City Hall Council Chamber
1515 Sixth Street, Coachella, California
(760) 398-3502 ◆ www.coachella.org

AGENDA

CITY COUNCIL CLOSED SESSION AND
REGULAR MEETING
OF THE CITY OF COACHELLA
THE COUNCIL SITTING AS THE COACHELLA SANITARY DISTRICT,
COACHELLA FIRE PROTECTION DISTRICT, COACHELLA FINANCING AUTHORITY,
COACHELLA EDUCATIONAL AND GOVERNMENTAL ACCESS CABLE CHANNEL CORPORATION,
COACHELLA WATER AUTHORITY, AND SUCCESSOR AGENCY TO THE COACHELLA REDEVELOPMENT AGENCY

May 27, 2020
5:00 PM Closed Session
6:00 PM Regular Meeting

Pursuant to Executive Order N-29-20, this meeting will be conducted by teleconference/electronically and there will be no in-person public access to the meeting location.

- Public comments may be received **either via email or telephonically**, with a limit of **250 words, or three minutes**.
    a) Written comments may be submitted to the City Council electronically via email to **cityclerk@coachella.org**. Transmittal **prior to the start** of the meeting is required.
    b) **Or,** you may provide telephonic comments by leaving a message at **(760)-262-6240 before 6:00 p.m.** on the day of the meeting to be added to the public comment queue. At the appropriate time, you will be called so that you may provide your public testimony to the City Council.
- The **live stream** of the meeting may be **viewed online** by accessing the city's website at **www.coachella.org**, and clicking on the "**Watch Council Meetings**" tab located on the home page.

Call to ORDER: - 5:00 P.M.

ROLL CALL:

APPROVAL OF AGENDA:

"At this time the Council/ Board/Corporation/Authority may announce any items being pulled from the Agenda or continued to another date or request the moving of an item on the agenda"

PUBLIC COMMENTS (CLOSED SESSION ITEMS):

ADJOURN TO CLOSED SESSION:

1. Jose Robles Rodriguez, et al., v. Chad F. Wolf, et al.,
   Case No. 5:20-CV_006627
   USDC, Central District, Eastern Division

RECONVENE REGULAR MEETING: - 6:00 P.M.

CLOSED SESSION ANNOUNCEMENTS:

APPROVAL OF MINUTES:

2. Special Meeting Minutes of April 24, 2020, of the City Council, Coachella Fire Protection District, Coachella Sanitary District, Coachella Financing Authority, Coachella Educational and Governmental Access Cable Corporation, Coachella Water Authority, and Successor Agency to the Coachella Redevelopment Agency.

3. Regular Meeting Minutes of May 13, 2020, of the City Council, Coachella Fire Protection District, Coachella Sanitary District, Coachella Financing Authority, Coachella Educational and Governmental Access Cable Corporation, Coachella Water Authority, and Successor Agency to the Coachella Redevelopment Agency.

PROCLAMATIONS/PRESENTATIONS:

4. Fiscal Year 2020/21 Operating Budget

WRITTEN COMMUNICATIONS:

CONSENT CALENDAR:

(It is recommended that Consent Items be acted upon simultaneously unless separate discussion and/or action is requested by a Council Member or member of the audience.)

5. Voucher Listings — Utility Billing Refunds/FY 2019-20 Expenditures as of May 27, 2020, $2,031,149.68.

6. Vista Del Agua Change of Zone and Specific Plan Ordinances

    a) Ordinance No. 1156 approving Change of Zone 14-01 that changes the existing General Commercial (C-G), Residential Single Family (R-S), Manufacturing –Service (M-S) zoning to a Specific Plan zone, for the Vista Del Agua development generally located on the north side of Avenue 48 between Tyler Street and Polk Street. *(Second Reading)*

    b) Ordinance No. 1157 approving the Vista Del Agua Specific Plan 14-01 that proposes residential, commercial, open space and park land uses along with development standards and design guidelines for the development of approximately 275 acres generally located on the north side of Avenue 48 between Tyler Street and Polk Street. *(Second Reading)*

7. Non-Storefront Retail Cannabis Business Code Amendments

    a) Ordinance No. 1161 amending various sections of Title 17 (Zoning) of the Coachella Municipal Code to update and clarify provisions regarding retail cannabis businesses, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses. *(Second Reading)*

b) Ordinance No. 1162 amending Coachella Municipal Code Chapters 5.68 and 5.69 regarding cannabis cultivation, manufacturing, testing, distribution, and retail regulatory permits, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses. *(Second Reading)*

8. Resolution No. 2020-19 adopting the 2020 Local California Environmental Quality Act (CEQA) Guidelines for the City of Coachella.

9. Resolution No. 2020-23 Establishing Revised Selection Criteria and Related Policies to be used during the review of Conditional Use Permits for Cannabis Retailers and Retail Microbusinesses (Round #2) within Subzone #1 (Pueblo Viejo), #3 (Dillon Road), #4 (Wrecking Yard), or #5 (Industrial Park) of the City.

10. Resolution No. 2020-27, Approving Mid-Year Budget Adjustments for Fiscal Year 2019-2020

11. Establish the Appropriations Limits for Fiscal Year 2020-21

a) Adopt Resolution No. 2020-32, establishing the appropriations limit for the City of Coachella for fiscal year 2020-21;

b) Adopt Resolution No. SD-2020-03, establishing the appropriations limit for the Coachella Sanitary District for fiscal year 2020-21;

c) Adopt Resolution No. FD-2020-02, establishing the appropriations limit for the Coachella Fire Protection District for fiscal year 2020-21

12. Investment Report – March 2020

13. Reimbursement Agreement with Tower Energy Group for Design, Construction and Installation of Water Public Improvements to Tower Market #944

14. Authorize the Purchase of Various Size Meters an Approximate Quantity of 1,150 Master Meters for an Amount not to Exceed $400,000.00

NEW BUSINESS CALENDAR (LEGISLATIVE AND ADMINISTRATIVE):

15. Discuss and Provide Direction to Staff on any Emergency Orders

PUBLIC HEARING CALENDAR (QUASI-JUDICIAL):

None.

PUBLIC COMMENTS (NON-AGENDA ITEMS):

The public may address the City Council/Board/Corporation/ Authority on any item of interest to the public that is not on the agenda but is in the subject matter jurisdiction thereof. Please limit your comments to three (3) minutes.

REPORTS AND REQUESTS:

Council Comments/Report of Miscellaneous Committees.

City Manager's Comments.

ADJOURNMENT:

Complete Agenda Packets are available on the City's website www.coachella.org.

THIS MEETING IS ACCESSIBLE TO PERSONS WITH DISABILITIES

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1515 Sixth Street, Coachella, California
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MINUTES

CITY COUNCIL SPECIAL MEETING
OF THE CITY OF COACHELLA
THE COUNCIL SITTING AS THE COACHELLA SANITARY DISTRICT,
COACHELLA FIRE PROTECTION DISTRICT, COACHELLA FINANCING AUTHORITY,
COACHELLA EDUCATIONAL AND GOVERNMENTAL ACCESS CABLE CHANNEL CORPORATION,
COACHELLA WATER AUTHORITY, AND SUCCESSOR AGENCY TO THE COACHELLA REDEVELOPMENT AGENCY

April 24, 2020
11:00 AM

CALL TO ORDER:

The Special Meeting of the City Council of the City of Coachella was called to order at 11:04 a.m. by Mayor Hernandez.

ROLL CALL:

Present: Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, and Mayor Hernandez.

Absent: Mayor Pro Tem Martinez.

(It was noted for the record that Mayor Pro Tem Martinez had an excused absence.)

Pursuant to Executive Order N-29-20 pertaining to the coronavirus/COVID-19, this meeting was conducted entirely by teleconference/electronically with no in-person public access to the meeting location.

APPROVAL OF AGENDA:

There were no modifications to the agenda.

PUBLIC COMMENTS (CLOSED SESSION ITEMS):

None.

ADJOURN TO CLOSED SESSION:

The City Council convened into Closed Session at 11:05 a.m. to discuss the following item:

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant Exposure to Litigation, Pursuant to Government Code Section 54956.9(d)(2)/(e)(1)
   One (1) potential case

CLOSED SESSION ANNOUNCEMENTS:

The City Council reconvened into open session at 12:04 p.m.

ADJOURNMENT:

There being no further business to come before the City Council and the Agencies, Mayor Hernandez adjourned the meeting at 12:05 p.m.

Respectfully submitted,

_____
Angela M. Zepeda
City Clerk

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MINUTES

CITY COUNCIL CLOSED SESSION AND
REGULAR MEETING
OF THE CITY OF COACHELLA
THE COUNCIL SITTING AS THE COACHELLA SANITARY DISTRICT,
COACHELLA FIRE PROTECTION DISTRICT, COACHELLA FINANCING AUTHORITY,
COACHELLA EDUCATIONAL AND GOVERNMENTAL ACCESS CABLE CHANNEL CORPORATION,
COACHELLA WATER AUTHORITY, AND SUCCESSOR AGENCY TO THE COACHELLA REDEVELOPMENT AGENCY
May 13, 2020
5:00 PM Closed Session
6:00 PM Regular Meeting

CALL TO ORDER: - 5:00 P.M.

The Regular Meeting of the City Council of the City of Coachella was called to order at 5:05 p.m. by Mayor Hernandez.

ROLL CALL:

Present: Councilmember Bautista, Councilmember Beaman Jacinto. Councilmember Gonzalez, Mayor Pro Tem Martinez and Mayor Hernandez.

Absent: None.

Pursuant to Executive Order N-29-20 pertaining to the coronavirus/COVID-19, this meeting was conducted entirely by teleconference/electronically with no in-person public access to the meeting location.

APPROVAL OF AGENDA:

Request from City Manager Pattison to pull Item 15 from the agenda, and to add two emergency items to the agenda as New Business Items 16b and 16c.

Motion: A**pprove agenda as modified.**

Made by: Councilmember Gonzalez
Seconded by: Councilmember Beaman Jacinto
Approved: 5-0, by a unanimous roll call vote:

AYES: Councilmember Bautista, Councilmember Gonzalez, Councilmember Beaman Jacinto, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES: None.
ABSTAIN: None.
ABSENT: None.

PUBLIC COMMENTS (CLOSED SESSION ITEMS):

None.

ADJOURN TO CLOSED SESSION:

The City Council convened into Closed Session at 5:13 p.m. to discuss the following item:

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant Exposure to Litigation, Pursuant to Government Code Section 54956.9(d)(2)/(e)(1)
   One (1) potential case

RECONVENE REGULAR MEETING: - 6:00 P.M.

The City Council reconvened into open session at 6:02 p.m.

PLEDGE OF ALLEGIANCE:

CLOSED SESSION ANNOUNCEMENTS:

City Attorney Campos stated that the City Council convened into Closed Session on one item as described on the agenda and received direction, but no reportable action was taken.

APPROVAL OF MINUTES:

2. Regular Meeting Minutes of April 22, 2020, of the City Council, Coachella Fire Protection District, Coachella Sanitary District, Coachella Financing Authority, Coachella Educational and Governmental Access Cable Corporation, Coachella Water Authority, and Successor Agency to the Coachella Redevelopment Agency.

   Motion: To approve the minutes as presented.

   Made by: Mayor Pro Tem Martinez
   Seconded by: Councilmember Gonzalez
   Approved: 4-0-1, by a unanimous roll call vote:

   AYES: Councilmember Bautista, Councilmember Gonzalez, Councilmember Beaman Jacinto, Mayor Pro Tem Martinez, and Mayor Hernandez
   NOES: None.
   ABSTAIN: Councilmember Beaman Jacinto.
   ABSENT: None.

PROCLAMATIONS/PRESENTATIONS:

3. Presentation on Coronavirus (COVID-19) Public Safety Response Efforts

WRITTEN COMMUNICATIONS:

City Clerk Zepeda noted we received written communication on Item 11 from the cannabis consultant Christopher Martinez stating if we have any questions we can call him; on Item 17 we received written communication from Nazani N Temourian with Palmieri Hennesey & Leifer, LLP asking to add their letter to the record stating that they agree with the continuance; for Item 20, we received three email communications within the 250 word limit, plus a comment letter from Shadow View owners and this letter was forward to Council on May 12, 2020; and, also for Item 20, SWRCC withdraws its comment letter and asks that the City Council approve this project. This last letter was also forwarded to Council.

CONSENT CALENDAR:

4. Voucher Listings — Manual Checks/Utility Billing Refunds/FY 2019-20 Expenditures as of May 13, 2020, $2,405,434.81.

5. Resolution No. 2020-23 Establishing Revised Selection Criteria and Related Policies to be used during the review of Conditional Use Permits for Cannabis Retailers and Retail Microbusinesses (Round #2) within Subzone #1 (Pueblo Viejo), #3 (Dillon Road), #4 (Wrecking Yard), or #5 (Industrial Park) of the City. ***(Continued to next regular meeting)***

6. Annual Investment Policy Update:
    a) Resolution No. 2020-25 a Resolution of the City Council of the City of Coachella
    b) Resolution No. WA-2020-05, a Resolution of the Coachella Water Authority
    c) Resolution No. SD-2020-02, a Resolution of the Coachella Sanitary District
    d) Resolution No. FD-2020-01, a Resolution of the Coachella Fire Protection District
    e) Resolution No. CBL-2020-01, a Resolution of the Coachella Education and Government Access Cable Channel Corporation

7. Adopt Resolution No. 2020-26 to set a July 8, 2020 public hearing for Municipal Solid Waste Rates for fiscal year 2020/2021.

8. Resolution No. 2020-28 Approving the Creation and Funding for a Part-Time Cannabis Compliance Liaison Position

9. Partial Assignment of Phasing Plan Agreement between Pathfinder Coachella Lots, LLC and Pulte Home Company, LLC (Valencia Community).

10. Investment Report – February 2020

11. Consulting Agreement with CannaBiz Consulting Group, LLC for 2020 Cannabis Consulting Services in the amount of $25,000. *(Written communication was received from Christopher Martinez on this item.)*

12. Notice of Completion – ProWest Constructors for the Senior Center Expansion, City Project F-31

13. Approve Lease Agreement with LGBT Community Center of the Desert, for property located at 1515 Sixth Street, Coachella.

14. Authorize rejection of all bids for Bagdouma Pool Rehabilitation Project No. 030520.

Motion:	To approve per staff recommendation, Consent Calendar Items 4 through 14, with the **exception of Item 5, to be continued** to the next regular meeting.
Made by:	Councilmember Beaman Jacinto
Seconded by:	Councilmember Gonzalez
Approved:	5-0, by a unanimous roll call vote:
AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez , Mayor Pro Tem Martinez, and Mayor Hernandez
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

(Item 15 was removed from the agenda during the agenda approval process.)

NEW BUSINESS CALENDAR (LEGISLATIVE AND ADMINISTRATIVE):

16. Resolution No. 2020-29 Stating the Intention to Annex Property into City of Coachella Community Facilities District No. 2005-1 (Law Enforcement, Fire and Paramedic Services) and Authorize the Levy of a Special Tax Within Annexation Area No. 31 (Pueblo Viejo Villas - Parcel 2 of Lot Line Adjustment No. 2018-02).

    Public Hearing date corrected on page 2, Section 3, to read June 10, 2020.

Motion:	To approve per staff recommendation.
Made by:	Mayor Hernandez
Seconded by:	Councilmember Bautista
Approved:	5-0, by a unanimous roll call vote:
AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

16b. Adopt Resolution 2020-31 Ratifying the Director of Emergency Services' Local Emergency Supplemental Order Requiring the use of Face Coverings in the City of Coachella.

Motion:	To approve per staff recommendation
Made by:	Councilmember Beaman Jacinto
Seconded by:	Councilmember Gonzalez
Approved:	5-0, by a unanimous roll call vote:
AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

16c. Riverside County Board of Supervisors seek support from Cities to sign on to a Letter to California Governor Gavin Newsom

Motion:	To **not** support a City sign on to the County letter to Governor Newsom
Made by:	Councilmember Beaman Jacinto
Seconded by:	Mayor Pro Tem Martinez
Approved:	5-0, by a unanimous roll call vote:
AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

(The vote on this item took place after Public Comments and before Item 18.)

PUBLIC HEARING CALENDAR (QUASI-JUDICIAL):

17. Coachella Travel Center Project

a) Environmental Assessment (EA 18-05) adopting a Mitigated Negative Declaration and Mitigation Monitoring Program for the development of the Coachella Travel Centre project.

b) Ordinance No. 1148 approving Change of Zone (CZ 18-11) from A-R (Agricultural Reserve) to C-G (General Commercial).

c) Conditional Use Permits (CUP 310 and 311) for drive-thru restaurant, car wash and truck wash facilities.

d) Variance (VAR 18-09) to allow a four-story hotel building in excess of 50 feet in height, in the C-G (General Commercial) zone.

(Continued on next page)

(Public Hearing Item 17, Coachella Travel Center Project, continued from previous page.)

e) Architectural Review (AR 18-09) to allow a new 3,800 sq. ft. convenience store with service station, 1,200 sq. ft. drive-thru restaurant, 5,555 sq. ft. restaurant, 2,677 sq. ft. car wash tunnel, 4,754 sq. ft. truck washing facility, and 11, 259 sq. ft. 4-story hotel with related infrastructure on 14.1 acres of vacant land located on the south side of Avenue 50 between the Whitewater Channel and the State Route 86 Expressway.

Written communication was received from Nazani N Temourian with Palmieri Hennesey & Leifer, LLP asking to add their letter to the record stating that they agree with the continuance.

Mayor Hernandez re-opened the Public Hearing for Item 17 at 8:10 p.m.

Public Comment: None.

Motion: To **continue** item to July 8, 2020

Made by: Councilmember Bautista
Seconded by: Mayor Pro Tem Martinez
Approved: 5-0, by a unanimous roll call vote:

AYES: Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES: None.
ABSTAIN: None.
ABSENT: None.

Public Comments *were moved up to this portion of the meeting:*

a. Maribel Nunez

(After Public Comments, the City Council returned to Item 16c for the vote, then resumed with the regular agenda at this point.)

18. Appeal of the Planning Commission's revocation of Conditional Use Permit (CUP 312) to allow a Retail Cannabis Microbusiness on 20,000 square feet of land located at 84-161 Avenue 48. The Coachella Lighthouse, LLC, Appellant.

Mayor Hernandez opened the Public Hearing for Item 18 at 8:19 p.m.

Public Comment: None.

Motion: To continue item to July 8, 2020

Made by: Councilmember Beaman Jacinto
Seconded by: Mayor Hernandez
Approved: 5-0, by a unanimous roll call vote:

AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

19. Non-Storefront Retail Cannabis Code Amendments

    a) Ordinance No. 1161 amending various sections of Title 17 (Zoning) of the Coachella Municipal Code to update and clarify provisions regarding retail cannabis businesses, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses. *(First Reading)*

    b) Ordinance No. 1162 amending Coachella Municipal Code Chapters 5.68 and 5.69 regarding cannabis cultivation, manufacturing, testing, distribution, and retail regulatory permits, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses. *(First Reading)*

Mayor Hernandez opened the Public Hearing for Item 19 at 8:34 p.m.

Public Comment: None.

Mayor Hernandez closed the Public Hearing for Item 19 at 8:35 p.m.

Motion:	Motion to approve with change to Ordinance No. 1161 for Coachella Municipal Code, making an amendment to the Code with respect to non-storefront delivery that does not include the cultivation, etc., we will remove the 100 foot requirement, all others will be 100 foot requirement; and to introduce by title only and pass to second reading.
Made by:	Mayor Hernandez
Seconded by:	Councilmember Beaman Jacinto
Approved:	5-0, by a unanimous roll call vote:
AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez, Mayor Pro Tem Martinez, and Mayor Hernandez
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

20. Vista Del Agua Specific Plan and Environmental Impact Report

    a) Resolution No. WA-2020-03 a Resolution of the Board of Directors of the Coachella Water Authority approving the Water Supply Assessment dated November 2017 for the Vista Del Agua Project.

(Continued on next page)

(Public Hearing Item 20, Vista Del Agua, continued from previous page.)

b) Resolution No. 2020-02, a Resolution of the City Council of the City of Coachella certifying Environmental Impact Report (SCH # 2015031003) prepared for the Vista Del Agua Specific Plan; the adoption of environmental findings and a mitigation monitoring and reporting program pursuant to the California Environmental Quality Act and approving the Vista Del Agua Specific Plan Project.

c) Resolution No. 2020-03 a Resolution of the City Council of the City of Coachella approving General Plan Amendment 14-01 on approximately 275 acres (Vista Del Agua Specific Plan) generally located on the south side of Interstate 10 and Vista Del Sur, north of Avenue 48; east of Tyler Street and west of Polk Street. General Plan Amendment 14-01 proposes to amend the General Plan from General Neighborhood, Urban Neighborhood, Suburban Neighborhood, Suburban Retail and Neighborhood Center to Specific Plan.

d) Resolution No. 2020-04, a Resolution of the City Council of the City of Coachella approving Tentative Parcel Map 36872 to subdivide 275 acres into 6 numbered lots and 1 lettered lot for finance and conveyance purposes only.

e) Ordinance No. 1156 an Ordinance of the of the City of Coachella approving Change of Zone 14-01 that changes the existing General Commercial (C-G), Residential Single Family (R-S), Manufacturing –Service (M-S) zoning to a Specific Plan zone. *(First Reading)*

f) Ordinance No. 1157, an Ordinance of the City of Coachella approving the Vista Del Agua Specific Plan 14-01 that proposes residential, commercial, open space and park land uses along with development standards and design guidelines for the development of approximately 275 acres. *(First Reading)*

Mayor Hernandez announced he was absent at the City Council Meeting of February 26, 2020, when this Public Hearing item was first presented; therefore, he removed himself from discussion and abstained from the vote.

Mayor Pro Tem Martinez re-opened the Public Hearing for Item 20 at 8:46 p.m.

Written communication was received from M. Katherine Jenson with Rutan & Tucker, LLP representing DiMare/Shadow View T.I.C. and Shadow View Land and Farming, LLC.; and Leon Ramsey Jr. from Mitchell M Tsai Attorney at Law. Both letters were distributed to the City Council via email.

Public Comment: Jack Huggins *(via email on 5/13/2020 at 5:11 p.m.)*
Heriberto Mejia *(via email on 5/13/2020 at 4:55 p.m.)*
Isaias Amezquita *(via email on 5/13/2020 at 2:53 p.m.)*

Mayor Pro Tem Martinez closed the Public Hearing for Item 20 at 8:51 p.m.

Motion: To introduce by title only and pass to second reading.

Made by: Councilmember Beaman Jacinto
Seconded by: Councilmember Bautista
Approved: 4-0-1, by the following roll call vote:

AYES:	Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez and Mayor Pro Tem Martinez
NOES:	None.
ABSTAIN:	Mayor Hernandez.
ABSENT:	None.

PUBLIC COMMENTS (NON-AGENDA ITEMS):

With the time being after the 8:00 hour and per Resolution No. 2019-34, Public Comments were moved up (see page 6). There were no further comments at this time.

REPORTS AND REQUESTS:

Council Comments/Report of Miscellaneous Committees.

City Manager's Comments.

ADJOURNMENT:

There being no further business to come before the City Council and the Agencies, Mayor Hernandez adjourned the meeting at 9:22 p.m.

Respectfully submitted,

Angela M. Zepeda
City Clerk

Bank : wfb WELLS FARGO BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
108161	5/27/2020	53712	ACOSTA, BLANCA	Ref000211979	5/18/2020	UB Refund Cst #00051503	78.23	78.23
108162	5/27/2020	53710	CAPITAL BUILDING SERVICES	Ref000211977	5/18/2020	UB Refund Cst #00050100	989.39	989.39
108163	5/27/2020	53711	CECENA, VIOLETA	Ref000211978	5/18/2020	UB Refund Cst #00050468	35.47	35.47
108164	5/27/2020	53713	DR HORTON	Ref000211980	5/18/2020	UB Refund Cst #00051625	83.80	83.80
108165	5/27/2020	53714	DR HORTON	Ref000211981	5/18/2020	UB Refund Cst #00051643	69.62	69.62
108166	5/27/2020	53715	DR HORTON	Ref000211982	5/18/2020	UB Refund Cst #00051655	87.44	87.44
108167	5/27/2020	53716	DR HORTON	Ref000211983	5/18/2020	UB Refund Cst #00051659	80.44	80.44
108168	5/27/2020	53717	DR HORTON	Ref000211984	5/18/2020	UB Refund Cst #00051661	80.44	80.44
108169	5/27/2020	53719	DR HORTON	Ref000211986	5/18/2020	UB Refund Cst #00051816	63.55	63.55
108170	5/27/2020	53720	DR HORTON	Ref000211987	5/18/2020	UB Refund Cst #00051824	75.70	75.70
108171	5/27/2020	53707	MARQUEZ, FRANCISCO	Ref000211974	5/18/2020	UB Refund Cst #00040656	81.40	81.40
108172	5/27/2020	53705	MEDINA, ULISES	Ref000211972	5/18/2020	UB Refund Cst #00030677	73.93	73.93
108173	5/27/2020	53706	RAMIREZ, HUGO	Ref000211973	5/18/2020	UB Refund Cst #00032286	57.42	57.42
108174	5/27/2020	53708	RAMOS, CHRISTINA	Ref000211975	5/18/2020	UB Refund Cst #00044888	27.67	27.67
108175	5/27/2020	53709	RODRIGUEZ, MARTHA	Ref000211976	5/18/2020	UB Refund Cst #00046856	1.35	1.35
108176	5/27/2020	53718	ROSENBERG, JANIE	Ref000211985	5/18/2020	UB Refund Cst #00051784	93.72	93.72
						Sub total for WELLS FARGO BANK:		1,979.57

16 checks in this report.

Grand Total All Checks: 1,979.57

Date: **May 27, 2020**

City Manager: William B. Pattison Jr.

Finance Director: Nathan Statham

Bank : wfb WELLS FARGO BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
108177	5/27/2020	46835	AIR AND HOSE SOURCE, INC.	381086	4/13/2020	DJ COUPLED ALUMINUM ENI	465.66	465.66
108178	5/27/2020	44502	ALDCO AIR CONDITIONING &	15042	4/20/2020	SVC'D A/C UNITS & REPAIRS	1,115.00	1,115.00
108179	5/27/2020	53621	ALL THE RIGHT CONNECTION	2445	4/27/2020	WE 4/26: F. HERNANDEZ	495.00	
				2469	5/5/2020	WE 5/3: F. HERNANDEZ	495.00	990.00
108180	5/27/2020	53704	ALLARD, CHRISTINE	Refund	5/7/2020	FEE/DEPOSIT REFUND- LIBR	536.00	536.00
108181	5/27/2020	51066	ALLIANT INSURANCE SERVIC	1341376	4/28/2020	PLCY #LHQ425570, FY20/21 I	154,858.75	154,858.75
108182	5/27/2020	52366	ALTA LANGUAGE SERVICES, I	IS478599	4/30/2020	APR SVCS: BILINGUAL ASSES	55.00	55.00
108183	5/27/2020	01436	AMERICAN FORENSIC NURSE	73206	2/29/2020	DEC2019/MAR2020 BLOOD D	140.00	
				73256	3/15/2020	MAR2020 BLOOD DRAW	55.00	
				73300	3/31/2020	MAR2020 BLOOD DRAW	55.00	
				73347	4/15/2020	MAR-APR2020 SUSPECT KIT	200.00	450.00
108184	5/27/2020	01661	ANAYA'S TOWING SERVICE	1098	5/5/2020	5/5 TOWING: CALHOUN/AV50	55.00	
				1097	4/29/2020	4/29 TOWING: 51251 MECCA/	55.00	110.00
108185	5/27/2020	42837	ARAMARK UNIFORM SERVICE	APR2020 GRFT	4/30/2020	PE4/30 UNIFORMS	79.70	
				MAR2020 GRFT	3/31/2020	PE3/31 UNIFORMS	79.70	
				APR2020	4/30/2020	PE4/30 UNIFORMS, MATS & C	5,373.84	
				APR2020 CC	4/30/2020	PE4/30 MATS & MOPS	431.05	
				APR2020 SAN	4/30/2020	PE4/30 UNIFORMS, MATS & C	1,072.55	7,036.84
108186	5/27/2020	03650	BARBARA SINATRA CHILDRE	Apr 2020	5/5/2020	4/29 SVCS: LAW ENFORCEMI	231.00	231.00

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Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
108187	5/27/2020	43462	BEST BEST & KRIEGER, LLP	868666	1/27/2020	PE12/31, #80237, GENERAL R	36,674.42	
				868667	1/27/2020	PE12/31, #80237.00231, G. TH	385.00	
				868668	1/27/2020	PE12/31, #80237.00236, USA L	512.70	
				868669	1/27/2020	PE12/31, #80237.00445, DESE	12,310.40	
				868670	1/27/2020	PE12/31, #80237.00810, LABO	679.20	
				868671	1/27/2020	PE12/31, #80237.00820, ENVIF	2,449.99	
				868672	1/27/2020	PE12/31, #80237.00827, LA EN	801.90	
				868673	1/27/2020	PE12/31, #80237.00836, VISTA	240.30	
				868674	1/27/2020	PE12/31, #80237.00844, CHRC	1,368.10	
				868675	1/27/2020	PE12/31, #80237.00851, GLEN	2,575.30	
				868676	1/27/2020	PE12/31, #80237.00857, RENE	1,220.53	
				868677	1/27/2020	PE12/31, #80237.00858, COA V	407.84	
				868678	1/27/2020	PE12/31, #80237.00860, DILLC	550.00	
				868679	1/27/2020	PE12/31, #80237.00861, ADV (	1,990.80	
				868680	1/27/2020	PE12/31, #80237.00863, ADV E	4,207.05	
				868681	1/27/2020	PE12/31, #80237.03002, AV50	6,243.55	
				868682	1/27/2020	PE12/31, #80237.00867, ADU (	311.30	
				875298	4/27/2020	PE3/31, #80237, GENERAL RE	31,473.86	
				875300	4/27/2020	PE3/31, #80237.00230, 52318 I	912.37	
				875302	4/27/2020	PE3/31, #80237.00802, WATEF	46.40	
				875304	4/27/2020	PE3/31, #80237.00810, LABOF	1,807.10	
				875307	4/27/2020	PE3/31, #80237.00819, CODE	1,846.30	
				875312	4/27/2020	PE3/31, #80237.00836, VISTA I	35,487.60	
				875314	4/27/2020	PE3/31, #80237.00840, CANNA	4,515.90	
				875315	4/27/2020	PE3/31, #80237.00844, CHROI	5,730.80	
				875316	4/27/2020	PE3/31, #80237.00857, RENEV	37,360.90	
				875317	4/27/2020	PE3/31, #80237.00858, COA W	165.18	
				875318	4/27/2020	PE3/31, #80237.00861, ADV CI	3,121.38	
				875319	4/27/2020	PE3/31, #80237.00863, ADV BI	114.20	
				875321	4/27/2020	PE3/31, #80237.00870, COVID	6,753.81	
				875322	4/27/2020	PE3/31, #80237.00871, LIGHTI	2,760.10	
				875323	4/27/2020	PE3/31, #80237.03002, AV50 F	1,216.90	
				875324	4/27/2020	PE3/31, #80237.03004, AV50 F	4,741.70	
				875328	4/27/2020	PE3/31, #80237.00868, TRAVE	1,103.70	
				875329	4/27/2020	PE3/31, #80237.3004A, AV50 F	6,234.14	218,320.72

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Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
108188	5/27/2020	00836	BIO-TOX LABORATORIES	37182	4/13/2020	LAB SERVICES: 3/6+20	92.00	
				37229	4/13/2020	LAB SERVICES: 2/10+18	232.00	
				39474	3/13/2020	LAB SERVICES: 2/7+21	203.00	
				39475	3/13/2020	LAB SERVICES: 2/7+21	488.00	
				39526	3/13/2020	LAB SERVICES: 2/10+18	327.00	1,342.00
108189	5/27/2020	53423	CBE OFFICE SOLUTIONS	IN2264255	4/20/2020	ACC #CC3502, COLOR COPIE	1,086.49	1,086.49
108190	5/27/2020	53038	CDS OFFICE INTERIORS LLC	10092	5/12/2020	SPECIAL ORDER STAMPS	163.10	163.10
108191	5/27/2020	02048	CDW GOVERNMENT, INC.	XMV2781	4/9/2020	APPLE SMART COVER/IPAD M	42.54	
				XNN6254	4/14/2020	APPLE SMART COVER/IPAD M	339.12	
				XPF3239	4/17/2020	STARTECH USB 2.0 TO AUDIO	97.71	479.37
108192	5/27/2020	53426	CELL BUSINESS EQUIPMENT	67827126	4/25/2020	SHARP MX5071+MX6071+MX	610.58	610.58
108193	5/27/2020	53454	CENTURY LAW GROUP, LLP	Settlement	5/18/2020	SETTLEMENT- AVE 50 EXTEN	65,000.00	65,000.00
108194	5/27/2020	43470	CERTIFIED LABORATORIES	3927662	4/20/2020	ISOPROPYL ALCOHOL ANTIS	500.23	500.23
108195	5/27/2020	07950	CITY OF COACHELLA	Mar 2020	3/31/2020	MAR2020 WATER- ST, PARKS	15,773.21	
				Mar 2020-LLD's	3/31/2020	MAR2020 WATER- LLD'S	8,092.19	23,865.40
108196	5/27/2020	53220	COACHELLA ACE HARDWARE	798/1	4/20/2020	ADAPTR INSRT POLY 2" MPT	3.89	
				814/1	4/30/2020	STEEL STIK, WATERWELD EF	25.28	29.17
108197	5/27/2020	01924	CONSOLIDATED ELECTRICAL	3298-413602	4/30/2020	FLUOR LAMP, PVC TAPE, ETC	105.98	105.98
108198	5/27/2020	49858	CV PIPELINE CORP.	S2340	5/5/2020	5/1+4 MANHOLE HYDRO-WAS	1,540.00	1,540.00
108199	5/27/2020	09950	CVWD	Mar 2020	4/1/2020	CN 332543, MAR2020 WELL R	29,284.20	29,284.20
108200	5/27/2020	51867	DEMBOYZ, INC.	84612	4/29/2020	TRBLSHT/RPR'D GATES @ 61	210.00	210.00
108201	5/27/2020	52970	DESERT POOL SPECIALISTS,	123695	5/1/2020	MAY2020 FOUNTAIN SVCS	400.00	400.00
108202	5/27/2020	14860	E. K. WOOD LUMBER COMPA	487579	4/2/2020	NIPPLE & RED BUSH	2.24	
				487592	4/2/2020	GALV COUPLING	8.61	10.85
108203	5/27/2020	47748	EISENHOWER OCCUPATIONA	95952	5/4/2020	APR2020 SVCS: J. CHABOLLA	50.00	50.00
108204	5/27/2020	42831	ELMS EQUIPMENT RENTAL, II	463876-0001	2/3/2020	2/3 POSTHOLE DIGGER & AU	128.92	128.92
108205	5/27/2020	51604	FRONTIER	3982369-AP20	4/25/2020	760/398-2369, 4/25/20	70.66	
				BD 4/16/20	4/16/2020	ACC 209-188-4039-091192-5, 4	173.49	244.15
108206	5/27/2020	43672	FULTON DISTRIBUTING COM	506023	5/6/2020	S/O DISP KITCHEN TOWEL	78.87	
				506024	5/6/2020	TOWEL KITCHEN WHITE SYM	86.79	165.66
108207	5/27/2020	44142	GIERLICH-MITCHELL, INC.	15740	4/29/2020	SHAFT & SLEEVE	4,670.27	4,670.27
108208	5/27/2020	49100	GOLDMAN, RONALD A.	Apr2020	4/30/2020	APR2020 SVCS: VISTA DEL AC	3,072.00	3,072.00
108209	5/27/2020	25500	GRANITE CONSTRUCTION C	1781076	4/30/2020	PE4/30 AVE 50 STORM DRAIN	13,775.00	13,775.00
108210	5/27/2020	01864	HAAKER EQUIPMENT COMPA	E12765	3/19/2020	3/12-13 VACTOR SEWER CLE	1,346.25	1,346.25

