



CITY COUNCIL Meeting Agenda

Thursday, January 18, 2024

1:30 PM

City Hall Council Chamber

44950 Eldorado Drive, Indian Wells, CA 92210

*Teleconference location for Councilmember Griffith: 5329 Office Center Court #120,
Bakersfield CA 93309*

Welcome to a meeting of the Indian Wells City Council.

Public Comments: *Members of the Public who wish to speak should fill out a blue slip and submit it to the City Clerk, comments are limited to 3 minutes. In accordance with State Law, remarks during public comment are to be limited to subjects within the City's jurisdiction.*

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

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

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

MAYOR GREG SANDERS
MAYOR PRO TEM BRUCE WHITMAN
COUNCIL MEMBER TY PEABODY
COUNCIL MEMBER DANA REED
COUNCIL MEMBER DONNA GRIFFITH

B. APPROVAL OF THE FINAL AGENDA

C. PROCLAMATIONS AND PRESENTATIONS

C.1 Riverside County Fire Update by Division Chief Mike Beverlin

C.2 Riverside County Sheriff Update by Lieutenant David Wright

D. PUBLIC COMMENTS

Members of the Public who wish to speak on consent items OR items not listed on the agenda may do so at this time. Public Comments are limited to 3 minutes. Speakers will be alerted when their time is up and are then to return to their seats and no further comments will be permitted.

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

E. CITY MANAGER'S REPORTS

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

F. CITY ATTORNEY REPORTS AND COMMENTS

G. CONSENT CALENDAR

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

- G.1 Annual Review of FPPC Gift Restrictions, City Ticket Distribution Policy, and City Campaign Contribution Reporting Requirement 8**

RECOMMENDED ACTION:

Council **RECEIVES** and **FILES** information report.

- G.2 City Treasurer’s Report for November 2023 38**

RECOMMENDED ACTION:

Council **RECEIVES** and **FILES** the City Treasurer’s Report for November 2023.

- G.3 Resolution Approving Modifications to the Resident Benefit Card Program 58**

RECOMMENDED ACTION:

Council **ADOPTS** Resolution amending the Policy for issuance of Resident Benefit Cards.

- G.4 Award LippertConstruction West Drop Structure Repair Project 77**

RECOMMENDED ACTION:

Council **AWARDS** contract to Lippert Construction for \$3,314,314 for the West Drop Structure Repairs; and

AUTHORIZES and **DIRECTS** the City Manager to execute an agreement for the same; and

AUTHORIZES the City Manager, or designee, to allocate insurance funds to the Public Works Capital Improvements account.

- G.5 Signal Modification Supplemental Funding Request 82**

RECOMMENDED ACTION:

Council **APPROVES** Supplemental appropriation for \$40,000 from the City’s Capital Improvement Fund to participate in a pilot safety program related to Traffic Signals along Fred Waring Drive.

- G.6 Acceptance of Highway 111 Rehabilitation Project 84**

RECOMMENDED ACTION:

Council **APPROVES** acceptance of the Highway 111 Rehabilitation project as complete.

H. PUBLIC HEARINGS

For each of the items listed under PUBLIC HEARING ITEMS, the public will be provided an opportunity to speak. After a staff report is provided, the Mayor will open the public hearing. At that time the applicant will be allowed five (5) minutes to make a presentation on the case.

Members of the public will then be allowed three (3) minutes each to speak, unless there are a number of person's wishing to speak and then the Mayor will allow only two (2) minutes, to accommodate for more persons. The Mayor will then close the public hearing portion of the hearing and deliberate the matter.

H.1 Ordinance Amending the City's Zoning Code Relating to City Landscape Requirements and Finding the Action Exempt from CEQA

103

RECOMMENDED ACTION:

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

FINDS that the ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15304, where the proposed amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment; and

INTRODUCES Ordinance to be read by title only and further reading waived, amending Sections 21.60.020, 21.60.080, 21.90.030 and adding Section 21.60.085 to the Zoning Code relating to the City's landscape regulations.

I. GENERAL BUSINESS

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

I.1 Living Desert Funding Opportunity 195

RECOMMENDED ACTION:

Council **DISCUSSES** provides **DIRECTION**; and

APPROVES Funding Consideration for The Living Desert Zoo and Gardens; and

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

I.2 Measure J Council Ad Hoc Committee Update 254

RECOMMENDED ACTION:

Council **RECEIVES** and **FILES** the Measure J Council Ad Hoc Committee report.

J. COUNCIL MEMBERS' REPORTS AND COMMENTS

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

J.1 COUNCIL MEMBER GRIFFITH

CVAG Conservation Commission
CVAG Energy & Sustainability Committee
CVAG Homelessness Committee
Indian Wells Community Activities Committee
Indian Wells Golf Resort Advisory Committee
Indian Wells Grants In Aid Committee
Indian Wells Finance/Legal Services Oversight Committee

J.2 COUNCIL MEMBER REED

California Joint Powers Insurance Authority
CVAG Transportation Committee
Indian Wells Marketing Committee
Riverside County Transportation Commission
Southern California Association of Governments

J.3 COUNCIL MEMBER PEABODY

Cove Communities Services Commission
Coachella Valley Animal Campus
Indian Wells Golf Resort Advisory Committee
Indian Wells Marketing Committee
Sunline Transit Agency

J.4 MAYOR PRO TEM WHITMAN

Coachella Valley Economic Partnership
Coachella Valley Mountains Conservancy
CVAG Public Safety Committee
Desert Sands Unified School District
Indian Wells Marketing Committee
Indian Wells Personnel Committee
Indian Wells Public Safety
Indian Wells Tee Committee

J.5 MAYOR SANDERS

Cove Communities Services Commission
CVAG Executive Committee
Desert Sand Unified School District
Indian Wells Finance & Legal Services Oversight Committee
Indian Wells Personnel Committee
Indian Wells Public Safety Committee
Indian Wells Tee Committee
Visit Greater Palm Springs

K. ADJOURNMENT

To a regularly scheduled meeting of the City Council to be held at 1:30 p.m. on February 15, 2024, in the City Hall Council Chamber.

Affidavit of Posting,

I, Angelica Avila, certify that on January 12, 2024, I caused to be posted a notice of a City Council Meeting to be held on January 18, 2024, at 1:30 p.m. in the City Hall Council Chamber.

Notices were posted at Indian Wells Civic Center and City's Website [www.cityofindianwells.org]

Angelica Avila, City Clerk

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: City Attorney
Prepared by: Todd Leishman, City Attorney
Subject: **Annual Review of FPPC Gift Restrictions, City Ticket Distribution Policy, and City Campaign Contribution Reporting Requirement**

RECOMMENDED ACTIONS:

Council **RECEIVES** and **FILES** information report.

BACKGROUND:

Resolution No. 2022-36 requires the Council to conduct a review of applicable law and City policies pertaining to (a) the acceptance of gifts and (b) the City's acceptance and distribution of tickets to sports, entertainment, charity, and similar events at the first meeting following the annual Council reorganization. This year's report also briefly discusses changes in campaign-related disclosures that took effect last year. Relevant policies are attached to the report.

The City of Indian Wells ("City") and its officials occasionally receive free tickets and passes from outside organizations. Under the Political Reform Act of 1974 (the "PRA") and accompanying Fair Political Practices Commission ("FPPC") Regulations, these tickets and passes can be reportable gifts to the City, or to the officials, depending on the circumstances. The purpose of this memorandum is to guide City officials in determining how to classify and handle the tickets and passes under applicable law.

This memorandum begins with a discussion of how to handle tickets or passes given directly to the official and ends with a discussion of how to handle tickets or passes given to the City itself.

I. Rules for Tickets or Passes Given Directly to an Official¹

1. Generally, when tickets or passes are given directly to an official, rather than to the City itself, the official must comply with FPPC regulations on gifts.²

- a. The tickets/passes are subject to disclosure by the official on a Form 700 if the cumulative value is \$50 or more.
- b. Officials cannot accept a gift or gifts from a single source with an aggregate value of \$590 or more in a calendar year
 - i. To effectively refuse acceptance of or return a gift, the official must: (1) refuse the gift, (2) return the gift to the donor, (3) donate the gift, unused, to a 501(c)(3) with which the official or their immediate family holds no position, or to a government agency, without being claimed for tax purposes, or (4) reimburse the donor for the full value of the gift, or a portion thereof, but any unreimbursed portion of the value constitutes a gift. (FPPC Regulations § 18941.)
 - ii. Generally, to relieve an official of an otherwise disqualifying financial interest, the official must take the above actions within 30 days of receipt and before participating in the decision the official has a conflict in. (FPPC Regulations § 18941.)
- c. Any gift or combination of gifts from a single donor valued at \$590 or more received in the 12 months before the governmental decision affecting that donor is made creates a disqualifying conflict of interest under the PRA. (Gov. Code § 87103(e))

2. There are special rules for tickets to political or charitable fundraisers given directly to an official.³

- a. Exception 1: 501(c)(3) Organization Fundraiser

¹ FPPC Regulations §§ 18940–18946.5

² FPPC Regulations §§ 18940, 18940.2

³ FPPC Regulations § 18946.4

- i. An official may accept two tickets or invitations per event from a 501(c)(3) organization. *The tickets/invitations are deemed to have no value and are therefore not reportable.*
- ii. Additional tickets/invitations provided to or controlled by the official, and any tickets not provided directly by the 501(c)(3) organization to the official are valued as specified below.

b. Exception 2: Political Fundraiser

- i. An official may accept two tickets or invitations per event for a fundraising event from, and by, a political committee (as defined in Section 82013(a) or a comparable committee under federal law or laws of another state) or candidate; *these tickets/invitations are deemed to have no value and are therefore not reportable.*
- ii. Additional tickets/admissions by invitation provided to or controlled by the official and any tickets not directly provided by the committee/candidate to the official are valued as specified below.

c. Tickets to Nonprofit Fundraiser That Do Not Fall Into Above Exceptions

- i. Tickets to events held by nonprofits that do not fall within the above exceptions are gifts with special valuation rules. Such tickets are valued as follows:
 - 1. If the ticket clearly states a portion of the ticket price is a donation to the organization, or the organization provides information indicating the portion of the ticket price that constitutes a donation, the value of the ticket is the nondeductible portion of the admission.
 - 2. If there is no ticket or information provided by the organization indicating the nondeductible portion of the admission, the value of the admission is the official's pro rata share of the cost of food, catering services, entertainment, and any other item provided to the official which is available to all guests attending the event. Any other specific benefit provided to the official at the event (like golf green fees) is valued at fair market value.

3. There are also other common exceptions which are not reportable gifts to officials.⁴

Some common exceptions include:

- a. Gifts given to the City itself, instead of directly to the official, as discussed below.
- b. Gifts returned unused to donor, or reimbursed to the donor, or donated unused, to a 501(c)(3) with which the official or their immediate family holds no position, or to a government agency, without being claimed for tax purposes, within 30 days, per FPPC Regulation 18941.
- c. Gifts from family members.
- d. Equivalent-value gifts exchanged on holidays, birthdays or similar occasions (other than lobbyists).
- e. Reciprocal exchanges in a social relationship between an official and another individual (other than lobbyists), so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official, and so long as the value of any single payment is less than \$590.
- f. Admission to a paid-admission event where the official makes a speech, and the admission is provided by the event organizer.
- g. Tickets to an official and one guest to an event for entertainment, recreational, or similar purpose where the official performs a ceremonial role on behalf of the City. In this situation, the City reports the distribution on FPPC Form 802 as discussed below.

II. Rules for Tickets/Passes Given to Directly to the City and Distributed to Officials by the City⁵

Tickets or passes given directly to the City, which the City distributes to officials, may not be considered gifts to the official and may instead be reportable by the City, depending on the circumstances. The City has a ticket distribution policy ("Ticket Distribution Policy")

⁴ FPPC Regulations § 18942

⁵ FPPC Regulations § 18944.1

governing the distribution of tickets and passes to officials.

The following rules apply to tickets/passes given directly to the City, which the City distributes to officials:

1. Tickets or passes distributed to, or at the behest of, an official of the City are *not considered gifts to an official* under the PRA in the following three situations:
 - a. First: The tickets are distributed and used in accordance with the City's Ticket Distribution Policy, where:
 - i. The distribution serves a public purpose.
 - ii. The distribution is reported by the City on FPPC Form 802 pursuant to the Policy.
 - iii. The ticket or pass is not earmarked by an outside source for use by a specific official; and
 - iv. The City determines in its sole discretion who uses the ticket or pass.
 - b. Second: The public official claims the ticket as income for federal income tax purposes, and the City reports them as taxable income.
 - c. Third: The official reimburses the City for the face value of the ticket within 30 days of receipt.
2. **Ticket Transfers Are Not Allowed.** The official may not transfer tickets or passes distributed to them from the City under the City's Ticket Distribution Policy, except to the official's immediate family or to one guest solely for their attendance at the event
3. **A Public Purpose Is Required.** To avoid a gift to the receiving official, the City's distribution of tickets and passes pursuant to the Ticket Distribution Policy must serve a public purpose of the City.
 - a. These public purposes can be found in the City's Ticket Distribution Policy, which sets forth many specific public purposes served by distribution of tickets.

- b. Distributing a ticket or pass to an official – *other than a member of the City Council, the City Manager, a political appointee, or department head* – for the official’s personal use to support general employee morale, retention, or to reward public service is deemed to serve a public purpose.
 - i. “Personal use” is limited to the official and the official’s family, or no more than one guest.
- 4. **Other Incidental Benefits Are Still Gifts to the Official.** The gift exemption for officials receiving tickets from the City only applies to the benefits an official receives from the ticket or pass (those which are provided to all members of the public with the same class of ticket or pass). Benefits received by an official which are not included with admission, including food, beverages, and other items presented to the official at the event, are likely reportable gifts.
- 5. **City Reporting is Required.** When the Ticket Distribution Policy is used, the City must file a Form 802 with the FPPC within 45 days of distributing tickets or passes pursuant to its Ticket Distribution Policy. Otherwise, the official who received the tickets or passes must consider them a “gift” under FPPC rules and follow the separately applicable gift limit and reporting rules.
 - a. If an official received a ticket or pass for the oversight or inspection of facilities, the official must provide the City with a written inspection report of their findings and recommendations which the City must include with the Form 802.
 - b. If the ticket or pass is distributed to a department or other unit of the City, and is not used by a member of the City Council, the City Manager, any political appointees, or department heads, the City can simply report the name of the department or unit that received the ticket or pass (and the number of tickets/passes provided) instead of reporting the name of the individual employee.
 - c. Form 802s prepared in connection with the ticket policy must be maintained as public records and are subject to inspection and copying by the public.
 - d. The forms must be posted on the City’s website.

III. City Campaign Contribution Reporting

The City has long required Councilmembers to report campaign contributions from donors who have an interest in items before the Council. Now state law requires reporting and recusal in some cases. (See Reso. No. 2022-36, sec. (K)(2); see also Council Policy Manuals prior to 2022.)

Senate Bill 1439 (2022) took effect on January 1, 2023, thereby extending California's Levine Act's conflict and recusal rules to members of the Council. As a result, a Councilmember must recuse herself or himself from any proceeding that involves someone who donated \$250 or more to the Councilmember's campaign at any time during the 12 months before the proceeding.

To comply with SB 1439, please track all contributions to your campaigns after January 1, 2023, keep a list of donors, check your list against the potential stakeholders with an interest in items that come before the Council on future agendas, and be prepared to announce that you received a contribution of \$250 or more from that party or participant (if you did) and to recuse yourself in accordance with state law. Please also stay aware of which parties or participants have items pending before the Council (or who did, within the last three months) and be prepared to reject or return any campaign contribution in excess of the statutory limit.

The City's own campaign-contribution reporting requirements remain unchanged. (See Reso. No. 2022-36, sec. (K)(2) ["All all meetings, each Council Member shall report any campaign contribution that the Council Member received from a person who is directly involved in an item on the agenda."].) Please note that this reporting-only policy applies regardless of amount or timing of donation.

ATTACHMENTS:

1. Resolution No. 2022-36
2. FPPC – Local Gift Fact Sheet

RESOLUTION NO. 2022-36**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA ADOPTING AN AMENDED TICKET DISTRIBUTION POLICY TO CONFORM WITH SECTION 18944.1 OF TITLE 2, CALIFORNIA CODE OF REGULATIONS, AS AMENDED BY THE FAIR POLITICAL PRACTICES COMMISSION**

WHEREAS, the Fair Political Practices Commission ("FPPC") has adopted Section 18944.1, Title 2, California Code of Regulations ("Regulation 18944.1") to regulate the distribution and disclosure by public agencies of certain tickets and passes to public officials and employees; and

WHEREAS, Regulation 18944.1 provides that a ticket or pass distributed pursuant to an adopted policy and properly disclosed by the agency is not a gift to the public official and does not trigger a disclosure requirement on the official's Statement of Economic Interests, Form 700; and

WHEREAS, the City Council of the City of Indian Wells (the "City") adopted a ticket distribution policy entitled, "Distribution of City-Controlled Tickets to City Officials" (City Council Policy Manual Chapter 2.10) ("Policy"), pursuant to Regulation 18944.1 to provide for the distribution of such tickets or passes; and

WHEREAS, since that time, the FPPC amended Regulation 18944.1 in order to clarify the valuation of tickets and passes, and other policy requirements; and

WHEREAS, the distribution to and use of such tickets and passes by officials frequently serve legitimate governmental and/or public purposes; and

WHEREAS, from time to time, the City may receive complimentary or discounted tickets or passes from third party sources, both public and private, for distribution to City officials; and

WHEREAS, based on such practice and amended Regulation 18944.1, the City desires to update its Policy regarding the distribution of tickets and/or passes; and

WHEREAS, the proposed updated Policy incorporates the revisions to Regulation 18944.1 made by the FPPC since the adoption of the Policy to ensure that the Policy establishes a fair and equitable process for the distribution to City officials of such tickets and passes by the City, in compliance with the requirements of FPPC Regulations.

NOW THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The City Council of the City of Indian Wells hereby approves and adopts the City's amended Distribution of City-Controlled Tickets to City Officials Policy updated in accordance with FPPC Regulation 18944.1, and attached hereto as Exhibit "A."

Section 3. The City Manager is directed to implement this Policy.

Section 4. The Resolution shall take effect immediately upon adoption.

Section 5. All previous ticket distribution policies adopted by the City under Regulation 18944.1 are hereby repealed.

Section 5. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California at a regular meeting held on the 15th day of September 2022.

E-SIGNED by Dana Reed
on 2022-09-16 14:47:56 PDT

**DANA REED
MAYOR**

CERTIFICATION FOR RESOLUTION NO. 2022-36

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on the 15th day of September 2022, by the following vote:

AYES: Balocco, Bernheimer, Griffith, Reed, Sanders
NOES: None

ATTEST:

E-SIGNED by Angelica Avila
on 2022-09-16 15:09:52 PDT

**ANGELICA AVILA
CITY CLERK**

APPROVED AS TO FORM:

E-SIGNED by Todd Leishman
on 2022-09-16 15:04:06 PDT

**TODD LEISHMAN
CITY ATTORNEY**

Exhibit "A"

**CITY OF INDIAN WELLS
DISTRIBUTION OF CITY-CONTROLLED TICKETS POLICY
(following this page)**

**CITY OF INDIAN WELLS
DISTRIBUTION OF CITY-CONTROLLED TICKETS POLICY**

A. PURPOSE AND APPLICATION OF POLICY.

The purpose of this Policy is to ensure that all Tickets distributed by the City are issued in furtherance of a valid governmental and/or public purpose of the City as required under Fair Political Practices Commission (“FPPC”) Regulation 18944.1. This Policy applies to Tickets which provide admission to an Event. This Policy shall be applicable to every officer, agent and employee of the City who is obligated to file an Annual Statement of Economic Interests (FPPC Form 700) under state law or the City’s current Conflict of Interest Code.

This Policy only applies to the benefits the City Official receives by the admission and are not applicable to any other item of value provided. This Policy does not generally apply to political or nonprofit fundraisers which are governed under a separate FPPC Regulation. This Policy also does not apply to Tickets provided directly to or earmarked for the City Official or a certain class of City Officials.

B. DEFINITIONS.

Unless otherwise expressly provided herein, words and terms used in this Policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Sections 81000, *et seq.*, as the same may be amended from time to time) and the FPPC regulations (Title 2, Division 6 of the California Code of Regulations, section 18110 *et seq.*, as the same may be amended from time to time).

“City” shall mean and refer to the City of Indian Wells and any other affiliated agency created or activated by the Indian Wells City Council.

“City Official” shall mean and refer to every member, elected officer, appointed officer, employee, or consultant of the City, as that term is defined by Government Code Section 82048 and FPPC Regulation 18701. This term shall include, without limitation, any City board, commission or committee member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700). For the purposes of this Policy, this term shall also include a spouse serving a public purpose by accompanying a City Official to an Event and thereby serving as an ambassador of the City.

“Event” shall mean an event, show or performance for entertainment, amusement, recreational or similar purpose for which a Ticket is required to gain admission.

“FPPC” shall mean and refer to the California Fair Political Practices Commission.

“Immediate Family” shall mean and refer to spouse and dependent children as defined in Government Code section 82029.

“Policy” shall mean and refer to this “Ticket Distribution Policy.”

“Spouse” shall mean a husband or wife, domestic partner, similar significant other or any person with whom a Councilmember is in a bona fide dating relationship, as that term is used in FPPC Regulation 18942(18)(A).

“Ticket” shall mean and refer to a “ticket and/or pass” to an Event.

“Ticket Administrator” shall mean and refer to the City Manager or his/her designee.”

C. GENERAL PROVISIONS.

- 1) No Right to Tickets: The use of a Ticket is a privilege extended by the City and not the right of any person to which the privilege may from time to time be extended.
- 2) Limitation on Transfer of Tickets: Tickets distributed to City Officials pursuant to this Policy shall not be transferred to any other person, except to members of such City Official’s immediate family or no more than one guest solely for their attendance at the event. Under no circumstances may either the City Official or a member of his or her immediate family sell or further transfer any Ticket provided under this Policy.
- 3) Return of Tickets or Reimbursement of City: Any City Official may return any Ticket unused to the City for redistribution pursuant to this Policy. In addition, a Ticket is not subject to the provisions of this Policy and is not a gift for the purposes of the FPPC Regulations, if the City Official reimburses the City for the ticket within 30 days of receipt.
- 4) Prohibition Against Sale of or Receiving Reimbursement for Tickets: No individual who receives a Ticket pursuant to this Policy shall sell or receive reimbursement for the value of the Ticket.
- 5) No Earmarking of Ticket Given to City: No Ticket gratuitously provided to the City by an outside source and distributed by the City to, or at the behest of, a City Official pursuant to this Policy shall be earmarked by the original source for use by a particular City Official or a specific class of City Officials.
- 6) Limitation on Use: Any ticket or pass is deemed to serve a public purpose if distributed to a City Official, other than an elected official, for the City Official’s personal use in order to support general employee morale, to encourage retention, or to reward public service, if the ticket or pass is acquired by the City: (i) pursuant to a contract to use public property, (ii) because the City controls the event, or (iii) by purchase at fair market value. For purposes of this paragraph, "personal use" means use by the City Official, his or her family, or no more than one guest. Nothing in this section limits the receipt, distribution, and behest of tickets or passes by elected officials for any of the other public purposes stated.
- 7) Disproportionate Use of Tickets: A disproportionate use of Tickets by members of the City Council, political appointee, department heads, or City Manager is prohibited.
- 8) Valuation of Tickets: The value of any Ticket shall be the fair value of the Ticket. The “fair value” is the face value of the Ticket, or the price at which the Ticket would otherwise be offered for sale to the general public by the operator or host. Where the Ticket does not reflect

the actual cost for a Ticket in a luxury box or suite, the face value is determined by dividing the total cost of the box or suite by the number of Tickets available for that box or suite.

D. TICKET ADMINISTRATOR.

- 1) Designation of Ticket Administrator: The City Manager or his/her designee shall be the "Ticket Administrator" for purposes of implementing the provisions of this Policy.
- 2) Authority: The Ticket Administrator has the sole authority, in his or her discretion, to establish procedures for the distribution of Tickets supplemental to and in accordance with this Policy. All requests for tickets from City Officials which fall within the scope of the Policy shall be made in accordance with the procedures established by the Ticket Administrator.
- 3) Implementation of Policy: The Ticket Administrator or his or her designee is hereby designated as having primary responsibility for distributing Tickets in his or her discretion to a reasonable number of City Officials in a manner that will best serve the City's interests and to persons whose attendance at a particular Event serves a specific governmental or public purpose.
- 4) Revoking/Suspending Ticket Privileges: The Ticket Administrator, in his or her sole discretion, may revoke or suspend the Ticket privileges of any person who violates any provision of this Policy or the procedures established by the Ticket Administrator for the distribution of Tickets in accordance with this Policy.
- 5) Attendance: If available, the Ticket Administrator shall attend all events to which the City obtains control of Tickets as the City's primary staff representative.

E. OFFICIAL DUTIES AND CEREMONIAL ROLES.

Tickets provided to City Officials as part of their official duties, or Tickets provided so that the City Official can perform a Ceremonial Role must be reported on FPPC Form 802.

F. SPECIFIC GOVERNMENTAL OR PUBLIC PURPOSE FOR TICKET DISTRIBUTION.

The City Council has determined that there are certain times where a City Official's attendance serves a valid public purpose which benefits the City. The following is a list of the type of reasons which meet this requirement. The list is intended to be illustrative rather than exhaustive. The City may provide Tickets to or at the behest of a City Official for Events which serve any of the following public or governmental purposes:

- 1) Promote, evaluate, and provide management and/or official oversight of City-controlled, sponsored or supported events, activities, or community programs at City venues, including but not limited to evaluation of the venue, quality of performance and compliance with City policies, agreements, and other requirements. When a public purpose involves the oversight or inspection of facilities by a City Official, the City Official is required to provide a written inspection report and/or recommendation to be included in the City's Form 802 .

- 2) Support sponsorship agreements involving Events where the City specifically seeks to enhance the City's reputation both locally and regionally by serving as hosts or sponsors providing the necessary opportunities to meet and greet visitors, dignitaries, residents and guests.
- 3) Where the City, as a form on consideration for a written contract, has required that a certain number of Tickets be made available for City use.
- 4) Promote local and regional businesses, economic development and tourism activities within the City, including conventions and conferences.
- 5) Enhance City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
- 6) Foster open government by City Official appearances, participation and/or availability at business and/or community events.
- 7) Improve intergovernmental relations by encouraging the members of the City Council, City staff, and their guests, where appropriate, to attend functions and events with the public officials of other entities, thereby fostering an open dialogue and better understanding of intergovernmental issues.
- 8) Increase public exposure to, and awareness of, the various public recreational, cultural, community and education facilities available to the public within the City.
- 9) Promote business activity with the City and/or highlight the achievements of local residents and businesses.
- 10) Promote business growth and development within the City, including economic development and job creation opportunities.
- 11) Facilitate outreach and recognition programs for veterans, teachers, emergency services, medical personnel, community organizations and other civil service occupations.
- 12) Encourage or reward significant academic, athletic, or public service achievements by Indian Wells students, residents, or businesses.
- 13) Promote community resources and private facilities, including charitable and nonprofit organizations facilities, available for use by City residents.
- 14) Promote, support and/or show appreciation for programs and services rendered by non-profit organizations benefiting Indian Wells residents.
- 15) Encourage volunteers to become members of City commissions, committees and boards and reward volunteer public service.
- 16) Attract and retain highly qualified employees in City service, recognize or reward meritorious service by a City employee, and/or promote enhanced City employee performance or morale.
- 17) The following is a non-exclusive list of specific business, community, and nonprofit Events in the City, where a City Official's presence has been determined to serve a valid public purpose.

This list is not intended to be exhaustive, but is merely illustrative of the types of Events where the distribution of tickets has been clearly authorized:

- a. BNP Paribas Open
- b. Desert Town Hall Lecture Series
- c. Indian Wells Arts Festival
- d. Doctor George Car Show

G. TICKETS DISTRIBUTED AT THE BEHEST OF A CITY OFFICIAL.

Only the following City Officials shall have the authority to behest tickets: City Council Members, City Manager and Department Heads.

Tickets shall be distributed at the behest of a City Official only for one or more public purposes set forth in section above. If tickets are distributed at the behest of a City Official, such City Official shall not use one of the tickets so distributed to attend the Event.

H. PUBLIC PURPOSES RELATED TO BNP PARIBAS OPEN.

Participation by City Officials in the ticketed events and activities hosted by the BNP Paribas Open is important to provide an opportunity for City leaders to be involved in the City's largest special event. By attending the two-week long activities, including the tournament, City Officials have the ability to meet and greet residents and visitors to the City. Moreover, City Officials are accountable for the funding and support that the City contributes to the BNP Paribas Open, and therefore some level of attendance during the tournament is necessary for City Officials to provide suggested improvements to Desert Champions LLC management staff and City staff that will enhance and improve the overall event and its economic and public impact on the City.

This Policy is not applicable to tickets to the BNP Paribas Open available to all City residents through the annual lottery.

I. PUBLIC PURPOSES RELATED TO CITY SPONSORED EVENTS.

Participation by City Officials in events wherein the City has made a monetary contribution and/or is a named sponsor is important. Such events serve to enhance the image of the City as a world-class destination resort. These events provide the public with access to many distinguished public and civic leaders as well as significant cultural enhancement. The active participation of City Officials at such events serves to attract additional resources and economic opportunities for this community. City Officials at such events represent the City in interacting with dignitaries and they meet and greet residents and visitors to the City. Moreover, City Officials are accountable for the funding and support that the City contributes to these events, and therefore some level of attendance is appropriate for City Officials to monitor and evaluate the effectiveness of the event and suggest ways in which events may be enhanced and improved to maximize the economic and public benefit to the City.

J. DISCLOSURE REQUIREMENTS.

It shall be the duty of the Ticket Administrator or his or her designee to ensure the City's compliance with Regulation 18944.1(d) pertaining to the reporting of the distribution of Tickets by a public agency to officials or officers of the City. The City shall complete a record of a Ticket distributed under this Policy on FPPC Form 802, including all the information as required under Regulation 19844.1, including but not limited to, the name of the transferee if the ticket was transferred as allowed under this Policy. The forms shall be maintained as a public record, be subject to inspection and copying under Section 81008(a), and within 45 days the City must post these forms on its website and email a website link to the FPPC that displays the form.

If the Ticket is distributed to a department or other unit of the City, and not used by a member of the City Council, the City Manager, political appointee, or department head, the City may report the name of the department or other unit of the City receiving the Ticket and the number of Tickets provided to the department or unit in lieu of reporting the name of the individual employee as otherwise required by Regulation 18944.1.

This Policy shall be maintained as a public record and is subject to inspection and copying under Section 81008. The City shall post this Policy on its website within 30 days of adoption or amendment and send to the FPPC by email the City's website link that displays the policy so that the FPPC may post the link.

K. ANNUAL REVIEW OF TICKETS AND CAMPAIGN CONTRIBUTION REPORTING REQUIREMENT.

- 1) At the first regular meeting or special meeting of the Council following the annual reorganization, the Council, with the assistance of the City Attorney and City Staff, shall conduct a review of applicable law and City policies pertaining to: (a) the acceptance of gifts, (b) the City's acceptance and distribution of tickets to sports, entertainment, charity and similar events.
- 2) At all meetings, each Council Member shall report any campaign contribution that the Council Member received from a person who is directly involved in an item on the agenda.



Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- ♦ Local Elected Officers and Candidates for Local Elective Offices
- ♦ Local Officials Specified in Government Code Section 87200
- ♦ Judicial Candidates
- ♦ Designated Employees of Local Government Agencies

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC

Email advice: advice@fppc.ca.gov

Web site: www.fppc.ca.gov

October 2023

Introduction

The Political Reform Act¹ (the “Act”) imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,² excluding judges;³
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency’s conflict of interest code); and
- Candidates⁴ for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

The gift limit increased to **\$590** for calendar years **2023** and **2024**. The gift limit in 2022 was **\$520**.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. It contains highlights of the law, but does not carry the weight of law. For more information, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. Public officials may also be subject to local restrictions on gifts, honoraria, or travel.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as \$5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

³ The gift limits and honoraria ban in the Political Reform Act do not apply to a person in their capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

⁴ For purposes of the gift limit and honoraria prohibition, an individual becomes a “candidate” when they file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If an individual is an unsuccessful candidate, they will no longer be subject to the gift limit and honoraria prohibition when they have terminated their campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

Gifts

Limitations

Local elected officers, candidates for local elective office, local officials specified in Government Code Section 87200, and judicial candidates, may not accept gifts from any single source totaling more than \$590 in a calendar year. (Section 89503.)⁵

Employees of a local government agency who are designated in the agency's conflict of interest code may not accept gifts from any single source totaling more than \$590 in a calendar year if the employee is required to report receiving income or gifts from that source on their statement of economic interests (Form 700). (Section 89503(c).)

What is a "Gift"?

A "gift" is any payment or other benefit that confers a *personal* benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, a public official has "received" or "accepted" a gift when they have actual possession of the gift or when they take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

Gifts to Family Members

Under certain circumstances, a gift to an official's family member* is considered a gift to the official. (Regulation 18943.) When something of value is given to a family member it is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engage in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

*For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of their own support.

⁵ The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2023-2024, the gift limit is \$590. (Section 89503; Regulation 18940.2.) Gifts from a single source aggregating to \$50 or more must be disclosed, and gifts aggregating to \$590 or more during any 12-month period may subject an official to disqualification with respect to the source. (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on the Form 700 are not subject to the \$590 gift limit but still may subject the public official to disqualification.

Source of Gift

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, the public official must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls must be aggregated as one source to comply with the reporting and limit requirements. For example, separate gifts from the owner of a company and from the company itself would be treated as if from one source if the owner has more than a 50 percent interest in the company, unless the making of the gift was determined by someone else in the company. In that case, the gift from the company would be aggregated with any gifts made by that determining individual. (Regulation 18945.1.)

Group gifts, where a public official receives a single gift from multiple donors (such as a retirement gift from coworkers), need not be reported unless any person contributes \$50 or more to the total cost of the gift. In that case, the public official would only report a gift from each of those persons. (Regulation 18945.2.)

Valuing Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 which covers admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

General Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
No	No	No	No

The following payments are exceptions to the definition of gift and are not considered gifts or income.

- 1. Return or Reimbursement of Gift.** Items that are returned (unused) to the donor, or for which the public official reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)
- 2. Donation of Gift to Nonprofit Group.** Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)
- 3. Gifts from Family.** Gifts from the public official's spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless they are acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.
- 4. Informational Material.** Informational material provided to assist the public official in the performance of their official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

“Informational material” may also include scale models, pictorial representations, maps, and other such items. However, if the item’s fair market value is more than \$590, the public official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging. Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. **Inheritance.** A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. **Campaign Contributions.** Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)) and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Plaques.** Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. **Ceremonial Role.** Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers’ game, so long as the official’s agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under “Gifts Exceptions Requiring Alternate Reporting.”)

9. **Event Where Official Makes a Speech.** Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. **Attending Wedding Reception.** Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. **Bereavement Offerings.** Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. **Acts of Neighborliness.** Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. **Campaign or Nonprofit Fundraiser.** Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. **Unused Passes or Tickets.** Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the public official does not use and do not give to another person. (Regulation 18946.1.)

15. **Items Provided to Government Agency.** Subject to certain conditions, items provided to a government agency and used by public officials in the agency for agency business. This may include

passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under “Gift Exceptions Requiring Alternate Reporting.”) Contact the FPPC for detailed information.

16. **Emergency Leave Credits.** Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by the public official’s employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

17. **Disaster Relief.** Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

18. **Agency Raffle.** Items awarded in an agency raffle received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

19. **Employee Gift Exchange.** Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

Limited Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
No	No	No	No

1. **Home Hospitality.** Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual’s home when the individual or a member of their family is present. (Regulation 18942(a)(7).) For this exception to apply, the official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official’s position and the hospitality must be provided as part of that relationship. Generally, this means functions like children’s birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

2. **Reciprocal Holiday Gifts.** Gifts commonly exchanged between an official and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

3. **Reciprocal Exchanges.** Reciprocal exchanges between an official and another individual that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is \$590 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

4. **Dating Relationship.** Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner has certain business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

5. Acts of Human Compassion. Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942(a)(18)(B).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

6. Long-Time Friend. Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

7. Existing Personal Relationship. Benefits received from an individual where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

Very Limited Gift Exception

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - ½ value as gift	Yes	No	No

Wedding Gifts. Wedding gifts are not subject to the \$590 gift limit. However, wedding gifts are reportable, but for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

Gift Exceptions Requiring Alternate Reporting

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - As Income	Yes	No	No

Prize or Award. A prize or award received in a bona fide contest or competition, or game of chance. **Note: Unlike the other exceptions, payments that fall into this exception must be reported as income if valued at \$500 or more.** To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

Agency Reports

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - On 801 or 802	No	No	No

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801 – Payment to Agency Report: This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual’s statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions: This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual’s statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

Behested Payments Reports

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - Form 803 Behested Payment	No*	No	No*

Behested Payments. Generally, payments made at the behest of an official that do not confer a personal benefit on an official, such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental, or charitable in nature, are not gifts. However, when a local elected officer is making the behest, in some cases these payments may be considered “behested payments” under Section 82004.5 and require disclosure by that elected officer.

***Note:** when a behested payment *does confer a personal benefit on the official*, the gift limit and conflict of interest rules apply, and the official may have a reportable gift or income in addition to a behested payment reporting duty.

Form 803 – Behested Payment Report

- Behested payments are reportable if made principally for legislative, governmental, or charitable purposes. These payments are not for campaign purposes and any personal benefit may constitute a gift to the official subject to the applicable gift limit. For example, a local elected official may ask a third party to contribute funds to a school in her district, or to a job fair or health fair. A gift to the official may occur, for example, where the official attends the event and receives a meal without charge.
- Generally, a donation will be “made at the behest” if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by their agent or employee.
- A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting.
- Behested payments totaling \$5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official’s agency within 30 days of the date of the payment(s). (Section 84224; see Regulations 18424-18424.3.)

Honoraria

What is an “Honorarium”?

An “honorarium” is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A “speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An “article published” means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.)

The Prohibition

Local officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of local agencies who file statements of economic interests (Form 700) under the agency’s conflict of interest code (“designated employees”) may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the “disclosure category” portion of the conflict of interest code. (Section 89502.)

Honoraria Exceptions that also apply to gifts and income

1. **Returned.** An honorarium that the public official returns (unused) to the donor or the donor’s agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)
2. **Donated to General Fund.** An honorarium that is delivered to the official’s local agency within 30 days for donation to the agency’s general fund and for which the public official does not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)
3. **Made to Nonprofit Organization.** A payment that is not delivered to the public official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:
 - The official may not make the donation a condition for their speech, article, or attendance;
 - The official may not claim the donation as a deduction for income tax purposes.
 - The official may not be identified to the non-profit organization in connection with the donation; and
 - The donation may have no reasonably foreseeable financial effect on the public official or on any member of their immediate family. (Regulation 18932.5.)

4. Payment from Family Member. A payment received from the public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Payment for Performance or Book. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

6. Reimbursement for Travel Where Official Provides Consideration. Reimbursements for reasonable travel expenses provided to the public official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the public official provides equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

Honoraria Exceptions where the payment may still be considered income (or a gift, if consideration of equal or greater value is not provided by the official)

1. Admission to Event Where Official Gives Speech. Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which they give a speech, participates in a panel or provides a similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

2. Earned Income from a Business. Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, the public official must meet certain criteria to establish that they are conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 –18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. Travel from a Government Agency. Travel payments provided to the public official by their government agency or by any state, local, or federal government agency which would be considered income and not a gift. (Section 89506(d)(2).) See discussion under "Travel Payments" below.

Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for their travel, that payment is a reportable gift or income under the Act. The term “travel payment” includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act’s \$590 gift limit. If the payment is income, it may, in some cases, be an honorarium. Whether a payment is a gift or income, the official may be required to disqualify themselves from any decision that will have a foreseeable materially financial effect on the source.

Certain Travel Payments are not a Gift, Income or Honorarium

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
No	No	No	No

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act’s gift limits or the honorarium ban.

- 1. Travel from a Non-Reportable Source.** A payment for travel from a source that is not reportable on the official’s statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official’s agency.
- 2. Travel from Government Agency for Training.** A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)
- 3. Sharing a Ride with Another Official.** A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)
- 4. Certain Travel from a Government Agency or 501(c)(3).** Travel payments provided to the official by any state, local, or federal government agency as part of the official’s employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.
- 5. Travel for Official Agency Business.** Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a “personal benefit” to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.
- 6. Campaign Contribution.** A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. Travel Payments Fulfilling Terms of Contract. Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the \$590 Gift Limit or Honoraria Ban of the Act.

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes	Yes	No	No

Travel for a Public Purpose Under Section 89506(a). Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either:

(a) *Travel for Speech.* In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately proceeding, the day of, and the day immediately following the speech and the travel is within the United States, or

(b) *Travel paid for by government agency or 501(c)(3) organization.* Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

These payments are still reportable on the Form 700 and may create a conflict of interest issue for the official.

Payments for Travel in Connection with a Business

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - as Income	Yes	No	No

Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

Loans

Personal loans received by certain local officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

Officials Must Not Receive Loans from Agency Staff. If the public official is a local elected officer or an official specified in Section 87200 (see page 2), they may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of their government agency or an agency over which their agency exercises direction and control. (Section 87460(a) and (b).)

Officials Must Not Receive Loans from Agency Contractors. In addition, the public official may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with their government agency or an agency over which their agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to their official status. (Section 87460(c) and (d).)

Loans to Elected Officials Must be in Writing

In addition to the limitations above, if the public official is elected, they may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. **Campaign Loans.** Loans received by an elected officer's or candidate's campaign committee.
2. **Loans from Family Members.** Loans received from the public official's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless they are acting as an agent or intermediary for another person not covered by this exemption.

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
 - The date the loan was made;
 - The date the last payment of \$100 or more was made on the loan; or
 - The date upon which the public official has made payments aggregating to less than \$250 during the previous 12 months. (Section 87462.)

The following loans will not become gifts:

- A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution and must be reported accordingly.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Finance Department
Prepared by: Ruby D. Walla, Assistant Finance Director
Subject: **City Treasurer's Report for November 2023**

RECOMMENDED ACTIONS:

Council **RECEIVES** and **FILES** the City Treasurer's Report for November 2023.

DISCUSSION:

This report comprehensively analyzes the City of Indian Wells' cash and investment position as of November 30, 2023. The city maintains a robust investment strategy, focusing on prudence, liquidity, and compliance with legal requirements. The Treasurer's certification ensures adherence to the city's investment policy and compliance with the State of California Government Code section 53600.

Financial Snapshot:

As of November 30, 2023:

- Total cash and investments: \$66,059,421.48
- Portfolio rate of return: 1.981%

Treasurer's Certification:

The City Treasurer certifies:

- Compliance with the city's investment policy and legal requirements.
- Adequate liquidity to meet financial obligations for the next six months, ensuring static and dynamic liquidity.

Fiscal Prudence:

Aligned with the fiduciary duty, the city adheres to a prudent investment approach, considering economic conditions and anticipated needs. Investments are guided by a written policy emphasizing safety, liquidity, and yield.

BACKGROUND:

The Treasurer's Report provides a monthly update on cash activity and the investment portfolio, ensuring reconciliation with the General Ledger. Investments align with the city's investment policy and State legislation, covering U.S. treasuries, federal agency securities, corporate notes, municipal bonds, CDs, and overnight cash investments.

Investment Strategy:

The city's investment portfolio is designed to achieve a market rate of return within risk constraints. Diversification across institutions, security types, and maturities maximizes safety and yield amid changing market conditions.

FISCAL IMPACT:

The investment portfolio generated \$58,393.85 in earnings for November 2023. The investment strategy aims for consistent returns throughout budgetary and economic cycles, reflecting prudent risk management. Moreover, the strategy's success in consistently generating returns reflects its adaptability to changing market conditions. As economic cycles fluctuate, the city's investment approach remains resilient, adjusting to dynamic financial landscapes to optimize safety and yield.

ATTACHMENTS:

1. City Treasurer's Report

NET CASH & INVESTMENT SUMMARY NOVEMBER 2023

<u>UNRESTRICTED FUNDS</u>	November 2023	November 2022
GENERAL FUND		
101- GENERAL	\$ 11,816,287.65	\$ 9,787,002.38
TOTAL GENERAL FUND	11,816,287.65	9,787,002.38
 <u>RESTRICTED FUNDS</u>		
SPECIAL REVENUE FUNDS		
202 - TRAFFIC SAFETY	16,850.30	9,160.67
203 - PUBLIC SAFETY 1/2 CENT SALES TAX	20,676.84	18,694.90
204 - MEASURE "A"	117,218.03	116,854.63
209 - F.A.M.D. #1	1,286,622.14	1,777,752.54
210 - SCAQMD (VEHICLE REG.)	14,798.85	13,269.33
211 - AB 3229 COPS FUNDING	28,071.76	88,129.76
214 - GAS TAX 2103 MAINTENANCE	20,046.25	17,382.89
215 - GAS TAX 2105 MAINTENANCE	12,261.06	11,393.22
216 - GAS TAX 2106 CONSTRUCT/MAINT	9,853.85	9,184.60
217 - GAS TAX 2107 MAINTENANCE	16,888.44	15,727.36
218 - GAS TAX 2107.5 ENG./ADMIN	1,000.00	1,000.00
219 - GAS TAX RMRA	157,284.63	47,557.18
228 - EMERG. UPGRADE SERVICES	4,510,528.83	3,940,414.88
247 - AB 939 RECYCLING FUND	284,395.50	399,046.84
248 - SOLID WASTE	140,726.28	215,501.59
251 - STREET LIGHTING DISTRICT 2000-1	16,625.24	14,630.15
253- INDIAN WELLS VILLAS OPERATIONS	96,945.46	1,330,554.81
254- MOUNTAIN VIEW VILLAS OPERATIONS	0.00	2,075,291.54
256- HOUSING AUTHORITY	3,232,664.24	12,236,705.57
271 - ELDORADO DRIVE LLMD	57,829.37	57,528.16
272 - MONTECITO/STARDUST LLMD	3,893.39	2,954.26
273 - CASA DORADO LLMD	904.41	996.40
274 - THE COVE LLMD	7,210.32	1,392.72
275 - SH 111/IWGR (ENTRANCE) LLMD	57,924.99	4,798.70
276 - CLUB/IW LANE LLMD	16,440.62	9,777.34
277 - COLONY LLMD	71,162.68	65,957.01
278 - COLONY COV ESTATES LLMD	46,726.56	50,332.89
279 - DESERT HORIZONS LLMD	20,538.88	15,604.36
280 - MOUNTAIN GATE LLMD	91,057.08	87,686.63
281 - MOUNTAIN GATE ESTATES LLMD	43,085.34	44,085.00
282 - VILLAGIO LLMD	212,496.88	217,826.23
283 - VAIDYA LLMD	34,788.76	34,413.02
284 - CLUB, SOUTH OF 111 LLMD	30,637.87	26,990.10
285 - MONTELENA LLMD	65,455.28	59,172.08
286 - SUNDANCE LLMD	325.49	1,965.44
287 - PROVINCE LLMD	83,955.09	78,706.38
288 - PROVINCE DBAD	559,699.29	555,949.58
TOTAL SPECIAL REVENUE FUNDS	11,387,590.00	23,654,388.76
 CAPITAL PROJECT FUNDS		
310 - PARK FACILITIES FEES	30,507.45	478.00
311 - TRANSPORTATION FACILITIES FEES	37,735.42	1,958.00
313 - RECREATION FACILITIES FEES	75,571.95	3,922.00
314 - PARK-IN-LIEU FEES	22,103.99	47,677.00
315 - CITYWIDE PUBLIC IMPROVEMENT FEE	12,430.28	67,859.00
316 - CAPITAL IMPROVEMENT	10,314,720.00	7,807,994.44
319 - ART IN PUBLIC PLACES	666,016.38	411,601.45
321 - HIGHWAY 111 CIRCULATION IMP FEE	37,152.70	36,233.70
TOTAL CAPITAL PROJECT FUNDS	11,196,238.17	8,377,723.59

RESTRICTED FUNDS (Cont.)

