finds that this Ordinance is consistent with General Plan goals and policies pertaining to public safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Designation of Fire Hazard Severity Zones. The City of Indian Wells hereby adopts and designates the Fire Hazard Severity Zones within the City as recommended by the California Department of Forestry and Fire Protection and presented in the map titled:

"City of Indian Wells Fire Hazard Severity Zones Map," as set forth in **"Exhibit A"**

as maintained and published by the California Department of Forestry and Fire Protection.

This map is incorporated by reference and shall serve as the official FHSZ designation within the Local Responsibility Area for the City of Indian Wells.

SECTION 2. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at 44950 Eldorado Drivee, Indian Wells, CA 92210. The custodian of these records in the City Clerk.

SECTION 3. CEQA. This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (the "Guidelines"), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a "project" under Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations.

Additionally, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

Moreover, the adoption of the updated Fire Hazard Severity Zone map is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308, as it constitutes an action taken by a regulatory agency for the protection of the environment.

SECTION 4. Effective Date. This Ordinance takes effect 30 days following its adoption.

SECTION 5. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Indian Wells.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at an adjourned regular meeting held on the 15th day of May 2025.

_____

BRUCE WHITMAN
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. _____

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No. ___, having been regularly introduced at the meeting of May 15, 2025, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the ___of _____, 2025 said ordinance was passed and adopted by the following stated vote, to wit:

and was thereafter on said day signed by the Mayor of the City of Indian Wells.

AYES:
NOES:

ATTEST:

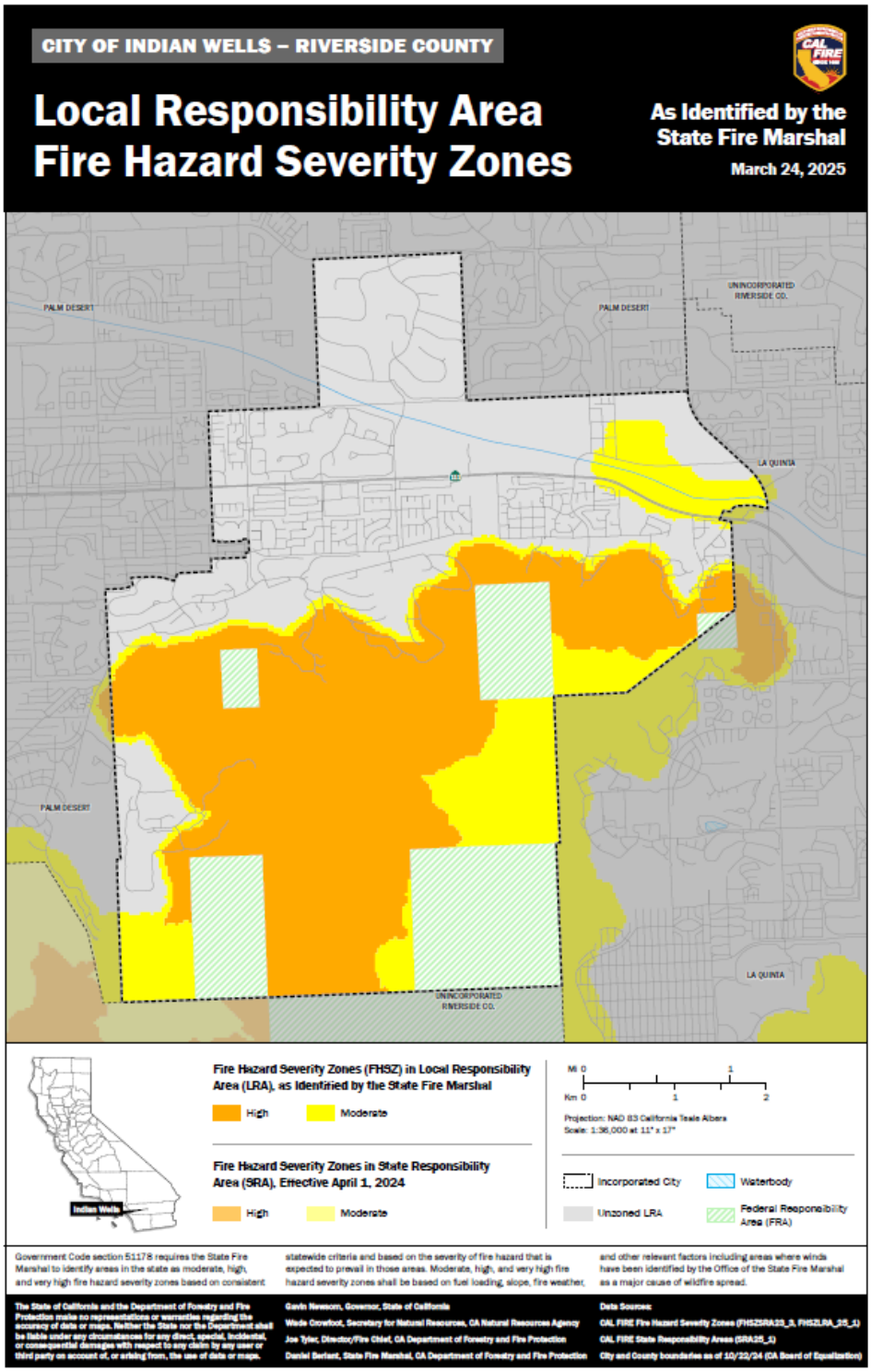
_____
ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