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108211	5/27/2020	00996	HOME DEPOT	2010275	5/5/2020	ENERGIZER 12PK, PCKT RUL	121.26	
				9015239	4/28/2020	ABS MALE ADAPTER, ABS PI	173.26	
				1163598	5/6/2020	RATCHET TIE-DOWN & RBR	30.28	324.80
108212	5/27/2020	44306	ICMA RETIREMENT CORPOR/	43907	4/24/2020	PLN #106297, APR-JUNE2020	125.00	125.00
108213	5/27/2020	20450	IMPERIAL IRRIGATION DISTRI	50035755-AP20	4/29/2020	AC50035755, 3/27-4/27, PUMP	49.99	
				50408460-AP20	4/29/2020	AC50408460, 3/27-4/27, WELL	5,894.93	
				50434217-AP20	4/29/2020	AC50434217, 3/27-4/27	51.40	
				50459795-AP20	4/29/2020	AC50459795, 3/27-4/27	39.40	
				50459796-AP20	4/29/2020	AC50459796, 3/27-4/27	71.52	
				50459819-AP20	4/29/2020	AC50459819, 3/27-4/27	37.99	
				MdMA-MdAP	4/14/2020	MID MARCH-MID APRIL 2020 I	31,610.80	
				50522793-AP20	4/29/2020	AC50522793, 3/27-4/27, SCAD	12.69	37,768.72
108214	5/27/2020	45757	IMPERIAL IRRIGATION DISTRI	4028823	5/8/2020	7 STREETLIGHTS UG 1PH @	6,149.36	6,149.36
108215	5/27/2020	45108	IMPERIAL SPRINKLER SUPPL	4137799-00	4/22/2020	GLUE GREY LOW VOC PVC (	20.99	
				4129516-00	4/15/2020	CHEM SEDGEHAMMER WEEI	526.35	
				4129751-00	4/15/2020	BLUE & WHITE MARKING PAI	114.41	
				4132771-00	4/17/2020	DRIPNETA TECHLINE INSERT	99.21	
				4136797-00	4/21/2020	3" POP UP BODY & NOZZLE	3.08	764.04
108216	5/27/2020	51600	IRC, INC.	2020040036	4/1/2020	4/1-5/1 PRE-EMPLOYMENT S(	76.00	76.00
108217	5/27/2020	47328	KONICA MINOLTA	35365677	4/22/2020	BIZHUB C454+951+C364, APF	0.01	
				35374639	4/25/2020	BIZHUB C454E, 1515 6TH ST,	212.07	212.08
108218	5/27/2020	44047	KONICA MINOLTA BUSINESS	9006685684	4/13/2020	BIZHUB C454E, 1515 6TH ST,	45.55	45.55
108219	5/27/2020	45051	LAMAR OF PALM SPRINGS	111357116	4/20/2020	4/20-5/17 POSTER ADVERTIS	1,200.00	1,200.00
108220	5/27/2020	02162	LOWE'S COMPANIES, INC.	65438	4/24/2020	USG 24-48 RADAR TILE 8-CT,	326.62	326.62
108221	5/27/2020	49857	MANPOWER US INC.	34807085	3/8/2020	WE 3/8: RAMIREZ	558.00	
				34953730	5/3/2020	WE 5/3: RAMIREZ	744.00	1,302.00
108222	5/27/2020	50846	MATTHEW FAGAN CONSULTII	29	3/1/2020	FEB2020 SVCS: VISTA DEL AC	1,944.78	
				30	3/30/2020	MAR2020 SVCS: VISTA DEL A	3,807.95	
				31	5/5/2020	APR2020 SVCS: VISTA DEL AC	5,087.50	10,840.23
108223	5/27/2020	51445	MEDIWASTE DISPOSAL	0000098016	5/1/2020	MAY2020 BIOHAZARD WST S	74.00	74.00
108224	5/27/2020	25900	MEREDITH & SIMPSON CONS	200450	4/28/2020	TRBLSHT VFD FOR CST #2 @	204.00	204.00
108225	5/27/2020	51579	METLIFE- GROUP BENEFITS	May2020	4/15/2020	MAY2020 DENTAL/VISION/LIF	12,730.84	12,730.84
108226	5/27/2020	45197	MSA CONSULTING, INC.	2406.001-15	3/31/2020	PE3/28 SHADY LN WTR SYST	1,600.00	
				2406.002-14	3/31/2020	PE3/28 SHADY LN SEPTIC TC	2,400.00	4,000.00
108227	5/27/2020	00101	MUNISERVICES/GRS	INV06-008713	4/24/2020	SUTA, QTR ENDING 12/31/19	444.03	444.03

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108228	5/27/2020	01882	NORTHERN TOOL & EQUIPME	44739909	4/22/2020	6" ENGINE DRIVEN TRASH PU	10,293.12	
				44804114	4/28/2020	6"X20' GREEN PVC SU, ETC	2,394.95	12,688.07
108229	5/27/2020	52757	OLLIN STRATEGIES	16	5/12/2020	MAY2020 CONSULTING SVCS	5,000.00	5,000.00
108230	5/27/2020	47192	O'REILLY AUTO PARTS	2855-205664	4/21/2020	OIL FILTER, AIR FILTER, ETC	51.97	
				2855-207546	4/27/2020	ORNG/GSKT KIT	24.74	
				2855-207550	4/27/2020	30LB R134A & QT PAG OIL	169.10	
				2855-208501	4/30/2020	FUEL FILTER, F/P ASSEMBLY	221.51	
				2855-209882	5/4/2020	BLOWER MOTOR	45.69	
				2855-209892	5/4/2020	BLOWER WHEEL	37.38	
				2855-210621	5/6/2020	BATTERY	98.41	
				2855-210916	5/7/2020	1GAL ANTIFREEZE	65.23	
				2855-210940	5/7/2020	ALTERNATOR	142.07	
				2855-207853	4/28/2020	OIL DRN PLUG	4.88	860.98
108231	5/27/2020	49989	PAUL ASSOCIATES	84686	3/12/2020	BUSINESS CARDS: KRAUSE+	140.50	140.50
108232	5/27/2020	02028	PETE'S ROAD SERVICE, INC.	406999-00	4/24/2020	FLAT REPAIR	27.11	
				407217-00	4/29/2020	FLAT REPAIR	27.11	
				406665-00	4/23/2020	FLAT REPAIR	27.11	81.33
108233	5/27/2020	52389	POWER SECURITY GROUP IN	3466	3/1/2019	FEB2019 SECURITY GRD SVC	4,000.00	
				3511	4/1/2019	MAR2019 PATROL SVCS	5,153.44	
				3676	7/1/2019	JUNE2019 SECURITY GRD SV	3,740.40	
				3839	10/6/2019	SEP2019 SECURITY GRD SVC	4,322.80	
				4040	1/28/2020	JAN2020 PATROL SVCS	5,307.20	
				4088	2/29/2020	FEB2020 PATROL SVCS	4,964.80	
				3785	9/3/2019	AUG2019 PATROL SVCS	5,153.44	
				3787	9/3/2019	AUG2019 SECURITY GRD SV	4,426.14	
				3939	11/29/2019	NOV2019 SECURITY GRD SV	4,301.40	
				3994	12/27/2019	DEC2019 SECURITY GRD SV	3,402.60	
				4041	1/28/2020	JAN2020 SECURITY GRD SVC	4,643.80	
				4089	2/29/2020	FEB2020 SECURITY GRD SVC	4,023.20	
				4204	4/30/2020	APR2020 PATROL SVCS	5,136.00	
				3825	10/5/2019	SEP2019 PATROL SVCS	5,220.80	63,796.02
108234	5/27/2020	48977	PROTECTION 1/ADT	134026870	4/23/2020	LABOR CHRG @ BGDMA POC	398.00	
				133938573	4/16/2020	ACTIVATION/CONNECT FEE (	335.67	733.67
108235	5/27/2020	53552	QUENCH USA, INC.	INV02398071	4/1/2020	AC D347648, APR2020 RNTL,	32.63	32.63

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108236	5/27/2020	52306	QUINN COMPANY	13179101	1/21/2020	1/16-17 W/B CONCRETE SAW	123.67	
				14124401	4/30/2020	4/27-30 DUMP TRUCK RNTL	1,218.02	1,341.69
108237	5/27/2020	52470	R & R TOWING	52650	4/10/2020	4/10 TOWING: 53278 CESAR (	255.00	
				52657	4/18/2020	4/18 TOWING: AV48/CALLE C(	289.00	544.00
108238	5/27/2020	31705	RIVERSIDE COUNTY FIRE DE	233581	5/1/2020	FY19/20- 3RD QTR FIRE PRO	733,104.24	733,104.24
108239	5/27/2020	51849	SANTA ROSA DEL VALLE	28900	3/13/2020	FEB2020 SVCS: E. CORONA	100.00	100.00
108240	5/27/2020	44581	SIGN-A-RAMA	101217	4/29/2020	INSTLL'D 1/4" ALUM LETTERS	1,091.65	1,091.65
108241	5/27/2020	46733	SIMPLOT TURF & HORTICULT	208111912	4/29/2020	AMMONIUM SULFATE BEST	2,693.75	2,693.75
108242	5/27/2020	35450	SOCALGAS	1377 6th-AP20	4/24/2020	AC 012 623 3701 5, 3/24-4/22	71.00	
				1500 6th-AP20	4/24/2020	AC 020 678 1257 4, 3/24-4/22	15.02	
				1515 6th-AP20	4/24/2020	AC 031 523 3700 6, 3/24-4/22	62.44	
				1517 6th-AP20	4/24/2020	AC 010 594 4824 9, 3/24-4/22	10.93	
				1540 7th-AP20	4/24/2020	AC 008 423 3900 4, 3/24-4/22	57.10	
				84626Bag-AP20	4/24/2020	AC 153 323 6215 9, 3/24-4/22	14.30	
				87075Av54-AP2(	4/24/2020	AC 123 573 5834 5, 3/24-4/22	34.63	
				BagPool-AP20	4/24/2020	AC 069 323 6500 7, 3/24-4/22	14.30	279.72
108243	5/27/2020	35430	SOUTH COAST A.Q.M.D.	3633492	4/16/2020	ID 178961, REF #G34904, ELE	421.02	
				3633493	4/16/2020	ID 178962, REF #G34903, ELE	421.02	
				3636119	4/16/2020	ID 178961, FY19/20, EMISSIOI	136.40	
				3636120	4/16/2020	ID 178962, FY19/20, EMISSIOI	136.40	1,114.84
108244	5/27/2020	35430	SOUTH COAST A.Q.M.D.	3636684	4/16/2020	ID 7531, FY19/20 AQMD FEE-	137.63	137.63
108245	5/27/2020	47319	SPARKLETTS	9467308 042420	4/24/2020	APR2020 WATER @ SANITAR	196.82	196.82
108246	5/27/2020	43858	STAPLES CREDIT PLAN	17607	4/23/2020	BUSINESS FORMS	171.94	171.94
108247	5/27/2020	42233	TED BURTONS UNDERGROUI	46079	4/29/2020	INSTLL'D FIRE HYDRANTS, E	2,500.00	
				46082	5/4/2020	RPR'D CHECK VALVES, ETC (	2,233.88	4,733.88
108248	5/27/2020	53628	TETRA TECH BAS, INC.	51561572	3/4/2020	PE2/29 COA/INDIO WASTE TF	4,331.50	4,331.50
108249	5/27/2020	37600	THE DESERT SUN PUBLISHIN	0003267899	3/31/2020	MAR2020 PUBLISHED ADS	4,853.80	4,853.80
108250	5/27/2020	42289	TIME WARNER CABLE	0037022042820	4/28/2020	1515 6TH ST-AH, MAY2020	1,582.20	1,582.20
108251	5/27/2020	51093	T-MOBILE USA, INC.	9395087131	3/30/2020	3/23-25 GPS LOCATE	153.00	153.00
108252	5/27/2020	38250	TOPS N BARRICADES	1081551	4/21/2020	CLAMP LG POST ADJ & BOX I	376.06	376.06
108253	5/27/2020	52204	TPX COMMUNICATIONS	128990062-0	4/16/2020	AC33325, 4/16-5/15	3,639.67	3,639.67
108254	5/27/2020	48436	UNIVAR SOLUTIONS USA INC	48567334	4/24/2020	SODIUM HYPOCHLORITE	5,488.54	5,488.54

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108256	5/27/2020	50229	URBAN HABITAT ENVIRONME	5549	4/30/2020	LANDSCAPE ENHANCEMENT	9,740.00	
				5534	4/30/2020	4/20 RPR'D IRRGTN @ DIST 3	71.38	
				5535	4/30/2020	4/21 RPR'D IRRGTN @ DIST 3	123.02	
				5536	4/30/2020	4/22 RPR'D IRRGTN @ DIST 2	71.66	
				5557	4/30/2020	4/27 RPR'D IRRGTN @ DIST 3	249.12	
				5558	4/30/2020	4/28 RPR'D IRRGTN @ DIST 7	266.32	
				5559	4/30/2020	4/28 RPR'D IRRGTN @ DIST 3	32.14	
				5560	4/30/2020	4/29 RPR'D IRRGTN @ DIST 3	82.13	
				5561	4/30/2020	4/29 RPR'D IRRGTN @ DIST 3	210.28	
				5562	4/30/2020	4/29 RPR'D IRRGTN @ DIST 3	43.33	
				5563	4/30/2020	EMERGENCY IRRGTN RPR @	102.00	
				5537	4/30/2020	4/22 RPR'D IRRGTN @ DIST 3	90.06	
				5526	4/30/2020	4/16 RPR'D IRRGTN @ DIST 3	646.12	
				5527	4/30/2020	4/16 RPR'D IRRGTN @ DIST 1	33.34	
				5528	4/30/2020	4/16 RPR'D IRRGTN @ DIST 1	193.70	
				5529	4/30/2020	4/17 RPR'D IRRGTN @ DIST 3	92.73	
				5530	4/30/2020	4/20 RPR'D IRRGTN @ DIST 1	32.06	
				5531	4/30/2020	4/20 RPR'D IRRGTN @ DIST 1	77.68	
				5532	4/30/2020	4/20 RPR'D IRRGTN @ DIST 2	68.07	
				5533	4/30/2020	4/20 RPR'D IRRGTN @ DIST 2	33.46	
				5525	4/30/2020	4/16 RPR'D IRRGTN @ DIST 1	247.45	
				5538	4/30/2020	4/23 RPR'D IRRGTN @ DIST 3	70.22	
				5539	4/30/2020	4/23 RPR'D IRRGTN @ DIST 1	32.14	
				5540	4/30/2020	4/23 RPR'D IRRGTN @ DIST 2	74.40	
				5546	4/30/2020	4/23 SOIL EROSION @ DIST 3	376.00	
				5547	4/30/2020	4/1 INSTLL'D PLANTS @ DIST	642.58	
				5551	4/30/2020	4/24 RPR'D IRRGTN @ DIST 3	78.62	
				5552	4/30/2020	4/24 RPR'D IRRGTN @ DIST 2	69.31	
				5553	4/30/2020	RPR'D IRRGTN @ DIST 30	60.03	
				5554	4/30/2020	4/27 RPR'D IRRGTN @ DIST 2	70.76	
				5555	4/30/2020	4/27 RPR'D IRRGTN @ DIST 2	115.61	
				5556	4/30/2020	4/27 RPR'D IRRGTN @ DIST 2	78.43	
				5517	4/30/2020	4/6 RPR'D IRRGTN @ DIST 16	90.56	
				5518	4/30/2020	4/7 RPR'D IRRGTN @ DIST 25	121.06	
				5519	4/30/2020	4/9 RPR'D IRRGTN @ DIST 32	336.07	

Bank : wfb WELLS FARGO BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
				5520	4/30/2020	4/13 RPR'D IRRGTN @ DIST 2	76.66	
				5521	4/30/2020	4/14 RPR'D IRRGTN @ DIST 3	99.42	
				5522	4/30/2020	4/14 RPR'D IRRGTN @ DIST 1	39.99	
				5523	4/30/2020	4/15 RPR'D IRRGTN @ DIST 2	32.40	
				5524	4/30/2020	4/15 RPR'D IRRGTN @ DIST 1	35.12	
				5478	4/30/2020	4/2 RPR'D IRRGTN @ DIST 38	45.36	
				5479	4/30/2020	4/2 RPR'D IRRGTN @ DIST 38	66.84	
				5480	4/30/2020	4/2 RPR'D IRRGTN @ DIST 23	213.13	
				5481	4/30/2020	4/2 RPR'D IRRGTN @ DIST 30	202.68	
				5482	4/30/2020	3/31 RPR'D IRRGTN @ DIST 2	147.69	
				5483	4/30/2020	3/27 RPR'D IRRGTN @ DIST 3	47.51	
				5484	4/30/2020	3/31 RPR'D IRRGTN @ DIST 2	166.87	
				5485	4/30/2020	3/31 RPR'D IRRGTN @ DIST 2	154.13	
				5486	4/30/2020	4/1 RPR'D IRRGTN @ DIST 23	67.70	
				5487	4/30/2020	4/1 RPR'D IRRGTN @ DIST 23	450.38	
				5488	4/30/2020	4/1 RPR'D IRRGTN @ DIST 23	115.84	
				5516	4/30/2020	4/6 RPR'D IRRGTN @ DIST 29	35.07	16,718.63
108257	5/27/2020	43751	USA BLUEBOOK	212239	4/20/2020	ACETATE BUFFER SOLUTION	413.05	
				212864	4/21/2020	PORCELAIN HIGH FORM CRU	152.25	565.30
108258	5/27/2020	44966	VERIZON WIRELESS	9853107150	4/22/2020	AC571164685-00001, 3/23-4/22	45.45	45.45
108259	5/27/2020	50934	VERIZON WIRELESS- VSAT	200079705-6106	3/27/2020	3/25-27 PERIODIC LOCATION	65.00	
				200105308-6812	4/26/2020	4/20-25 SMS PRESERVATION	50.00	115.00
108260	5/27/2020	50629	VINTAGE ASSOCIATES, INC	216464	4/20/2020	RMV'D TREE @ BGDMA PARK	185.00	
				216525	4/28/2020	RPR'D IRRGTN SYSTEM @ VI	4,000.00	4,185.00
108261	5/27/2020	44775	VISTA PAINT CORPORATION	2020-418115-00	5/8/2020	COVERALL EXT FLAT DEEP E	456.82	
				2020-425534-00	5/13/2020	FLUID PUMP PROTECTOR Q	79.91	536.73
108262	5/27/2020	44363	WALWICK, MARK	Reimbursement	5/7/2020	REIMB FOR CONF CALL SVCS	161.98	161.98
108263	5/27/2020	49778	WEST COAST ARBORIST, INC	159594	4/15/2020	PE4/15 TREE MAINT @ LLMD	450.00	450.00
108264	5/27/2020	44203	WEST COAST SAND & GRAVE	244095	4/6/2020	WASHED CONCRETE SAND	799.00	799.00
108265	5/27/2020	00384	WILLDAN FINANCIAL SERVICI	002-22589	4/9/2020	MAR2020 BLDG & SAFETY SV	12,652.50	12,652.50

Sub total for WELLS FARGO BANK: 1,494,333.58

88 checks in this report.

Grand Total All Checks: 1,494,333.58

Date: **May 27, 2020**

City Manager: William B. Pattison Jr.

Finance Director: Nathan Statham

Bank : wfb WELLS FARGO BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
108131	5/13/2020	53291	ANGENIOUS ENGINEERING	19-03-011	3/31/2020	PE3/31 DILLON RD BRIDGE	39,767.00	
				19-07A-004	3/31/2020	PE3/31 AVE 50 BRIDGE	10,395.00	
				19-07B-002	3/31/2020	PE3/31 SR-86/AVE50 INTERCI	6,930.00	57,092.00
108132	5/13/2020	47955	ARCADIS U.S., INC.	34156870	4/13/2020	PE3/22 SENIOR CENTER EXF	329.40	329.40
108133	5/13/2020	46356	C.V. CONSERVATION COMMIS	Mar2020	4/29/2020	MAR2020 LDMF MULTI-SPECI	15,812.28	15,812.28
108134	5/13/2020	46445	CALIFORNIA BUILDING STAN[	Jan-Mar 2020	4/29/2020	JAN-MAR2020, SB1473 QTRL'	511.20	511.20
108135	5/13/2020	53627	CANNON PARKIN, INC.	20-0341	4/16/2020	PE3/31 FIRE STATION REHAB	16,488.00	16,488.00
108136	5/13/2020	02048	CDW GOVERNMENT, INC.	XMP5484	4/8/2020	APPLE IPAD MINI 5 64GB	2,622.68	
				XMP6255	4/9/2020	APPLE IPAD MINI 5 64GB	1,305.53	
				XJX7672	3/26/2020	APPLE EARPODS W/ LIGHTN	318.18	
				XKZ7227	4/2/2020	BELKIN LIGHTNING AUDIO+C	271.77	
				XLG9654	4/3/2020	SONICWALL CMP GTWY SEC	263.04	
				XLN3635	4/4/2020	PROLINE 8GB DDR4-2666 CL	222.68	
				XLD6067	4/2/2020	TRENDNET 4PT KVM SWITCH	209.73	
				XGZ8215	3/18/2020	TRIPP TV FLOOR STAND CAF	196.67	
				XGS4184	3/17/2020	STARTECH HDMI TO SDI ADA	175.19	
				XLW2932	4/6/2020	LOGITECH SLIM COMBO CAS	152.11	
				XGS7566	3/18/2020	LEVITON 75FT ROLL OF VELC	55.31	
				XGL8874	3/17/2020	TRIPP 18IN 5-15P/C13 CABLE	27.63	5,820.52
108137	5/13/2020	53426	CELL BUSINESS EQUIPMENT	67450347	3/22/2020	SHARP MX5071+MX6071+MX	610.58	610.58
108138	5/13/2020	52345	COMMERCIAL BANK OF CALI	Retention	4/20/2020	ESCROW #1605609- PROWES	563.68	563.68
108139	5/13/2020	09650	CVAG	Mar2020	4/29/2020	MAR2020 TUMF FEES	27,720.00	27,720.00
108140	5/13/2020	00712	DEPARTMENT OF CONSERVA	Jan-Mar2020	4/29/2020	JAN-MAR2020 SMI QTRLY RE	1,944.41	1,944.41
108141	5/13/2020	36050	EMPLOYMENT DEVELOPMEN	L2025629408	4/30/2020	AC 944-0806-9, JAN-MAR2020	3,150.00	3,150.00
108142	5/13/2020	51604	FRONTIER	3983051-AP20	4/1/2020	760/398-3051, 4/1/20	65.47	65.47
108143	5/13/2020	51494	GARDA CL WEST, INC.	10562393	5/1/2020	MAY2020 CASHLINK MAINTEI	788.43	
				10562382	5/1/2020	MAY2020 ARMORED TRANSP	626.43	1,414.86
108144	5/13/2020	25500	GRANITE CONSTRUCTION C(	1764995	3/18/2020	RETENTION- AVE 48 WIDENII	136,335.17	136,335.17
108145	5/13/2020	45757	IMPERIAL IRRIGATION DISTRI	4028827	4/30/2020	ENERGIZE ST LIGHTS @ AVE	424.20	424.20
108146	5/13/2020	48293	KOA CORPORATION	JB92071x5	4/8/2020	PE3/29 PS&E/RIGHT-OF-WAY	34,215.00	34,215.00
108147	5/13/2020	47328	KONICA MINOLTA	35181882	3/26/2020	BIZHUB C454E, CITY HALL, M	212.07	
				35211819	3/31/2020	BIZHUB 501, WATER DEPT, M	97.40	
				35241257	4/2/2020	ACC 061-0042081-000, APR20	67.43	376.90
108148	5/13/2020	44047	KONICA MINOLTA BUSINESS	9006635404	3/27/2020	BIZHUB C364+C454+PRO 951	551.56	551.56

Bank : wfb WELLS FARGO BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
108149	5/13/2020	25555	MATICH CORPORATION	32019056	4/6/2020	PE3/31 ATP CYCLE 2	133,566.43	133,566.43
108150	5/13/2020	53197	NORTHWEST HYDRAULIC	24231	9/10/2019	PE8/31 EC ASSMNT FOR STO	8,630.64	
				24421	10/16/2019	PE9/30 EC ASSMNT FOR STO	5,586.24	14,216.88
108151	5/13/2020	42112	NRO ENGINEERING	01-20-009	12/31/2019	PE12/31 PLNCK, COACHELLA	1,700.00	
				04-20-021	3/31/2020	PE3/31 PLNCK, ESCONDIDA F	1,575.00	
				04-20-015	3/31/2020	PE3/31 PLNCK, PUEBLO VIEJ	1,181.25	
				04-20-018	3/31/2020	PE3/31 PLNCK, ESCONDIDA F	1,050.00	
				04-20-020	3/31/2020	PE3/31 PLNCK, 54101 ENTER	535.50	
				04-20-019	3/31/2020	PE3/31 PLNCK, VALENCIA:#1	525.00	
				04-20-016	3/31/2020	PE3/31 PLNCK, 54101 ENTER	393.75	
				04-20-017	3/31/2020	PE3/31 PLNCK, PUEBLO VIEJ	262.50	7,223.00
108152	5/13/2020	49989	PAUL ASSOCIATES	84757	4/29/2020	DEVELOPMENT SVCS ENVEL	221.82	221.82
108153	5/13/2020	52082	PROWEST PCM, INC.	10-GMP5	1/31/2020	PE1/31 CNSTRCTN- COACHE	10,710.02	10,710.02
108154	5/13/2020	51849	SANTA ROSA DEL VALLE	29220	4/9/2020	MAR2020 SVCS: CARRILLO+D	500.00	
				Feb2020	4/9/2020	FEB2020 SVCS: N. STATHAM	100.00	
				29190	4/9/2020	MAR2020 SVCS: CARRILLO+L	75.00	675.00
108155	5/13/2020	52595	STAPLES BUSINESS CREDIT	7305766130-0-1	3/10/2020	HNGNG FLDR TABS, PAPER I	93.85	
				7306986377-0-1	4/17/2020	ENV INTER DEPT, QT STORA	74.75	
				7306134757-0-1	3/17/2020	COFFEE MATE ORIGINAL, P&	66.21	
				7305895170-0-1	3/11/2020	FORKS, KNIVES, SPOONSOU	62.64	
				7305895170-0-2	3/11/2020	SPOONS & NAPKINS	25.86	
				7306134757-0-2	3/17/2020	NOTEBOOK STENO	16.58	339.89
108156	5/13/2020	42538	STEVEN ENTERPRISES, INC.	0429611-IN	4/13/2020	300ML MATTE BLACK INK, CY	1,089.87	1,089.87
108157	5/13/2020	42289	TIME WARNER CABLE	0037022032820	3/28/2020	1515 6TH ST-AH, APR2020	1,582.20	1,582.20
108158	5/13/2020	50590	TOUCHTONE COMMUNICATI	833451	4/1/2020	AC 1100006871, APR2020	6.78	6.78
108159	5/13/2020	47102	URBAN FUTURES, INC.	CD-2020-19	4/28/2020	FY18/19 DISCLOSURE/DISSE	6,600.00	
				CD-2020-18	4/28/2020	FY18/19 DISCLOSURE/DISSE	5,700.00	12,300.00
108160	5/13/2020	50229	URBAN HABITAT ENVIRONME	5550	5/1/2020	LANDSCAPE ENHANCEMENT	1,975.00	
				5497	4/21/2020	APR2020 LANDSCAPE MAINT	47,504.41	49,479.41

Sub total for WELLS FARGO BANK: 534,836.53

30 checks in this report.

Grand Total All Checks: 534,836.53

Date: **May 13, 2020**

City Manager: William B. Pattison Jr.

Finance Director: Nathan Statham

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Vista Del Agua Change of Zone and Specific Plan Ordinances

a) Ordinance No. 1156 approving Change of Zone 14-01 that changes the existing General Commercial (C-G), Residential Single Family (R-S), Manufacturing –Service (M-S) zoning to a Specific Plan zone, for the Vista Del Agua development generally located on the north side of Avenue 48 between Tyler Street and Polk Street. *(Second Reading)*

b) Ordinance No. 1157 approving the Vista Del Agua Specific Plan 14-01 that proposes residential, commercial, open space and park land uses along with development standards and design guidelines for the development of approximately 275 acres generally located on the north side of Avenue 48 between Tyler Street and Polk Street. *(Second Reading)*

STAFF RECOMMENDATION:

Staff recommends that the City Council take the following actions.

a) Adopt Ordinance No. 1156 approving Change of Zone 14-01 that changes the existing General Commercial (C-G), Residential Single Family (R-S), Manufacturing –Service (M-S) zoning to a Specific Plan zone for the Vista Del Agua development generally located on the north side of Avenue 48 between Tyler Street and Polk Street.

b) Adopt Ordinance No. 1157 approving the Vista Del Agua Specific Plan (SP 14-01) to allow residential, commercial, open space and park land uses along with development standards and design guidelines for the development of approximately 275 acres generally located on the north side of Avenue 48 between Tyler Street and Polk Street.

BACKGROUND:

On May 13, 2020 the City Council took final action on the Vista Del Agua Specific Plan Project which included a Water Supply Assessment, Environmental Impact Report, General Plan Amendment, Tentative Parcel Map, and two ordinances for Change of Zone, and Specific Plan approvals. Accordingly, the City Council has previously introduced for first reading, by title only,

Ordinance No. 1156 approving Change of Zone No. 14-01 and Ordinance No. 1157 approving the Vista Del Agua Specific Plan.

DISCUSSION/ANALYSIS:

Attached to this staff report is the finalized Ordinance No. 1156 approving Change of Zone No. 14-01 for the Vista Del Agua properties from the current zoning of R-S (Residential Single-Family), C-G (General Commercial), and M-S (Manufacturing Service) to S-P (Specific Plan – Vista Del Agua) amending the City's Official Zoning Map on 275 acres of land located on the north side of Avenue 48 between Tyler Street and Polk Street.

Similarly, the attached Ordinance No. 1157 approves the Vista Del Agua - Final Specific Plan document which will function as the project's development document by replacing the City's Zoning Ordinance provisions with site-specific requirements, land use designators, development standards, and design guidelines for the phased development of the Vista Del Agua master-planned community.

ALTERNATIVES:

1. Adopt Ordinance No.'s 1156 and 1157.
2. Adopt Ordinance No.'s 1156 and 1157 with minor clarifications.
3. Continue this item and provide staff with direction.

FISCAL IMPACT:

None.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1 or #2 as noted above.

Attachments: Ordinance No. 1156 (2nd Reading)
Ordinance No. 1157 (2nd Reading)

ORDINANCE NO. 1156

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA APPROVING CHANGE OF ZONE NO. 14-01 FROM C-G (GENERAL COMMERCIAL), R-S (RESIDENTIAL SINGLE-FAMILY) AND M-S (MANUFACTURING SERVICE) TO S-P (SPECIFIC PLAN-VISTA DEL AGUA) ZONE TO BE DEVELOPED IN ACCORDANCE WITH THE VISTA DEL AGUA FINAL SPECIFIC PLAN; CVP PALM SPRINGS, APPLICANT

WHEREAS, the Applicant has filed an application for General Plan Amendment14-01 for a land use designation amendment respectively along with Specific Plan 14-01, Change of Zone 14-01 (map amendment), Tentative Parcel Map (TPM) 36872 (finance and conveyance map), (collectively the "Project Approvals"), to allow for the future development of a mixed use residential and commercial project with various public facilities and open space on approximately 275 acres of vacant land located south of and adjacent to the I-10 freeway and Vista Del Sur, north of Avenue 48 and east of Tyler Street, as well as approximately 29 acres of off-site infrastructure improvements (the "Vista Del Agua Project" or the "Project"); and

WHEREAS, the 275 acre project area are currently zoned General Commercial (C-G), Residential Single Family (R-S), Manufacturing –Service (M-S); and

WHEREAS, the City has processed the Project Approvals pursuant to the Coachella Municipal Code and the State Government Code, and the California Environmental Quality Act as amended under which a Draft EIR was prepared (DEIR); and

WHEREAS, the DEIR was circulated as required by law and, together with all comments and responses to those comments, was provided to the City Council as the Final EIR (FEIR) for the Project; and

WHEREAS, in compliance with the requirements of the California Environmental Quality Act (CEQA), prior to recommending approval of this Change of Zone, the Planning Commission of the City of Coachella adopted Resolution PC 2019-54 recommending that the City Council certify the final Environmental Impact Report for the Vista Del Agua Project Approvals (SCH # 2015031003) which include the Change of Zone; and

WHEREAS, on June 19 , 2019 the Planning Commission of the City of Coachella held a duly noticed and Public Hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Change of Zone and at which the Planning Commission considered the Change of Zone as presented by the Applicant, together with the recommendations of the Development Services Director; and

WHEREAS, on February 10, 2020 the City gave public notice as required under Government Code section 66451.3 by mailing notices to property owners within at least 300 feet of the Project and on February 16, 2020 published a public notice in the Desert Sun of the holding of a public hearing at which the Project would be considered, and

WHEREAS, the City Council continued the February 26, 2020 public hearing to the April 8, 2020 City Council meeting and again to the May 13, 2020 City Council meeting in order to respond to two written comments received; and

WHEREAS, in compliance with the requirements of the California Environmental Quality Act (CEQA), prior to recommending approval of Change of Zone 14-01 the City Council of the City of Coachella adopted Resolution 2020-02 certifying the final Environmental Impact Report, adopting CEQA findings and Statement of Overriding Considerations for the Vista Del Agua Project Approvals; and

WHEREAS, on May 13, 2020 the City Council of the City of Coachella held a duly noticed and published Public Hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Change of Zone and at which the City Council considered the Change of Zone and appeal as presented by the Applicant, together with the recommendations of the Development Services Director and the Planning Commission; and

WHEREAS, the City Council, considering the entire record before it, including but not limited to recommendation of the Development Services Director as provided in the Staff Report dated May 13, 2020 and documents incorporated therein by reference and any other written or oral evidence within the record or provided at the public hearing of this matter, hereby finds that Change of Zone 14-01 is within the scope of EIR 14-01; and

WHEREAS, the evidence before the City Council supports the conclusion that Change of Zone 14-01 be approved as does the record consisting of the staff report, case file, exhibits on display and public hearing testimony; and

WHEREAS, all other prerequisites to the adoption of this Ordinance have occurred; and

WHEREAS, the City Council, considering the entire record before it, including but not limited to the recommendation of the Development Services Director as provided in the Staff Report dated May 13, 2020 and documents incorporated therein by reference and any other written or oral evidence within the record or provided at the public hearing of this matter, hereby approves Change of Zone No. 14-01 as shown in the attached "Exhibit A" with the following findings:

Findings for Approval of Change of Zone No. 14-01:

1. The proposed Change of Zone will serve the public necessity, convenience, general welfare, and will provide good zoning practice for the vicinity of the site so that is consistent with the overall vision of the Specific Plan, as amended. The Specific Plan provides a balance of land uses including residential and commercial land uses and will provide a diverse mix of housing opportunities at varying densities for current and future residents. The Specific Plan proposes active and passive open space consistent with the City's General Plan.

2. The proposed Change of Zone is consistent with the intent and purpose of the General Plan, as amended by General Plan Amendment 14-01, in that the proposed Specific Plan zone allows commercial uses, single family and multifamily residential development that is in keeping with the goals and policies of the General Plan, as amended. The General Plan seeks to define and raise the profile and image of the City, to obtain needed infrastructure and thus to improve the quality

of life. The Project would not adversely affect the public convenience, health, safety, or general welfare, or result in an illogical land use pattern as the Project site currently has General Plan designations of General Neighborhood, Suburban Retail District, Suburban Neighborhood, and Neighborhood Center. The development standards in the Specific Plan will result in an enhanced development design for the subject property rather than using standard zoning and development regulations. Any development within the Project will be developed in accordance with the Vista Del Agua Specific Plan including the design guidelines.

3. The proposed Project will extend access and infrastructure from Dillon Road via Shadow View Blvd, Vista Del Sur, Avenue 47 and Avenue 48 into this area of the City. It also will provide for associated commercial and residential development. The Project would not adversely affect the public convenience, health, safety, or general welfare, or result in an illogical land use pattern as the Project site currently has General Plan designations of General Neighborhood, Suburban Retail District, Suburban Neighborhood and Neighborhood Center. The development standards in the Specific Plan will result in an enhanced development design for the subject property rather than using standard zoning and development regulations. Any development within the Project will be developed in accordance with the Vista Del Agua Specific Plan including the design guidelines.

4. This Project is consistent with the goals and policies of the Housing Element of the General Plan because it provides a range and diversity of housing types and densities including single family and multi-family housing at various densities.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Adoption**.** The City Council does hereby adopt Change of Zone 14-01 for the 275-acre project site pursuant to the facts and reasons stated herein and in the Planning Commission Resolution PC 2019-20, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

SECTION 2. Effective Date. This Ordinance shall take effect thirty (30) days after its second reading by the City Council.