	November 2023	November 2022
REPLACEMENT FUNDS		
326 - BUILDINGS CAPITAL RESERVE	2,153,116.80	1,670,511.80
327 - BRIDGES CAPITAL RESERVE	1,952,516.00	1,717,718.00
328 - MEDIANS & PARKWAYS CAPITAL RESERVE	1,587,395.07	1,367,251.07
329 - STORM DRAINS CAPITAL RESERVE	882,246.00	690,432.00
330 - TRAFFIC SIGNALS CAPITAL RESERVE	753,420.00	567,375.00
331 - TECHNOLOGY CAPITAL RESERVE	702,133.00	518,147.00
332 - CITY STREETS CAPITAL RESERVE	17,332,999.00	18,840,062.00
333 - CITY VEHICLES CAPITAL RESERVE	286,155.00	118,879.00
350 - DISASTER RECOVERY RESERVE	441,850.00	142,129.00
TOTAL REPLACEMENT FUNDS	26,091,830.87	25,632,504.87
SUCCESSOR AGENCY FUNDS		
453 - DEBT SERVICE	608,220.10	544,757.56
456 - RDA OBLIGATION RETIREMENT	0.00	1,062,774.00
460 - INDIAN WELLS FINANCING AUTHORITY	0.00	0.00
TOTAL SUCCESSOR AGENCY FUNDS	608,220.10	1,607,531.56
ENTERPRISE FUNDS		
560 - INDIAN WELLS GOLF RESORT	1,500,000.00	(240,917.03)
TOTAL ENTERPRISE FUNDS	1,500,000.00	(240,917.03)
INTERNAL SERVICE FUNDS		
601 - OPEB BENEFIT FUND	2,074,507.34	908,515.49
TOTAL INTERNAL SERVICE FUNDS	2,074,507.34	908,515.49
RESERVE FUNDS		
602 - COMPENSATED ABSENCES	624,787.00	581,403.00
TOTAL RESERVE FUNDS	624,787.00	581,403.00
TRUST & AGENCY FUNDS		
732 - SPECIAL DEPOSITS	759,960.35	904,384.26
TOTAL TRUST & AGENCY FUNDS	759,960.35	904,384.26
TOTAL ALL FUNDS	66,059,421.48	71,212,536.88
FISCAL AGENTS		
253 - INDIAN WELLS VILLAS	324,769.61	515,111.83
254 - MOUNTAIN VIEW VILLAS	376,986.87	1,047,284.09
453 - US BANK TRUSTEE - SUCCESSOR AGENCY DEBT SERVICE	10,593.48	11.44
460 - US BANK - INDIAN WELLS FINANCE AUTHORITY	6,955,911.67	12,094,086.06
560 - INDIAN WELLS GOLF RESORT	1,223,586.84	593,549.70
601 - PARS SECTION 115 TRUST - PENSION	830,121.62	822,918.67
601 - PARS SECTION 115 TRUST - OPEB	41,220.13	199,678.19
TOTAL FISCAL AGENTS	9,763,190.22	15,272,639.98
TOTAL ALL FUNDS & FISCAL AGENTS	\$ 75,822,611.70	\$ 86,485,176.86
UNRESTRICTED FUNDS	11,816,287.65	9,787,002.38
RESTRICTED FUNDS	64,006,324.05	76,698,174.48
	\$ 75,822,611.70	\$ 86,485,176.86

City of Indian Wells
Bank Reconciliation Report - City Held Cash
 Finance Department

MONTH: **November 30, 2023**

Investment #	Investment Type	Investment Description	Book Value
Bank Checking & Sweep			
1		Pacific Western Bank - Sweep **.*1117	345,253.93
2		Pacific Western Bank - Accts. Payable **.*3411	0.00
3		Pacific Western Bank - Payroll **.*1752	0.00
6		Pacific Western Bank - Ambulance **.*7937	0.00
7		Pacific Western Bank - Public Funds MMA **.*5064	15,480.59
8		US Bank Money Market - Investment	0.00
9		US Bank Money Market - 4590	3,276,200.45
10		US Bank Money Market - 4591	19,321.66
19		Petty Cash	2,000.00
			3,658,256.63
21	Managed Pool Accounts	Local Agency Investment Fund - City 98-33-385	5,189,587.38
			5,189,587.38
Certificates of Deposit			
498		Certificate of Deposit-RIA Federal Credit Union 74962ZALO	249,000.00
499		Certificate of Deposit-Capital One Bank 14042TAY3	247,000.00
501		Certificate of Deposit-BankWest 06652CHA2	249,000.00
512		Certificate of Deposit-BMW Bank North America 05580AVX9	250,000.00
513		Certificate of Deposit-Nicolet Nation Bank 654062JZ2	250,000.00
514		Certificate of Deposit-Live Oak Banking Company 538036LD4	250,000.00
515		Certificate of Deposit-Alma Bank 020080BX4	250,000.00
516		Certificate of Deposit-State Bank of India 856285TF8	248,000.00
517		Certificate of Deposit-First Natl Bank of McGregor TX 32112UDR9	249,000.00
518		Certificate of Deposit-Centerstate Bank 15201QDE4	248,000.00
519		Certificate of Deposit-Northwest Bank 66736ABV0	249,000.00
520		Certificate of Deposit-Encore Bank 29260MBE4	249,000.00
521		Certificate of Deposit-First Freedom Bank 32027BAM9	249,000.00
522		Certificate of Deposit-Pacific Western Bank 69506YRL5	248,000.00
525		Certificate of Deposit-Bank of Baroda 06063HMS9	249,000.00
548		Certificate of Deposit-Toyota Financial Sgs Bank 89235MKY6	250,000.00
550		Certificate of Deposit-Greenstate Credit Union 39573LBL1	250,000.00
557		Certificate of Deposit-Pentagon Federal Credit Union 70962LAS1	249,000.00
558		Certificate of Deposit-Nelnet Bank, Inc 64034KAG6	250,000.00
561		Certificate of Deposit-Beal Bank 07371AYE7	250,000.00
562		Certificate of Deposit-Beal Bank USA 07371CE88	250,000.00
574		Certificate of Deposit-Austin Telco Fed Credit Union 052392BT3	250,000.00
573		Certificate of Deposit-Capital One NA 14042RUJ8	250,000.00
575		Certificate of Deposit-Synchrony Bank 87164XR65	250,000.00
579		Certificate of Deposit-Pacific Western Bank Certificate #0059670821	250,000.00
581		Certificate of Deposit-Pacific Western Bank Certificate #0059863003	250,000.00
585		Certificate of Deposit-Liberty First Credit Union 530520AK1	249,000.00
586		Certificate of Deposit-First Guaranty Bank Hammond LA	249,000.00
587		Certificate of Deposit-Medallion Bank Utah 58404DSW2	249,000.00
588		Certificate of Deposit-Pitney Bowes Bank 724468AG8	244,000.00
589		Certificate of Deposit-Bank Five Nine 062119CD2	249,000.00
590		Certificate of Deposit-First Foundation Bank 32026UJW51	244,000.00
591		Certificate of Deposit-Summit National Bank 86616RAG0	249,000.00
592		Certificate of Deposit-First National Bank of America 32110YD93	249,000.00
596		Certificate of Deposit-Pacific Western Bank Certificate #0059335212	255,493.12
			8,720,493.12
Medium Term Corporate Notes			
524		Bank of New York Mellon Corp 06406RAN7	1,005,321.06
526		Montebello CA Pens Oblig AA 612285AE6	1,024,543.22
533		JP Morgan Chase Bank NA 46632FRU1	2,000,000.00
538		JP Morgan Chase 48128G2Q2	1,000,000.00
549		Bank of America MTN 06048WM31	1,000,000.00
556		Bank of America MTN 06048WM72	1,000,000.00
576		John Deere Capital Corp 24422EWR6	1,022,662.54
			8,052,526.82
Federal Agency Issues			
527		Fed. Nat'l Mortgage Assoc. 3136G4C43	2,000,000.00
529		Fed. Farm Credit Bank 3133ELZ80	2,000,000.00
530		Fed. Home Loan Mtg Corp 3134GWCG9	1,000,297.66
532		Fed. Nat'l Mortgage Assoc 3135GA2Z3	2,000,000.00
534		Fed. Farm Credit Bank 3130AL3S1	1,000,000.00
535		Fed. Farm Credit Bank 3130AL6G4	1,000,000.00
536		Fed. Farm Credit Bank 3130AL6J8	2,000,000.00
539		Fed. Farm Credit Bank 3130ALDN1	2,000,000.00
541		Fed. Farm Credit Bank 3130ALH20	1,000,000.00
542		Fed. Farm Credit Bank 3130ALJ62	1,000,000.00
544		Fed. Farm Credit Bank 3130ALMM3	2,000,000.00
546		Fed. Farm Credit Bank 3130ALW67	1,000,000.00
551		Fed. Farm Credit Bank 3130AMW57	2,000,000.00
552		Fed. Farm Credit Bank 3133EMH21	2,000,000.00
553		Fed. Farm Credit Bank 3133EML67	2,000,000.00
554		Fed. Farm Credit Bank 3133EMN99	2,000,000.00
555		Fed. Farm Credit Bank 3133EMW73	3,000,000.00
559		Fed. Home Loan Bank 3130AQWF6	1,000,000.00
560		Fed. Home Loan Bank 3130AQWJ8	1,000,000.00
563		Fed. Home Loan Bank 3130AQZ55	1,000,000.00
565		Fed. Home Loan Bank 3130ARCV1	2,000,000.00
564		Fed. Home Loan Mtg Corp 3134GXXM9	1,000,000.00
566		Fed. Home Loan Bank 3130ARGE5	1,000,000.00
567		Fed. Home Loan Mtg Corp 3134GXQP2	1,000,000.00
568		Fed. Home Loan Bank 3130AS3Z0	1,700,000.00
569		Fed. Home Loan Bank 3134GXUM4	1,000,000.00
571		Fed. Home Loan Bank 3130ASS67	1,000,000.00
572		Fed. Home Loan Bank 3130ASS91	1,000,000.00
582		Fed. Farm Credit Bank 3133EPPC3	2,000,000.00
			43,700,297.66
Municipal Bonds			
537		Dixon CA Unified School District 255651KY6	500,898.79
531		Natomas CA School District 63877NMM6	300,000.00
			800,898.79
Treasury Discounts-Amortizing			
584		United States Treasury Bill 912797FV4	997,223.69
			997,223.69
Total Pooled Cash and Investments			\$ 71,119,284.09
Fair Value Increase (over cost)			(5,071,286.20)
Outstanding items			
Warrants/Wire Transfers Outstanding (Bank)			(190,954.42)
Outgoing ACH Payments Outstanding (GL)			190,743.76
Credit Card in Transit			11,634.25
Total Outstanding Items			11,423.59
Reconciled Bank Balance			\$ 66,059,421.48
General Ledger Balance			\$ 66,059,421.48



The City of Indian Wells
 Portfolio Management
 Portfolio Summary
 November 30, 2023

City of Indian Wells
 44-950 Eldorado Drive
 Indian Wells CA 92210
 (760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Bank Certificates of Deposit	755,493.12	755,493.12	755,493.12	1.06	253	128	4.393	4.454
Managed Pool Accounts - LAIF	5,189,587.38	5,189,587.38	5,189,587.38	7.30	1	1	3.790	3.843
Money Market Sweep/Checking Account	3,658,256.63	3,658,256.63	3,658,256.63	5.14	1	1	4.709	4.774
Negotiable CD's	7,965,000.00	7,560,907.00	7,965,000.00	11.20	1,796	939	1.936	1.963
Medium Term Corporate Notes	8,000,000.00	7,344,710.00	8,052,526.82	11.32	1,803	855	1.341	1.359
Federal Agency Issues - Callables	43,700,000.00	40,906,610.00	43,700,297.66	61.45	1,590	754	1.530	1.551
Miscellaneous Securities - Coupon	800,000.00	765,470.00	800,898.79	1.13	1,449	381	0.653	0.662
Treasury Discounts -Amortizing	1,000,000.00	997,070.00	997,223.69	1.40	154	20	5.153	5.225
Investments	71,068,337.13	67,178,104.13	71,119,284.09	100.00%	1,404	671	1.954	1.981

Total Earnings	November 30 Month Ending
Current Year	117,128.55
Average Daily Balance	70,565,532.57
Effective Rate of Return	2.02%

The above investments are consistent with the City's investment policy and allowable under current legislation of the State of California. Investments were purchased using safety, liquidity, and yield as criteria. In addition, cash flow from revenue and maturing investments will be sufficient to cover expenditures for the next six months. All securities are "Marked-to-Market" on a monthly basis.


 Kevin McCarthy, Finance Director

Reporting period 11/01/2023-11/30/2023

Run Date: 01/09/2024 - 12:41

No fiscal year history available

Portfolio CITY
 AP
 PM (PRF_PM1) 7.3.0
 Report Ver. 7.3.6.1

**The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 360	Days to Maturity	Maturity Date
Bank Certificates of Deposit												
SYS579	579	Pacific Western Bank		06/07/2023	250,000.00	250,000.00	250,000.00	5.350		5.350	37	01/07/2024
SYS581	581	Pacific Western Bank		06/07/2023	250,000.00	250,000.00	250,000.00	5.370		5.370	219	07/07/2024
SYS596	596	Pacific Western Bank		11/07/2023	255,493.12	255,493.12	255,493.12	2.500		2.500	128	04/07/2024
Subtotal and Average			754,394.50		755,493.12	755,493.12	755,493.12			4.393	128	
Managed Pool Accounts - LAIF												
SYS21	21	LAIF - City			5,189,587.38	5,189,587.38	5,189,587.38	3.843		3.790	1	
SYS23	23	LAIF - Redevelopment			0.00	0.00	0.00	0.233		0.230	1	
Subtotal and Average			4,276,254.05		5,189,587.38	5,189,587.38	5,189,587.38			3.790	1	
Money Market Sweep/Checking Account												
SYS1	1	Pacific Western Bank			345,253.93	345,253.93	345,253.93	0.250		0.247	1	
SYS6	6	Pacific Western Bank-Ambulance		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS7	7	Pacific Western-PublicFundsMMA			15,480.59	15,480.59	15,480.59	3.700		3.649	1	
SYS8	8	US Bank Money Market		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS10	10	US Bank Money Market-4591		08/30/2022	19,321.66	19,321.66	19,321.66	5.240		5.168	1	
SYS9	9	US Bank Money Market-4590		08/30/2022	3,276,200.45	3,276,200.45	3,276,200.45	5.256		5.184	1	
SYS2	2	Pacific Western - Acct Payable		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS3	3	Pacific Western-Payroll		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS4	4	Union Bank-Checking			0.00	0.00	0.00	0.200		0.197	1	
SYS19	19	Petty Cash		07/01/2022	2,000.00	2,000.00	2,000.00			0.000	1	
SYS5	5	WestAmerica Bank		07/01/2022	0.00	0.00	0.00			0.000	1	
Subtotal and Average			2,521,311.16		3,658,256.63	3,658,256.63	3,658,256.63			4.709	1	
Negotiable CD's												
020080BX4	515	Alma Bank		03/31/2020	250,000.00	237,025.00	250,000.00	1.400		1.380	483	03/28/2025
052392BT3	574	Austin Telco Fed Credit Union		09/21/2022	250,000.00	237,040.00	250,000.00	3.800		3.748	1,390	09/21/2027
06063HMS9	525	Bank of Baroda		07/22/2020	249,000.00	230,880.27	249,000.00	0.700		0.690	599	07/22/2025
062119CD2	589	Bank Five Nine		07/31/2023	249,000.00	240,486.69	249,000.00	4.500		4.438	1,701	07/28/2028
06652CHA2	501	BankWest Inc.		07/26/2019	249,000.00	243,454.77	249,000.00	2.000		1.973	238	07/26/2024
07371AYE7	561	Beal Bank - Plano TX		02/23/2022	250,000.00	226,017.50	250,000.00	1.900		1.874	1,174	02/17/2027
07371CE88	562	Beal Bank USA		02/23/2022	250,000.00	226,017.50	250,000.00	1.900		1.874	1,174	02/17/2027
05580AVX9	512	BMW BANK NORTH AMERICA		03/31/2020	250,000.00	237,507.50	250,000.00	1.550		1.529	486	03/31/2025
14042TAY3	499	Capital One Bank USA NA		07/18/2019	247,000.00	242,645.39	247,000.00	2.300		0.000	208	06/26/2024
14042RUJ8	573	Capital One NA		09/21/2022	250,000.00	237,940.00	250,000.00	3.900		0.000	1,390	09/21/2027

Portfolio CITY
AP
PM (PRF_PM2) 7.3.0

**The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM	Days to Maturity	Maturity Date
Negotiable CD's												
15201QDE4	518	Centerstate Bank NA		04/30/2020	248,000.00	233,948.32	248,000.00	1.250		1.233	516	04/30/2025
29260MBE4	520	ENCORE BANK		04/30/2020	249,000.00	244,649.97	249,000.00	1.150		1.135	151	04/30/2024
32027BAM9	521	First Freedom Bank		04/30/2020	249,000.00	244,597.68	249,000.00	1.100		1.086	151	04/30/2024
320437AD8	586	First Guaranty Bank Hammond LA		08/11/2023	249,000.00	240,464.28	249,000.00	4.500		4.438	1,708	08/04/2028
32110YD93	592	First National Bank of America		08/16/2023	249,000.00	246,181.32	249,000.00	4.450		4.394	1,719	08/15/2028
32026UW51	590	First Foundation Bank		08/16/2023	244,000.00	235,052.52	244,000.00	4.450		0.000	1,713	08/09/2028
32112UDR9	517	First Natl Bank of McGregor TX		04/28/2020	249,000.00	235,207.89	249,000.00	1.350		1.332	514	04/28/2025
39573LBL1	550	Greenstate Credit Union		06/16/2021	250,000.00	224,505.00	250,000.00	0.900		0.888	928	06/16/2026
530520AK1	585	Liberty First Credit Union		08/11/2023	249,000.00	244,560.33	249,000.00	4.700		4.641	1,711	08/07/2028
538036LD4	514	Live Oak Banking Company		03/31/2020	250,000.00	236,987.50	250,000.00	1.400		1.382	486	03/31/2025
58404DSV2	587	Medallion Bank Utah		07/31/2023	249,000.00	239,453.34	249,000.00	4.400		4.406	1,704	07/31/2028
64034KAG6	558	Nelnet Bank, Inc.		02/02/2022	250,000.00	223,442.50	250,000.00	1.500		1.479	1,159	02/02/2027
654062JZ2	513	Nicolet National Bank		03/31/2020	250,000.00	236,980.00	250,000.00	1.400		1.382	486	03/31/2025
66736ABV0	519	Northwest Bank		04/30/2020	249,000.00	234,652.62	249,000.00	1.200		1.184	516	04/30/2025
69506YRL5	522	Pacific Western Bank CA CD		04/30/2020	248,000.00	233,948.32	248,000.00	1.250		1.233	516	04/30/2025
70962LAS1	557	Pentagon Federal Credit Union		09/29/2021	249,000.00	221,216.58	249,000.00	0.900		0.888	1,033	09/29/2026
724468AG8	588	Pitney Bowes Bank Inc.		07/31/2023	244,000.00	234,588.92	244,000.00	4.400		0.000	1,704	07/31/2028
749622AL0	498	RIA Federal Credit Union		06/24/2019	249,000.00	248,509.47	249,000.00	2.500		2.468	25	12/26/2023
856285TF8	516	State Bank of India NY, NY CD		04/29/2020	248,000.00	235,136.24	248,000.00	1.600		1.578	515	04/29/2025
86616RAG0	591	Summit National Bank		08/16/2023	249,000.00	243,502.08	249,000.00	4.500		4.443	1,714	08/10/2028
87164XR65	575	Synchrony Bank		09/23/2022	250,000.00	238,340.00	250,000.00	3.950		3.896	1,392	09/23/2027
89235MKY6	548	Toyota Financial Sgs Bk		04/22/2021	250,000.00	225,967.50	250,000.00	0.900		0.888	873	04/22/2026
Subtotal and Average			7,965,000.00		7,965,000.00	7,560,907.00	7,965,000.00			1.936	939	
Medium Term Corporate Notes												
06048WM31	549	Bank of America MTN A		05/28/2021	1,000,000.00	897,250.00	1,000,000.00	1.250		1.233	909	05/28/2026
06048WM72	556	Bank of America MTN A		07/30/2021	1,000,000.00	878,250.00	1,000,000.00	1.200		1.184	972	07/30/2026
06406RAN7	524	Bank of New York Mellon Corp		05/14/2020	1,000,000.00	949,770.00	1,005,321.06	1.600		1.190	510	04/24/2025
24422EWR6	576	John Deere Capital Corp		05/18/2023	1,000,000.00	995,380.00	1,022,662.54	4.750		4.083	1,511	01/20/2028
48128G2Q2	538	JPMorgan Chase & Co		02/26/2021	1,000,000.00	892,970.00	1,000,000.00	0.800		0.789	818	02/26/2026
46632FRU1	533	JP Morgan Chase Bank NA		01/22/2021	2,000,000.00	1,775,480.00	2,000,000.00	0.700		0.690	783	01/22/2026
612285AE6	526	Montebello CA Pens Oblig AA		07/17/2020	1,000,000.00	955,610.00	1,024,543.22	2.503		0.819	548	06/01/2025
Subtotal and Average			8,053,559.93		8,000,000.00	7,344,710.00	8,052,526.82			1.341	855	

**The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM	Days to Maturity	Maturity Date
Federal Agency Issues - Callables												
3133ELZ80	529	Fed. Farm Credit Bank		07/29/2020	2,000,000.00	1,861,720.00	2,000,000.00	0.580		0.572	606	07/29/2025
3133EMH21	552	Fed. Farm Credit Bank		06/17/2021	2,000,000.00	1,817,840.00	2,000,000.00	0.900		0.888	927	06/15/2026
3133EML67	553	Fed. Farm Credit Bank		06/22/2021	2,000,000.00	1,816,760.00	2,000,000.00	0.800		0.789	934	06/22/2026
3133EMN99	554	Fed. Farm Credit Bank		06/30/2021	2,000,000.00	1,871,700.00	2,000,000.00	0.740		0.730	577	06/30/2025
3133EMW73	555	Fed. Farm Credit Bank		07/28/2021	3,000,000.00	2,719,380.00	3,000,000.00	0.870		0.858	970	07/28/2026
3133EPPC3	582	Fed. Farm Credit Bank		07/03/2023	2,000,000.00	2,000,300.00	2,000,000.00	5.375		5.301	215	07/03/2024
3130AL3S1	534	Fed. Home Loan Bank		02/17/2021	1,000,000.00	914,630.00	1,000,000.00	0.625		0.616	809	02/17/2026
3130AL6G4	535	Fed. Home Loan Bank		02/25/2021	1,000,000.00	913,420.00	1,000,000.00	0.600		0.592	817	02/25/2026
3130AL6J8	536	Fed. Home Loan Bank		02/24/2021	2,000,000.00	1,828,060.00	2,000,000.00	0.625		0.616	816	02/24/2026
3130ALDN1	539	Fed. Home Loan Bank		03/16/2021	2,000,000.00	1,831,820.00	2,000,000.00	0.800		0.789	836	03/16/2026
3130ALHZ0	541	Fed. Home Loan Bank		03/18/2021	1,000,000.00	933,720.00	1,000,000.00	0.530		0.523	565	06/18/2025
3130ALJ62	542	Fed. Home Loan Bank		03/24/2021	1,000,000.00	914,830.00	1,000,000.00	0.875		0.863	844	03/24/2026
3130ALMM3	544	Fed. Home Loan Bank		03/30/2021	2,000,000.00	1,838,460.00	2,000,000.00	1.000		0.986	850	03/30/2026
3130ALW67	546	Fed. Home Loan Bank		04/22/2021	1,000,000.00	919,860.00	1,000,000.00	1.100		1.085	873	04/22/2026
3130AMW57	551	Fed. Home Loan Bank		06/30/2021	2,000,000.00	1,837,460.00	2,000,000.00	0.750		0.700	942	06/30/2026
3130AQWF6	559	Fed. Home Loan Bank		02/25/2022	1,000,000.00	926,100.00	1,000,000.00	2.150		2.121	1,182	02/25/2027
3130AQWJ8	560	Fed. Home Loan Bank		02/24/2022	1,000,000.00	923,330.00	1,000,000.00	2.050		2.022	1,181	02/24/2027
3130AQZ55	563	Fed. Home Loan Bank		03/10/2022	1,000,000.00	935,230.00	1,000,000.00	2.500		2.466	1,195	03/10/2027
3130ARCV1	565	Fed. Home Loan Bank		03/28/2022	2,000,000.00	1,980,420.00	2,000,000.00	2.250		1.846	118	03/28/2024
3130ARGE5	566	Fed. Home Loan Bank		04/21/2022	1,000,000.00	946,630.00	1,000,000.00	3.000		2.959	1,237	04/21/2027
3130AS3Z0	568	Fed. Home Loan Bank		05/26/2022	1,700,000.00	1,664,470.00	1,700,000.00	3.000		2.959	361	11/26/2024
3130ASS67	571	Fed. Home Loan Bank		08/16/2022	1,000,000.00	977,960.00	1,000,000.00	4.500		4.438	1,354	08/16/2027
3130ASS91	572	Fed. Home Loan Bank		08/10/2022	1,000,000.00	968,250.00	1,000,000.00	4.000		3.945	1,348	08/10/2027
3134GWCG9	530	Fed. Home Loan Mtg Corp		07/30/2020	1,000,000.00	937,480.00	1,000,297.66	0.650		0.621	516	04/30/2025
3134GXMX9	564	Fed. Home Loan Mtg Corp		03/25/2022	1,000,000.00	962,520.00	1,000,000.00	2.200		2.170	480	03/25/2025
3134GXQP2	567	Fed. Home Loan Mtg Corp		04/28/2022	1,000,000.00	971,730.00	1,000,000.00	3.030		2.988	514	04/28/2025
3134GXUM4	569	Fed. Home Loan Mtg Corp		06/07/2022	1,000,000.00	988,270.00	1,000,000.00	3.050		3.008	189	06/07/2024
3136G4C43	527	Fed. Nat'l Mortgage Assoc		08/14/2020	2,000,000.00	1,860,720.00	2,000,000.00	0.650		0.641	622	08/14/2025
3135GA2Z3	532	Fed. Nat'l Mortgage Assoc		11/17/2020	2,000,000.00	1,843,540.00	2,000,000.00	0.560		0.552	717	11/17/2025
Subtotal and Average			43,700,306.14		43,700,000.00	40,906,610.00	43,700,297.66			1.530	754	
Miscellaneous Securities - Coupon												
255651KY6	537	Dixon CA Unified School Dist		02/18/2021	500,000.00	484,775.00	500,898.79	0.672		0.395	244	08/01/2024
63877NMM6	531	Natomas CA Sch Dist AA Insured		10/01/2020	300,000.00	280,695.00	300,000.00	1.100		1.085	609	08/01/2025
Subtotal and Average			800,953.10		800,000.00	765,470.00	800,898.79			0.653	381	

**The City of Indian Wells
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 360	Days to Maturity	Maturity Date
Treasury Discounts -Amortizing												
912797FV4	584	United States Treasury Bill		07/20/2023	1,000,000.00	997,070.00	997,223.69			5.153	20	12/21/2023
Subtotal and Average			2,493,753.70		1,000,000.00	997,070.00	997,223.69			5.153	20	
Total and Average			70,565,532.57		71,068,337.13	67,178,104.13	71,119,284.09			1.954	671	



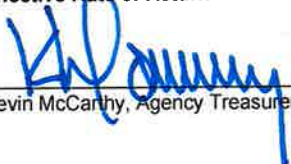
2014, 2015, 2016, 2020 Series
Portfolio Management
Portfolio Summary
November 30, 2023

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	10,671.11	10,671.11	10,671.11	100.00	1	1	0.000	0.000
	10,671.11	10,671.11	10,671.11	100.00%	1	1	0.000	0.000

Investments

Total Earnings	November 30 Month Ending
Current Year	0.00
Average Daily Balance	10,625.47
Effective Rate of Return	0.00%


Kevin McCarthy, Agency Treasurer

Reporting period 11/01/2023-11/30/2023

Run Date: 01/09/2024 - 13:26

No fiscal year history available

Portfolio 14A
CP
PM (PRF_PM1) 7.3.0
Report Ver. 7.3.6.1

**2014, 2015, 2016, 2020 Series
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS28	28	2014A Bonds Reserve		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS26	26	All Bond Series Principal		07/01/2022	11.66	11.66	11.66			0.000	1	
SYS25	25	All Bond Series Interest		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS27	27	All Bond Series Debt Svc		07/01/2022	10,659.45	10,659.45	10,659.45			0.000	1	
SYS24	1	Cost Of Issuance Escrow		07/01/2022	0.00	0.00	0.00			0.000	1	
Subtotal and Average			10,625.47		10,671.11	10,671.11	10,671.11			0.000	1	
Total and Average			10,625.47		10,671.11	10,671.11	10,671.11			0.000	1	



**2015 A Bonds
Portfolio Management
Portfolio Summary
November 30, 2023**

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	1.00	1.00	1.00	100.00	1	1	0.000	0.000
	1.00	1.00	1.00	100.00%	1	1	0.000	0.000

Investments	
Total Earnings	November 30 Month Ending
Current Year	0.00
Average Daily Balance	1.00
Effective Rate of Return	0.00%


Kevin McCarthy, Agency Treasurer

Reporting period 11/01/2023-11/30/2023

Run Date: 01/09/2024 - 13:28

No fiscal year history available

Portfolio 15A
CP

PM (PRF_PM1) 7.3.0
Report Ver. 7.3.6.1

**2015 A Bonds
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS27	27	2015 A Reserve		07/01/2022	1.00	1.00	1.00			0.000	1	
SYS22	22	UBC Cost Of Issuance Escrow		07/01/2022	0.00	0.00	0.00			0.000	1	
Subtotal and Average			1.00		1.00	1.00	1.00			0.000	1	
Total and Average			1.00		1.00	1.00	1.00			0.000	1	

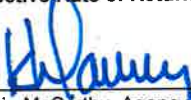


**2016 A Bonds
Portfolio Management
Portfolio Summary
November 30, 2023**

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	1.00	1.00	1.00	100.00	1	1	0.000	0.000
Investments	1.00	1.00	1.00	100.00%	1	1	0.000	0.000

Total Earnings	November 30 Month Ending
Current Year	0.00
Average Daily Balance	1.00
Effective Rate of Return	0.00%



Kevin McCarthy, Agency Treasurer

Reporting period 11/01/2023-11/30/2023

Run Date: 01/09/2024 - 13:29

No fiscal year history available

Portfolio 16A
CP
PM (PRF_PM1) 7.3.0
Report Ver. 7.3.6.1

**2016 A Bonds
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS28	1	UBC Cost Of Issuance Escrow		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS33	2	Union Bank Reserve Account		07/01/2022	1.00	1.00	1.00			0.000	1	
Subtotal and Average			1.00		1.00	1.00	1.00			0.000	1	
Total and Average			1.00		1.00	1.00	1.00			0.000	1	



**2020 A Bonds
Portfolio Management
Portfolio Summary
November 30, 2023**

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	1.00	1.00	1.00	100.00	1	1	0.000	0.000
Investments	1.00	1.00	1.00	100.00%	1	1	0.000	0.000

Total Earnings	November 30 Month Ending
Current Year	0.00
Average Daily Balance	1.00
Effective Rate of Return	0.00%


Kevin McCarthy, Agency Treasurer

Reporting period 11/01/2023-11/30/2023

Run Date: 01/09/2024 - 13:33

No fiscal year history available

Portfolio 20A
CP
PM (PRF_PM1) 7.3.0
Report Ver. 7.3.6.1

**2020 A Bonds
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS1	1	2020 A Bonds COI		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS2	2	2020 A Bonds Reserve		07/01/2022	1.00	1.00	1.00			0.000	1	
Subtotal and Average			1.00		1.00	1.00	1.00			0.000	1	
Total and Average			1.00		1.00	1.00	1.00			0.000	1	



**2022 Bonds
Portfolio Management
Portfolio Summary
November 30, 2023**

City of Indian Wells
44-950 Eldorado Drive
Indian Wells CA 92210
(760)346-2489

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
Money Market Sweep/Checking Account	6,582,781.14	6,582,781.14	6,582,781.14	100.00	1	1	0.000	0.000
Investments	6,582,781.14	6,582,781.14	6,582,781.14	100.00%	1	1	0.000	0.000

Total Earnings	November 30 Month Ending
Current Year	0.01
Average Daily Balance	6,943,473.99
Effective Rate of Return	0.00%


Kevin McCarthy, Agency Treasurer

Reporting period 11/01/2023-11/30/2023

Run Date: 01/09/2024 - 13:54

No fiscal year history available

Portfolio 22
CP
PM (PRF_PM1) 7.3.0
Report Ver. 7.3.6.1

**2022 Bonds
Portfolio Management
Portfolio Details - Investments
November 30, 2023**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Fitch	YTM 365	Days to Maturity	Maturity Date
Money Market Sweep/Checking Account												
SYS2	2	2022 Bonds COI		07/01/2022	0.00	0.00	0.00			0.000	1	
SYS4	4	2022 Bonds Interest		03/16/2023	251.92	251.92	251.92			0.000	1	
SYS1	1	2022 Bonds Project Fund		07/01/2022	6,581,641.64	6,581,641.64	6,581,641.64			0.000	1	
SYS5	5	2022 Bonds Redemption Fund		03/16/2023	885.46	885.46	885.46			0.000	1	
SYS3	3	2022 Bonds Payment Fund		09/21/2022	2.12	2.12	2.12			0.000	1	
Subtotal and Average			6,943,473.99		6,582,781.14	6,582,781.14	6,582,781.14			0.000	1	
Total and Average			6,943,473.99		6,582,781.14	6,582,781.14	6,582,781.14			0.000	1	

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Finance Department
Prepared by: Kevin McCarthy, Finance Director
Subject: **Resolution Approving Modifications to the Resident Benefit Card Program**

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution amending the Policy for issuance of Resident Benefit Cards.

SUMMARY:

During the City's 2023 Strategic Planning Session, the City Council directed a review of the Resident Benefit Card (RBC) Program guidelines, specifically centering on the application of RBC cards allowing for younger children to attend City-sponsored events. A meeting was held with City staff and the Community Activities Committee to discuss and review the matter.

The Community Activities Committee recommended that children under 12 years of age not be required to have a valid RBC card to attend non-ticketed City events. Under the current policy, all children are required to obtain a valid RBC card to participate in such events. For example, events include the Welcome Back and End of Year parties. Adults with a valid RBC and paid admission can bring children under the age of 12 at no cost to the child. Residents will continue to have the option to purchase cards for children under the age of 12 years old, however, there is no requirement to purchase a card to attend non-ticketed sponsored events. The Committee will monitor the changes and conduct a review in a year. This recommendation is grounded in two key considerations: First, the Council's collective aim is to augment resident engagement during non-ticketed events; for example, the events would include Welcome Back and End of Year events. Second, the pragmatic challenges associated with imposing an RBC requirement on children in the preteen, elementary, or toddler age brackets.

In addition, the Finance Committee conducted a comprehensive review that led to one additional recommendation. An adjustment to the RBC Policy is proposed to ensure that Full-Time Residents who rent enjoy equal assignment rights as Property Owners.

BACKGROUND:

Qualified residents may request a Golf Resident Benefit Card (RBC) or a Social RBC from the City. The Golf RBC grants eligible residents access to all City benefits, including a discounted golf rate at the Indian Wells Golf Resort. On the other hand, the Social RBC provides qualified residents with all City benefits, excluding the discounted golf rate at the Indian Wells Golf Resort.

Resident Benefit Cards are granted for one year, aligning with the calendar year. Property owners in Indian Wells who possess qualified properties may renew their RBC cards online. It is imperative to note that new residents or first-time cardholders are required to visit City Hall in person to initiate the processing of their RBC cards.

It is imperative to highlight that the RBC policy mandates all Property Owners, Housing Residents, and Full-Time Residents to meet the criteria of being "Qualified" as defined in the policy.

The City issues approximately 4,800 RBCs every year. Out of this number, approximately 2,600 are Golf RBCs, whereas 2,200 are Social RBCs. The total number of RBCs issued to full-time residents (renters) is very low in comparison to the overall number of RBCs issued. In 2023, the City granted only 64 RBCs to full-time residents.

Dependent Child of a Qualified Recipient

Although the RBC Policy allows for only two RBCs per Property, unmarried dependent children of a Qualified Recipient who already holds an RBC may be granted additional RBCs. The number of RBCs granted to such children is not restricted as long as they reside primarily on the Property and are under the age of twenty-one.

COMMITTEE RECOMMENDATIONS:

Finance Committee

RBC cards used at City-sponsored events:

During the 2023 Strategic Planning Session, the City Council directed a review of the Resident Benefit Card (RBC) Program guidelines, explicitly focusing on the utilization of RBC cards at City-sponsored events, which generally fall into two categories: ticketed and non-ticketed.

For ticketed events such as Tennis or Wildlights, a limit of two tickets per Accessor Parcel Number (APN) is applied, irrespective of the number of RBC cardholders on the property. Possession of an RBC card is mandatory to obtain these tickets.

Non-ticketed events like the City's Welcome Back Party or Holiday Party do not impose restrictions on individual tickets. Admission is open to qualified residents with an RBC card. During the Strategic Planning Session, concerns were raised by the Council regarding the inclusion of dependent children in non-ticketed events. While there is no constraint on issuing RBCs to dependent children, the practicality of imposing an RBC requirement on preteen, elementary, or toddler-aged children was questioned.

It became evident that such a requirement was inconsistent with the Council's objective of enhancing resident engagement during non-ticketed events. The Community Activities Committee, responsible for overseeing many of the City's annual events, concurred with this perspective during a recent committee meeting. Consequently, the Community Activities Committee recommended the elimination of the RBC requirement for dependent children under the age of twelve (12) for all city-sponsored non-ticketed events to the Finance Committee—a recommendation endorsed by the Finance Committee as well.

Finally, an examination of the age limit delineating dependent children within the Policy was undertaken. The Finance Committee's examination revealed that maintaining the age limit at 21 optimally balances the benefits derived from the policy. This may include considerations such as additional consumption, tee time compression, and overall quality of life, as discussed during the committee's evaluation. The age of 21 may represent a point at which dependents can fully appreciate and responsibly handle the benefits provided by the policy. Retaining the age limit at 21 reflects a judicious alignment with legal norms, consideration of key developmental milestones, and a thoughtful assessment of the policy's intended outcomes. It underscores a nuanced approach that is attuned to the practical realities of individuals' lives as they transition into adulthood.

RBC Assignment

Recent observations have brought to light a potential inconsistency in the application of the RBC policy to Property Owners and Full-Time Residents who rent within the community. In accordance with the policy, Property Owners have the prerogative to delegate the issuance of a second card (limited to two cards per property) to a spouse or domestic partner not listed on the deed, given that no other Qualified Recipient is issued an RBC for that property. Per policy specifications, a domestic partner is defined as an individual over the age of 18, not a domestic employee, and unrelated by blood or marriage to the Qualified Recipient. This partner should consistently reside on the property in an ongoing domestic relationship.

Conversely, Full-Time Residents who rent are not afforded this option. The existing policy stipulates that the spouse or domestic partner of a housing resident or full-time resident must be included in the lease agreement. Recent staff discussions have revealed instances where a qualified full-time resident has sought to include a spouse or domestic partner not listed on the lease.

After thorough review and discussion, the Finance Committee has endorsed a proposed amendment to afford assignment rights to Full-Time Residents for Council consideration. It is important to note that this proposed amendment does not alter the established maximum of two (2) RBCs per property per year.

FISCAL IMPACT:

The fiscal impact is deemed inconsequential. As per the information provided by the City Manager's office, the allocation of tickets for most City events, such as tennis, is restricted to two tickets per Assessor's Parcel Number (APN). Consequently, the issuance of a supplementary card to the domestic partner of a housing resident or a full-time resident is anticipated to have no bearing on the total number of tickets distributed.

It is rational to posit that resident engagement at the Golf Resort may witness an upswing attributable to heightened resident participation in rounds, increased patronage in food and beverage establishments, and augmented merchandise acquisitions. The City Council presently subsidizes all resident activities in this domain; however, the recent implementation of the Council's golf deliverables and modifications to the Troon agreement have annulled the Golf Subsidy commencing the fiscal year 2024-25. The residual subsidies linked to Food & Beverage and merchandise are considered negligible.

ATTACHMENTS:

1. Resolution Amending Policy - Issuance of RBC

RESOLUTION NO. 2024-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADOPTING AN AMENDED AND RESTATED POLICY FOR THE ISSUANCE OF RESIDENT BENEFIT CARDS FOR PROPERTY OWNERS AND FULL-TIME CITY RESIDENTS

WHEREAS, on January 7, 1993, an agreement entitled "Complimentary Golf Policy for the Indian Wells Golf Resort" was entered into with the Stouffer Esmeralda Resort and Hyatt Grand Champions Resort (Grantor Hotels) and the City of Indian Wells, and

WHEREAS, the 1993 Agreement established the criteria for issuance of Property Owner Identification Cards, to be issued by the City, shall be within the sole discretion of the City Council; and

WHEREAS, on February 20, 1997, the City Council adopted Resolution No. 1997-14 to revise the criteria for the issuance of Property Owner Identification Cards and

WHEREAS, on November 4, 2004, the City Council adopted Resolution No. 2004-58 to revise such criteria to allow for the issuance of an Indian Wells Housing Resident Benefits Card; and

WHEREAS, on June 2, 2005, the City Council adopted Resolution No. 2005-27 to revise such criteria to allow for the issuance of a Residence Hotel Resident Benefits Card; and

WHEREAS, on September 20, 2007, the City Council adopted Resolution No. 2007-44 to establish revised criteria for the issuance of Property Owner Identification Cards and to establish an annual issuance on a calendar year basis; and

WHEREAS, on April 4, 2013, the City Council adopted Resolution No. 2013-08 to revise the criteria for issuance of Property Owner Identification Cards, clarifying that the qualified property owners be listed on the recorded deed and

WHEREAS, on October 15, 2015, the City Council adopted Resolution No. 2105-36 to revise the criteria for issuance of Resident Benefit Cards to Full Time City Non-Property Owner Residents; and

WHEREAS, on May 18, 2017, the City Council adopted Resolution No. 2017-28 to revise the criteria for issuance of Resident Benefit Cards to add Golf and Social card categories and

Therefore, the City Council now desires to adopt an amended and restated policy for issuing Resident Benefit Cards to Full-Time Residents, among other matters.

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

SECTION 1. The City Council hereby **ADOPTS** the Amended and Restated Policy for the Issuance of Resident Benefit Cards, as set forth in Exhibit "A" attached hereto and by this reference incorporated herein.

SECTION 2. Policy changes as set forth in Exhibit "A" attached hereto shall take effect immediately after adoption.

SECTION 3. This Resolution shall take effect upon adoption

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on the 18th day of January 2024.

GREG SANDERS
MAYOR

CERTIFICATION FOR RESOLUTION BILL NO. 2024-XX

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on this 18th day of January 2024, by the following vote:

AYES:

NOES:

ATTEST:

APPROVED AS TO FORM:

ANGELICA AVILA
CITY CLERK

TODD LEISHMAN
CITY ATTORNEY

Exhibit "A"

AMENDED POLICY FOR THE ISSUANCE OF RESIDENT BENEFIT CARDS

The person named on a Resident Benefit Card ("RBC") issued by the City of Indian Wells is entitled to receive certain resident benefits provided by the City, as established by the City, or voluntarily supplied by third parties from time to time.

As set forth in this policy, an RBC may be issued to the following persons (definitions are set forth herein) (Qualified Residents):

- Property Owners
- Housing Residents
- Residence Hotel Residents
- Full-Time Residents

Resident Benefit Cards

1. The City will issue a Golf RBC or a Social RBC to Qualified Residents upon request.
 - a. The Golf RBC entitles Qualified Residents to receive all City benefits, including the foregoing discounted golf rate at the Indian Wells Golf Resort.
 - b. The Social RBC entitles Qualified Residents to receive all City benefits except for the discounted golf rate at the Indian Wells Golf Resort, otherwise available to Qualified Residents.
2. An RBC shall contain the Qualified Resident's picture, first and last name, and either the Assessor's Parcel Number (APN) of the Property or the name of the City Owned Residential Community and Unit Number, as applicable.
3. The City will charge an annual fee per APN to issue a Golf RBC and a Social RBC as follows:
 - a. Golf RBC \$50 each card
 - b. Social RBC \$10 each card
 - c. Social RBC \$5 for each additional card subject to policy restrictions
4. RBC Fees are not subject to proration during the calendar year.
5. Charge for replacement cards issued to a valid Qualified Resident if the Qualified Resident has lost an RBC:
 - a. Golf RBC replacement card \$5.00
 - b. Social RBC replacement card \$5.00
6. An RBC shall be valid for no more than the remainder of the calendar year it is issued (an RBC

will expire on December 31 of that year). An RBC shall automatically terminate and be returned promptly to the City when the recipient of the RBC is no longer a Qualified Resident.

7. Making any false material statement on the RBC application shall, in addition to any other remedy available at law, be grounds to deny the application or revoke the RBC if one has already been issued. Persons found violating the RBC Issuance and Use Policy are subject to denial or revocation of an RBC and may be prohibited from obtaining an RBC in the future.

RBC Term, Issuance to Dependent Children, and Property Eligibility Requirements

1. For each calendar year, a maximum of two (2) RBCs will be issued by the City for each lawfully occupied residential lot in the City ("Property").
 - a. An RBC will be issued to (individually and collectively referred to as, "Qualified Recipients") as defined in each RBC category.
2. A Dependent Child of a Qualified Recipient
 - a. Notwithstanding the limitation of two (2) RBCs per Property otherwise outlined in this Policy. RBCs may also be issued to each unmarried dependent child of a Qualified Recipient who is issued an RBC, without limitation as to their number if the child is under the age of twenty-one years.
3. Property Eligibility Requirements
 - a. To be eligible for issuance of RBCs, a property must contain either a single-family or a multi-family dwelling unit suitable for habitation and for which the City of Indian Wells has issued a certificate of occupancy.
 - b. Must not be a single-family or a multi-family dwelling unit in the process of being constructed or rehabilitated such that occupancy is not feasible.
 - c. Must not be a vacant lot. RBCs will not be issued on vacant lots or properties unsuitable for habitation.

Requirements for Qualified Recipients by Category

1. Requirements for Property Owners
 - a. A Qualified Recipient (Property Owner) must submit to the City proof of ownership of fee title to the Property to be issued an RBC. Proof of fee ownership of the Property must consist of at least one of the following:
 - i. Listing of ownership of the Property under the names of each of the Qualified Recipients as posted on the County of Riverside certified and recorded tax rolls as evidenced by a recorded Grant Deed;
 - ii. The most recently executed and recorded grant or quitclaim deed sets forth by naming each of the Qualified Recipients as fee owners of the Property. Provided

that the deed has on its face confirmation stamped by the Recorder's Office that it has been officially recorded in the Recorder of the County of Riverside office.

- iii. To avoid confusion, recorded deeds presented as proof of ownership must be officially "date stamped" with the Office of the County Recorder's seal.
 - iv. The City will verify, or require verification from the applicant, that the applicable deed has been recorded in the Office of the Recorder of the County of Riverside.
- b. The City will issue an RBC to a spouse or domestic partner of a Qualified Recipient not listed on the deed, as long as no other Qualified Recipient is issued an RBC for that Property. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Qualified Recipient, who resides on the property on a regular, continuous basis as part of an ongoing domestic relationship with the Qualified Recipient.
 - c. In cases where a property has multiple owners, they are permitted to exchange or transfer RBCs within the calendar year. To facilitate such transactions, previously issued RBCs must be relinquished and returned to the City's Finance Department. It is important to note that the issuance of RBCs is limited to a maximum of two at any given time per property. Any subsequent issuances are subject to the full complement of associated fees. Fees are not subject to probation.

2. Requirements for property owned by corporations, trusts, or partnerships.

- a. For each Property owned by a corporation, trust, or partnership, a maximum of two persons may qualify as Qualified Recipients. To qualify, the person(s) named as owner(s) or designated by the owner(s) as Qualified Recipient(s) must present documentation, to the satisfaction of the City, indicating that they are at least one of the following:
 - i. A member of the board of directors of the corporation that owns the Property, as set forth on a valid, current, and executed resolution of the board of directors, which designates explicitly up to two (2) specifically named directors to be Qualified Recipients for that calendar year.
 - ii. A trustor, trustee, or beneficiary of the trust that owns the Property, provided that a copy of the valid, current and executed trust document listing Qualified Recipients by name is submitted to the City and, in instances where the trust document sets forth by name, in the aggregate, multiple trustors, trustees, and beneficiaries, a maximum of two (2) persons among them may be issued RBCs on a first come, first issued basis, for that calendar year.
 - iii. A partner of the partnership that owns the Property, as set forth in a written certification, executed by the managing partner or by partners comprising a majority ownership of the partnership, which designates explicitly up to two (2) named partners to be Qualified Recipients for that calendar year.
- b. The City will issue an RBC to a spouse or domestic partner of a Qualified Recipient not

listed on the deed as long as no other Qualified Recipient is issued an RBC for that Property. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Qualified Recipient, who resides on the property on a regular, continuous basis as part of an ongoing domestic relationship with the Qualified Recipient.

- c. In cases where a property has multiple owners, they are permitted to exchange or transfer RBCs within the calendar year. To facilitate such transactions, previously issued RBCs must be relinquished and returned to the City's Finance Department. It is important to note that the issuance of RBCs is limited to a maximum of two at any given time per property. Any subsequent issuances are subject to the full complement of associated fees. Fees are not subject to proration.

Issuance to City/Housing Authority Residential Community Residents

1. **Separate rules** as follows shall apply to the issuance of RBCs to residential tenants in City/Housing Authority ("City") owned residential community's units (e.g., Indian Wells Villas and Mountain View Villas) ("City Owned Residential Communities"):
 - a. The City will issue RBCs to persons with "Qualified Housing Resident" status, as hereafter defined.
 - b. For purposes of this policy, the term "Qualified Housing Resident " means any person who resides within city-owned residential communities.
 - c. To be eligible for issuance of an RBC, a Qualified Housing Resident is required to be named as the renter in a valid, current rental agreement provided by the management company ("Manager") which subleases or operates and manages the applicable City Owned Residential Community.
 - d. Qualified Housing Residents shall submit, or cause the Manager to submit, a valid rental agreement to the City to issue an RBC.
 - e. A Qualified Housing Resident is required to surrender his/her RBC upon termination or expiration of the applicable rental agreement. The Manager will oversee the collection of the RBCs of former Qualified Housing Residents.
 - f. An RBC will be issued with the Qualified Housing Resident's picture, first and last name, name of the City Owned Residential Community, and unit number of the applicable dwelling unit.