_____
TODD LEISHMAN FOR
BEST BEST & KRIEGER LLP
CITY ATTORNEY

Exhibit "A"

"City of Indian Wells Fire Hazard Severity Zones Map,"



ATTACHMENT #6

From: [redacted]
To: Community
Subject: Re: We want your feedback on the updated Fire Hazard Severity Zone Map!
Date: Monday, April 14, 2025 9:12:42 AM

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

Thank you for sharing this information. Very helpful. I did share the previous newsletter about our Class 2 Fire Protection rating (Great news!) with my insurance broker as my homeowners insurance company has decided to pull out of California with no claims on my part. It's getting harder and harder to find coverage. I'll share this newsletter also. THANK YOU for keeping us informed.

Here are some thoughts from my broker (below) and I thought it was worth sharing. Positive for Indian Wells, but the point they make is we can do as much as possible but the risk is dependent on the preparedness of our surrounding cities and their efforts also, so that would be a great thing to understand from Palm Desert and La Quinta in our immediate vicinity. And any of the other 7 major communities in the Coachella Valley.

I like the map, it helps explain the risks visually. Videos were also good.

Thank you!
Sarah Crosby
Native Springs HOA

Any efforts made in local communities across the state are absolutely essential to minimize fire risk. The state leaders don't want the entire burden. They want individual cities and communities to be more proactive. It has been proven when there is a local plan in place and there is a fire, the casualties of property damage become less. All insurance companies use PPC classes to determine eligibility. It gets retrieved automatically via your property address. They rely on this information to assess their risk. They can't be too heavy with policyholders in areas of high risk so once they reach their capacity that is comfortable to them, they will no longer take on any new business. Once all cities and communities start being proactive with their own efforts these PPC's will be updated accordingly and once the risk goes down for more areas like yours, it will open the doors for more carriers to start selling again in those areas. All neighboring cities surrounding Indian Wells and Cove communities need to get on board as well. As we all know, embers can travel for several miles. Despite these proactive efforts, your area would have limitations for defense if the neighboring areas aren't doing their part. Anyway, this is a good start. Hats off to these communities!

On Mon, Apr 14, 2025 at 7:17 AM City of Indian Wells <community@indianwells.com> wrote:

Angelica Avila

From: Michael R. Finnell <[redacted]
Sent: Monday, April 14, 2025 7:38 AM
To: City Clerk
Subject: FHSZ Mapping

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

Thankfully, we are not in a “risk zone”
If we were, I would be making a HUGE stink.
My view: it is the INSURANCE COMPANY’S responsibility to assess risk and charge appropriate premiums. It is not any other agency’s responsibility.
This additional disclosure in the real estate transaction will only harm values and cause confusion.
Prospective buyers will get a quote from their insurance company, then make a decision as to whether or not a purchase should be consummated.
Additional regulation, is not the answer.
CAL Fire is doing good work, but THIS is not the answer.