SECTION 3. Severability**.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 4. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 5. CEQA. The City Council finds that this Change of Zone is subject to the California Environmental Quality Act (CEQA). Change of Zone 14-01 is within the scope of EIR 14-04 and the City Council has adopted Resolution No. 2020-02, certifying Final Environmental Impact Report 14-04: an Environmental Impact Report that has been prepared for the Vista Del Agua Project Approvals in accordance with the California Environmental Quality Act (CEQA) along with specific findings and a statement of overriding considerations.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Mayor

ATTEST:

_____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Ordinance No. 1156 was duly and regularly introduced at a meeting of the City Council on the 13th day of May 2020, and that thereafter the said ordinance was duly passed and adopted at a regular meeting of the City Council on the 27th day of May 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

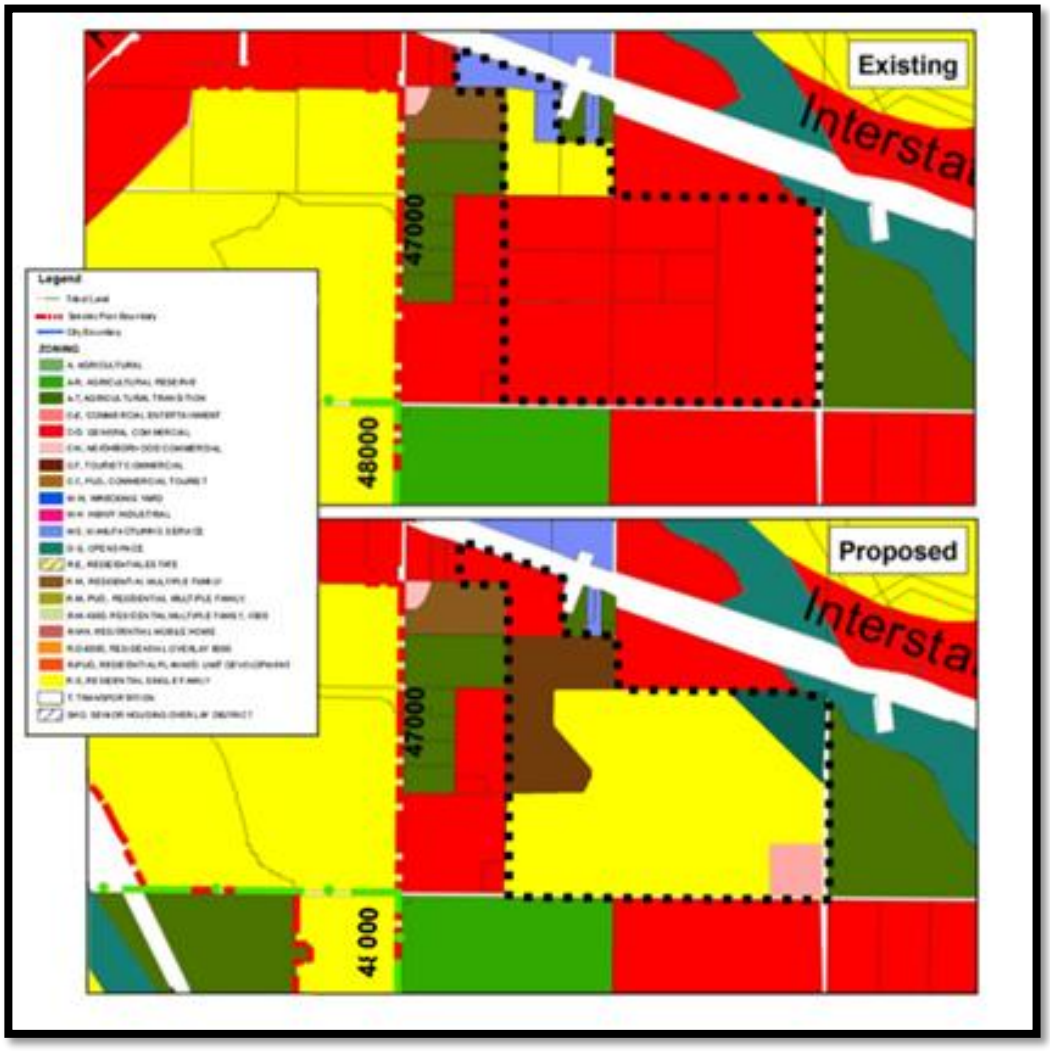
_____
Andrea J. Carranza, MMC
Deputy City Clerk

“Exhibit A”

Vista Del Agua - Change of Zone Exhibit

Existing Zoning: M-S (Manufacturing Service), Residential Single-Family, C-G (General Commercial), and R-S (Residential Single-Family)

Proposed Zoning: SP (Specific Plan – Vista Del Agua)



ORDINANCE NO. 1157

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, APPROVING THE VISTA DEL AGUA FINAL SPECIFIC PLAN (SP 14-01) THAT PROPOSES RESIDENTIAL, COMMERCIAL, OPEN SPACE AND PARK LAND USES ALONG WITH DEVELOPMENT STANDARDS AND DESIGN GUIDELINES FOR THE DEVELOPMENT OF APPROXIMATELY 275 ACRES GENERALLY LOCATED ON THE NORTH SIDE OF AVENUE 48 BETWEEN TYLER STREET AND POLK STREET. CVP PALM SPRINGS LLC, APPLICANT.

WHEREAS, the Applicant has filed an application for General Plan Amendment14-01 for a general plan land use designation amendment along with Specific Plan 14-01, Change of Zone 14-01(map amendment), Tentative Parcel Map (TPM) 36872 (large lot financing map), and Development Agreement (collectively the "Project Approvals"), to allow for the future development of a residential and commercial project with various public facilities and open space on approximately 275 acres of vacant land located on the south side of Interstate 10 and Vista Del Sur, north of Avenue 48; east of Tyler street and west of Polk street. Access to the site will be provided by the easterly extension of Shadow View Boulevard from Dillon Road to the project site, Vista Del Sur, Avenue 47, and Tyler Street; and

WHEREAS, the 275 acre project site is currently designated General Neighborhood, Suburban Retail District, Suburban Neighborhood and Neighborhood Center on the Coachella General Plan, 2035; and

WHEREAS, the City has processed the Project Approvals including this Specific Plan pursuant to the Coachella Municipal Code and the State Government Code, and the California Environmental Quality Act as amended, under which a Draft Environmental Impact Report 14-04 (SCH # 2015031003) was prepared (DEIR); and

WHEREAS, the DEIR was circulated as required by law and, together with all comments and responses to those comments, was provided to the City Council as the Final Environmental Impact Report 14-04 (FEIR) for the project; and

WHEREAS, the Native American Heritage Commission was notified as part of the DEIR Notice of Preparation in March 2015 to determine the tribes to contact for potential consultation, and thereafter transmitted to such tribes, and one tribe requested consultation and submitted comments on the DEIR pursuant to 65351 and 65352.3; and

WHEREAS, Chapter 17.36 of the City of Coachella Municipal Code prescribes the process to process a Specific Plan, the substance of a Specific Plan and the review and adoption of a Specific Plan; and

WHEREAS, on June 19, 2019 the Planning Commission of the City of Coachella held a duly noticed Public Hearing at which interested persons had an opportunity to testify in

support of, or opposition to, the Specific Plan and at which the Planning Commission considered the Specific Plan as presented by the applicant, together with the recommendations of the Development Services Director and recommended that the City Council hold a public hearing and approve the Vista Del Agua Project**;** and

WHEREAS, on February 10, 2020 the City gave public notice as required by mailing notices to property owners within at least 300 feet of the Project and on February 16, 2020 published a public notice in the Desert Sun of the holding of a public hearing at which time the Vista Del Agua Project including this Specific Plan would be considered; and

WHEREAS, the City Council continued the February 26, 2020 public hearing to the April 8, 2020 City Council meeting and again to the May 13, 2020 City Council meeting in order to respond to two written comments received; and

WHEREAS, in compliance with the requirements of the California Environmental Quality Act (CEQA), prior to approving this Specific Plan, the City Council of the City of Coachella adopted Resolution 2020-02 certifying the Final Environmental Impact Report, and adopting CEQA findings and Statement of Overriding Considerations for the Vista Del Agua Project Approvals; and

WHEREAS, the City Council, in light of the whole record before it, including but not limited to recommendation of the Development Services Director as provided in the Staff Report dated May 13, 2020 and documents incorporated therein by reference and any other evidence within the record or provided at the public hearing of this matter, hereby finds that Specific Plan 14-01 is within the scope of that EIR; and

WHEREAS, the evidence before the City Council supports the conclusion that Specific Plan 14-01 be approved as does the record consisting of the staff report, case file, exhibits on display and public hearing testimony, and

WHEREAS, all other prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE BE IT RESOLVED, that the City Council, in light of the whole record before it, including but not limited to the recommendation of the Development Services Director as provided in the Staff Report dated May 13, 2020 and documents incorporated therein by reference and any other written or oral evidence within the record or provided at the public hearing of this matter, hereby finds as follows:

Findings for approval of SP 14-01:

1. Specific Plan No. 14-01 is consistent with the City of Coachella General Plan, and authorized by General Plan Amendment 14-01; the Specific Plan provides a balance of land uses including residential and commercial land uses and will provide a diverse mix of housing opportunities at varying densities for current and future residents. The Specific Plan proposes active and passive open space consistent with the City's General Plan.

2. Specific Plan 14-01 is compatible with anticipated development in the Specific Plan area, provides adequate circulation in the area, and the proposed uses are compatible with the zoning of adjacent properties as set forth in Chapter 17.36 of the City of Coachella Municipal Code; The Project would not adversely affect the public convenience, health, safety, or general welfare, or result in an illogical land use pattern as the Project site currently has General Plan designations of General Neighborhood, Suburban Retail District, Suburban Neighborhood and Neighborhood Center. The development standards in the Specific Plan will result in an enhanced development design for the subject property rather than using standard zoning and development regulations. Any development within the Project will be developed in accordance with the Vista Del Agua Specific Plan including the design guidelines.

3. Specific Plan 14-01 is suitable and appropriate for the subject property as set forth in Chapter 17.36 of the City of Coachella Municipal Code; The Project site currently has General Plan designations of General Neighborhood, Suburban Retail District, Suburban Neighborhood and Neighborhood Center. Implementation of the Specific Plan will result in a superior development than if the property was developed without the specific plan.

4. The Vista Del Agua Specific Plan Mitigation Measures and Conditions of Approval dated June 19, 2019 and the Mitigation Monitoring and Reporting Program (MMRP) for the Vista Del Agua Specific Plan are adequate to avoid the creation of any conditions that would be materially detrimental to the public health, safety and welfare and will reduce the impacts of the development of the Specific Plan area to a level of non-significance except as otherwise set out in the Statement of Overriding Considerations.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Adoption**.** The City Council does hereby adopt Specific Plan 14-01 for the Vista Del Agua Project within the City of Coachella pursuant to the facts and reasons stated herein and in the Planning Commission Resolution 2019-19, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

SECTION 2. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 3. Severability**.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 4. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed

and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 5. CEQA. The City Council finds that this Specific Plan is subject to the California Environmental Quality Act (CEQA) and that the specific plan is within the scope of EIR 14-01 and the City Council has adopted Resolution No. 2020-02, certifying Final Environmental Impact Report 14-04: an Environmental Impact Report that has been prepared for the Vista Del Agua Project Approvals in accordance with the California Environmental Quality Act (CEQA) along with specific findings and a statement of overriding considerations.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Mayor

ATTEST:

_____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Ordinance No. 1157 was duly and regularly introduced at a meeting of the City Council on the 13th day of May 2020, and that thereafter the said ordinance was duly passed and adopted at a regular meeting of the City Council on the 27th day of May 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Non-Storefront Retail Cannabis Business Code Amendments

SPECIFICS:

a) Ordinance No. 1161 amending various sections of Title 17 (Zoning) of the Coachella Municipal Code to update and clarify provisions regarding retail cannabis businesses, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses. *(Second Reading)*

b) Ordinance No. 1162 amending Coachella Municipal Code Chapters 5.68 and 5.69 regarding cannabis cultivation, manufacturing, testing, distribution, and retail regulatory permits, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses. *(Second Reading)*

STAFF RECOMMENDATION:

Staff recommends that the City Council adopt the following Ordinances:

ORDINANCE NO. 1161 - An Ordinance of the City Council of the City of Coachella, California, Amending Coachella Municipal Code Title 17 Zoning, Chapters 17.26 C-G General Commercial Zone, 17.30 M-S Manufacturing Service Zone, 17.32 M-H Heavy Industrial Zone, 17.34 M-W Wrecking Yard Zone, 17.46 IP Industrial Park Overlay Zone, 17.47 RC Retail Cannabis Overlay Zone, 17.84 Retail Cannabis Businesses and 17.85 Commercial Cannabis Activity to Update Cannabis Business Zoning Regulations, including Regulations Specific to Non-Storefront Retail Cannabis Businesses and Microbusinesses.

ORDINANCE NO. 1162 - An Ordinance of the City Council of the City of Coachella, California, Amending Coachella Municipal Code Title 5 Business Licenses and Regulations, Chapters 5.68 Commercial Cannabis Activity Regulatory Permit and 5.69 Cannabis Retailer and Retail Microbusiness Regulatory Permit to Update Cannabis Business Regulatory Permit Regulations, Including Regulations Specific to Non-Storefront Retail Cannabis Businesses and Microbusinesses.

BACKGROUND:

On May 13, 2020 the City Council conducted a public hearing and introduced Ordinance No.'s 1161 and 1162 for first reading, by title only, to establish zoning regulations for Non-Storefront Retail Cannabis Businesses and Microbusinesses, and to modify the City's Cannabis Regulatory Permit regulations to update terminology and to include Non-Storefront Retail Cannabis as an additional type of regulated business.

DISCUSSION/ANALYSIS:

The adoption of Ordinance No. 1161 will amend various sections of the City's Zoning Code (Title 17 of the Coachella Municipal Code) to conditionally allow Non-Storefront Retail Cannabis Businesses and Microbusinesses in the City's commercial and industrial zoning districts. New development standards applicable to this business type have been included in the amendments.

The adoption of Ordinance No. 1162 will make conforming amendments to the City's Business Licenses and Regulations (Title 5 of the Coachella Municipal Code) to update the City's Cannabis Regulatory Permit regulations to now include Non-Storefront Retail Business types.

The Ordinances attached to this staff report will be codified into the City's Municipal Code, that is published on-line and is available on the City's website.

Planning Commission Recommendation:

After reading the Planning Commission's meeting minutes of April 15, 2020, there were specific recommendations given to City Council that were not discussed in the May 13, 2020 City Council staff report. Accordingly, the 10th "whereas" in Ordinance No. 1161 was modified slightly to read as follows (changes shown in highlight/underline):

***WHEREAS**, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance, adding that the City should consider local ownership business opportunities, and distances to existing parks, schools, and community centers in allowing Non-Storefront Retail Cannabis Businesses and Microbusinesses; and,*

The above-recommended Planning Commission policies could be considered as part of the normal "case by case" review of conditional use permits for Non-Storefront Retail Business applications. However, this could lead to inadequate notice to applicants of what is the proper standard for locating this business type in the City, and it could lead to a "vague standard" argument by applicants.

If the City Council is inclined to incorporate the Planning Commission's recommendations, then the proper action would be to remand the Ordinance back to the Planning Commission and to add these standards into Ordinance No. 1161. This would include revised zoning regulations to have a specific distance requirement from city parks, schools, and community centers. Additionally, the City's adopted Cannabis Social Equity policies already promote local ownership policies and there would be no need to codify this policy.

ALTERNATIVES:

1. Adopt Ordinance No.'s 1161 and 1162.
2. Adopt Ordinance No.'s 1161 and 1162 with minor clarifications.
3. Continue this item and provide staff with direction.

FISCAL IMPACT:

None.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1 or Alternative #2 above.

Attachments: Ordinance No. 1161 Zoning Ordinance Amendment (2nd Reading)
Ordinance No. 1162 Regulatory Permit Ordinance (2nd Reading)

ORDINANCE NO. 1161

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE TITLE 17 ZONING, CHAPTERS 17.26 C-G GENERAL COMMERCIAL USE ZONE, 17.30 M-S MANUFACTURING SERVICE ZONE, 17.32 M-H HEAVY INDUSTRIAL ZONE, 17.34 M-W WRECKING YARD ZONE, 17.46 IP INDUSTRIAL PARK OVERLAY ZONE, 17.47 RC RETAIL CANNABIS OVERLAY ZONE, 17.84 RETAIL CANNABIS BUSINESSES AND 17.85 COMMERCIAL CANNABIS ACTIVITY TO UPDATE CANNABIS BUSINESS ZONING REGULATIONS, INCLUDING REGULATIONS SPECIFIC TO NON-STOREFRONT RETAIL CANNABIS BUSINESSES AND MICROBUSINESSES.

WHEREAS, pursuant to the authority granted to the City of Coachella ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City's police power; and,

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, the proposed Ordinance would amend Title 17 (Zoning), Chapters 17.26, 17.30, 17.32, 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) allow non-storefront retailers in certain City zones and subject to certain property development standards, (ii) clarify the different types of cannabis microbusinesses that may operate in different City zones, and (iii) comply with current City policies and State law; and,

WHEREAS, the subject Municipal Code Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and,

WHEREAS, the Planning Commission of the City of Coachella ("Planning Commission") conducted a properly noticed public hearing on April 15, 2020 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance, adding that the City should consider local ownership business opportunities, and distances to existing parks, schools, and community centers in allowing Non-Storefront Retail Cannabis Businesses and Microbusinesses; and,

WHEREAS, the City Council conducted a properly noticed public hearing on May 13, 2020 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF COACHELLA DO ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Coachella, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

SECTION 2. Amendment to Coachella Municipal Code. Subsection 35 of Section 17.26.020(C) *Conditional Uses* of Chapter 17.26 *C-G General Commercial* of the Coachella Municipal Code is hereby added as follows:

"C. Conditional Uses. The following uses may be permitted in all sectors of the CG zone subject to obtaining a conditional use permit pursuant to Chapter 17.74.

…

35. Non-storefront cannabis retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84."

SECTION 3. Amendment to Coachella Municipal Code. Subsection I of Section 17.26.030 *Property development standards* of Chapter 17.26 *C-G General Commercial Zone* of the Coachella Municipal Code is hereby added as follows:

"**17.26.030 - Property development standards.**

…

I. Non-storefront retailer and non-storefront retail microbusiness. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business; and may not be located in the City's Pueblo Viejo District. For purposes of this chapter, "Pueblo Viejo District" shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east."

SECTION 4. Amendment to Coachella Municipal Code. Subsection 16 of Section 17.30.020(C) *Conditional Uses* of Chapter 17.30 *M-S Manufacturing Service Zone* of the Coachella Municipal Code is hereby added as follows:

"C. Conditional Uses. The following uses may be permitted in the M-S zone subject to obtaining a conditional use permit as specified in Section 17.74.010.

…

16. Non-storefront cannabis retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84."

SECTION 5. Amendment to the Coachella Municipal Code. Subsection I of Section 17.30.030 *Property development standards* of Chapter 17.30 *M-S Manufacturing Service Zone* of the Coachella Municipal Code is hereby added as follows:

"**17.30.030 - Property development standards.**

…

I. Non-storefront retailer and non-storefront retail microbusiness. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business; and may not be located in the City's Pueblo Viejo District. For purposes of this chapter, "Pueblo Viejo District" shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east."

SECTION 6. Amendment to the Coachella Municipal Code. Subsection 29 of Section 17.32.020(C) *Conditional Uses* of Chapter 17.32 *M-H Heavy Industrial* is hereby added as follows:

"C. Conditional Uses. The following uses may be permitted in the M-H zone subject to obtaining a conditional use permit pursuant to Chapter 17.74.

…

29. Non-storefront cannabis retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84."

SECTION 7. Amendment to the Coachella Municipal Code. Subsection 7 of Section 17.34.020(C) *Conditional Uses* of Chapter 17.34 *M-W Wrecking Yard Zone* is hereby amended to add the underlined text and delete the stricken text as follows:

"C. Conditional Uses. The following uses may be permitted in the M-W zone subject to obtaining a conditional use permit pursuant to Chapter 17.74 of this code.

…

7. Cannabis cultivation, manufacturing, distribution, testing, non-retail microbusiness, non-storefront retail, non-storefront retail microbusiness, ~~and~~ storefront retail, and storefront retail microbusiness, ~~(including microbusiness)~~ facilities, pursuant to Chapters 17.84 and 17.85."

SECTION 8. Amendment to the Coachella Municipal Code. Subsection K of Section 17.34.030 *Property development standards* of Chapter 17.34 *M-W Wrecking Yard Zone* of the Coachella Municipal Code is hereby added as follows:

"**17.34.030 - Property development standards.**

…

K. Non-storefront retailer and non-storefront retail microbusiness. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business; and may not be located in the City's Pueblo Viejo District. For purposes of this chapter, "Pueblo Viejo District" shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east."

SECTION 9. Amendment to the Coachella Municipal Code. Section 17.46.023 *Conditional uses* of Chapter 17.46 *IP Industrial Park Overlay Zone* is hereby amended to include underlined text and delete stricken text as follows:

"**17.46.023 - Conditional uses.**

The following uses may be permitted in the IP overlay zone subject to obtaining a conditional use permit as specific in Section 17.74.010:

A. Cannabis cultivation, processing, testing, manufacturing, wholesale distribution, non-retail microbusiness, storefront retail microbusiness, non-storefront retail microbusiness, non-

storefront retail and/or storefront retail sale ~~(including microbusinesses)~~, subject to the regulatory requirements of Chapters 5.68 and 5.69 of this code.

1. For purposes of this subsection (A), "cannabis cultivation, processing, testing, manufacturing, wholesale distribution, non-retail microbusiness, storefront retail microbusiness, non-storefront retail microbusiness, non-storefront retail and/or storefront retail sale ~~(including microbusinesses)~~" shall not be deemed as the permitted uses of "drugs manufacture", "food products processing, manufacturing, canning, preserving and freezing", "fruit and vegetable packing house", or "testing laboratories" under Section 17.30.020(A)."

SECTION 10. Amendment to the Coachella Municipal Code. Subsection A *Project Area/ Lot Requirements* of Section 17.46.030 *Property development standards* of Chapter 17.46 *IP Industrial Park Overlay Zone* is hereby amended to include the underlined text as follows:

"**17.46.030 - Property development standards.**

A. Project Area/Lot Requirements

1. Minimum Project Area: Ten (10) acres. For purposes of this paragraph, "project area" shall mean the combined area of all legally subdivided lots developed as a common plan or scheme by the same or affiliated developer(s).

2. Minimum individual Lot Size: Five acres for any lot on which is located a cannabis cultivation, processing, testing, manufacturing or distribution use. For all other lots, one acre.

3. Minimum Lot Width. One hundred eighty (180) feet.

4. Minimum Lot Depth. Two hundred twenty (220) feet.

5. Maximum Lot Coverage. Fifty (50) percent. The development services director may allow individual lots within a project area to exceed this standard if he or she finds that: (i) it will result in more orderly development of the project area and (ii) the average lot coverage of all lots within the project area does not exceed fifty (50) percent.

6. No retail microbusiness or storefront retail cannabis use shall be located within eight hundred (800) feet of Avenue 52. The distance shall be measured at the nearest point between any part of the building containing retail cannabis use and Avenue 52 street right-of-way line.

…"

SECTION 11. Amendment to the Coachella Municipal Code. Subsection D *Distance Between Uses/Buildings* of Section 17.46.030 *Property development standards* of Chapter 17.46 *IP Industrial Park Overlay Zone* is hereby amended to include the underlined text as follows:

"**17.46.030 - Property development standards.**

…

D. Distance Between Uses/Buildings. No cannabis cultivation, processing, testing, manufacture, distribution, non-retail microbusiness, retail microbusiness, or storefront retail use shall be located within one thousand (1,000) feet of any residentially zoned lot. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the residential use.

…"

SECTION 12. Amendment to the Coachella Municipal Code. Section 17.47.040 *Conditional uses* of Chapter 17.47 *RC Retail Cannabis Overlay Zone* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.47.040 - Conditional uses.**

The following uses may be permitted in the RC overlay zone subject to obtaining the appropriate approval:

A. In Sub-Zone~~s~~ #1~~, and 3~~: The retail sale, exchange, transaction or delivery of cannabis, including storefront retailers or retail microbusinesses, subject to a conditional use permit as specified in Section 17.74.010, as well as the regulatory requirements of Chapters 5.69 and 17.84 of this code.

B. In Sub-Zone #2: The retail sale, exchange, transaction or delivery of cannabis, including storefront retailers or retail microbusinesses, subject to obtaining a conditional use permit as specified in Section 17.74.010, and subject to a development agreement as specified in Chapter 17.100, as well as the regulatory requirements of Chapters 5.69 and 17.84 of this code.

C. In Sub-Zone #3: The retail sale, exchange, transaction or delivery of cannabis, including storefront retailers, non-storefront retailers, retail microbusinesses, subject to a conditional use permit as specified in Section 17.74.010, as well as the regulatory requirements of Chapters 5.69 and 17.84 of this code."

SECTION 13. Amendment to the Coachella Municipal Code. Section 17.47.060 *Property development standards* of Chapter 17.47 *RC Retail Cannabis Overlay Zone* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.47.060 - Property development standards.**

A. Project Area/Lot/Building Height Requirements. Except as specified in the applicable development agreement, CUP, or regulatory permit, the project area, lot size, lot coverage and building height requirements of the underlying zone shall apply.

B. No Drive-Thru Retail Cannabis Facilities. No retail cannabis business within the RC Overlay Zone shall operate "drive-thru", "drive up", "window service" or similar facilities whereby a customer can order, purchase and receive retail cannabis without leaving his or her vehicle.

C. ~~No~~ Non-Storefront Retailers. Non-storefront retailers are permitted in Sub-Zone #3, but prohibited in Sub-Zones #1 and #2. ~~No retail cannabis business within the RC overlay zone shall be operated as "non-storefront" or "delivery only".~~ In Sub-Zones #1 and #2, ~~D~~ delivery may only be approved as ancillary to the operation of a permitted cannabis retail business which is physically located within the Sub-Zone ~~RC overlay zone~~ and which primarily provides cannabis to customers on the premises. A non-storefront retail cannabis business shall have a minimum of one hundred (100) feet separation from any residential structure and be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business.

D. Distance Restrictions. No retail cannabis business within the RC overlay zone shall be located within two hundred fifty (250) feet of any public or private school (K-12), day care center or youth center. The distance shall be measured from the nearest point between any part of the building containing the retail cannabis business to any lot line of the other use. For purposes of this paragraph, the following definitions shall apply:

1. "Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities and school age child care centers.

2. "Youth center" means any public or private facility that is primarily used to house recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

E. Location of Customer Entrance. No retail cannabis business shall have a customer entrance that is adjacent to or directly across the street from a residentially zoned lot.

F. On-Street/Off-Street Parking and Loading.

1. Off-Street Parking and Loading. Off-street parking and loading facilities for a retail cannabis business shall be provided in accordance with the provisions of Section 17.54.010(C)(1) of this title.

2. On-Street Parking and Loading. On-street parking or loading shall be prohibited for a retail cannabis business.

G. Microbusinesses. ~~M~~ Non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses are permitted in the RC cannabis overlay zone. To hold a CUP for a microbusiness, the permittee must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail sale. Any cultivation at a microbusiness shall be limited to an area less than ten thousand (10,000) square feet. Any manufacturing at a microbusiness shall use nonvolatile solvents or no solvents. A non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure and be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business.

SECTION 14. Amendment to the Coachella Municipal Code. Section 17.84.020 *Definitions* of Chapter 17.84 *Retail Cannabis Businesses* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.84.020 - Definitions.**

For the purposes of this chapter, the following definitions shall apply.

"Applicant" means an owner that applies for a development agreement or conditional use permit under this chapter.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indicia, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

"City manager" means the city manager of the city of Coachella or designee.

"Conditional use permit" or "CUP" means a conditional use permit issued under this chapter.

"Customer" means a natural person twenty-one (21) years of age or older or a natural person eighteen (18) years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Development agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Non-retail microbusiness" means a commercial business that engages in indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retail microbusiness" means a commercial business that engages in non-storefront retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of a nonprofit or other entity;

(3) A member of the board of directors of a nonprofit;

(4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.

(5) An individual entitled to a share of at least twenty percent (20%) of the profits of the commercial cannabis business;

(6) An individual that will be participating in the direction, control, or management of the person applying for a permit. Such an individual includes any of the following: a general partner of a commercial cannabis business that is organized as a partnership; a non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company; an officer or director of a commercial cannabis business that is organized as a corporation.

"Permittee" means any person holding a valid permit under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structures and land specified in the conditional use permit application or development agreement that are in the possession of an used by the applicant or permittee to conduct the retail cannabis business. The premises must be a contiguous area and may only be occupied by one permittee.

"Retail cannabis business" ~~or "retailer"~~ means a business that sells and/or delivers cannabis or cannabis products to customers, and includes the following business types: non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness.

"Sell," "sale," and "to sell" include any transaction, whereby, for any consideration title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from who the cannabis or cannabis product was purchased.

"State license" means a license issued by the state of California, as listed in California Business and Professions Code Section 26050.

"Storefront retailer" means a business that has a storefront open to the public where cannabis or cannabis products are offered for retail sale to consumers, where delivery may or may not be included as part of the business's operation.

"Storefront retail ~~M~~ microbusiness~~,~~" ~~for purposes of this chapter,~~ means a commercial business that engages in retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")."

SECTION 15. Amendment to the Coachella Municipal Code. Section 17.84.030 *Development agreement or conditional use permit required* of Chapter 17.84 *Retail Cannabis Business* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.84.030 - Development agreement or conditional use permit required.**

A. The city may authorize a total of ten (10) storefront retailers and/or storefront retail microbusinesses ~~retail cannabis businesses~~ to operate in the city of Coachella. No more than five (5) storefront retailers and/or storefront retail microbusinesses ~~retail cannabis businesses~~ may operate in Sub-Zone #1 (as described in Chapter 17.47). No more than two (2) storefront retailers and/or storefront retail ~~retail cannabis business~~ may operate in Sub-Zone #2 (as described in Chapter 17.47), subject to a development agreement. The remaining storefront retailers and/or storefront retail microbusinesses, in addition to an unlimited number of non-storefront retailers and non-storefront retail microbusinesses that comply with the property development standards listed in Section 17.84.040(B), ~~retail cannabis businesses~~ may operate in Sub-Zone #3 and/or the M-W Wrecking Yard Zone (as described in Chapter 17.34), the IP Industrial Park Overlay Zone (as described in Chapter 17.46), and Sub-Zone #3 (as described in Chapter 17.47). If applications are submitted for a greater number of conditional use permits than are permitted by this section, selection among the applicants may be made by a process, and subject to criteria, established by city council resolution. Conditional use permits for all retail cannabis businesses shall be issued in accordance with the requirements in this chapter and Chapters 17.34, 17.46, and 17.47, as applicable.

B. Prior to initiating operations and as a continuing requisite to operating a retail cannabis business, including a non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness, ~~a retailer or microbusiness,~~ the owner of the proposed retail cannabis business shall obtain (i) either an executed development agreement or a valid conditional use permit from the city as required by this code, (ii) a regulatory permit from the city manager and shall pay application fees as established by resolution adopted by the city council as amended from time to time, and (iii) a state license for each commercial cannabis activity use authorized under a development agreement or conditional use permit. Unless otherwise stated in this section, the provisions found in Chapter 17.74 entitled "Conditional Uses" shall apply.

C. Changes in state license type, business owner, or operation will require an amendment to the approved conditional use permit.

D. A retailer with a physical address outside of the city that wishes to deliver cannabis or cannabis products to a customer in the city is not required to obtain a conditional use permit under this chapter, but is required to obtain a city business license.

E. This chapter does not apply to the individual possession of cannabis for personal adult use, as allowed by state law. Personal possession and use of cannabis in compliance with state law are permitted in the city of Coachella."

SECTION 16. Amendment to the Coachella Municipal Code. Section 17.84.040 *Retail cannabis businesses—Permitted locations and standards* of Chapter 17.84 *Retail Cannabis Businesses* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.84.040 - Retail cannabis businesses—Permitted locations and standards.**

A. Retail cannabis businesses may be located in the M-W Wrecking Yard Zone, as described in Chapter 17.34, the IP Industrial Park Overlay Zone, as described in Chapter 17.46, and the RC retail cannabis overlay zone, as described in Chapter 17.47, upon issuance of (i) a fully

executed development agreement between the city and owner or valid CUP, whichever is applicable, (ii) a regulatory permit as described in Chapter 5.69, and (iii) a valid state license, or as otherwise permitted in this code.

B. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business; and may not be located in the City's Pueblo Viejo District. For purposes of this chapter, "Pueblo Viejo District" shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east."

~~B.~~ C. Retail cannabis businesses shall comply with all regulations set forth in this chapter, Chapter 5.69, and Chapters 17.34, 17.46, and 17.47, as applicable.

~~C.~~ D. Every retail cannabis business shall submit to the city manager a copy of any and all of its state license(s) and local permits required for its operation. If any other applicable state license or local permit for a retail cannabis business is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten (10) calendar days.

~~D.~~ E. Each applicant for a development agreement or CUP issued under this chapter must submit, along with a development agreement/CUP application, a building façade plan. Building façade plans shall include renderings of the exterior building elevations for all sides of the building. All building façades shall be tastefully done and in keeping with the high architectural quality and standards of the city of Coachella. The retail cannabis business facade and building signs shall be compatible and complimentary to surrounding businesses and shall add visual quality to the area.

E. Except as required in this chapter, development agreements shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.100 entitled "Development Agreements", and CUPs shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.74 entitled "Conditional Uses". If any provision of this chapter conflicts with any provision of Chapters 17.74 or 17.100 of this code, the provision in this chapter shall control."

SECTION 17. Amendment to the Coachella Municipal Code. Section 17.84.060 *Prohibited operations* of Chapter 17.84 *Retail Cannabis Businesses* is hereby amended to delete the stricken text as follows:

"17.84.060 - Prohibited operations.

Any retail cannabis business that does not have (i) a development agreement or CUP, (ii) a regulatory permit required under this code, and (iii) a state license(s) is expressly prohibited in all city zones and is hereby declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including, but not limited to civil injunctions. ~~Non-storefront retailers are prohibited in all zones in the city.~~"

SECTION 18. Amendment to the Coachella Municipal Code. Section 17.85.020 *Definitions* of Chapter 17.85 *Commercial Cannabis Activity* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.85.020 - Definitions.**

Unless the particular provision or context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

"Applicant" means an owner applying for a conditional use permit, desiring to enter into a development agreement, or applying for any other applicable entitlement under this chapter.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" has the same meaning as marijuana products in Section 11018.1 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"City manager" means the city manager of the city of Coachella or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, laboratory testing, and distribution, including non-retail microbusinesses, (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis and cannabis products. For purposes of this chapter, "commercial cannabis activity" does not include delivery or retail sale of cannabis or cannabis products. Zoning restrictions on retail cannabis businesses ~~retailers and microbusinesses~~ can be found in Chapters 17.34, 17.46, 17.47 and 17.84.

"Conditional use permit" or "CUP" means a conditional use permit issued under this chapter.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person twenty-one (21) years of age or older or a natural person eighteen (18) years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Development agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Distribution" means the procurement, wholesale sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or state law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Indoor" means within a fully enclosed and secure building.

"Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

~~"Microbusiness," for purposes of this chapter, means a commercial business that engages in cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, and Level 1 manufacturers to the extent the permittee engages in such activities. Level 1 manufacturing means manufacturing with no solvents or with nonvolatile solvents.~~

"Non-retail microbusiness" means a commercial business that engages in indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retail microbusiness" means a commercial business that engages in non-storefront retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all

requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Nursery" means a permittee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty (20) percent or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of a nonprofit or other entity;

(3) A member of the board of directors of a nonprofit;

(4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.

(5) An individual entitled to a share of at least twenty (20) percent of the profits of the commercial cannabis business;

(6) An individual that will be participating in the direction, control, or management of the person applying for a permit. Such an individual includes any of the following: a general partner of a commercial cannabis business that is organized as a partnership; a non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company; an officer or director of a commercial cannabis business that is organized as a corporation.

"Permittee" means the individual or applicant to whom a conditional use permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Retail cannabis business" ~~"Retailer"~~ means a business that sells and/or delivers cannabis products to customers, and includes the following business types: non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness. ~~person or entity that sells cannabis or cannabis products to customers.~~

"Shared-use facility" means a premises registered by a primary manufacturing permittee at which multiple cannabis manufacturers may operate at separate times.

"Storefront retailer" means a business that has a storefront open to the public where cannabis or cannabis products are offered for retail sale to consumers, where delivery may or may not be included as part of the business's operation.

"Storefront retail microbusiness" means a commercial business that engages in retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Testing laboratory" means a laboratory, facility, or entity in California, that offers or performs tests of cannabis or cannabis products and that is both of the following: (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and (2) Licensed by the California Bureau of Marijuana (or Cannabis) Control within the California Department of Consumer Affairs (when such licenses begin to be issued).

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. CUA (California Health and Safety Code Section 11362.5);

B. MMP (California Health and Safety Code Sections 11362.7 through 11362.83); and

C. MAUCRSA (California Business and Professions Code Sections 26000 et seq.).

SECTION 19. Amendment to the Coachella Municipal Code. Section 17.85.030 *Commercial cannabis activity permitted* of Chapter 17.85 *Commercial Cannabis Activity* is hereby amended to include the underlined text and delete the stricken text as follows:

"**17.85.030 - Commercial cannabis activity permitted.**

Commercial cannabis activity permitted under this chapter includes cultivation, manufacture (including shared-use facilities), distribution, ~~and~~ testing, and non-retail microbusinesses (including possession, processing, storing, and labeling incidental to such activity). Prior to engaging in any such commercial cannabis activity in the city, one must obtain either a development agreement or conditional use permit (CUP), and a regulatory permit as required by this code, subject to the provisions of the CUA, MMP, MAUCRSA, and any other state laws pertaining to cannabis."

SECTION 20. Amendment to the Coachella Municipal Code. Section 17.85.040 *Conditional use permit or development agreement required* of Chapter 17.85 *Commercial Cannabis Activity* is hereby amended to include the underlined text as follows:

"**17.85.040 - Conditional use permit or development agreement required.**

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant shall obtain a validly issued CUP as provided in Chapter 17.74 entitled "Conditional Uses" of this municipal code or enter into a fully executed development agreement agreed to by the city council. If any provision of this chapter conflicts with any provision of Chapter 17.74 of this code, the provision in this chapter shall control. An applicant must obtain a separate CUP for each commercial cannabis activity the applicant wishes to operate. Each CUP will include a condition of approval requiring that the permittee also obtain and maintain a cultivation, manufacture, distribution, non-retail microbusiness, or testing laboratory regulatory permit required by this code.

SECTION 21. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 22. California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the prohibition adopted by this Ordinance merely prohibits uses that do have impacts on public health, safety, and welfare, and does not permit any development that could result in a significant change to the environment. In addition, the Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment.

SECTION 23. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 24. Certification and Publication. The City Clerk of the City of Coachella shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____

Steven A. Hernandez
Mayor

ATTEST:

_____

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Ordinance No. 1161 was duly and regularly introduced at a meeting of the City Council on the 13th day of May 2020, and that thereafter the said ordinance was duly passed and adopted at a regular meeting of the City Council on the 27th day of May 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

ORDINANCE NO. 1162

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE TITLE 5 BUSINESS LICENSES AND REGULATIONS, CHAPTERS 5.68 COMMERCIAL CANNABIS ACTIVITY REGULATORY PERMIT AND 5.69 CANNABIS RETAILER AND RETAIL MICROBUSINESS REGULATORY PERMIT TO UPDATE CANNABIS BUSINESS REGULATORY PERMIT REGULATIONS, INCLUDING REGULATIONS SPECIFIC TO NON-STOREFRONT RETAIL CANNABIS BUSINESSES AND MICROBUSINESSES.