Issuance to Residence Hotel Residents

1. **Separate rules** as follows shall be applicable to the issuance of RBCs to Residence Hotel Residents:
 - a. For purposes of this Policy, the term "Residence Hotel Resident" shall mean the person or entity owning a residence available for use within the City's recognized and

established Hotel Occupancy Program.

- b. The City shall require an agreement with an applicable hotel project developer to fairly and accurately determine the valid status of Residence Hotel Residents for the purpose of this Policy. Once this is determined to the satisfaction of the City, in its sole and absolute but reasonable discretion, an RBC will be issued with an individual's picture, first and last name, Residence Hotel unit number, and name of the Residence Hotel.
- c. The City will issue a RBC to a spouse or domestic partner of a Residence Hotel Resident who is not listed on the deed, as long as no other individual is issued a RBC for that Property other than the one Residence Hotel Resident who actually receives a RBC for that unit. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Residence Hotel Resident, who resides in the applicable unit on a regular, continuous basis as part of an ongoing domestic relationship with the Residence Hotel Resident.
- d. In cases where a property has multiple owners, they are permitted to exchange or transfer RBCs within the calendar year. To facilitate such transactions, previously issued RBCs must be relinquished and returned to the City's Finance Department. It is important to note that the issuance of RBCs is limited to a maximum of two at any given time per property. Any subsequent issuances are subject to the full complement of associated fees. Fees are not subject to probation.

Issuance to Full Time City Non-Property Owner Residents

1. **Separate rules** as follows shall be applicable to the issuance of RBCs to Full Time Residents (as hereinafter defined):
 - a. The City will issue RBCs to persons with "Full Time Resident" status, as hereafter defined.
 - b. For purposes of this Policy, the term "Full Time Resident" means any current resident who is obligated under written lease, a copy of which shall be provided to the City, to pay rent for rental housing to the owner of the Property for a period of at least twelve (12) consecutive months before or immediately following the date of application for a RBC (either of the foregoing twelve (12) month periods shall be referred to as the "Qualifying Period"). Upon application for a RBC, the Full-Time Resident shall certify in writing, under penalty of perjury:
 - i. That the address of the Property claimed is his or her domicile where habitation is fixed,
 - ii. Wherein he or she has the intention of remaining and
 - iii. To which whenever he or she is absent, the person has the intention of returning, and
 - iv. That he or she is not registered to vote at any other address.
 - c. To be eligible for issuance of a RBC, a Full-Time Resident must obtain written permission to apply for a RBC from the owner of the Property on a form provided by

the City and be named as the tenant in a valid, current rental agreement covering the Qualifying Period, a copy of which shall be filed with the City.

- d. The City will issue an RBC to a spouse or domestic partner of a Full-Time Resident not listed on the valid, current rental agreement covering the Qualifying Period as long as no other Full-Time Resident is issued an RBC for that Property. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Full-Time Resident, who resides on the property on a regular, continuous basis as part of an ongoing domestic relationship with the Full-Time Resident.
 - i. The trading or transfer of a spouse or domestic partner RBC is prohibited once RBC is issued for that Property for that calendar year.
- e. Once it is determined to the satisfaction of the City, in its sole and absolute, but reasonable discretion, that the individual is a full-time resident, as defined above, an RBC will be issued with the Full-Time Resident's picture, first and last name, and Assessor's Parcel Number (APN) of the Property.
 - i. The City will issue a maximum of two (2) RBCs to qualifying Full-Time Residents.
 - ii. To help effectuate the requirement in subsection d(i) above, the owner of the Property must relinquish, in writing, his or her right to an RBC during the time a Full-Time Resident has possession of a valid RBC.
- f. A Full-Time Resident and the spouse or domestic partner of a Full-Time Resident are required to surrender their RBC upon termination or expiration of the applicable rental agreement.
 - i. The owner of the Property is required to collect surrendered RBCs from the Full-Time Resident at the time the applicable rental agreement expires or terminates, and return said RBCs to the City's Finance Department.
 - ii. The City is prohibited from issuing an RBC to the Property Owner or a new Full Time Resident for a Property until the owner of the Property surrenders all prior RBCs to the City's Finance Department.

Exhibit "A"

AMENDED POLICY FOR THE ISSUANCE OF RESIDENT BENEFIT CARDS

The person named on a Resident Benefit Card ("RBC") issued by the City of Indian Wells is entitled to receive certain resident benefits provided by the City, as established by the City, or voluntarily supplied by third parties from time to time.

As set forth in this policy, an RBC may be issued to the following persons (definitions are set forth herein) (Qualified Residents):

- Property Owners
- Housing Residents
- Residence Hotel Residents
- Full-Time Residents

Resident Benefit Cards

1. The City will issue a Golf RBC or a Social RBC to Qualified Residents upon request.
 - a. The Golf RBC entitles Qualified Residents to receive all City benefits, including the foregoing discounted golf rate at the Indian Wells Golf Resort.
 - b. The Social RBC entitles Qualified Residents to receive all City benefits except for the discounted golf rate at the Indian Wells Golf Resort, otherwise available to Qualified Residents.
2. An RBC shall contain the Qualified Resident's picture, first and last name, and either the Assessor's Parcel Number (APN) of the Property or the name of the City Owned Residential Community and Unit Number, as applicable.
3. The City will charge an annual fee per APN to issue a Golf RBC and a Social RBC as follows:
 - a. Golf RBC \$50 each card
 - b. Social RBC \$10 each card
 - c. Social RBC \$5 for each additional card subject to policy restrictions
4. RBC Fees are not subject to proration during the calendar year.
5. Charge for replacement cards issued to a valid Qualified Resident if the Qualified Resident has lost an RBC:
 - a. Golf RBC replacement card \$5.00
 - b. Social RBC replacement card \$5.00
6. An RBC shall be valid for no more than the remainder of the calendar year it is issued (an RBC will expire on December 31 of that year). An RBC shall automatically terminate and

be returned promptly to the City when the recipient of the RBC is no longer a Qualified Resident.

7. Making any false material statement on the RBC application shall, in addition to any other remedy available at law, be grounds to deny the application or revoke the RBC if one has already been issued. Persons found violating the RBC Issuance and Use Policy are subject to denial or revocation of an RBC and may be prohibited from obtaining an RBC in the future.

RBC Term, Issuance to Dependent Children, and Property Eligibility Requirements

1. For each calendar year, a maximum of two (2) RBCs will be issued by the City for each lawfully occupied residential lot in the City ("Property").
 - a. An RBC will be issued to (individually and collectively referred to as, "Qualified Recipients") as defined in each RBC category.
2. A Dependent Child of a Qualified Recipient
 - a. Notwithstanding the limitation of two (2) RBCs per Property otherwise outlined in this Policy. RBCs may also be issued to each unmarried dependent child of a Qualified Recipient who is issued an RBC, without limitation as to their number if the child is under the age of twenty-one years.
3. Property Eligibility Requirements
 - a. To be eligible for issuance of RBCs, a property must contain either a single-family or a multi-family dwelling unit suitable for habitation and for which the City of Indian Wells has issued a certificate of occupancy.
 - b. Must not be a single-family or a multi-family dwelling unit in the process of being constructed or rehabilitated such that occupancy is not feasible.
 - c. Must not be a vacant lot. RBCs will not be issued on vacant lots or properties unsuitable for habitation.

Requirements for Qualified Recipients by Category

1. Requirements for Property Owners
 - a. A Qualified Recipient (Property Owner) must submit to the City proof of ownership of fee title to the Property to be issued an RBC. Proof of fee ownership of the Property must consist of at least one of the following:
 - i. Listing of ownership of the Property under the names of each of the

Qualified Recipients as posted on the County of Riverside certified and recorded tax rolls as evidenced by a recorded Grant Deed;

- ii. The most recently executed and recorded grant or quitclaim deed sets forth by naming each of the Qualified Recipients as fee owners of the Property. Provided that the deed has on its face confirmation stamped by the Recorder's Office that it has been officially recorded in the Recorder of the County of Riverside office.
 - iii. To avoid confusion, recorded deeds presented as proof of ownership must be officially "date stamped" with the Office of the County Recorder's seal.
 - iv. The City will verify, or require verification from the applicant, that the applicable deed has been recorded in the Office of the Recorder of the County of Riverside.
- b. The City will issue an RBC to a spouse or domestic partner of a Qualified Recipient not listed on the deed, as long as no other Qualified Recipient is issued an RBC for that Property. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Qualified Recipient, who resides on the property on a regular, continuous basis as part of an ongoing domestic relationship with the Qualified Recipient.
- c. In cases where a property has multiple owners, they are permitted to exchange or transfer RBCs within the calendar year. To facilitate such transactions, previously issued RBCs must be relinquished and returned to the City's Finance Department. It is important to note that the issuance of RBCs is limited to a maximum of two at any given time per property. Any subsequent issuances are subject to the full complement of associated fees. Fees are not subject to probation.

2. Requirements for property owned by corporations, trusts, or partnerships.

- a. For each Property owned by a corporation, trust, or partnership, a maximum of two persons may qualify as Qualified Recipients. To qualify, the person(s) named as owner(s) or designated by the owner(s) as Qualified Recipient(s) must present documentation, to the satisfaction of the City, indicating that they are at least one of the following:
 - i. A member of the board of directors of the corporation that owns the Property, as set forth on a valid, current, and executed resolution of the board of directors, which designates explicitly up to two (2) specifically named directors to be Qualified Recipients for that calendar year.
 - ii. A trustor, trustee, or beneficiary of the trust that owns the Property, provided that a copy of the valid, current and executed trust document listing Qualified Recipients by name is submitted to the City and, in instances where the trust document sets forth by name, in the aggregate,

multiple trustors, trustees, and beneficiaries, a maximum of two (2) persons among them may be issued RBCs on a first come, first issued basis, for that calendar year.

- iii. A partner of the partnership that owns the Property, as set forth in a written certification, executed by the managing partner or by partners comprising a majority ownership of the partnership, which designates explicitly up to two (2) named partners to be Qualified Recipients for that calendar year.
- b. The City will issue an RBC to a spouse or domestic partner of a Qualified Recipient not listed on the deed as long as no other Qualified Recipient is issued an RBC for that Property. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Qualified Recipient, who resides on the property on a regular, continuous basis as part of an ongoing domestic relationship with the Qualified Recipient.
- c. In cases where a property has multiple owners, they are permitted to exchange or transfer RBCs within the calendar year. To facilitate such transactions, previously issued RBCs must be relinquished and returned to the City's Finance Department. It is important to note that the issuance of RBCs is limited to a maximum of two at any given time per property. Any subsequent issuances are subject to the full complement of associated fees. Fees are not subject to proration.

Issuance to City/Housing Authority Residential Community Residents

1. **Separate rules** as follows shall apply to the issuance of RBCs to residential tenants in City/Housing Authority ("City") owned residential community's units (e.g., Indian Wells Villas and Mountain View Villas) ("City Owned Residential Communities"):
 - a. The City will issue RBCs to persons with "Qualified Housing Resident" status, as hereafter defined.
 - b. For purposes of this policy, the term "Qualified Housing Resident " means any person who resides within city-owned residential communities.
 - c. To be eligible for issuance of an RBC, a Qualified Housing Resident is required to be named as the renter in a valid, current rental agreement provided by the management company ("Manager") which subleases or operates and manages the applicable City Owned Residential Community.
 - d. Qualified Housing Residents shall submit, or cause the Manager to submit, a valid rental agreement to the City to issue an RBC.
 - e. A Qualified Housing Resident is required to surrender his/her RBC upon termination or expiration of the applicable rental agreement. The Manager will oversee the collection of the RBCs of former Qualified Housing Residents.

- f. An RBC will be issued with the Qualified Housing Resident's picture, first and last name, name of the City Owned Residential Community, and unit number of the applicable dwelling unit.

Issuance to Residence Hotel Residents

1. **Separate rules** as follows shall be applicable to the issuance of RBCs to Residence Hotel Residents:
 - a. For purposes of this Policy, the term "Residence Hotel Resident" shall mean the person or entity owning a residence available for use within the City's recognized and established Hotel Occupancy Program.
 - b. The City shall require an agreement with an applicable hotel project developer to fairly and accurately determine the valid status of Residence Hotel Residents for the purpose of this Policy. Once this is determined to the satisfaction of the City, in its sole and absolute but reasonable discretion, an RBC will be issued with an individual's picture, first and last name, Residence Hotel unit number, and name of the Residence Hotel.
 - c. The City will issue a RBC to a spouse or domestic partner of a Residence Hotel Resident who is not listed on the deed, as long as no other individual is issued a RBC for that Property other than the one Residence Hotel Resident who actually receives a RBC for that unit. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Residence Hotel Resident, who resides in the applicable unit on a regular, continuous basis as part of an ongoing domestic relationship with the Residence Hotel Resident.
 - d. In cases where a property has multiple owners, they are permitted to exchange or transfer RBCs within the calendar year. To facilitate such transactions, previously issued RBCs must be relinquished and returned to the City's Finance Department. It is important to note that the issuance of RBCs is limited to a maximum of two at any given time per property. Any subsequent issuances are subject to the full complement of associated fees. Fees are not subject to probation.

Issuance to Full Time City Non-Property Owner Residents

1. **Separate rules** as follows shall be applicable to the issuance of RBCs to Full Time Residents (as hereinafter defined):
 - a. The City will issue RBCs to persons with "Full Time Resident" status, as hereafter defined.
 - b. For purposes of this Policy, the term "Full Time Resident" means any current

resident who is obligated under written lease, a copy of which shall be provided to the City, to pay rent for rental housing to the owner of the Property for a period of at least twelve (12) consecutive months before or immediately following the date of application for a RBC (either of the foregoing twelve (12) month periods shall be referred to as the "Qualifying Period"). Upon application for a RBC, the Full-Time Resident shall certify in writing, under penalty of perjury:

- i. That the address of the Property claimed is his or her domicile where habitation is fixed,
 - ii. Wherein he or she has the intention of remaining and
 - iii. To which whenever he or she is absent, the person has the intention of returning, and
 - iv. That he or she is not registered to vote at any other address.
- c. To be eligible for issuance of a RBC, a Full-Time Resident must obtain written permission to apply for a RBC from the owner of the Property on a form provided by the City and be named as the tenant in a valid, current rental agreement covering the Qualifying Period, a copy of which shall be filed with the City.

d. The City will issue an RBC to a spouse or domestic partner of a Full-Time Resident not listed on the valid, current rental agreement covering the Qualifying Period as long as no other Full-Time Resident is issued an RBC for that Property. For purposes of this Policy, a domestic partner is defined as a person over the age of 18, not a domestic employee and not related by blood or marriage to the Full-Time Resident, who resides on the property on a regular, continuous basis as part of an ongoing domestic relationship with the Full-Time Resident.

- i. The trading or transfer of a spouse or domestic partner RBC is prohibited once RBC is issued for that Property for that calendar year.

d.e. Once it is determined to the satisfaction of the City, in its sole and absolute, but reasonable discretion, that the individual is a full-time resident, as defined above, an RBC will be issued with the Full-Time Resident's picture, first and last name, and Assessor's Parcel Number (APN) of the Property.

- i. The City will issue a maximum of two (2) RBCs to qualifying Full-Time Residents.
- ii. To help effectuate the requirement in subsection d(i) above, the owner of the Property must relinquish, in writing, his or her right to an RBC during the time a Full-Time Resident has possession of a valid RBC.

e.f. A Full-Time Resident and the spouse or domestic partner of a Full-Time Resident are required to surrender their RBC upon termination or expiration of the applicable rental agreement.

- i. The owner of the Property is required to collect surrendered RBCs from the Full-Time Resident at the time the applicable rental agreement expires or

terminates, and return said RBCs to the City's Finance Department.

- ii. The City is prohibited from issuing an RBC to the Property Owner or a new Full Time Resident for a Property until the owner of the Property surrenders all prior RBCs to the City's Finance Department.

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Public Works
Prepared by: Ken Seumalo, Public Works Director
Subject: **Award Lippert Construction West Drop Structure Repair Project**

RECOMMENDED ACTION:

Council **AWARDS** contract to Lippert Construction for \$3,314,314 for the West Drop Structure Repairs; and

AUTHORIZES and **DIRECTS** the City Manager to execute an agreement for the same; and

AUTHORIZES the City Manager, or designee, to allocate insurance funds to the Public Works Capital Improvements account.

DISCUSSION:

In August 2023, the Coachella Valley experienced a severe rainstorm event, Tropical Storm Hilary. The storm generated a high volume of water in the Whitewater River Channel that caused excess damage and debris at the Indian Wells Golf Resort. The West Drop Structure sustained damage on top of what had been impaired in previous storms. In addition, the Low Flow Channel that flows under the Eldorado Bridge to the drop structure was destroyed, resulting in dangerous erosion. Governor Newsom declared the emergency storm event a disaster on August 19, 2023, and the Federal Government declared Tropical Storm Hilary a major disaster on November 21, 2023.

The scope of work to be awarded will include drop structure repair, golf cart crossing and low flow channel repair.

Staff posted this project publicly and received two responsive bids. Lippert Construction was the low bidder. Staff presented the damages to the City's Insurance Carrier and was awarded the total amount of \$3,314,314 for the repair.

FISCAL IMPACT:

The City is slated to receive insurance proceeds totaling \$3,314,314, earmarked to completely cover the costs associated with the restoration of the West Drop Structure. No further financial allocations will be necessary to complete the restoration project successfully. From a budgetary perspective, however, the Council must grant approval for a supplemental appropriation amounting to \$3,314,314 to initiate the repair proceedings. The deposit of insurance proceeds and the cost of the repairs will come from the City's Capital Improvement Fund.

ATTACHMENTS:

1. Lippert Construction Contract

00 52 13 – CONTRACT

This CONTRACT is made and entered into this 7th day of December, 2023, by and between City of Indian Wells, sometimes hereinafter called “City,” and Lippert Construction, Inc., sometimes hereinafter called “Contractor.”

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

a. **SCOPE OF WORK.** The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

WEST DROP STRUCTURE – WHITEWATER RIVER

The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor’s failure to comply with this obligation.

b. **TIME FOR COMPLETION.** Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the City’s Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within 90 calendar days from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

c. **CONTRACT PRICE.** The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of **Three Million Three-Hundred Fourteen Thousand Three Hundred Fourteen Dollars (\$3,314,314.00)**. Payment shall be made as set forth in the General Conditions.

d. **LIQUIDATED DAMAGES.** In accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum set forth in Section 00 73 13, Article 1.11 for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

e. **COMPONENT PARTS OF THE CONTRACT.** The “Contract Documents” include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Form
- Bid Bond
- Designation of Subcontractors
- Information Required of Bidders
- Non-Collusion Declaration Form
- Iran Contracting Act Certification

Public Works Contractor Registration Certification
Performance Bond
Payment (Labor and Materials) Bond
General Conditions
Special Conditions
Technical Specifications
Addenda
Plans and Drawings
Standard Specifications for Public Works Construction "Greenbook", latest edition, Except Sections 1-9
Applicable Local Agency Standards and Specifications, as last revised
Approved and fully executed Change Orders
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

f. **PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.** Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

g. **INDEMNIFICATION.** Contractor shall provide indemnification and defense as set forth in the General Conditions.

h. **PREVAILING WAGES.** Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the City's Administrative Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF INDIAN WELLS

LIPPERT CONSTRUCTION, INC.

By: _____
Ken Seumalo, P.E.
Public Works Director

E-SIGNED by Dave Lippert
on 2023-12-08 22:50:56 GMT
By: _____
David R. Lippert
President

By: _____
Chrispoher J Freeland
City Manager

ATTEST:

By: _____
Angelica Avila
City Clerk

APPROVED AS TO FORM:

E-SIGNED by Todd Leishman
on 2024-01-03 17:19:08 GMT
By: _____ FOR
Best Best & Krieger LLP
City Attorney

END OF CONTRACT

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Public Works Department
Prepared by: Ken Seumalo, Public Works Director
Subject: **Signal Modification Supplemental Funding Request**

RECOMMENDED ACTIONS:

Council **APPROVES** Supplemental appropriation for \$40,000 from the City's Capital Improvement Fund to participate in a pilot safety program related to Traffic Signals along Fred Waring Drive.

BACKGROUND:

In 2019, the California Department of Transportation (CalTrans) updated the standards for traffic signals, with the inclusion of yellow reflective borders around traffic signal head back-plates. The purpose of this modification is to add an additional layer of safety by alerting the public to an upcoming signalized intersection, particularly when power is lost to the traffic signal. The reflective tape frames the traffic signal head increasing its visibility.

The City of Palm Desert is working on a project to replace the existing, non-reflective backing plates with reflective ones in their community. Staff received an inquiry from the City of Palm Desert about participating in their project to have the traffic signals along Fred Waring and one on Hovley Lane, located within Indian Wells replaced as well. Staff wishes to participate in Palm Desert's project as a pilot program for the City of Indian Wells. Fred Waring Drive is a high speed, high volume, major arterial roadway, which may benefit from the installation of the new signal heads. As part of the City's evaluation of the new signals, staff will take field measurements of the improved visibility, monitor the effective life of the reflective tape, and obtain feedback from Staff, Sheriff's Department, and other professionals to determine the effectiveness of the project. Staff will report back to the Public Safety Committee of the findings one year after the project has been completed.

If approved, the affected intersections are:

Hovley Lane & El Dorado Drive

Fred Waring Drive and Cook Street

Fred Waring Drive and California Street

Fred Waring Drive and Warner Trail

Fred Waring Drive and Entrada Las Brisas (entrance to Southwest Church)

FISCAL IMPACT:

Staff is requesting approval to allocate \$40,000 from the City's Capital Improvement Program fund to support this pilot program.

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Public Works Department
Prepared by: Ken Seumalo, Public Works Director
Subject: **Acceptance of Highway 111 Rehabilitation Project**

RECOMMENDED ACTIONS:

Council **APPROVES** acceptance of the Highway 111 Rehabilitation project as complete.

DISCUSSION:

As the main east-west thoroughfare through Indian Wells, Highway 111 conveys significant traffic volume. The intense use had worn the pavement, and the roadway needed a mix of localized repair, asphalt grinding and overlay, slurry seal application, ADA ramp replacement, and striping.

The project was divided into two phases: Phase I - segment between the Western City Limits and Eldorado Drive, including turn lanes; and Phase II - Eldorado Drive to the Eastern City Limits. The work was completed over the summers of 2022 and 2023.

The roadwork was substantial, and resulted in an excellent representation of the quality Indian Wells is known for. All contractors have been paid, and a Notice of Completion has been filed with Riverside County. Staff is requesting that the City Council deem the project complete.

FISCAL IMPACT:

There is no fiscal impact.

ATTACHMENTS:

1. Highway 111 Record Plans

INDEX OF SHEETS

SHEET	DESCRIPTION
1	TITLE SHEET
2	CONSTRUCTION NOTES, DETAILS & TYPICAL SECTIONS
3-6	LAYOUT PLAN - PHASE 1
6-10	LAYOUT PLAN - PHASE 2
11-13	SIGNING AND STRIPING PLAN - PHASE 1
13-18	SIGNING AND STRIPING PLAN - PHASE 2

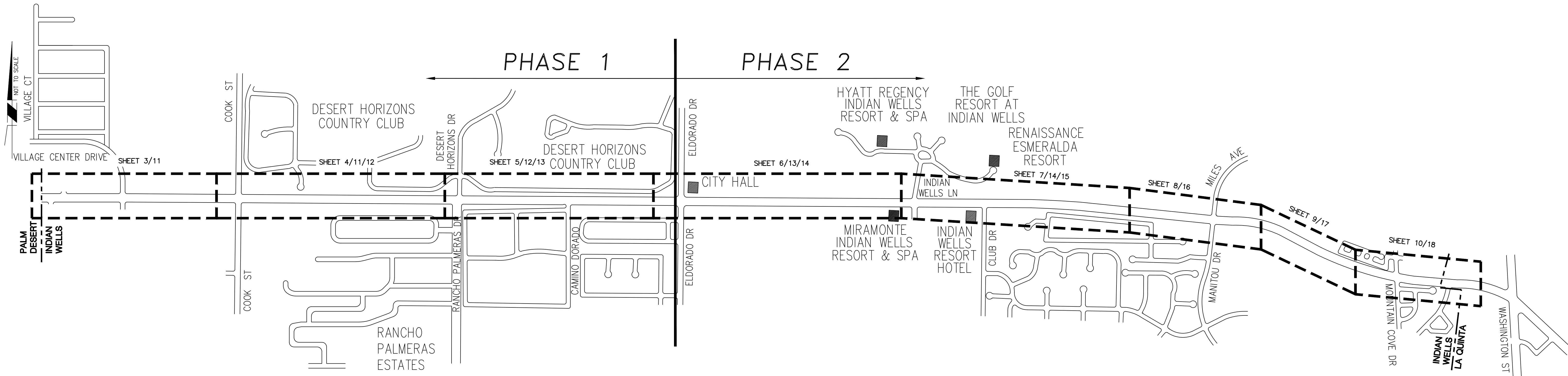
THE CITY OF INDIAN WELLS



CALIFORNIA STREET IMPROVEMENT PLAN HIGHWAY 111 - PAVEMENT REHABILITATION

CONSTRUCTION contractor agrees that in accordance with generally accepted construction practices, construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours, and construction contractor further agrees to defend, indemnify and hold design professional harmless from any and all liability, real or alleged, in connection with the performance of work on this project, excepting liability arising from the sole negligence of design professional.

ATTACHMENT #1



GENERAL NOTES:

- ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE STANDARD PLANS OF THE CITY OF INDIAN WELLS AND THE LATEST EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION.
- ALL TRAFFIC CONTROL SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE CALIFORNIA MUTCD (ARTERIAL STREETS) AND WITH ANY ADDITIONAL REQUIREMENTS DEEMED NECESSARY BY THE CITY ENGINEER. ALL CONSTRUCTION AREAS INCLUDING BUT NOT LIMITED TO LANE CLOSURES AND DETOURS SHALL BE PROPERLY POSTED, DELINEATED AND LIGHTED IN CONFORMANCE WITH THE CA MUTCD. CALTRANS STANDARD PLANS AND STANDARD SPECIFICATIONS MAY BE UTILIZED TO AUGMENT THE CITY OF INDIAN WELLS AND CA MUTCD REQUIREMENTS.
- IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO APPLY TO THE CITY OF INDIAN WELLS PUBLIC WORKS DEPARTMENT FOR THE NECESSARY PERMITS AND TO BE RESPONSIBLE FOR SATISFACTORY COMPLIANCE FOR ALL CURRENT ENVIRONMENTAL REGULATIONS DURING THE LIFE OF CONSTRUCTION ACTIVITIES FOR THE PROJECT. ADDITIONAL STUDIES AND/OR PERMITS MAY BE REQUIRED.
- THE CONTRACTOR SHALL APPLY FOR AND ACQUIRE ALL PERMISSIONS AND PERMITS FROM THE ADJOINING PRIVATE LAND OWNER, OTHER MUNICIPALITY, RIVERSIDE COUNTY, CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) OR OTHER AGENCY FOR ALL WORK PERFORMED WITHIN OTHER OWNERSHIPS, RIGHTS-OF-WAY OR JURISDICTIONS AS REQUIRED BY THE CITY OF INDIAN WELLS OR OTHER AGENCIES.
- THE CONTRACTOR SHALL PROVIDE A TRAFFIC CONTROL PLAN FOR PROJECTS INVOLVING MULTIPLE LANE OR COMPLETE CLOSURES AT LEAST 3 WEEKS PRIOR TO COMMENCEMENT OF CONSTRUCTION FOR REVIEW AND APPROVAL BY THE CITY. THE CONTRACTOR SHALL SCHEDULE PRE-CONSTRUCTION MEETING(S) WITH CITY STAFF AT (760) 346-2489 OR (760) 776-0237 72 HRS PRIOR TO JOB COMMENCEMENT. ADDITIONALLY, THE CONTRACTOR SHALL NOTIFY THE CITY PUBLIC WORKS DEPARTMENT 24 HOURS PRIOR TO ANY ACTIVITY REQUIRING CONSTRUCTION INSPECTION, INCLUDING BUT NOT LIMITED TO GRUBBING, GRADING, BASE AND ASPHALT PLACEMENT, CONCRETE PLACEMENT, TRENCHING AND BACKFILL, UTILITY INSTALLATIONS AND EACH INSTRUCTION PHASE AT (760) 776-0237.
- PER GOVERNMENT CODE SECTION 4216, IF THE WORK IS IN AN AREA WHICH IS KNOWN, OR REASONABLY SHOULD BE KNOWN, TO CONTAIN SUBSURFACE INSTALLATIONS, CONTRACTOR SHALL CONTACT UNDERGROUND SERVICE ALERT (U.S.A.) AT 800-422-4133 AND OBTAIN AN INQUIRY IDENTIFICATION NUMBER AT LEAST TWO WORKING DAYS (48 HOURS) PRIOR TO COMMENCING ANY WORK THAT PENETRATES THE EXISTING SURFACE.
- EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE LOCATION ONLY. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK. THE CONTRACTOR AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGE WHICH MIGHT RESULT BY FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UTILITIES.
- ALL TRENCH EXCAVATIONS SHALL CONFORM TO STATE OF CALIFORNIA CONSTRUCTION SAFETY ORDERS. PRIOR TO COMMENCING THE EXCAVATION OF A TRENCH 5 FEET IN DEPTH OR GREATER AND INTO WHICH A PERSON WILL BE REQUIRED TO DESCEND, THE CONTRACTOR SHALL FIRST OBTAIN A PERMIT TO DO SO FROM THE DIVISION OF INDUSTRIAL SAFETY PURSUANT TO 7-10.4.1.
- ENGINEERED FILLS AND PADS SHALL BE COMPACTED TO A MINIMUM OF 90% RELATIVE COMPACTION PER ASTM SPECIFICATION D1557 AND THE RELATED SOILS REPORT, WHICHEVER IS GREATER. ALL ROADWAY AND PARKING LOT GRADES SHALL BE COMPACTED TO A MINIMUM OF 95% RELATIVE COMPACTION PER ASTM SPECIFICATION D1557 AT THE UPPER 1 FT OF FINISHED SUBGRADE. ALL ROADWAY AND PARKING LOT GRADES ON ENGINEERED FILL SHALL BE COMPACTED TO A MINIMUM OF 95% RELATIVE COMPACTION PER ASTM SPECIFICATION D1557 AT THE UPPER 3 FT OF FINISHED SUBGRADE. LOCATIONS OF FIELD DENSITY TESTS SHALL BE DETERMINED BY THE SOILS ENGINEER OR CITY ENGINEER AND SHALL BE SUFFICIENT IN BOTH HORIZONTAL AND VERTICAL PLACEMENT TO PROVIDE REPRESENTATIVE TESTING OF ALL PLACED FILL. TESTING IN AREAS OF A CRITICAL NATURE SHALL BE IN ADDITION TO THE NORMAL REPRESENTATIVE SAMPLINGS. THE FINAL COMPACTION REPORT AND APPROVAL FROM THE SOILS ENGINEER SHALL CONTAIN THE TYPE OF FIELD TESTING PERFORMED. EACH TEST SHALL BE IDENTIFIED WITH THE METHOD OF DETERMINING THE IN-PLACE DENSITY, SAND CONE OR DRIVE RING.
- ALL UNDERGROUND SEWER, WATER, ELECTRIC, GAS, AND DRAINAGE FACILITIES, INCLUDING SERVICE LATERALS, SHALL BE IN PLACE AND INSPECTED WITH TRENCHES COMPACTED AND TESTED PRIOR TO BASE GRADE INSPECTION AND PAVING. THE CONTRACTOR SHALL SUBMIT TO THE CITY WRITTEN EVIDENCE ISSUED BY THE RESPECTIVE UTILITY PURVEYOR INDICATING THE SUBSURFACE PORTION OF THE UNDERGROUND FACILITIES HAS BEEN INSTALLED AND ACCEPTED. THE STORM DRAIN AND UTILITY LINE BACKFILL REPORT FROM THE PROJECT SOILS ENGINEER SHALL INCLUDE AN APPROVAL STATEMENT THAT THE SUBGRADE IS OF ADEQUATE STRENGTH TO SUPPORT THE STRUCTURES AND ANTICIPATED LOADS AND THAT THE BACKFILL AND COMPACTION IS ADEQUATE FOR THE INTENDED USE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL, REPLACEMENT, AND/OR RELOCATION OF ALL REGULATORY, WARNING AND GUIDE SIGNS.
- THE CITY ENGINEER SHALL APPROVE ALL STREET NAME SIGNS, TRAFFIC CONTROL SIGNS, TRAFFIC STRIPING, LEGENDS, AND PAVEMENT MARKERS (TYPE AND LOCATION).
- THE CONTRACTOR SHALL NOT DISTURB EXISTING SURVEY MONUMENTS OR BENCH MARKS NOTED ON THE PLANS, OR FOUND DURING CONSTRUCTION. REMOVAL AND REPLACEMENT SHALL BE DONE ONLY BY A CALIFORNIA REGISTERED CIVIL ENGINEER WITH AN R.C.E. NUMBER BELOW 33966, OR A LICENSED LAND SURVEYOR. PRIOR TO CONSTRUCTION, ALL HORIZONTAL AND VERTICAL SURVEY CONTROL MONUMENTS AND ACCESSORY TIES ARE TO BE LOCATED OR SET IN THE FIELD AND PRECONSTRUCTION CORNER RECORDS SHALL BE FILED. UPON COMPLETION OF CONSTRUCTION, ALL DAMAGED OR DESTROYED SURVEY MONUMENTS AND ACCESSORY TIES ARE TO BE RESET AND POST CONSTRUCTION CORNER RECORDS FILED WITH THE COUNTY SURVEYOR'S OFFICE IN ACCORDANCE WITH BOARD RULE 464. MONUMENTS NEED TO BE SUBMITTED TO THE CITY PUBLIC WORKS DEPARTMENT PRIOR TO FILING WITH THE COUNTY SURVEYOR. ALL RESTORATION OF SURVEY MONUMENTS SHALL BE PERFORMED IN ACCORDANCE WITH SECTION 8771 OF THE BUSINESS AND PROFESSIONS CODE.
- ALL TRAVELED WAYS MUST BE CLEANED DAILY OF ALL DIRT, MUD, AND DEBRIS AS A RESULT OF CONSTRUCTION OPERATIONS. CLEANING IS TO BE DONE TO THE SATISFACTION OF THE CITY ENGINEER.
- CONSTRUCTION PROJECTS DISTURBING MORE THAN ONE (1) ACRE MUST OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. OWNERS/DEVELOPERS ARE REQUIRED TO FILE A NOTICE OF INTENT (NOI) WITH THE STATE WATER QUALITY CONTROL BOARD (SWQCB), AND TO PREPARE A STORM WATER POLLUTION PREVENTION PLAN (SWPPP), AND HAVE A MONITORING PLAN FOR THE SITE.
- THE CONTRACTOR SHALL CONSTRUCT IMPROVEMENTS IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD WHITWATER RIVER WATERSHED, GENERAL CONSTRUCTION AND MS4 PERMITS. CONTRACTOR TO COMPLY WITH CURRENT WHITWATER RIVER REGION STORMWATER MANAGEMENT PLAN (SWMP). EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICE (BMP) SHALL BE IMPLEMENTED AND MAINTAINED. SOIL STOCKPILES SHALL BE CONTAINED. CONSTRUCTION SITES SHALL BE MAINTAINED IN SUCH A MANNER THAT WASTES ARE MANAGED AND CONTAINED AND SUCH THAT RAINFALL OR WIND DOES NOT CARRY WASTES OR POLLUTANTS OFFSITE. CONSTRUCTION SITES SHALL BE MANAGED TO MINIMIZE THE EXPOSURE TIME OF DISTURBED SOIL AREAS.
- NEW IMPROVEMENTS SHALL JOIN OR MATCH EXISTING IMPROVEMENTS IN A MANNER SATISFACTORY TO THE CITY ENGINEER TO ACHIEVE A SAFE, DURABLE, AESTHETICALLY PLEASING TRANSITION BETWEEN THE NEW AND EXISTING IMPROVEMENT, INCLUDING MANHOLE AND VAULT HEIGHT ADJUSTMENTS, SAW CUTTING, REMOVAL, REPLACEMENT, CAPPING AND/OR COLD PLANING, AS NEEDED. ALL MANHOLES AND VALVE BOX FRAMES SHALL BE ADJUSTED TO FINAL GRADES AFTER PAVING IS COMPLETED.
- ALL PLANS NOT SPECIFIED AS CITY SPONSORED CAPITAL IMPROVEMENT PROJECT (CIP) PLANS ARE VALID FOR A PERIOD NOT TO EXCEED EIGHTEEN (18) MONTHS FROM THE DATE OF CITY ENGINEER APPROVAL. THE SPONSORS OF THE IMPROVEMENTS SHOWN ON NON CIP PLANS SHALL BEAR ALL COSTS ASSOCIATED WITH UPDATING THE PLANS, INCLUDING, BUT NOT LIMITED TO, DESIGN AND IMPROVEMENT COSTS, TO AFFECT PROPER TRANSITIONS BETWEEN NEW AND EXISTING IMPROVEMENTS, COMPLIANCE WITH ANY NEW CITY STANDARDS, ORDINANCES, OR LAWS AND REGULATIONS, ENACTED OR ADOPTED BY THE CITY OR OTHER JURISDICTIONS SUBSEQUENT TO THE PLAN APPROVAL DATE.
- CONCRETE SPECIFICATIONS SHALL FOLLOW CITY OF INDIAN WELLS STANDARDS. CONTRACTOR SHALL REMOVE AND REPLACE EXISTING SIDEWALK AS NEEDED AT ALL LOCATIONS WHERE IT IS CRACKED, UNEVEN AT JOINTS, OR OTHERWISE DAMAGED, PURSUANT TO STREETS & HIGHWAYS CODE SECTION 5610. THIS REQUIREMENT APPLIES TO ALL CONCRETE COMPONENTS LOCATED IN THE PUBLIC RIGHT-OF-WAY.
- ALL CURBS SHALL BE ETCHED OR STAMPED SHOWING UTILITY SERVICE LATERAL LOCATIONS AS FOLLOWS:
"S" FOR SEWER
"G" FOR GAS
"E" FOR ELECTRICAL POWER
- THE CONTRACTOR SHALL SUBMIT AND RECEIVE CITY APPROVAL OF A FUGITIVE DUST CONTROL PLAN WHEN THE DISTURBED AREA EXCEEDS 5,000 SQUARE FEET.
- CONTRACTOR SHALL SUBMIT THE FUGITIVE DUST CONTROL CASH OR BOND SECURITY, AS REQUIRED, AND IMPLEMENT THE REQUIRED MITIGATION MEASURES BY THE FUGITIVE DUST CONTROL PLAN APPROVED FOR THIS PROJECT.
- THE CONTRACTOR SHALL ENSURE THAT PUBLIC WORKS APPROVAL IS RECEIVED FOR ROADSIDE CLEAR ZONE DISTANCE AND SIGHT DISTANCE REQUIREMENTS FOR ALL FACILITIES, LANDSCAPING AND APPURTENANCES WITHIN THE PRIVATE AND PUBLIC STREET RIGHT OF WAY. RELOCATION OF CONFLICTING INSTALLATIONS SHALL BE PERFORMED AT THE CONTRACTOR'S SOLE EXPENSE.

INDEX MAP

N.T.S.

City Council of Indian Wells
Acceptance Date

RECORD DRAWING

THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.

MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24
LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "C00D" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 M.BAKER@INTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY:	CITY OF INDIAN WELLS	
DATE:		
KEN A. SEUMALO, PE PUBLIC WORKS DIRECTOR R.C.E. NO. 56915		
DRAWN	DESIGNED	JOB NUMBER
KM	KM	186312
SCALE	CHECKED	DATE
NO SCALE	SL	12/20/2023

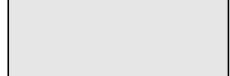

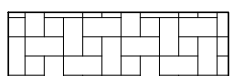
HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
TITLE SHEET
CITY OF INDIAN WELLS
DEPARTMENT OF PUBLIC WORKS

SHEET 1
OF 18 SHEETS
DWG. NAME 186312-TT-01-AB
FILE NO.

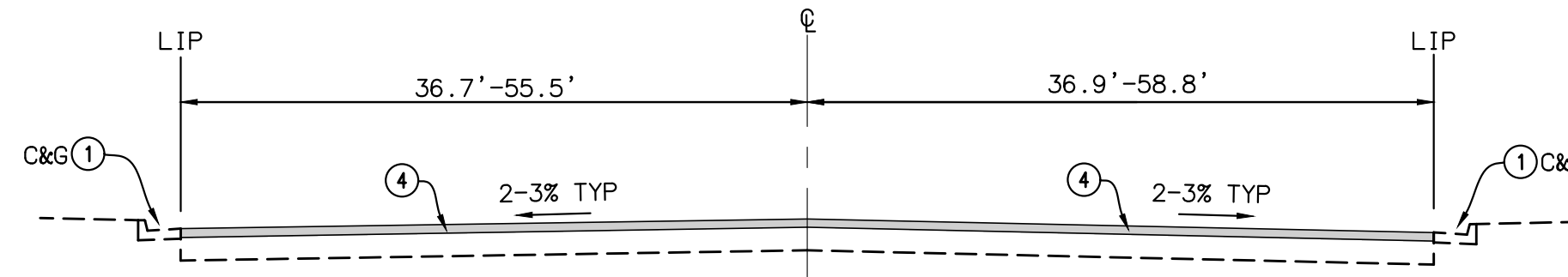
CONSTRUCTION NOTES

- 1 PROTECT IN PLACE
- 2 MATCH EXISTING
- 3 ADJUST TO GRADE
- 4 CRACK SEAL AND SLURRY SEAL
- 5 COLD MILL 0.20" OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20" OF ARHM.
- 6 FULL DEPTH PAVEMENT REPLACEMENT
- 7 REMOVE EXISTING DRAINAGE CURB AND PROVIDE CURB TRANSITION PER DETAIL ON SHEET CD-01.
- 8 CONSTRUCT FULL WIDTH SIDEWALK PER CITY STANDARD NO. 205, CASE III, PER PLAN.
- 9 RECONSTRUCT EXISTING CURB RAMP DETECTABLE WARNING SURFACE PER CITY STANDARD PLAN NO. 208 SHEET 7.
- 10 RECONSTRUCT EXISTING CURB RAMP ACCESS RAMP CASE A PER CITY STANDARD PLAN NO. 208. REFER TO STANDARD PLAN NO. 208 SHEET 6-8 FOR ADDITIONAL DETAILS.
- 11 RECONSTRUCT EXISTING PAVED OVER CROSS GUTTER PER CITY STANDARD PLAN NO. 210 SHEET 1 AND 2.