From: [redacted]
To: Community
Subject: Re: We want your feedback on the updated Fire Hazard Severity Zone Map!
Date: Monday, April 14, 2025 2:15:13 PM

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

I live at Dorado Villas in Indian Wells, so feel pretty secure here.
Josie Flynn.
Sent from my iPad

On Apr 14, 2025, at 7:17 AM, City of Indian Wells <community@indianwells.com> wrote:



Angelica Avila

From: Dennis French [redacted]
Sent: Monday, April 14, 2025 7:32 AM
To: City Clerk
Cc: Sharon French
Subject: Seems rigged

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

There are many areas in the red zone that are perfectly safe while others should have concerns.
My first impression is to lump so many good locations, some with no fire history, is kind of a scam to raise insurance costs and revenues unfairly, to benefit the insurance companies that just had major losses.

Kindest Regards,
Dennis D. French
C.E.O
Equity Directions Inc.
[redacted]

From: [redacted]
To: Community
Subject: Re: We want your feedback on the updated Fire Hazard Severity Zone Map!
Date: Monday, April 14, 2025 10:39:54 AM

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

Thanks for the fire hazard map. However, I am concerned that Indian Wells is very exposed to the hazards of a major earthquake. This exposure is high due to: 1. large number of bridges whose damage could block exit routes; 2. presence of gas pipelines which when damaged could trigger major fires in a parched environment; 3. lack of fireproof building codes (e.g., concrete residence sidewalls). Can we have a separate effort that ignores the insurance bogeyman to get to the dangers that we face?

John Soden
[redacted]
Indian Wells
[redacted]

On Mon, Apr 14, 2025 at 7:17 AM City of Indian Wells <community@indianwells.com> wrote:

Angelica Avila

From: Patricia Sandoval <[redacted]
Sent: Monday, April 14, 2025 9:16 AM
To: City Clerk
Subject: I am not sure what the map indicates. Are we (I live on [redacted]) in a high hazard not risk in the area we reside

CAUTION: This email originated outside our organization. Be cautious with any links or attachments.

a high risk area? Do we have enough fire fighting support should a fire hit our neighborhood?

Thank you, Respectfully, Patricia Sandoval

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	Community Development Department
Prepared by:	Wes Remaklus, Building Official/Code Enforcement Manager
Subject:	**Ordinance Requiring Emergency Access Preemption Systems on New and Existing Gated Community Access Points**

RECOMMENDED ACTIONS:

Council **INTRODUCES** Ordinance requiring the installation of emergency access preemption systems compatible with the emergency vehicle equipment currently in use by the City's emergency service providers (e.g., infrared-based sensor systems such as Opticom) at all existing and future gated vehicular access points in the City of Indian Wells; and

FINDS the ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines sections 15060(c)(3) and 15061(b)(3).

BACKGROUND:

The City of Indian Wells contains numerous community access points, all of which are currently equipped with key boxes (commonly referred to as Knox Boxes) in compliance with the California Fire Code. These Knox Boxes allow fire and law enforcement personnel to unlock, and manually secure gates open during emergency response. However, responders must first exit their vehicles to engage the manual system, delaying entry by approximately 30 seconds, as estimated by CalFire.

In 2023, the City issued letters to each gated community, encouraging voluntary installation of emergency access preemption systems (commonly referred to as Opticom systems), which allow emergency vehicles to trigger gates to open automatically via on-board infrared emitters. Despite these outreach efforts, only the gates at the Indian Wells Villas and Mountain View Villas have been equipped with both key boxes and Opticom-compatible sensor equipment.

To address the void in city-wide expedient access and support faster response times, the Public Safety Committee recommended that Council mandate the installation of

emergency vehicle preemption systems on all existing gates within 12 months and require the systems on all new gates and newly developed gated communities.

At the May 15, 2025, City Council meeting, Council approved Option 1 of the staff recommendation, which authorized:

- Implementation of a six-month rebate program, offering $500 per gate for communities that install emergency vehicle preemption systems and provide proof of payment and installation; and

- Direction to staff to prepare an ordinance mandating the installation of these systems on all existing and future gated developments.

The purpose of this ordinance is to formally codify the mandate under the Indian Wells Municipal Code and establish compliance timelines for all impacted communities.