WHEREAS, pursuant to the authority granted to the City of Coachella ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City's police power; and,

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, the proposed Ordinance would amend Title 5 (Business Licenses and Regulations), Chapters 5.68 and 5.69 to (i) identify non-storefront retailers as a new cannabis

business type allowed within the City, (ii) to clarify the different types of cannabis microbusinesses that may operate within the City, and (iii) comply with current City policies and State law; and,

WHEREAS, the subject Municipal Code Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and,

WHEREAS, the City Council conducted a properly noticed public hearing on May 13, 2020 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF COACHELLA DO ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Coachella, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

SECTION 2. Amendment to Coachella Municipal Code. Section 5.68.010 *Purpose and intent* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.010 - Purpose and intent.**

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, testing, and distribution, ~~and transportation~~ of ~~medicinal and nonmedicinal adult use~~ cannabis (including cannabis products and edible cannabis products) within the city of Coachella.

The regulations and prohibitions in this chapter are enacted to ensure the health, safety, and welfare of the residents of the city. The regulations and prohibitions herein, which are in compliance with the Compassionate Use Act of 1996 ("CUA"), the Medical Marijuana Program ("MMP"), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") ~~the Medical Cannabis Regulation and Safety Act ("MCRSA"), the Control, Use, Tax Adult Use of Marijuana Act ("AUMA")~~, (collectively, "State law"), do not interfere with the use and possession of cannabis as authorized under state law.

Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance, or (2) allow any activity relating to the cultivation, manufacturing, testing, distribution, ~~transportation,~~ or use of cannabis that is otherwise illegal under California state law."

SECTION 3. Amendment to Coachella Municipal Code. Section 5.68.020 *Definitions* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.020 - Definitions.**

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means a person applying for a regulatory permit under this chapter. An "applicant" includes all representatives, agents, parent entities, or subsidiary entities of the applicant.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined in California Health and Safety Code Section 11018. "Cannabis" does not include the mature stalks of the plan, fiber produced from the stalks, oil or cake made from the seeds of the plant, any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plan which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cannabis products" has the same meaning as marijuana products in Section 11018.1 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"City manager" means the city manager of the city of Coachella or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, ~~distributing,~~ laboratory testing, and ~~transportation~~ distribution (including possession, processing, storing, and labeling incidental to such activities) of cannabis and cannabis products as provided in this chapter. Pursuant to this chapter, "commercial cannabis activity" may include a non-retail microbusiness.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person twenty-one (21) years of age or older or a natural person eighteen (18) years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Distribution" means the procurement, wholesale sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or state law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Indoor" means within a fully enclosed and secure building.

"Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its containers.

"Non-retail microbusiness" means a commercial business that engages in indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, to the extent the permittee engages in such activities.

"Non-storefront retail microbusiness" means a commercial business that engages in non-storefront retail cannabis sales (delivery only) and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Nursery" means a permittee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following: (1) All persons with an aggregate ownership interest of twenty (20) percent or more in the applicant, unless such interest is solely a security, lien, or encumbrance; (2) the chief executive officer of an entity or nonprofit; (3) all members of the board of directors of a nonprofit; or (4) an individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a regulatory permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structures and land specified in the regulatory permit application that are in the possession of an used by the applicant or permittee to conduct the commercial cannabis activity. The premises must be a contiguous area and may only be occupied by one licensee.

~~"Retailer"~~ "Retail cannabis business" means a person or entity that sells and/or delivers cannabis or cannabis products to customers, and includes the following business types: non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness. ~~The term "retailer" shall also include the term "dispensary," as defined under MCRSA.~~

"Shared-use facility" means a premises registered by a primary manufacturing permittee at which multiple cannabis manufacturers may operate at separate times.

"Storefront retailer" means a business that has a storefront open to the public where cannabis or cannabis products are offered for retail sale to consumers, where delivery may or may not be included as part of the business's operation.

"Storefront retail microbusiness" means a commercial business that engages in retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

~~"Transportation" means transferring cannabis and/or cannabis products from one person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under state law to another person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under state law.~~

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. ~~The Medical Cannabis Regulation and Safety Act ("MCRSA")~~ The Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"). ~~; and~~

~~D. Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA").~~"

SECTION 4. Amendment to Coachella Municipal Code. Section 5.68.030 *Regulatory permit required* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.030 - Regulatory permit required.**

Commercial cannabis activity permitted under this chapter includes cultivation, manufacture (including shared-use facilities), distribution, testing, and non-retail microbusinesses (including possession, processing, storing, and labeling incidental to such activity). Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the legal representative of the persons wishing to operate and/or lease out a facility for commercial cannabis activity shall obtain both a conditional use permit and a regulatory permit from the city manager and shall pay an application fee as established by resolution adopted by the city council as amended from time to time. Regulatory permit requirements for retail cannabis businesses can be found in Chapter 5.69."

SECTION 5. Amendment to Coachella Municipal Code. Subsection F of Section 5.68.070 *Regulatory permit denial* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"…

F. The commercial cannabis activity is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, ~~the 2008 Attorney General Guidelines, Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA")~~ the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and any other applicable law, rules and regulations."

SECTION 6. Amendment to Coachella Municipal Code. Section 5.68.110 Regulatory permit suspension and revocation of Chapter 5.68 Commercial Cannabis Activity Regulatory Permit is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.110 – Regulatory permit suspension and revocation.**

The city manager may suspend, modify, or revoke a commercial cannabis activity regulatory ~~cultivation~~ permit issued pursuant to the provisions of this chapter for any of the following reasons:

A. One or more of the circumstances upon which a regulatory permit could be denied exists or has occurred;

B. One or more conditions of the regulatory permit has been violated; or

C. The permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this chapter."

SECTION 7. Amendment to Coachella Municipal Code. Section 5.68.120 *Appeals* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text as follows:

"**5.68.120 – Appeals.**

Any decision regarding the denial, suspension, or revocation of a commercial cannabis activity regulatory permit may be appealed to a hearing officer. Notice of and the procedures governing such hearing shall be provided pursuant to Chapter 3.28 of the code."

SECTION 8. Amendment to Coachella Municipal Code. Section 5.68.130 *Operating Standards* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.130 - Operating standards.**

A. Indoor cultivation only. A permittee shall only cultivate cannabis in a fully enclosed and secure building. A permittee shall not allow cannabis or cannabis products on the premises to be visible from the public right of way, the unsecured areas surrounding the buildings on the premises, or the premises' main entrance and lobby.

B. Odor control. A permittee shall comply with the odor control plan that is submitted during the application process and approved by the city manager. Commercial cannabis activity premises shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the building(s) that is distinctive to its operation is not detected outside the premises, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the commercial cannabis activity. As such, applicants must install and maintain the following equipment or any other equipment which the city manager or designee determines has the same or better effectiveness:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or

2. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

3. Should compliance with the odor control plan fail to properly control odor, the city manager may impose additional or modified plan restrictions.

C. ~~'Seed to sale' or~~ '~~t~~ Track and trace'. Commercial cannabis activity businesses shall have an electronic ~~'seed to sale' or~~ 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.

D. Records. A commercial cannabis activity business shall maintain the following records in printed format for at least three years on the premises and shall produce them to the city within twenty-four (24) hours after receipt of the city's request:

1. The name, address, and telephone numbers of the owner and landlord of the property.

2. The name, date of birth, address, and telephone number of each manager and staff of the commercial cannabis activity business; the date each was hired; and the nature of each manager's and staff's participation in the business.

3. A written accounting of all income and expenditures of the commercial cannabis activity business, including, but not limited to, cash and in-kind transactions.

4. A copy of the commercial cannabis activity business' commercial general liability insurance policy and all other insurance policies related to the operation of the business.

5. A copy of the commercial cannabis activity business' most recent year's financial statement and tax return.

6. An inventory record documenting the dates and amounts of cannabis received at the premises, the daily amounts of cannabis on the premises, and the daily amounts of cannabis transported from the premises.

A commercial cannabis activity business shall report any loss, damage, or destruction of these records to the city manager within twenty-four (24) hours of the loss, damage, or destruction.

E. Security. A permittee shall comply with the security plan that is submitted during the application process as approved by the city manager. A permittee shall report to the Coachella Police Department all criminal activity occurring on the premises. Should compliance with the security plan fail to properly secure the commercial cannabis activity premises, the city manager may impose additional or modified plan restrictions.

F. Retail sales prohibited. No person shall conduct any retail sales of any good or services on or from a permitted commercial cannabis activity premises that is regulated under this chapter.

G. Cannabis consumption prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within twenty (20) feet of, ~~the~~ a commercial cannabis activity premises regulated under this chapter.

H. Alcohol prohibited. No person shall possess, consume, or store any alcoholic beverage on ~~the cultivation~~ any commercial cannabis activity premises.

I. Juveniles prohibited. No one under the age of eighteen (18) shall be on the commercial cannabis activity premises or operate a commercial cannabis activity in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer."

SECTION 9. Amendment to Coachella Municipal Code. Section 5.68.160 *Premises restricted* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.160 - Premises restricted.**

A. No permittee shall open their commercial cannabis activity premises to the public.

B. No permittee shall allow anyone on the premises, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis distributors ~~transporters~~.

C. A manager must be on the premises at all times that any other person, except for security guards, is on the premises.

SECTION 10. Amendment to Coachella Municipal Code. Section 5.68.230 *Compliance with state law* of Chapter 5.68 *Commercial Cannabis Activity Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.68.230 - Compliance with state law.**

All commercial cannabis activity shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996, the Medical Marijuana Program Act, ~~the 2008 Attorney General Guidelines, the Medical Cannabis Regulation and Safety Act, and the Control, Regulate, and Tax Adult Use of Marijuana Act~~ and the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA")."

SECTION 11. Amendment to Coachella Municipal Code. The title of Chapter 5.69 shall be changed from *Cannabis Retailer and Retail Microbusiness Regulatory Permit* to *Retail Cannabis Business Regulatory Permit*.

SECTION 12. Amendment to Coachella Municipal Code. Section 5.69.000 *Purpose and intent* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* is hereby added as follows:

"**5.69.000 Purpose and intent.**

It is the purpose and intent of this chapter to regulate retail cannabis businesses, including the retail sale and delivery of cannabis (including cannabis products and edible cannabis products), within the city of Coachella.

The regulations and prohibitions in this chapter are enacted to ensure the health, safety, and welfare of the residents of the city. The regulations and prohibitions herein, which are in compliance with the Compassionate Use Act of 1996 ("CUA"), the Medical Marijuana Program ("MMP"), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") (collectively, "State law"), do not interfere with the use and possession of cannabis as authorized under state law.

Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance, or (2) allow any activity relating to the retail sale, delivery, or use of cannabis that is otherwise illegal under California state law."

SECTION 13. Amendment to Coachella Municipal Code. Section 5.69.010 *Definitions* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.010 - Definitions.**

For the purposes of this chapter, the following definitions shall apply.

"Applicant" means an owner applying for a regulatory permit under this chapter.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indicia, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

"City manager" means the city manager of the city of Coachella or designee.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

"Non-storefront retail microbusiness" means a commercial business that engages in non-storefront retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Owner" means any of the following: (1) a person with an aggregate ownership interest of twenty (20) percent or more in the person applying for the permit, unless such interest is solely a security, lien, or encumbrance; (2) the chief executive officer of a nonprofit or other entity; (3) a member of the board of directors of a nonprofit; or (4) an individual who will be participating in the direction, control, or management of the person applying for the permit.

"Permittee" means any person holding a valid permit under this chapter.

"Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structure or structures and land specified in the regulatory permit application that is owned, leased, or otherwise held under the control of the applicant or permittee where the retailer or retail microbusiness will be or is conducted. These premises shall be a contiguous area and shall only be occupied by one permittee.

"Purchaser" means the customer who is engaged in a transaction with a permittee for the purposes of obtaining cannabis or cannabis products.

"Retail cannabis business" means a person or entity that sells or sells and delivers cannabis or cannabis products to customers, and includes the following business types: non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness.

~~"Retail microbusiness" means a retailer that includes up to ten thousand (10,000) square feet of cannabis cultivation on the same premises.~~

"Sell," "sale," and "to sell" include any transaction, whereby, for any consideration title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from who the cannabis or cannabis product was purchased.

"State license" means a license issued by the state of California, as listed in California Business and Professions Code Section 26050.

"Storefront retailer" means a business that has a storefront open to the public where cannabis or cannabis products are offered for retail sale to consumers, where delivery may or may not be included as part of the business's operation.

"Storefront retail microbusiness" means a commercial business that engages in retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

SECTION 14. Amendment to Coachella Municipal Code. Section 5.69.020 *Regulatory permit required* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.020 - Regulatory permit required.**

A. Prior to initiating operations and as a continuing request to operating a ~~retailer or microbusiness~~ retail cannabis business, the owner of the proposed ~~retailer or retail microbusiness~~ retail cannabis business shall obtain (i) a regulatory permit from the city manager and shall pay application fees as established by resolution adopted by the city council as amended from time to time, and (ii) either a development agreement or a conditional use permit from the city as required by this code.

B. This chapter, and the requirement to obtain a regulatory permit, does not apply to the individual possession or cultivation of cannabis for personal use, as allowed by state law. Personal cannabis cultivation is regulated under Chapter 17.84. Personal possession and use of cannabis pursuant to state law are permitted in the city of Coachella."

SECTION 15. Amendment to Coachella Municipal Code. Section 5.69.030 *Regulatory permit application* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.030 - Regulatory permit application.**

An application for a regulatory permit shall include, but shall not be limited to, the following information:

A. The name, address, and telephone number of the applicant.

B. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement operating agreement, and fictitious business name statement.

C. The name, address, telephone number, title, and function of each of the interested parties described in Section 5.69.130.

D. A legible copy of each applicant's photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.

E. A list of the license or permit types (including license or permit numbers) held by the applicant that involve the operation of a ~~retailer or retail microbusiness~~ retail cannabis business, including the date the license or permit was issued and the jurisdiction or state license authority that issued the license or permit.

F. Whether the applicant has been denied a license or permit by the city, any other jurisdiction, and/or the state that involves the operation of a ~~retailer or retail microbusiness~~ retail cannabis business. The applicant shall provide a description of the license or permit applied for, the name of the jurisdiction or state license authority that reviewed the license or permit application, and the date of denial.

G. The proposed ~~retailer or retail microbusiness'~~ retail cannabis business' physical address, telephone number, website address, and email address.

H. Contact information for the applicant's designated primary contact person including the name, title, address, phone number, and email address of the individual.

I. A list of every fictitious business name the applicant is operating under including the address where the business is located.

J. Financial information including the following:

1. A list of funds belonging to the ~~retailer or retail microbusiness~~ retail cannabis business held in savings, checking, or other accounts maintained by a financial institution. The applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, account number, and the amount of money in the account.

2. A list of loans made to the ~~retailer or retail microbusiness~~ retail cannabis business. For each loan, the applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender.

3. A list of investments made into the ~~retailer or retail microbusiness~~ retail cannabis business. For each investment, the applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor.

4. A list of all gifts of any kind given to the applicant for its use in conducting ~~retailer or retail microbusiness~~ retail cannabis business. For each gift the applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.

K. A copy of the applicant's completed application for electronic fingerprint images submitted to the Department of Justice and Federal Bureau of Investigation.

L. A list of each applicant's misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the

jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendre.

M. A complete and detailed diagram of the proposed premises showing the boundaries of the property and the proposed premises to be permitted, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, doorways, and common or shared entryways, storage areas and exterior lighting. The diagram must show the areas in which all business will take place, including but not limited to, limited-access areas.

N. A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into limited access areas and theft of cannabis, in accordance with minimum security measures required by state law. The security plan shall be reviewed by the Coachella Police Department and the city manager and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

O. A comprehensive business operations plan that includes the following:

1. Business plan. A plan describing how the ~~retailer or retail microbusiness~~ retail cannabis business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include plans for ensuring cannabis will be dispensed only to adults over twenty-one (21) years of age, qualified patients, or primary caregivers, controls to acquire, possess, transport, and distribute cannabis to and from State licensed cannabis entities, if applicable.

2. Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.

3. Neighborhood responsibility plan. A plan addressing any adverse impacts of the proposed ~~retailer or retail microbusiness~~ retail cannabis business on the surrounding area.

4. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the retailer or retail microbusiness.

5. Budget. A copy of the applicant's most recent annual budget for operations.

P. The name and address of the owner and lessor of the real property upon which the ~~retailer or retail microbusiness~~ retail cannabis business is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a ~~retailer or retail microbusiness~~ retail cannabis business will be operated on his or her property.

Q. Authorization for the city manager to seek verification of the information contained within the application.

R. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

S. A full and complete copy of the applicant's most current application submitted to and approved by the applicable State licensing authority.

T. Any such additional and further information as is deemed necessary by the city manager to administer this chapter."

SECTION 16. Amendment to Coachella Municipal Code. Section 5.69.040 *Background check* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.040 - Background check.**

The city will provide each applicant, including any management personnel who are responsible for the day-to-day operations of the ~~retailer or retail microbusiness~~ retail cannabis business, with a 'request for live scan service' form, which must be taken to a live scan operator for fingerprinting. Each applicant must submit their fingerprint images to the Coachella Police Department, California Department of Justice, and the Federal Bureau of Investigation for fingerprint-based criminal history records review and reporting to the city."

SECTION 17. Amendment to Coachella Municipal Code. Section 5.69.050 *Additional terms and conditions* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.050 - Additional terms and conditions.**

Based on the information set forth in the application, the city manager may impose reasonable terms and conditions on the proposed operations of the ~~retailer or retail microbusiness~~ retail cannabis business in addition to those specified in this chapter."

SECTION 18. Amendment to Coachella Municipal Code. Section 5.69.060 *Regulatory permit denial* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.060 - Regulatory permit denial.**

The city manager may deny an application for a regulatory permit or renewal of a regulatory permit upon making any of the following findings:

A. The applicant or the premises for which a regulatory permit is applied does not qualify for a permit under this chapter.

B. The applicant made a material misrepresentation of the application.

C. The applicant fails to comply with the provisions of this chapter.

D. The applicant has failed to provide information required by the city manager.

E. The applicant or permittee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the city manager determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the city manager shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the city manager shall include, but not be limited to, the following:

1. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

2. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the California Penal Code.

3. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the California Penal Code.

4. A felony conviction involving fraud, deceit, or embezzlement.

F. The applicant, or any of its officers, directors, or owners, has been sanctioned by a State licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities (including, but not limited to, retail, cultivation, manufacturing, distribution, testing) or has had a State license or local permit revoked in the three years immediately preceding the date the application is filed with the city manager.

G. The ~~retailer or retail microbusiness~~ retail cannabis business is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act ("MMP"), Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), and any other applicable law, rules and regulations."

SECTION 18. Amendment to Coachella Municipal Code. Section 5.69.080 *Regulatory permit renewal process* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.080 - Regulatory permit renewal process.**

A. To renew a regulatory permit, a completed permit renewal form and renewal permit fee shall be received by the city manager from the permittee no earlier than sixty (60) calendar days before the expiration of the permit and no later than the last business day before the expiration of the permit.

B. In the event the regulatory permit is not renewed prior to the expiration date, the permittee must cease all operations as a ~~retailer or retail microbusiness~~ retail cannabis business."

SECTION 19. Amendment to Coachella Municipal Code. Section 5.69.090 *Regulatory permit surrender* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.090 - Regulatory permit surrender.**

Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding sixty (60) consecutive calendar days after a certificate of occupancy is issued, shall, within sixty (60) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the city manager. The city manager may seize the permit of a permittee who fails to comply with the surrender provisions of this section and may proceed to revoke the permit. If a permittee wishes to close a ~~retailer or retail microbusiness~~ retail cannabis business for repair or refurbishment for a period of longer than sixty (60) calendar days, the permittee shall notify the city manager of same in writing."

SECTION 20. Amendment to Coachella Municipal Code. Section 5.69.120 *Onsite consumption permit* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.120 - Onsite consumption permit.**

A. A ~~retailer or retail microbusiness~~ storefront retailer or storefront retail microbusiness must obtain an onsite consumption permit (in addition to a regulatory permit under this chapter, and a conditional use permit or development agreement under Coachella Municipal Code Chapter 17) in order for cannabis to be consumed on the premises of the ~~retailer or retail microbusiness~~ storefront retailer or storefront retail microbusiness.

B. An onsite consumption permit may be issued at the discretion of the city manager to existing ~~retailers or retail microbusinesses~~ storefront retailers or storefront retail microbusinesses in good standing. An application for an onsite consumption permit may be denied for failure to meet requirements of the city building code, fire code, zoning code, this chapter, and/or any violation of state or local law relevant to the operation of ~~retailers or retail microbusinesses~~ storefront retailers or storefront retail microbusinesses.

C. The city manager shall establish conditions of approval for each onsite consumption permit, including, but not limited to a parking plan, ventilation plan, and anti-drugged driving plan.

D. The permit shall be subject to suspension or revocation in accordance with Section 5.69.100, and the owner or operator shall be liable for excessive police costs related to enforcement.

E. The application fee and annual fee for the onsite consumption permit shall be determined by city council resolution.

F. All onsite consumption permits shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a ~~retailer or retail microbusiness~~ retail cannabis business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the city manager subject to Section 5.69.100.

SECTION 21. Amendment to Coachella Municipal Code. Section 5.69.140 *Operating standards* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.140 - Operating standards.**

A. Limited access areas. A permitted ~~retailer~~ cannabis retail business shall only permit authorized individuals to enter the ~~retailer or retail microbusiness~~ limited-access areas.

B. Retail area. Individuals shall only be granted access to the area to purchase cannabis goods after the permittee has identified the individual as a medical cannabis patient, primary caregiver, or person over the age of twenty-one (21), depending on whether the ~~retailer or retail microbusiness~~ storefront retailer or storefront retail microbusiness sells medicinal or nonmedicinal cannabis or both.

C. Delivery. All deliveries of cannabis must be performed in compliance with State law and corresponding state-issued regulations.

D. Track and trace program. ~~Retailers and retail microbusinesses~~ Retail cannabis businesses shall have an electronic 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.

E. Records. A ~~retailer or retail microbusiness~~ retail cannabis business shall maintain the following records in printed format for at least three years on the premises and shall produce them to the city manager within twenty-four (24) hours after receipt of the city's request:

1. The name, address, and telephone numbers of the owner and landlord of the property.

2. The name, date of birth, address, and telephone number of each manager and staff of the retailer or retail microbusiness; the date each was hired; and the nature of each manager's and staff's participation in the business.

3. A written accounting of all income and expenditures of the ~~retailer or retail microbusiness~~ retail cannabis business, including, but not limited to, cash and in-kind transactions.

4. A copy of the ~~retailer's or retail microbusiness'~~ retail cannabis business' commercial general liability insurance policy and all other insurance policies related to the operation of the business.

5. A copy of the ~~retailer's or retail microbusiness'~~ retail cannabis business' most recent year's financial statement and tax return.

6. An inventory record documenting the dates and amounts of cannabis received at the premises, the daily amounts of cannabis on the premises, and the daily amounts of cannabis transported from the premises. A ~~retailer or retail microbusiness~~ retail cannabis business shall report any loss, damage, or destruction of these records to the city manager within twenty-four (24) hours of the loss, damage, or destruction.

F. Security. A permittee shall comply with the security plan that is submitted during the application process as approved by the city manager. A permittee shall report to the Coachella Police Department all criminal activity occurring on the premises. Should compliance with the security plan fail to properly secure the ~~retailer or retail microbusiness~~ retail cannabis business premises, the city manager may impose additional or modified plan restrictions.

G. Cannabis consumption prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on the premises of a ~~retailer or retail microbusiness~~ storefront retailer or storefront retail microbusiness unless the retailer has a valid onsite consumption permit. No person shall smoke, ingest, or otherwise consume cannabis in violation of state law.

H. Alcohol and tobacco sale prohibited. A permittee shall not sell alcoholic beverages or tobacco products on or at any premises permitted under this chapter.

I. State law compliance. All ~~retailers and retail microbusinesses~~ retail cannabis businesses must operate in full incompliance with state law.

J. No cannabis odors shall be detectable outside of the permitted ~~retailer or retail microbusiness~~ retail cannabis business."

SECTION 22. Amendment to Coachella Municipal Code. Section 5.69.150 *Interested parties* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.150 - Interested parties.**

A. A permittee shall provide the city with names and addresses of all of the following interested parties:

1. Persons with at least a ten-percent interest in the ~~retailer or retail microbusiness~~ retail cannabis business;

2. Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least ten (10) percent of the stock, capital, profits, voting rights, or membership interest of the ~~retailer or retail microbusiness~~ retail cannabis business or that is one of the partners in the ~~retailer or retail microbusiness~~ retail cannabis business;

3. The managers of the ~~retailer or retail microbusiness~~ retail cannabis business; and

4. The staff of the ~~retailer or retail microbusiness~~ retail cannabis business.

B. The permittee shall notify the city of any change in the information above within thirty (30) calendar days of the change.

C. All interested parties, as described in subsection A, must submit to fingerprinting and a criminal background check by the city.

D. No person shall be an interested party, as described in subsection A of this section, if he or she is charged with or convicted of a felony; has been charged with or convicted of a violation of California Penal Code section 186.22 (participation in a criminal street gang); or is currently on parole or probation for an offense relating to the sale or distribution of a controlled substance. "Convicted" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted. "Charged" within the meaning of this section means (1) an indictment was issued by a grand jury, or an information, complaint, or similar pleading was issued by the United States Attorney, district attorney, city attorney, or other governmental official or agency authorized to prosecute crimes, and (2) the criminal proceedings are currently pending."

SECTION 23. Amendment to Coachella Municipal Code. Section 5.69.160 *Emergency contact manager* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"5.69.160 - Emergency contact manager.

A ~~retailer or retail microbusiness~~ retail cannabis business permittee shall provide the city manager with the current name and primary and secondary telephone numbers of at least one 24-hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the ~~retailer or retail microbusiness~~ retail cannabis business."

SECTION 24. Amendment to Coachella Municipal Code. Section 5.69.170 *Community relations manager* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.170 - Community relations manager.**

Each ~~retailer or retail microbusiness~~ retail cannabis business shall provide the city manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the ~~retailer or retail microbusiness~~ retail cannabis business or refer members of the public who may have any concerns or complaints regarding the operation of the ~~retailer or retail microbusiness~~ retail cannabis business. Each ~~retailer or retail microbusiness~~ retail cannabis business shall also provide the above information to its business neighbors located within one hundred (100) feet of the ~~retailer or retail microbusiness~~ retail cannabis business as measured in a straight line without regard to intervening structures, between the front doors of each establishment."

SECTION 25. Amendment to Coachella Municipal Code. Section 5.69.190 *Inspections and enforcement* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.190 - Inspections and enforcement.**

A. Recordings made by security cameras at any ~~retailer or retail microbusiness~~ retail cannabis business shall be made immediately available to the city manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

B. The city manager shall have the right to enter all retail cannabis business facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.

C. Operation of the ~~retailer or retail microbusiness~~ retail cannabis business in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.

D. The city manager may summarily suspend or revoke a retail cannabis business regulatory permit if any of the following, singularly or in combination, occur:

1. The city manager or designee determines that the ~~retailer or retail microbusiness~~ retail cannabis business has failed to comply with this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the permit under Section 5.69.060.

2. Operations cease for more than thirty (30) calendar days, including during change of ownership proceedings, unless otherwise authorized by the city manager;

3. Ownership is changed without securing a regulatory permit; or

4. The ~~retailer or retail microbusiness~~ retail cannabis business fails to allow inspection of the records, security recordings, the activity logs, or the premises by authorized city officials."

SECTION 26. Amendment to Coachella Municipal Code. Section 5.69.210 *Liability and indemnification* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.210 - Liability and indemnification.**

A. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the city.

B. To the maximum extent permitted by law, the permittees under this chapter shall defend (with counsel acceptable to the city), indemnify and hold harmless the city of Coachella, the Coachella City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called city) from any liability damages, actions,

claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, city attorney or staff time, expenses or costs (collectively called "action") against the city to attack, set aside, void or annul, any cannabis-related approvals and actions and comply with the conditions under which such permit is granted, if any. The city may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the city for its reasonable legal costs and attorneys' fees.

C. Within ten (10) calendar days of the service of the pleadings upon the city of any action as specified in Subsection B., above, the permittee shall execute a letter of agreement with the city, acceptable to the office of the city attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the city.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this chapter or the operation of any ~~retailer or retail microbusiness~~ retail cannabis business approved pursuant to this chapter."

SECTION 27. Amendment to Coachella Municipal Code. Section 5.69.220 *Compliance with state law* of Chapter 5.69 *Retail Cannabis Business Regulatory Permit* of the Coachella Municipal Code is hereby amended to add underlined text and delete stricken text as follows:

"**5.69.220 - Compliance with state law.**

All ~~retailer or retail microbusinesses~~ retail cannabis business shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996 ("CUA"), the Medical Marijuana Program Act ("MMP"), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")."

SECTION 28. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 29. California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the prohibition adopted by this Ordinance merely prohibits uses that do have impacts on public health, safety, and welfare, and does not permit any development that could result in a significant change to the environment. In addition, the Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment.

SECTION 30. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 31. Certification and Publication. The City Clerk of the City of Coachella shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Mayor

ATTEST:

_____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Ordinance No. 1162 was duly and regularly introduced at a meeting of the City Council on the 13th day of May 2020, and that thereafter the said ordinance was duly passed and adopted at a regular meeting of the City Council on the 27th day of May 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Resolution No. 2020-19 adopting the 2020 Local California Environmental Quality Act (CEQA) Guidelines for the City of Coachella.

STAFF RECOMMENDATION:

Staff recommends that the City Council adopt the attached Resolution No. 2020-19 adopting local guidelines for implementation of the California Environmental Quality Act (CEQA).

BACKGROUND:

State law requires all cities and counties in California to adopt local guidelines for implementing the California Environmental Quality Act (CEQA). The CEQA Guidelines periodically change when they are amended by the State legislators, and local guidelines need to be updated accordingly. Similarly, the standard forms are updated to reflect the latest procedures and State statute references.

DISCUSSION/ANALYSIS:

The City Attorney's Office has advised that the latest CEQA Guidelines for the City of Coachella are now up to date and must be adopted by the City Council for use by staff, and local CEQA consultants, on new development projects.

Attached to this staff report is the Resolution No. 2020-19 adopting the City of Coachella's 2020 Local CEQA Guidelines for processing of environmental reviews. City staff keeps these guidelines in digital format and they are available to the public for downloading from the City's website.

FISCAL IMPACT:

None.

CONCLUSIONS AND RECOMMENDATIONS:

The local CEQA Guidelines are used by staff, CEQA consultants, and the development community for preparing environmental review documents for new development projects that involve physical changes to the environment during construction and operation of the new uses. CEQA clearance documents are typically required in order to get State licenses for cannabis-related businesses, and to coordinate reviews with other agencies that may have review authority over projects (i.e., Airport Land Use Commission, Army Corps of Engineers, CA Dept. of Fish and Game). The standard forms and local guidelines help create a streamlined review and approval process, while creating disclosure of environmental impacts to the public. As such, staff recommends that the City Council adopt the attached resolution approving the 2020 CEQA Guidelines for the City of Coachella.

Attachments: Resolution No. 2020-19
2020 Local CEQA Guidelines

RESOLUTION NO. 2020-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA AMENDING AND ADOPTING THE 2020 LOCAL GUIDELINES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUB. 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 (1) the evaluation of public and private projects undertaken or approved by such public agencies, and (2) the preparation, if required, of environmental impact reports and negative declarations in connection with that evaluation; and

WHEREAS, the City of Coachella 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.

NOW, THEREFORE, the City Council of the City of Coachella ("City") hereby resolves as follows:

1. The City adopts the "2020 Local Guidelines for Implementing the California Environmental Quality Act," a copy of which is on file at the offices of the City and is available for inspection by the public.

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

PASSED, **APPROVED**, and **ADOPTED** this 27th day of May 2020.

_____

Steven A. Hernandez
Mayor

ATTEST:

_____

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-19 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on this 27th day of May 2020 by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

CEQA Guidelines

2020

Prepared For:

City of Coachella

Local Guidelines for Implementing the California Environmental Quality Act

2020

LOCAL GUIDELINES

FOR IMPLEMENTING THE

CALIFORNIA ENVIRONMENTAL QUALITY ACT

FOR

CITY OF COACHELLA

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LOCAL GUIDELINES
FOR IMPLEMENTING THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

(2020)

1. GENERAL PROVISIONS, PURPOSE AND POLICY.

1.01 GENERAL PROVISIONS.

These Local Guidelines ("Local Guidelines") are to assist the City of Coachella ("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 11.57, 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.

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.

CEQA also requires the lead agency to make copies of certain environmental documents available in an electronic format (such as Draft Environmental Impact Reports, Draft Negative Declarations and Draft Mitigated Negative Declarations), upon request.

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 may choose to make documents available to the public-at-large on its website or charge a reasonable fee for reproducing the document in hard-copy form, on compact discs, email attachments, or other digital transfers. Requests for documents made pursuant to the California Public Records Act must comply with the Government Code. (See, for example, Government Code Section 6253.9 for information regarding providing documents in electronic format.)

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 to any definite course of action, prior to CEQA compliance;
(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.

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 Planning and Research. Within 21 days of receiving the request, the Office of Planning and Research will designate the Lead Agency. The Office of Planning and Research 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. (See 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 Planning and Research 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 Planning and Research (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 Planning and Research (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
(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).

As Lead Agency, the City may charge a non-elected body with the responsibility of making a finding of exemption or adopting, certifying or authorizing environmental documents; however, such a determination shall be subject to the City's procedures allowing for the appeal of the CEQA determination of any non-elected body to the City. 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 consistent with the City's established procedures for appeals.

2.04 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 11.17, 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.

This provision does not apply to projects for which applications have been deemed complete on or before January 1, 1992.

(Reference: Gov. Code, § 65962.5.)

2.05 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.

2.06 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.)

2.07 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 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.

(Reference: State CEQA Guidelines, § 15103.)

2.08 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.)

2.09 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.)

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 11.57, it is not subject to environmental review under CEQA.

"Project" 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 11.57);
(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; and

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

(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 PRELIMINARY EXEMPTION ASSESSMENT.

If, in the judgment of Staff, a proposed activity is exempt, Staff should so find on the form entitled "Preliminary Exemption Assessment" (Form "A"). The Preliminary Exemption Assessment shall be retained at City Offices as a public record.

3.05 NOTICE OF EXEMPTION.

After approval of an exempt project, a "Notice of Exemption" (Form "B") may be filed by the City or its representatives with the county clerk of each county in which the activity will be located. 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 file a notice with the Office of Planning and Research ("OPR") identifying the exemption. The Preliminary Exemption Assessment shall be attached to the Notice of Exemption for filing. If filed, the Clerk must post the Notice within twenty-four (24) hours of receipt, and the Notice must remain posted for thirty (30) days. 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 Staff Summary to determine if such a fee will be required for the project. The Notice of Exemption must also 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.

When filing a Notice of Exemption, Staff has different responsibilities for certain types of actions. If the activity is either:

(a) 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; then

Staff may direct that person to file the Notice of Exemption with the county clerk of each county in which the activity will be located. (See Public Resources Code section 21065 (b) and (c)). A Notice of Exemption filed by a person as described above must have a certificate of determination attached to it issued by the City stating that the action is not subject to CEQA. (See Public Resources Code Sections 21080 and 21152.) The certificate of determination may be in the form of a certified copy of an existing document or record of the City.

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. The City is encouraged to make postings of all filed notices available in electronic format on the Internet. These electronic postings are in addition to the procedures required by the State CEQA Guidelines and the Public Resources Code. If a Notice of Exemption is not filed, a 180-day statute of limitations will apply. Please see Local Guidelines Section 3.13 for certain circumstances in which the Lead Agency is required to file a Notice of Exemption. The thirty-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.

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: State CEQA Guidelines, § 15062.)

3.06 DISAPPROVED PROJECTS.

Projects that the Lead Agency rejects or disapproves are exempt from CEQA. An applicant shall not be relieved of paying the costs for an EIR, Negative Declaration, or Mitigated Negative Declaration prepared for a project prior to the Lead Agency's disapproval of the project.

(Reference: State CEQA Guidelines, § 15062.)

3.07 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.

3.08 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.)

3.09 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.)

3.10 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.)

3.11 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.)

3.12 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:

(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.

3.13 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:

(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;

(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:

(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 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. CEQA does not apply to a residential project on an infill site within an urbanized area if all of the general requirements described above in Section A are satisfied and the following additional criteria are also met:

(1) Within five (5) years prior to the date that the application for the project is deemed complete, community-level environmental review was certified or adopted. This exemption does not apply, however, if new information about the project or substantial changes regarding the circumstances surrounding the project become available after the community-level environmental review was certified or adopted;

(2) The site is not more than four (4) acres in total area;

(3) The project does not contain more than one hundred (100) residential units;

(4) The project meets either of the following criteria:

(a) At least 10% of the housing is sold to families of moderate income or rented to families of low income, or at least 5% of the housing is rented to families of very low income, and the project developer has provided sufficient legal commitments to ensure the continued availability and use of the housing units for very low-, low-, and moderate-income households at monthly housing costs; or

(b) The project developer has paid or will pay in-lieu fees sufficient to pay for the development of the same number of units that would otherwise be sold or rented to families of moderate or very low income pursuant to subparagraph (a);

(5) The project is within one-half mile of a major transit stop;

(6) The project does not include any single-level building that exceeds one hundred thousand (100,000) square feet;

(7) The project promotes higher density infill housing:

(a) A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing; or

(b) A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise;

(8) Exception:

(a) Except as provided in subdivision (b), this division 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 Section 21159.21.

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 are met:

   a. 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.

   b. 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.

   c. 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).

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

(b) 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 any one of the three criteria described above in Section 3.13D(8)(a), the environmental effects of the project must be analyzed in an Environmental Impact Report or a Negative Declaration. The environmental analysis shall be limited to the project-specific effects and any effects identified pursuant to Section 3.13D(8)(a).