LEGEND

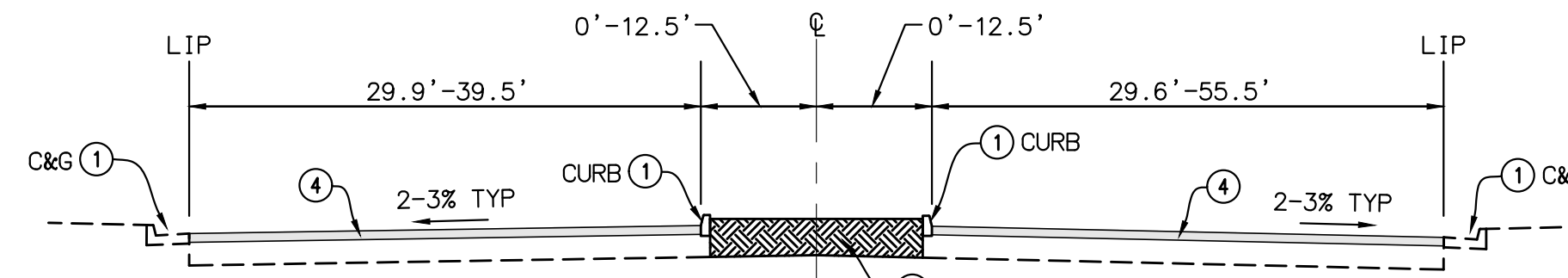
-  CRACK SEAL AND SLURRY SEAL 4
-  GRIND AND OVERLAY 5
-  FULL PAVEMENT REPLACEMENT 6

RECORD DRAWING
 THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23



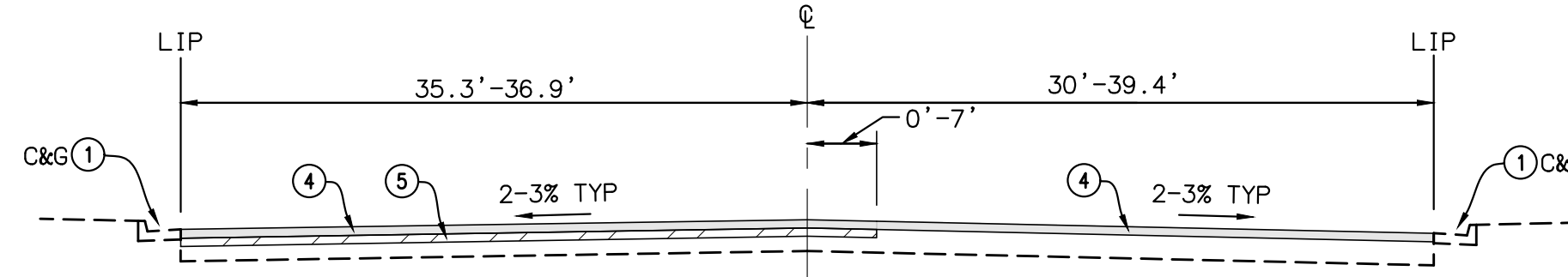
HIGHWAY 111 TYPICAL SECTION

STATION 100+00.00-107+55.72
 109+49.56-116+35.45
 121+82.79-131+16.92
 135+19.23-144+60.37
 152+52.00-157+47.07
 161+39.84-166+83.87
 203+63.29-231+46.75



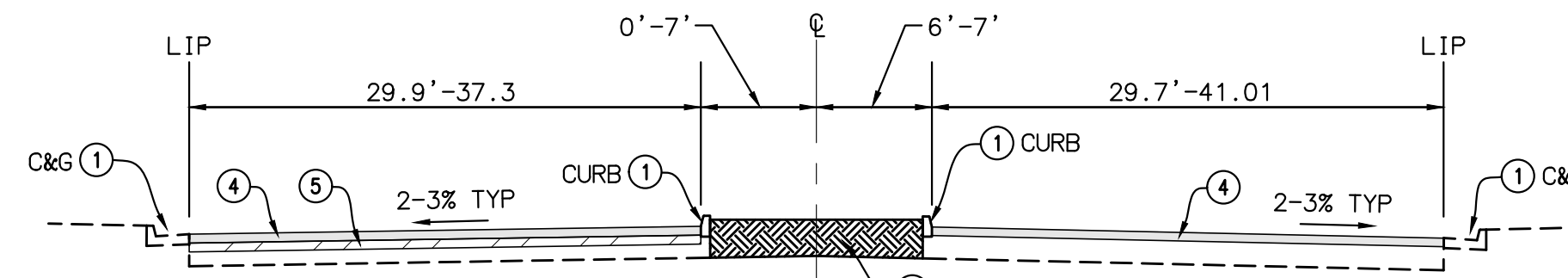
HIGHWAY 111 TYPICAL SECTION

STATION 107+55.72-109+49.56
 116+35.45-121+82.79
 131+16.92-135+19.23
 144+60.37-152+52.00
 157+47.07-161+39.84



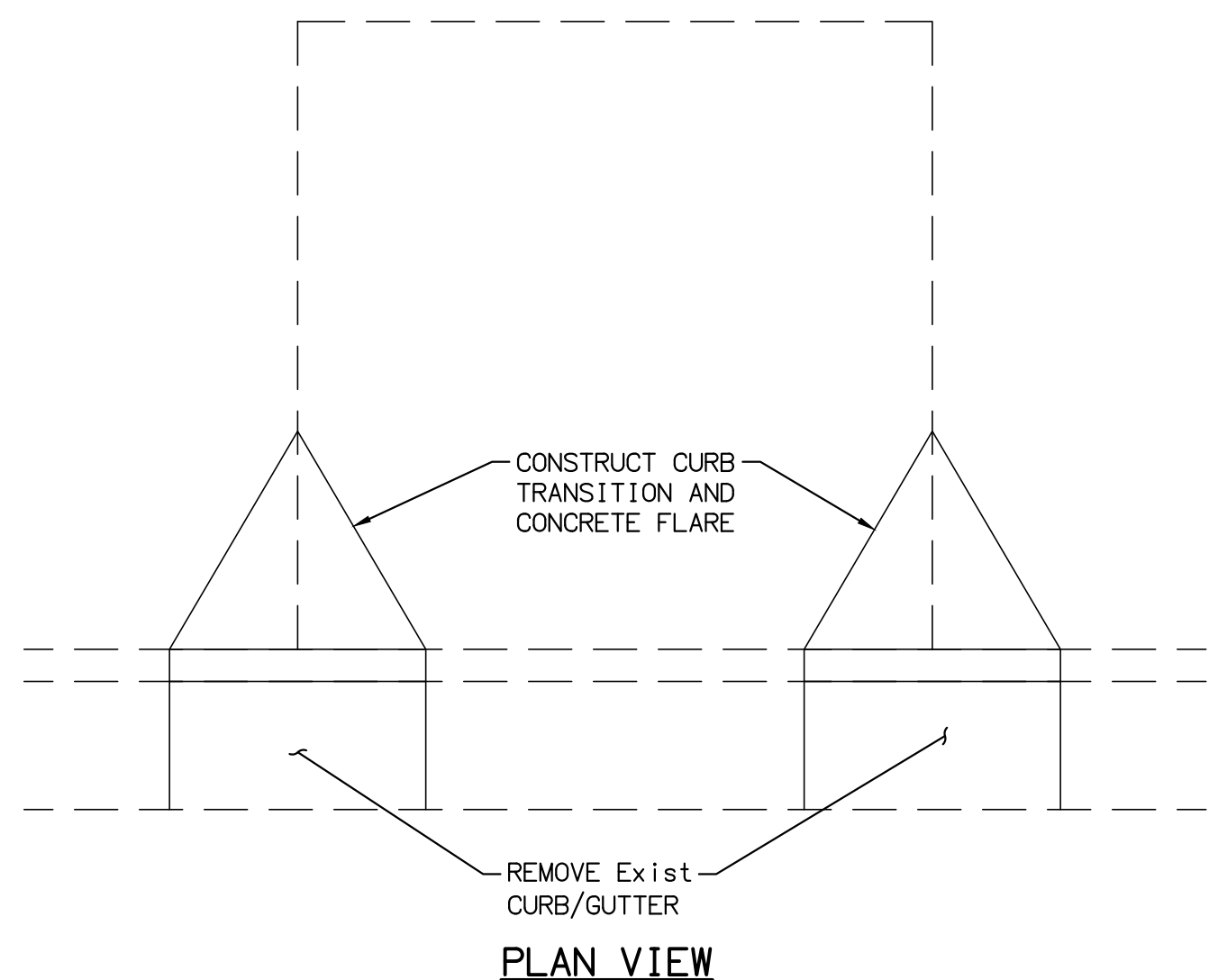
HIGHWAY 111 TYPICAL SECTION

STATION 166+83.87-171+11.72
 193+05.66-197+85.32
 202+42.32-203+63.29
 232+46.75-244+48.86

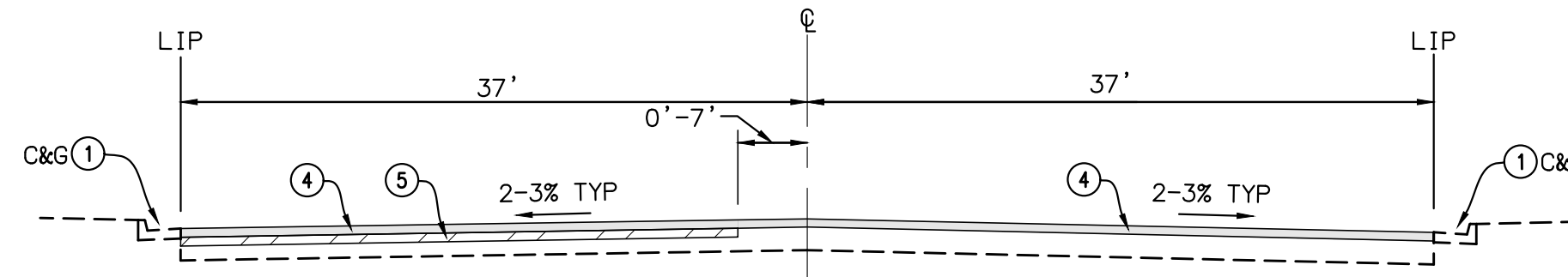


HIGHWAY 111 TYPICAL SECTION

STATION 171+11.72-183+88.29
 197+85.32-202+42.32
 244+48.86-254+04.60

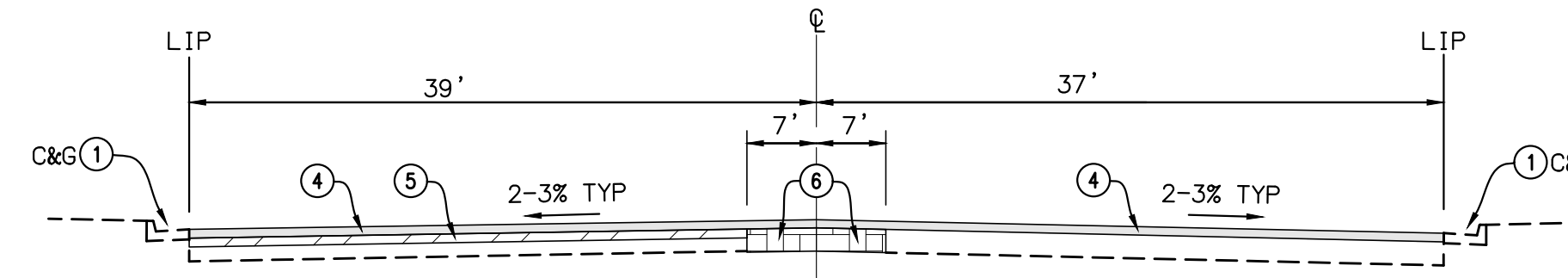


PLAN VIEW



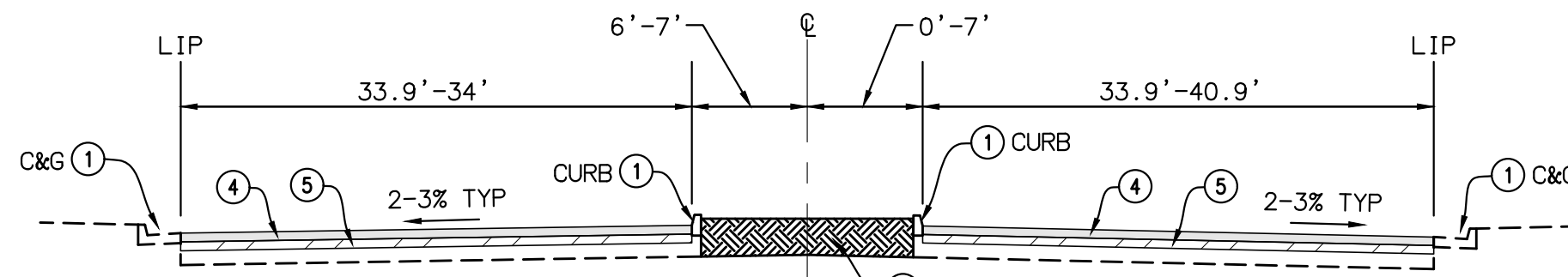
HIGHWAY 111 TYPICAL SECTION

STATION 183+88.29-193+05.66



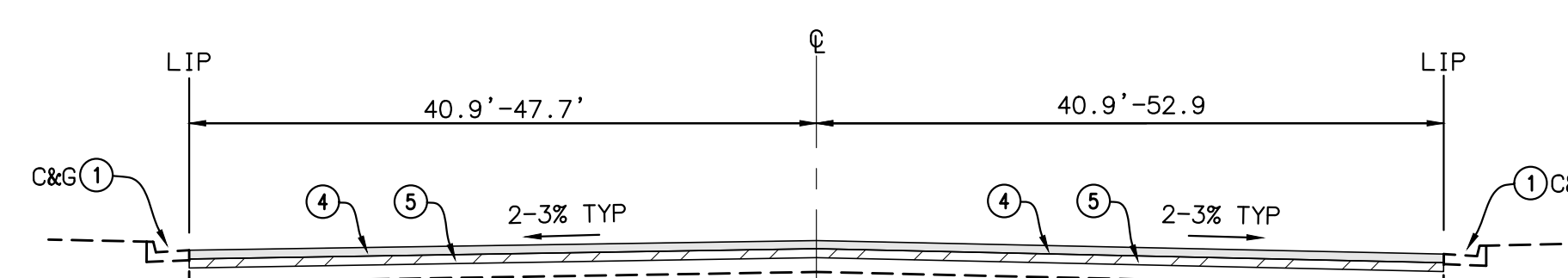
HIGHWAY 111 TYPICAL SECTION

STATION 231+46.75 TO 232+46.75



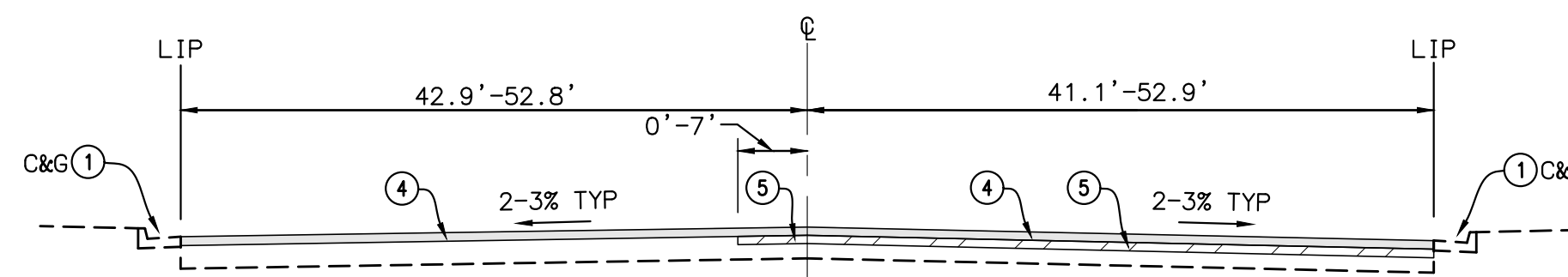
HIGHWAY 111 TYPICAL SECTION

STATION 254+04.60-270+33.95



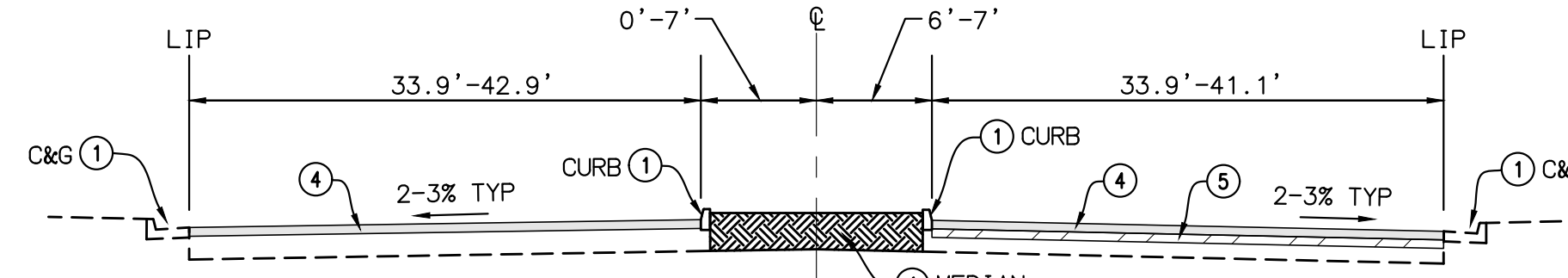
HIGHWAY 111 TYPICAL SECTION

STATION 270+33.95-277+63.43



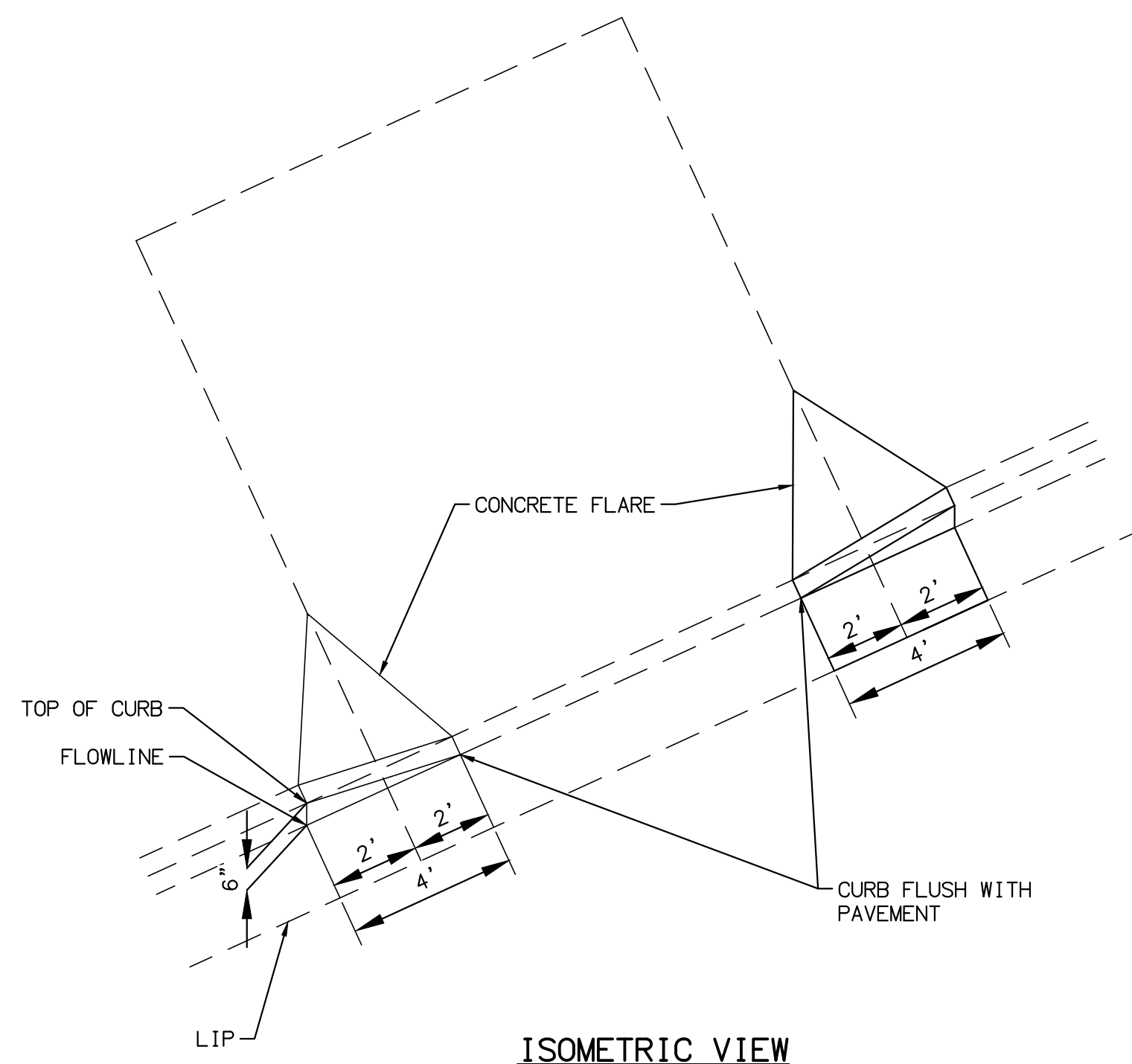
HIGHWAY 111 TYPICAL SECTION

STATION 277+63.43-282+19.16
 286+21.45-286+71.71



HIGHWAY 111 TYPICAL SECTION

STATION 282+19.16-286+21.45



ISOMETRIC VIEW

7 DRAINAGE CURB REMOVAL AND TRANSITION
 LOCATION PER PLAN

City Council of Indian Wells
Acceptance Date

DIG ALERT
 DIAL TOLL FREE
 1-800-422-4133
 AT LEAST TWO DAYS BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24
 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
 PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



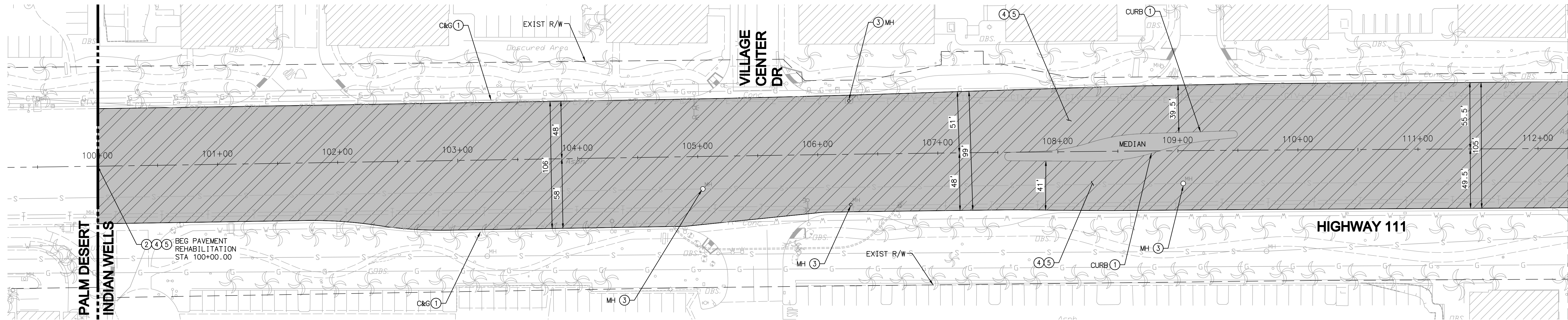
Michael Baker INTERNATIONAL
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 MBAKERINTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:
 STEVEN LATINO
 DATE: 12/20/2023
 R.C.E. 73430

APPROVAL BY: CITY OF INDIAN WELLS
 DATE: _____

DRAWN	DESIGNED	JOB NUMBER
KM	KM	186312
SCALE	CHECKED	DATE
NO SCALE	SL	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION
 FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
CONSTRUCTION NOTES, DETAILS & TYPICAL SECTIONS
CITY OF INDIAN WELLS
 DEPARTMENT OF PUBLIC WORKS

SHEET
2
 OF 18 SHEETS
 DWG. NAME
 185312-CD-01-AB
 FILE NO.

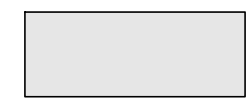
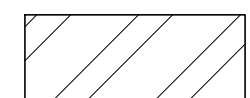


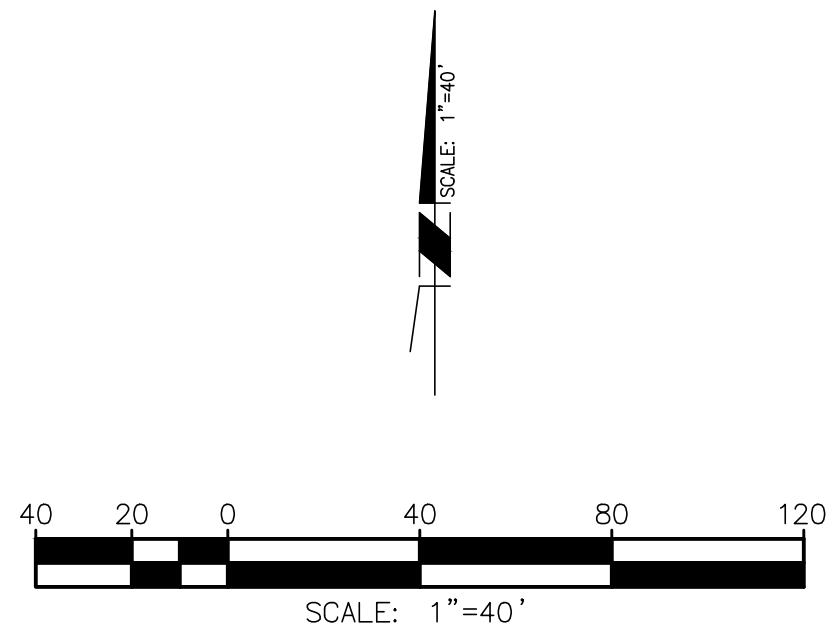
MATCHLINE STA. 112+25
SEE SHEET 04

CONSTRUCTION NOTES

- ① PROTECT IN PLACE
- ② MATCH EXISTING
- ③ ADJUST TO GRADE
- ④ CRACK SEAL AND SLURRY SEAL
- ⑤ COLD MILL 0.20' OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20' OF ARHM.

LEGEND

-  CRACK SEAL AND SLURRY SEAL ④
-  GRIND AND OVERLAY ⑤



City Council of Indian Wells
Acceptance Date

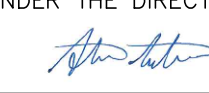
RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24
LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				

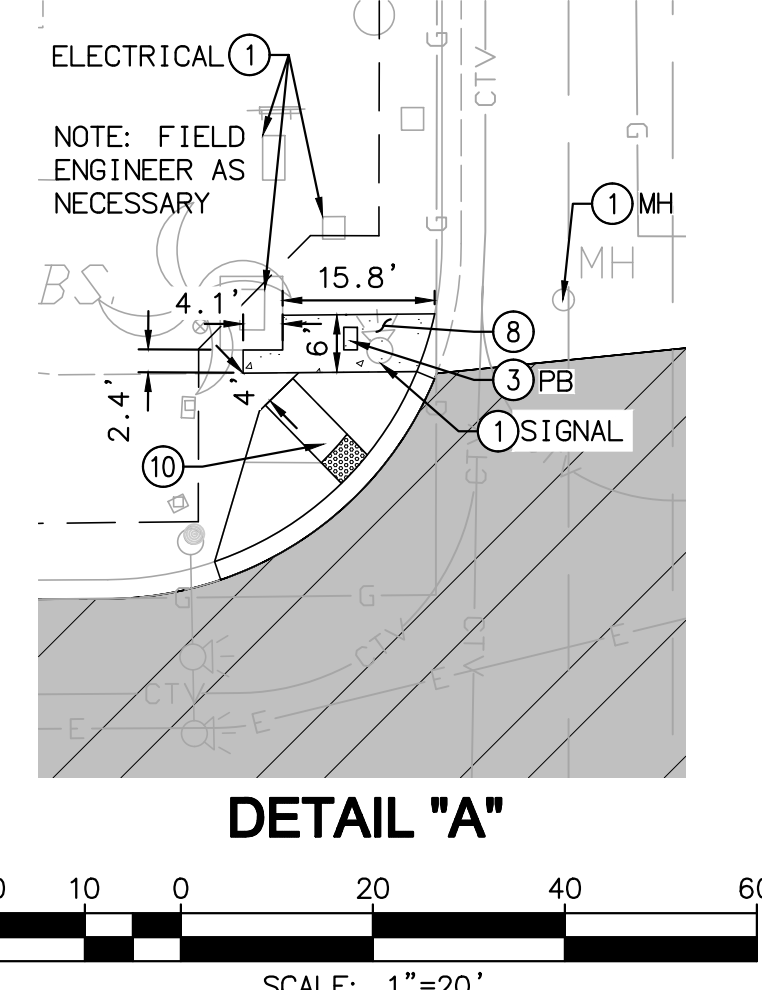
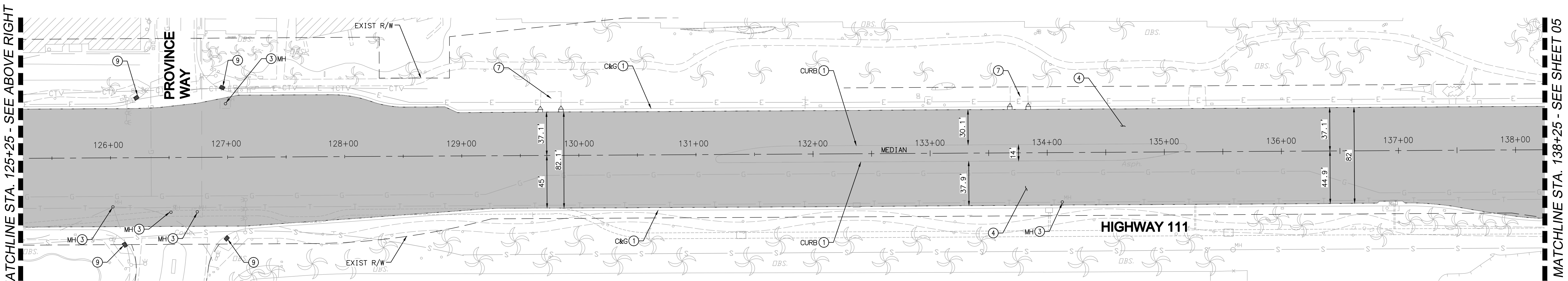
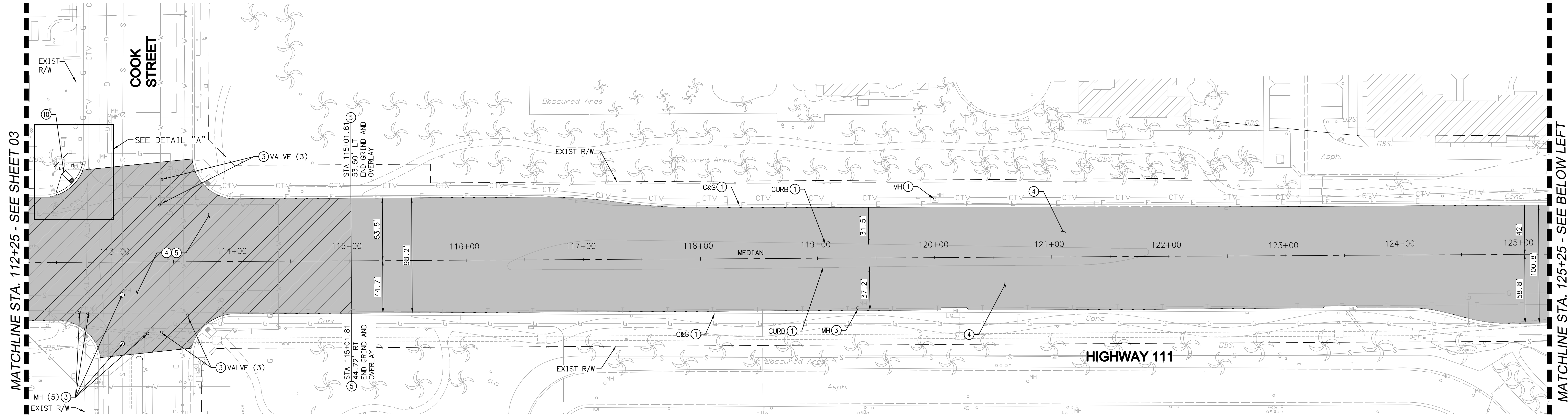
Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBAKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:

STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: _____ CITY OF INDIAN WELLS DATE: _____

DRAWN	DESIGNED	JOB NUMBER
KM	KM	186312
SCALE	CHECKED	DATE
1"=40'	SL	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN PHASE 1
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

SHEET 3
OF 18 SHEETS
DWG. NAME 186312-ST-01
FILE NO.

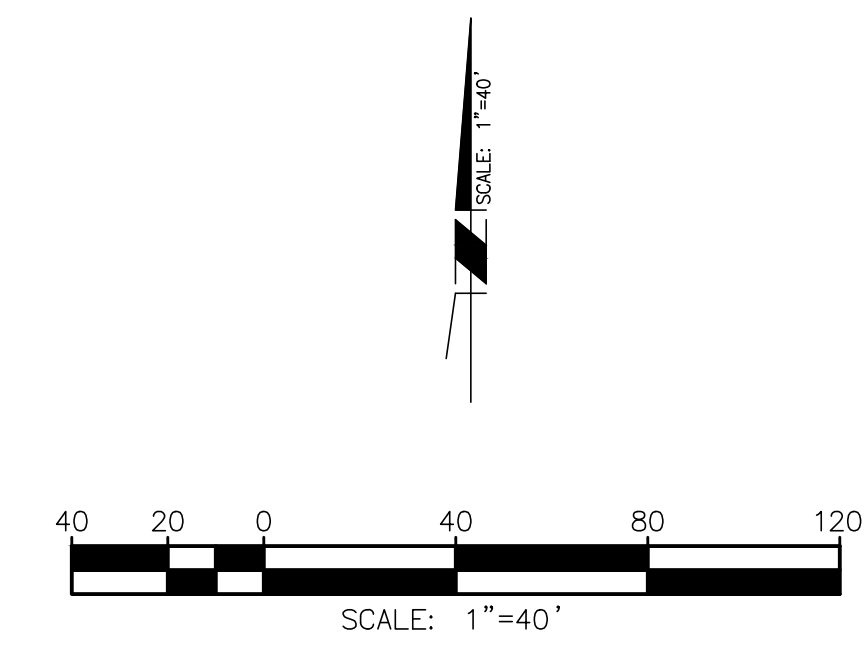


CONSTRUCTION NOTES

- ① PROTECT IN PLACE
- ③ ADJUST TO GRADE
- ④ CRACK SEAL AND SLURRY SEAL
- ⑤ COLD MILL 0.20' OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20' OF ARHM.
- ⑦ REMOVE EXISTING DRAINAGE CURB AND PROVIDE CURB TRANSITION PER DETAIL ON SHEET CD-01.
- ⑧ CONSTRUCT FULL WIDTH SIDEWALK PER CITY STANDARD NO. 205, CASE III, PER PLAN. REINSTALL IRRIGATION HEADS.
- ⑨ RECONSTRUCT EXISTING CURB RAMP DETECTABLE WARNING SURFACE PER CITY STANDARD PLAN NO. 208 SHEET 7.
- ⑩ RECONSTRUCT EXISTING CURB RAMP ACCESS RAMP CASE A PER CITY STANDARD PLAN NO. 208. REFER TO STANDARD PLAN NO. 208 SHEET 6-8 FOR ADDITIONAL DETAILS.

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤
- SIDEWALK ⑧



**City Council of Indian Wells
Acceptance Date**

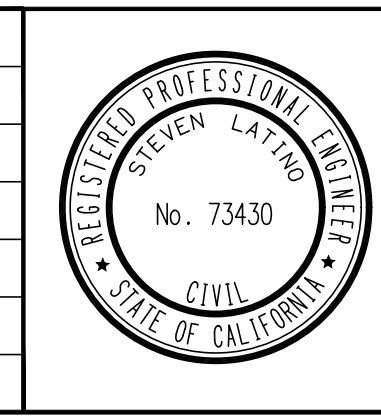
RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

DIG ALERT
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBAKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: CITY OF INDIAN WELLS		DATE:	
DRAWN: KM	DESIGNED: KM	JOB NUMBER: 186312	
SCALE: T=40'	CHECKED: SL	DATE: 12/20/2023	

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN PHASE 1
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

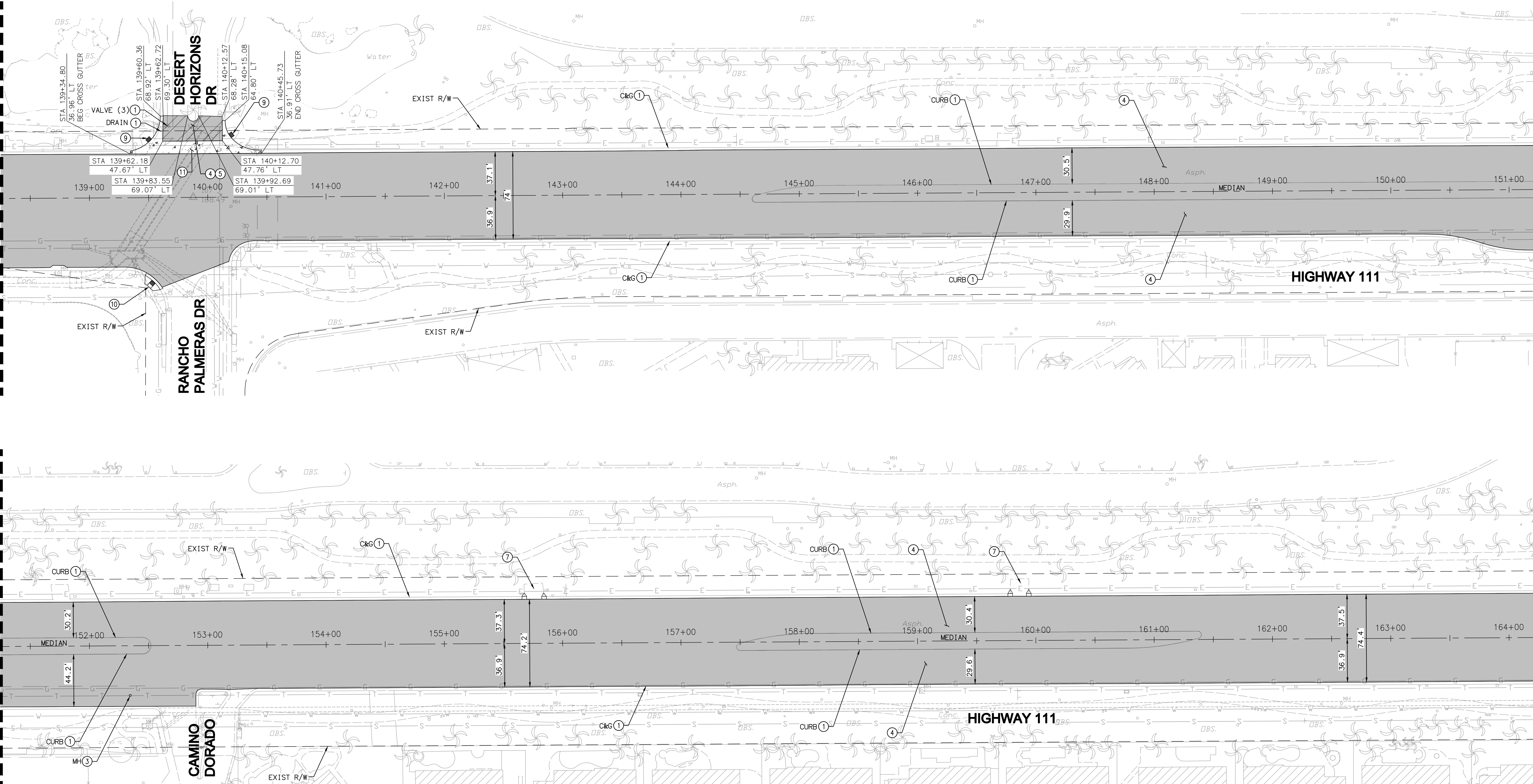
SHEET 4
OF 18 SHEETS
DWG. NAME: 186312-ST-02
FILE NO.

MATCHLINE STA. 138+25 - SEE SHEET 04

MATCHLINE STA. 151+25 - SEE BELOW LEFT

MATCHLINE STA. 151+25 - SEE ABOVE RIGHT

MATCHLINE STA. 164+25 - SEE SHEET 06



CONSTRUCTION NOTES

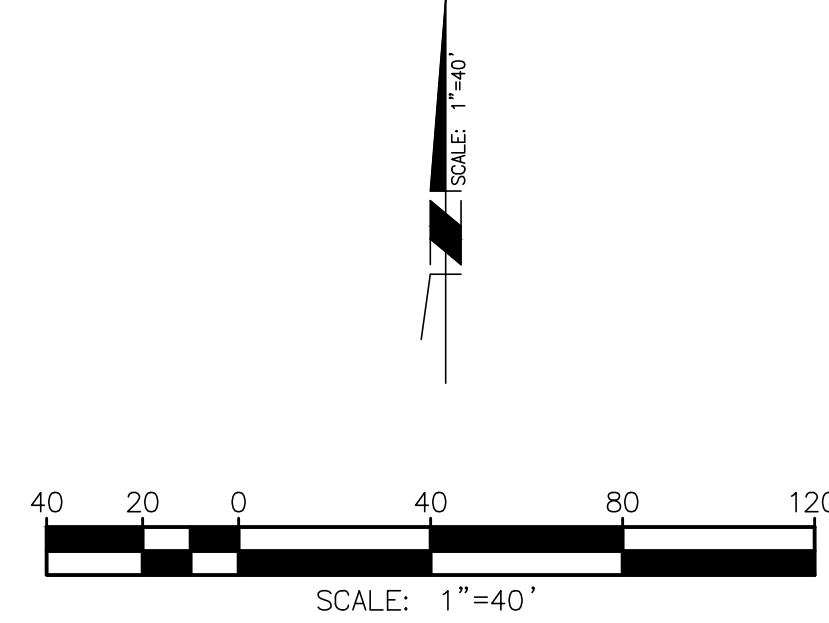
- ① PROTECT IN PLACE
- ② ADJUST TO GRADE
- ③ CRACK SEAL AND SLURRY SEAL
- ④ COLD MILL 0.20' OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20' OF ARHM.
- ⑤ REMOVE EXISTING DRAINAGE CURB AND PROVIDE CURB TRANSITION PER DETAIL ON SHEET CD-01.
- ⑥ RECONSTRUCT EXISTING CURB RAMP DETECTABLE WARNING SURFACE PER CITY STANDARD PLAN NO. 208 SHEET 7.
- ⑦ RECONSTRUCT EXISTING CURB RAMP ACCESS RAMP CASE A PER CITY STANDARD PLAN NO. 208. REFER TO STANDARD PLAN NO. 208 SHEET 6-8 FOR ADDITIONAL DETAILS.
- ⑧ RECONSTRUCT EXISTING PAVED OVER CROSS GUTTER PER CITY STANDARD PLAN NO. 210 SHEET 1 AND 2.

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤
- CROSS GUTTER ⑧

City Council of Indian Wells
Acceptance Date

RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23



DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBACKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: _____		CITY OF INDIAN WELLS	
DATE: _____		DATE: _____	
DRAWN KM SCALE T=40'	DESIGNED KM CHECKED SL	JOB NUMBER 186312	DATE 12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN PHASE 1
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

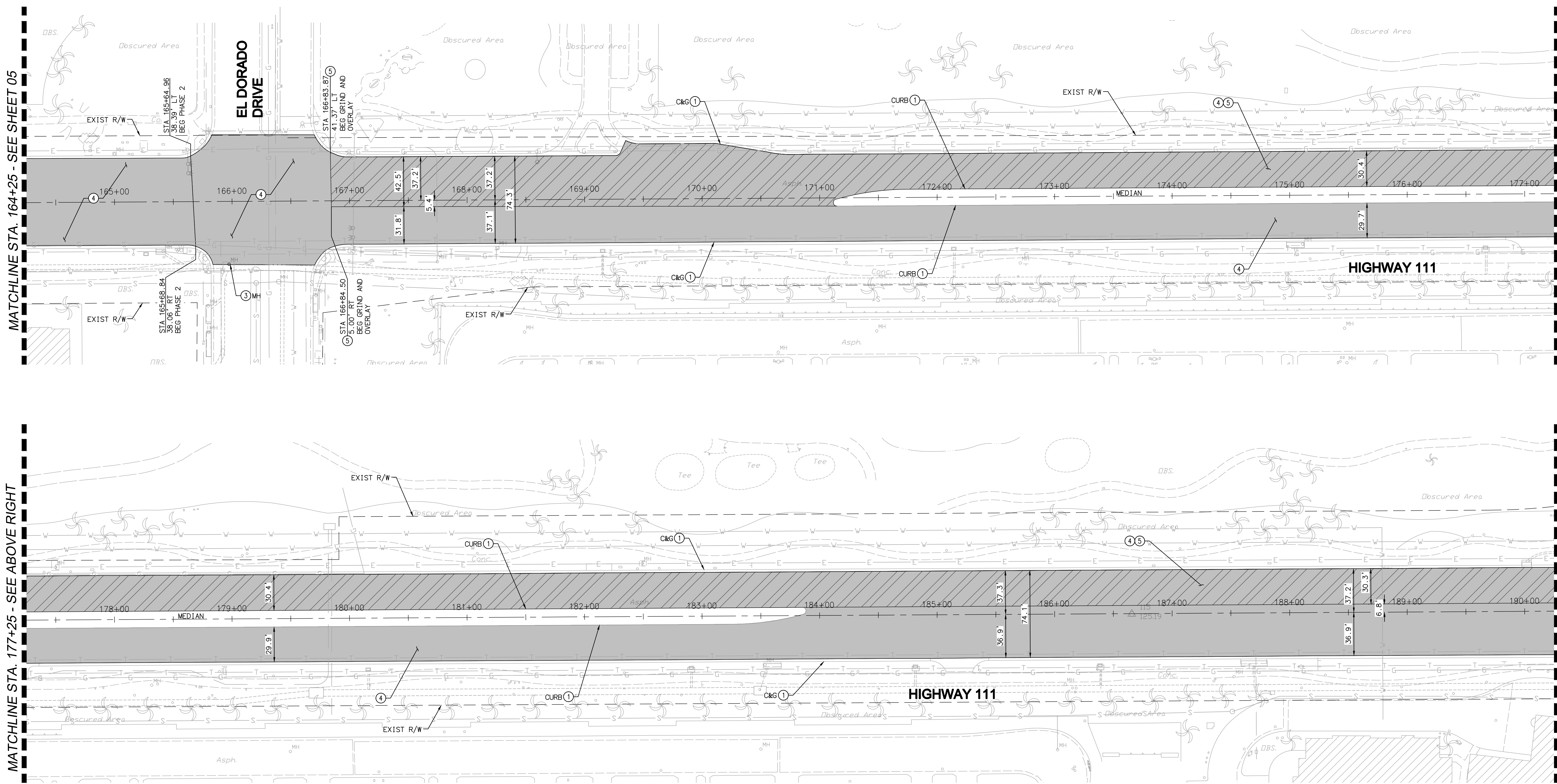
SHEET 5
OF 18 SHEETS
DWG. NAME 185312-ST-03
FILE NO.

MATCHLINE STA. 164+25 - SEE SHEET 05

MATCHLINE STA. 177+25 - SEE BELOW LEFT

MATCHLINE STA. 177+25 - SEE ABOVE RIGHT

MATCHLINE STA. 190+25 - SEE SHEET 07

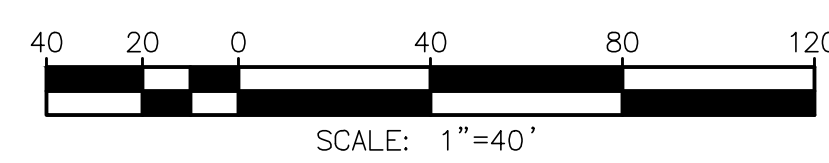
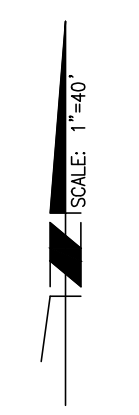


CONSTRUCTION NOTES

- ① PROTECT IN PLACE
- ③ ADJUST TO GRADE
- ④ CRACK SEAL AND SLURRY SEAL
- ⑤ COLD MILL 0.20' OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20' OF ARHM.

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤



City Council of Indian Wells
Acceptance Date

RECORD DRAWING
 THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

DIG ALERT

 DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
 PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 MBIKERINTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:

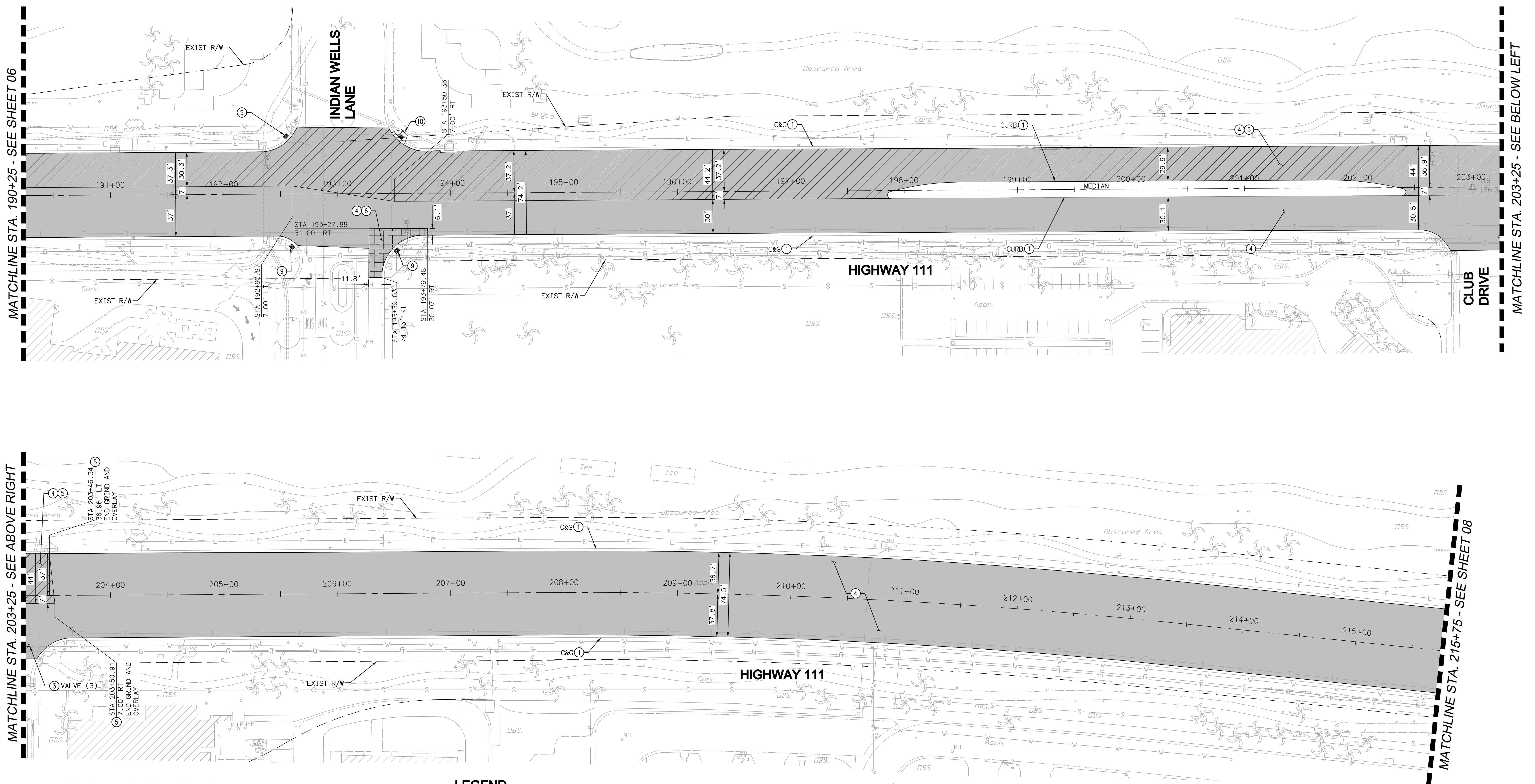
STEVEN LATINO DATE: 12/20/2023
 R.C.E. 73430

APPROVAL BY: _____ CITY OF INDIAN WELLS DATE: _____

DRAWN	DESIGNED	JOB NUMBER
KM	KM	186312
SCALE	CHECKED	DATE
T=40'	SL	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN PHASE 1/2
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

SHEET 6
 OF 18 SHEETS
 DWG. NAME: 185312-ST-04
 FILE NO.



MATCHLINE STA. 190+25 - SEE SHEET 06

MATCHLINE STA. 203+25 - SEE BELOW LEFT

MATCHLINE STA. 203+25 - SEE ABOVE RIGHT

MATCHLINE STA. 215+75 - SEE SHEET 08

CONSTRUCTION NOTES

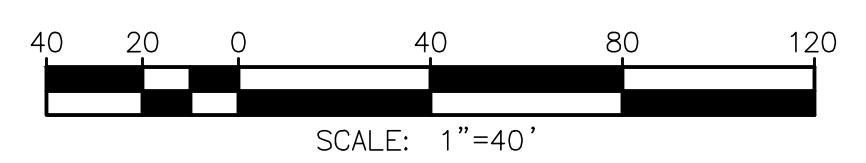
- ① PROTECT IN PLACE
- ② ADJUST TO GRADE
- ③ CRACK SEAL AND SLURRY SEAL
- ④ COLD MILL 0.20" OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20" OF ARHM
- ⑤ FULL DEPTH PAVEMENT REPLACEMENT
- ⑥ RECONSTRUCT EXISTING CURB RAMP DETECTABLE WARNING SURFACE PER CITY STANDARD PLAN NO. 208 SHEETS 7 AND 8
- ⑦ RECONSTRUCT EXISTING CURB RAMP ACCESS RAMP CASE A PER CITY STANDARD PLAN NO. 208. REFER TO STANDARD PLAN NO. 208 SHEETS 6-8 FOR ADDITIONAL DETAILS

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤
- FULL PAVEMENT REPLACEMENT ⑥

City Council of Indian Wells
Acceptance Date

THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23



DIAL ALERT
 DIAL TOLL FREE
 1-800-422-4133
 AT LEAST TWO DAYS BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				

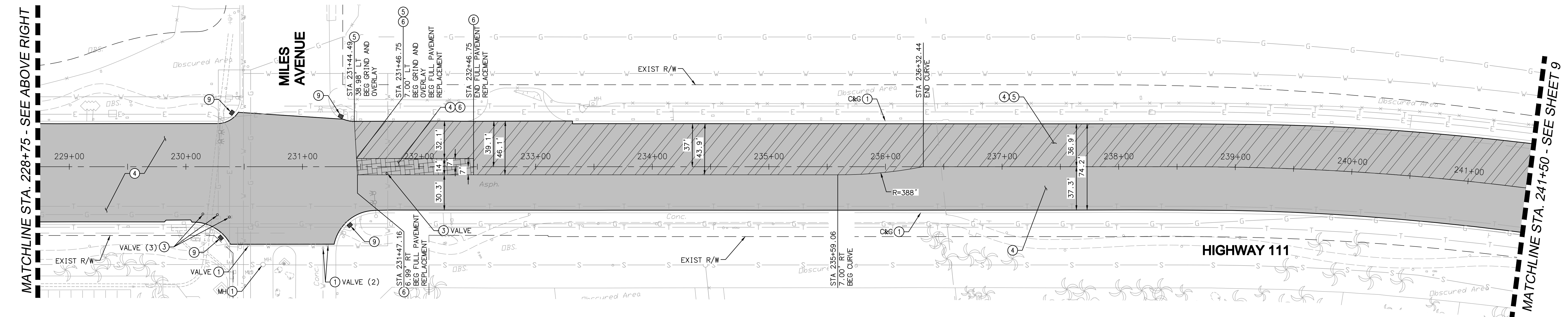
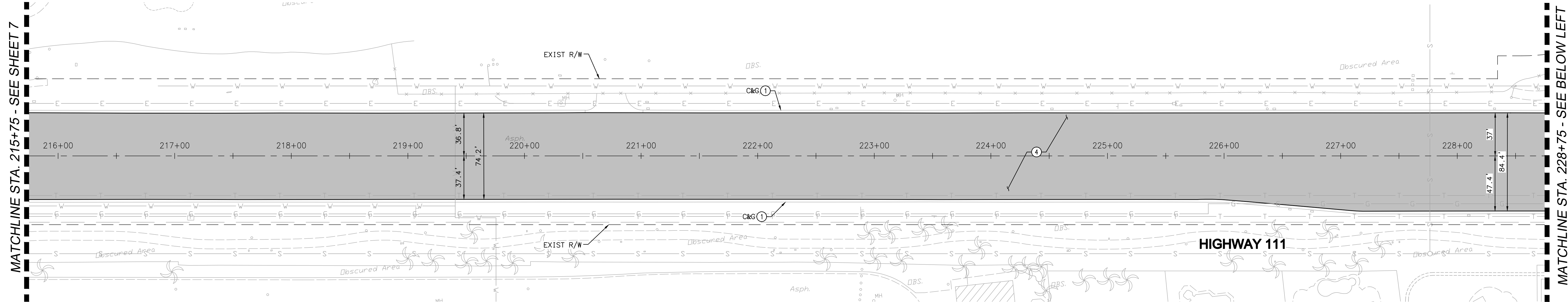


Michael Baker INTERNATIONAL
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 MBAKERINTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:
 STEVEN LATINO DATE: 12/20/2023
 R.C.E. 73430

APPROVAL BY: _____		CITY OF INDIAN WELLS	
DATE: _____		DATE: _____	
DRAWN: KM	DESIGNED: KM	JOB NUMBER: 186312	
SCALE: T=40'	CHECKED: SL	DATE: 12/20/2023	

HIGHWAY 111 PAVEMENT REHABILITATION
 FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN
PHASE 2
CITY OF INDIAN WELLS
 DEPARTMENT OF PUBLIC WORKS

SHEET
7
 OF 18 SHEETS
 DWG. NAME: 186312-ST-05
 FILE NO.