DISCUSSION:

At the April 16, 2025, Public Safety Committee meeting, the Committee recommended that the City Council implement a program to require the installation of compatible emergency vehicle preemption systems at each of the existing automated gates in the community within the next twelve months, regardless if these gates are manned or unmanned.

The proposed ordinance formalizes the City's commitment to ensuring uninterrupted emergency access at all gated community entry points. It requires all existing gates to be retrofitted with compatible emergency vehicle preemption systems within twelve (12) months of adoption, and all newly constructed gates or gated developments to include compatible emergency vehicle preemption systems as a general development condition of approval. For all newly constructed gates or gated developments, the following conditions of approval will apply:

> Prior to the issuance of a final Certificate of Occupancy, final site inspection approval from the Planning and Building Departments, or the release of any applicable performance or completion bonds, the applicant shall install an emergency vehicle preemption system at all gated vehicular access points. The system shall be compatible with the emergency access equipment utilized by first responders serving the City of Indian Wells. If the access gate is installed prior to final development approval, the emergency access sensor system shall be installed and fully operational during construction to ready emergency access at all times.

The ordinance is performance-based and does not specify a proprietary product; instead, it requires compatibility with the emergency vehicle equipment currently deployed by

responding agencies within Indian Wells, such as the infrared-based activation systems installed on CalFire and Riverside County Sheriff vehicles.

During the May 15, 2025, City Council meeting, when the emergency access rebate program was approved, it was noted that the forthcoming ordinance would likely be incorporated into Section 16.32 of the Municipal Code. Upon further evaluation, staff believes that codifying the ordinance under Title 9 (Peace, Safety, and Morals) is a more efficient and appropriate approach. This decision is not intended to circumvent any legislative procedures, but rather to streamline implementation and ensure proper alignment with the ordinance's public safety objectives.

Title 9 provides a broader public safety framework that better reflects the ordinance's intent to ensure timely emergency access for all first responders, not just fire personnel. By adopting the ordinance under Title 9, the City can enforce the requirement more holistically across all forms of emergency response, rather than through narrowly tailored building code provisions that focus solely on fire agency operations and require re-adoption on a triennial basis.

Moreover, adopting under Title 9 allows the City to maintain administrative efficiency through standard public notice and adoption procedures without triggering the more complex procedural requirements associated with code adoption by reference under California Government Code §§ 50022.1–50022.10. This approach ensures consistent enforcement and effective communication with HOAs and districts having responsibility of access gates.

The ordinance will be enforced by the Code Enforcement Division, with compliance deadlines tracked and verified. The six-month rebate program previously approved by Council remains active and provides a $500 incentive per gate for qualifying installations. This rebate is available to HOAs and responsible entities who complete installation and submit proof within the initial program window.

To support compliance, the ordinance includes enforcement provisions consistent with Chapter 1.20 of the Indian Wells Municipal Code. Non-compliance with the installation requirements may result in administrative citations, with each day of continued violation considered a separate offense. The ordinance also establishes that violations constitute a public nuisance, providing the City with additional authority to ensure timely and uniform implementation across all gated communities.

The rebate program will officially begin following the introduction and adoption of the ordinance, which is anticipated to occur at the July 2025 City Council meeting. Per standard procedure under the Indian Wells Municipal Code, the ordinance will become effective 30 days after adoption, meaning the rebate program is expected to launch in August 2025. Following the second reading and approval, the City will notify all gated communities of the new emergency vehicle preemption system requirements. Outreach

will include posting information on the City website, issuing a resident e-blast encouraging individuals to inform their respective homeowners associations, and mailing formal notices by certified mail directly to HOA boards. These notifications will include the implementation deadline and instructions for applying to the rebate program.

OPTIONS:

The City Council has the following options:

- Approve the staff's recommendations as presented.
- Decline introducing the ordinance requiring installation of emergency access at all gated community entry points.
- Amend the proposed ordinance and introduce.
- Provide alternative directions.

FISCAL IMPACT:

There is no additional fiscal impact associated with adoption of the ordinance. The previously approved $15,000 supplemental appropriation for the rebate program, allocated from Account 228.73.01.564000, is sufficient to support sensor installations at all gated access points citywide.