(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 3.13B of these Local Guidelines], 21159.23 [Section 3.13C 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 Planning and Research within five (5) working days after the approval of the project.

(Reference: State CEQA Guidelines, § 15196.)

3.14 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).)

3.15 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).)

3.16 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.)

3.17 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 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”).

(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:

(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.)

3.18 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 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.)

3.21 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, restriping of streets in urbanized areas for bicycle lanes, adoption of bicycle transportation plans for urban areas, 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.

Prior to determining that a bicycle transportation plan for an urban area is exempt, the lead agency must hold noticed public hearings in areas affected by the bicycle transportation plan 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. The lead agency must also prepare an assessment of any traffic and safety impacts of the project and include measures in the bicycle transportation plan to mitigate potential vehicular traffic impacts and bicycle and pedestrian safety impacts. See Public Resources Code Sections 21080.20 and 21080.20.5. This exemption shall remain in place until January 1, 2021.

3.22 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 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 Class 1. 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.)

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

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 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

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.)

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.)

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:

(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.)

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.)

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

(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.)

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.

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 OPR, 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 OPR, 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.

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.)

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" 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 11.14) 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 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(c) of the State CEQA Guidelines provides, in part: "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." Unless otherwise established via a separate action, the City does not elect to be governed by the provisions of Section 15064.3 before July 1, 2020.

For reference purposes only, 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 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 11.14. 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.

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;
(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 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;
(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 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 11.78. 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 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 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

(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: State CEQA Guidelines, § 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.

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.

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.

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 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

(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.)

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:

(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.

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 Notice of Intent to Adopt a Negative Declaration (Form "D") must be filed and posted with the County Clerk at least twenty (20) days—or, in cases subject to review by the State Clearinghouse, posted by the County Clerk and the State Office and Planning and Research

at least thirty (30) days—before the final adoption of the Negative Declaration or Mitigated Negative Declaration by the decision-making body (see Local Guidelines Section 6.10).

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 circulation, the public review period shall be at least as long as the period of review by the State Clearinghouse. (See Local Guidelines Section 6.10.) Day one of the state review period shall be the date that the State Clearinghouse distributes the document to state agencies. If the Lead Agency is submitting a Negative Declaration or Mitigated Negative Declaration to the State Clearinghouse, the Notice of Completion form may be used.

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.

(Reference: State CEQA Guidelines, § 15072.)

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 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 11.12.

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.

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:

(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 Governmental Code Sections 6254(r) and 6254.10, and State CEQA Guidelines 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.

(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.)

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 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 Clearinghouse review 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 must be given 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.

(Reference: 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 for circulation 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;

(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.

When the Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse for review, the review period shall be at least thirty (30) days. 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.

When a Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse, a Notice of Completion (Form "H") should be included. A sufficient number of copies of the documents must be sent to the State Clearinghouse for circulation. Staff should contact the State Clearinghouse to find out the correct number of printed copies required for circulation. In addition to the printed copies, a copy of the documents in electronic format shall be submitted on a diskette or by electronic mail transmission if available.

Alternatively, the City may provide copies of draft environmental documents to the State Clearinghouse for state agency review in an electronic format. The document must be on a CD-ROM in a common file format such as Word or Acrobat. Lead Agencies must provide fifteen (15) copies of the CD-ROM to the State Clearinghouse along with a hard copy version of the Notice of Completion (Form "H"). In addition, each CD-ROM must be accompanied by 15 printed copies of the introduction section of a Negative Declaration or Mitigated Negative Declaration. (A Lead Agency may also use Form "Q".) The printed summary allows both the State Clearinghouse and agency CEQA coordinators to distribute the documents quickly without the use of a computer. Form "Q" may be used as a cover sheet.

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 Office of Planning and Research . 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 Office of Planning and Research for any proposed project of statewide, regional or area-wide environmental significance, as defined by State CEQA Guidelines Section 15206.

(Reference: 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.)

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 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; however, when a non-elected decision-making body adopts a Negative Declaration or Mitigated Negative Declaration, the City must have a procedure allowing for the appeal of that decision to the City Council.

(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 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;
(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.

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.

The City is encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic notices are 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 OPR 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 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 OPR, 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.)

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.)

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 $2,406.75, 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.

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.

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.)

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 send a Notice of Preparation (Form "G") to OPR 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;

(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 OPR, 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. Agencies that do not respond within thirty (30) days shall be deemed not to have any comments on the Notice of Preparation.

The Lead Agency shall send copies of the Notice of Preparation by certified mail or any other method of transmittal which provides it with a record that the Notice was received.

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: State CEQA Guidelines, § 15082.)

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. Only large, privately funded projects that will result in a minimum investment of $100 million in California upon completion of construction and that create high-wage, highly skilled jobs without resulting in any net additional emission of greenhouse gases, will qualify for certification. All construction workers employed in the execution of the project will receive 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. If the project is certified for streamlining, the project applicant shall include this requirement in all contracts for the performance of the work. The request for certification must be made and granted prior to the release of the Draft EIR. If the Governor certifies the project, the lead agency must make the administrative record available concurrently with the Draft EIR and certify the administrative record within five (5) days of project approval and must make it available in an electronic format. Within 10 days of the Governor certifying an Environmental Leadership Development Project, the Lead Agency shall, at the applicant's expense, issue a public notice. See Public Resources Code Section 21187 for the language to be used in the public notice. If litigation is filed against such a project, certain fast-tracked litigation procedures will apply. Please see Public Resources Code Section 21178 and Sections 21183 through 21187 for a complete description of the requirements for such projects.

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, 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 11.12.

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.

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: State CEQA Guidelines, §§ 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 Governmental Code Sections 6254(r) and 6254.10, and State CEQA Guidelines 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.

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, OPR, 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 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 6250, 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);
(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;

(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. The discussion of 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 11.14. 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.)

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 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.

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 OPR in a printed hard copy or in electronic form on a diskette or by electronic mail transmission. The Notice 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.

OPR has developed a model form Notice of Completion. Form H follows OPR's model. To ensure that the documents are accepted by OPR staff, this form should be used when documents are transmitted to OPR.

Notice of Availability. At the same time it sends a Notice of Completion to OPR, 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.

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 11.67of 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.

In addition, notice shall be given to the public by at least one of the following procedures:

(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 is encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic postings are in addition to the procedures required by the CEQA Guidelines and the Public Resources Code.

(Reference: State CEQA Guidelines, §§ 15085, 15087.)

7.26 SUBMISSION OF DRAFT EIR TO STATE CLEARINGHOUSE.

A Draft EIR must be submitted to the State Clearinghouse for review by state agencies 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

(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 be submitted to the State Clearinghouse when a state agency has special expertise with regard to the environmental impacts involved.

When the Draft EIR will be reviewed through the State review process handled by the State Clearinghouse, a Notice of Completion (Form "H") should be used as a cover sheet. If the City uses the State Clearinghouse's online process to submit the Notice of Completion form, the form generated on the Internet site satisfies the State Clearinghouse's requirements.

A sufficient number of copies of the documents must be sent to the State Clearinghouse for circulation. Staff should contact the State Clearinghouse to find out the correct number of printed copies required for circulation. Minimally, the City must submit one (1) copy of the Notice of Completion and fifteen (15) copies of the entire document.

The City may submit fifteen (15) hard copies of the entire draft environmental document or fifteen (15) CD-ROMs of the entire document. The document must be on a CD-ROM in a common file format such as Word or Acrobat. In addition, each CD-ROM must be accompanied by fifteen (15) printed copies of the Draft EIR summary (as described in Local Guidelines Section 6.11), executive summary, or introduction section. Form "Q" may be used as a cover

sheet for document transmittal. The summary allows both the State Clearinghouse and the various agency CEQA coordinators to distribute the documents quickly without the use of a computer.

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: 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. When a Draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall be at least forty-five (45) days, unless a shorter period is approved by the State Clearinghouse as discussed below.

If a state agency is a Responsible Agency, or if the Draft EIR is submitted to the State Clearinghouse, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and 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 OPR. 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: 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 3.16; 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 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 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. 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.)

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."

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;
(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 the Clerk of each county in which the project will be located within five (5) working days of project approval. (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 with OPR 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 OPR.)

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 may make copies of filed notices available in electronic format on the Internet. Such electronic notices, if provided, are in addition to the posting requirements of the CEQA Guidelines and the Public Resources Code.

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 OPR, 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: 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.

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 $3,343.25, 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.)

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.

(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 Planning and Research 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.)

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.)

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 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:

(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
(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.

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 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.)

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 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) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with 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.

(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 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 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 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 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.

(vi) The development is not located on a site that is any of the following:

(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 the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(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 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.

(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, 2022, 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.

(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, 2022, 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 6250 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 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) 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.

(c) 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 as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(i) 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.

(ii) 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.

(d) (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.

(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.

(e) (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 includes public investment in housing affordability, beyond tax credits, where 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 include 50 percent of the units affordable to households making at or below 80 percent of the area median income, 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 that vertical construction of the development construction has begun 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.

(iii) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.

(f) (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. 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.

(g) (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.

(h) 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.

(i) For purposes of this section the following definitions shall apply:

(1) "Department" means the Department of Housing and Community Development.

(2) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(3) "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.

(4) "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.

(5) "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.

(6) "Production report" means the information reported pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Government Code Section 65400.

(7) "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.

(8) "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.

(9) "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.

(Reference: Gov. Code, § 65913.4.)

9.02 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.

9.03 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.

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].)

9.04 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.)

9.05 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].)

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;

(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:

(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), and 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 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 2011." 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.

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 Coachella.

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 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.)

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 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.

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.

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 "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.

11.35 "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).)

11.36 "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).)

11.37 "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.

11.38 "Lower Income Households" is defined in Health and Safety Code Section 50079.5 to mean any of the following:

(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.

11.39 "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 fifteen (15) 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).)

11.40 "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.

11.41 "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.

11.42 "Military Service" means the United States Department of Defense or any branch of the United States Armed Forces.

11.43 "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).)

11.44 "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.

11.45 "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.

11.46 "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.

11.47 "Notice of Completion" means a brief report filed with the Office of Planning and Research 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.

11.48 "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.

11.49 "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.

11.50 "Notice of Preparation" means a brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, the Office of Planning and Research, 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.

11.51 "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).)

11.52 "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).)

11.53 "Offsite Facility" means a facility that serves more than one generator of hazardous waste. (Public Resources Code Section 21151.1(h).)

11.54 "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**.**

11.55 "Pipeline" as defined in these Local Guidelines depends on the context. Please see Local Guidelines Sections 3.11 and 3.12 for specific definitions.

11.56 "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 11.57.

11.57 "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.

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.

11.58 "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).)

11.59 "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.)

11.60 "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).)

11.61 "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.

11.62 "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.

11.63 "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.

11.64 "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.

11.65 "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.

11.66 "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.

11.67 "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.

11.68 "Staff" means the City Manager or his or her designee**.**

11.69 "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.

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.

11.70 "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.)

11.71 "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.

11.72 "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.

11.73 "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.)

11.74 "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 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.

11.75 "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.

11.76 "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.

11.77 "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.

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.

11.78 "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.

11.79 "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.

11.80 "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 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 Planning and Research and allowed OPR 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 OPR, 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).)

11.81 "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.

11.82 "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.

11.83 "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;

(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.)

11.84 "Waterway" means a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline.

11.85 "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.)

11.86 "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.)

11.87 "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 use, subdivision, tract, or development approval required from the city or county having jurisdiction to permit the particular use of the property.

12. FORMS

See forms A – S which accompany these Guidelines.

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
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. **********

OPR – Office of Planning and Research

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. **********

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Resolution No. 2020-23 Establishing Revised Selection Criteria and Related Policies to be used during the review of Conditional Use Permits for Cannabis Retailers and Retail Microbusinesses (Round #2) within Subzone #1 (Pueblo Viejo), #3 (Dillon Road), #4 (Wrecking Yard), or #5 (Industrial Park) of the City.

STAFF RECOMMENDATION:

Staff recommends that the City Council adopt the attached Resolution No. 2020-23 establishing the revised selection criteria to be used during the review of Conditional Use Permits for Cannabis Retailers and Retail Microbusinesses (Round #2) within Subzone #1 (Pueblo Viejo), #3 (Dillon Road), #4 (Wrecking Yard), and #5 (Industrial Park) of the City.

BACKGROUND:

This item was discussed at the May 13, 2020 City Council meeting at which time it was continued to the May 27, 2020 meeting. There was a City Council consensus to bring back the "Local Ownership" questions/scoring criteria that were previously taken out after the April 22, 2020 discussion on this item. Additionally, the City Council requested to restore the "local hiring" criteria to be a minimum of 85% of all hires.

DISCUSSION/ANALYSIS:

Attached to this staff report is the Revised Resolution No. 2020-23 with changes to the "Exhibit A" prioritization / selection criteria.
The revised section is contained in Section II (2) a-c where the following criteria (previously deleted) has been restored.

2. Proof of Local Ownership (Up to 30 Points)
    a. Is there evidence showing that: 1) the Local Stakeholder Owner of the retail cannabis business has a primary residence in the City of Coachella where he/she has been residing for the past 36 months; or, 2) the Local Stakeholder Owner is a Coachella business owner which has 5 or more City of Coachella residents employed which have been employed during the past 36 months? *(Worth 10 points)*
    b. Does the applicant commit to hiring City of Coachella residents for 85% of all hires of the retail cannabis and secondary businesses? *(Worth 10 points)*

c. Does the applicant have proof (through financial documents and/or capital investments) that there is a 20% Local Stakeholder Ownership Interest by either the applicant, partner or shareholder to apply for all aspects of the retailer or retail microbusiness? *(Worth 10 points)*

Additionally, the two local hiring criteria in the respective questions have been restored to "85% of all hires" as discussed with City Council.

FISCAL IMPACT:

None.

CONCLUSIONS AND RECOMMENDATIONS:

Staff recommends that the City Council adopt the attached Resolution No. 2020-23 establishing the Revised Selection Criteria and to implement these policies in an expedited manner.

Attachments: Resolution No. 2020-23 w/ Exhibit A and Appendix 1

RESOLUTION NO. 2020-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, ESTABLISHING REVISED SELECTION CRITERIA TO BE USED DURING THE REVIEW OF CONDITIONAL USE PERMITS FOR CANNABIS RETAILERS AND RETAIL MICROBUSINESSES (ROUND #2) WITHIN SUBZONE #1 (PUEBLO VIEJO), #3 (DILLON ROAD), #4 (WRECKING YARD), OR #5 (INDUSTRIAL PARK) OF THE CITY.

WHEREAS, pursuant to the authority granted to the City of Coachella ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulation and other land use regulations lies within the City's police powers; and,

WHEREAS, in November 2016, voters approved Proposition 64, otherwise known as the Control, Regulate, Tax Adult Use of Marijuana Act ("AUMA") which legalized the adult use of cannabis and created a statutory framework for the state to regulate adult use of cannabis. Senate Bill 94, adopted on June 27, 2017, reconciled standards for medical cannabis with the standards for adult use cannabis activity under a single law, entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, the City Council of the City of Coachella, California ("City Council"), did on the 8th day of May, 2019 and on the 26th day of June, 2019, held duly noticed public hearings

to consider changes to the City of Coachella Municipal Code ("Code"), and adopted Ordinance Nos. 1140 establishing retail and personal cannabis regulations and a conditional use permit review process; and,

WHEREAS, Ordinance 1140 amends Title 17 (Zoning), Chapters 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) comply with current City policies and State law; (ii) to allow additional cannabis retail businesses in the City; (iii) to designate additional areas in the City where cannabis retail businesses may operate; and,

WHEREAS, the City has established five new subzones where cannabis will be allowed. These subzones are identified geographically as part of Ordinance No. 1140 as follows: Subzone #1 (Modified Downtown/Pueblo Viejo Area); Subzone #2 (Expanded Glenroy Resort Area); Subzone #3 (Dillion Road Area); Subzone #4 M-W (Wrecking Yard Area); and Subzone #5 MS-IP (Industrial Park Area); and,

WHEREAS, the City Council directed staff to establish a selection criteria that allowed for Sub-Zone #1 (Downtown/Pueblo Viejo) applicants in Round #1 to participate without a competitive process including an allowance to relocate the business from its approved Round #1 location, and to establish new criteria for applicants within Sub-Zones #2 (Glenroy Resort), #3 (Dillion Road), #4 (M-W, Wrecking Yard Area), and #5 (MS-IP, Industrial Park) to be used for retailers and retail microbusinesses during the conditional use permit process in Round #2 to ensure that only qualified operators are permitted in the City and to provide a basis for prioritizing applicants should the number of applicants exceed the number or locations of available conditional use permits; and,

WHEREAS, on October 9, 2019 the City Council adopted Resolution No. 2019-51 establishing the new selection criteria for review of retailers and retail microbusinesses during the conditional use permit process to ensure that only qualified operators are permitted in the City and to provide a basis for prioritizing applicants should the number of applicants exceed the number or locations of available conditional use permits; and,

WHEREAS, on March 11, 2020, April 22, 2020, and May 13, 2020 the City Council gave staff direction to revise the new selection criteria previously adopted by Resolution No. 2019-51.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Adoption of Recitals. The City Council hereby adopts the foregoing recitals as its findings in support of the following regulations and further finds that the following revised regulations to establish selection and prioritization criteria for retailers and retail microbusinesses are beneficial and appropriate to protect the health, safety and welfare of the residents and businesses of the City of Coachella.

SECTION 2. Adoption of Revised Selection Criteria. The City Council hereby adopts the revised selection criteria set forth in Exhibit "A," attached hereto, to review retailer applicants through the conditional use permit process.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this resolution or related ordinances or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 4. Immediate Effect. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

SECTION 5. Supersession. This Resolution hereby annuls, repeals, and replaces in its entirety, the new selection criteria previously approved by City Council as part of Resolution No. 2019-51.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Mayor

ATTEST:

_____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-23 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 27th day of May 2020, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

EXHIBIT "A"

The City of Coachella is located at the eastern end of the Coachella Valley and enjoys a rich cultural heritage known for its entrepreneurial families and engaged youth population. It is the City Council's desire to promote potential cannabis businesses that will further the economic development goals, and cannabis social equity policies, of the community in order to create jobs, provide a stronger tax base, and enhance the public health and wellness of the community. The policies and selection criteria listed below, along with the Eligible Applicant and Eligible Business descriptions in the attached "Appendix 1 – City of Coachella Cannabis Social Equity Program" will be used in the City's Retail Cannabis (Round #2) reviews of Conditional Use Permit applications.

Revised Subzone 1 Policy – Round #1 Applicant Policies:

The applicants which submitted a complete application for Change of Zone and Conditional Use Permit for Retail Cannabis Businesses as part of Round #1 and were prioritized by the Cannabis Ratings Committee in the Pueblo Viejo (Sub-Zone #1) will be allowed to proceed with Conditional Use Permit public hearings on any qualifying location without competing with new applicants in Round #2, if the previously-approved location was adversely affected by the removal of the R-C (Retail Cannabis Overlay) zone as part of Ordinance No. 1040. The previously-ranked applicant that chooses a new location will be required to forfeit their prior-approved location. All Round #1 dispensary owners are disqualified from competing for a second dispensary as part of Round #2 applications.

Subzone 2 Policy – Reserved through a Development Agreement:

The City reserves the right to allocate two (2) retail cannabis businesses within the Glenroy Resort Sub-Area #2, subject to a negotiated Development Agreement, and these two businesses will not be required to compete in Round #2.

Revised Subzones 1, 3, 4, & 5 Selection Criteria–Round #2 Applicants:

With the adoption of Ordinance No. 1140 setting the zoning and regulatory framework for new retailers, the City anticipates that there may be more applications for cannabis business conditional use permits than allowed under the City regulations. Only four (4) new businesses will be moving forward, after the Round #1 awardees have been given an additional nine (9) months to establish their businesses.

The City has enacted, through Resolution, the following process for prioritizing applications.

I. Completeness Review

All cannabis retailers are required to submit a Conditional Use Permit (CUP) application with fee using the City's on-line resources and guidance documents, and a Cannabis Regulatory Permit Application with all required Attachments. The applicant shall participate in the City's pre-submittal workshop and shall become informed about the City's cannabis social equity policies contained in the attached Appendix 1. The City's staff and consultants shall review all applications for "completeness" to ensure that

applicants have submitted all the required information necessary for review of the application. Only applications received between July 27, 2020 and August 31, 2020 ("initial review and prioritization period") and deemed complete will move on for review under the City's revised selection criteria, unless exempted through a Development Agreement. Persons and/or entities that are currently involved or were involved in the 6 months prior to the initial review and prioritization period with an active court proceeding adverse to the City are ineligible to apply for a CUP.

II. Revised Selection Criteria

The following selection criteria will be used by the Development Services Department to evaluate and prioritize CUPs for retailers and retail microbusinesses. Selection criteria are each worth either 5, 10, or 15 points, with a grand total of 125 points possible. To obtain the points, the applicant must demonstrate compliance with each criterion listed in the section below.

1. Proof of Applicant's Ability to Open in Short Period of Time (Up to 25 Points)
   a. Has the landowner provided written authorization for a retailer and provided the applicant with a lease agreement? *(Worth 5 points)*
   b. Is the proposed retailer property capable of opening the business within 180 days after approval? *(Worth 5 points)*
   c. Is the proposed retailer property not the subject of any outstanding code enforcement activity? *(Worth 5 points)*
   d. Has the applicant submitted a construction schedule with a signed affidavit acknowledging an informed consent that the City will revoke an approved CUP for retail cannabis business if the business does not open within six (6) months of the effective date of the CUP? (*Worth 10 points)*

2. Proof of Local Ownership (Up to 30 Points)
   a. Is there evidence showing that: 1) the Local Stakeholder Owner of the retail cannabis business has a primary residence in the City of Coachella where he/she has been residing for the past 36 months; or, 2) the Local Stakeholder Owner is a Coachella business owner which has 5 or more City of Coachella residents employed which have been employed during the past 36 months? *(Worth 10 points)*
   b. Does the applicant commit to hiring City of Coachella residents for 85% of all hires of the retail cannabis and secondary businesses? *(Worth 10 points)*
   c. Does the applicant have proof (through financial documents and/or capital investments) that there is a 20% Local Stakeholder Ownership Interest by either the applicant, partner or shareholder to apply for all aspects of the retailer or retail microbusiness? *(Worth 10 points)*

3. Proof of Social Equity Factors (Up to 30 Points)
   a. Is the applicant an eligible applicant under the City's Cannabis Social Equity Program as a Classification 1 or Classification 2 applicant? *(Worth 10 Points)*
   b. Is the proposed Cannabis Retailer or Cannabis Microbusiness an eligible applicant under the City's Cannabis Social Equity Program as a Classification 3 business? *(Worth 10 points)*

c. Does the applicant commit in a signed writing to hire City of Coachella residents for 85% of all hires of the retail cannabis business? *(Worth 10 points)*

4. Proof of Ability to Open a Secondary Business (Up to 20 Points)
   a. Does the applicant propose to operate a new secondary business (such as a restaurant, retail sales, hotel, bed & breakfast, bakery, art gallery, bar/tavern, coffee shop, bookstore or personal service business, etc.) on separate premises within 12 months of the application date in addition to the proposed retailer business? *(Worth 5 points)*
   b. Does the applicant provide written proof of available financing to construct a secondary business consisting of new construction or tenant improvements with the ability to open the business at the same time as the dispensary. *(Worth 5 points)*
   c. Does the applicant commit in a signed writing to hire City of Coachella residents for 85% of all hires for the secondary business? *(Worth 5 points)*
   d. Does the secondary business have a minimum of 1,000 square feet and is it located within a separate commercial suite from the retail cannabis business? *(Worth 5 points)*

5. Proposed Retail Location/Community Benefits (Up to 20 Points)
   a. Does the applicant provide a detailed architectural plan for building façade improvements *(Worth 5 points)*
   b. Does the applicant provide a written commitment for intended contributions to a Coachella community-based organization or non-profit in the form of recurring monetary donations for a minimum of ten years. *(Worth 5 points)*
   c. Is the applicant committing to exterior façade and landscape improvements that will enhance the surrounding areas? *(Worth 5 points)*
   d. Has the applicant provided a detailed description of how the premises and exterior building areas will be managed so as to avoid nuisance, loitering, and other negative impacts on surrounding properties? *(Worth 5 points)*

III. Ranking and Appeals

Applications will be ranked by a 3-Member Ad-Hoc Committee made up of one disinterested member of the Chamber of Commerce, one disinterested member of the City Parks Commission, one disinterested Community Resident, and one disinterested 3rd Party Consultant, with the Director of Development Services serving as the Committee coordinator. The final rankings of the Ad-Hoc Committee will be subject to an appeal hearing by a 3-Member Appellate Board made up of two City mid-management staff and one City executive staff member.

Attachment: APPENDIX 1 – Coachella Social Equity Program

APPENDIX 1

(Adopted by City Council Resolution No. 2019-15)

CITY OF COACHELLA

Cannabis Social Equity Program

The City of Coachella will establish a pilot social equity program dedicated to aiding individuals and businesses that were negatively or disproportionately impacted by cannabis criminalization within the City of Coachella. The goal of the program will be to allow participants to gain entry and successfully operate in the State of California's regulated cannabis marketplace and economy.

Office of the City Manager

3/27/2019

CITY OF COACHELLA

CANNABIS SOCIAL EQUITY PROGRAM

1. PROGRAM PURPOSE:

The Cannabis Social Equity Program ("Program") will reduce the barriers of entry and participation for applicants and businesses that have been negatively impacted by the disproportionate law enforcement of cannabis related criminalization by providing them access to cannabis business development resources and small business support services. This program will make a cognizant effort to provide technical assistance and services to those persons from economically disadvantaged communities that experienced high rates of poverty or communities most harmed by cannabis prohibition, regardless of economic status, gender, racial, cultural background and criminal history. Although City of Coachella funding for the Program shall expire in two years from the date of adoption, the Program's definition, eligibility, processing, benefits, features and functions shall remain intact as policy.

2. REVIEW PROCESS:

The City Manger or their designee shall review and approve all Program applications that meet the eligibility requirements described in Section 3 below. If an application is denied, that applicant may appeal to the City for further evaluation and a final determination.

3. PROGRAM ELIGIBILITY:

An applicant must provide documentation, as described in Section 4 below that sufficiently demonstrates that the applicant satisfies any one of the following Classifications:

a. **Individuals:** An individual that is eligible to participate in the Program must be lawfully able to work in the United States and be Twenty-One (21) years of age or older. They must satisfy a Classification below as well:

   i. **Classification 1.** A current or former resident of the City of Coachella who previously resided or currently resides in a low-income household and was either: a) arrested or convicted for a cannabis related crime in the City of Coachella between the years of 1980 and 2011; or is b) an immediate family member of an individual in subsection a of Classification 1 or Classification 2.

   ii. **Classification 2.** A current or former resident of the City of Coachella who has lived in a low-income household for at least five (5) years, between the years of 1908 and 2018. Annual family income must be at or below 80 percent of the Area Median Income (AMI) and net worth below $250,000.

b. **Businesses:** A cannabis business that is eligible to participate must provide a description of a statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement and fictious business name statement. They must satisfy a Classification below as well:

   i. **Classification 3.** A cannabis business with not less than 51% ownership by individuals meeting Classification 1 or 2 criteria that their business resides within the City of Coachella. If no such individual exists, individuals meeting Classification 1 or 2 criteria from other applicable areas may be utilized.

   ii. **Classification 4.** A Cannabis Incubator Business or a Cannabis Social Enterprise with not less than 51% ownership by individuals meeting Classification 1 or 2 criteria.

4. DOCUMENTATION AND REVIEW:

An applicant shall provide the following with its application for the Program, in addition to any other documentation that the City of Coachella deems necessary to determine the applicant's eligibility:

a. **Proof of Income.** Proof of income shall be supported with federal and state tax returns and at least one of the following documents from the last five (5) years: two months of pay stubs; proof of current eligibility for General Assistance, food stamps, Medi-Cal/CalWORKs, supplemental security income, or social security disability, or similar documentation.

b. **Proof of residency.** Proof of residency shall be supported by a minimum of two of the following documents: California driver's or identification card records, property tax billings and payments, signed rental agreement, verified copies of state or federal tax returns with an address in the geographic area of the city of Coachella, school records, medical records, banking records, Coachella Housing Authority records, or utility, cable, or internet company billing and payment records.

c. **Proof of arrest or conviction of a cannabis related crime.** Proof of an arrest or conviction of a cannabis related crime shall be demonstrated by federal or state court records indicating the disposition of the criminal matter, records expungement documentation, or any other applicable law enforcement record.

5. PARTICIPANT BENEFITS:

General program benefits may include but are not limited to: business plan development, business mentoring, assistance securing capital, business needs assessment, loan readiness assessment, market assessment, data and research strategies and support, assistance with establishing a legal entity, assistance with criminal records expungement, lease negotiation assistance, small business legal considerations, mentoring, fiscal management, marketing/social media, technical training, employee training, and regulatory compliance. The City will also work with local partners and stakeholders to develop a workforce development educational program to assist with a creation of a well-trained, qualified and diverse workforce, including transitional workers. A program participant shall be entitled to receive the following benefits based on eligibility:

i. All business support services offered under the program;
ii. The City will provide priority processing of the participant's cannabis related business and conditional use permit;
iii. The City will waive all fees associated with participants cannabis related business permit;
iv. The City shall provide assistance with State and City regulatory compliance.

6. CONDITION ON CANNABIS BUSINESS OPERATION PERMIT:

Program participants are required to continue, maintain, and carry out their respective eligibility requirements through the term of their respective cannabis business operations permit. Compliance with this section 6 shall be a condition of participants respective cannabis business operations permit, such that failure to comply with this section 6 shall be grounds to deny, suspend, or revoke such cannabis business operations permit pursuant to City of Coachella Municipal Code.

7. PROGRAM MONITORING AND REPORTING:

The Office of the City Manager shall provide bi-annually updates to the City Council on the status of the Program, including number of participants, participant success measured by the number of participants either ready to obtain or that have obtained a cannabis business operating permit. The City will reevaluate and update the Program when data becomes available or known to it that may expand the eligibility and benefits of the program; including, but not limited to, an analysis of disproportionate impacts within census tracts. Additionally, the report should include an evaluation of any ongoing barriers to entry and participation, any reevaluations of the Program, and recommend solutions as needed to advance equity and accomplish the City of Coachella's goals, which, includes achieving 50 percent of all cannabis business permits awarded to Program participants.

8. DEFINITIONS:

a) "Eligible local jurisdiction" means a local jurisdiction that has adopted or operates a local equity program.

b) "Local equity applicant" means an applicant who has submitted, or will submit, an application to a local jurisdiction to engage in commercial cannabis activity within the jurisdictional boundaries of that jurisdiction and who meets the requirements of that jurisdiction's local equity program.

c) "Local equity licensee" means a person who has obtained a license from a local jurisdiction to engage in commercial cannabis activity within the jurisdictional boundaries of that jurisdiction and who meets the requirements of that jurisdiction's local equity program.

d) "Local equity program" means a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California's cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization.

e) "Local jurisdiction" means a city, county, or city and county.

f) "State commercial cannabis license" means a license issued pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act by the Bureau, the California Department of Public Health, or the California Department of Food and Agriculture.

g) "Transitional worker" means a person who, at the time of starting employment at the business premises, resides in a ZIP Code or census track area with higher than average unemployment, crime, or child death rates, and faces at least one of the following barriers to employment: (1) is homeless; (2) is a custodial single parent; (3) is receiving public assistance; (4) lacks a GED or high school diploma;
(5) has a criminal record or other involvement with the criminal justice system; (6) suffers from chronic unemployment; (7) is emancipated from the foster care system; (8) is a veteran; or (9) is over 65 years of age and is financially compromised.

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Nathan Statham, Finance Director

SUBJECT: Resolution No. 2020-27, Approving Mid-Year Budget Adjustments for Fiscal Year 2019-2020

STAFF RECOMMENDATION:

Staff recommends that City Council approve the mid-year budget adjustments outlined below and adopt Resolution No. 2020-27 amending the budget for fiscal year 2019-2020.

BACKGROUND:

As the City approached the middle of the fiscal year, City finance staff evaluated the adopted budget, revenue projections, and economic conditions for the remainder of the fiscal year. It is standard procedure to perform a mid-year review of the City's budgetary and financial position to ensure any deviations from the initial budget projections are proactively addressed. Staff also reviews requests for appropriations to address new priorities that are unfunded or underfunded.

DISCUSSION/ANALYSIS:

Revenues

Recommended mid-year budgeted revenue decreases:

- General Fund - Revenue decreases are recommended for Measure U Taxes ($75,000) and Sales and Use Taxes ($75,000).

Recommended mid-year budgeted revenue increases:

- General Fund - Increases are recommended for Manufacturing Taxes ($43,000), Waste Transfer Station revenues ($62,500) and other revenue ($10,000).

Expenditures

Recommended mid-year expenditure appropriation increases:

- General Fund - Increase appropriations for group insurance premiums ($60,000), other legal services ($80,000) and other operating expenses ($5,041).

- Lighting and Landscape Districts - Appropriate a transfer out of the Lighting and Landscape Districts Fund for public works administrative fees ($21,183).

FISCAL IMPACT:

Approval of these mid-year budget adjustments will have the following fiscal impacts:

- General Fund
  - Net decrease in estimated revenues of $34,500.
  - Net increase in expenditure appropriations of $145,141.

- Lighting and Landscape Districts
  - Net decrease in District resources due to the transfer out of $21,183.

ATTACHMENTS:

1. Resolution 2020-27 - Amending the budget for fiscal year 2019-2020
2. Budget Adjustment Journal Entry (Exhibit A to Resolution 2020-27)

RESOLUTION 2020-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2019-2020

WHEREAS, the City Council of the City of Coachella may authorize amendments to the Fiscal Year 2019-2020 budget as financial conditions change and City needs arise.

NOW, THEREFORE, **THE CITY COUNCIL OF THE CITY OF COACHELLA DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The budget for the Fiscal Year, commencing July 1, 2019 and ending June 30, 2020, shall be amended to incorporate budget adjustments detailed in Exhibit A attached hereto.

SECTION 2. All obligations and expenditures shall be incurred and made in the manner provided by and pursuant to State laws and City ordinances, resolutions, and policies related to purchasing and contracting.

PASSED, **APPROVED**, and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Mayor

ATTEST:

_____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-27 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on this 27th day of May 2020 by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Andrea J. Carranza, MMC
Deputy City Clerk

CITY OF COACHELLA
53-990 ENTERPRISE WAY, COACHELLA, CALIFORNIA 92236
PHONE (760) 398-3502 • WWW.COACHELLA.ORG

RESOLUTION 2020-27
EXHIBIT A

REQUEST FOR BUDGET ADJUSTMENT/AMENDMENT

BA1920-006

DATE
05/27/20

REVENUE	*ACCOUNT NO.*	*R*	*Amount*
Measure U Sales and use tax	101-11-110-10-310		(75,000)
Sales and use tax	101-11-110-10-313		(75,000)
Manufacturing Tax 2%	101-11-110-10-333		43,000
Waste Transfer Station-JPA Income	101-11-110-40-333		62,500
Other revenue - finance /administration	101-11-131-90-369		10,000
	Total Revenue Budget Adjustments		(34,500)

EXPENDITURE	*ACCOUNT NO.*	*E*	*Amount*
Group insurance	101-11-111-10-210-000		60,000
Communications	101-11-111-10-530-000		1,000
Communications	101-11-112-10-530-000		700
Meetings, conferences and travel	101-11-112-10-580-000		(700)
Other Legal Services	101-11-114-10-333-000		80,000
Meetings, conferences and travel	101-11-131-10-580-000		1,000
Benefit and leave cash-in	101-11-145-10-114-000		3,041
Transfer Out-Pub Wrks Admin Fees	160-00-195-00-919-101		21,183
	Total Expenditure Budget Adjustments		166,224
	NET CHANGE		(200,724)

EXPLANATION
To book mid-year budget adjustments approved by City Council

☐ ADMINISTRATIVE

☐ BUDGET ADMENDMENT/ADJUSTMENT

☑ FUNDS AVAILABLE FOR TRANSFER

REQUESTED BY:

FINANCE
Ruben Ramirez
Finance Director
ORDINANCE NO.
N/A
AMENDMENT NO.
BA1920-006

F:\Journal Entries & Budget Adj\Budget Adjustment AJE 2019-20

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Nathan Statham, Finance Director

SUBJECT: Establish the Appropriations Limits for Fiscal Year 2020-21

SPECIFICS:
a) Adopt Resolution No. 2020-32, establishing the appropriations limit for the City of Coachella for fiscal year 2020-21;
b) Adopt Resolution No. SD-2020-03, establishing the appropriations limit for the Coachella Sanitary District for fiscal year 2020-21;
c) Adopt Resolution No. FD-2020-02, establishing the appropriations limit for the Coachella Fire Protection District for fiscal year 2020-21

STAFF RECOMMENDATION:

a) Adopt Resolution No. 2020-32, establishing the appropriations limit for the City of Coachella for fiscal year 2020-21;
b) Adopt Resolution No. SD-2020-03, establishing the appropriations limit for the Coachella Sanitary District for fiscal year 2020-21;
c) Adopt Resolution No. FD-2020-02; establishing the appropriations limit for the Coachella Fire Protection District for fiscal year 2020-21.

BACKGROUND:

In conjunction with the fiscal year budget, each year the City of Coachella, Coachella Sanitary District and Coachella Fire Protection District are required to establish their appropriations limit by resolution. For fiscal year 2019-20 the appropriations limits were as follows:

City of Coachella - $42,185,297
Coachella Sanitary District - $6,891,306
Coachella Fire Protection District – $3,724,886

The formula used to adjust the limit for fiscal year 2020-21 is the change in the California Per Capita Personal Income (3.73%) multiplied by the Riverside County population growth factor (0.79%) as published by the California Department of Finance. For the 2020-21 fiscal year the calculation results in an increase factor of 1.0455. Multiplying the 2019-20 appropriation limits by the increase factor increases the appropriations limit for the 2020-21 fiscal year as follows:

City of Coachella - $44,104,728
Coachella Sanitary District - $7,204,860
Coachella Fire Protection District – $3,894,368

FISCAL IMPACT:

There is no fiscal impact at this time.