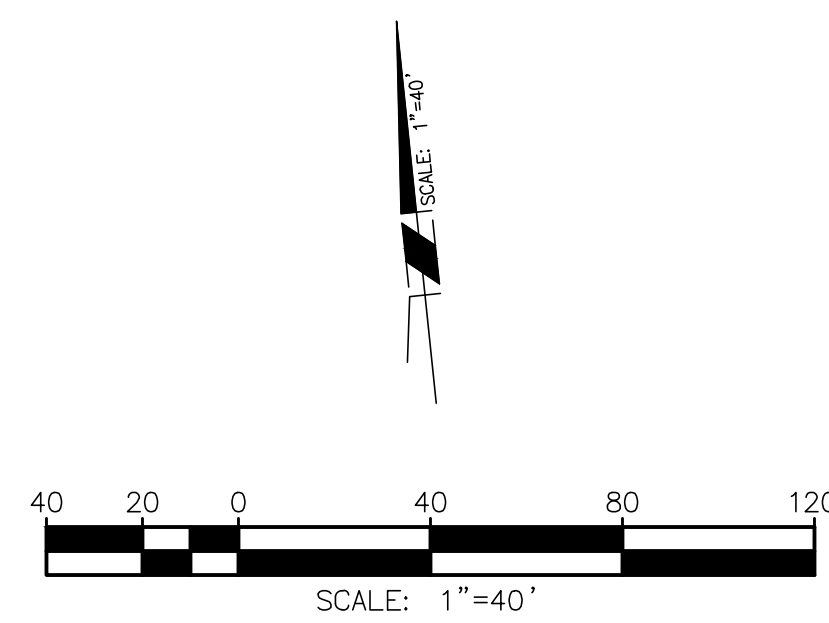


CONSTRUCTION NOTES

- ① PROTECT IN PLACE
- ② ADJUST TO GRADE
- ③ CRACK SEAL AND SLURRY SEAL
- ④ CRACK SEAL AND SLURRY SEAL
- ⑤ COLD MILL 0.20' OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20' OF ARHM
- ⑥ FULL DEPTH PAVEMENT REPLACEMENT
- ⑦ RECONSTRUCT EXISTING CURB RAMP DETECTABLE WARNING SURFACE PER CITY STANDARD PLAN NO.208 SHEETS 7 AND 8

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤
- FULL PAVEMENT REPLACEMENT ⑥



City Council of Indian Wells
Acceptance Date

RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

DIAL ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBAKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY:		CITY OF INDIAN WELLS	
KEN A. SEUMALO, PE PUBLIC WORKS DIRECTOR R.C.E. NO. 56915		DATE: _____	
DRAWN KM	DESIGNED KM	JOB NUMBER 185312	DATE 12/20/2023
SCALE 1"=40'	CHECKED SL		

HIGHWAY 111 PAVEMENT REHABILITATION
FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN
PHASE 2
CITY OF INDIAN WELLS
DEPARTMENT OF PUBLIC WORKS

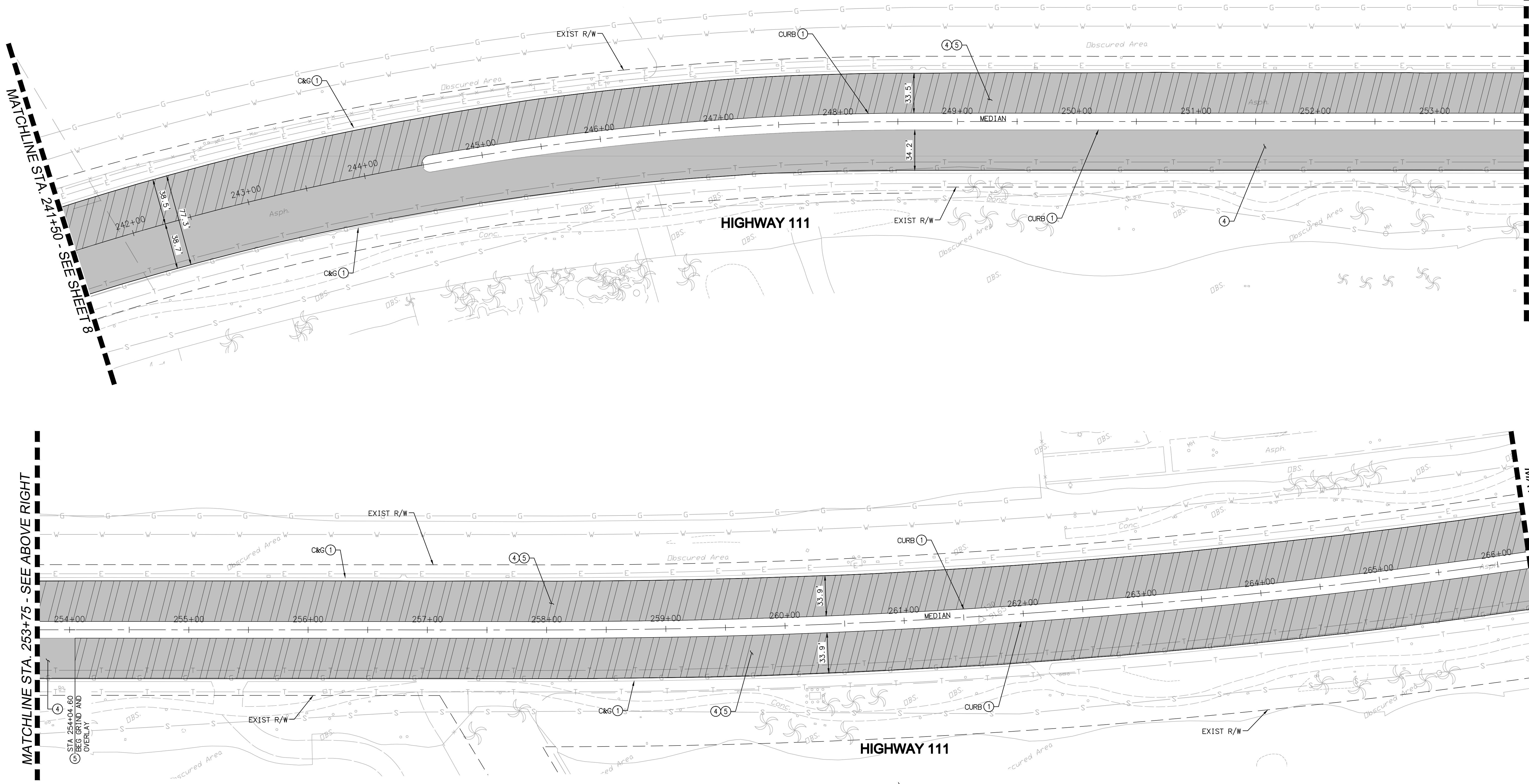
SHEET
8
OF 18 SHEETS
DWG. NAME
185312-ST-06
FILE NO.

MATCHLINE STA. 241+50 - SEE SHEET 8

MATCHLINE STA. 253+75 - SEE BELOW LEFT

MATCHLINE STA. 253+75 - SEE ABOVE RIGHT

MATCHLINE STA. 266+25 - SEE SHEET 10

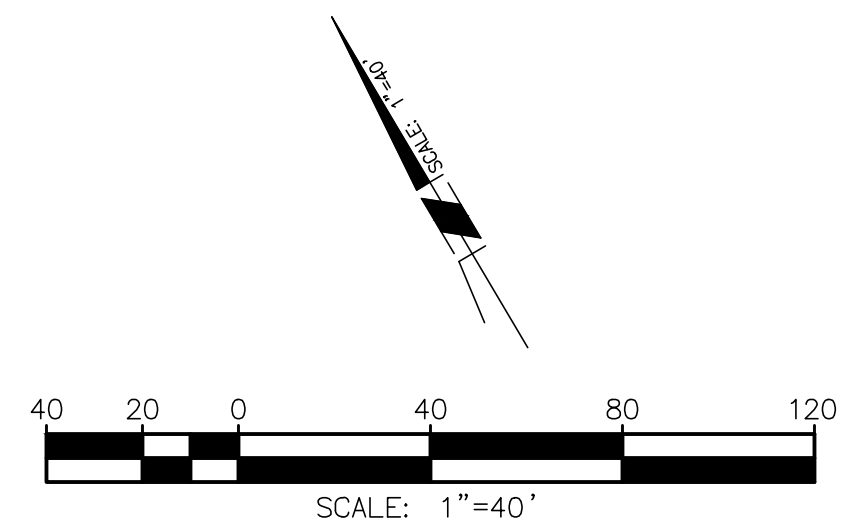


CONSTRUCTION NOTES

- ① PROTECT IN PLACE
- ④ CRACK SEAL AND SLURRY SEAL
- ⑤ COLD MILL 0.20" OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20" OF ARHM.

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤



City Council of Indian Wells
Acceptance Date

RECORD DRAWING
 THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

DIG ALERT

 DIAL TOLL FREE
 1-800-422-4133
 AT LEAST TWO DAYS BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



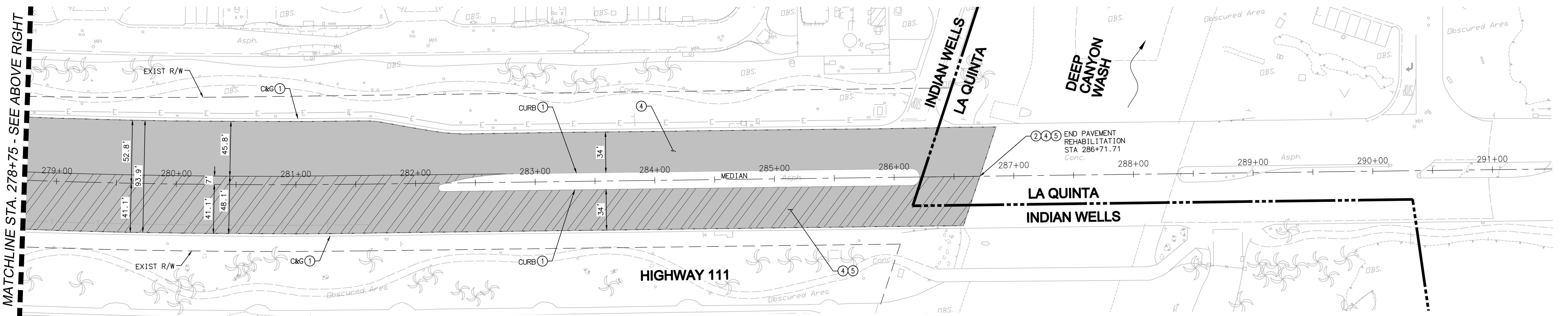
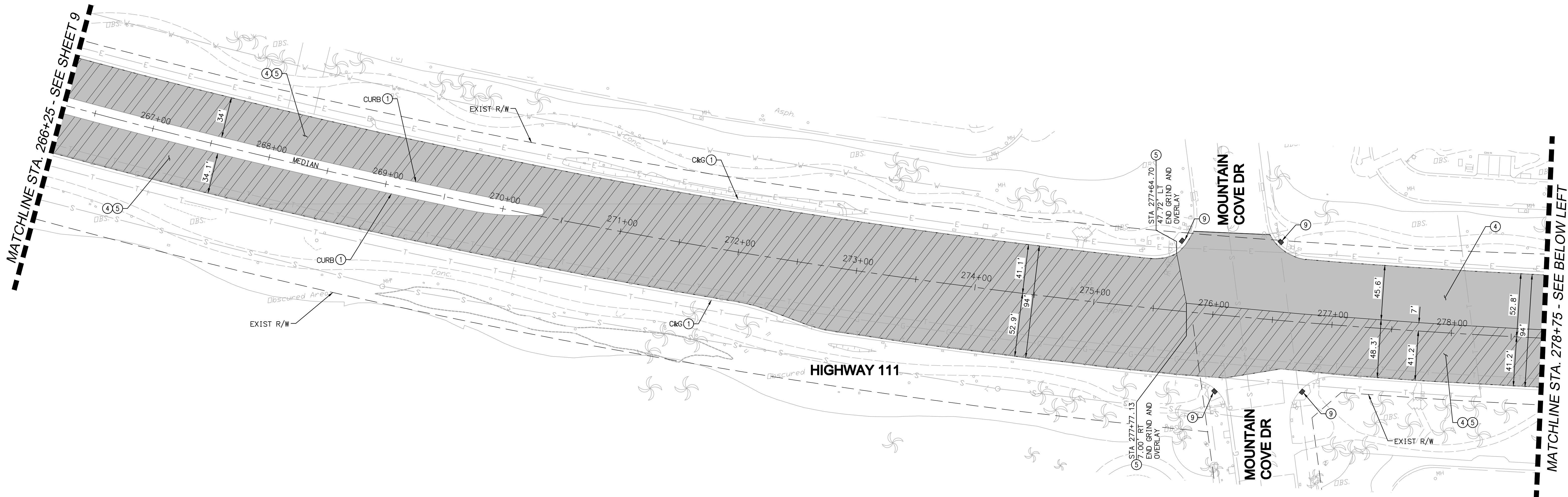
Michael Baker INTERNATIONAL
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 MBAKERINTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:
 STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: CITY OF INDIAN WELLS DATE: _____

DRAWN	KM	DESIGNED	KM	JOB NUMBER	186312
SCALE	T=40'	CHECKED	SL	DATE	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN PHASE 2
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

SHEET 9
 OF 18 SHEETS
 DWG. NAME 186312-ST-07
 FILE NO.



CONSTRUCTION NOTES

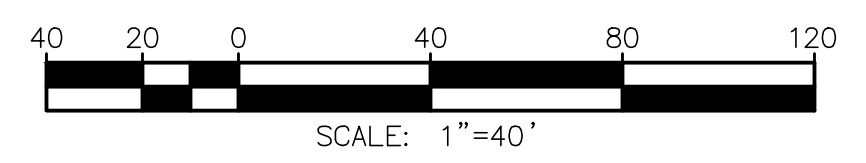
- ① PROTECT IN PLACE
- ② MATCH EXISTING
- ④ CRACK SEAL AND SLURRY SEAL
- ⑤ COLD MILL 0.20' OF EXISTING ASPHALT CONCRETE. OVERLAY 0.20' OF ARHM
- ⑨ RECONSTRUCT EXISTING CURB RAMP DETECTABLE WARNING SURFACE PER CITY STANDARD PLAN NO.208 SHEETS 7 AND 8

LEGEND

- CRACK SEAL AND SLURRY SEAL ④
- GRIND AND OVERLAY ⑤

City Council of Indian Wells
Acceptance Date

RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23



DIG ALERT
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 M.BAKER@INTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023
R.C.E. 73430

APPROVAL BY:		CITY OF INDIAN WELLS	
DATE:		DATE:	
DRAWN	DESIGNED	JOB NUMBER	186312
SCALE	CHECKED	DATE	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
LAYOUT PLAN PHASE 2
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

SHEET 10
OF 18 SHEETS
DWG. NAME 185312-ST-08
FILE NO.

SIGNING AND STRIPING NOTES:

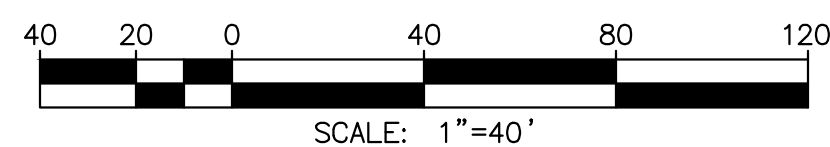
- CONTRACTOR SHALL FIELD VERIFY ALL EXISTING STRIPING WITHIN THE PROJECT LIMITS TO ENSURE COMPATIBILITY WITH THE SIGNING AND STRIPING PLANS.
- PAVEMENT LEGENDS SHALL BE PER THE PAVEMENT MARKING CHAPTER OF THE LATEST EDITION OF THE STANDARD HIGHWAY SIGNS MANUAL PUBLISHED BY FHWA.
- RAISED PAVEMENT MARKERS SHALL BE INSTALLED IMMEDIATELY FOLLOWING SECOND COAT STRIPING OPERATIONS AND SHALL UTILIZE BITUMINOUS ADHESIVE. RAPID SET EPOXY ADHESIVE FOR PAVEMENT MARKERS IS PERMITTED WITH PRIOR APPROVAL FROM CITY ENGINEER.
- TRAFFIC STRIPES AND MARKINGS SHALL BE APPLIED IN TWO COATS, WITH REFLECTORIZED MATERIAL IN BOTH COATS, AND SHALL CONFORM TO SECTION 84-3, ENTITLED PAINTED TRAFFIC STRIPES AND PAVEMENT MARKINGS, AS SPECIFIED IN THE STATE STANDARD SPECIFICATIONS. THERE SHALL BE A MINIMUM OF 7 DAYS BETWEEN THE APPLICATION OF THE FIRST AND SECOND COATS. STRIPING SHALL BE FULLY APPLIED, INCLUDING DUAL STRIPED PARKING STALLS WITH RADIUS ENDS, LEGENDS, ETC., PRIOR TO INITIATION OF THE FIRST COAT WAITING PERIOD.
- THERMOPLASTIC TAPE SHALL NOT BE UTILIZED.
- WHEN STREET IS CURB-LESS OR WHEN THE CURB ALIGNMENT PROVIDES AN UNRELIABLE BASIS FOR MEASUREMENT, STRIPING CONTRACTOR SHALL USE CENTERLINE CONTROL POINTS (ON 50 FOOT CENTERS - I.E. STATIONS AND HALF STATIONS) PLACED DIRECTLY ON PAVEMENT BY A LICENSED SURVEYOR OR CIVIL ENGINEER AS A BASIS FOR STRIPING LAYOUT.
- ALL TRAFFIC STRIPING AND PAVEMENT LEGENDS AND RAISED PAVEMENT MARKERS THAT CONFLICT OR CONFUSE TRAFFIC AS A RESULT OF THE NEWLY INSTALLED WORK SHOWN ON THIS PLAN SHALL BE FULLY REMOVED BY GRINDING. NO ASPHALT PAINT SHALL BE UTILIZED ADJACENT TO LANE LINES FOR BLACKOUT/REMOVAL AND SLURRY SEAL SHALL BE UTILIZED FOR BLACKOUT ADJACENT TO LANE LINES. SANDBLASTING MAY BE UTILIZED WITH PRIOR AUTHORIZATION BY THE CITY ENGINEER. ALL REMOVALS TO BE PERFORMED TO THE SATISFACTION OF THE CITY ENGINEER.
- DEBRIS FROM REMOVAL OPERATION SHALL BE CONTAINED WITHIN THE WORK AREA AND THE CONTRACTOR SHALL TAKE ALL PRECAUTIONS NECESSARY TO PROTECT PERSONS AND PROPERTY ADJACENT TO THE SANDBLASTING OPERATIONS. THE DEBRIS RESULTING FROM THE SANDBLASTING SHALL BE IMMEDIATELY REMOVED AND DISPOSED OF BY THE CONTRACTOR. DEBRIS WITHIN THE ROADWAY SHALL BE REMOVED BY MECHANICAL SWEEPING OR HIGH-POWER VACUUM.
- SCARRED PAVEMENT SURFACE RESULTING FROM REMOVAL OPERATIONS SHALL BE SEALED WITH ASPHALT PAINT CONFORMING TO SECTION 203-8 OF THE STANDARD SPECIFICATIONS. SCARRED AREAS RESULTING FROM WORK OR GRAPHIC LEGEND REMOVAL SHALL BE FULLY COVERED WITH AN ASPHALTIC PAINTED SQUARE OR RECTANGULAR SHAPE THAT COMPLETELY OBLITERATES THE OLD LEGEND FORM. PLEASE CONTACT CITY INSPECTION STAFF PRIOR TO APPLICATION OF ASPHALT SEALANT.
- ALL SIGNS SHALL CONFORM TO SECTION 56-2, ENTITLED "ROADSIDE SIGNS," AS SPECIFIED IN THE STATE STANDARD SPECIFICATIONS. SIGNS SHALL BE REFLECTORIZED SHEET ALUMINUM USING HIGH INTENSITY GRADE SHEETING THAT MEET THE REQUIREMENTS OF REVISION 2 TO THE 2003 MUTCD. ALL SIGNS SHALL BE MOUNTED WITH THEFT/VANDAL-PROOF FASTENERS.
- STRIPING LAYOUT SHALL BE APPROVED BY THE CITY ENGINEER PRIOR TO APPLICATION OF PERMANENT PAINT. PLEASE CONTACT THE CITY ENGINEERING DEPARTMENT 48 HOURS PRIOR TO LAYOUT.
- STEEL SIGN POSTS INSTALLED IN CONCRETE AREAS SHALL BE INSTALLED IN TELSPEAR STEEL SLEEVES OR EQUAL TO FACILITATE REPLACEMENT. WOOD POSTS ARE NOT TO BE UTILIZED FOR PERMANENT SIGNAGE INSTALLATIONS. BREAKAWAY POSTS SHALL BE USED FOR ANY SIGNS LOCATED IN THE TRAVELED WAY OR IN THE 20 FT CLEAR ZONE OF THE ROADWAY SHOULDER.
- CONTRACTOR IS ADVISED THAT EACH INTERSECTING SIDE STREET CONTAINS SIGNAL LOOP DETECTORS. IF A LOOP DETECTOR OUTSIDE OF THE PROJECT LIMITS IS DAMAGED AS A RESULT OF THE CONTRACTOR OPERATIONS, THE CONTRACTOR WILL BE RESPONSIBLE FOR REPLACEMENT OF THE LOOP.

SIGNING AND STRIPING CONSTRUCTION NOTES:

- PAINT 6" SOLID WHITE LINE PER DETAIL "A" ON SHEET 11.
- PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 22.
- PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- PAINT 6" YELLOW MEDIAN ISLAND PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 29.
- PAINT 8" WHITE LANE DROP AT INTERSECTIONS PER CALTRANS STANDARD PLAN A20C 37B.
- PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- PAINT 6" WHITE INTERSECTION LINE BIKE LANE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39A.
- PAINT 6" LANE LINE EXTENSIONS THROUGH INTERSECTIONS PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 40.
- PAINT WHITE PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
- PAINT 12" WHITE LIMIT LINE PER CALTRANS STANDARD PLAN A24E.
- PAINT 12" WHITE BASIC CROSSWALK PER 2018 CALTRANS STANDARD PLAN A24F AND DETAIL "B" ON SHEET 11.

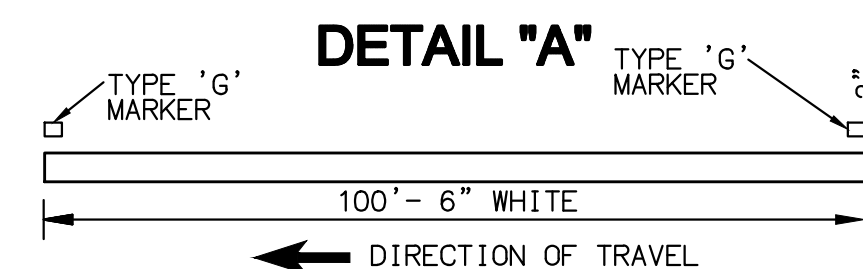
LEGEND:

- EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- EXISTING SIGN (ONE POST)
- EXISTING SIGN (DOUBLE POST)
- EXISTING SIGN (POLE MOUNTED)
- EXISTING SIGN (PEDESTRIAN BARRICADE)
- PROPOSED SIGN (ONE POST)
- BEGIN/END STRIPING DETAIL
- CHANGE IN STRIPING DETAIL
- ANGLE POINT



GENERAL NOTES:

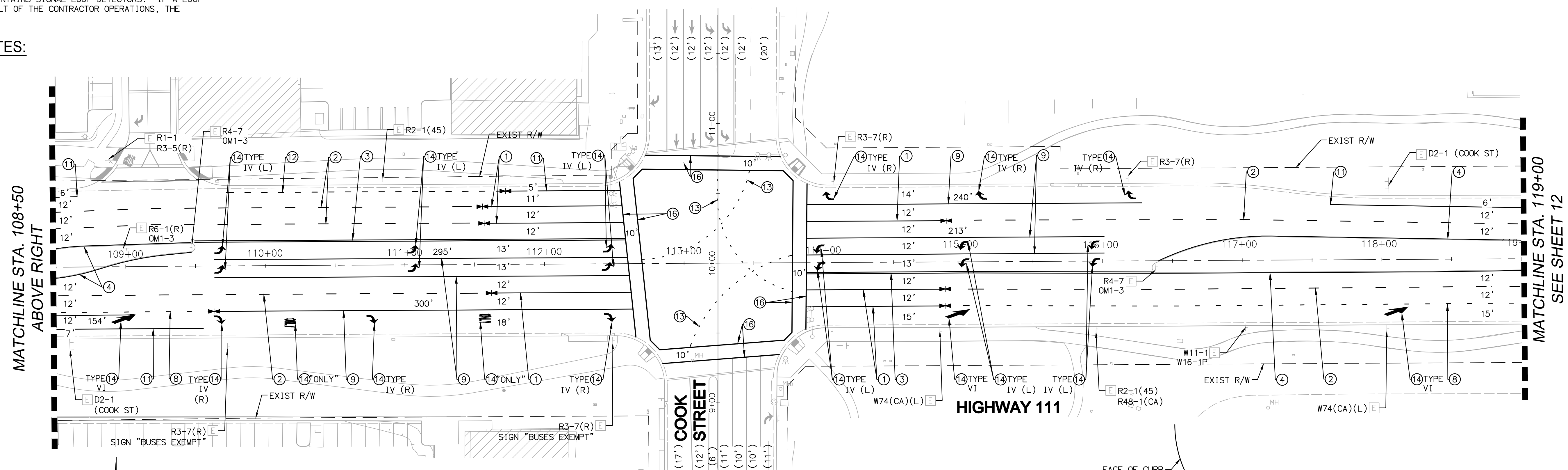
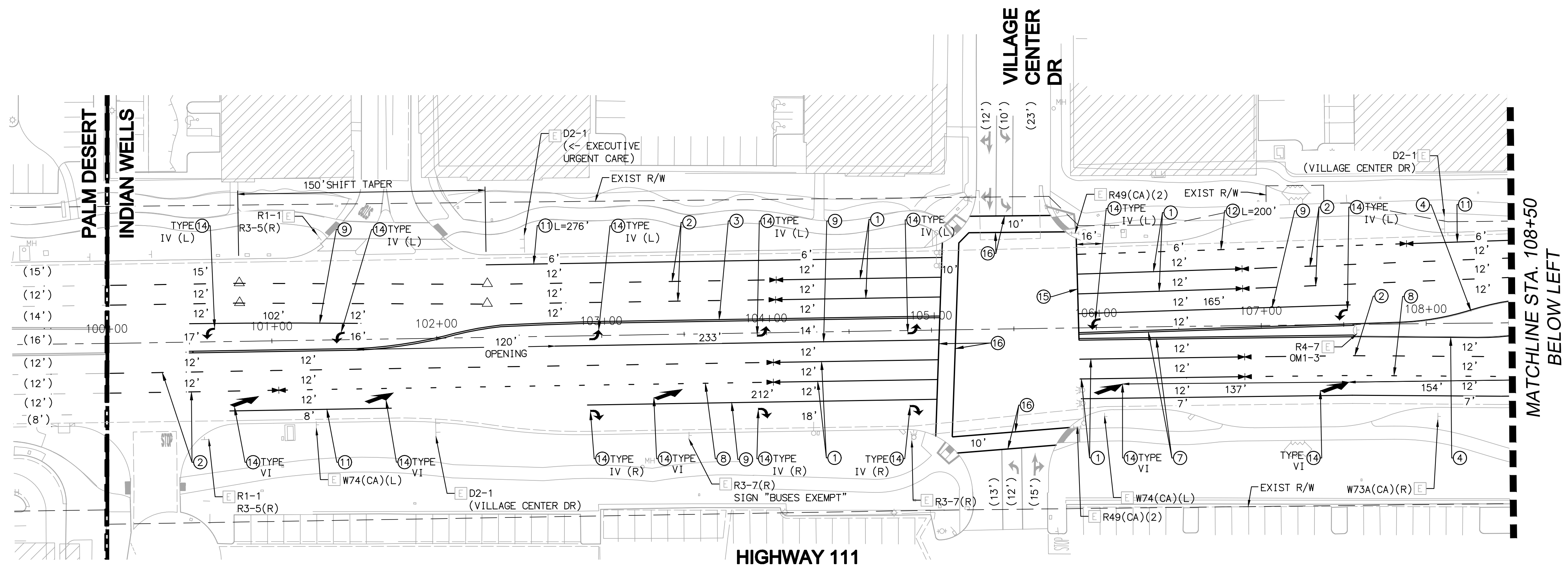
- ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
- CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS.
- PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.



DETAIL "B"
NO SCALE

City Council of Indian Wells
Acceptance Date

RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

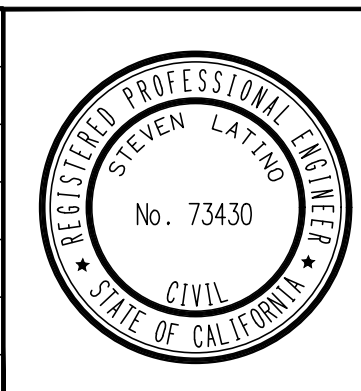


DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24
LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBAKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: CITY OF INDIAN WELLS

DATE	
KEN A. SEUMALO, PE PUBLIC WORKS DIRECTOR R.C.E. NO. 56915	
DESIGNED	KM
CHECKED	SL
JOB NUMBER	186312
DATE	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION
FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
SIGNING AND STRIPING PLAN
PHASE 1
CITY OF INDIAN WELLS
DEPARTMENT OF PUBLIC WORKS

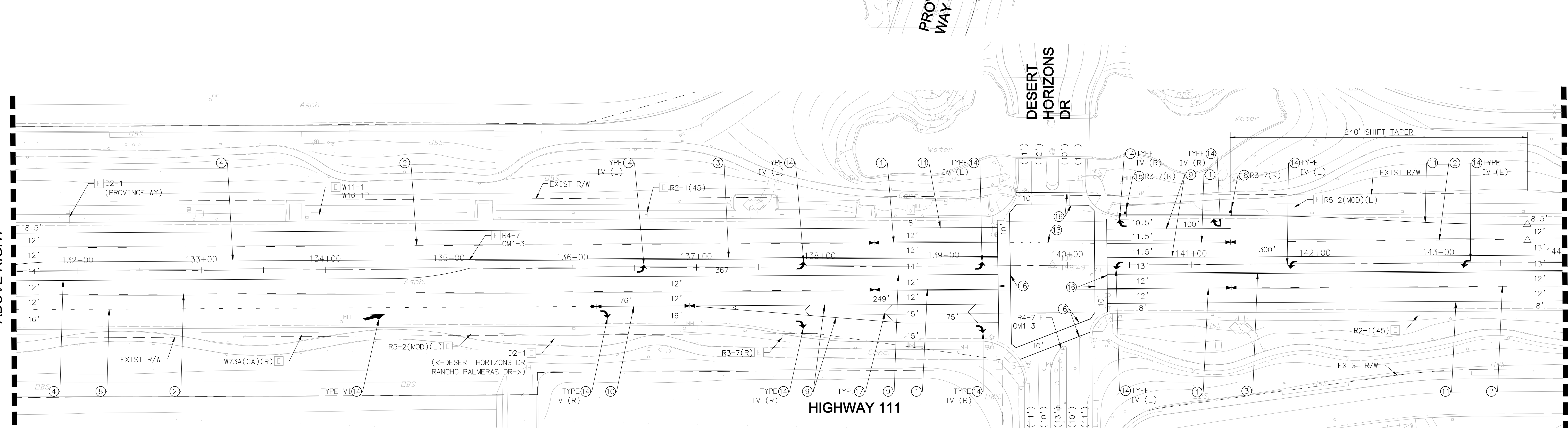
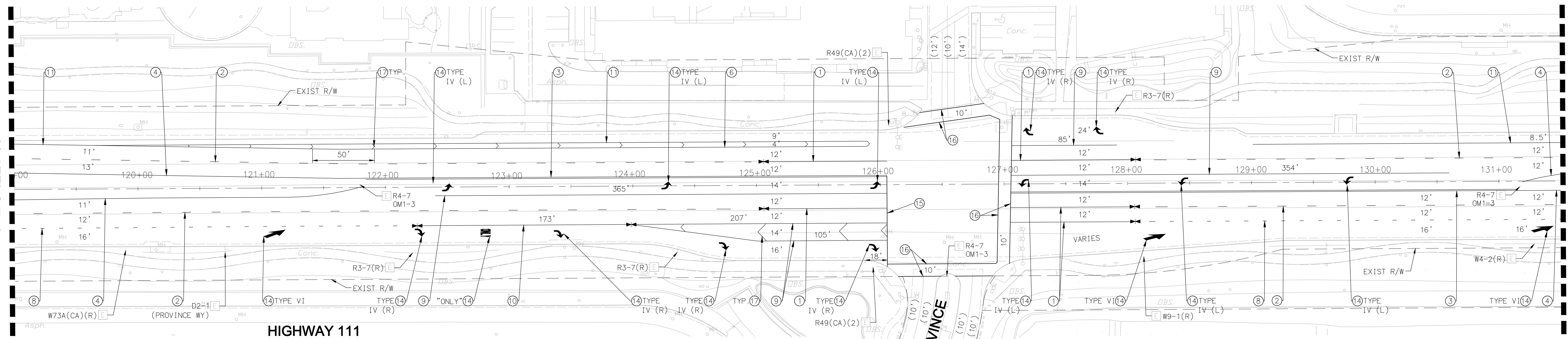
SHEET 11
OF 18 SHEETS
DWG. NAME 186312-PD-R-AB
FILE NO.

MATCHLINE STA. 119+00
SEE SHEET 11

MATCHLINE STA. 131+50
SEE BELOW LEFT

MATCHLINE STA. 131+50
ABOVE RIGHT

MATCHLINE STA. 144+00
SEE SHEET 13



SIGNING AND STRIPING CONSTRUCTION NOTES:

- ① PAINT 6" SOLID WHITE LINE PER DETAIL "A" ON SHEET 11.
- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ③ PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 22.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑤ PAINT 6" WHITE RIGHT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 27B.
- ⑧ PAINT 8" WHITE LANE DROP AT INTERSECTIONS PER CALTRANS STANDARD PLAN A20C 37B.
- ⑨ PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- ⑩ PAINT 8" WHITE CHANNELIZING LINE PER CURRENT CALTRANS STANDARD PLAN A20D DETAIL 38B.
- ⑪ PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.

- ⑬ PAINT 6" LANE LINE EXTENSIONS THROUGH INTERSECTIONS PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 40.
- ⑭ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
- ⑮ PAINT 12" WHITE LIMIT LINE PER CALTRANS STANDARD PLAN A24E.
- ⑯ PAINT 12" WHITE BASIC CROSSWALK PER 2018 CALTRANS STANDARD PLAN A24F AND DETAIL "B" ON SHEET 11.
- ⑰ PAINT 6" WHITE CHEVRONS AS SHOWN ON PLAN.
- ⑱ INSTALL NEW SIGN ON ONE POST AS SHOWN ON PLAN.

GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS.
4. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.

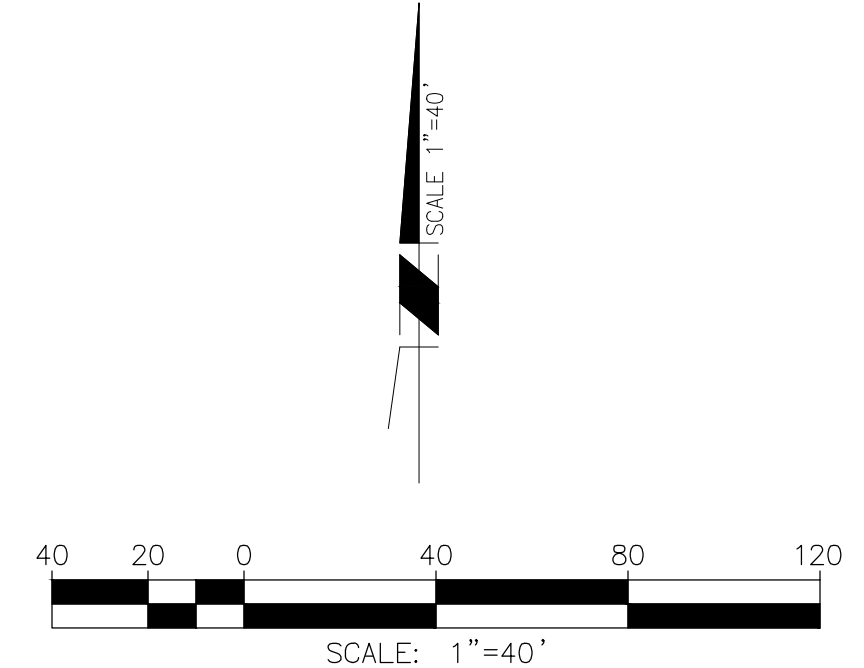
LEGEND:

- E EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- ⊥ EXISTING SIGN (ONE POST)
- ⊥ EXISTING SIGN (DOUBLE POST)
- P EXISTING SIGN (POLE MOUNTED)
- I EXISTING SIGN (PEDESTRIAN BARRICADE)
- ⊥ PROPOSED SIGN (ONE POST)
- ▲ BEGIN/END STRIPING DETAIL
- ▲ CHANGE IN STRIPING DETAIL
- ▲ ANGLE POINT

**City Council of Indian Wells
Acceptance Date**

RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.

MICHAEL BAKER INTERNATIONAL DATE: 12/20/23



DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS
BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24
LEAD AND BRAD IN TOP OF CURB ON THE
SOUTH SIDE OF HIGHWAY 111, 0.50 MILES
EAST OF MANITOU DRIVE, FLUSH
PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED
ON THE LINE BETWEEN NGS STATION "COTD"
AND CSRC STATION "P491" (POSITIONS PER
CALIFORNIA SPATIAL REFERENCE CENTER
(CSRC), NAD83, EPOCH 2009.00) AS SHOWN
ON THE CALIFORNIA SPATIAL REFERENCE
CENTER PUBLISHED DATA SHEETS, BEING
SOUTH 40°16'30".25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker International
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBAKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
STEVEN LATINO DATE: 12/20/2023
R.C.E. 73430

APPROVAL BY: CITY OF INDIAN WELLS DATE: _____

DRAWN	DESIGNED	JOB NUMBER
KM	KM	185312
SCALE	CHECKED	DATE
T=40'	SL	12/20/2023

**HIGHWAY 111 PAVEMENT REHABILITATION
FROM THE WESTERN CITY LIMITS TO THE
EASTERN CITY LIMITS**

**SIGNING AND STRIPING PLAN
PHASE 1**

**CITY OF INDIAN WELLS
DEPARTMENT OF PUBLIC WORKS**

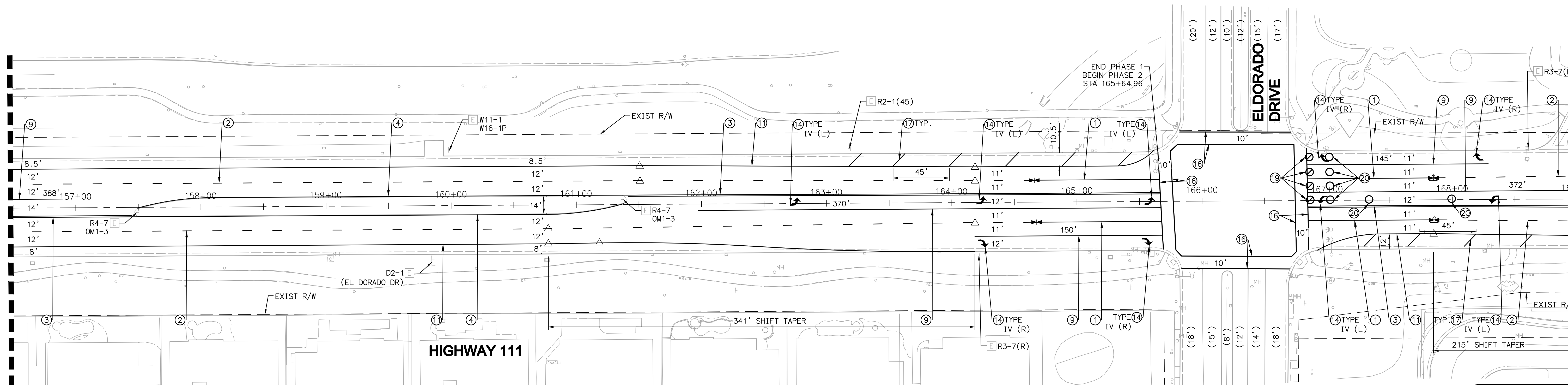
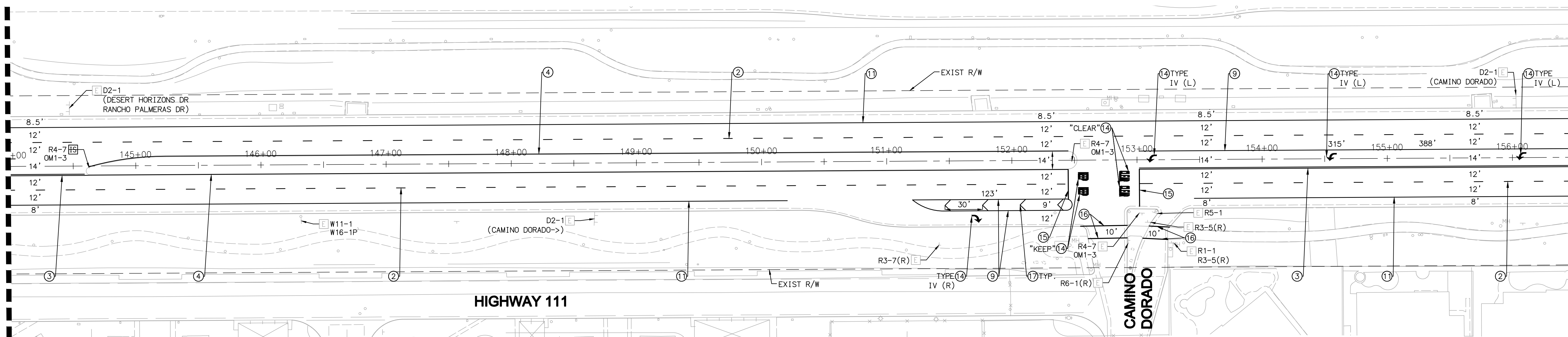
SHEET
12
OF 18 SHEETS
DWG. NAME
185312-PD-12-AB
FILE NO.

MATCHLINE STA. 144+00
SEE SHEET 12

MATCHLINE STA. 156+50
SEE BELOW LEFT

MATCHLINE STA. 156+50
ABOVE RIGHT

MATCHLINE STA. 169+00
SEE SHEET 14



SIGNING AND STRIPING CONSTRUCTION NOTES:

- ① PAINT 6" SOLID WHITE LINE PER DETAIL "A" ON SHEET 11.
- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ③ PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑤ PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- ⑥ PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- ⑦ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
- ⑧ PAINT 12" WHITE BASIC CROSSWALK PER 2018 CALTRANS STANDARD PLAN A24F AND DETAIL "B" ON SHEET 11.
- ⑨ PAINT 6" WHITE CHEVRONS AS SHOWN ON PLAN.

- ⑩ INSTALL TYPE D LOOP DETECTOR, PER 2018 CALTRANS STANDARD PLAN ES-5B. RE-USE EXISTING STUBOUT TO PULL NEW LOOP WIRE TO EXISTING PULL BOX. INSTALL DLC IN EXISTING PULL BOX. IF THE EXISTING CONDUIT FILL EXCEEDS 35% CAPACITY, FURNISH AND INSTALL 1"-1 CELL MAXCELL FABRIC INNERDUCT. PULL NEW DLC THROUGH EXISTING CONDUIT TO THE CONTROLLER CABINET. INSTALL ADDITIONAL DETECTOR CARDS IN EXISTING CONTROLLER CABINET, AS REQUIRED.
- ⑪ INSTALL TYPE E LOOP DETECTOR, PER 2018 CALTRANS STANDARD PLAN ES-5B. RE-USE EXISTING STUBOUT TO PULL NEW LOOP WIRE TO EXISTING PULL BOX. RE-USE EXISTING DLC, AS NECESSARY. INSTALL ADDITIONAL DETECTOR CARDS IN EXISTING CONTROLLER CABINET, AS REQUIRED.

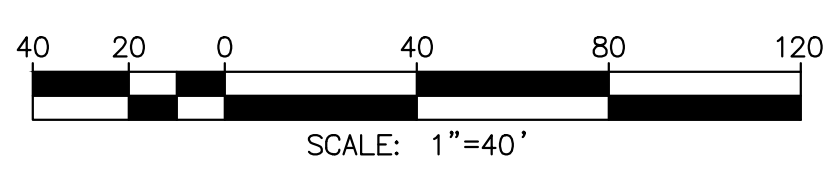
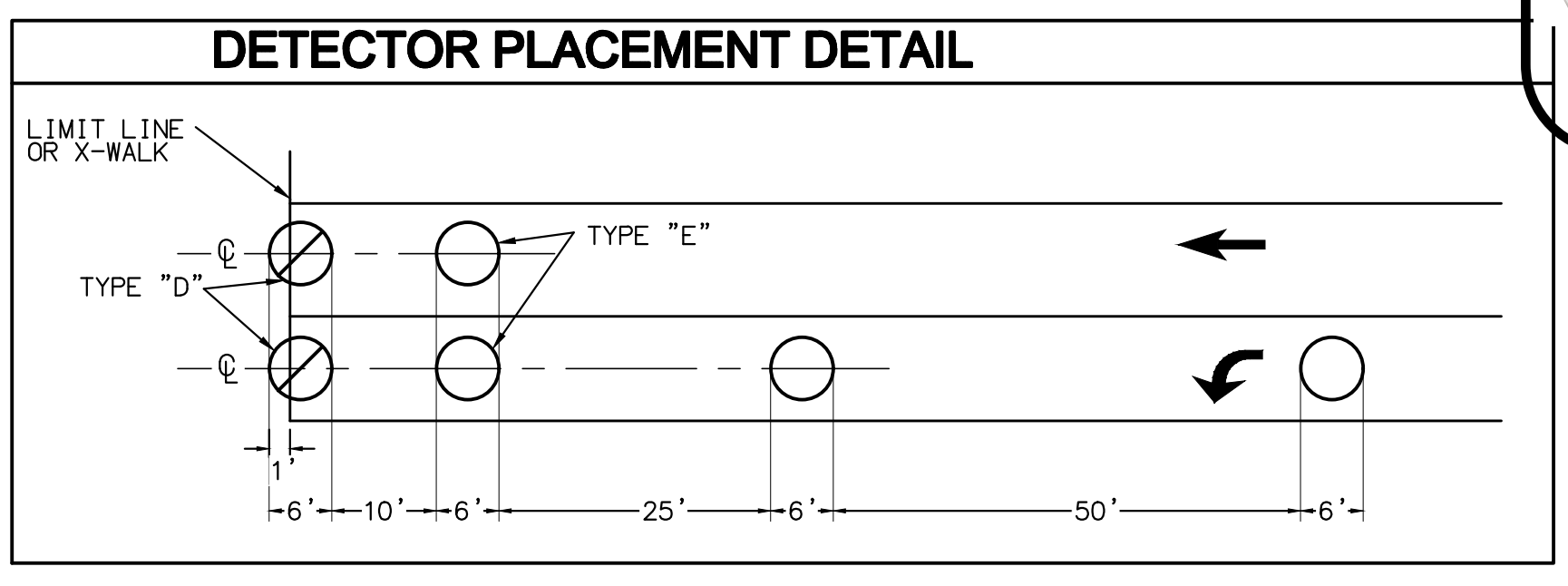
RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

LEGEND:

⊞	EXISTING SIGN TO REMAIN
XX'	EXISTING LANE WIDTH
⊞	EXISTING SIGN (ONE POST)
⊞	EXISTING SIGN (DOUBLE POST)
⊞	EXISTING SIGN (POLE MOUNTED)
⊞	EXISTING SIGN (PEDESTRIAN BARRICADE)
⊞	PROPOSED SIGN (ONE POST)
⊞	BEGIN/END STRIPING DETAIL
⊞	CHANGE IN STRIPING DETAIL
△	ANGLE POINT
⊞	PROPOSED TYPE D VEHICLE LOOP DETECTOR
⊞	PROPOSED TYPE E VEHICLE LOOP DETECTOR

GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.
4. COMBINE ALL THE NEW DLC INSIDE THE 1"-1 CELL MAXCELL FABRIC INNERDUCT PER APPROACH AS NECESSARY.