CITY COUNCIL STRATEGIC GOAL:

The adoption of this ordinance requiring emergency access preemption systems on new and existing gated community access points and the implementation of the corresponding rebate program supports the City Council Public Safety Goal approved April 17, 2025.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines sections 15060(c)(3) & 15061(b)(3), as it can be seen with certainty that there is no possibility the ordinance may have a significant effect on the environment. The required equipment is low impact, installed on existing structures, and does not expand use or intensify development.

ATTACHMENTS:

1. Ordinance

ATTACHMENT #1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADDING CHAPTER 9.50 TO TITLE 9 (PEACE, SAFETY, AND MORALS) OF THE INDIAN WELLS MUNICIPAL CODE TO REQUIRE ACCESS BY MEANS OF APPROVED EMERGENCY VEHICLE PREEMPTION SYSTEMS AT VEHICULAR GATES, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, the City of Indian Wells, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the City is authorized by California Constitution Article XI, Section 7 to make and enforce within its limits all local ordinances, and regulations not in conflict with general laws;

WHEREAS, the City has the authority under Article 11, Section 5 of the California Constitution and the City Charter to make, amend, and enforce all ordinances and regulations with respect to municipal affairs to protect the public health, safety, and welfare; and

WHEREAS, the City places high value on protecting community charter, land values, and the general public, health, safety and welfare, and has previously adopted numerous ordinances to help ensure such protection; and

WHEREAS, the City seeks to ensure that all emergency responders have timely and reliable access to gated properties throughout the community in order to improve emergency response times and public safety; and

WHEREAS, the purpose of this Ordinance is to require the installation of City-approved emergency vehicle preemption systems at all automated vehicular access gates within the City of Indian Wells, for both existing and newly constructed gated properties, and new gates install at existing properties, in a manner consistent with the public safety objectives of the city; and

WHEREAS, on May 15, 2025, the City Council approved a $15,000 supplemental appropriation to implement a limited-term rebate program offering $500 per qualifying gate to assist gated properties with the timely installation of approved emergency access sensor systems; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. CEQA. This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (the "Guidelines"), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a "project" under Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations.

Additionally, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

Section 3. IWMC Addition. Chapter 9.50 [Emergency Access to Vehicular Gates] of the Indian Wells Municipal Code is hereby added to read in its entirety as provided in Exhibit "A," attached hereto and incorporated within

Section 4. Effective Date. This Ordinance takes effect 30 days following its adoption.

Section 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 44950 Eldorado Drive, Indian Wells, CA 92210. The custodian of these records is the City Clerk.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council and the people of the City of Indian Wells hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 8. Publication; Effective Date. The City Clerk shall certify the adoption of this Ordinance. Not later than 15 days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Indian Wells.

PASSED APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at an adjourned regular meeting held on the 10th day of June 2025.

_____
BRUCE WHITMAN
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. _____

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance , having been regularly introduced at an adjourned regular meeting of June 10, 2025 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a special meeting of the City Council held on July 2, 2025 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

and was thereafter on said day signed by the Mayor of said City of Indian Wells.

ATTEST:

_____
ANGELICA AVILA
CITY CLERK

APPROVED AS TO FORM:

_____
TODD LEISHMAN FOR
BEST, BEST & KRIEGER
CITY ATTORNEY

EXHIBIT "A"

Added Chapter 9.50 to the IWMC – Emergency Access to Vehicular Gates

(follows this page)

Exhibit A: Code Addition

Chapter 9.50 is hereby added to Title 9 Peace, Safety, and Morals, to read in its entirety as follows:

Chapter 9.50 Emergency Access to Vehicular Gates

§ 9.50.010 Purpose and Intent.

The purpose of this chapter is to enhance public safety by ensuring timely and unobstructed access for emergency response vehicles to all gated properties within the City of Indian Wells. This chapter established minimum emergency access requirements for automated vehicular gates, mandating the installation of approved emergency vehicle preemption systems that are compatible with equipment used by all agencies providing emergency services to the City. This requirement is in addition to and does not replace or supersede other emergency access obligations established by federal law, state law, adopted fire code or other applicable regulations.

§ 9.50.020 Definitions.