RESOLUTION NO. 2020-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA CALIFORNIA, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2020-21 FOR THE CITY OF COACHELLA, CALIFORNIA IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 9 OF TITLE 1 OF THE CALIFORNIA GOVERNMENT CODE

WHEREAS, Article XIIIB of the Constitution of the State of California as proposed by the Initiative Measure approved by the people at the special statewide election held November 6, 1979, provides that the total annual appropriations subject to limitation of each local government shall not exceed the appropriations limit of such entity for the prior year adjusted for changes in the cost of living and population except as otherwise specifically provided for in said Article; and

WHEREAS, the State Legislature added Division 9 (commencing with Section 7900) to Title 1 of the Government Code of the State of California to implement Article XIIIB of the California Constitution; and

WHEREAS, Section 7910 of the Government Code provides that each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit for the following fiscal year pursuant to Article XIIIB at a regularly scheduled meeting or a noticed special meeting and that fifteen days prior to such meeting, documentation used in the determination of the appropriations limit shall be available to the public; and

WHEREAS, Section 7902 (a) of the Government Code sets forth the method for determining the appropriations limit for each local jurisdiction for the 2020-21 fiscal year; and

WHEREAS, the CITY COUNCIL of the City of Coachella wishes to establish the appropriations limit for the fiscal year 2020-21 for the City of Coachella.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Coachella, California, as follows:

Section 1. That it hereby found and determined that the documentation used in the determination of the appropriations limit for the City of Coachella for the fiscal year 2020-21 was available to the public from the Finance Department of the City of Coachella at least fifteen days prior to this date.

Section 2. That the appropriations limit for the City of Coachella fiscal year 2020-21, as established in accordance with Section 7902 (a) of the California Government Code, is $44,104,728.

Section 3. That the City Council of the City of Coachella has elected to utilize the California Per Capita Income and the Riverside County population growth factor in determining the appropriations limit for fiscal year 2020-21.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Mayor

ATTEST:

_____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-32 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 27th day of May 2020, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

RESOLUTION NO. SD-2020-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE COACHELLA SANITARY DISTRICT, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2020-21 FOR THE COACHELLA SANITARY DISTRICT IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 9 OF TITLE 1 OF THE CALIFORNIA GOVERNMENT CODE

WHEREAS, Article XIIIB of the Constitution of the State of California as proposed by the Initiative Measure approved by the people at the special statewide election held November 6, 1979, provides that the total annual appropriations subject to limitation of each local government shall not exceed the appropriations limit of such entity for the prior year adjusted for changes in the cost of living and population except as otherwise specifically provided for in said Article; and

WHEREAS, the State Legislature added Division 9 (commencing with Section 7900) to Title 1 of the Government Code of the State of California to implement Article XIIIB of the California Constitution; and

WHEREAS, Section 7910 of the Government Code provides that each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit for the following fiscal year pursuant to Article XIIIB at a regularly scheduled meeting or a noticed special meeting and that fifteen days prior to such meeting, documentation used in the determination of the appropriations limit shall be available to the public; and

WHEREAS, Section 7902 (a) of the Government Code sets forth the method for determining the appropriations limit for each local jurisdiction for the 2020-21 fiscal year; and

WHEREAS, the Board of Directors of the Coachella Sanitary District wishes to establish the appropriations limit for the fiscal year 2020-21 for the Coachella Sanitary District.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Coachella Sanitary District, as follows:

Section 1. That it hereby found and determined that the documentation used in the determination of the appropriations limit for the Coachella Sanitary District for the fiscal year 2020-21 was available to the public from the Finance Department of the City of Coachella at least fifteen days prior to this date.

Section 2. That the appropriations limit for the Coachella Sanitary District for fiscal year 2020-21, as established in accordance with Section 7902 (a) of the California Government Code, is $7,204,860.

Section 3. That the Board of Directors of the Coachella Sanitary District has elected to utilize the California Per Capita Income and the Riverside County population growth factor in determining the appropriations limit for fiscal year 2020-21.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
President

ATTEST:

_____
Angela M. Zepeda
Secretary

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. SD-2020-03 was duly adopted by the Board of Directors of the Coachella Sanitary District at a regular meeting thereof, held on the 27th day of May 2020, by the following vote of the Board:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

RESOLUTION NO. FD-2020-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE COACHELLA FIRE PROTECTION DISTRICT, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2020-21 FOR THE COACHELLA FIRE PROTECTION DISTRICT IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 9 OF TITLE 1 OF THE CALIFORNIA GOVERNMENT CODE

WHEREAS, Article XIIIB of the Constitution of the State of California as proposed by the Initiative Measure approved by the people at the special statewide election held November 6, 1979, provides that the total annual appropriations subject to limitation of each local government shall not exceed the appropriations limit of such entity for the prior year adjusted for changes in the cost of living and population except as otherwise specifically provided for in said Article; and

WHEREAS, the State Legislature added Division 9 (commencing with Section 7900) to Title 1 of the Government Code of the State of California to implement Article XIIIB of the California Constitution; and

WHEREAS, Section 7910 of the Government Code provides that each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit for the following fiscal year pursuant to Article XIIIB at a regularly scheduled meeting or a noticed special meeting and that fifteen days prior to such meeting, documentation used in the determination of the appropriations limit shall be available to the public; and

WHEREAS, Section 7902 (a) of the Government Code sets forth the method for determining the appropriations limit for each local jurisdiction for the 2020-21 fiscal year; and

WHEREAS, the Board of Directors of the Coachella Fire Protection District wishes to establish the appropriations limit for the fiscal year 2020-21 for the Coachella Fire Protection District.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Coachella Fire Protection District, as follows:

Section 1. That it hereby found and determined that the documentation used in the determination of the appropriations limit for the Coachella Fire Protection District for the fiscal year 2020-21 was available to the public from the Finance Department of the City of Coachella at least fifteen days prior to this date.

Section 2. That the appropriations limit for the Coachella Fire Protection District for fiscal year 2020-21, as established in accordance with Section 7902 (a) of the California Government Code, is $3,894,368.

Section 3. That the Board of Directors of the Coachella Fire Protection District has elected to utilize the California Per Capita Income and the Riverside County population growth factor in determining the appropriations limit for fiscal year 2020-21.

PASSED, APPROVED and **ADOPTED** this 27th day of May 2020.

_____
Steven A. Hernandez
Chair

ATTEST:

_____
Angela M. Zepeda
Secretary

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. FD-2020-02 was duly adopted by the Board of Directors of the Coachella Fire Protection District at a regular meeting thereof, held on the 27th day of May 2020, by the following vote of Board:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Andrea J. Carranza, MMC
Deputy City Clerk

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Nathan Statham, Finance Director

SUBJECT: Investment Report – March 2020

STAFF RECOMMENDATION:

Staff recommends that the City Council receive and file the investment report for March of 2020

EXECUTIVE SUMMARY:

On April 10, 2019, the City of Coachella along with its component units (Sanitary District, Educational & Governmental Access Cable Corporation, Fire Protection District and Water Authority) approved and adopted the current "Statement of Investment Policy".

Pursuant to Section 16 of that policy, the City Treasurer shall provide to the City Council a monthly investment report which provides a clear picture of the status of the current investment portfolio. This report shall include, at a minimum, the following information for each type of investment held in the City's investment portfolio: the issuer; amount of investment; current market value; yield on investment; income generated from investments; dollar amount invested on all securities, investments and moneys held by the local agency; and shall additionally include a description of any of the local agency's funds, investments, or programs; and a description of unusual investment activity or developments during the month for which the report is prepared. This information shall be provided for all City and component unit pooled investments, as well as for bond accounts, which are managed by outside Fiscal Agents.

The interest rates presented are the most current rates available as of the date of these reports. The market values presented for pooled City investments are based on closing prices for the related investments as of the date of these reports. This information was obtained from the Wall Street Journal or other reliable sources of market prices.

The Market values presented for investments managed by fiscal agents are based on amounts reported by the fiscal agent on their investment statements. The purchase date and type of investment are not included for funds held by fiscal agents.

Attached is the Treasurer's Report of Investments which includes an overview on investments which provides information on investment activity, withdrawals and deposits, interest earned,

payment of interest and payment of principal as of the periods ending March 31, 2020. In addition, this report includes detailed information and current activity on individual investments.

All City investments are in compliance with the guidelines established for Authorized Investments as specified in the Investment Policy, Section 8.

There was no unusual investment activity to report.

The City and Districts have sufficient moneys to meet their expenditure requirements for the next six months.

FISCAL IMPACT:

None, this report is receive and file only.

CITY OF COACHELLA
TREASURER'S REPORT - INVESTMENT REPORT
As of March 31 2020
Fiscal Year 2019-2020

DESCRIPTION	CURRENT YIELD	BALANCE AS OF 2/29/2020	NET: DEPOSITS/ (WITHDRAWALS)	INTEREST EARNED / CHANGE IN VALUE	PAYMENT OF INTEREST	PAYMENT OF PRINCIPAL	BALANCE AS OF 3/31/2020	
CASH ON HAND								
Wells Fargo-General Checking	0.00%	10,882,977.50	239,048.12	-	-	-	11,122,025.62	①
Wells Fargo-Road Maintenance SB1	0.00%	1,064,706.67	115,685.22	-	-	-	1,180,391.89	②
Mechanics Bank - Payroll Acct	0.00%	8,724.06	25.00	1.38	-	-	8,750.44	③
Mechanics Bank - AG Summit Acct	0.00%	13,562.96	-	-	-	-	13,562.96	④
Mechanics Bank - Special Gas Tax Acct	0.00%	730,377.64	19,265.56	-	-	-	749,643.20	⑤
Petty Cash	N/A	3,500.00	-	-	-	-	3,500.00	⑥
Total Cash on Hand		**12,703,848.83**	**374,023.90**	**1.38**	**-**	**-**	**13,077,874.11**	
INVESTMENTS								
State of California - LAIF	1.65%	4,727,007.69	-	-	-	-	4,727,007.69	⑦
Investment Management Acct	2.32%	19,988,345.21	-	156,707.35	-	-	20,145,052.56	⑧
Saving Account	0.00%	5,080.09	-	-	-	-	5,080.09	⑨
Total Investments		**24,720,432.99**	**-**	**156,707.35**	**-**	**-**	**24,877,140.34**	
CASH WITH FISCAL AGENT								
Union Bank of California	2.10%	789,826.12	104,990.54	325.52	(633,496.88)	-	261,645.30	⑩
Wells Fargo Bank, N.A.	varies	13,643.56	-	12.56	-	-	13,656.12	⑪
County of Riverside	1.46%	163,635.75	-	718.46	-	-	164,354.21	⑫
Total Cash with Fiscal Agent		789,826.12	**104,990.54**	**1,056.54**	**(633,496.88)**	**-**	**439,655.63**	
Grand Total		**38,214,107.94**	**479,014.44**	**157,765.27**	**(633,496.88)**	**-**	**38,394,670.08**	

Prepared by: ***Nathan Statham-Finance Director***

CITY OF COACHELLA
TREASURER'S REPORT - INVESTMENT REPORT
As of March 31 2020
Fiscal Year 2019-2020

DESCRIPTION	CURRENT YIELD	BALANCE AS OF 2/29/2020	NET: DEPOSITS/ (WITHDRAWALS)	INTEREST EARNED / CHANGE IN VALUE	PAYMENT OF INTEREST	PAYMENT OF PRINCIPAL	BALANCE AS OF 3/31/2020	
INVESTMENTS								
STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND (LAIF)								
Redevelopment Agency (#004)	1.65%	2,462.95	-	-	-	-	2,462.95	
City General Account (#171)	1.65%	2,853,516.16	-	-	-	-	2,853,516.16	
Coachella Sanitary District	1.65%	1,870,905.47	-	-	-	-	1,870,905.47	
Redevelopment Bonds	1.65%	123.11	-	-	-	-	123.11	
TOTAL LAIF ACCOUNTS		**4,727,007.69**	**-**	**-**	**-**	**-**	**4,727,007.69**	⑦
INVESTMENT MANAGEMENT ACC								
PFM Funds	2.32%	19,988,345.21	-	156,707.35	-	-	20,145,052.56	
TOTAL INVESTMENT MANAGEMENT ACCT		**19,988,345.21**	**-**	**156,707.35**	**-**	**-**	**20,145,052.56**	⑧
SAVINGS ACCOUNT								
Police Evidence Acct - Wells Fargo	0.00%	5,080.09	-	-	-	-	5,080.09	
TOTAL SAVINGS ACCOUNT		**5,080.09**	**-**	**-**	**-**	**-**	**5,080.09**	⑨
TOTAL INVESTMENTS		**24,720,432.99**	**-**	**156,707.35**	**-**	**-**	**24,877,140.34**	

CITY OF COACHELLA
TREASURER'S REPORT - INVESTMENT REPORT
As of March 31 2020
Fiscal Year 2019-2020

DESCRIPTION	CURRENT YIELD	BALANCE AS OF 2/29/2020	NET: DEPOSITS/ (WITHDRAWALS)	INTEREST EARNED / CHANGE IN VALUE	PAYMENT OF INTEREST	PAYMENT OF PRINCIPAL	BALANCE AS OF 3/31/2020
CASH WITH FISCAL AGENT							
UNION BANK OF CALIFORNIA							
COACHELLA WATER AUTHORITY							
CITY OF COACHELLA WATER: WATER REFUNDING BONDS 2012 SERIES							
A/C #: 6712016201 Bond Fund	0.21%	32.33	12.34	-	-	-	44.67
A/C #: 6712016202 Interest Account	0.21%	-	(12.34)	12.34	-	-	-
A/C #: 6712016203 Principal Account	0.21%	-	-	-	-	-	-
A/C #: 6712016204 Reserve Fund	0.21%	1.00	-	-	-	-	1.00
COACHELLA FINANCING AUTHORITY							
Successor Agency to the Coachella Redevelopments Agency 2014 Series							
A/C #: 6712104701 Debt Service Fund	0.21%	1.31	19.56	19.82	-	-	40.69
A/C #: 6712104702 Interest Account	0.21%	160,031.25	(19.56)	19.56	(160,031.25)	-	-
A/C #: 6712104703 Principal Account	0.21%	-	-	-	-	-	-
A/C #: 6712104704 Reserve Account	0.21%	1.00	-	-	-	-	1.00
COACHELLA SANITARY DISTRICT							
WASTEWATER SERIES 2015A							
A/C #: 6712148601 Bond Fund	0.21%	26.69	(25.69)	-	-	-	1.00
A/C #: 6712148602 Interest Account	0.21%	-	70,962.51	-	-	-	70,962.51
A/C #: 6712148603 Principal Account	0.21%	-	165,000.00	-	-	-	165,000.00
A/C #: 6712148604 Reserve Account	0.21%	1.00	-	-	-	-	1.00
A/C #: 6712148605 Redemption Fund	0.2%	-	-	-	-	-	-
COACHELLA SANITARY DISTRICT: PROJECT FUND 2011							
A/C #: 6711963500 Project Fund 2011	1.5%	25,208.19	-	29.97	-	-	25,238.16
COACHELLA REDEVELOPMENT AGENCY							
MERGED PROJECT AREAS BONDS 98 & 99: BONDS 2013							
A/C #: 6712071401 Interest Account	0.21%	1.31	6.99	4.90	-	-	13.20
A/C #: 6712071402 Interest Account	0.21%	57,243.75	(6.99)	6.99	(57,243.75)	-	-
A/C #: 6712071403 Principal Account	0.21%	-	-	-	-	-	-
A/C #: 6712071404 Reserve Account	0.21%	1.00	-	-	-	-	1.00

CITY OF COACHELLA
TREASURER'S REPORT - INVESTMENT REPORT
As of March 31 2020
Fiscal Year 2019-2020

DESCRIPTION	CURRENT YIELD	BALANCE AS OF 2/29/2020	NET: DEPOSITS/ (WITHDRAWALS)	INTEREST EARNED / CHANGE IN VALUE	PAYMENT OF INTEREST	PAYMENT OF PRINCIPAL	BALANCE AS OF 3/31/2020	
SA TO COACHELLA RDA REFUNDING BONDS SERIES 2016A & 2016B								
A/C #: 6712160601 Debt Service	0.21%	1.37	67.79	34.32	-	-	103.48	
A/C #: 6712160602 Interest Account	0.21%	416,221.88	(67.79)	67.79	(416,221.88)	-	-	
A/C #: 6712160604 Principal Account	0.21%	-	-	-	-	-	-	
A/C #: 6712160604 Reserve Account	0.21%	1.00	-	-	-	-	1.00	
COACHELLA LEASE BONDS 2016								
A/C #: 6712179801 Interest Account	0.21%	105.76	-	-	-	-	105.76	
A/C #: 6712179802 Interest Account	0.21%	-	-	-	-	-	-	
A/C #: 6712179803 Principal Account	0.21%	-	-	-	-	-	-	
A/C #: 6712179804 Reserve Account	0.21%	1.00	-	-	-	-	1.00	
A/C #: 6712179805 Project Fund	0.2%	130,946.28	(130,946.28)	129.83	-	-	129.83	
TOTAL UNION BANK OF CALIFORNIA		**789,826.12**	**104,990.54**	**325.52**	**(633,496.88)**	**-**	**261,645.30**	⑩

WELLS FARGO BANK, N.A.

GAS TAX BONDS SERIES 2008-A								
A/C #: 22863900 Revenue Fund	0.0%	-	-	-	-	-	-	
A/C #: 22863902 Interest Account	1.10%	22.13	-	0.02	-	-	22.15	
A/C #: 22863903 Principal Account	1.10%	286.76	-	0.25	-	-	287.01	
A/C #: 22863904 Reserve Fund	0.00%	-	-	-	-	-	-	
A/C #: 22863906 Administration Fund	0.00%	-	-	-	-	-	-	
A/C #: 22863909 Acquisition Fund	0.00%	-	-	-	-	-	-	
GAS TAX BONDS SERIES 2019								
A/C #: 83925300 Debt Service Fund	1.10%	13,332.94	-	12.29	-	-	13,345.23	
A/C #: 83925301 Interest Account	0.00%	-	-	-	-	-	-	
A/C #: 83925302 Principal Account	0.00%	-	-	-	-	-	-	
A/C #: 83925304 Reserve Fund	0.00%	-	-	-	-	-	-	
A/C #: 83925305 Cost of Issuance Fund	0.00%	1.73	-	-	-	-	1.73	
A/C #: 83972700 Escrow Account	0.00%	-	-	-	-	-	-	
A/C #: 83972700 Other Escrow Fund	0.00%	-	-	-	-	-	-	
TOTAL WELLS FARGO BANK, N.A.		**13,643.56**	**-**	**12.56**	**-**	**-**	**13,656.12**	⑪

CITY OF COACHELLA
TREASURER'S REPORT - INVESTMENT REPORT
As of March 31 2020
Fiscal Year 2019-2020

DESCRIPTION	CURRENT YIELD	BALANCE AS OF 2/29/2020	NET: DEPOSITS/ (WITHDRAWALS)	INTEREST EARNED / CHANGE IN VALUE	PAYMENT OF INTEREST	PAYMENT OF PRINCIPAL	BALANCE AS OF 3/31/2020	
COUNTY OF RIVERSIDE								
County Of Riverside - Fire	1.46%	163,628.34	-	718.42	-	-	164,346.76	
County Of Riverside - Sanitary	1.46%	7.41	-	0.04	-	-	7.45	
TOTAL COUNTY OF RIVERSIDE		**163,635.75**	**-**	**718.46**	**-**	**-**	**164,354.21**	⑫
TOTAL CASH WITH FISCAL AGENT		**967,105.43**	**104,990.54**	**1,056.54**	**(633,496.88)**	**-**	**439,655.63**	

pfm FUNDS

Managed Account Detail of Securities Held

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note											
US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	370,000.00	AA+	Aaa	08/01/18	08/03/18	357,859.38	2.82	18.95	363,220.93	381,620.29
US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	600,000.00	AA+	Aaa	09/04/18	09/06/18	582,304.69	2.75	30.74	589,878.77	618,843.72
US TREASURY NOTES DTD 07/31/2015 2.000% 07/31/2022	912828XQ8	250,000.00	AA+	Aaa	08/30/17	08/31/17	253,095.70	1.74	837.91	251,502.08	259,687.50
US TREASURY NOTES DTD 07/31/2017 1.875% 07/31/2022	9128282P4	430,000.00	AA+	Aaa	04/02/18	04/05/18	418,846.88	2.51	1,351.13	423,838.48	445,587.50
US TREASURY NOTES DTD 09/30/2015 1.750% 09/30/2022	912828L57	335,000.00	AA+	Aaa	06/04/18	06/06/18	321,325.19	2.76	16.02	326,895.64	346,725.00
US TREASURY N/B NOTES DTD 10/31/2017 2.000% 10/31/2022	9128283C2	275,000.00	AA+	Aaa	05/02/18	05/04/18	265,826.17	2.80	2,311.81	269,590.19	286,902.33
US TREASURY NOTES DTD 02/01/2016 1.750% 01/31/2023	912828P38	25,000.00	AA+	Aaa	10/02/18	10/04/18	23,806.64	2.93	73.32	24,201.79	25,992.19
US TREASURY NOTES DTD 02/29/2016 1.500% 02/28/2023	912828P79	520,000.00	AA+	Aaa	07/02/18	07/05/18	491,968.75	2.74	678.26	502,050.91	537,387.50
US TREASURY NOTES DTD 03/31/2016 1.500% 03/31/2023	912828Q29	185,000.00	AA+	Aaa	02/08/19	02/12/19	178,185.35	2.44	7.58	179,987.11	191,417.19
US TREASURY NOTES DTD 08/01/2016 1.250% 07/31/2023	912828S92	140,000.00	AA+	Aaa	04/02/19	04/04/19	134,071.88	2.28	293.27	135,384.07	144,090.63
US TREASURY NOTES DTD 11/15/2013 2.750% 11/15/2023	912828WE6	355,000.00	AA+	Aaa	03/06/19	03/08/19	358,591.60	2.52	3,701.17	357,815.98	385,230.45
US TREASURY NOTES DTD 11/30/2016 2.125% 11/30/2023	912828U57	460,000.00	AA+	Aaa	01/07/19	01/09/19	451,770.31	2.52	3,285.04	453,745.44	489,325.00
US TREASURY N/B DTD 12/31/2018 2.625% 12/31/2023	9128285U0	70,000.00	AA+	Aaa	01/30/19	01/31/19	70,207.81	2.56	464.42	70,161.39	75,906.25
US TREASURY N/B NOTES DTD 05/01/2017 2.000% 04/30/2024	912828X70	655,000.00	AA+	Aaa	06/03/19	06/05/19	657,967.97	1.90	5,506.32	657,492.93	697,677.31

pfm FUNDS

Managed Account Detail of Securities Held

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note											
US TREASURY N/B DTD 07/31/2017 2.125% 07/31/2024	9128282N9	125,000.00	AA+	Aaa	08/01/19	08/05/19	126,933.59	1.80	445.14	126,689.67	134,296.88
US TREASURY N/B NOTES DTD 08/31/2017 1.875% 08/31/2024	9128282U3	450,000.00	AA+	Aaa	09/03/19	09/05/19	461,724.61	1.33	733.70	460,415.71	479,109.38
US TREASURY NOTES DTD 10/02/2017 2.125% 09/30/2024	9128282Y5	295,000.00	AA+	Aaa	10/01/19	10/03/19	303,815.43	1.50	17.13	302,971.32	317,862.50
US TREASURY N/B DTD 11/30/2017 2.125% 11/30/2024	9128283J7	425,000.00	AA+	Aaa	01/03/20	01/07/20	434,844.73	1.63	3,035.09	434,396.27	458,667.99
US TREASURY N/B DTD 11/30/2017 2.125% 11/30/2024	9128283J7	580,000.00	AA+	Aaa	12/02/19	12/04/19	591,917.19	1.69	4,142.01	591,170.02	625,946.90
US TREASURY N/B DTD 02/17/2015 2.000% 02/15/2025	912828J27	600,000.00	AA+	Aaa	03/02/20	03/04/20	633,257.81	0.85	1,516.48	632,751.07	645,562.50
Security Type Sub-Total		**7,145,000.00**					**7,118,321.68**	**2.11**	**28,465.49**	**7,154,159.77**	**7,547,839.01**
Supra-National Agency Bond / Note											
INTER-AMERICAN DEVELOPMENT BANK NOTE DTD 04/19/2018 2.625% 04/19/2021	4581X0DB1	225,000.00	AAA	Aaa	04/12/18	04/19/18	224,505.00	2.70	2,657.81	224,822.25	229,933.58
INTL BANK OF RECONSTRUCTION AND DEV NOTE DTD 07/25/2018 2.750% 07/23/2021	459058GH0	270,000.00	AAA	Aaa	07/18/18	07/25/18	269,368.20	2.83	1,402.50	269,716.86	277,869.69
Security Type Sub-Total		**495,000.00**					**493,873.20**	**2.77**	**4,060.31**	**494,539.11**	**507,803.27**
Municipal Bond / Note											
CA ST TXBL GO BONDS DTD 10/24/2019 2.400% 10/01/2023	13063DRJ9	190,000.00	AA-	Aa2	10/16/19	10/24/19	193,801.90	1.87	1,988.67	193,393.20	195,785.50
Security Type Sub-Total		**190,000.00**					**193,801.90**	**1.87**	**1,988.67**	**193,393.20**	**195,785.50**
Federal Agency Collateralized Mortgage Obligation											

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Managed Account Detail of Securities Held

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Federal Agency Collateralized Mortgage Obligation											
FNA 2018-M5 A2 DTD 04/01/2018 3.560% 09/25/2021	3136B1XP4	74,302.26	AA+	Aaa	04/11/18	04/30/18	75,780.20	2.27	220.43	74,906.00	74,801.83
FHLMC MULTIFAMILY STRUCTURED P DTD 05/01/2015 2.791% 01/25/2022	3137BHXY8	170,000.00	AA+	Aaa	05/16/19	05/21/19	171,062.50	2.20	395.39	170,663.94	172,843.60
FHLMC MULTIFAMILY STRUCTURED P DTD 11/01/2015 2.716% 06/25/2022	3137BLUR7	100,000.00	AA+	Aaa	04/02/19	04/05/19	100,250.00	2.46	226.33	100,125.83	101,814.59
FHLMC SERIES K721 A2 DTD 12/01/2015 3.090% 08/25/2022	3137BM6P6	100,000.00	AA+	Aaa	04/04/18	04/09/18	100,851.56	2.61	257.50	100,396.98	102,855.86
FHLMC MULTIFAMILY STRUCTURED P DTD 12/01/2012 2.307% 08/25/2022	3137AWOH1	100,000.00	AA+	Aaa	09/04/19	09/09/19	101,476.56	1.25	192.25	101,192.18	101,969.54
FANNIEMAE-ACES DTD 04/01/2014 3.346% 03/25/2024	3136AJB54	135,000.00	AA+	Aaa	12/13/19	12/18/19	141,560.16	1.04	376.41	141,177.11	143,686.80
FHMS K043 A2 DTD 03/01/2015 3.062% 12/25/2024	3137BGK24	110,000.00	AA+	Aaa	03/19/20	03/25/20	115,448.44	0.94	280.68	115,448.44	117,921.84
Security Type Sub-Total		**789,302.26**					**806,429.42**	**1.79**	**1,948.99**	**803,910.48**	**815,894.06**
Federal Agency Bond / Note											
FEDERAL HOME LOAN BANKS NOTES DTD 10/12/2018 3.000% 10/12/2021	3130AF5B9	205,000.00	AA+	Aaa	02/27/19	02/27/19	207,503.05	2.52	2,887.08	206,481.34	212,908.70
FANNIE MAE NOTES DTD 01/09/2017 2.000% 01/05/2022	3135G0S38	995,000.00	AA+	Aaa	06/27/17	06/29/17	1,001,358.05	1.85	4,753.89	997,541.99	1,021,712.77
FANNIE MAE NOTES DTD 01/11/2019 2.625% 01/11/2022	3135G0U92	200,000.00	AA+	Aaa	01/09/19	01/11/19	199,856.00	2.65	1,166.67	199,913.34	207,630.20
FANNIE MAE NOTES DTD 04/10/2017 1.875% 04/05/2022	3135G0T45	465,000.00	AA+	Aaa	06/27/17	06/29/17	464,930.25	1.88	4,262.50	464,971.75	477,897.71
FREDDIE MAC NOTES DTD 06/11/2018 2.750% 06/19/2023	3137EAEN5	500,000.00	AA+	Aaa	01/07/19	01/09/19	503,510.00	2.58	3,895.83	502,582.61	535,957.00
FANNIE MAE NOTES DTD 09/14/2018 2.875% 09/12/2023	3135G0U43	330,000.00	AA+	Aaa	12/03/18	12/06/18	329,333.40	2.92	500.73	329,514.85	356,591.73

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CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Federal Agency Bond / Note											
FEDERAL HOME LOAN BANKS NOTES DTD 12/09/2013 3.375% 12/08/2023	3130A0F70	190,000.00	AA+	Aaa	01/30/19	01/31/19	195,600.04	2.72	2,012.81	194,322.62	209,751.64
FANNIE MAE NOTES DTD 10/18/2019 1.625% 10/15/2024	3135G0W66	250,000.00	AA+	Aaa	10/22/19	10/23/19	249,122.50	1.70	1,839.41	249,197.04	261,186.00
FANNIE MAE NOTES DTD 01/10/2020 1.625% 01/07/2025	3135G0X24	400,000.00	AA+	Aaa	03/04/20	03/05/20	414,876.00	0.84	1,462.50	414,658.39	418,025.20
Security Type Sub-Total		**3,535,000.00**					**3,566,089.29**	**2.07**	**22,781.42**	**3,559,183.93**	**3,701,660.95**
Corporate Note											
BANK OF NEW YORK MELLON CORP (CALLABLE) DTD 02/19/2016 2.500% 04/15/2021	06406FAA1	200,000.00	A	A1	09/05/17	09/07/17	203,460.00	2.00	2,305.56	200,964.28	201,006.60
BANK OF AMERICA CORP NOTE DTD 04/19/2016 2.625% 04/19/2021	06051GFW4	180,000.00	A-	A2	11/01/17	11/03/17	181,348.20	2.40	2,126.25	180,421.03	181,127.34
GOLDMAN SACHS GROUP CORP NOTES DTD 07/27/2011 5.250% 07/27/2021	38141GGQ1	160,000.00	BBB+	A3	11/03/17	11/07/17	175,342.40	2.53	1,493.33	165,614.70	165,806.56
CITIGROUP INC CORP (CALLABLE) NOTE DTD 12/08/2016 2.900% 12/08/2021	172967LC3	180,000.00	BBB+	A3	11/20/17	11/22/17	181,229.40	2.72	1,638.50	180,515.11	181,560.78
IBM CORP BONDS DTD 01/27/2017 2.500% 01/27/2022	459200JO5	400,000.00	A	A2	02/01/17	02/03/17	400,840.00	2.45	1,777.78	400,319.32	409,097.60
APPLE INC CORP NOTES DTD 02/09/2017 2.500% 02/09/2022	037833CM0	440,000.00	AA+	Aa1	01/07/19	01/09/19	433,470.40	3.01	1,588.89	436,003.82	452,043.68
BB&T CORP (CALLABLE) NOTES DTD 03/21/2017 2.750% 04/01/2022	05531FAX1	185,000.00	A-	A3	04/03/18	04/05/18	181,564.55	3.25	2,543.75	183,222.52	186,105.56
UNITED PARCEL SERVICE CORP NOTES DTD 09/27/2012 2.450% 10/01/2022	911312AQ9	275,000.00	A	A2	03/01/18	03/05/18	268,545.75	3.00	3,368.75	271,363.98	274,300.40
ADOBE INC CORP NOTE DTD 02/03/2020 1.700% 02/01/2023	00724PAA7	100,000.00	A	A2	01/22/20	02/03/20	99,863.00	1.75	273.89	99,870.20	101,162.10

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For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Corporate Note											
PFIZER INC CORP NOTES DTD 03/11/2019 2.950% 03/15/2024	717081ES8	260,000.00	AA-	A1	04/02/19	04/04/19	263,146.00	2.69	340.89	262,550.02	270,150.14
WALMART INC CORPORATE NOTES DTD 04/23/2019 2.850% 07/08/2024	931142EL3	360,000.00	AA	Aa2	07/10/19	07/12/19	371,235.60	2.19	2,365.50	369,688.61	373,844.52
WALT DISNEY COMPANY/THE DTD 09/06/2019 1.750% 08/30/2024	254687FK7	195,000.00	A	A2	09/03/19	09/06/19	194,204.40	1.84	293.85	194,291.10	196,429.74
Security Type Sub-Total		**2,935,000.00**					**2,954,249.70**	**2.55**	**20,116.94**	**2,944,824.69**	**2,992,635.02**
Certificate of Deposit											
CANADIAN IMP BK COMM NY FLT CERT DEPOS DTD 04/10/2018 2.234% 04/10/2020	13606BVF0	250,000.00	A-1	P-1	04/06/18	04/10/18	250,000.00	2.78	1,272.14	250,000.00	249,920.50
BANK OF NOVA SCOTIA HOUSTON CD DTD 06/07/2018 3.080% 06/05/2020	06417GU22	320,000.00	A-1	P-1	06/05/18	06/07/18	319,878.40	3.10	3,175.82	319,988.87	321,148.80
BANK OF MONTREAL CHICAGO CERT DEPOS DTD 08/03/2018 3.190% 08/03/2020	06370REU9	325,000.00	A-1	P-1	08/01/18	08/03/18	325,000.00	3.23	6,911.67	325,000.00	327,548.98
WESTPAC BANKING CORP NY CD DTD 08/07/2017 2.050% 08/03/2020	96121T4A3	330,000.00	A-1+	P-1	08/03/17	08/07/17	330,000.00	2.05	1,014.75	330,000.00	331,219.35
SUMITOMO MITSUI BANK NY CERT DEPOS DTD 10/18/2018 3.390% 10/16/2020	86565BPC9	185,000.00	A-1	P-1	10/16/18	10/18/18	184,748.40	3.46	2,926.70	184,890.23	187,393.90
SWEDBANK (NEW YORK) CERT DEPOS DTD 11/17/2017 2.270% 11/16/2020	87019U6D6	370,000.00	A-1	P-1	11/16/17	11/17/17	370,000.00	2.30	3,149.63	370,000.00	372,535.61
MUFG BANK LTD/NY CERT DEPOS DTD 02/28/2019 2.970% 02/26/2021	55379WZT6	185,000.00	A-1	P-1	02/27/19	02/28/19	185,000.00	2.99	534.19	185,000.00	188,162.02
CREDIT AGRICOLE CIB NY CERT DEPOS DTD 04/04/2019 2.830% 04/02/2021	22535CDU2	250,000.00	A+	Aa3	04/03/19	04/04/19	250,000.00	2.85	7,133.96	250,000.00	253,891.75
SOCIETE GENERALE NY CERT DEPOS DTD 02/19/2020 1.800% 02/14/2022	83369XDL9	190,000.00	A	A1	02/14/20	02/19/20	190,000.00	1.80	399.00	190,000.00	184,702.80

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Managed Account Detail of Securities Held

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Certificate of Deposit											
NORDEA BANK ABP NEW YORK CERT DEPOS DTD 08/29/2019 1.850% 08/26/2022	65558TLL7	280,000.00	AA-	Aa3	08/27/19	08/29/19	280,000.00	1.87	503.61	280,000.00	284,483.64
SKANDINAV ENSKILDA BANK LT CD DTD 09/03/2019 1.860% 08/26/2022	83050PDR7	295,000.00	A+	Aa2	08/29/19	09/03/19	295,000.00	1.88	533.46	295,000.00	299,793.75
DNB BANK ASA/NY LT CD DTD 12/04/2019 2.040% 12/02/2022	23341VZT1	145,000.00	AA-	Aa2	12/05/19	12/06/19	145,000.00	2.04	961.35	145,000.00	148,350.37
Security Type Sub-Total		**3,125,000.00**					**3,124,626.80**	**2.52**	**28,516.28**	**3,124,879.10**	**3,149,151.47**
Asset-Backed Security											
HAROT 2019-1 A3 DTD 02/27/2019 2.830% 03/20/2023	43814WAC9	100,000.00	AAA	NR	02/19/19	02/27/19	99,997.32	2.83	102.19	99,998.05	98,718.73
HYUNDAI AUTO RECEIVABLES TRUST DTD 04/10/2019 2.660% 06/15/2023	44932NAD2	80,000.00	AAA	NR	04/03/19	04/10/19	79,989.47	2.67	94.58	79,991.89	79,394.14
HAROT 2019-2 A3 DTD 05/29/2019 2.520% 06/21/2023	43815MAC0	100,000.00	NR	Aaa	05/21/19	05/29/19	99,996.27	2.52	70.00	99,997.03	99,177.56
TAOT 2019-A A3 DTD 02/13/2019 2.910% 07/15/2023	89239AAD5	150,000.00	AAA	Aaa	02/05/19	02/13/19	149,972.67	2.92	194.00	149,979.47	150,459.89
ALLYA 2019-1 A3 DTD 02/13/2019 2.910% 09/15/2023	02004WAC5	65,000.00	NR	Aaa	02/05/19	02/13/19	64,992.15	3.13	84.07	64,994.04	65,797.59
NAROT 2019-A A3 DTD 02/13/2019 2.900% 10/15/2023	65479KAD2	120,000.00	NR	Aaa	02/05/19	02/13/19	119,981.82	2.91	154.67	119,986.11	121,064.21
COPAR 2019-1 A3 DTD 05/30/2019 2.510% 11/15/2023	14042WAC4	100,000.00	AAA	Aaa	05/21/19	05/30/19	99,979.74	2.52	111.56	99,983.31	99,480.21
NAROT 2019-B A3 DTD 05/28/2019 2.500% 11/15/2023	65479HAC1	105,000.00	NR	Aaa	05/21/19	05/28/19	104,976.26	2.51	116.67	104,980.48	103,463.96
HAROT 2020-1 A3 DTD 02/26/2020 1.610% 04/21/2024	43813RAC1	105,000.00	NR	Aaa	02/19/20	02/26/20	104,979.42	1.62	46.96	104,979.84	100,769.59
TAOT 2020-A A3 DTD 02/12/2020 1.660% 05/15/2024	89232HAC9	140,000.00	AAA	Aaa	02/04/20	02/12/20	139,989.89	1.66	103.29	139,990.24	135,168.28