City Council of Indian Wells
Acceptance Date _____

DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



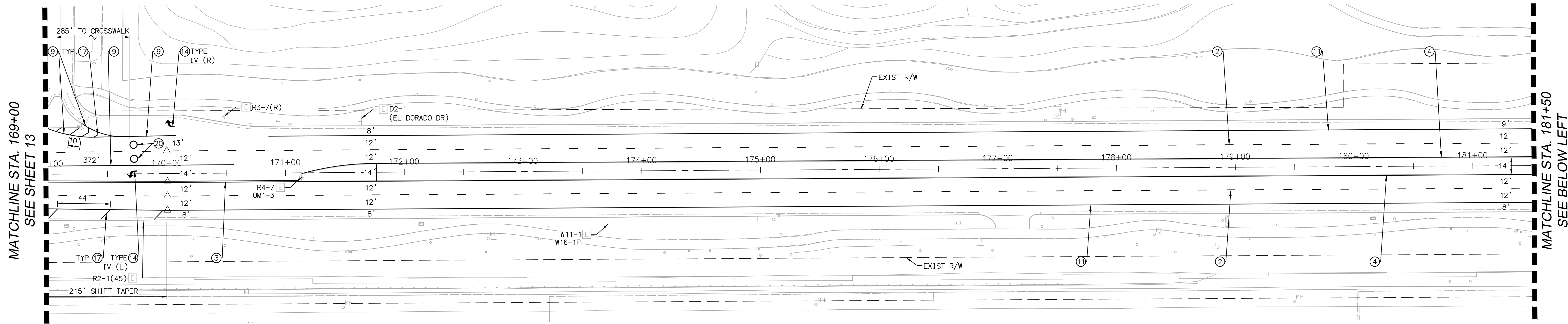
Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 M.BAKER@INTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: _____ CITY OF INDIAN WELLS DATE: _____

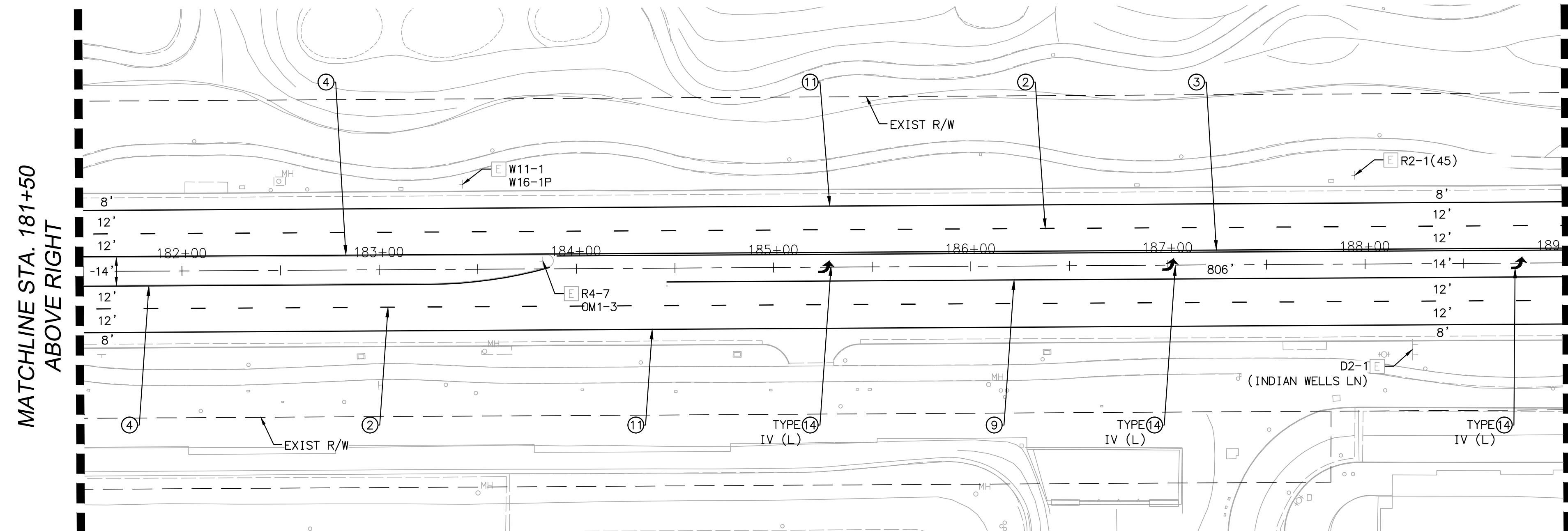
DRAWN	DESIGNED	JOB NUMBER
KM	KM	186312
SCALE	CHECKED	DATE
T=40'	SL	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
SIGNING AND STRIPING PLAN PHASE 1/2
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

SHEET 13
OF 18 SHEETS
DWG. NAME 186312-PD-13-AB
FILE NO.



HIGHWAY 111



HIGHWAY 111

SIGNING AND STRIPING CONSTRUCTION NOTES:

- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ③ PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 22.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑨ PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- ⑩ PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- ⑭ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
- ⑰ PAINT 6" WHITE CHEVRONS AS SHOWN ON PLAN.
- ⑳ INSTALL TYPE E LOOP DETECTOR, PER 2018 CALTRANS STANDARD PLAN ES-5B. RE-USE EXISTING STUBOUT TO PULL NEW LOOP WIRE TO EXISTING PULL BOX. RE-USE EXISTING DLC, AS NECESSARY. INSTALL ADDITIONAL DETECTOR CARDS IN EXISTING CONTROLLER CABINET, AS REQUIRED.

LEGEND:

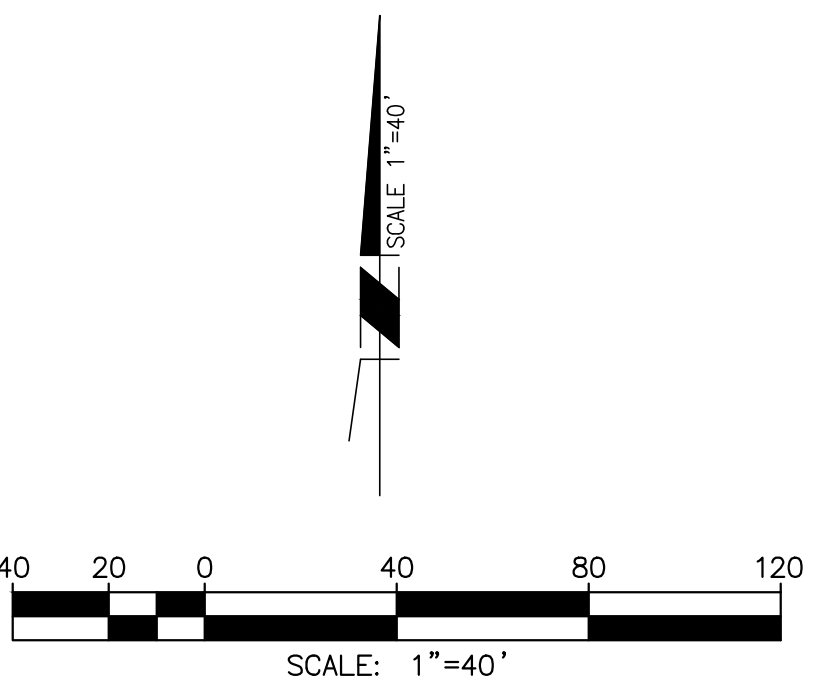
- ⓔ EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- ⊥ EXISTING SIGN (ONE POST)
- ⊥ EXISTING SIGN (DOUBLE POST)
- ⊥ EXISTING SIGN (POLE MOUNTED)
- ⊥ EXISTING SIGN (PEDESTRIAN BARRICADE)
- ⊥ PROPOSED SIGN (ONE POST)
- ⊥ BEGIN/END STRIPING DETAIL
- ⊥ CHANGE IN STRIPING DETAIL
- △ ANGLE POINT
- PROPOSED TYPE E VEHICLE LOOP DETECTOR

GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS.
4. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVEMENT AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.
5. COMBINE ALL THE NEW DLC INSIDE THE 1'-1 CELL MAXCELL FABRIC INTERDUCT PER APPROACH AS NECESSARY.

RECORD DRAWING
 THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

City Council of Indian Wells
Acceptance Date



DIG ALERT
 DIAL TOLL FREE
 1-800-422-4133
 AT LEAST TWO DAYS BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH
 PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 M.BAKER@INTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:
 STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY:	CITY OF INDIAN WELLS
DRAWN:	DATE:
DESIGNED:	JOB NUMBER: 186312
CHECKED:	DATE: 12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
SIGNING AND STRIPING PLAN PHASE 2
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

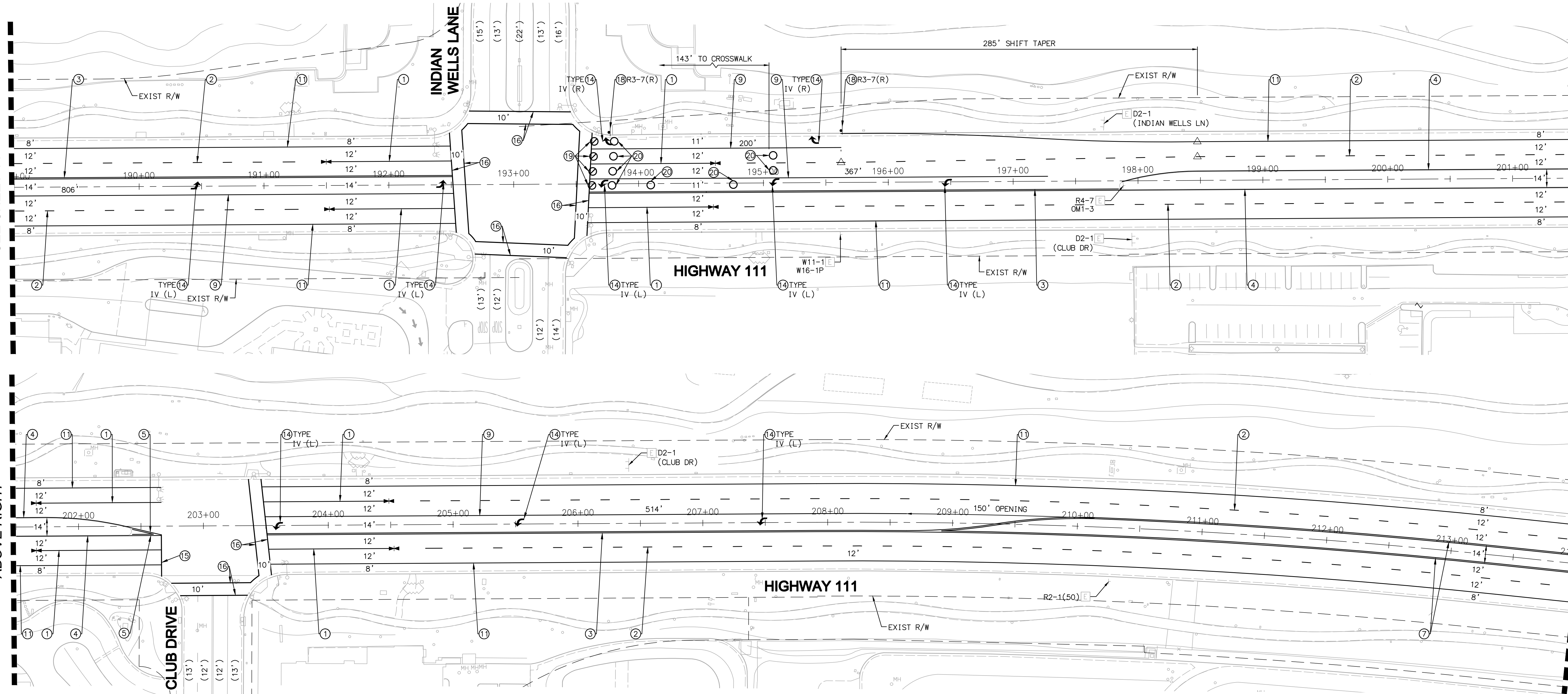
SHEET 14
 OF 18 SHEETS
 DWG. NAME: 185312-PD-14-AB
 FILE NO.

MATCHLINE STA. 189+00
SEE SHEET 14

MATCHLINE STA. 201+50
SEE BELOW LEFT

MATCHLINE STA. 201+50
ABOVE RIGHT

MATCHLINE STA. 214+00
SEE SHEET 16



SIGNING AND STRIPING CONSTRUCTION NOTES:

- ① PAINT 6" SOLID WHITE LINE PER DETAIL "A" ON SHEET 11.
- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ③ PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 22.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑤ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 27.
- ⑦ PAINT 6" YELLOW MEDIAN ISLAND PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 29.
- ⑨ PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- ⑪ PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- ⑭ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
- ⑮ PAINT 12" WHITE LIMIT LINE PER CALTRANS STANDARD PLAN A24E.
- ⑯ PAINT 12" WHITE BASIC CROSSWALK PER 2018 CALTRANS STANDARD PLAN A24F AND DETAIL "B" ON SHEET 11.

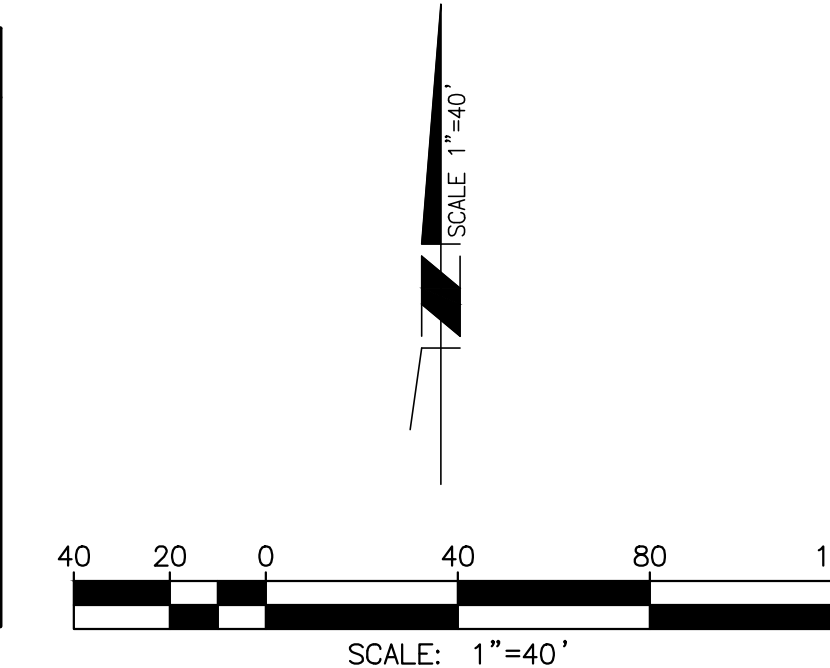
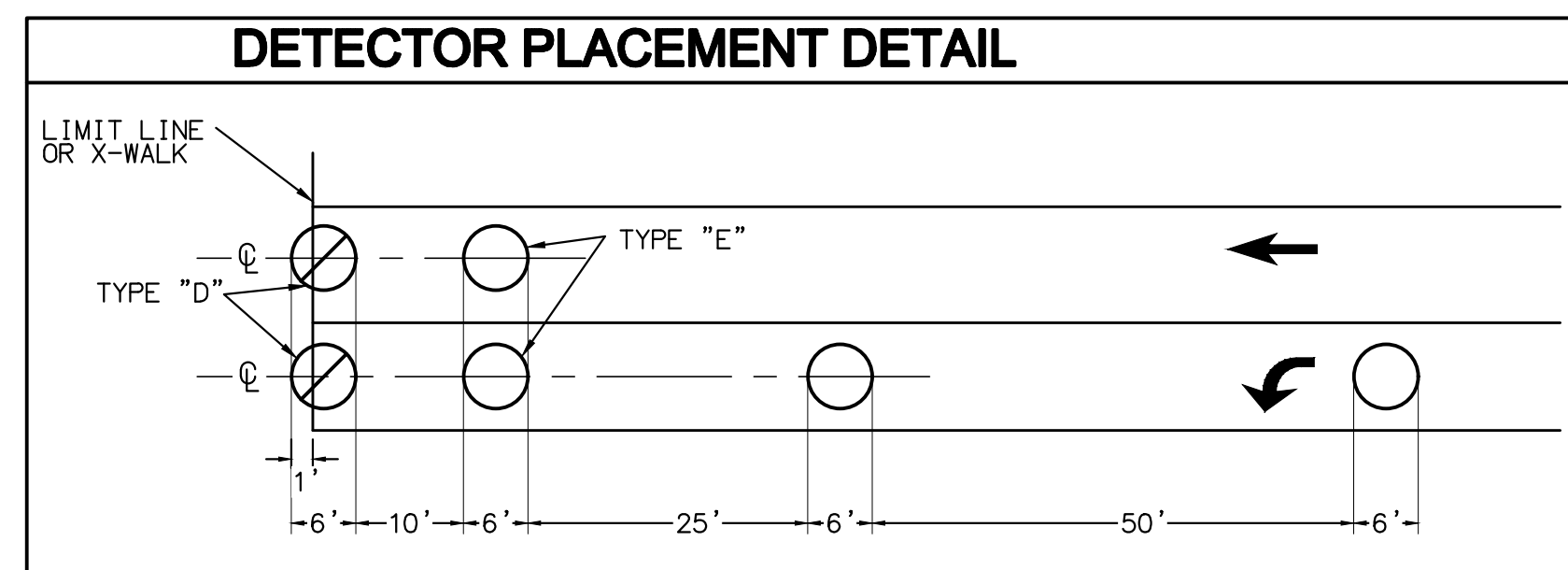
- ⑱ INSTALL NEW SIGN ON ONE POST AS SHOWN ON PLAN
- ⑲ INSTALL TYPE D LOOP DETECTOR, PER 2018 CALTRANS STANDARD PLAN ES-5B. RE-USE EXISTING STUBOUT TO PULL NEW LOOP WIRE TO EXISTING PULL BOX. INSTALL DLC IN EXISTING PULL BOX. IF THE EXISTING CONDUIT FILL EXCEEDS 35% CAPACITY, FURNISH AND INSTALL 1"-1 CELL MAXCELL FABRIC INNERDUCT. PULL NEW DLC THROUGH EXISTING CONDUIT TO THE CONTROLLER CABINET. INSTALL ADDITIONAL DETECTOR CARDS IN EXISTING CONTROLLER CABINET, AS REQUIRED.
- ⑳ INSTALL TYPE E LOOP DETECTOR, PER 2018 CALTRANS STANDARD PLAN ES-5B. RE-USE EXISTING STUBOUT TO PULL NEW LOOP WIRE TO EXISTING PULL BOX. RE-USE EXISTING DLC, AS NECESSARY. INSTALL ADDITIONAL DETECTOR CARDS IN EXISTING CONTROLLER CABINET, AS REQUIRED.

LEGEND:

- E EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- ⊥ EXISTING SIGN (ONE POST)
- ⊥ EXISTING SIGN (DOUBLE POST)
- ⊥ EXISTING SIGN (POLE MOUNTED)
- ⊥ EXISTING SIGN (PEDESTRIAN BARRICADE)
- ⊥ PROPOSED SIGN (ONE POST)
- ⊥ BEGIN/END STRIPING DETAIL
- ⊥ CHANGE IN STRIPING DETAIL
- △ ANGLE POINT
- ⊙ PROPOSED TYPE D VEHICLE LOOP DETECTOR
- PROPOSED TYPE E VEHICLE LOOP DETECTOR

GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS.
4. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.
5. COMBINE ALL THE NEW DLC INSIDE THE 1"-1 CELL MAXCELL FABRIC INTERDUCT PER APPROACH AS NECESSARY.



RECORD DRAWING
THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

City Council of Indian Wells
Acceptance Date

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker INTERNATIONAL
75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 MBAKERINTL.COM
PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY:		CITY OF INDIAN WELLS	
DATE:		DATE:	
DRAWN	DESIGNED	JOB NUMBER	186312
KM	KM	CHECKED	SL
SCALE	T=40'	DATE	12/20/2023

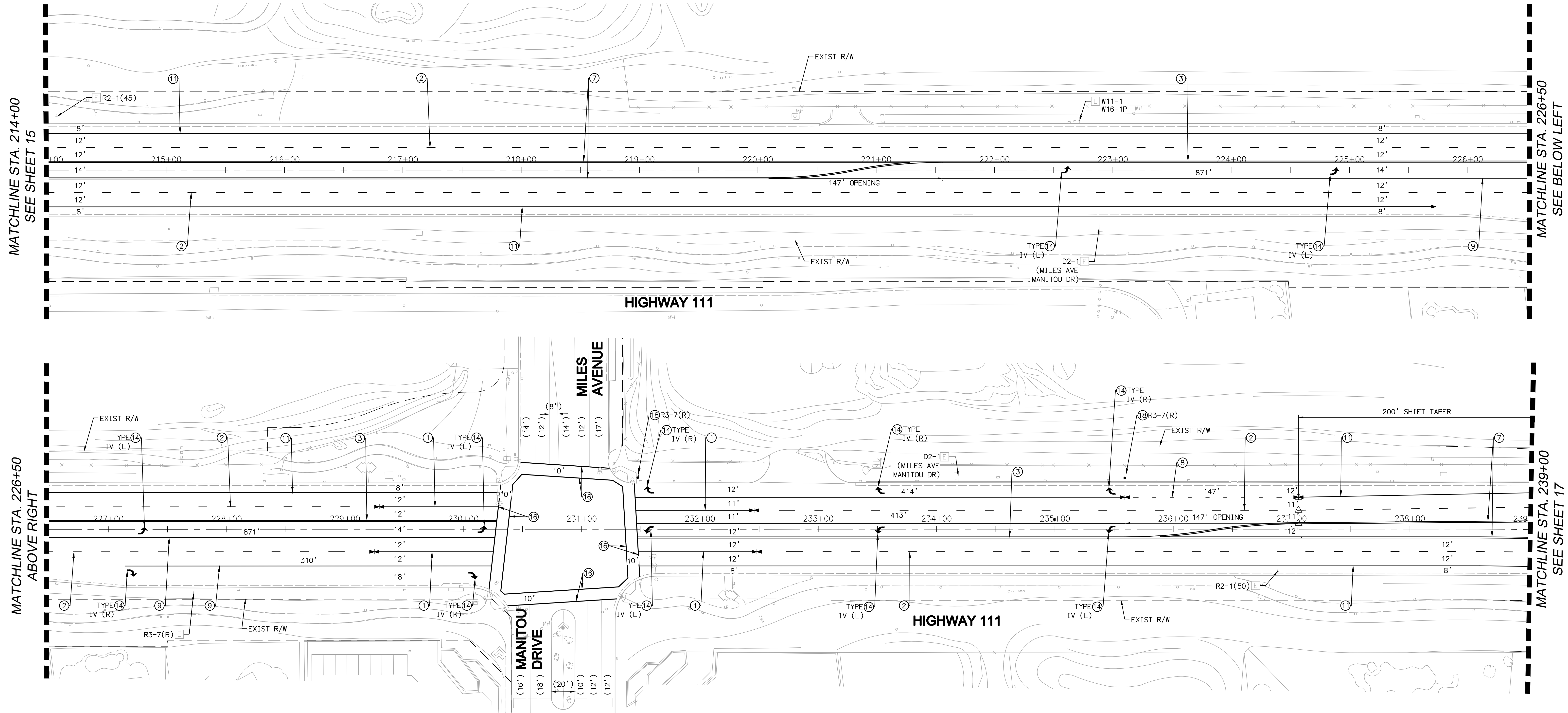
HIGHWAY 111 PAVEMENT REHABILITATION
FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
SIGNING AND STRIPING PLAN
PHASE 2
CITY OF INDIAN WELLS
DEPARTMENT OF PUBLIC WORKS

SHEET
15
OF 18 SHEETS
DWG. NAME
186312-PD-15-AB
FILE NO.

DIG ALERT
DIAL TOLL FREE
1-800-422-4133
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.



SIGNING AND STRIPING CONSTRUCTION NOTES:

- ① PAINT 6" SOLID WHITE LINE PER DETAIL "A" ON SHEET 11.
- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ③ PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 22.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑦ PAINT 6" YELLOW MEDIAN ISLAND PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 29.
- ⑨ PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- ⑩ PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- ⑫ PAINT 6" WHITE INTERSECTION LINE BIKE LANE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39A.
- ⑬ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
PAINT 12" WHITE BASIC CROSSWALK PER 2018 CALTRANS STANDARD PLAN A24F AND DETAIL "B" ON SHEET 11.
- ⑮ INSTALL NEW SIGN ON ONE POST AS SHOWN ON PLAN

LEGEND:

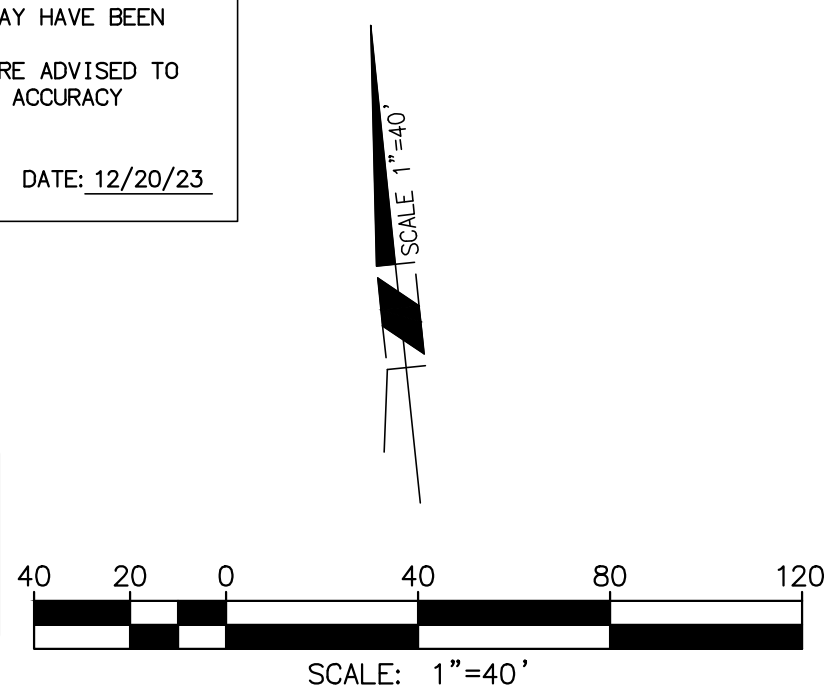
- ☐ EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- ⊥ EXISTING SIGN (ONE POST)
- ⊥ EXISTING SIGN (DOUBLE POST)
- ⊥ EXISTING SIGN (POLE MOUNTED)
- ⊥ EXISTING SIGN (PEDESTRIAN BARRICADE)
- ⊥ PROPOSED SIGN (ONE POST)
- ⊥ BEGIN/END STRIPING DETAIL
- ⊥ CHANGE IN STRIPING DETAIL
- △ ANGLE POINT

GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS.
4. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.

RECORD DRAWING
 THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

City Council of Indian Wells
Acceptance Date



DIG ALERT
 DIAL TOLL FREE
 1-800-422-4133
 AT LEAST TWO DAYS
 BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24
 LEAD AND BRAD IN TOP OF CURB ON THE
 SOUTH SIDE OF HIGHWAY 111, 0.50 MILES
 EAST OF MANITOU DRIVE, FLUSH
 PLAN DATUM: NGVD29
 ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED
 ON THE LINE BETWEEN NGS STATION "COTD"
 AND CSRC STATION "P491" (POSITIONS PER
 CALIFORNIA SPATIAL REFERENCE CENTER
 (CSRC), NAD83, EPOCH 2009.00) AS SHOWN
 ON THE CALIFORNIA SPATIAL REFERENCE
 CENTER PUBLISHED DATA SHEETS, BEING
 SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



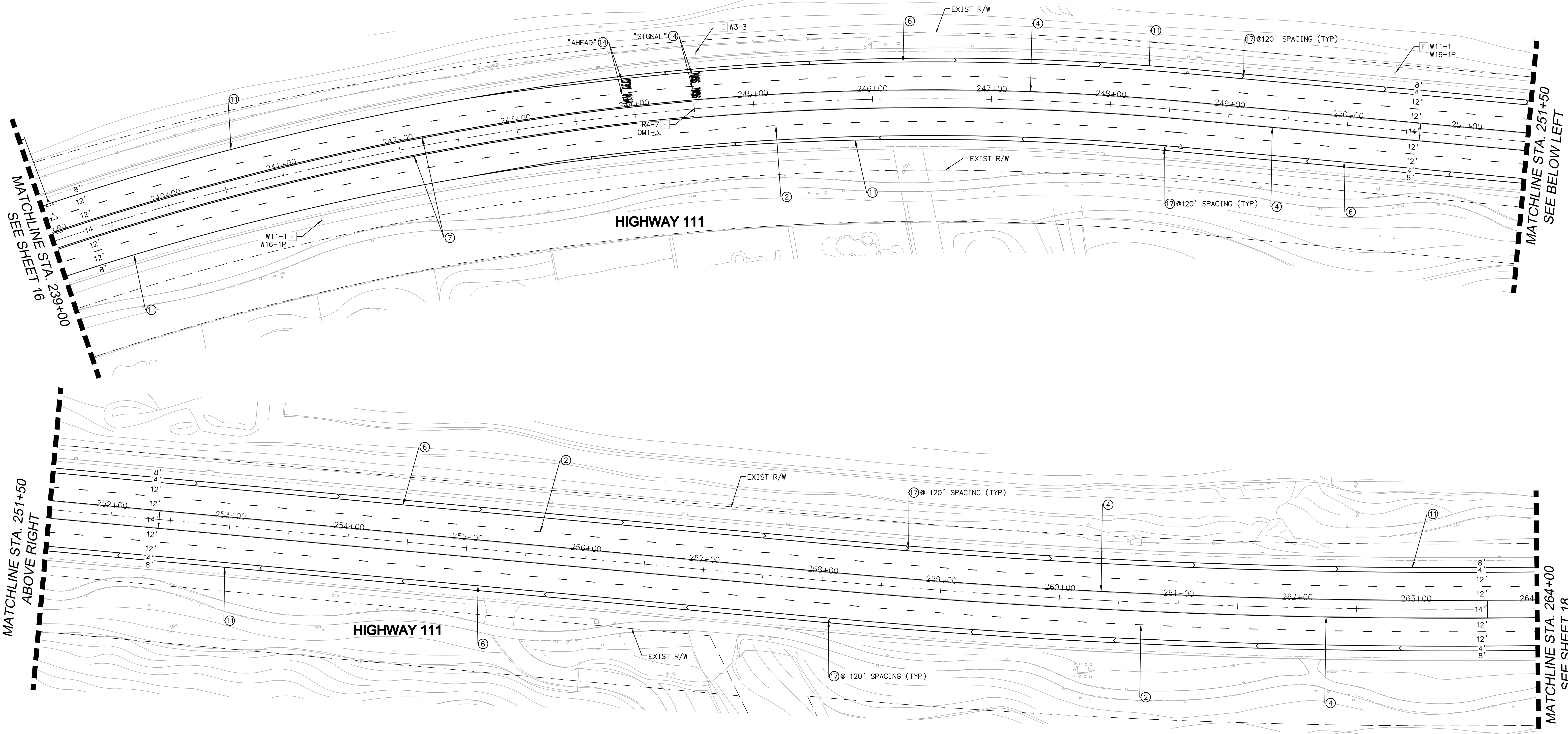
Michael Baker International
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 MBIKERINTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:
 STEVEN LATINO DATE: 12/20/2023
 R.C.E. 73430

APPROVAL BY: CITY OF INDIAN WELLS DATE: _____

DRAWN	DESIGNED	JOB NUMBER
KM	KM	186312
SCALE	CHECKED	DATE
1"=40'	SL	12/20/2023

HIGHWAY 111 PAVEMENT REHABILITATION
 FROM THE WESTERN CITY LIMITS TO THE
 EASTERN CITY LIMITS
SIGNING AND STRIPING PLAN
PHASE 2
CITY OF INDIAN WELLS
 DEPARTMENT OF PUBLIC WORKS

SHEET
16
 OF 18 SHEETS
 DWG. NAME
 186312-PD-16-AB
 FILE NO.



SIGNING AND STRIPING CONSTRUCTION NOTES:

- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑥ PAINT 6" WHITE RIGHT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 27B.
- ⑦ PAINT 6" YELLOW MEDIAN ISLAND PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 29.
- ⑩ PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- ⑬ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.
- ⑰ PAINT 6" WHITE CHEVRONS AS SHOWN ON PLAN.

LEGEND:

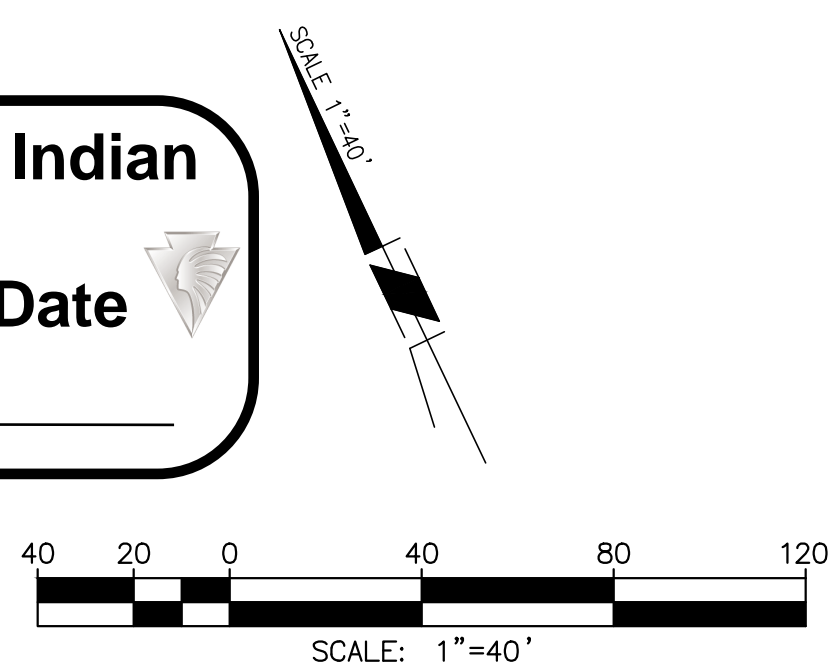
- ⓔ EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- Ⓣ EXISTING SIGN (ONE POST)
- Ⓜ EXISTING SIGN (DOUBLE POST)
- Ⓟ EXISTING SIGN (POLE MOUNTED)
- Ⓡ EXISTING SIGN (PEDESTRIAN BARRICADE)
- Ⓢ PROPOSED SIGN (ONE POST)
- Ⓣ BEGIN/END STRIPING DETAIL
- Ⓤ CHANGE IN STRIPING DETAIL
- △ ANGLE POINT

GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS.
4. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.

RECORD DRAWING
 THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.
 MICHAEL BAKER INTERNATIONAL DATE: 12/20/23

City Council of Indian Wells
Acceptance Date



DIG ALERT
 DIAL TOLL FREE
 1-800-422-4133
 AT LEAST TWO DAYS BEFORE YOU DIG
 UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24
 DESCRIPTION:
 CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29
ELEV. = 93.060'

BASIS OF BEARINGS:
 THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				

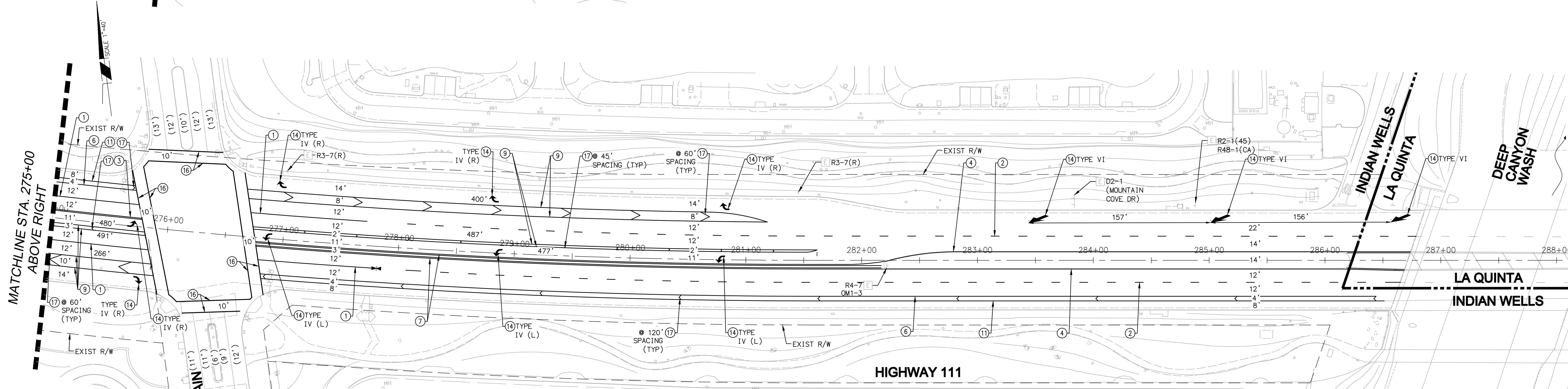
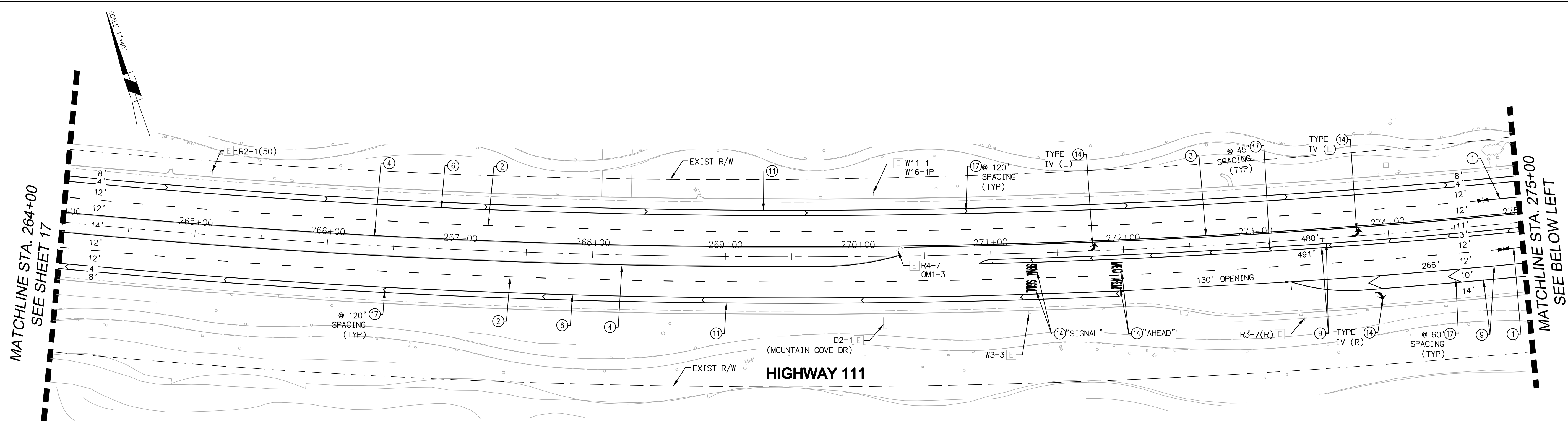


Michael Baker INTERNATIONAL
 75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
 Phone: (760) 7766145 M.BAKER@INTL.COM
 PREPARED UNDER THE DIRECT SUPERVISION OF:
 STEVEN LATINO DATE: 12/20/2023 R.C.E. 73430

APPROVAL BY: _____		CITY OF INDIAN WELLS	
DATE: _____		DATE: _____	
DRAWN: KM	DESIGNED: KM	JOB NUMBER: 185312	
SCALE: T=40'	CHECKED: SL	DATE: 12/20/2023	

HIGHWAY 111 PAVEMENT REHABILITATION FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS
SIGNING AND STRIPING PLAN PHASE 2
CITY OF INDIAN WELLS DEPARTMENT OF PUBLIC WORKS

SHEET 17
 OF 18 SHEETS
 DWG. NAME: 185312-PD-17-AB
 FILE NO. _____



SIGNING AND STRIPING CONSTRUCTION NOTES:

- ① PAINT 6" SOLID WHITE LINE PER DETAIL "A" ON SHEET 11.
- ② PAINT 6" WHITE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20A DETAIL 12.
- ③ PAINT 6" YELLOW NO PASSING ZONES-TWO DIRECTION PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ④ PAINT 6" YELLOW LEFT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 25.
- ⑥ PAINT 6" WHITE RIGHT EDGE LINE PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 27B.
- ⑦ PAINT 6" YELLOW MEDIAN ISLAND PER 2018 CALTRANS STANDARD PLAN A20B DETAIL 29.
- ⑨ PAINT 8" WHITE CHANNELIZING LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 38.
- ① PAINT 6" WHITE BIKE LANE LINE PER 2018 CALTRANS STANDARD PLAN A20D DETAIL 39.
- ⑬ APPLY WHITE THERMOPLASTIC FOR PAVEMENT MARKINGS, LEGENDS, AND ARROWS PER 2018 CALTRANS STANDARD PLANS A24A TO A24E AS SHOWN ON PLAN.

- ⑯ PAINT 12" WHITE BASIC CROSSWALK PER 2018 CALTRANS STANDARD PLAN A24F AND DETAIL "B" ON SHEET 11.
- ⑰ PAINT 6" WHITE CHEVRONS AS SHOWN ON PLAN.

City Council of Indian Wells
Acceptance Date

LEGEND:

- ☐ EXISTING SIGN TO REMAIN
- XX' PROPOSED LANE WIDTH
- (XX') EXISTING LANE WIDTH
- ⊥ EXISTING SIGN (ONE POST)
- ⊥ EXISTING SIGN (DOUBLE POST)
- ⊥ EXISTING SIGN (POLE MOUNTED)
- I EXISTING SIGN (PEDESTRIAN BARRICADE)
- ⊥ PROPOSED SIGN (ONE POST)
- ⊥ BEGIN/END STRIPING DETAIL
- ⊥ CHANGE IN STRIPING DETAIL
- △ ANGLE POINT

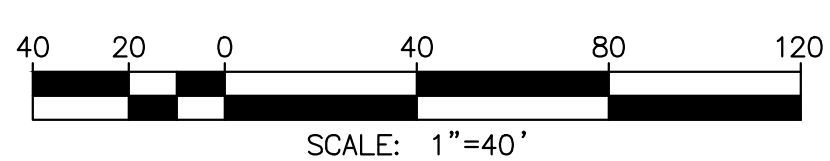
GENERAL NOTES:

1. ALL PAVEMENT MARKINGS WITHIN THE AREA OF SLURRY SEAL SHALL BE REMOVED PRIOR TO THE APPLICATION OF SLURRY.
2. GAP DISTANCE FOR TURN LANE OPENING IS MEASURED FROM THE MEDIAN NOSE TO START OF DETAIL 38.
3. CITY WILL FURNISH ALL REQUIRED SIGNS FOR THE PROJECT. CONTRACTOR WILL FURNISH REMAINING MATERIALS AND PROVIDE INSTALLATION OF THE SIGNS PER THE PLANS. PRIOR TO PLACEMENT OF THE RAISED PAVEMENT MARKERS (RPM'S) ON CONCRETE OR MASONRY PAVER AREAS, THE CONTRACTOR SHALL SANDBLAST THE EXACT LOCATION OF EACH PAVEMENT MARKER.

RECORD DRAWING

THIS RECORD DRAWING HAS BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, THE ENGINEER CANNOT ASSURE ITS ACCURACY, AND THIS IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS RECORD DRAWING OR FOR ANY ERRORS OR OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO IT AS A RESULT. THOSE RELYING ON THIS RECORD DRAWING ARE ADVISED TO OBTAIN INDEPENDENT VERIFICATION OF ITS ACCURACY BEFORE APPLYING IT FOR ANY PURPOSE.

MICHAEL BAKER INTERNATIONAL DATE: 12/20/23



DIG ALERT

DIAL TOLL FREE
1-800-422-4133

AT LEAST TWO DAYS BEFORE YOU DIG

UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

BENCHMARK: BM # 24

DESCRIPTION:
CITY OF INDIAN WELLS BM #24 LEAD AND BRAD IN TOP OF CURB ON THE SOUTH SIDE OF HIGHWAY 111, 0.50 MILES EAST OF MANITOU DRIVE, FLUSH PLAN DATUM: NGVD29

ELEV. = 93.060'

BASIS OF BEARINGS:

THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN NGS STATION "COTD" AND CSRC STATION "P491" (POSITIONS PER CALIFORNIA SPATIAL REFERENCE CENTER (CSRC), NAD83, EPOCH 2009.00) AS SHOWN ON THE CALIFORNIA SPATIAL REFERENCE CENTER PUBLISHED DATA SHEETS, BEING SOUTH 40°16'30.25" EAST.

DATE	BY	DESCRIPTION	APP'D	DATE
REVISIONS				



Michael Baker International

75-410 Gerald Ford Drive, Suite 100, Palm Desert, CA 92211
Phone: (760) 7766145 M.BAKER@INTL.COM

PREPARED UNDER THE DIRECT SUPERVISION OF:
Steven Latino
STEVEN LATINO DATE: 12/20/2023
R.C.E. 73430

APPROVAL BY:		CITY OF INDIAN WELLS	
KEM A. SEUMALO, PE PUBLIC WORKS DIRECTOR R.C.E. NO. 56915		DATE: _____	
DRAWN	DESIGNED	JOB NUMBER	185312
KM	KM	DATE	12/20/2023
SCALE	CHECKED	SL	
T=40'			

HIGHWAY 111 PAVEMENT REHABILITATION
FROM THE WESTERN CITY LIMITS TO THE EASTERN CITY LIMITS

SIGNING AND STRIPING PLAN
PHASE 2

CITY OF INDIAN WELLS
DEPARTMENT OF PUBLIC WORKS

SHEET
18
OF 18 SHEETS

DWG. NAME
185312-PD-18-AB

FILE NO.

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Community Development Department
Prepared by: Jon Berg, Community Development Director
Subject: **Ordinance Amending the City’s Zoning Code Relating to City Landscape Requirements and Finding the Action Exempt from CEQA**

RECOMMENDED ACTIONS:

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

FINDS that the ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15304, where the proposed amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment; and

INTRODUCES Ordinance to be read by title only and further reading waived, amending Sections 21.60.020, 21.60.080, 21.90.030 and adding Section 21.60.085 to the Zoning Code relating to the City’s landscape regulations.

BACKGROUND:

The process of amending the City’s landscape ordinance has been comprehensive, involving multiple study sessions, public hearings, and collaborative efforts between the Planning Commission, City Council, and Community stakeholders. After three (3) separate study sessions with the community, the Planning Commission held a duly noticed Public Hearing on October 26, 2023 on the proposed amendments and additions to the City’s landscape ordinance. At the hearing, the Planning Commission unanimously recommended approval to City Council via Resolution No. PC 2023-07 with four (4) recommendations (Attachment 1).

The City Council, in its December 7, 2023, meeting, expressed general support for the ordinance and its proposed amendments. However, concerns were raised by Council members about applying the landscape standards to gated communities and working with the property owners recently identified as being out of compliance with the current regulations. In that regard, staff presented Council with some optional policies aimed at

easing the transition for residents, focusing the applicability, and providing an administrative review and approval process for minor deviations to the landscape standards. The optional policies for Council's consideration; included:

1. Rescinding all recent notices sent out to property owners found to be in non-compliance with the current landscape standards.
2. Applying the City's landscape standards to the following within all areas of the City that are not part of a Common Interest Development:
 - a. All new landscape or remodeled landscape projects on or after January 1, 2024 that affect more than 250 square feet (sf); and
 - b. All properties that, as of December 1, 2023, have within fewer than two (2) plants per 100 sf or that have less than 50 percent coverage with city-approved groundcover (organic or inorganic).
3. Allowing any property owner to apply for an administrative landscape-exception from the Community Development Director, with appeal to the City's Design Review Committee ("DRC").

The primary intent of the optional policy considerations would allow Common Interest Developments ("CID" also referred to as homeowner associations) within gated communities the ability to regulate and enforce their own landscape standards, considering they are not visible from public views. The new landscape standards would, therefore, only apply to areas outside of gated communities which are visible from the public rights-of-way ("ROW").

The policy option also considered classifying existing property with two (2) plants per 100 sf prior to December 1, 2023, as "existing non-conforming properties" (commonly referred to as "grandfathered"). These grandfathered properties would essentially be allowed to maintain their landscaped areas in their existing condition, until they remodel more than 250 sf, at which time they would be required to bring their grandfathered properties into compliance with the City's new landscape standards and permit requirements.