For the purposes of this chapter, the following words and terms shall apply:

a) "Emergency Vehicle Preemption System" means a wireless device capable of receiving signals from authorized emergency vehicles to automatically open vehicular gates.

b) "Vehicular Access Gate" means any gate, barrier, or access control point that restricts vehicular entry to a property, regardless of whether the access is automated, or staffed by on-site personnel.

c) "Gated Property" means any residential community, commercial site, or other development that restricts vehicular access through mechanical or electronic gate systems.

§ 9.50.030 Applicability.

a) All exiting automated vehicular access gates within the City, whether located at residential gated communities, commercial properties, or other gated developments;

b) All new, replacement, or additional vehicular access gates installed after the effective date of this ordinance, including any new gates added to existing properties or developments;

c) This chapter shall apply to all automated vehicular access gates described herein, including gates that are staffed by personnel.

§ 9.50.040 Installation Requirements.

a) All automated vehicular gates subject to this chapter shall be equipped with an emergency access preemption system approved by the City and compatible with the emergency response vehicle equipment used by all agencies serving the City of Indian Wells.

b) Installation of the required system shall occur:

   1) Within twelve (12) months of the ordinance's effective date for existing gates;

   2) Prior to final inspection or occupancy for new replacement gates.

c) The systems must remain operational at all times. If the gate is installed prior to completion of development, the emergency access system shall be active during construction.

§ 9.50.050 Manual Override.

All gates shall retain a City-approved manual override mechanism as a secondary access method.

§ 9.50.060 Enforcement.

a) The City may conduct inspections to verify installation and functionality.

b) Responsible parties must submit documentation of system type and operational status upon request of the City Official.

§ 9.50.070 Violations.

a) Failure to comply with this chapter constitutes a violation of the Indian Wells Municipal Code and is subject to enforcement under Chapter 1.20

b) Each day that a violation continues shall constitute a separate offense.

c) A violation of this chapter is declared to be a public nuisance and may be abated in accordance with Chapter 8.08 of the Indian Wells Municipal Code, including all applicable provisions for notice, hearing, enforcement, and cost recovery.

§ 9.50.080 Supplemental to Other Legal Requirements

This ordinance shall not be construed to relieve any property owner, responsible party, or other entity from complying with other emergency access requirements established under the California Fire Code, the California Penal Code, or any other applicable law or regulation governing emergency access.

INDIAN WELLS CITY COUNCIL
June 10, 2025

To:	City Council
From:	City Manager Department
Prepared by:	Christopher Freeland, City Manager
Subject:	**Discussion on the Formation of the Coachella Valley Coalition for Clean Air**

RECOMMENDED ACTIONS:

Council **DISCUSSES** and provides **DIRECTION** on the formation of the Coachella Valley Coalition for Clean Air, led by Councilmember Taylor; and

FINDS the project to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15060.

BACKGROUND:

At the May 15, 2025, City Council meeting, the City Council approved Councilmember Taylor's request to have a discussion regarding the formation of the Coachella Valley Coalition for Clean Air. Councilmember Taylor requests to lead this effort.

In Councilmember Taylor's research on existing studies done on the air quality in the Coachella Valley, this region experiences a disproportionately high level of air particulate, which has been shown to harm public health, exacerbate respiratory conditions, road safety, especially on our local highways, and impact economic sustainability for local businesses. Residents, workers, and visitors alike are affected by harmful air quality, particularly the alarming rates of ozone and particulate matter pollution that surpass safe levels in the region. Efforts to address this issue have not been successful.

Coalition Description and Indian Wells' Role

According to Councilmember Taylor, the CV Coalition for Clean Air is a public/private organization dedicated to pressing the various government agencies to conduct research and find solutions for addressing and solving the airborne dust/particulate matter that plagues the Coachella Valley economically and medically.

Currently the Coalition has endorsements from the Visit Greater Palm Springs, Chamber of Commerce, Hyatt, Marriott/Renaissance, and former Governor Arnold Schwarzenegger, among others.

The City of Indian Wells is being asked to be the founding city partner. Other Coachella Valley cities and the United States Marine Corps Base at Twenty-Nine Palms have been approached for their support and to participate in seeking solutions.

The City of Indian Wells, as a founding partner, may be asked from time to time to contribute resources toward this endeavor, such as investment in research, lobbying groups, marketing and more. The City's Ad-hoc Committee, consisting of Councilmembers Penna and Sanders, and city staff may be asked to assist as well.