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Managed Account Detail of Securities Held

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Asset-Backed Security											
CARMX 2020-1 A3 DTD 01/22/2020 1.890% 12/15/2024	14315XAC2	100,000.00	AAA	NR	01/14/20	01/22/20	99,980.38	1.90	84.00	99,981.07	99,443.76
Security Type Sub-Total		**1,165,000.00**					**1,164,835.39**	**2.45**	**1,161.99**	**1,164,861.53**	**1,152,937.92**
Managed Account Sub-Total		**19,379,302.26**					**19,422,227.38**	**2.25**	**109,040.09**	**19,439,751.81**	**20,063,707.20**
Money Market Mutual Fund											
PFM Funds - Govt Select, Instl Cl		81,345.36	AAAm	NR			81,345.36		0.00	81,345.36	81,345.36
Money Market Sub-Total		**81,345.36**					**81,345.36**		**0.00**	**81,345.36**	**81,345.36**
Securities Sub-Total		**$19,460,647.62**					**$19,503,572.74**	**2.25%**	**$109,040.09**	**$19,521,097.17**	**$20,145,052.56**
Accrued Interest											**$109,040.09**
Total Investments											**$20,254,092.65**

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Managed Account Security Transactions & Interest

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Transaction Type					Principal	Accrued		Realized G/L	Realized G/L	Sale
Trade	Settle	Security Description	CUSIP	Par	Proceeds	Interest	Total	Cost	Amort Cost	Method
BUY										
03/02/20	03/04/20	US TREASURY N/B DTD 02/17/2015 2.000% 02/15/2025	912828J27	600,000.00	(633,257.81)	(593.41)	(633,851.22)			
03/04/20	03/05/20	FANNIE MAE NOTES DTD 01/10/2020 1.625% 01/07/2025	3135G0X24	400,000.00	(414,876.00)	(993.06)	(415,869.06)			
03/19/20	03/25/20	FHMS K043 A2 DTD 03/01/2015 3.062% 12/25/2024	3137BGK24	110,000.00	(115,448.44)	(224.55)	(115,672.99)			
Transaction Type Sub-Total				**1,110,000.00**	**(1,163,582.25)**	**(1,811.02)**	**(1,165,393.27)**			
INTEREST										
03/01/20	03/25/20	FANNIEMAE-ACES DTD 04/01/2014 3.346% 03/25/2024	3136AJB54	135,000.00	0.00	376.41	376.41			
03/01/20	03/25/20	FHLMC MULTIFAMILY STRUCTURED P DTD 12/01/2012 2.307% 08/25/2022	3137AWQH1	100,000.00	0.00	192.25	192.25			
03/01/20	03/25/20	FNA 2018-M5 A2 DTD 04/01/2018 3.560% 09/25/2021	3136B1XP4	75,548.39	0.00	226.80	226.80			
03/01/20	03/25/20	FHLMC MULTIFAMILY STRUCTURED P DTD 05/01/2015 2.791% 01/25/2022	3137BHXY8	170,000.00	0.00	395.39	395.39			
03/01/20	03/25/20	FHLMC MULTIFAMILY STRUCTURED P DTD 11/01/2015 2.716% 06/25/2022	3137BLUR7	100,000.00	0.00	226.33	226.33			
03/01/20	03/25/20	FHLMC SERIES K721 A2 DTD 12/01/2015 3.090% 08/25/2022	3137BM6P6	100,000.00	0.00	257.50	257.50			
03/12/20	03/12/20	FANNIE MAE NOTES DTD 09/14/2018 2.875% 09/12/2023	3135G0U43	330,000.00	0.00	4,743.75	4,743.75			
03/15/20	03/15/20	PFIZER INC CORP NOTES DTD 03/11/2019 2.950% 03/15/2024	717081ES8	260,000.00	0.00	3,835.00	3,835.00			
03/15/20	03/15/20	COPAR 2019-1 A3 DTD 05/30/2019 2.510% 11/15/2023	14042WAC4	100,000.00	0.00	209.17	209.17			
03/15/20	03/15/20	TAOT 2019-A A3 DTD 02/13/2019 2.910% 07/15/2023	89239AAD5	150,000.00	0.00	363.75	363.75			
03/15/20	03/15/20	ALLYA 2019-1 A3 DTD 02/13/2019 2.910% 09/15/2023	02004WAC5	65,000.00	0.00	157.63	157.63			
03/15/20	03/15/20	CARMX 2020-1 A3 DTD 01/22/2020 1.890% 12/15/2024	14315XAC2	100,000.00	0.00	157.50	157.50			

pfm FUNDS

Managed Account Security Transactions & Interest

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Transaction Type Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
INTEREST										
03/15/20	03/15/20	TAOT 2020-A A3 DTD 02/12/2020 1.660% 05/15/2024	89232HAC9	140,000.00	0.00	213.03	213.03			
03/15/20	03/15/20	NAROT 2019-B A3 DTD 05/28/2019 2.500% 11/15/2023	65479HAC1	105,000.00	0.00	218.75	218.75			
03/15/20	03/15/20	HYUNDAI AUTO RECEIVABLES TRUST DTD 04/10/2019 2.660% 06/15/2023	44932NAD2	80,000.00	0.00	177.33	177.33			
03/15/20	03/15/20	NAROT 2019-A A3 DTD 02/13/2019 2.900% 10/15/2023	65479KAD2	120,000.00	0.00	290.00	290.00			
03/18/20	03/18/20	HAROT 2019-1 A3 DTD 02/27/2019 2.830% 03/20/2023	43814WAC9	100,000.00	0.00	235.83	235.83			
03/21/20	03/21/20	HAROT 2020-1 A3 DTD 02/26/2020 1.610% 04/21/2024	43813RAC1	105,000.00	0.00	117.40	117.40			
03/21/20	03/21/20	HAROT 2019-2 A3 DTD 05/29/2019 2.520% 06/21/2023	43815MAC0	100,000.00	0.00	210.00	210.00			
03/31/20	03/31/20	US TREASURY NOTES DTD 10/02/2017 2.125% 09/30/2024	9128282Y5	295,000.00	0.00	3,134.38	3,134.38			
03/31/20	03/31/20	US TREASURY NOTES DTD 03/31/2016 1.500% 03/31/2023	912828Q29	185,000.00	0.00	1,387.50	1,387.50			
03/31/20	03/31/20	US TREASURY NOTES DTD 09/30/2015 1.750% 09/30/2022	912828L57	335,000.00	0.00	2,931.25	2,931.25			
03/31/20	03/31/20	US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	370,000.00	0.00	3,468.75	3,468.75			
03/31/20	03/31/20	US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	600,000.00	0.00	5,625.00	5,625.00			
Transaction Type Sub-Total				**4,220,548.39**	**0.00**	**29,150.70**	**29,150.70**			
PAYDOWNS										
03/01/20	03/25/20	FNA 2018-M5 A2 DTD 04/01/2018 3.560% 09/25/2021	3136B1XP4	1,246.13	1,246.13	0.00	1,246.13	(24.79)	0.00	
Transaction Type Sub-Total				**1,246.13**	**1,246.13**	**0.00**	**1,246.13**	**(24.79)**	**0.00**	
SELL										

pfm FUNDS

Managed Account Security Transactions & Interest

For the Month Ending **March 31, 2020**

CITY OF COACHELLA - OPERATING PORTFOLIO - 995343 - (14201484)

Transaction Type					Principal	Accrued		Realized G/L	Realized G/L	Sale
Trade	Settle	Security Description	CUSIP	Par	Proceeds	Interest	Total	Cost	Amort Cost	Method
SELL										
03/02/20	03/04/20	US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	535,000.00	546,556.84	4,275.61	550,832.45	18,098.05	14,830.06	FIFO
03/02/20	03/04/20	US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	65,000.00	66,404.10	519.47	66,923.57	3,536.91	2,639.08	FIFO
03/04/20	03/05/20	UNITED STATES TREASURY NOTES DTD 01/31/2018 2.500% 01/31/2025	9128283V0	385,000.00	417,619.73	899.04	418,518.77	11,339.46	11,669.21	FIFO
03/19/20	03/20/20	US TREASURY NOTES DTD 03/31/2017 1.875% 03/31/2022	912828W89	115,000.00	118,063.67	1,013.32	119,076.99	6,837.11	5,204.11	FIFO
Transaction Type Sub-Total				**1,100,000.00**	**1,148,644.34**	**6,707.44**	**1,155,351.78**	**39,811.53**	**34,342.46**	
Managed Account Sub-Total					**(13,691.78)**	**34,047.12**	**20,355.34**	**39,786.74**	**34,342.46**	
Total Security Transactions					**($13,691.78)**	**$34,047.12**	**$20,355.34**	**$39,786.74**	**$34,342.46**	

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Cástulo R. Estrada

SUBJECT: Reimbursement Agreement with Tower Energy Group for Design, Construction and Installation of Water Public Improvements to Tower Market #944

STAFF RECOMMENDATION:

Authorize the City Manager to Execute a Reimbursement Agreement with Tower Energy Group for Design, Construction and Installation of Water Public Improvements to Tower Market #944.

DISCUSSION/ANALYSIS:

Tower Energy Group is in the process of developing Tower Market #944, a retail grocery and gas store located in Thermal, CA on the northeast corner of Airport Blvd and Harrison St. Although the Tower Market #944 is outside the city limits it is within the city's sphere of influence and Coachella Water Authority's service boundary which extends to Airport Blvd.

In an effort to extend water infrastructure for better serviceability across our entire service boundary for purposes future planning and projected growth the City has required the Developer to extend the water line from the eastern boundary of the Developer Property heading west on Airport Blvd. to the intersection of Airport Blvd. and Harrison St. and then heading north on Harrison St. connecting to Avenue 54 – approximately 6,285 LF (the "Public Improvements"). The Public Improvements are more specifically described in Exhibit "B" of the Agreement.

The City requires the installation of 8" waterlines as a minimum design standard, but major streets like Airport Blvd. and Harrison St that serve as connectors to smaller lines typically require larger size lines. The City desires pursuant to its Water Master Plan for the entire Public Improvements to be upsized to a 12" water line to supply future growth and meet future water demands.

The Developer can meet its water demand, including fire flow, with the minimum standard, therefore, the Public Improvements along the boundary of the Developer Property, the Developer will be responsible for the costs of design, construction and installing the 8" water line – approximately 2,485 LF (the "Developer Improvements"). This is depicted in Exhibit "B".

For the Public Improvements along Harrison St., from the northern boundary of the Developer Property to Avenue 54, the City will reimburse the Developer for design, construction, and

installing the 8" water line – approximately 4,800 LF (the "Offsite Improvements"). This is depicted in Exhibit "B".

For the entire Public Improvements, the City will reimburse the Developer for upsizing the Public Improvements from 8" to 12" water line – approximately 6,285 LF (the "Upsize Improvements"). This is depicted in Exhibit "B".

Terms of Reimbursement

Offsite Fee Reimbursement.

The reimbursement amount for the Offsite Improvements shall be equal to design and construction costs for the Offsite Improvements ("Offsite Fee Reimbursement Amount"). The design costs shall include the design, permitting, and construction staking of the Offsite Improvements only and shall not include any such costs for the Developer Improvements ("Offsite Improvements Design Costs"). To establish the construction costs, the lowest bid received for construction and installation of the entire Public Improvements with 8" water line will be applied and prorated over the actual length of the Offsite Improvements ("Offsite Improvements Construction Costs").

The City shall provide the Developer water impact fee credits for the Calhoun Property in an amount equal to the Offsite Fee Reimbursement Amount. The Developer may then use the Offsite Fee Reimbursement Amount to offset water impact fees required by the City in developing the Calhoun Property. Notwithstanding the foregoing, in no case shall the Developer be entitled to use the Offsite Fee Reimbursement Amount for anything other than to offset water impact fees at the Calhoun Property or be entitled to a refund of the Offsite Fee Reimbursement Amount if the amount is more than the water impact fees required at the Calhoun Property.

Upsize Cost Reimbursement.

The City shall pay to the Developer costs for the construction and installation of the Upsize Improvements. To establish the reimbursement amount, the difference between the lowest bids for construction and installation of the entire Public Improvements with 8" water line and 12" water line will be determined, and this difference will be the reimbursement amount (the "Upsize Cost Reimbursement Amount").

FISCAL IMPACT:

The final fiscal impact will be calculated as per the Reimbursement Procedures in the Agreement. The following amount serves as an approximation from preliminary calculations derived from the three (bids) received which are attached to this Staff Report.

- Approximately $283,000.00 as water impact fee credits for the Calhoun Property described in the Agreement. Final amount will be the calculation in the amount equal to the Offsite Fee Reimbursement amount.
- Approximately $111,000.00 reimbursement payment upon the completion of the improvements from the Water Connection Fund (177).

REIMBURSEMENT AGREEMENT
FOR PUBLIC IMPROVEMENTS

Between

CITY OF COACHELLA,
a California municipal corporation

and

TOWER ENERGY GROUP

This Reimbursement Agreement for Public Improvements (the "Agreement") is made this ____ day of _____, 2020 by and between the City of Coachella, a California municipal corporation ("City"), and Tower Energy Group ("Developer").

RECITALS

A. Developer is the owner and developer of certain real property in the County of Riverside (the "Developer Property"). A legal description of the Developer Property is attached hereto as Exhibit "A" and incorporated herein by reference.

B. As a condition of regulatory approval by the City, the Developer is required to design, construct and install, among other things, a 12" water line from the eastern boundary of the Developer Property heading west on Airport Blvd. to the intersection of Airport Blvd. and Harrison St. and then heading north on Harrison St. connecting to Avenue 54 – approximately 6,285 LF (the "Public Improvements"). The Public Improvements are more specifically described in Exhibit "B" attached hereto and incorporated herein by reference.

C. The City requires the installation of 8" waterlines as a minimum design standard, but major streets like Airport Blvd. and Harrison St typically require larger size lines., the City desires pursuant to its Water Master Plan for the entire Public Improvements to be upsized to a 12" water line to supply future growth.

D. For the Public Improvements along the boundary of the Developer Property, the Developer will be responsible for the costs of design, construction and installing the 8" water line – approximately 1,485 LF (the "Developer Improvements"). This is depicted in Exhibit "B".

E. For the Public Improvements along Harrison St., from the northern boundary of the Developer Property to Avenue 54, the City will reimburse the Developer for design, construction, and installing the 8" water line – approximately 4,800 LF (the "Offsite Improvements"). This is depicted in Exhibit "B".

F. For the entire Public Improvements, the City will reimburse the Developer for upsizing the Public Improvements from 8" to 12" water line – approximately 6,285 LF (the "Upsize Improvements"). This is depicted in Exhibit "B".

G. The Developer is in the process of developing a property located at the northwest corner of Calhoun St and Avenue 50 in the City (the "Calhoun Property") and the reimbursement amount for the Offsite Improvements will be used to offset water impact fees associated with the Calhoun Property. A legal description of the Calhoun Property is attached hereto as Exhibit "A-1" and incorporated herein by reference.

H. The parties recognize that it is in their best interests to coordinate the design, construction and installation of the Public Improvements so as to efficiently implement City's overall capital improvement master plan and to avoid duplication of work. The provisions of this Agreement shall be in addition to all other requirements, fees and charges that Developer is required to fulfill in order to initiate the provision of public services to the Developer Property.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually understood and agreed by City and Developer as follows:

TERMS

1. Incorporation of Recitals. The parties hereby agree that the above recitals are true and correct and are therefore incorporated herein by reference.

2. Design of Public Improvements. Subject to reimbursement as set forth herein, Developer shall be solely responsible for the design of the Public Improvements plans in accordance with all local, state, and federal laws and regulations, including all costs and expenses therefor. Prior to initiation of construction and installation, Developer shall submit the plans and specifications for approval by the City for the review and ultimate acceptance of legal title to the Public Improvements. Developer shall be solely responsible for obtaining all required federal, state and local permits and approvals. The plans and specifications for the Public Improvements shall be approved by the Engineer of the City, subject to his/her sole and absolute discretion.

3. Construction and Installation of the Public Improvements. Subject to reimbursement as set forth herein, Developer shall be solely responsible for construction and installation of the Public Improvements in accordance with all local, state, and federal laws and regulations, as well as coordinating with the staff of the City to arrange the required inspection of the Public Improvements including all costs and expenses therefor. The City may, but shall not be legally obligated to, monitor the contracting process, and may, but shall not be obligated to, assist Developer where appropriate.

4. Award of Contracts. Developer shall exercise due diligence in contracting for construction and installation of the Public Improvements within a reasonable period of time following execution of this Agreement. Developer shall be solely responsible for securing appropriate bids and awarding contracts for construction and installation of the Public Improvements in compliance with applicable federal, state, and local laws, rules and regulations. Developer shall obtain a minimum of three (3) bids from qualified and properly licensed, insured, and bonded contractors reasonably approved by the City for construction of the Public Improvements. To help determine the reimbursement amounts, the Developer shall require each bidder to provide two (2) bids, one (1) to complete the entire Public Improvements with 8" water line and one (1) to complete the entire Public Improvements with 12" water line.

5. Bonds. Prior to the commencement of construction of the Public Improvements, Developer shall cause the contractor to provide the Developer with a faithful performance bond and a payment bond (and accompanying multiple obligee rider) substantially in the form set forth in Exhibit "C", in an amount equal to no less than 100% of the total cost of the Public Improvements. The bonds must be provided by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business in the State of California and reasonably satisfactory to the City. The faithful performance and payment bonds must also expressly list the Developer and City as dual-obligees thereunder.

6. Billings; Records. Developer shall be responsible for paying all charges within the time required by state law. Developer shall maintain complete and accurate records with respect to

all costs and expenses pursuant to this Agreement. All such records shall be clearly identifiable. Developer shall allow a representative of the City, during normal business hours to examine, to audit and make transcripts or copies of such records and any other documents, proceedings, and activities related to the Agreement for a period of three (3) years from the termination of this Agreement.

7. Inspection and Transfer of Public Improvements. Without modifying or limiting Developer's obligations under this Agreement, the City shall inspect and test the Public Improvements. The City shall have access to the Public Improvements site at all times to conduct any tests or inspections. The City's inspection rights shall not exceed twenty (20) days from completion of the same. Thereafter, unless the City has objected to the design, development, and construction of such Public Improvements, such design, development, and construction shall be deemed approved. Developer shall require its employees, contractors and agents to comply with all instructions given by the City during inspection or construction of the Public Improvements. Any deficiencies in the Public Improvements shall be corrected by Developer at its sole cost and expense. Upon completion of the Public Improvements to the satisfaction of the City, the Public Improvements shall be presented to the City for dedication and acceptance. The City shall accept the Public Improvements ("Public Improvements Acceptance") if it determines that it was constructed in accordance with approved plans, specifications and contract documents, that it operates satisfactorily, all unconditional waivers and releases of mechanics' liens have been provided, and that all other requirements of this Agreement have been satisfied. Upon acceptance of the Public Improvements, Developer shall assign to the City all of Developer's rights and remedies, including warranties, as set forth in the approved contract documents. Developer will be required to convey title to the Public Improvements to the City. The form of said title shall be determined by the City.

8. Liability for Public Improvements Prior to Public Improvements Acceptance. Until the Public Improvements Acceptance, Developer shall be solely responsible for all damage to the Public Improvements, regardless of cause, and for all damages or injuries to any person or property at the work site, except damage or injury due to the sole or active negligence or willful misconduct of the City, its agents or employees.

9. Guarantee. Developer shall guarantee all work and materials for the Public Improvements to be free from all defects due to faulty materials or workmanship for a period of one (1) year after the date of the Public Improvements Acceptance. Developer shall repair or remove and replace any and all such work, together with any other work which may be displaced in so doing, that is found to be defective in workmanship or materials within the one-year period, without any expense whatsoever to the City. In the event Developer fails to comply with the above-mentioned provisions within thirty (30) days after being notified in writing (or in cases of emergency, immediately), the City shall be authorized to proceed to have the defects remedied and made good at the sole cost and expense of Developer, who is hereby contractually bound to pay the costs and charges therefor immediately upon demand. Such action by the City will not relieve Developer of the guarantee required by this section. This section shall not, in any way, limit the liability of Developer or any other party for any latent and patent design or construction defects in the work subsequently discovered by the City.

10. Terms of Reimbursement

(a) Offsite Fee Reimbursement.

(i) The reimbursement amount for the Offsite Improvements shall be equal to design and construction costs for the Offsite Improvements ("Offsite Fee Reimbursement Amount"). The design costs shall include the design, permitting, and construction staking of the Offsite Improvements only and shall not include any such costs for the Developer Improvements ("Offsite Improvements Design Costs"). To establish the construction costs, the lowest bid received for construction and installation of the entire Public Improvements with 8" water line will be applied and prorated over the actual length of the Offsite Improvements ("Offsite Improvements Construction Costs").

(ii) The City shall provide the Developer water impact fee credits for the Calhoun Property in an amount equal to the Offsite Fee Reimbursement Amount. The Developer may then use the Offsite Fee Reimbursement Amount to offset water impact fees required by the City in developing the Calhoun Property. Notwithstanding the foregoing, in no case shall the Developer be entitled to use the Offsite Fee Reimbursement Amount for anything other than to offset water impact fees at the Calhoun Property or be entitled to a refund of the Offsite Fee Reimbursement Amount if the amount is more than the water impact fees required at the Calhoun Property.

(b) Upsize Cost Reimbursement.

(i) The City shall pay to the Developer costs for the construction and installation of the Upsize Improvements. To establish the reimbursement amount, the difference between the lowest bids for construction and installation of the entire Public Improvements with 8" water line and 12" water line will be determined, and this difference will be the reimbursement amount (the "Upsize Cost Reimbursement Amount").

(c) Reimbursement Procedures.

(i) Upon Public Improvements Acceptance, the Developer shall submit a written request for the Upsize Cost Reimbursement Amount and Offsite Fee Reimbursement Amount to the City for review and approval. The request shall include any document, requirement, evidence or information in the Developer's possession or under the Developer's control that City may reasonably request with regard to the Public Improvements and Public Improvements Acceptance. This includes without limitation, copies of the notice to proceed with the Public Improvements, notice of completion of the Public Improvements, any and all contracts and change orders entered into to complete the design and construction of the Public Improvements, invoices and checks for payment of the design and construction of the Public Improvements, and any and all other documents required by this Agreement. The City will review and approve, if acceptable, the reimbursement requests within thirty (30) calendar days following the date of submittal.

(ii) If the reimbursement request is deemed complete and in compliance with the provisions of this Agreement, City will remit payment to the Developer for the Upsize Cost Reimbursement Amount within the said thirty (30) calendar days following the reimbursement request being approved by the City and the City will establish an account for the

Offsite Fee Reimbursement Amount ("Offsite Fee Reimbursement Account"). The City shall not be responsible for the Developer Improvements.

(iii) Once the Offsite Fee Reimbursement Account is established, the Developer may use the account to offset water impact fees required by the City in developing the Calhoun Property. Prior to the establishment of the Offsite Fee Reimbursement Account and if requested by the Developer, the City, at its sole discretion, may provide the Developer an advance against the Offsite Fee Reimbursement Account. In that case, the advance amount will be determined based on actual costs spent by the Developer or a percentage of the completed Offsite Improvements.

(iv) The Offsite Fee Reimbursement Account shall terminate at the earlier of no remaining balance in the Offsite Fee Reimbursement Account, ten (10) years from the date the Offsite Fee Reimbursement Account is established, or no more water impact fees are required at the Calhoun Property.

(v) Upon payment of the Upsize Cost Reimbursement Amount and establishment of the Offsite Fee Reimbursement Account, the City shall have no further financial obligation to Developer and the Developer shall be entitled to no further compensation, payment, fee credit, offset or reimbursement of any kind from the City for the Public Improvements.

11. Term. This Agreement shall expire upon full payment of the Upsize Cost Reimbursement Amount and termination of the Offsite Fee Reimbursement Account, unless earlier terminated as provided herein; provided however, that the indemnification and insurance provisions contained herein shall survive termination of the Agreement and continue to govern the parties. Developer waives any right to reimbursement for the installation of the Public Improvements except as contained in this Agreement.

12. Standard of Care; Safety. Developer shall ensure that all work on the Public Improvements is performed in strict compliance with City-approved plans, specifications and contract documents. Developer shall also ensure that all work is performed in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals and contractors in the same discipline in the State of California. Developer shall procure the services of professionals and contractors skilled in the professional calling necessary to design and construct the Public Improvements. All employees and subcontractors working on the Public Improvements shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform such work on the Public Improvements, and all such licenses and approvals shall be maintained throughout the term of their work on the Public Improvements. Developer shall ensure that it and its consultants and contractors execute and maintain their work so as to avoid injury or damage to any person or property. In carrying out their work, they 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. Any employee who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Public Improvements, a threat to the safety of persons or property, or any employee who fails or

refuses to perform his or her work in a manner acceptable to the City, shall be promptly removed from the Public Improvements.

13. Indemnification. Developer shall defend (with counsel of City's choice), indemnify and hold the City, its officials, officers, consultants employees and agents free and harmless from any and all claims, liabilities, losses, costs, expenses, damages or injuries to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of Developer, its members, officials, officers, employees, agents, consultants and contractors arising out of or in connection with this Agreement or the design, construction or installation of the Public Improvements, including without limitation, the payment of all attorneys' fees and other related costs and expenses however caused, regardless of whether the allegations are false, fraudulent, or groundless, and regardless of any negligence of the City or its officers, employees, or authorized volunteers (including passive negligence), except the sole negligence or willful misconduct or active negligence of the City or its officials, officers, employees, or authorized volunteers.. At a minimum, this indemnification provision shall apply to the fullest extent of any warranty or guarantee implied by law or fact, or otherwise given to Developer by Developer's design consultant(s) or contractor(s) for the Public Improvements. In addition, this indemnity provision and any such warranties or guarantees shall not limit any liability under law of such consultants or contractors. Without limiting the foregoing, this indemnity shall extend to any claims arising because Developer has failed to properly secure any necessary easements, land rights, contracts or approvals. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, officers, employees, or agents.

14. Insurance.

(a) Requirement. Developer shall require all persons performing work on the Public Improvements, including its consultants, contractors, and subcontractors,, to procure and maintain, at their expense, until full and adequate completion of the Public Improvements, insurance against claims for injuries to persons or damages to property which may arise out of or in connection with the performance of their work or that of their agents, representatives, employees or subcontractors.

(b) Minimum Scope and Limits of Coverage. Such insurance 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 Employers' Liability:* Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Such insurance shall have limits no less than: (1) *General Liability:* $1,000,000 per occurrence for bodily injury, personal injury and property damage (if Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Public Improvements/location or the general aggregate limit shall be twice the required occurrence limit); (2) *Automobile Liability:* $1,000,000 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. Employers Liability limits of $1,000,000 per accident for bodily injury or disease.

(c) Insurance Endorsements. The insurance policies shall contain the following provisions, or Developer or the primary insured shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(i) General Liability. The general liability policy shall be endorsed to state that: (A) the City, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to this Agreement or operations performed by or on behalf of the Developer, including materials, parts or equipment furnished in connection with such work; and (B) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees and agents or, if excess, shall stand in an unbroken chain of coverage excess of the primary insured's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees or agents shall be excess of the primary insured's insurance and shall not be called upon to contribute with it in any way.

(ii) Automobile Liability. The automobile liability policy shall be endorsed to state that: (A) the City, its directors, officials, officers, employees and agents 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 primary insured or for which the primary insured is responsible; and (B) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees and agents or, if excess, shall stand in an unbroken chain of coverage excess of the primary insured's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees or agents shall be excess of the primary insured's insurance and shall not be called upon to contribute with it in any way.

(iii) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the primary insured.

(iv) 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 forty five (45) days 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 directors, officials, officers, employees or agents.

(d) Professional Liability Insurance. All architects, engineers, consultants or design professionals working on the Public Improvements shall procure and maintain, for a period of five (5) years following completion of the Public Improvements, errors and omissions liability insurance with a limit of not less than $1,000,000. This insurance shall be endorsed to include contractual liability.

(e) Separation of Insureds; No Special Limitations. 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 directors, officials, officers, employees and agents.

(f) Deductibles and Self-Insurance Retentions. City may require that any deductibles or self-insured retentions must be declared to and approved by the City. Developer shall ensure that, at the option of the City, either: (A) the primary insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees and agents; or (B) the primary insured shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

(g) 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.

(h) Verification of Coverage. Developer 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 on the Public Improvements. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

15. Control and Payment of Subordinates; Independent Contractor. All work on the Public Improvements shall be performed by Developer or under its supervision. Developer and its consultants will determine the means, methods and details of performing the work subject to the requirements of this Agreement. City retains Developer on an independent contractor basis and not as an employee. Developer retains the right to perform similar or different work for others during the term of this Agreement. Any additional personnel performing the work under this Agreement on behalf of Developer shall also not be employees of City, and shall at all times be under the exclusive direction and control of Developer or its consultants. All wages, salaries and other amounts due such personnel in connection with their performance of work under this Agreement and as required by law shall be paid by Developer or its consultants and contractors. Such entities 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.

16. Termination. In the event either party defaults in the performance of any of its obligations under this Agreement, or materially breaches any of the provisions of this Agreement, the other party shall have the option to terminate this Agreement upon thirty (30) days prior written notice to the defaulting party.

17. Record Drawings. Prior to acceptance of the Public Improvements by the City, Developer shall provide the City with one copy of record drawings certified by a licensed engineer in the State of California as to accuracy and completeness. Developer shall be solely responsible and liable for insuring completeness and accuracy of the record drawings.

18. Labor/Prevailing Wages. Developer is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., and the implementing regulations promulgated thereunder (collectively, "Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements if it is determined that the Developer's contract(s) with its contractor(s) to construct the Public Improvements are "public works" contracts under the Prevailing Wage Laws. It is the responsibility of the Developer to ensure that each contractor and subcontractor hired to construct the Public Improvements comply with all applicable requirements of the Prevailing Wage Laws. Developer agrees to defend, indemnify and hold the City and its officials, officers, employees and agents free and harmless from any claim or liability including, without limitation, damages, penalties, attorneys' fees and court costs, arising from any failure or alleged failure to comply with these provisions of the Labor Code, including the Prevailing Wage Laws.

19. Attorneys' Fees. In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in addition to costs and any other relief, the prevailing party shall be entitled to its reasonable attorneys' fees, expert fees and other reasonable costs of defense.

20. Developer Assignment. In no event shall the Developer assign or transfer any portion of this Agreement without the prior express written consent of City, which consent may be given or withheld in City's sole discretion; provided, however, Developer shall be permitted to absolutely or collaterally assign its right to receive payments hereunder to any person or entity who acquires all or any part of the Property or who makes a loan secured by all or any part of the Property.

21. 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.

22. Invalidity and 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.

23. 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.

24. Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

25. Labor Certification. By its signature hereunder, Developer 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 Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code. Developer agrees to comply with such provisions and to require its consultants to comply with such provisions before commencing any work on the Plans.

26. Time of Essence. Time is of the essence for each and every provision of this Agreement.

27. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the parties.

28. Construction; 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. 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.

29. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

30. Notices. All notices permitted or required under this Agreement shall be deemed made when delivered to the applicable party's representative as provided in this Agreement. Such notices shall be mailed or otherwise delivered to the addresses set forth below, or at such other addresses as the respective parties may provide in writing for this purpose:

CITY OF COACHELLA	**DEVELOPER**
City Manager City of Coachella 53990 Enterprise Way Coachella, CA 92236	Tim Rogers Tower Energy Group 1983 W. 190th St., No. 100 Torrance, CA 90504

Such notice shall be deemed made when personally delivered, upon fax confirmation of the sender, or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, certified mail, return receipt requested, to the party at its applicable address.

31. Authority to Enter into Agreement. City and Developer warrant that they have all requisite power and authority to execute and perform this Agreement. Each person executing this Agreement on behalf of their party warrants that he or she has the legal power, right, and authority to make this Agreement and bind his or her respective party.

32. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

33. Integration. This Agreement represents the entire understanding of City and Developer as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises, or representations with respect to those matters covered hereunder. This integrated Agreement may not be modified or altered except in writing signed by both parties hereto.

34. Severability and Waiver. The unenforceability, invalidity, illegality, or unconstitutionality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid, illegal, or unconstitutional. Waiver by any party of any portion of this Agreement shall not constitute a waiver of any other portion thereof.

[Signatures on following pages]

SIGNATURE PAGE TO REIMBURSEMENT AGREEMENT FOR PUBLIC IMPROVEMENTS

IN WITNESS WHEREOF, the parties have executed this Agreement as the dates set forth below.

TOWER ENERGY GROUP

By: _____

Its:

Date: _____

THE CITY OF COACHELLA, a California municipal corporation

By: _____
Steven Hernandez
Mayor

Date: _____

ATTESTED TO:

By: _____
Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:
Best Best & Krieger LLP

By: _____
Carlos Campos
City Attorney

EXHIBIT A
Legal Description of Developer Property

EXHIBIT "A"

Legal Description
of
Developer Property

BEING PARCEL 1 OF PARCEL MAP NO. 37562, AS SHOWN BY MAP ON FILE IN BOOK _____ OF PARCEL MAPS, AT PAGES _____ THROUGH _____, INCLUSIVE THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, LYING WITHIN SECTION 17, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN BY MAP ON FILE IN BOOK 4 OF MAPS, AT PAGE 53, THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

CONTAINING 3.34 ACRES NET, 4.24 ACRES GROSS, MORE OR LESS.

PREPARED UNDER MY SUPERVISION

Michael E. Johnson, L.S. 7673 — 4/29/20 Date

Prepared by: EB
Checked by: MJ

EXHIBIT A-1
Legal Description of Calhoun Property

Title No. 11-**725141937**-B-PP
Locate No. CAFNT0972-0972-0051-0725141937

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE SOUTH HALF OF LOT 14 IN SECTION 36, TOWNSHIP 5 SOUTH, RANGE 7 EAST OF THE COACHELLA LAND AND WATER COMPANY'S SUBDIVISION, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AS SHOWN BY MAP ON FILE IN BOOK 4 PAGE(S) 53 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

EXCEPT THE WESTERLY RECTANGULAR 20.00 FEET TO THE EASTERLY RECTANGULAR 25.00 FEET OF LOT 14, SECTION 36, TOWNSHIP 5 SOUTH, RANGE 7 EAST, SAN BERNARDINO BASE AND MERIDIAN OF THE COACHELLA LAND AND WATER COMPANY'S SUBDIVISION AS SHOWN BY MAP ON FILE IN BOOK 4 PAGE(S) 53 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA AS CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED DECEMBER 4, 1946 IN BOOK 806, PAGE 108 OF OFFICIALE RECORDSOF SAID COUNTY. SAID RECTANGULAR 20.00 FEET ADJOINS THE WESTERLY LINE OF THE 40.00 FOOT ROAD DESCRIBED TO RIVERSIDE COUNTY BY COACHELLA LAND WATER COMPANY AS SHOWN BY MAP ON FILE IN BOOK 233 PAGE(S) 220 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

ALSO EXCEPT THAT PORTION THEREOF INCLUDED WITHIN THE LAND CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED FROM COACHELLA LAND & WATER COMPANY RECORDED NOVEMBER 14, 1906 IN BOOK 233, PAGE 220 OF DEEDS.