The optional policy also put forth an administrative landscape exception process, intended to allow property owners the ability to request an administrative review process to consider deviation from the City's landscape standards if they substantially comply with the intent of the Code and provide a justifiable reason (refer to Attachment 3 – Section 21.60.085(d)(6)). This would provide property owners with some flexibility, as the City transitions towards more drought tolerant landscaping, by accommodating unique circumstances, design preferences, and pre-existing landscaped areas.

During the December 7th Council Hearing, Council voted to rescind notices sent to property owners previously identified as non-compliant and expressed support for adopting the ordinance with the alternative policy considerations contingent upon the Planning Commission's review of the proposed revisions. Ultimately, Council directed staff to bring the ordinance back to Planning Commission to present the optional policies for their review and consideration before moving forward with formal adoption of the ordinance.

Planning Commission Review and Recommendation: The Planning Commission held a Public Hearing on December 28, 2023, where staff presented the optional policy considerations supported by the City Council as stated above. In addition to presenting the City Council's optional policy considerations, staff also presented a recommended change to the exemption language for CIDs which clarifies the intent for exempting landscape areas within homeowner associations, not visible to public views. The clarifying language amendment ensures the City's landscape standards apply to all homeowner association landscape frontages along public roadways (visible from ROW), as well as those properties within gated communities that are not part of a CID (Attachment 7). The recommended change presented to the Commission included a slight amendment to the optional policy language initially reviewed by Council, as follows (*italicized*):

1. Applying the City's landscape standards to the following within all areas of the City *except* common interest development *areas that are not visible from the public right-of-way*:
 - c. All new landscape or remodeled landscape projects on or after January 1, 2024 that affect more than 250 square feet (sf); and
 - d. All properties that, as of December 1, 2023, have within fewer than two plants per 100 sf or that have less than 50 percent coverage with city-approved groundcover (organic or inorganic).
2. Allowing any property owner to apply for an administrative landscape-exception from the Community Development Director, with appeal to the City's Design Review Committee ("DRC").

The Planning Commission's recommendation through PC Resolution 2023-10 (Attachment 2), agrees to the optional policies supported by Council (with staff's clarifying language amendment), except for the policy which would allow property owners with "2 plants per 100 sf" prior to December 1, 2023, to be considered "grandfathered." Instead, the Planning Commission voted 3 to 2 in favor of reinstating their original recommendation for having a "legally established and permitted" landscape be considered the qualifier for grandfathering status. Implementing the grandfathering policy as recommended by the Planning Commission means that properties visible from the public ROW, and properties

within gated communities which are not part of a CID, would need to have a minimum of three (3) plants per 100 sf -or- have a valid permit consistent with their existing landscaping once the ordinance takes effect. The properties identified as noncompliant would be given a 12-month period to complete a landscape project or amend their existing landscaping in conformance with the new standards, or alternatively they could seek an administrative landscape exception under the new landscape ordinance.

OPTIONS:

The Planning Commission recommended City Council adopt the ordinance with the optional policies previously reviewed by Council at their December 7, 2023 meeting, with staff's language amendment clarifying the CID exemption, but recommended excluding the 2 plants per 100 sf and replacing it with their previous recommendation for only allowing legally established and permitted landscapes (legal non-conforming) to be considered grandfathered. The following options are available for Council's consideration and formal adoption:

1. Approve Planning Commission's recommendation for adopting the Ordinance with the updated policies that includes staff's minor language amendment clarifying the CID exemption, and includes their recommended grandfathering policy for legal non-conforming properties; or
2. Approve Planning Commission's recommendation for adopting the Ordinance with the updated policies that includes staff's minor language amendment clarifying the CID exemption, and includes an alternative grandfathering policy for properties with 2 plants per 100 sf; or
3. Approve either scenario above, without staff's minor language amendment clarifying the CID exemption; or
4. Provide alternative direction.

FISCAL IMPACT:

No fiscal impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This action has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City acting as Lead Agency, has determined the ordinance is exempt from the California Environmental Quality Act

("CEQA") pursuant to Section 15304, where the proposed ordinance amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment. Alternatively, it has determined the ordinance amendment is exempt from CEQA per CEQA Guidelines Section(s) 15307 and 15308 as actions taken by regulatory agencies, as authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource.

ATTACHMENTS:

1. Resolution No. PC 2023-07
2. Resolution No. PC 2023-10
3. Planning Commission Supported Draft Ordinance
4. Planning Commission Code Amendments (Track Changes)
5. Alternative Draft Ordinance
6. Alternative Code Amendments (Track Changes)
7. Landscape areas included by Staff's Clarifying Language Amendment

RESOLUTION NO. PC 2023-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF INDIAN WELLS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING SECTIONS 21.60.020, 21.60.080, 21.90.030 AND ADDING SECTION 21.60.085 TO THE CITY ZONING CODE RELATING TO CITY LANDSCAPE REQUIREMENTS PURSUANT TO AN EXEMPTION FROM CEQA

WHEREAS, the City of Indian Wells (City), the Coachella Valley, and the larger Southern California region have experienced three (3) consecutive years of drought conditions dating back to 2020; and

WHEREAS, on April 21, 2021, California Governor Gavin Newsom issued Executive Order N-7-22, declaring a State of Emergency in California due to severe drought conditions and calling on Californians to reduce their water usage; and

WHEREAS, due to recent rainfall totals and rising reservoir levels throughout the State, Governor Gavin Newsome issued Executive Order N-5-23 on March 24, 2023, declaring an ease of water restrictions in California, while still maintaining water conservation initiatives related to landscaping and irrigation requirements; and

WHEREAS, the local water authority for the City of Indian Wells, the Coachella Valley Water District (CVWD), has taken several steps to support California's water conservation landscape initiatives, including encouraging customers to replace water-intensive landscaping with drought-tolerant plants and install efficient irrigation systems through regulations, incentives, and education programs; and

WHEREAS, the City, recognizing the merit for being good stewards of water resources held a joint study session on June 14, 2023, between the City Council and Planning Commission, to discuss opportunities for conserving water through potential modifications to the City's landscaped regulations; and

WHEREAS, during the joint study session, the City Council instructed City staff to review the City's landscape ordinance with a professional landscape consultant and work with the Planning Commission and community to develop new regulations aimed at conserving water through landscape coverage requirements, irrigation techniques, and landscape design guidelines; and

WHEREAS, the Planning Commission held three (3) separate study sessions with the community and the City's professional landscape consultant to discuss and develop potential revisions and additions to the City's landscape ordinance; and

WHEREAS, on October 12, 2023, the City noticed the Planning Commission public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on October 26, 2023, the City's Planning Commission conducted a duly noticed public hearing to consider the proposed ordinance, which would amend Sections 21.60.020, 21.60.080, 21.90.030 and add Section 21.60.085 to the City's Zoning Code related to

landscape requirements by clarifying existing regulations and adopt new revisions to the City's landscape ordinance; and

WHEREAS, the Planning Commission has considered the staff report, supporting documents, public testimony, and all appropriate information that has been submitted with the proposed ordinance; and

WHEREAS, During the Planning Commission hearing, the Planning Commission adopted unanimous amendments to the Resolution by recommending the following to the City Council:

1. Consideration of a policy that requires all properties found to be in violation of the City's current Landscape Ordinance during the City's recent code enforcement campaign conducted between May and June, 2023, commit to a timeline for bringing their landscaped areas into compliance with the new Landscape Ordinance as follows:
 - a. Submit an application (no fee) or begin working with staff on a plan for compliance within a 30-day period once the new Landscape Ordinance takes effect; and
 - b. Complete their landscape project within a 12-month period after the new Landscape Ordinance takes effect.
2. Provide better clarification and simplify the legal nonconforming language within the new Landscape Ordinance to include the term "grandfathered" and provide an example of legal nonconforming landscape projects; and
3. Include measures in the new Landscape Ordinance that will help prevent mosquito breeding and vector issues; and
4. Consider allocating funds for the production of an informational video to help illustrate and guide residents to better understand the new landscape standards and design principals, and make it readily available on the City's website.

NOW, THEREFORE, the Planning Commission of the City of Indian Wells does hereby resolve, determine, find, and order as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

Section 2. CEQA. This action has been reviewed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as the Lead Agency, has determined the ordinance amendment is exempt from CEQA pursuant to Section 15304, where the proposed amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment. Alternatively, it has determined the ordinance amendment is exempt from CEQA per CEQA Guidelines Section(s) 15307 and 15308 as actions taken by regulatory agencies, as

authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource.

Section 3. General Plan. Based on the entire record before the Planning Commission, and all written and oral evidence presented, the Planning Commission hereby finds that the proposed water efficient landscape amendments to the City's Zoning Code are consistent with stated goals and policies in the City's adopted General Plan, including General Plan Policy(s) 11.A1.18(1) which aims to promote water efficient landscaping and other methods to support environmental conservation goals; Policy IIIA8.3 which aims to incorporate water-wise native landscaping or alternative water saving materials (i.e., artificial turf) whenever feasible within the City, and; Water Conservation Goal IIIA5 which aims to protect and maintain safe and adequate water supply to ensure that the City's growing demand for water can be met in a sustainable manner.

Section 4. Recommendation. Based on the foregoing recitals, the Planning Commission hereby recommends that the City Council approve and adopt the proposed ordinance and code amendments attached hereto and incorporated by reference herein.

Section 5. Certification. The Planning Commission Chair shall sign and the Community Development Director shall attest to the adoption of this Resolution.

Section 6. Effective Date. This Resolution takes effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Indian Wells, California, at a regular meeting held on this 26th day of October 2023.

E-SIGNED by Nicholas Conway
on 2023-11-15 16:04:58 GMT

NICHOLAS CONWAY
CHAIR

CERTIFICATION FOR RESOLUTION NO. PC 2023-07

I, Jon Berg, Community Development Director of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the Planning Commission consists of five (5) members; that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the Planning Commission of the City of Indian Wells on the 26th day of October 2023, by the following vote:

AYES: **Bahneman, Conway, Schleimer, Schubert, Welch**
NOES: **None**

ATTEST:

E-SIGNED by Jon Berg
on 2023-11-15 16:11:13 GMT

JON BERG
COMMUNITY DEVELOPMENT DIRECTOR

APPROVED AS TO FORM:

E-SIGNED by Craig Hayes
on 2023-11-15 16:12:48 GMT

CRAIG HAYES
CITY ATTORNEY

RESOLUTION NO. PC 2023-10**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF INDIAN WELLS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING SECTIONS 21.60.020, 21.60.080, 21.90.030 AND ADDING SECTION 21.60.085 TO THE CITY ZONING CODE RELATING TO CITY LANDSCAPE REQUIREMENTS; AND FINDING THE ACTION TO BE CATEGORICALLY EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City of Indian Wells, the Coachella Valley, and the larger Southern California region have experienced three consecutive years of drought conditions dating back to 2020; and

WHEREAS, on April 21, 2021, California Governor Gavin Newsom issued Executive Order N-7-22, declaring a State of Emergency in California due to severe drought conditions and calling on Californians to reduce their water usage; and

WHEREAS, due to recent rainfall totals and rising reservoir levels throughout the State, Governor Gavin Newsome issued Executive Order N-5-23 on March 24, 2023, declaring an ease of water restrictions in California, while still maintaining water-conservation initiatives related to landscaping and irrigation requirements; and

WHEREAS, the local water authority for the City of Indian Wells, the Coachella Valley Water District, has taken several steps to support California's water-conservation landscape initiatives, including encouraging customers to replace water-intensive landscaping with drought-tolerant plants and install efficient irrigation systems through regulations, incentives, and education programs; and

WHEREAS, the City, recognizing the importance of being a good steward of water resources held a joint study session on June 14, 2023, between the City Council and Planning Commission, to discuss opportunities for conserving water through potential modifications to the City's landscape regulations; and

WHEREAS, during the joint study session, the City Council instructed City staff to review the City's landscape ordinance with a professional landscape consultant and work with the Planning Commission and community to develop new regulations aimed at conserving water through landscape-coverage requirements, irrigation techniques, and landscape-design guidelines; and

WHEREAS, the Planning Commission held three separate study sessions with the community and the City's professional landscape consultant to discuss and develop potential revisions and additions to the City's landscape ordinance; and

WHEREAS, on October 12, 2023, the City noticed the Planning Commission's first public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on October 26, 2023, the City's Planning Commission conducted its first public hearing to consider the proposed ordinance, which would amend Sections 21.60.020, 21.60.080, 21.90.030 and add Section 21.60.085 to the City's Zoning Code related to landscape requirements by clarifying existing regulations and adopting new revisions to the City's landscape ordinance; and

WHEREAS, During the Planning Commission's first public hearing, the Planning Commission unanimously recommended amendments to the proposed ordinance to include the following:

1. Consideration of a policy that requires all properties found to be in violation of the City's current Landscape Ordinance during the City's recent code enforcement campaign conducted between May and June, 2023, to come into full compliance; commit to a timeline for bringing all landscaped areas into compliance with the new Landscape Ordinance as follows:
 - a. Submit an application (no fee) or begin working with staff on a plan for compliance within a 30-day period once the new Landscape Ordinance takes effect; and
 - b. Complete their compliant landscape project within a 12-month period after the new Landscape Ordinance takes effect; and
2. Provide better clarification and simplify the legal nonconforming language within the new Landscape Ordinance to include the term "grandfathered" and provide an example of legal nonconforming landscape projects; and
3. Include measures in the new Landscape Ordinance that will help prevent mosquito breeding and vector issues; and
4. Consider allocating funds for the production of an informational video to help illustrate and guide residents to better understand the new landscape standards and design principles, and make it readily available on the City's website; and

WHEREAS, on November 21, 2023, the City noticed the City Council's first public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on December 7, 2023, the City Council conducted its first public hearing to consider the Planning Commission's recommendation to adopt the ordinance, including the Commission's recommended amendments to the proposed ordinance; and

WHEREAS, after considering staff's presentation and public testimony, the City Council deliberated on the Planning Commission's recommended amendment to enforce a timeline for properties recently found not to be in compliance with the current landscape code, and

WHEREAS, after much deliberation, City Council directed staff to rescind all recent Notices of Violation to property owners found not be in compliance with the current landscape code, and bring the ordinance back to Planning Commission for consideration of an optional enforcement policy provided by staff; and

WHEREAS, on December 14, 2023, the City noticed the Planning Commission’s second public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on December 28, 2023, the City’s Planning Commission conducted its second public hearing to reconsider the proposed ordinance, which would amend Sections 21.60.020, 21.60.080, 21.90.030 and add Section 21.60.085 to the City’s Zoning Code related to landscape requirements and clarify regulations for existing properties found not to be in compliance with the current landscape codes; and

WHEREAS, during the Planning Commission’s second public hearing, the Commission, by a 3 to 2 vote, recommended the proposed ordinance for Council adoption with the following amendments:

1. Include minor language modification clarifying the application of the landscape ordinance to all areas of the City except common interest development areas that are not visible from the public rights-of-way; and
2. Remove the requirement in Section 21.60.085(b)(2) that classifies existing properties with two plants per 100 sq. ft. prior to December 1, 2023, as grandfathered properties; and replace it with a policy that exempts legally established nonconforming landscapes from the ordinance’s new requirements until a modification or changeout exceeding 250 sq. ft. wherein the new regulations will apply; and
3. Maintain the Planning Commission’s other amendments that it recommended at the Commission’s first public hearing; and

WHEREAS, the Planning Commission has considered the staff report, supporting documents, public testimony, and all appropriate information that has been submitted with the proposed ordinance.

NOW, THEREFORE, the Planning Commission of the City of Indian Wells does hereby resolve, determine, find, and order as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

Section 2. CEQA. This action has been reviewed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as the Lead Agency, has determined the ordinance amendment is exempt from CEQA pursuant to Section 15304, where the proposed amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment. Alternatively, it has determined the ordinance amendment is exempt from CEQA per CEQA Guidelines Section(s) 15307 and 15308 as actions taken by regulatory agencies, as authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource.

Section 3. General Plan. Based on the entire record before the Planning Commission, and all written and oral evidence presented, the Planning Commission hereby finds that the proposed water efficient landscape amendments to the City's Zoning Code are consistent with stated goals and policies in the City's adopted General Plan, including General Plan Policy 11.A1.18(1), which aims to promote water efficient landscaping and other methods to support environmental conservation goals; Policy IIIA8.3, which aims to incorporate water-wise native landscaping or alternative water saving materials (i.e., artificial turf) whenever feasible within the City, and; Water Conservation Goal IIIA5, which aims to protect and maintain safe and adequate water supply to ensure that the City's growing demand for water can be met in a sustainable manner.

Section 4. Recommendation. Based on the foregoing recitals, the Planning Commission hereby recommends that the City Council approve and adopt the proposed ordinance, with the Commission's recommended amendments, as attached hereto and incorporated by reference herein.

Section 5. Certification. The Planning Commission Chair shall sign and the Community Development Director shall attest to the adoption of this Resolution.

Section 6. Effective Date. This Resolution takes effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Indian Wells, California, at a regular meeting held on the 28th day of December 2023.

E-SIGNED by Nicholas Conway
on 2024-01-08 15:28:52 PST

NICHOLAS CONWAY
CHAIR

CERTIFICATION FOR RESOLUTION NO. PC 2023-10

I, Jon Berg, Community Development Director of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the Planning Commission consists of five (5) members; that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the Planning Commission of the City of Indian Wells on the 28th day of December 2023, by the following vote:

AYES: CONWAY, WELCH, AND SCHUBERT
NOES: SCHLEIMER AND BAHNEMAN

ATTEST:

APPROVED AS TO FORM:

E-SIGNED by Jon Berg
on 2024-01-08 16:18:59 PST

E-SIGNED by Todd Leishman
on 2024-01-08 17:02:52 PST

JON BERG
COMMUNITY DEVELOPMENT DIRECTOR

_____ for
BEST BEST & KRIEGER LLP
CITY ATTORNEY

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS AMENDING SECTIONS 21.60.020, 21.60.080, 21.90.030 AND ADDING SECTION 21.60.085 TO THE CITY ZONING CODE RELATING TO CITY LANDSCAPE REQUIREMENTS; AND FINDING THE ACTION TO BE CATEGORICALLY EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Indian Wells, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City has the authority under Article 11, Section 5 of the California Constitution and the City Charter to make, amend, and enforce all ordinances and regulations with respect to municipal affairs; and

WHEREAS, the City desires and intends to amend Section(s) 21.60.020, 21.60.080, 21.90.030 and add Section 21.60.085 to the City's Zoning Code to clarify existing regulations and adopt new regulations related to the City's landscape requirements; and

WHEREAS, the Planning Commission held three (3) separate study sessions with the community and the City's professional landscape consultant to discuss potential revisions to the city's landscape regulations at which time all persons wishing to be heard were afforded an opportunity to be heard; and

WHEREAS, on October 12, 2023, the City gave public notice of a Planning Commission public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on October 26, 2023, the Planning Commission held its first public hearing to consider the staff report, recommendations by staff, and public testimony concerning this Ordinance. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on November 21, 2023 the City gave public notice of a City Council public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on December 7, 2023, the City Council held its first public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendation by the City's Planning Commission; and

WHEREAS, after considering staff's presentation and public testimony, City Council deliberated on the Planning Commission's recommended amendment to enforce a timeline for properties recently found not to be in compliance with the current landscape code, and

WHEREAS, after much deliberation, City Council directed staff to rescind all recent Notices of Violation to property owners found not be in compliance with the current landscape code, and bring the ordinance back to Planning Commission for consideration of an optional enforcement policy provided by city staff; and

WHEREAS, on December 14, 2023, the City noticed the Planning Commission's second public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on December 28, 2023, the City's Planning Commission conducted their second public hearing to reconsider the proposed ordinance with amendments and consider additional public testimony. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on January 4, 2024 the City gave public notice of the second City Council public hearing to be held on the Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on January 18, 2024, the City Council held its second public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendation by the City's Planning Commission; and

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

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

Section 1. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. CEQA. This action has been reviewed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as the Lead Agency, has determined the ordinance amendment is exempt from CEQA pursuant to Section 15304, where the proposed amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment. Alternatively, it has determined the ordinance amendment is exempt from CEQA per CEQA Guidelines Section(s) 15307 and 15308 as actions taken by regulatory agencies, as authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource. The City shall file a notice of exemption within five business days of adoption.

Section 3. General Plan. Based on the entire record before the City Council, including the Planning Commission recommendation and all written and oral evidence presented, the City Council hereby finds that the proposed water efficient landscape amendments to the City's Zoning Code are consistent with stated goals and policies in the City's adopted General Plan, including General Plan

Policy(s) 11.A1.18(1) which aims to promote water efficient landscaping and other methods to support environmental conservation goals; Policy IIIA8.3 which aims to incorporate water-wise native landscaping or alternative water saving materials (i.e., artificial turf) whenever feasible within the City, and; Water Conservation Goal IIIA5 which aims to protect and maintain safe and adequate water supply to ensure that the City's growing demand for water can be met in a sustainable manner.

Section 4. Code Amendments. Section(s) 21.60.020, 21.60.080, 21.90.030 and 21.60.085 of the Indian Wells Zoning Code are hereby amended and added, respectfully, to read in their entirety as set forth in Exhibit "A," attached hereto and incorporated herein.

Section 5. Effective Date. This Ordinance takes effect 30 days following its adoption.

Section 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 44950 Eldorado Drive, Indian Wells, CA 92210. The custodian of these records is the City Clerk.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council and the people of the City of Indian Wells hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 8. Publication; Effective Date. The City Clerk shall certify to the adoption of this Ordinance. Not later than 15 days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Indian Wells.

PASSED APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on the 18th day of January 2024.

GREG SANDERS
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. _____

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No.____ , having been regularly introduced at a regular meeting of January 18, 2024 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on ____, 2024 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

and was thereafter on said day signed by the Mayor of said City of Indian Wells.

ATTEST:

APPROVED AS TO FORM:

ANGELICA AVILA
CITY CLERK

TODD LEISHMAN
CITY ATTORNEY

EXHIBIT A

Amended Landscape Regulations

(follows this page)

Exhibit A: Code Amendments

Section 21.60.085 is hereby added to Title 21 Zoning Code to read in its entirety as follows:

21.60.085 Landscape Application Requirements

A complete landscape application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section [21.60.020\(b\)\(1\)](#)) may require additional information for a particular application. Design guidelines established by the City should be consulted prior to submission of the application.

a) Purpose and Intent.

This Section provides general standards establishing landscaping requirements that are intended to:

- 1) Protect and elevate the city's unique desert setting, distinguishing itself as a prestigious resort community. The standards set forth aim to enhance the aesthetic appearance of all developments.
- 2) Ensure compatibility between adjoining land uses and public rights of way, ensuring a harmonious blend with the surrounding environment.
- 3) Conserve water through efficient irrigation and appropriate plant selection and align the city's standards with state water conservations acts aiming to reduce water consumption.
- 4) Prioritize the health and safety of the public, ensuring that landscaping practices in the City enhance pedestrian and vehicular traffic safety and maintain the integrity of neighborhoods.
- 5) Establish a unified City landscape theme, promote water conservation and enhance the physical and natural beauty of the environment.

b) Application

The landscaping requirements in this chapter apply to the following within all areas of the City except common interest development areas that are not visible from public right-of-way:

- 1) All new landscape or remodeled landscape projects on or after January 1, 2024 that affect more than 250 square feet;

2) Unless they are subject to paragraph (b)(1) of this section, properties with existing legal nonconforming projects as allowed under section 21.90.030 of the Municipal Code are considered "grandfathered" and exempt from regulations of this section. Changes to existing legal nonconforming or "grandfathered" landscape projects are subject to regulations in section 21.90.030 of the Municipal Code.

3) Fee. An application fee in an amount published by the Planning Department is required for review and processing of landscape design packages.

c) Definitions.

As used in this Section, terms are defined as follows:

- 1) "Artificial turf" means a surface made from synthetic fibers to look like natural grass.
- 2) "Berming" means the process of creating raised areas of soil, often for the purpose of enhancing landscape design or managing water flow.
- 3) "Box trees" means trees that are sold in large square containers. Size, such as 24-inch or 36-inch, refers to the diagonal measurement of the box.
- 4) "Compost" means decomposed organic matter used to enrich soil.
- 5) "Drought-tolerant plants" means plants that can survive with minimal water, often native to arid regions.
- 6) "Focal points" means elements in a landscape design that capture attention, such as a unique plant, water feature, statue, or other installations.
- 7) "Golden ratio" means a mathematical ratio found in nature and art, often used in design for its aesthetically pleasing properties. In landscaping, it refers to the proportional arrangement of plants and hardscape.
- 8) "Grandfathered landscapes" refers to properties that currently have legal nonconforming landscapes in place. These properties are classified as grandfathered and are therefore exempt from the regulations outlined in this section unless they are subject to paragraph (b)(1) of this section. Any modifications to these grandfathered landscapes will be regulated pursuant to section 21.90.030.
- 9) "Hardscape" means non-living elements of landscaping, such as concrete patios, walkways, and walls.
- 10) "Hydrozone" means a portion of the landscaped area having plants with similar water needs that are served by sprinkler heads, a valve or set of valves with the same schedule.

- 11) "Inorganic ground Cover" means inorganic materials used to cover the ground for decorative or functional purposes, such as decomposed granite, crushed rock, cobbles, and boulders.
- 12) "Irrigation system" means a system that delivers water to plants. Types include drip irrigation (where water drips slowly to the roots of plants) and sprinkler systems.
- 13) "Landscape area" means all non-turf areas such as parkways, planters, flower beds and undeveloped areas that require landscape, irrigation and weed control.
- 14) "Mulch" means an organic material spread around plants to retain moisture, suppress weeds, and improve soil health.
- 15) "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events.
- 16) "Non-potable water" means water not treated to drinking water standards and is not meant for human consumption. Includes raw (untreated) water from reservoirs, which is commonly used for irrigation and other purposes.
- 17) "Organic cover" means a natural material used to cover the soil and enhance its quality. Examples include mulch and compost.
- 18) "Plant density" means the number of plants within a defined landscape area calculated as an average of plants per 100 square-feet.
- 19) "Plant size" means the volume of the container in which a plant is sold, which gives an approximate idea of the size of the plant. Common sizes include one-gallon, five-gallon, and fifteen-gallon.
- 20) "Texture" means how fine or coarse the surface of a plant or inorganic material is. For inorganic ground cover, texture refers to the size of the crushed rock, pebbles, stone, etc.
- 21) "Tree root barrier" means a root deflector, which can be made from various materials that help block or redirect roots to prevent damage to adjacent hardscape features or structures.
- 22) "Turf" means the upper layer of ground that is made up of live grass and plant roots.
- 23) "Weed barrier" means a permeable cloth material laid over the ground to prevent the growth of weeds.

d) Review and Permitting Authority.

- 1) All landscape projects with a landscaped area greater than 250 square feet and less than 2,500 square feet shall be reviewed and permitted by the Planning Department in compliance with this Section.

- 2) Landscape plans exceeding 2,500 square feet and not within an active homeowner's association shall be reviewed by the City's Design Review Committee (DRC).
- 3) Landscape plans for areas greater than 2,500 square feet shall require plans drawn by a professional landscape architect licensed in the state of California.
- 4) All properties that require the installation of landscaping in compliance with the development standards of this title shall provide and maintain landscaping in compliance with the provisions of this chapter.
- 5) The following landscape projects shall also comply with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
 - i. New construction and rehabilitated landscapes for public agency projects and private development projects requiring a building or landscape permit, plan check or design review;
 - ii. New construction and rehabilitated landscapes which are developer-installed in single-family and multi-family projects requiring a building or landscape permit, plan check or design review; and
 - iii. New construction and rehabilitated landscapes which are homeowner-provided and/or homeowner-hired in single-family and multi-family residential projects with a total project area equal to or greater than two thousand five hundred (2,500) square feet requiring a building or landscape permit, plan check or design review.
- 6) Administrative Landscape Exception. The provision of an administrative landscape exception facilitates regulatory flexibility when a standard is deemed inapplicable or unsuitable for a particular use or design.
 - i. Application. Applicants shall submit a written request for an administrative landscape exception to the Planning Department, accompanied by a comprehensive description and relevant drawings of the proposed project as outlined in Section 21.60.085(d). The Community Development Director may request additional information as necessary.
 - ii. Approval. The authority to grant or deny an administrative landscape exception resides with the Community Development Director. However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or the Planning Commission for decision-making. The following findings shall be made prior to approval of the administrative landscape exception:
 - i. The findings as set forth in Section 21.06.050(d);
 - ii. That the proposed project is exempt from the California Environmental Quality Act ("CEQA");
 - iii. Preservation of the intent of this Zoning Code and the specific regulation under consideration;

- iv. The circumstances make the strict application of the requirements of this division to the proposed project inappropriate;
- iii. Appeal. The applicant may appeal the decision in accordance with the appeal procedures set forth in section 21.06.110.

e) Submittal of Landscape Plan.

A comprehensive and fully dimensioned landscape plan shall be submitted to the Planning Department, including the following details:

- 1) Site plan with north arrow identifying the planting areas drawn to scale, along with the location and spacing of proposed plants, trees and any other vegetation. Plants having similar water use shall be grouped together in distinct hydrozones.
- 2) Show the location and type of irrigation system to be utilized within the different hydrozones, as appropriate.
- 3) Show all existing or proposed features on the site plan, including pools, spas, fountains, decks (concrete or wooden), planters, walkways, gates, low walls, etc. Also indicate proposed finishes for all flat work.
- 4) Provide a complete plant palette legend identifying size and species, both common and Latin names, and water usage per the Water Use Classification of Landscape Species (WUCOLS). Drought tolerant species are encouraged.

f) Landscape Design Standards.

Landscape designs for residential lots, common areas, and commercial developments shall be required to meet the minimum design criteria:

- 1) Residential lots.
 - i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
 - ii. Live or artificial turf areas are permitted and discounted from overall landscape area.
 - iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
 - iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
 - v. A minimum of two (2) 24-inch box trees required in each front yard. Two (2) palm trees at least 8-feet in height may substitute for one (1) 24-inch box tree. Corner lots shall meet this minimum tree requirement for each of their

frontages. Tree root control barriers shall be used on trees installed within 5-feet of any hardscape element or structure.

2) Common areas.

- i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of four (4) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. One (1) 36-inch box tree or two (2) palm trees at least 8-feet in height required per 1,000 sqft of landscape area.

3) Commercial areas.

- i. Plant density shall be four (4) plants per 100 square-feet of landscape area minimum.
- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. Trees shall be incorporated into the design of all off street parking areas in compliance with Section 21.100.030 of the City's Municipal Code.
- vi. Trees shall be planted along commercial street frontages at a rate of one (1) 36-inch box tree, or one (1) palm tree at least 10-feet in height, per 30-linear feet of street frontage or at the minimum distance between trees as recommended for the specific tree species.

4) Inorganic ground covers and materials.

Open or voided areas within a defined landscape area shall be covered with inorganic ground covers, including but not limited to decomposed granite, crushed rock, cobbles, boulders, and mulch is acceptable. Bare earth shall not be permitted. A minimum of two (2) different textures of inorganic ground covers shall be required within defined landscape areas, including but not limited to:

- i. Crushed Rock: 0.5-inch to 1-inch in size, installed at 2-inch minimum depth.
- ii. Decomposed Granite: 2-inch minimum depth. Not permitted on slopes greater than 3:1
- iii. Cobble: 8" or less diameter set on grade with 1" partially buried so that cobble is not sitting on grade.
- iv. Pebbles: 1-inch to 2-inch in size, installed at 3-inch minimum depth.
- v. Mulch: 3-inch minimum depth.
- vi. Boulders: Maximum 3-feet in height and must be buried 1/3 of height of boulder
- vii. Artificial turf must be manufactured to meet the following quality standards:
 1. Must be permeable to allow water infiltration.
 2. Minimum face weight of 75oz per square yard.
 3. Minimum pile height of 1.75-inch.
 4. Blades shall be comprised of two (2) colors for a natural appearance.
 5. Made in the USA.
- viii. Mounding and the use of complementary colors are encouraged to enhance visual interest and topography within the landscape area. Mounding shall be maintained at a max slope ratio of 3:1 with a max height of three (3) feet.
- ix. Weed barriers are encouraged.

5) Aesthetic design.

The city's landscape aesthetic design guidelines and concepts are encouraged to improve the overall landscape design consistent with the city's quality of life standards. The Community Development Director may refer landscape designs, which do not meet the intent of the aesthetic design guidelines, to the city's Design Review Committee (DRC) for further review. The following landscape aesthetic design guidelines shall be considered during Planning Department review of required landscape plans:

- i. Use of Complimentary Colors: Colors that harmonize and enhance the overall landscape design and built environment are encouraged.
- ii. Berming: The aesthetic use of berms and undulating topography is strongly encouraged to add visual interest to the overall landscape design.
- iii. Proportion and Scale: The design should consider the size relationship between plants, hardscape, and architectural elements, including the application of principles such as the "golden ratio" for spatial arrangements.
- iv. Order and Balance: Symmetry is encouraged in formal or modern gardens, while asymmetrical planting designs are preferred for natural garden settings. The architecture and setting should inspire the landscape design. For natural settings, shrubs should be planted in non-uniform masses to present a natural landscape appearance.
- v. Repetition and Unity: Repetition fosters order, but variety is essential to prevent monotony. This can be achieved through the effective use of color, texture, and form.
- vi. Focal Points: The overall landscape design should incorporate focal points, such as unique plants or features (e.g., boulders, water features, planters, hardscape designs) that contrast with their surroundings in terms of color, size, or texture.
- vii. Interconnection: Dry river features and pathways are encouraged to connect different landscape areas, promoting unity and flow.
- viii. Simplicity: The design should prioritize simplicity, focusing on primary and accent installations.
- ix. Plant Placement: A hierarchy of plant placement is encouraged, with low plants in the foreground and taller plants against structures to create depth. Consideration should be given to the mature size of plants to prevent overcrowding.
- x. Seasonal Interest: A mix of perennial and seasonal plants is recommended to ensure year-round color and interest.
- xi. Texture and Form: A variety of textures and forms should be incorporated for added interest. The combination of fine and coarse-textured materials, such as boulders, crushed rocks, cobbles, and decomposed granite, in complementary colors is encouraged.
- xii. Landscape Lighting: Any outdoor lighting shall comply with Chapter 22.12 Lighting Standards of the City Municipal Code.
- xiii. Landscape Water Features: Any water features included within the landscape area should complement the overall design, be proportionate in size,

incorporate recirculating water system, and shall not exceed a maximum of 18-inches in depth measured from the highest possible water level as required by California Building Code Chapter 31 (Special construction), Section 3119.

- xiv. Project applicants shall reference the Lush and Efficient Landscape Gardening Manual prepared by the Coachella Valley Water District prior to submittal of any landscaping plan for review and approval by the city: http://web.cvwd.org/conservation/lush_book/index.html. Applicants shall also consult the Invasive Plant Inventory prepared by the California Invasive Plant Council prior to selection of any plant species for landscaping: <https://www.cal-ipc.org/plants/>

g) Irrigation and maintenance.

- 1) All landscaped areas within the City of Indian Wells shall be irrigated by an automatic irrigation system compliant with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
- 2) All required landscaping and associated irrigation systems shall be appropriately installed and must receive approval from the Planning Department prior to the inauguration or occupancy of the property.
- 3) All installed landscaping and irrigation systems shall be consistently maintained in accordance with the following specifications or shall be subject to code enforcement penalties in accordance with Section 8.08.010 Maintenance of Property:
 - i. Landscape maintenance shall encompass regular watering, mowing, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of deceased plants, and the repair and replacement of irrigation systems.
 - ii. To the greatest extent feasible, landscape irrigation water shall not run off the property to create pooling of stagnant water in the street or gutter.
 - iii. Water features, ponds, or any stagnant water bodies within landscaped areas must be equipped with appropriate mosquito prevention measures, such as circulation systems, mosquito fish, or other approved methods, to prevent the breeding of mosquitos. Circulation systems should run at least 8 hours per day. If a feature has no pump or other approved mosquito control measure, water shall be drained and replaced every 96 hours. Regular inspections and maintenance of these measures are encouraged to ensure their effectiveness.
 - iv. Property owners, homeowner's associations, or other responsible entities shall ensure that no stagnant water accumulates in any landscaped areas, as such conditions can become breeding grounds for mosquitos. Neglected pools, fountains, or standing water shall be drained to prevent breeding of mosquitos. Property owners shall notify the Coachella Valley Mosquito and Vector Control District if their water feature is drained or neglected.

- v. Prior to the approval of a final development plan permit or the recording of a subdivision map, a covenant ensuring the ongoing maintenance of all required landscaping and irrigation systems shall be established. This covenant, whether held by property owners, homeowners associations, or another responsible entity, must be approved by the Community Development Director, with the recommendation of the city attorney, and subsequently recorded in the county recorder's office.

h) Public safety and protection of intersection visibility.

- 1) Landscape design plans for corner parcel development projects must ensure traffic safety sight areas are designed to uphold public safety, consistent with Section 21.50.040 Protection of intersection visibility regulations of city's Municipal Code.
- 2) Trees and shrubs shall be planted so that at maturity they do not interfere with utility service lines, street lighting, street sweeping, traffic safety sight areas, on-site signs, and basic property rights of adjoining property owners.
- 3) Trees planted near public curbs, sidewalks, or utility vaults shall have a limited root structure and shall be installed to prevent physical damage to public improvements and shall comply with the following provisions:
 - i. Canopy trees shall be placed a minimum of ten feet from public street curb and a minimum of three feet from sidewalks.
 - ii. Palm trees with a trunk height of ten feet or more shall be placed a minimum of three feet from public street curb and sidewalks.
 - iii. A root barrier system shall be installed when trees are located near public curbs, sidewalks, or utility vaults.
 - iv. Landscape and irrigation plans shall be required for all public street parkways and median islands and shall conform to city standards and be submitted for review and approval to the city engineer and planning division.
 - v. Right-of-way lines shall be shown on the final landscape plan.

Section 21.60.020 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.020 Applicability and Review Authority.

(a) This Chapter applies to the following activities:

- (1) Obtaining a permit to construct a building or structure in any zone;
- (2) Undertaking any external modification to a structure visible to any roadway or open space, public or private;
- (3) Installation of new or remodeled landscape projects in excess of 250 square-feet within all areas of the City except common interest development areas that are not visible from public right-of-way.
- (4) Installing new or modifying an existing antenna, outdoor lighting, landscape lighting, private tennis court, emergency generators greater than fifteen thousand (15,000) kilowatts; and
- (5) Minor exterior remodel of or addition to a single-family residence, such as:
 - (i) A window or door change-out,
 - (ii) A change of exterior house color (desert tones are preferred),
 - (iii) A wall, fence, planter, fountain, or similar architectural amenity,
 - (iv) Re-roofing,
 - (v) A patio cover,
 - (vi) Solar panels,
 - (vii) An addition in the rear or side yard that is not visible to any roadway or open space area, public or private,
 - (viii) Front and side-yard landscape projects visible from the street with a landscaped area greater than 250 square feet and less than 2,500 square feet.

- (ix) Accessory Dwelling Units in compliance with the requirements in Section 21.85.040

(b) Before commencing any of the activities listed in subsection (a) above, the owner of the property must submit a design review application to the Planning Department, to ensure compliance with the provisions of this Chapter, as well as with the basic zoning and other design parameters that are specified in the Zoning Code. Submissions may be done electronically via the City's website or in person with the Planning Department.

(1) For purposes of this Chapter, the Planning Department, DRC, or the Planning Commission is the "Review Authority" when making the initial decision about an application.

(2) If an application is consistent with all the requirements of the Zoning Code:

(i) Planning Department Review.

(A) The Planning Department is generally the Review Authority for the following:

1. An application under subsection (a)(5) above; or

2. An application for a property located in an area with an active Homeowner's Association, and the complete design review application has been reviewed and approved by the Association.

(B) However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or directly to the Planning Commission as the Review Authority.

(ii) DRC Review. The DRC is generally the Review Authority for an application under any of subsections (a)(1) through (a)(4) above, including landscape projects larger than 2,500 square feet, but any member of the DRC may refer the application to the Planning Commission as the Review Authority.

(3) If an application is inconsistent with any requirement of the Zoning Code, the Planning Commission is the Review Authority unless an administrative landscape exception request is granted under section 21.60.085(d)(6) below. (Ord. 727 § 2, 2020)

Section 21.60.080 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.080 Architecture Application Requirements.

A complete design review application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section [21.60.020\(b\)\(1\)](#)) may require additional information for a particular application. Design guidelines established by the City, or if applicable, a Homeowners Association's Architectural Guidelines should be consulted prior to submission of the application. A complete application must include each of the following:

(a) Application to Construct Form. A completed "Application to Construct" form which can be obtained in electronic or hard-copy format from the City.

(b) Required Plans (electronic copies preferred). Two (2) sets of 24" x 36" or 30" x 42" bluelines or blacklines, along with one (1) rendered blackline each of the residence, elevations, landscape plans prepared in accordance with Section 21.60.085, and other data pertinent to the particular application. Rendered blacklines shall be rolled, not folded. Defaced, incomplete, indefinite or faded plans will not be accepted. All residential plans and elevations shall be drawn at a minimum scale of 1/8" = 1'0". For single family residential submittals, a set of plans shall consist of the items listed below. Requirements for multi-family residential and non-residential projects shall include information necessary to evaluate the proposed project as determined by the Community Development Director.

- (1) General Information Block.
 - (i) Owner and designer's names;
 - (ii) Address of owner;
 - (iii) Telephone number of owner;
 - (iv) Assessor parcel number and address of residence;
 - (v) North point, date of drawing and scale; and
 - (vi) Vicinity map showing location of project.

(2) Site Plan.

- (i) Legal description (lot and tract);
- (ii) Lot size (dimension along each property line);
- (iii) Zone classification and type of development of subject property and of all adjacent property, including across any street. Show distance of structure(s) on adjacent properties that are within ten (10) feet of project property line;
- (iv) Setback of existing and proposed buildings in relation to property lines per standards of the zone;
- (v) Locations of swimming pools, spas, air conditioner equipment, pool and spa equipment (i.e., heater, pump), storage areas, utility installations, antenna, tennis courts, refuse storage areas and other auxiliary household equipment shall be noted on site plans;
- (vi) Computed areas of building coverage, impervious surfaces, landscaping, and open space;
- (vii) Dimension of property lines or boundary lines of project;
- (viii) Location, names and widths of boundary streets; and recorded road, utility or drainage easements on property (where none exists, indicate by a note that no easement exists);
- (ix) Elevation of existing curb and gutter where available or edge of pavement where no curb exists;
- (x) Pad grade and finish-floor elevations; provide information on adjacent parcels if available;
- (xi) Heights of existing or proposed walls and fences, as measured from exterior side of wall (side facing street or adjacent property);
- (xii) A "line of sight" section for all in-fill construction;
- (xiii) Clear delineation of all proposed driveways subject to the criteria outlined under Section [21.20.080](#); and
- (xiv) For all large-scale development (ten (10) acres or larger), the inclusion of natural open space areas to provide habitat for native wildlife.

NOTE: All site plans must include sufficient information to demonstrate compliance with all applicable development standards in the Zoning Code.

(3) Floor Plan. Square footage of living space and location, size, and use of all rooms. Show all significant dimensions.

(4) Elevations.

(i) Provide all elevations identified as front, rear, right and left side;

(ii) Show locations of doors, windows, chimneys, etc.;

(iii) Show exterior finishes and roof material;

(iv) Dimension elevation from pad grade, indicate all significant vertical dimensions; and

(v) Show all proposed plant material (trees and shrubs) against elevations. Provide as separate set of elevations.

(5) Roof Plan. Only thirty (30) percent of the total roof area may exceed fifteen (15) feet in height, up to a maximum eighteen (18) feet. Identify that portion of the total roof area that exceeds fifteen (15) feet in height. Show percent calculation on plan.

(6) Mailbox Design per United States Postal Service Requirements. Provide a minimum 1/2" = 1'0" scale mailbox design not to exceed four (4) feet in height and eighteen (18) inches in width or depth.

NOTE: Review of design packages containing landscape plans not prepared by a California licensed landscape architect will be subject to additional review fees incurred by the City for the review of such plans by professional design consultants.

(7) Conceptual Lighting Plan. Plan shall be submitted delineating size, location, light spread, illuminating capacity (candle power) and hours of operation of proposed exterior lighting. Plan shall be in conformance with lighting standards found in Chapter 22.12 of the City Municipal Code.

(8) Materials Sample and Color Board. (Maximum size 8 1/2" x 14"): Sample of materials should be kept to a minimum size; include exterior finishes of residence including door and window trim colors, and garden walls, along with exterior colors. (Desert tone colors are preferred.)

(c) Fee. An application fee in an amount published by the Planning Department is required for review and processing of architectural design packages. (Ord. 727 § 2, 2020)

Section 21.90.030 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.90.030 Non-conforming uses and structures.

(a) General. Unless otherwise required by the municipal code, any legally established, lawful use of land, building, structure, or improvement may be continued except as provided herein, even if such use does not conform with the applicable provisions of the current municipal code.

(b) Abandonment. Any legally established non-conforming use of land, building, structure, or improvement that becomes vacant and remains unoccupied for a continuous period of one (1) year shall be termed abandoned, and all future uses shall comply with the regulations of the area in which it is located.

(c) Alterations or Additions. An existing building, structure, or improvement conforming as to use but that does not conform to the general development standards may be altered, added to or enlarged, provided that any alteration, addition, or enlargement complies with the current regulations of this division.

(d) Maintenance. A legal non-conforming building, structure, site, or improvement shall be maintained in sound and safe condition.

(e) Restoration of Damaged Structures. A legal non-conforming building, and/or structure which is damaged or partially destroyed by fire, explosion or man-induced or natural disaster to the extent of more than seventy-five (75) percent of the fair market value according to the assessment as listed by the Riverside County Assessor for the fiscal year during which the destruction occurs shall be subject to all the applicable regulations specified by this division. (Ord. 387 § 1, 1996)

Planning Commission Supported Code Amendments in Track Changes

Added Text = Underlined Text

Deleted Text = ~~Strikeout Text~~

Section 21.60.085 is hereby added to Title 21 Zoning Code to read in its entirety as follows:

21.60.085 Landscape Application Requirements

A complete landscape application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section 21.60.020(b)(1)) may require additional information for a particular application. Design guidelines established by the City, ~~or if applicable, a Homeowners Association's Landscape Guidelines~~ should be consulted prior to submission of the application.

a) Purpose and Intent.

This Section provides general standards establishing landscaping requirements that are intended to:

- 1) Protect and elevate the city's unique desert setting, distinguishing itself as a prestigious resort community. The standards set forth aim to enhance the aesthetic appearance of all developments.
- 2) Ensure compatibility between adjoining land uses and public rights of way, ensuring a harmonious blend with the surrounding environment.
- 3) Conserve water through efficient irrigation and appropriate plant selection, and align the city's standards with state water conservations acts aiming to reduce water consumption.
- 4) Prioritize the health and safety of the public, ensuring that landscaping practices in the City enhance pedestrian and vehicular traffic safety and maintain the integrity of neighborhoods.
- 5) Establish a unified City landscape theme, promote water conservation and enhance the physical and natural beauty of the environment.

b) Application

The landscaping requirements in this chapter apply to the following within all areas of the City except Common Interest Development Areas that are not visible from public right-of-way:

- 1) All new landscape or remodeled landscape projects on or after January 1, 2024 that affect more than 250 square feet;

2) All properties that, as of December 1, 2023, have within fewer than two plants per 100 square feet or that have less than 50 percent coverage with city-approved groundcover (organic or inorganic). Unless they are subject to paragraph (b)(1) of this section, properties with existing legal nonconforming projects as allowed under Section 21.90.030 of the Municipal Code are considered "grandfathered" and exempt from the regulations of this section. Changes to existing legal nonconforming or "grandfathered" landscape projects are subject to regulations in section 21.90.030 of the Municipal Code.

3) Fee. An application fee in an amount published by the Planning Department is required for review and processing of landscape design packages.

b)c) Definitions.

As used in this Section, terms are defined as follows:

- 1) "Artificial turf" means a surface made from synthetic fibers to look like natural grass.
- 2) "Berming" means the process of creating raised areas of soil, often for the purpose of enhancing landscape design or managing water flow.
- 3) "Box trees" means trees that are sold in large square containers. Size, such as 24-inch or 36-inch, refers to the diagonal measurement of the box.
- 4) "Compost" means decomposed organic matter used to enrich soil.
- 4)5) "Drought-tolerant plants" means plants that can survive with minimal water, often native to arid regions.
- 5)6) "Focal points" means elements in a landscape design that capture attention, such as a unique plant, water feature, statue, or other installations.
- 7) "Golden ratio" means a mathematical ratio found in nature and art, often used in design for its aesthetically pleasing properties. In landscaping, it refers to the proportional arrangement of plants and hardscape.
- 6)8) "Grandfathered landscapes" refers to properties that currently have legal nonconforming landscapes in place. These properties are classified as grandfathered and are therefore exempt from the regulations outlined in this section unless they are subject to paragraph (b)(1) of this section. Any modifications to these grandfathered landscapes will be regulated pursuant to section 21.90.030.
- 7)9) "Hardscape" means non-living elements of landscaping, such as concrete patios, walkways, and walls.