Policy Demands of the Coalition

The Coachella Valley Coalition for Clean Air is calling on local, state, and federal agencies to:

- Conduct research on the health implications of air borne particulate matter, specifically PM10.
- Analyze the economic impacts airborne particulate matter has on the local economy.
- Study impacts on road safety caused by airborne particulate matter, especially during large dust storms.
- Implement aggressive air quality improvement plans that significantly reduce particulate matter and ozone pollution.
- Review the toxicity of airborne matter emanating from the Salton Sea.
- Enhance environmental monitoring and public health protections to ensure communities are informed and safeguarded, especially those more vulnerable communities.

Attached is a draft press release that Councilmember Taylor has asked to be included in this report, which includes the various proposed policy demands of the coalition.

CITY COUNCIL STRATEGIC GOAL:

At the April 17, 2025, City Council Strategic Planning Session, the Council approved the formation of an Ad-hoc Committee, consisting of Councilmembers Penna and Sanders, to "a*dvocate to regional, county, state, and federal legislators and agencies to address public health and economic/tourism impacts of Coachella Valley Air Quality (Dust) resulting from Tropical Storm Hillary."*

According to the staff report-Windblown dust has become more prevalent in the Coachella Valley and many associate the increase in poor air quality as a result of Tropical Storm Hillary. Dust particles represent a threat to the public health of the community and our regional economy. Council has instructed staff to work with the ad hoc committee to advocate to regional, county, state, and federal officials to study the air quality of the Coachella Valley and provide recommendations to protect our communities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been reviewed per the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the City's environmental regulations. The City, acting as the Lead Agency, determined that this resolution is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change to the environment as there is no possibility that the action would result in a significant environmental impact, and because it does not constitute a "project" as defined in Section 15378 of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

ATTACHMENTS:

1. Draft Coachella Valley Clean Air Coalition Press Release

ATTACHMENT #1

FOR IMMEDIATE RELEASE

COACHELLA VALLEY COALITION FOR CLEAN AIR DEMANDS URGENT ACTION ON POLLUTION

Coachella Valley, CA — Today, a powerful new coalition of government leaders and business organizations across the Coachella Valley has united to demand clean air for all residents, workers, and visitors. The **Coachella Valley Coalition for Clean Air**, founded by the cities of Indian Wells, La Quinta, Rancho Mirage, Palm Desert, and Indio—along with prominent businesses including Eisenhower Hospital, Grand Hyatt Indian Wells Resort, the Renaissance Esmeralda Resort, and world-renowned festivals Coachella and Stagecoach—calls for immediate and ambitious action to reduce ozone and particulate matter pollution throughout the region.

The Coachella Valley experiences disproportionately high levels of air pollution, which has been shown to harm public health, exacerbate respiratory conditions, and impact economic sustainability for local businesses. Residents, workers, and visitors alike are affected by harmful air quality, particularly the alarming rates of **ozone and particulate matter pollution** that surpass safe levels in the region.

"This coalition represents a unified voice from local governments and businesses demanding immediate action to protect public health, our environment, and our economy," said Indian Wells Councilman Toper Taylor. "We will no longer accept slow-moving policies that fail to address the crisis. It is time for government organizations at all levels to commit to ambitious and meaningful air pollution reduction efforts in the Coachella Valley."

DRAFT

Key Policy Demands of the Coalition

The Coachella Valley Coalition for Clean Air is calling on local, state, and federal agencies to:

- Conduct research on the health implications of air borne particulate matter, specifically PM10.
- Implement **aggressive air quality improvement plans** that significantly reduce particulate matter and ozone pollution.
- Review the toxicity of airborne matter emanating from the Salton Sea.
- Enhance **environmental monitoring and public health protections** to ensure communities are informed and safeguarded, especially those more vulnerable communities.

The coalition will work to hold government entities accountable, advocate for stronger environmental policies, fund research, and partner with businesses to create a cleaner, healthier Coachella Valley.

For more information on the Coachella Valley Coalition for Clean Air, visit www.cvcleanair.org or contact Toper Taylor at ttaylor@indianwells.com

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