ALSO EXCEPT AN UNDIVIDED 1/3 INTEREST IN THAT PORTION WITHIN THE FOLLOWING DESCRIBED WELLSITE:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, IDENTICAL WITH THE SOUTHEAST CORNER OF LOT 13, AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 18 PAGE(S) 70 OF RECORDS OF SURVEY, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE NORTH 00° 00' 11" EAST, 183.00 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A";
THENCE SOUTH 89° 58' 00" EAST, 20.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 89° 58' 00" EAST, 30.00 FEET;
THENCE NORTH 00° 02' 00" EAST, 30.00 FEET;
THENCE SOUTH 89° 58' 00" WEST, 30.00 FEET;
THENCE SOUTH 00° 02' 00" WEST, 30.00 FEET TO THE TRUE POINT OF BEGINNING;

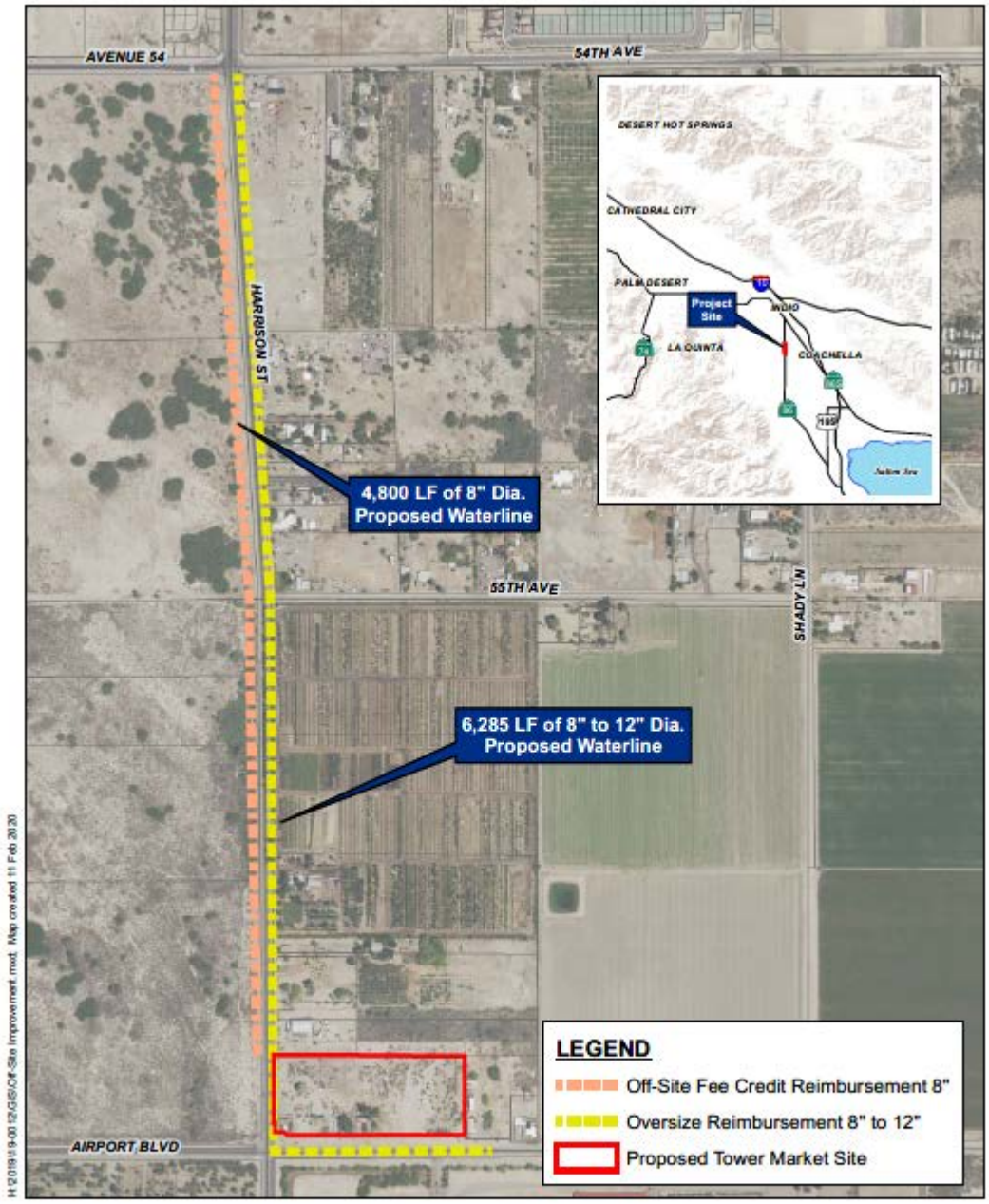
ALSO EXCEPT ANY PORTION IN THE PUBLIC STREET (50TH AVENUE) ON THE SOUTH;

ALSO EXCEPT THOSE PORTIONS DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE RECORDED APRIL 09, 1981 AS INSTRUMENT NO. 63154 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

EXCEPT, HOWEVER, TO THE UNITED STATES ALL URANIUM, THORIUM OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED TO BE PARTICULARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME AS RESERVED BY THE UNITED STATES IN DEED RECORDED MARCH 25, 1957 AS INSTRUMENT NO. 21676 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 612-280-018-6

EXHIBIT B
Description of Public Improvements



Tower Market Off-Site Water Improvements
Reimbursement and Fee Credit Agreement

City of Coachella - Harrison St. and Airport Blvd.

ALBERT A. WEBB ASSOCIATES

EXHIBIT C

FORM OF PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the Tower Energy Group (hereinafter referred to as "Developer") has awarded to _____, (hereinafter referred to as the "Contractor") an agreement for _____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by the Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of the Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the Developer in the sum of _____ DOLLARS, ($_____), the sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the Developer, its officers and agents, as stipulated in the Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Project, unless otherwise provided for in the Contract Documents, the guarantee obligation shall hold good for a period of one (1) year after the acceptance of the work by Developer, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect Developer from loss or damage resulting from or caused by defective materials or faulty workmanship the above obligation in penal sum thereof shall remain in full force and effect. However, anything in this paragraph to the contrary notwithstanding, the obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit Developer's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by Developer in enforcing such obligation.

Whenever Contractor shall be, and is declared by Developer to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at Developer's option:

1. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

2. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and Developer, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by Developer under the Contract and any modification thereto, less any amount previously paid by Developer to the Contractor and any other set offs pursuant to the Contract Documents.

3. Permit Developer to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by Developer under the Contract and any modification thereto, less any amount previously paid by Developer to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that Developer may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if Developer, when declaring the Contractor in default, notifies Surety of Developer's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract to be performed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of Contract. including but not limited to the provisions of Sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20___.

_____
CONTRACTOR/PRINCIPAL

_____
Name

By_____

SURETY:

By: _____
Attorney-In-Fact

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, $_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety) _____

_____

_____

(Name and Address of Agent or Representative for service of process in California, if different from above) _____

_____

_____

(Telephone number of Surety and Agent or Representative for service of process in California) _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally

appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

☐ Individual
☐ Corporate Officer

_____
Title(s)

☐ Partner(s) ☐ Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

FORM OF PAYMENT BOND (LABOR AND MATERIALS)

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the Tower Energy Group (hereinafter designated as the "Developer"), has awarded to _____ hereinafter designated as the "Principal," a contract for the work described as follows: **Contract No._____** (the "Project"); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the Developer in the penal sum of _____ Dollars ($_____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Civil Code Section 9100, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Revenue and Taxation Code Section 18663, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the Developer in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition,

alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or the Developer and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Civil Code Section 9100, and has not been paid the full amount of his claim.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract to be performed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of Contract, including but not limited to, the provisions of Sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

_____
Contractor/ Principal

By_____

Title_____

(Corporate Seal)

_____
Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate) Title_____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally

appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

☐ Individual
☐ Corporate Officer

_____
Title(s)

☐ Partner(s) ☐ Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

JONES BROS. CONSTRUCTION CO.

GRADING, PAVING, UNDERGROUND AND EQUIPMENT RENTALS
85-900 Jones Court, Coachella, Ca 92236 PO Box 905
(760) 347-2291

DIFFERENCE BETWEEN 8" AND 12" BID

PROPOSAL NO. 3249-3 CONTRACT NO.

PROPOSAL SUBMITTED TO: John Olson	PHONE	DATE March 29, 2020
NAME: Tower Energy	PROJECT Offsite Water	
ADDRESS: 1983 West 190th Street	LOCATION: Thermal	
CITY AND STATE: Torrance , Ca 90504	ARCHITECT/ENGINEER: WEBB	2/12/20 "unapproved"
ATTENTION: Tim Rogers and John Olson	PROJECT PLANS NO. AND TITLE Harrison Street & Airport	

We hereby propose to furnish the necessary equipment, labor, and materials required to perform the following works:

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
1.)	8" PVC	6280' LF	$ 33.00	$207,240.00
2.)	8" TIE-IN AVE 54 = TEST PLATE	1 EA	$ 2,450.00	$2,450.00
3.)	8" CROSSING HARRISON STREET	2 EA	$ 5,175.00	$10,350.00
4.)	8" 45* BENDS	4 EA	$ 500.00	$2,000.00
5.)	8" CROSS	1 EA	$ 570.00	$570.00
6.)	8" TEES	1 EA	$ 450.00	$450.00
7.)	FIRE HYDRANT	6 EA	$ 8,150.00	$48,900.00
8.)	8"X4" BLOW OFFS	2 EA	$ 2,610.00	$5,220.00
9.)	AIR VAC WITH ENCLOSER	1 EA	$ 1,672.00	$1,672.00
10.)	TRAFFIC CONTROL DELINEATE WITH CONES	1 EA	$ 6,150.00	$6,150.00
11.)	BASE PAVE ONLY HARRISON STREET CROSSINGS	2 EA	$ 1,500.00	$3,000.00
12.)	BASE PAVE AVE 54 CROSSINGS	1 EA	$ 1,500.00	$1,500.00
13.)	8" BUTTERFLY VALVE	10 EA	$ 1,800.00	$18,000.00
14.)	2" TEMPORARY BLOW OFF	1 EA	$ 1,029.00	$1,029.00
15.)	INSTALL 10" CLASS TWO BASE	5000 SF	$ 1.90	$9,500.00
16.)	INSTALL 6" AC BASE PAVING ONLY (cap by others)	5000 SF	$ 3.66	$18,300.00

Please see attached Stipulations

THIS IS A PREVAILING WAGE PROJECT

$336,331.00

Buyer and Seller agree that the general terms and conditions attached, hereof are part of this agreement are thoroughly understood.
Notice: Additional Terms and Conditions are Attached. Rea[illegible]ing -- Buyer to sign both sides.
ACCEPTED FOR BUYER

JONES BROS. CONSTRUCTION CO.

GRADING, PAVING, UNDERGROUND AND EQUIPMENT RENTALS
85-900 Jones Court, Coachella, Ca 92236 PO Box 905
(760) 347-2291

PROPOSAL NO. 3249-3

CONTRACT NO.

PROPOSAL SUBMITTED TO: John Olson	PHONE	DATE March 29, 2020
NAME: Tower Energy	PROJECT Offsite Water	
ADDRESS: 1983 West 190th Street	LOCATION: Thermal	
CITY AND STATE: Torrance , Ca 90504	ARCHITECT/ENGINEER: WEBB	2/12/20 "unapproved"
ATTENTION: Tim Rogers and John Olson	PROJECT PLANS NO. AND TITLE Harrison Street & Airport	

We hereby propose to furnish the necessary equipment, labor, and materials required to perform the following works:

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
1.)	12" PVC 200	6280' LF	$ 46.50	$292,020.00
2.)	12" TIE-IN AVE 54 + TEST PLATE	1 EA	$ 2,450.00	$2,450.00
3.)	12" CROSSING HARRISON STREET	2 EA	$ 5,175.00	$10,350.00
4.)	12" 45* BENDS	4 EA	$ 700.00	$2,800.00
5.)	12" CROSS	1 EA	$ 1,700.00	$1,700.00
6.)	12" TEE'S	1 EA	$ 900.00	$900.00
7.)	FIRE HYDRANTS	6 EA	$ 8,400.00	$50,400.00
8.)	12" X 4" BLOW OFFS	2 EA	$ 2,987.00	$5,974.00
9.)	AIR VAC WITH ENCLOSER	1 EA	$ 1,672.00	$1,672.00
10.)	TRAFFIC CONTROL DELINEATE WITH CONES	1 EA	$ 6,150.00	$6,150.00
11.)	BASE PAVE ONLY HARRISON STREET CROSSINGS	2 EA	$ 1,500.00	$3,000.00
12.)	BASE PAVE AVE 54 CROSSINGS	1 EA	$ 1,500.00	$1,500.00
13.)	12" BUTTERFLY VALVES	10 EA	$ 3,278.00	$32,780.00
14.)	2" TEMPORARY BLOW OFF	1 EA	$ 1,029.00	$1,029.00
15.)	INSTALL 10" CLASS TWO BASE	5000 SF	$ 1.90	$9,500.00
16.)	INSTALL 6" AC BASE PAVING ONLY (cap by others)	5000 SF	$ 3.66	$18,300.00

Please see attached Stipulations

THIS IS A PREVAILING WAGE PROJECT

	$440,525.00
DISCOUNT =	-$4,000.00
	$436,525.00

Buyer and Seller agree that the general terms and conditions attached, her[illegible]his agreement are thoroughly understood.
Notice: Additional Terms and Conditions are Attached. Rea[illegible]ing -- Buyer to sign both sides.
ACCEPTED FOR BUYER

CJW General Contracting
Lic. #829474
P.O. Box 180 San Jacinto, CA 92581-0180
Phone 951-652-0903 Fax 951-652-1542

Bid Proposal & Contract

$431,280.00

Tower Market 944 - Coachella (8" Budget Only) - Prevailing Wage - Based on City of Coachella Approved Plans, dated 4/29/2020

Customer: Tower Energy Group
Tower Market 944 - Coachella
John Olson
bids@tetm.com

Project Information

Proposal is good for 30 days. Bid With Prevailing Wage Rates. Proposals may be based on Google Earth information and require a site visit/inspection to make valid. (Site Visit Yes [ ] No [ ]) Plans: Soils Report: Proposed Based On Native Backfill.

Bid Number 2028-Water (8" BUDGET ONLY) 4/30/20 Walton Brothers

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	SUB-TOTALS
	Mobilization / Demobilization				
Allowance	Mobilization / Demobilization	1	EA	$ 2,500.00	$ 2,500.00
Subtotal	**$ 2,500.00**				
	****BUDGET ONLY** Offiste Water (Prevailing Wage Applies) - Approved Plans dated 4/29/2020 - Assumiong 8" PVC C900**				
201	Remove Blind Flange & Join Existing @ Harrison St. & Ave 54	1	EA	$ 10,000.00	$ 10,000.00
202	Install 8" PVC C900 Cl150 Water Line (Includes trench, sand, fittings & backfill)	6265	LF	$ 42.00	$ 263,130.00
203	Install 8" Gate Valves	11	EA	$ 2,800.00	$ 30,800.00
205	Fire Hydrant Assembly	6	EA	$ 7,250.00	$ 43,500.00
206	Install 1" AR/AV	1	EA	$ 3,400.00	$ 3,400.00
207	4" Blow Off Assembly	3	EA	$ 4,500.00	$ 13,500.00
208	Trench Repair (Base Pave Only - Mill & Cap by Others)	2,700	SF	$ 13.00	$ 35,100.00
209	Traffic Control	1	LS	$ 15,000.00	$ 15,000.00
210	Raise Valves (One Time Only)	17	EA	$ 550.00	$ 9,350.00
211	Chlorinate & Test	1	LS	$ 5,000.00	$ 5,000.00
Subtotal	**$428,780.00**				
				Total	**$ 431,280.00**

2020 LABOR & EQUIPMENT RATES

Standard Labor Pricing Represented Within Proposal / Add 20% On Prevailing Wage Projects

1.)	Forman	$ 85.00	Per Hour
2.)	Operator	$ 65.00	Per Hour
3.)	Pipelayer	$ 50.00	Per Hour
4.)	Labor	$ 45.00	Per Hour
5.)	Truck Driver	$ 48.00	Per Hour

Standard Bare Equipment Pricing Represented Within Proposal

Excavators

1.)	345 Excavator	$ 225.00	Per Hour
2.)	330 Excavator	$ 195.00	Per Hour
3.)	320 Excavator	$ 175.00	Per Hour
4.)	314 Excavator	$ 165.00	Per Hour
5.)	304 Excavator	$ 95.00	Per Hour

Wheel Loaders

1.)	966 Loader	$ 195.00	Per Hour
2.)	950 Loader	$ 175.00	Per Hour
3.)	938 Loader	$ 165.00	Per Hour

Rubber Tire Backhoe

1.)	430 Backhoe	$ 95.00	Per Hour
2.)	420 Backhoe	$ 85.00	Per Hour

Dozers

1.)	D6	$ 160.00	Per Hour
2.)	D5	$ 145.00	Per Hour
3.)	D4	$ 125.00	Per Hour

Trucks

1.)	2500 Gallon Water Truck	$ 75.00	Per Hour
2.)	4000 Water Truck	$ 90.00	Per Hour
3.)	Bobtail Dump Truck	$ 75.00	Per Hour
4.)	Crew Truck (Tools & Safety Equipment)	$ 70.00	Per Hour

Tools

1.)	Wacker / Viber Plate	$ 100.00	Per Day
2.)	Tow Behind Air Compressor Less Attachments	$ 250.00	Per Day
3.)	Attachment: Jackhammer & 50' Hose	$ 150.00	Per Day

4.)	Walk Behind Saw Porthole to Porthole 4 Hour Minimum	$	220.00	Per Hour
5.)	Trash Pump	$	100.00	Per Day
6.)	Compaction Wheel	$	250.00	Per Day

Mobilization & Demobilization (Invoice) Cost Plus 10%
Extra Work, Change Orders… (Profit & Overhead of 15% shall be applied to the above Labor & Equipment rates.)

TERMS & CONDITIONS

ADDENDUM TO CJWGC PROPOSAL AND RESULTING CONTRACTS ARE BASED UPON:

A. CJWGC utilization of a 345 Caterpillar or equivalent is based upon excavations 35 feet per hour at depths up to 12 feet. Work requiring a lesser rate of excavation or deeper depths will be performed at a cost-plus basis.

B. Developer paying for and supplying all permits, soil testing and construction water.

C. Move-in of equipment: **one time only.**

D. Engineering and staking which is the Developer's responsibility, being completed prior to our excavation.

E. Temporary Cold Patch AC being maintained for a maximum of thirty (30) days unless otherwise stated.

F. Take-offs as per plans not on-site job conditions at this date.

G. Excess soil being spread on-site within twenty (20) feet of trench. Exporting of material will be charged at time and material rates.

H. Paving around manhole and valve cans to be temporary asphalt only, permanent asphalt repair by others.

EXTRA COST TO DEVELOPER WILL OCCUR IF:

A. CJWGC reaches the water table.

B. Changes in plans which result extra cost to CJWGC

C. Additional move-ins required to complete the project.

D. Importing / exporting soil if native soil is not accepted by governing agency or not compactable (ie: material reaches accepted compaction by mechanical machinery using three (3) foot lifts).

E. CJWGC reaches existing line while excavating staked trench at our pipe grade.

F. Trenches are left open per Developer request, other than reasonable length of time for our operations, and which incur additional coat to CJWGC

G. Construction water is not available within three hundred (300) feet of jobsite with minimum flow of two hundred fifty (250) gallons per minute, Developer will be billed for water, plus ten (10) percent.

H. Developer deems it necessary to work overtime to complete work-in-progress in order to compensate for overtime rates due employees.

I. Sand bedding and/or backfill is required, Developer will be charged at $31.00 (thirty one dollars) per ton.

J. Rock bedding and/or backfill is required. Developer will be charged at $40.00 (forty dollars) per ton.

K. CJWGC reaches hard or unstable ground. Developer will be charged time and material rates.

L. In the event the Developer delays the job and the ground freezes, the Developer will pay additional cost due to frozen ground.

M. In the event of any type of change in job conditions from the date of proposal to the start of proposed work.

N. Proposal Excludes: Prevailing Wage, Sewer Bypass, Vac Trucks, Street Sweepers, Wrap Insurance, Prevailing Wage Rates, Hardscape Landscape Removal or Replacement, Engineered traffic control plans, Traffic Control Plans, water meters, unless otherwise stated in proposal unit costs.

CJWGC WILL NOT BE HELD RESPONSIBLE FOR:

A. landscape, hardscape, unless specifically stated in the above contract scope.
B. Damages to existing utilities unless they were clearly marked prior to our excavation.
C. Any damage unless notified in writing within ten (10) days of discovery. Failure to give proper notification constitutes a waiver of claim.

MATERIAL MARKET FACTORS:

ATTENTION: DUE TO NEW TARRIFS, AND OTHER MARKET FACTORS, PRICING ACROSS SEVERAL MATERIAL SECTORS IS EXTREMELY VOLATILE. AS SUCH 30 DAY QUOTATION PRICE PROTECTION, THE INDUSTRY STANDARD FOR MANY YEARS, IS NO LONGER FEASIBLE. EFFECTIVE IMMEDIATELY, AND UNTIL FURTHER NOTICE, PRICES QUOTED WILL REMAIN VALID ONLY AS LONG AS PRICING FROM OUR MANUFACTURERS REMAINS VALID TO US.

SHOULD CONFLICTING CONDITIONS OCCUR BETWEEN THIS PROPOSAL AND CONTRACT AGREEMENT, THIS PROPOSAL SHALL CONTROL

Estimate Number: _____

CJW General Contracting **Developer/Contractor**

By:_____Date:_____ By:_____Date:_____

Signature/Title Signature/Title

To insure payment of our invoices, CJWGC requires a written change order of Contract Addendum, signed by an authorized agent of Developer or Contractor prior to performing any extra work under the above contract.

CJW General Contracting
Lic. #829474
P.O. Box 180 San Jacinto, CA 92581-0180
Phone 951-652-0903 Fax 951-652-1542

Bid Proposal & Contract

$499,530.00

Tower Market 944 - Coachella (12" Water Line) - Prevailing Wage - Based on City of Coachella Approved Plans, dated 4/29/20

Customer: Tower Energy Group
Tower Market 944 - Coachella
John Olson
bids@tetm.com

Project Information

Proposal is good for 30 days. Bid With Prevailing Wage Rates. Proposals may be based on Google Earth information and require a site visit/inspection to make valid. (Site Visit Yes [ ] No [ ]) Plans: Soils Report: Proposed Based On Native Backfill.

Bid Number 2028-WaterREV **4/30/20** **Walton Brothers**

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	SUB-TOTALS
	Mobilization / Demobilization				
Allowance	Mobilization / Demobilization	1	EA	$ 2,500.00	$ 2,500.00
Subtotal	**$ 2,500.00**				
	Offsite Water (Prevailing Wage Applies) - Approved Plans dated 4/29/2020				
201	Remove Blind Flange & Join Existing @ Harrison St. & Ave 54	1	EA	$ 10,000.00	$ 10,000.00
202	Install 12" PVC C900 Cl150 Water Line (Includes trench, sand, fittings & backfill)	6265	LF	$ 52.00	$ 325,780.00
203	Install 12" Butterfly Valves	10	EA	$ 3,200.00	$ 32,000.00
204	Install 8" Gate Valve	1	EA	$ 2,800.00	$ 2,800.00
205	Fire Hydrant Assembly	6	EA	$ 7,500.00	$ 45,000.00
206	Install 1" AR/AV	1	EA	$ 3,500.00	$ 3,500.00
207	4" Blow Off Assembly	3	EA	$ 4,500.00	$ 13,500.00
208	Trench Repair (Base Pave Only - Mill & Cap by Others)	2,700	SF	$ 13.00	$ 35,100.00
209	Traffic Control	1	LS	$ 15,000.00	$ 15,000.00
210	Raise Valves (One Time Only)	17	EA	$ 550.00	$ 9,350.00
211	Chlorinate & Test	1	LS	$ 5,000.00	$ 5,000.00
Subtotal	**$497,030.00**				
				Total	**$ 499,530.00**

2020 LABOR & EQUIPMENT RATES

Standard Labor Pricing Represented Within Proposal / Add 20% On Prevailing Wage Projects

1.)	Forman	$ 85.00	Per Hour
2.)	Operator	$ 65.00	Per Hour
3.)	Pipelayer	$ 50.00	Per Hour
4.)	Labor	$ 45.00	Per Hour
5.)	Truck Driver	$ 48.00	Per Hour

Standard Bare Equipment Pricing Represented Within Proposal

Excavators

1.)	345 Excavator	$ 225.00	Per Hour
2.)	330 Excavator	$ 195.00	Per Hour
3.)	320 Excavator	$ 175.00	Per Hour
4.)	314 Excavator	$ 165.00	Per Hour
5.)	304 Excavator	$ 95.00	Per Hour

Wheel Loaders

1.)	966 Loader	$ 195.00	Per Hour
2.)	950 Loader	$ 175.00	Per Hour
3.)	938 Loader	$ 165.00	Per Hour

Rubber Tire Backhoe

1.)	430 Backhoe	$ 95.00	Per Hour
2.)	420 Backhoe	$ 85.00	Per Hour

Dozers

1.)	D6	$ 160.00	Per Hour
2.)	D5	$ 145.00	Per Hour
3.)	D4	$ 125.00	Per Hour

Trucks

1.)	2500 Gallon Water Truck	$ 75.00	Per Hour
2.)	4000 Water Truck	$ 90.00	Per Hour
3.)	Bobtail Dump Truck	$ 75.00	Per Hour
4.)	Crew Truck (Tools & Safety Equipment)	$ 70.00	Per Hour

Tools

1.)	Wacker / Viber Plate	$ 100.00	Per Day
2.)	Tow Behind Air Compressor Less Attachments	$ 250.00	Per Day
3.)	Attachment: Jackhammer & 50' Hose	$ 150.00	Per Day

4.)	Walk Behind Saw Porthole to Porthole 4 Hour Minimum	$	220.00	Per Hour
5.)	Trash Pump	$	100.00	Per Day
6.)	Compaction Wheel	$	250.00	Per Day

Mobilization & Demobilization (Invoice) Cost Plus 10%
Extra Work, Change Orders… (Profit & Overhead of 15% shall be applied to the above Labor & Equipment rates.)

TERMS & CONDITIONS

ADDENDUM TO CJWGC PROPOSAL AND RESULTING CONTRACTS ARE BASED UPON:

A. CJWGC utilization of a 345 Caterpillar or equivalent is based upon excavations 35 feet per hour at depths up to 12 feet. Work requiring a lesser rate of excavation or deeper depths will be performed at a cost-plus basis.

B. Developer paying for and supplying all permits, soil testing and construction water.

C. Move-in of equipment: **one time only.**

D. Engineering and staking which is the Developer's responsibility, being completed prior to our excavation.

E. Temporary Cold Patch AC being maintained for a maximum of thirty (30) days unless otherwise stated.

F. Take-offs as per plans not on-site job conditions at this date.

G. Excess soil being spread on-site within twenty (20) feet of trench. Exporting of material will be charged at time and material rates.

H. Paving around manhole and valve cans to be temporary asphalt only, permanent asphalt repair by others.

EXTRA COST TO DEVELOPER WILL OCCUR IF:

A. CJWGC reaches the water table.

B. Changes in plans which result extra cost to CJWGC

C. Additional move-ins required to complete the project.

D. Importing / exporting soil if native soil is not accepted by governing agency or not compactable (ie: material reaches accepted compaction by mechanical machinery using three (3) foot lifts).

E. CJWGC reaches existing line while excavating staked trench at our pipe grade.

F. Trenches are left open per Developer request, other than reasonable length of time for our operations, and which incur additional coat to CJWGC

G. Construction water is not available within three hundred (300) feet of jobsite with minimum flow of two hundred fifty (250) gallons per minute, Developer will be billed for water, plus ten (10) percent.

H. Developer deems it necessary to work overtime to complete work-in-progress in order to compensate for overtime rates due employees.

I. Sand bedding and/or backfill is required, Developer will be charged at $31.00 (thirty one dollars) per ton.

J. Rock bedding and/or backfill is required. Developer will be charged at $40.00 (forty dollars) per ton.

K. CJWGC reaches hard or unstable ground. Developer will be charged time and material rates.

L. In the event the Developer delays the job and the ground freezes, the Developer will pay additional cost due to frozen ground.

M. In the event of any type of change in job conditions from the date of proposal to the start of proposed work.

N. Proposal Excludes: Prevailing Wage, Sewer Bypass, Vac Trucks, Street Sweepers, Wrap Insurance, Prevailing Wage Rates, Hardscape Landscape Removal or Replacement, Engineered traffic control plans, Traffic Control Plans, water meters, unless otherwise stated in proposal unit costs.

CJWGC WILL NOT BE HELD RESPONSIBLE FOR:

A. landscape, hardscape, unless specifically stated in the above contract scope.
B. Damages to existing utilities unless they were clearly marked prior to our excavation.
C. Any damage unless notified in writing within ten (10) days of discovery. Failure to give proper notification constitutes a waiver of claim.

MATERIAL MARKET FACTORS:

ATTENTION: DUE TO NEW TARRIFS, AND OTHER MARKET FACTORS, PRICING ACROSS SEVERAL MATERIAL SECTORS IS EXTREMELY VOLATILE. AS SUCH 30 DAY QUOTATION PRICE PROTECTION, THE INDUSTRY STANDARD FOR MANY YEARS, IS NO LONGER FEASIBLE. EFFECTIVE IMMEDIATELY, AND UNTIL FURTHER NOTICE, PRICES QUOTED WILL REMAIN VALID ONLY AS LONG AS PRICING FROM OUR MANUFACTURERS REMAINS VALID TO US.

SHOULD CONFLICTING CONDITIONS OCCUR BETWEEN THIS PROPOSAL AND CONTRACT AGREEMENT, THIS PROPOSAL SHALL CONTROL

Estimate Number: _____

CJW General Contracting **Developer/Contractor**

By:_____Date:_____ By:_____Date:_____

Signature/Title Signature/Title

To insure payment of our invoices, CJWGC requires a written change order of Contract Addendum, signed by an authorized agent of Developer or Contractor prior to performing any extra work under the above contract.

GRANITE™

ATTACHMENT "A"

BID PROPOSAL FOR

Tower Energy

Tim Rogers

5/05/20

Tower Market #944 - Harrison & Airport Blvd

Description	Bid Quantity	Unit	Bid Price	Bid Total
Water Line offsite - Includes Prevailing Wage				
Mobilization	1	LS	$20,000.00	**$ 20,000.00**
8" C-900 mainline includes water adjustments	6,265	LF	$ 51.00	**$319,515.00**
Fire Hydrants	6	EA	$12,000.00	**$ 72,000.00**
4" Blow Off	3	EA	$7,000.00	**$ 21,000.00**
1" Air Vac	1	EA	$6,500.00	**$ 6,500.00**
Fire Hydrant bollards	12	EA	$ 950.00	**$ 11,400.00**
Adjust valves to final grade	20	EA	$ 450.00	**$ 9,000.00**
6" ac over 10" base trench paving	2,825	SF	$ 16.00	**$ 45,200.00**
Traffic Control for waterline work only	1	LS	$31,000.00	**$ 31,000.00**
Total				**$ 535,615.00**

Bid Exclusions

1 PM-10 Dust control and SWPPP is not included in proposal.
2 Cost of Construction water is not included.
3 Bonds, County fees, permits of any kind are specifically excluded from our proposal.
4 Fog seal, weed killer, prime coat, striping,compaction testing, survey / staking.
5 Traffic Control plan is based on Watch manual. Engineered / non Granite produced plan not included.

Bid Inclusions

1 One move to compelte all work.
2 Tack coat and sweeping as needed, encroachment permit for the City of Coachella if needed.
3 Price based work to be completed by 6/30/20.
4 Payment will be based on actual unit of measure at the above stated unit prices.
5 Price based on approved plans.

Thanks
Carley Cechin

GRANITE™

ATTACHMENT "A"

BID PROPOSAL FOR

Tower Energy
Tim Rogers

5/05/20

Tower Market #944 - Harrison & Airport Blvd

Description	Bid Quantity	Unit	Bid Price	Bid Total
Water Line offsite - Includes Prevailing Wage				
Mobilization	1	LS	$20,000.00	**$ 20,000.00**
12" C-900 mainline includes water adjustments	6,265	LF	$ 64.00	**$400,960.00**
Fire Hydrants	6	EA	$12,000.00	**$ 72,000.00**
4" Blow Off	3	EA	$7,000.00	**$ 21,000.00**
1" Air Vac	1	EA	$6,500.00	**$ 6,500.00**
Fire Hydrant bollards	12	EA	$ 950.00	**$ 11,400.00**
Adjust valves to final grade	20	EA	$ 450.00	**$ 9,000.00**
6" ac over 10" base trench paving	2,825	SF	$ 16.00	**$ 45,200.00**
Traffic Control for waterline work only	1	LS	$31,000.00	**$ 31,000.00**
Total				**$ 617,060.00**

Bid Exclusions

1 PM-10 Dust control and SWPPP is not included in proposal.
2 Cost of Construction water is not included.
3 Bonds, County fees, permits of any kind are specifically excluded from our proposal.
4 Fog seal, weed killer, prime coat, striping,compaction testing, survey / staking.
5 Traffic Control plan is based on Watch manual. Engineered / non Granite produced plan not included.

Bid Inclusions

1 One move to compelte all work.
2 Tack coat and sweeping as needed, encroachment permit for the City of Coachella if needed.
3 Price based work to be completed by 6/30/20.
4 Payment will be based on actual unit of measure at the above stated unit prices.
5 Price based on approved plans.

Thanks
Carley Cechin

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: Cástulo R. Estrada

SUBJECT: Authorize the Purchase of Various Size Meters an Approximate Quantity of 1,150 Master Meters for an Amount not to Exceed $400,000.00

STAFF RECOMMENDATION:

Authorize the Purchase of Various Size Meters from Core & Main a Quantity of Approximately 1,150 Master Meters for an Amount not to exceed $400,000.00

DISCUSSION/ANALYSIS:

The City of Coachella and its Coachella Water Authority (CWA) is responsible for the water service for its residents and customers within its service boundary. The water department serves a population of a little over 45,000 and a service area size of approximately 53 square miles. There are approximately 8,500 (meter) connections to the system.

The existing metering system for CWA is read through an Automated Meter Reading (AMR) and Advanced Metering Infrastructure (AMI) system. Currently staff drives around with a receiver in their vehicle, which polls the meter register for customer usage data. The data is collected by the receiver. Once the staff is done for the day or week, the receiver data is uploaded to the financial system for billing purposes. It takes approximately one day for all of the meters to be read by two Water Operators with the current AMR and AMI system. However, there are meters and registers that have reached end of life and no longer transmit information to the receiver. Most of these meters need to be read by hand which requires a tremendous amount of time and manpower. It typically takes the current Water Staff approximately and entire week to complete the list of non-read by reading meters by hand.

Coachella Water Authority is preparing a Notice Inviting Bids for the replacement of these approximate 1,150 meters that are no longer transmitting data. The Department requires the purchase of the meters to complete the Water Meter Replacement Project. Staff plans to purchase the meters from Core & Main who in California is Master Meter's exclusive distributor. Attached to this report is the letter from Master Meter describing this exclusive agreement.

FISCAL IMPACT:

The 2019-2020 adopted budget has the required funds under the Water Operations General Supplies account 178-21-120-10-610-000 to cover the purchase.

MASTER METER®

101 REGENCY PKWY
MANSFIELD, TX 76063
817-842-8000
FAX 817-842-8100

July 2nd, 2019

City of Coachella

To Whom It May Concern:

Reference: Exclusive Distribution

Core&Main (Formerly HD Supply Waterworks) in California is Master Meter's exclusive distributor. The exclusive agreement covers all of California.

Core&Main was selected as our exclusive distributor due to their locations, sales, customer relations, commitment, and willingness to maintain inventory, which allows them to better service Master Meter customers in the area. They have made a commitment to stock inventory for the various customers and to provide on-going support and the sale effort needed to grow our business. Core&Main is classified as a Stocking Distributor, which means they purchase material from Master Meter at the lowest price available.

Exclusive agreements are very common in our industry today due to the complexity of the products being sold. The knowledge needed to properly support a product line such as water meters and electronics is essential to servicing our customers. Working exclusively with one distributor in an area makes it easier to properly track the movement of product and is critical to our ability to respond when a problem occurs.

Many times problems occur when a distributor who is not authorized to sell in a particular area ships or sells product to customers outside their exclusive area. Our past experience dealing with multiple distributors in an area has led us to working exclusively with distributors like Core&Main.

In addition to the local support of Core&Main and myself, Regional Sales Manager for Master Meter, we have a local agent/representative for Southern California, The B.E.S.T. Meter Co. Inc., whom aides in writing specifications, training, trouble-shooting, and customer service support.

Please feel free to contact me if you should have any questions. Master Meter, Core&Main and The B.E.S.T. Meter Co., Inc. look forward to having the opportunity to help the City of Coachella in any way we can.

With Warm Regards,

MASTER METER INC.

Ed Amelung
Regional Sales Manager
714-566-5395

STAFF REPORT
5/27/2020

TO: Honorable Mayor and City Council Members

FROM: William B. Pattison, Jr., City Manager

SUBJECT: Discuss and Provide Direction to Staff on any Emergency Orders.

STAFF RECOMMENDATION:

Discuss and provide direction to staff on any emergency orders.

EXECUTIVE SUMMARY:

On March 4, 2020, Governor Newsom declared a State of Emergency due to the number of confirmed cases of COVID-19 in the state of California. On March, 19, 2020, the City Manager acting as the City's Director of Emergency Services, proclaimed the existence of a local emergency. Also on March 19, 2020, Governor Newsom issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors. On May 4, 2020, Governor Newsom issued Executive Order 60-20 which stated the State Public Health Officer had identified California's path forward from the "Stay at Home" Order to have four stages; California's Pandemic Resilience Roadmap ("Roadmap"), Stages 2-4 are depicted below. On May7, 2020, the State Public Health Officer issued a new Order stating California would be entering Stage 2 as of May 8, 2020.

Many of the state and local orders that were issued have a May 31, 2020 termination date. Local and state emergency orders that expire on May 31, 2020 include: moratorium on water disconnections/late fees and moratoriums on evictions. Staff seeks comments and direction from City Council on the impacts of COVID-19 and the City's responses.

Stage 2: Lower risk workplaces

Gradually opening some lower risk workplaces with adaptations:

- Retail (e.g. curbside pickup)
- Manufacturing
- Offices (when telework not possible)
- Outdoor Museums
- Limited Personal Services

Travel only for permissible activities: Stage 1 and 2 work, and local shopping related to open sectors, healthcare, food, personal exercise and outdoor recreation.

Some counties may move more quickly through stage 2, following guidelines laid out on the county variance page.

Other sectors, such as schools and dine-in restaurants with modifications, will be part of a later Stage 2 statewide opening.

Stage 3: Higher risk workplaces

Phase in higher-risk workplaces, beginning with personal care and recreational venues (with workplace modifications).

Localized travel for permissible activities: Stages 1-3 work, and local shopping related to open sectors healthcare, food, entertainment, personal care, exercise and recreation.

Stage 4: End of stay at home order

Open larger gathering venues, including nightclubs, concert venues, and live audience sports.

Resume non-essential activities and travel.