- 10) "Hydrozone" means a portion of the landscaped area having plants with similar water needs that are served by sprinkler heads, a valve or set of valves with the same schedule.
- ~~8)~~11) "Inorganic ground Cover" means inorganic materials used to cover the ground for decorative or functional purposes, such as decomposed granite, crushed rock, cobbles, and boulders.
- ~~9)~~12) "Irrigation system" means a system that delivers water to plants. Types include drip irrigation (where water drips slowly to the roots of plants) and sprinkler systems.
- ~~10)~~13) "Landscape area" means all non-turf areas such as parkways, planters, flower beds and undeveloped areas that require landscape, irrigation and weed control.
- ~~11)~~14) "Mulch" means an organic material spread around plants to retain moisture, suppress weeds, and improve soil health.
- ~~12)~~15) "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events.
- ~~13)~~ "~~Non-organic ground cover~~" means ~~inorganic materials used to cover the ground for decorative or functional purposes, such as decomposed granite, crushed rock, cobbles, and boulders.~~
- ~~14)~~16) "Non-potable water" means water not treated to drinking water standards and is not meant for human consumption. Includes raw (untreated) water from reservoirs, which is commonly used for irrigation and other purposes.
- ~~15)~~17) "Organic cover" means a natural material used to cover the soil and enhance its quality. Examples include mulch and compost.
- ~~16)~~18) "Plant density" means the number of plants within a defined landscape area calculated as an average of plants per 100 square-feet.
- ~~17)~~19) "Plant size" means the volume of the container in which a plant is sold, which gives an approximate idea of the size of the plant. Common sizes include one-gallon, five-gallon, and fifteen-gallon.
- ~~18)~~20) "Texture" means how fine or coarse the surface of a plant or ~~non-in~~organic material is. For ~~non-in~~organic ground cover, texture refers to the size of the crushed rock, pebbles, stone, etc.
- ~~19)~~21) "Tree root barrier" means a root deflector, which can be made from various materials that help block or redirect roots to prevent damage to adjacent hardscape features or structures.
- ~~20)~~22) "Turf" means the upper layer of ground that is made up of live grass and plant roots.

~~21~~23) "Weed barrier" means a permeable cloth material laid over the ground to prevent the growth of weeds.

~~e~~d) _____ **Review and Permitting Authority.**

- 1) All landscape projects with a landscaped area greater than 250 square feet and less than 2,500 square feet shall be reviewed and permitted by the Planning Department in compliance with this Section.
- 2) Landscape plans exceeding 2,500 square feet and not within an active homeowner's association shall be reviewed by the City's Design Review Committee (DRC).
- 3) Landscape plans for areas greater than 2,500 square feet shall require plans drawn by a professional landscape architect licensed in the state of California.

~~4) The following projects shall be exempt from review and approval by the Planning Department or the DRC:~~

~~i. Homeowner installed and individually maintained landscaping within private enclosed courtyards, sideyards, and backyards, not visible from public areas; and~~

~~ii. Minor landscape modifications or changeouts of less than 250 square feet.~~

~~iii. Properties with existing legal nonconforming landscape projects as allowed under Section 21.90.030 of the Municipal Code, including those with a density of 2 plants per 100 square feet or at least 50% plant coverage as of December 1, 2023. Such properties are considered "grandfathered" and exempt from the regulations of this Section. Changes to existing legal nonconforming or "grandfathered" landscape projects are subject to regulations in Section 21.90.030 of the Municipal Code. By way of example only, if a homeowner legally established landscaping in their front yard prior to adoption of this Section, but the legally established landscaping does not comply with this Section, the landscaping is "grandfathered" and may remain in place. If at a later time the homeowner decides to alter or enlarge its landscaping, the homeowner would have to comply with this Section, as applicable. In certain situations, like where the landscape modifications are less than 250 square feet, the modifications would not require review and permitting by the Planning Department.~~

~~5) Active homeowner association shall abide by the City's landscape standards unless they have either received formal approval for alternative standards through a City approved entitlement process or have Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), allowing alternative landscape standards, filed with the City's Planning Department.~~

~~6~~4) All properties that require the installation of landscaping in compliance with the development standards of this title shall provide and maintain landscaping in compliance with the provisions of this chapter.

~~7)5)~~ The following landscape projects shall also comply with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.

- i. New construction and rehabilitated landscapes for public agency projects and private development projects requiring a building or landscape permit, plan check or design review;
- ii. New construction and rehabilitated landscapes which are developer-installed in single-family and multi-family projects requiring a building or landscape permit, plan check or design review; and
- iii. New construction and rehabilitated landscapes which are homeowner-provided and/or homeowner-hired in single-family and multi-family residential projects with a total project area equal to or greater than two thousand five hundred (2,500) square feet requiring a building or landscape permit, plan check or design review.

6) Administrative Landscape Exception. The provision of an administrative landscape exception facilitates regulatory flexibility when a standard is deemed inapplicable or unsuitable for a particular use or design.

- i. Application. Applicants shall submit a written request for an administrative landscape exception to the Planning Department, accompanied by a comprehensive description and relevant drawings of the proposed project as outlined in Section 21.60.085(d). The Community Development Director may request additional information as necessary.
- ii. Approval. The authority to grant or deny an administrative landscape exception resides with the Community Development Director. However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or the Planning Commission for decision-making. The following findings shall be made prior to approval of the administrative landscape exception:
 - a. The findings as set forth in Section 21.06.050(d);
 - b. That the proposed project is exempt from the California Environmental Quality Act ("CEQA");
 - c. Preservation of the intent of this Zoning Code and the specific regulation under consideration;
 - d. The circumstances make the strict application of the requirements of this division to the proposed project inappropriate;
- iii. Appeal. The applicant may appeal the decision in accordance with the appeal procedures set forth in section 21.06.110.

~~d)e)~~ **Submittal of Landscape Plan.**

A comprehensive and fully dimensioned landscape plan shall be submitted to the Planning Department, including the following details:

- 1) Site plan with north arrow identifying the planting areas drawn to scale, along with the location and spacing of proposed plants, trees and any other vegetation. Plants having similar water use shall be grouped together in distinct hydrozones.
- 2) Show the location and type of irrigation system to be utilized within the different hydrozones, as appropriate.
- 3) Show all existing or proposed features on the site plan, including pools, spas, fountains, decks (concrete or wooden), planters, walkways, gates, low walls, etc. Also indicate proposed finishes for all flat work.
- 4) Provide a complete plant palette legend identifying size and species, both common and Latin names, and water usage per the Water Use Classification of Landscape Species (WUCOLS). Drought tolerant species are encouraged.

e)f) Landscape Design Standards.

Landscape designs for residential lots, common areas, and commercial developments shall be required to meet the minimum design criteria:

- 1) Residential lots.
 - i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
 - ii. Live or artificial turf areas are permitted and discounted from overall landscape area.
 - iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
 - iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
 - v. A minimum of two (2) 24-inch box trees required in each front yard. Two (2) palm trees at least 8-feet in height may substitute for one (1) 24-inch box tree. Corner lots shall meet this minimum tree requirement for each of their frontages. Tree root control barriers shall be used on trees installed within 5-feet of any hardscape element or structure.
- 2) Common areas.
 - i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.

- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of four (4) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. One (1) 36-inch box tree or two (2) palm trees at least 8-feet in height required per 1,000 sqft of landscape area.

3) Commercial areas.

- i. Plant density shall be four (4) plants per 100 square-feet of landscape area minimum.
- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. Trees shall be incorporated into the design of all off street parking areas in compliance with Section 21.100.030 of the City's Municipal Code.
- vi. Trees shall be planted along commercial street frontages at a rate of one (1) 36-inch box tree, or one (1) palm tree at least 10-feet in height, per 30-linear feet of street frontage or at the minimum distance between trees as recommended for the specific tree species.

4) ~~Non-In~~organic ground covers and materials.

Open or voided areas within a defined landscape area shall be covered with ~~non-in~~organic ground covers, including but not limited to decomposed granite, crushed rock, cobbles, boulders, and mulch (is acceptable), ~~and artificial turf~~. Bare earth shall not be permitted. A minimum of two (2) different textures of ~~non-in~~organic ground covers shall be required within defined landscape areas, including but not limited to:

- i. Crushed Rock: 0.5-inch to 1-inch in size, installed at 2-inch minimum depth.

- ii. Decomposed Granite: 2-inch minimum depth. Not permitted on slopes greater than 3:1
- iii. Cobble: 8" or less diameter set on grade with 1" partially buried so that cobble is not sitting on grade.
- iv. Pebbles: 1-inch to 2-inch in size, installed at 3-inch minimum depth.
- v. Mulch: 3-inch minimum depth.
- vi. Boulders: Maximum 3-feet in height and must be buried 1/3 of height of boulder
- vii. Artificial turf must be manufactured to meet the following quality standards:
 - 1. Must be permeable to allow water infiltration.
 - 2. Minimum face weight of 75oz per square yard.
 - 3. Minimum pile height of 1.75-inch.
 - 4. Blades shall be comprised of two (2) colors for a natural appearance.
 - 5. Made in the USA.
- viii. Mounding and the use of complementary colors are encouraged to enhance visual interest and topography within the landscape area. Mounding shall be maintained at a max slope ratio of 3:1 with a max height of three (3) feet.
- ix. Weed barriers are encouraged.

5) Aesthetic design.

The city's landscape aesthetic design guidelines and concepts are encouraged to improve the overall landscape design consistent with the city's quality of life standards. The Community Development Director may refer landscape designs, which do not meet the intent of the aesthetic design guidelines, to the city's Design Review Committee (DRC) for further review. The following landscape aesthetic design guidelines shall be considered during Planning Department review of required landscape plans:

- i. Use of Complimentary Colors: Colors that harmonize and enhance the overall landscape design and built environment are encouraged.
- ii. Berming: The aesthetic use of berms and undulating topography is strongly encouraged to add visual interest to the overall landscape design.
- iii. Proportion and Scale: The design should consider the size relationship between plants, hardscape, and architectural elements, including the application of principles such as the "golden ratio" for spatial arrangements.

- iv. Order and Balance: Symmetry is encouraged in formal or modern gardens, while asymmetrical planting designs are preferred for natural garden settings. The architecture and setting should inspire the landscape design. For natural settings, shrubs should be planted in non-uniform masses to present a natural landscape appearance.
- v. Repetition and Unity: Repetition fosters order, but variety is essential to prevent monotony. This can be achieved through the effective use of color, texture, and form.
- vi. Focal Points: The overall landscape design should incorporate focal points, such as unique plants or features (e.g., boulders, water features, planters, hardscape designs) that contrast with their surroundings in terms of color, size, or texture.
- vii. Interconnection: Dry river features and pathways are encouraged to connect different landscape areas, promoting unity and flow.
- viii. Simplicity: The design should prioritize simplicity, focusing on primary and accent installations.
- ix. Plant Placement: A hierarchy of plant placement is encouraged, with low plants in the foreground and taller plants against structures to create depth. Consideration should be given to the mature size of plants to prevent overcrowding.
- x. Seasonal Interest: A mix of perennial and seasonal plants is recommended to ensure year-round color and interest.
- xi. Texture and Form: A variety of textures and forms should be incorporated for added interest. The combination of fine and coarse-textured materials, such as boulders, crushed rocks, cobbles, and decomposed granite, in complementary colors is encouraged.
- xii. Landscape Lighting: Any outdoor lighting shall comply with Chapter 22.12 Lighting Standards of the City Municipal Code.
- xiii. Landscape Water Features: Any water features included within the landscape area should complement the overall design, be proportionate in size, incorporate recirculating water system, and shall not exceed a maximum of 18-inches in depth measured from the highest possible water level as required by California Building Code Chapter 31 (Special construction), Section 3119.
- xiv. Project applicants shall reference the Lush and Efficient Landscape Gardening Manual prepared by the Coachella Valley Water District prior to submittal of any landscaping plan for review and approval by the city: http://web.cvwd.org/conservation/lush_book/index.html. Applicants shall also consult the Invasive Plant Inventory prepared by the California Invasive Plant

Council prior to selection of any plant species for landscaping: <https://www.cal-ipc.org/plants/>

g) _____ Irrigation and maintenance.

- 1) All landscaped areas within the City of Indian Wells shall be irrigated by an automatic irrigation system compliant with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
- 2) All required landscaping and associated irrigation systems shall be appropriately installed and must receive approval from the Planning Department prior to the inauguration or occupancy of the property.
- 3) All installed landscaping and irrigation systems shall be consistently maintained in accordance with the following specifications or shall be subject to code enforcement penalties in accordance with Section 8.08.010 Maintenance of Property:
 - i. Landscape maintenance shall encompass regular watering, mowing, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of deceased plants, and the repair and replacement of irrigation systems.
 - ii. To the greatest extent feasible, landscape irrigation water shall not run off the property to create pooling of stagnant water in the street or gutter.
 - iii. Water features, ponds, or any stagnant water bodies within landscaped areas must be equipped with appropriate mosquito prevention measures, such as circulation systems, mosquito fish, or other approved methods, to prevent the breeding of mosquitos. Circulation systems should run at least 8 hours per day. If a feature has no pump or other approved mosquito control measure, water shall be drained and replaced every 96 hours. Regular inspections and maintenance of these measures are encouraged to ensure their effectiveness.
 - iv. Property owners, homeowner's associations, or other responsible entities shall ensure that no stagnant water accumulates in any landscaped areas, as such conditions can become breeding grounds for mosquitos. Neglected pools, fountains, or standing water shall be drained to prevent breeding of mosquitos. Property owners shall notify the Coachella Valley Mosquito and Vector Control District if their water feature is drained or neglected.
 - v. Prior to the approval of a final development plan permit or the recording of a subdivision map, a covenant ensuring the ongoing maintenance of all required landscaping and irrigation systems shall be established. This covenant, whether held by property owners, homeowners associations, or another responsible entity, must be approved by the Community Development Director, with the recommendation of the city attorney, and subsequently recorded in the county recorder's office.

g+h) _____ Public safety and protection of intersection visibility.

- 1) Landscape design plans for corner parcel development projects must ensure traffic safety sight areas are designed to uphold public safety, consistent with Section 21.50.040 Protection of intersection visibility regulations of city's Municipal Code.
- 2) Trees and shrubs shall be planted so that at maturity they do not interfere with utility service lines, street lighting, street sweeping, traffic safety sight areas, on-site signs, and basic property rights of adjoining property owners.
- 3) Trees planted near public curbs, sidewalks, or utility vaults shall have a limited root structure and shall be installed to prevent physical damage to public improvements and shall comply with the following provisions:
 - i. Canopy trees shall be placed a minimum of ten feet from public street curb and a minimum of three feet from sidewalks.
 - ii. Palm trees with a trunk height of ten feet or more shall be placed a minimum of three feet from public street curb and sidewalks.
 - iii. A root barrier system shall be installed when trees are located near public curbs, sidewalks, or utility vaults.
 - iv. Landscape and irrigation plans shall be required for all public street parkways and median islands and shall conform to city standards and be submitted for review and approval to the city engineer and planning division.
 - v. Right-of-way lines shall be shown on the final landscape plan.

Section 21.60.020 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.020 Applicability and Review Authority.

- (a) This Chapter applies to the following activities:
- (1) Obtaining a permit to construct a building or structure in any zone;
 - (2) Undertaking any external modification to a structure visible to any roadway or open space, public or private;
 - (3) Installation of new or remodeled landscape projects in excess of 250 square-foot within all areas of the City except common interest development areas that are not

~~visible from public right-of-way landscape projects in excess of 250 square feet within all areas of the City adjacent to a roadway or open space, public or private;~~

~~(4) Replacing or modifying existing hardscape or landscape in a yard which abuts a roadway or open space, public or private in excess of two thousand five hundred (2,500) square feet;~~

(54) Installing new or modifying an existing antenna, outdoor lighting, landscape lighting, private tennis court, emergency generators greater than fifteen thousand (15,000) kilowatts; and

(65) Minor exterior remodel of or addition to a single-family residence, such as:

- (i) A window or door change-out,
- (ii) A change of exterior house color (desert tones are preferred),
- (iii) A wall, fence, planter, fountain, or similar architectural amenity,
- (iv) Re-roofing,
- (v) A patio cover,
- (vi) Solar panels,
- (vii) An addition in the rear or side yard that is not visible to any roadway or open space area, public or private,
- (viii) Front and side-yard landscape projects visible from the public right-of-way street with a landscaped area greater than 250 square feet and less than 2,500 square feet. ~~improvements that affect less than two thousand five hundred (2,500) square feet unless exempt pursuant to Section 21.60.085(c)(4) below, and~~
- (ix) Accessory Dwelling Units in compliance with the requirements in Section 21.85.040

(b) Before commencing any of the activities listed in subsection (a) above, the owner of the property must submit a design review application to the Planning Department, to ensure compliance with the provisions of this Chapter, as well as with the basic zoning and other design parameters that are specified in the Zoning Code. Submissions may be done electronically via the City's website or in person with the Planning Department.

(1) For purposes of this Chapter, the Planning Department, DRC, or the Planning Commission is the "Review Authority" when making the initial decision about an application.

(2) If an application is consistent with all the requirements of the Zoning Code:

(i) Planning Department Review.

(A) The Planning Department is generally the Review Authority for the following:

1. An application under subsection (a)(~~65~~) above; or

2. An application for a property located in an area with an active Homeowner's Association, and the complete design review application has been reviewed and approved by the Association.

(B) However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or directly to the Planning Commission as the Review Authority.

(ii) DRC Review. The DRC is generally the Review Authority for an application under any of subsections (a)(1) through (a)(~~54~~) above, including landscape projects larger than 2,500 square feet, but any member of the DRC may refer the application to the Planning Commission as the Review Authority.

(3) If an application is inconsistent with any requirement of the Zoning Code, the Planning Commission is the Review Authority: unless an administrative landscape exception request is granted under section 21.60.085(d)(~~6~~) below. (Ord. 727 § 2, 2020)

Section 21.60.080 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.080 Architecture Application Requirements.

A complete design review application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or

Review Authority (as defined by Section [21.60.020\(b\)\(1\)](#)) may require additional information for a particular application. Design guidelines established by the City, or if applicable, a Homeowners Association's Architectural Guidelines should be consulted prior to submission of the application. A complete application must include each of the following:

(a) Application to Construct Form. A completed "Application to Construct" form which can be obtained in electronic or hard-copy format from the City.

(b) Required Plans (electronic copies preferred). Two (2) sets of 24" x 36" or 30" x 42" bluelines or blacklines, along with one (1) rendered blackline each of the residence, elevations, landscape plans prepared in accordance with Section 21.60.085, and other data pertinent to the particular application. Rendered blacklines shall be rolled, not folded. Defaced, incomplete, indefinite or faded plans will not be accepted. All residential plans and elevations shall be drawn at a minimum scale of 1/8" = 1'0". For single family residential submittals, a set of plans shall consist of the items listed below. Requirements for multi-family residential and non-residential projects shall include information necessary to evaluate the proposed project as determined by the Director of Community Development.

(1) General Information Block.

(i) Owner and designer's names;

(ii) Address of owner;

(iii) Telephone number of owner;

(iv) Assessor parcel number and address of residence;

(v) North point, date of drawing and scale; and

(vi) Vicinity map showing location of project.

(2) Site Plan.

(i) Legal description (lot and tract);

(ii) Lot size (dimension along each property line);

(iii) Zone classification and type of development of subject property and of all adjacent property, including across any street. Show distance of structure(s) on adjacent properties that are within ten (10) feet of project property line;

- (iv) Setback of existing and proposed buildings in relation to property lines per standards of the zone;
- (v) Locations of swimming pools, spas, air conditioner equipment, pool and spa equipment (i.e., heater, pump), storage areas, utility installations, antenna, tennis courts, refuse storage areas and other auxiliary household equipment shall be noted on site plans;
- (vi) Computed areas of building coverage, impervious surfaces, landscaping, and open space;
- (vii) Dimension of property lines or boundary lines of project;
- (viii) Location, names and widths of boundary streets; and recorded road, utility or drainage easements on property (where none exists, indicate by a note that no easement exists);
- (ix) Elevation of existing curb and gutter where available or edge of pavement where no curb exists;
- (x) Pad grade and finish-floor elevations; provide information on adjacent parcels if available;
- (xi) Heights of existing or proposed walls and fences, as measured from exterior side of wall (side facing street or adjacent property);
- (xii) A "line of sight" section for all in-fill construction;
- (xiii) Clear delineation of all proposed driveways subject to the criteria outlined under Section [21.20.080](#); and
- (xiv) For all large-scale development (ten (10) acres or larger), the inclusion of natural open space areas to provide habitat for native wildlife.

NOTE: All site plans must include sufficient information to demonstrate compliance with all applicable development standards in the Zoning Code.

(3) Floor Plan. Square footage of living space and location, size, and use of all rooms. Show all significant dimensions.

(4) Elevations.

- (i) Provide all elevations identified as front, rear, right and left side;
- (ii) Show locations of doors, windows, chimneys, etc.;
- (iii) Show exterior finishes and roof material;
- (iv) Dimension elevation from pad grade, indicate all significant vertical dimensions;
and
- (v) Show all proposed plant material (trees and shrubs) against elevations. Provide as separate set of elevations.

(5) Roof Plan. Only thirty (30) percent of the total roof area may exceed fifteen (15) feet in height, up to a maximum eighteen (18) feet. Identify that portion of the total roof area that exceeds fifteen (15) feet in height. Show percent calculation on plan.

(6) Mailbox Design per United States Postal Service Requirements. Provide a minimum 1/2" = 1'0" scale mailbox design not to exceed four (4) feet in height and eighteen (18) inches in width or depth.

NOTE: Review of design packages containing landscape plans not prepared by a California licensed landscape architect will be subject to additional review fees incurred by the City for the review of such plans by professional design consultants.

(7) Conceptual Lighting Plan. Plan shall be submitted delineating size, location, light spread, illuminating capacity (candle power) and hours of operation of proposed exterior lighting. Plan shall be in conformance with lighting standards found in Chapter 22.12 of the City Municipal Code.

(8) Materials Sample and Color Board. (Maximum size 8 1/2" x 14"): Sample of materials should be kept to a minimum size; include exterior finishes of residence including door and window trim colors, and garden walls, along with exterior colors. (Desert tone colors are preferred.)

(c) Fee. An application fee in an amount published by the Planning Department is required for review and processing of architectural design packages. (Ord. 727 § 2, 2020)

Section 21.90.030 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.90.030 Non-conforming uses and structures.

(a) General. Unless otherwise required by the municipal code, any legally established, lawful use of land, building, structure, or improvement may be continued except as provided herein, even if such use does not conform with the applicable provisions of the current municipal code.

(b) Abandonment. Any legally established non-conforming use of land, building, structure, or improvement that becomes vacant and remains unoccupied for a continuous period of one (1) year shall be termed abandoned, and all future uses shall comply with the regulations of the area in which it is located.

(c) Alterations or Additions. An existing building, structure, or improvement conforming as to use but that does not conform to the general development standards may be altered, added to or enlarged, provided that any alteration, addition, or enlargement complies with the current regulations of this division.

(d) Maintenance. A legal non-conforming building, structure, site, or improvement shall be maintained in sound and safe condition.

(e) Restoration of Damaged Structures. A legal non-conforming building, and/or structure which is damaged or partially destroyed by fire, explosion or man-induced or natural disaster to the extent of more than seventy-five (75) percent of the fair market value according to the assessment as listed by the Riverside County Assessor for the fiscal year during which the destruction occurs shall be subject to all the applicable regulations specified by this division. (Ord. 387 § 1, 1996)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS AMENDING SECTIONS 21.60.020, 21.60.080, 21.90.030 AND ADDING SECTION 21.60.085 TO THE CITY ZONING CODE RELATING TO CITY LANDSCAPE REQUIREMENTS; AND FINDING THE ACTION TO BE CATEGORICALLY EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Indian Wells, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City has the authority under Article 11, Section 5 of the California Constitution and the City Charter to make, amend, and enforce all ordinances and regulations with respect to municipal affairs; and

WHEREAS, the City desires and intends to amend Section(s) 21.60.020, 21.60.080, 21.90.030 and add Section 21.60.085 to the City's Zoning Code to clarify existing regulations and adopt new regulations related to the City's landscape requirements; and

WHEREAS, the Planning Commission held three (3) separate study sessions with the community and the City's professional landscape consultant to discuss potential revisions to the city's landscape regulations at which time all persons wishing to be heard were afforded an opportunity to be heard; and

WHEREAS, on October 12, 2023, the City gave public notice of a Planning Commission public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on October 26, 2023, the Planning Commission held its first public hearing to consider the staff report, recommendations by staff, and public testimony concerning this Ordinance. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on November 21, 2023 the City gave public notice of a City Council public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on December 7, 2023, the City Council held its first public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendation by the City's Planning Commission; and

WHEREAS, after considering staff's presentation and public testimony, City Council deliberated on the Planning Commission's recommended amendment to enforce a timeline for properties recently found not to be in compliance with the current landscape code, and

WHEREAS, after much deliberation, City Council directed staff to rescind all recent Notices of Violation to property owners found not be in compliance with the current landscape code, and bring the ordinance back to Planning Commission for consideration of an optional enforcement policy provided by city staff; and

WHEREAS, on December 14, 2023, the City noticed the Planning Commission's second public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on December 28, 2023, the City's Planning Commission conducted their second public hearing to reconsider the proposed ordinance with amendments and consider additional public testimony. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on January 4, 2024 the City gave public notice of the second City Council public hearing to be held on the Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on January 18, 2024, the City Council held its second public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendation by the City's Planning Commission; and

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

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

Section 1. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. CEQA. This action has been reviewed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as the Lead Agency, has determined the ordinance amendment is exempt from CEQA pursuant to Section 15304, where the proposed amendment consists of minor public or private alterations to the condition of land, water or vegetation as there is no possibility the activity in question will have a significant effect on the environment. Alternatively, it has determined the ordinance amendment is exempt from CEQA per CEQA Guidelines Section(s) 15307 and 15308 as actions taken by regulatory agencies, as authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource. The City shall file a notice of exemption within five business days of adoption.

Section 3. General Plan. Based on the entire record before the City Council, including the Planning Commission recommendation and all written and oral evidence presented, the City Council hereby finds that the proposed water efficient landscape amendments to the City's Zoning Code are consistent with stated goals and policies in the City's adopted General Plan, including General Plan

Policy(s) 11.A1.18(1) which aims to promote water efficient landscaping and other methods to support environmental conservation goals; Policy IIIA8.3 which aims to incorporate water-wise native landscaping or alternative water saving materials (i.e., artificial turf) whenever feasible within the City, and; Water Conservation Goal IIIA5 which aims to protect and maintain safe and adequate water supply to ensure that the City's growing demand for water can be met in a sustainable manner.

Section 4. Code Amendments. Section(s) 21.60.020, 21.60.080, 21.90.030 and 21.60.085 of the Indian Wells Zoning Code are hereby amended and added, respectfully, to read in their entirety as set forth in Exhibit "A," attached hereto and incorporated herein.

Section 5. Effective Date. This Ordinance takes effect 30 days following its adoption.

Section 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 44950 Eldorado Drive, Indian Wells, CA 92210. The custodian of these records is the City Clerk.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council and the people of the City of Indian Wells hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 8. Publication; Effective Date. The City Clerk shall certify to the adoption of this Ordinance. Not later than 15 days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Indian Wells.

PASSED APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on the 18th day of January 2024.

GREG SANDERS
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. _____

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No.____ , having been regularly introduced at a regular meeting of January 18, 2024 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on January ____, 2024 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

and was thereafter on said day signed by the Mayor of said City of Indian Wells.

ATTEST:

APPROVED AS TO FORM:

**ANGELICA AVILA
CITY CLERK**

**TODD LEISHMAN
CITY ATTORNEY**

EXHIBIT A

Amended Landscape Regulations

(follows this page)

Exhibit A: Code Amendments

Section 21.60.085 is hereby added to Title 21 Zoning Code to read in its entirety as follows:

21.60.085 Landscape Application Requirements

A complete landscape application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section 21.60.020(b)(1)) may require additional information for a particular application. Design guidelines established by the City should be consulted prior to submission of the application.

a) Purpose and Intent.

This Section provides general standards establishing landscaping requirements that are intended to:

- 1) Protect and elevate the city's unique desert setting, distinguishing itself as a prestigious resort community. The standards set forth aim to enhance the aesthetic appearance of all developments.
- 2) Ensure compatibility between adjoining land uses and public rights of way, ensuring a harmonious blend with the surrounding environment.
- 3) Conserve water through efficient irrigation and appropriate plant selection, and align the city's standards with state water conservations acts aiming to reduce water consumption.
- 4) Prioritize the health and safety of the public, ensuring that landscaping practices in the City enhance pedestrian and vehicular traffic safety and maintain the integrity of neighborhoods.
- 5) Establish a unified City landscape theme, promote water conservation and enhance the physical and natural beauty of the environment.

b) Application

The landscaping requirements in this chapter apply to the following within all areas of the City except common interest development areas that are not visible from public right-of-way:

- 1) All new landscape or remodeled landscape projects on or after January 1, 2024 that affect more than 250 square feet;

2) All properties that, as of December 1, 2023, have within fewer than two plants per 100 square feet or that have less than 50 percent coverage with city-approved groundcover (organic or inorganic).

3) Fee. An application fee in an amount published by the Planning Department is required for review and processing of landscape design packages.

c) Definitions.

As used in this Section, terms are defined as follows:

- 1) "Artificial turf" means a surface made from synthetic fibers to look like natural grass.
- 2) "Berming" means the process of creating raised areas of soil, often for the purpose of enhancing landscape design or managing water flow.
- 3) "Box trees" means trees that are sold in large square containers. Size, such as 24-inch or 36-inch, refers to the diagonal measurement of the box.
- 4) "Compost" means decomposed organic matter used to enrich soil.
- 5) "Drought-tolerant plants" means plants that can survive with minimal water, often native to arid regions.
- 6) "Focal points" means elements in a landscape design that capture attention, such as a unique plant, water feature, statue, or other installations.
- 7) "Golden ratio" means a mathematical ratio found in nature and art, often used in design for its aesthetically pleasing properties. In landscaping, it refers to the proportional arrangement of plants and hardscape.
- 8) "Grandfathered landscapes" refers to properties that currently have legal nonconforming landscapes in place. These properties are classified as grandfathered and are therefore exempt from the regulations outlined in this section unless they are subject to paragraph (b)(1) of this section. Any modifications to these grandfathered landscapes will be regulated pursuant to section 21.90.030.
- 9) "Hardscape" means non-living elements of landscaping, such as concrete patios, walkways, and walls.
- 10) "Hydrozone" means a portion of the landscaped area having plants with similar water needs that are served by sprinkler heads, a valve or set of valves with the same schedule.

- 11) "Inorganic ground Cover" means inorganic materials used to cover the ground for decorative or functional purposes, such as decomposed granite, crushed rock, cobbles, and boulders.
- 12) "Irrigation system" means a system that delivers water to plants. Types include drip irrigation (where water drips slowly to the roots of plants) and sprinkler systems.
- 13) "Landscape area" means all non-turf areas such as parkways, planters, flower beds and undeveloped areas that require landscape, irrigation and weed control.
- 14) "Mulch" means an organic material spread around plants to retain moisture, suppress weeds, and improve soil health.
- 15) "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events.
- 16) "Non-potable water" means water not treated to drinking water standards and is not meant for human consumption. Includes raw (untreated) water from reservoirs, which is commonly used for irrigation and other purposes.
- 17) "Organic cover" means a natural material used to cover the soil and enhance its quality. Examples include mulch and compost.
- 18) "Plant density" means the number of plants within a defined landscape area calculated as an average of plants per 100 square-feet.
- 19) "Plant size" means the volume of the container in which a plant is sold, which gives an approximate idea of the size of the plant. Common sizes include one-gallon, five-gallon, and fifteen-gallon.
- 20) "Texture" means how fine or coarse the surface of a plant or inorganic material is. For inorganic ground cover, texture refers to the size of the crushed rock, pebbles, stone, etc.
- 21) "Tree root barrier" means a root deflector, which can be made from various materials that help block or redirect roots to prevent damage to adjacent hardscape features or structures.
- 22) "Turf" means the upper layer of ground that is made up of live grass and plant roots.
- 23) "Weed barrier" means a permeable cloth material laid over the ground to prevent the growth of weeds.

d) Review and Permitting Authority.

- 1) All landscape projects with a landscaped area greater than 250 square feet and less than 2,500 square feet shall be reviewed and permitted by the Planning Department in compliance with this Section.

- 2) Landscape plans exceeding 2,500 square feet and not within an active homeowner's association shall be reviewed by the City's Design Review Committee (DRC).
- 3) Landscape plans for areas greater than 2,500 square feet shall require plans drawn by a professional landscape architect licensed in the state of California.
- 4) All properties that require the installation of landscaping in compliance with the development standards of this title shall provide and maintain landscaping in compliance with the provisions of this chapter.
- 5) The following landscape projects shall also comply with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
 - i. New construction and rehabilitated landscapes for public agency projects and private development projects requiring a building or landscape permit, plan check or design review;
 - ii. New construction and rehabilitated landscapes which are developer-installed in single-family and multi-family projects requiring a building or landscape permit, plan check or design review; and
 - iii. New construction and rehabilitated landscapes which are homeowner-provided and/or homeowner-hired in single-family and multi-family residential projects with a total project area equal to or greater than two thousand five hundred (2,500) square feet requiring a building or landscape permit, plan check or design review.
- 6) Administrative Landscape Exception. The provision of an administrative landscape exception facilitates regulatory flexibility when a standard is deemed inapplicable or unsuitable for a particular use or design.
 - i. Application. Applicants shall submit a written request for an administrative landscape exception to the Planning Department, accompanied by a comprehensive description and relevant drawings of the proposed project as outlined in Section 21.60.085(d). The Community Development Director may request additional information as necessary.
 - ii. Approval. The authority to grant or deny an administrative landscape exception resides with the Community Development Director. However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or the Planning Commission for decision-making. The following findings shall be made prior to approval of the administrative landscape exception:
 - i. The findings as set forth in Section 21.06.050(d);
 - ii. That the proposed project is exempt from the California Environmental Quality Act ("CEQA");
 - iii. Preservation of the intent of this Zoning Code and the specific regulation under consideration;

- iv. The circumstances make the strict application of the requirements of this division to the proposed project inappropriate;
- iii. Appeal. The applicant may appeal the decision in accordance with the appeal procedures set forth in section 21.06.110.

e) Submittal of Landscape Plan.

A comprehensive and fully dimensioned landscape plan shall be submitted to the Planning Department, including the following details:

- 1) Site plan with north arrow identifying the planting areas drawn to scale, along with the location and spacing of proposed plants, trees and any other vegetation. Plants having similar water use shall be grouped together in distinct hydrozones.
- 2) Show the location and type of irrigation system to be utilized within the different hydrozones, as appropriate.
- 3) Show all existing or proposed features on the site plan, including pools, spas, fountains, decks (concrete or wooden), planters, walkways, gates, low walls, etc. Also indicate proposed finishes for all flat work.
- 4) Provide a complete plant palette legend identifying size and species, both common and Latin names, and water usage per the Water Use Classification of Landscape Species (WUCOLS). Drought tolerant species are encouraged.

f) Landscape Design Standards.

Landscape designs for residential lots, common areas, and commercial developments shall be required to meet the minimum design criteria:

- 1) Residential lots.
 - i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
 - ii. Live or artificial turf areas are permitted and discounted from overall landscape area.
 - iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
 - iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
 - v. A minimum of two (2) 24-inch box trees required in each front yard. Two (2) palm trees at least 8-feet in height may substitute for one (1) 24-inch box tree. Corner lots shall meet this minimum tree requirement for each of their

frontages. Tree root control barriers shall be used on trees installed within 5-feet of any hardscape element or structure.

2) Common areas.

- i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of four (4) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. One (1) 36-inch box tree or two (2) palm trees at least 8-feet in height required per 1,000 sqft of landscape area.

3) Commercial areas.

- i. Plant density shall be four (4) plants per 100 square-feet of landscape area minimum.
- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. Trees shall be incorporated into the design of all off street parking areas in compliance with Section 21.100.030 of the City's Municipal Code.
- vi. Trees shall be planted along commercial street frontages at a rate of one (1) 36-inch box tree, or one (1) palm tree at least 10-feet in height, per 30-linear feet of street frontage or at the minimum distance between trees as recommended for the specific tree species.

4) Inorganic ground covers and materials.

Open or voided areas within a defined landscape area shall be covered with inorganic ground covers, including but not limited to decomposed granite, crushed rock, cobbles, boulders, and mulch is acceptable. Bare earth shall not be permitted. A minimum of two (2) different textures of inorganic ground covers shall be required within defined landscape areas, including but not limited to:

- i. Crushed Rock: 0.5-inch to 1-inch in size, installed at 2-inch minimum depth.
- ii. Decomposed Granite: 2-inch minimum depth. Not permitted on slopes greater than 3:1
- iii. Cobble: 8" or less diameter set on grade with 1" partially buried so that cobble is not sitting on grade.
- iv. Pebbles: 1-inch to 2-inch in size, installed at 3-inch minimum depth.
- v. Mulch: 3-inch minimum depth.
- vi. Boulders: Maximum 3-feet in height and must be buried 1/3 of height of boulder
- vii. Artificial turf must be manufactured to meet the following quality standards:
 1. Must be permeable to allow water infiltration.
 2. Minimum face weight of 75oz per square yard.
 3. Minimum pile height of 1.75-inch.
 4. Blades shall be comprised of two (2) colors for a natural appearance.
 5. Made in the USA.
- viii. Mounding and the use of complementary colors are encouraged to enhance visual interest and topography within the landscape area. Mounding shall be maintained at a max slope ratio of 3:1 with a max height of three (3) feet.
- ix. Weed barriers are encouraged.

5) Aesthetic design.

The city's landscape aesthetic design guidelines and concepts are encouraged to improve the overall landscape design consistent with the city's quality of life standards. The Community Development Director may refer landscape designs, which do not meet the intent of the aesthetic design guidelines, to the city's Design Review Committee (DRC) for further review. The following landscape aesthetic design guidelines shall be considered during Planning Department review of required landscape plans:

- i. Use of Complimentary Colors: Colors that harmonize and enhance the overall landscape design and built environment are encouraged.
- ii. Berming: The aesthetic use of berms and undulating topography is strongly encouraged to add visual interest to the overall landscape design.
- iii. Proportion and Scale: The design should consider the size relationship between plants, hardscape, and architectural elements, including the application of principles such as the "golden ratio" for spatial arrangements.
- iv. Order and Balance: Symmetry is encouraged in formal or modern gardens, while asymmetrical planting designs are preferred for natural garden settings. The architecture and setting should inspire the landscape design. For natural settings, shrubs should be planted in non-uniform masses to present a natural landscape appearance.
- v. Repetition and Unity: Repetition fosters order, but variety is essential to prevent monotony. This can be achieved through the effective use of color, texture, and form.
- vi. Focal Points: The overall landscape design should incorporate focal points, such as unique plants or features (e.g., boulders, water features, planters, hardscape designs) that contrast with their surroundings in terms of color, size, or texture.
- vii. Interconnection: Dry river features and pathways are encouraged to connect different landscape areas, promoting unity and flow.
- viii. Simplicity: The design should prioritize simplicity, focusing on primary and accent installations.
- ix. Plant Placement: A hierarchy of plant placement is encouraged, with low plants in the foreground and taller plants against structures to create depth. Consideration should be given to the mature size of plants to prevent overcrowding.
- x. Seasonal Interest: A mix of perennial and seasonal plants is recommended to ensure year-round color and interest.
- xi. Texture and Form: A variety of textures and forms should be incorporated for added interest. The combination of fine and coarse-textured materials, such as boulders, crushed rocks, cobbles, and decomposed granite, in complementary colors is encouraged.
- xii. Landscape Lighting: Any outdoor lighting shall comply with Chapter 22.12 Lighting Standards of the City Municipal Code.
- xiii. Landscape Water Features: Any water features included within the landscape area should complement the overall design, be proportionate in size,

incorporate recirculating water system, and shall not exceed a maximum of 18-inches in depth measured from the highest possible water level as required by California Building Code Chapter 31 (Special construction), Section 3119.

- xiv. Project applicants shall reference the Lush and Efficient Landscape Gardening Manual prepared by the Coachella Valley Water District prior to submittal of any landscaping plan for review and approval by the city: http://web.cvwd.org/conservation/lush_book/index.html. Applicants shall also consult the Invasive Plant Inventory prepared by the California Invasive Plant Council prior to selection of any plant species for landscaping: <https://www.cal-ipc.org/plants/>

g) Irrigation and maintenance.

- 1) All landscaped areas within the City of Indian Wells shall be irrigated by an automatic irrigation system compliant with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
- 2) All required landscaping and associated irrigation systems shall be appropriately installed and must receive approval from the Planning Department prior to the inauguration or occupancy of the property.
- 3) All installed landscaping and irrigation systems shall be consistently maintained in accordance with the following specifications or shall be subject to code enforcement penalties in accordance with Section 8.08.010 Maintenance of Property:
 - i. Landscape maintenance shall encompass regular watering, mowing, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of deceased plants, and the repair and replacement of irrigation systems.
 - ii. To the greatest extent feasible, landscape irrigation water shall not run off the property to create pooling of stagnant water in the street or gutter.
 - iii. Water features, ponds, or any stagnant water bodies within landscaped areas must be equipped with appropriate mosquito prevention measures, such as circulation systems, mosquito fish, or other approved methods, to prevent the breeding of mosquitos. Circulation systems should run at least 8 hours per day. If a feature has no pump or other approved mosquito control measure, water shall be drained and replaced every 96 hours. Regular inspections and maintenance of these measures are encouraged to ensure their effectiveness.
 - iv. Property owners, homeowner's associations, or other responsible entities shall ensure that no stagnant water accumulates in any landscaped areas, as such conditions can become breeding grounds for mosquitos. Neglected pools, fountains, or standing water shall be drained to prevent breeding of mosquitos. Property owners shall notify the Coachella Valley Mosquito and Vector Control District if their water feature is drained or neglected.

- v. Prior to the approval of a final development plan permit or the recording of a subdivision map, a covenant ensuring the ongoing maintenance of all required landscaping and irrigation systems shall be established. This covenant, whether held by property owners, homeowners associations, or another responsible entity, must be approved by the Community Development Director, with the recommendation of the city attorney, and subsequently recorded in the county recorder's office.

h) Public safety and protection of intersection visibility.

- 1) Landscape design plans for corner parcel development projects must ensure traffic safety sight areas are designed to uphold public safety, consistent with Section 21.50.040 Protection of intersection visibility regulations of city's Municipal Code.
 - 2) Trees and shrubs shall be planted so that at maturity they do not interfere with utility service lines, street lighting, street sweeping, traffic safety sight areas, on-site signs, and basic property rights of adjoining property owners.
 - 3) Trees planted near public curbs, sidewalks, or utility vaults shall have a limited root structure and shall be installed to prevent physical damage to public improvements and shall comply with the following provisions:
 - i. Canopy trees shall be placed a minimum of ten feet from public street curb and a minimum of three feet from sidewalks.
 - ii. Palm trees with a trunk height of ten feet or more shall be placed a minimum of three feet from public street curb and sidewalks.
 - iii. A root barrier system shall be installed when trees are located near public curbs, sidewalks, or utility vaults.
 - iv. Landscape and irrigation plans shall be required for all public street parkways and median islands and shall conform to city standards and be submitted for review and approval to the city engineer and planning division.
 - v. Right-of-way lines shall be shown on the final landscape plan.
-

Section 21.60.020 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.020 Applicability and Review Authority.

(a) This Chapter applies to the following activities:

- (1) Obtaining a permit to construct a building or structure in any zone;
- (2) Undertaking any external modification to a structure visible to any roadway or open space, public or private;
- (3) Installation of new or remodeled landscape projects in excess of 250 square-feet within all areas of the City except common interest development areas that are not visible from public right-of-way.
- (4) Installing new or modifying an existing antenna, outdoor lighting, landscape lighting, private tennis court, emergency generators greater than fifteen thousand (15,000) kilowatts; and
- (5) Minor exterior remodel of or addition to a single-family residence, such as:
 - (i) A window or door change-out,
 - (ii) A change of exterior house color (desert tones are preferred),
 - (iii) A wall, fence, planter, fountain, or similar architectural amenity,
 - (iv) Re-roofing,
 - (v) A patio cover,
 - (vi) Solar panels,
 - (vii) An addition in the rear or side yard that is not visible to any roadway or open space area, public or private,
 - (viii) Front-yard landscape projects visible from the street with a landscaped area greater than 250 square feet and less than 2,500 square feet.

- (ix) Accessory Dwelling Units in compliance with the requirements in Section 21.85.040

(b) Before commencing any of the activities listed in subsection (a) above, the owner of the property must submit a design review application to the Planning Department, to ensure compliance with the provisions of this Chapter, as well as with the basic zoning and other design parameters that are specified in the Zoning Code. Submissions may be done electronically via the City's website or in person with the Planning Department.

(1) For purposes of this Chapter, the Planning Department, DRC, or the Planning Commission is the "Review Authority" when making the initial decision about an application.

- (2) If an application is consistent with all the requirements of the Zoning Code:

- (i) Planning Department Review.

- (A) The Planning Department is generally the Review Authority for the following:

- 1. An application under subsection (a)(5) above; or

- 2. An application for a property located in an area with an active Homeowner's Association, and the complete design review application has been reviewed and approved by the Association.

- (B) However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or directly to the Planning Commission as the Review Authority.

- (ii) DRC Review. The DRC is generally the Review Authority for an application under any of subsections (a)(1) through (a)(4) above, including landscape projects larger than 2,500 square feet, but any member of the DRC may refer the application to the Planning Commission as the Review Authority.

- (3) If an application is inconsistent with any requirement of the Zoning Code, the Planning Commission is the Review Authority unless an administrative landscape exception request is granted under section 21.60.085(d)(6) below. (Ord. 727 § 2, 2020)

Section 21.60.080 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.080 Architecture Application Requirements.

A complete design review application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section 21.60.020(b)(1)) may require additional information for a particular application. Design guidelines established by the City, or if applicable, a Homeowners Association's Architectural Guidelines should be consulted prior to submission of the application. A complete application must include each of the following:

(a) Application to Construct Form. A completed "Application to Construct" form which can be obtained in electronic or hard-copy format from the City.

(b) Required Plans (electronic copies preferred). Two (2) sets of 24" x 36" or 30" x 42" bluelines or blacklines, along with one (1) rendered blackline each of the residence, elevations, landscape plans prepared in accordance with Section 21.60.085, and other data pertinent to the particular application. Rendered blacklines shall be rolled, not folded. Defaced, incomplete, indefinite or faded plans will not be accepted. All residential plans and elevations shall be drawn at a minimum scale of 1/8" = 1'0". For single family residential submittals, a set of plans shall consist of the items listed below. Requirements for multi-family residential and non-residential projects shall include information necessary to evaluate the proposed project as determined by the Community Development Director.

- (1) General Information Block.
 - (i) Owner and designer's names;
 - (ii) Address of owner;
 - (iii) Telephone number of owner;
 - (iv) Assessor parcel number and address of residence;
 - (v) North point, date of drawing and scale; and
 - (vi) Vicinity map showing location of project.

(2) Site Plan.

- (i) Legal description (lot and tract);
- (ii) Lot size (dimension along each property line);
- (iii) Zone classification and type of development of subject property and of all adjacent property, including across any street. Show distance of structure(s) on adjacent properties that are within ten (10) feet of project property line;
- (iv) Setback of existing and proposed buildings in relation to property lines per standards of the zone;
- (v) Locations of swimming pools, spas, air conditioner equipment, pool and spa equipment (i.e., heater, pump), storage areas, utility installations, antenna, tennis courts, refuse storage areas and other auxiliary household equipment shall be noted on site plans;
- (vi) Computed areas of building coverage, impervious surfaces, landscaping, and open space;
- (vii) Dimension of property lines or boundary lines of project;
- (viii) Location, names and widths of boundary streets; and recorded road, utility or drainage easements on property (where none exists, indicate by a note that no easement exists);
- (ix) Elevation of existing curb and gutter where available or edge of pavement where no curb exists;
- (x) Pad grade and finish-floor elevations; provide information on adjacent parcels if available;
- (xi) Heights of existing or proposed walls and fences, as measured from exterior side of wall (side facing street or adjacent property);
- (xii) A "line of sight" section for all in-fill construction;
- (xiii) Clear delineation of all proposed driveways subject to the criteria outlined under Section 21.20.080; and
- (xiv) For all large-scale development (ten (10) acres or larger), the inclusion of natural open space areas to provide habitat for native wildlife.

NOTE: All site plans must include sufficient information to demonstrate compliance with all applicable development standards in the Zoning Code.

(3) Floor Plan. Square footage of living space and location, size, and use of all rooms. Show all significant dimensions.

(4) Elevations.

(i) Provide all elevations identified as front, rear, right and left side;

(ii) Show locations of doors, windows, chimneys, etc.;

(iii) Show exterior finishes and roof material;

(iv) Dimension elevation from pad grade, indicate all significant vertical dimensions; and

(v) Show all proposed plant material (trees and shrubs) against elevations. Provide as separate set of elevations.

(5) Roof Plan. Only thirty (30) percent of the total roof area may exceed fifteen (15) feet in height, up to a maximum eighteen (18) feet. Identify that portion of the total roof area that exceeds fifteen (15) feet in height. Show percent calculation on plan.

(6) Mailbox Design per United States Postal Service Requirements. Provide a minimum 1/2" = 1'0" scale mailbox design not to exceed four (4) feet in height and eighteen (18) inches in width or depth.

NOTE: Review of design packages containing landscape plans not prepared by a California licensed landscape architect will be subject to additional review fees incurred by the City for the review of such plans by professional design consultants.

(7) Conceptual Lighting Plan. Plan shall be submitted delineating size, location, light spread, illuminating capacity (candle power) and hours of operation of proposed exterior lighting. Plan shall be in conformance with lighting standards found in Chapter 22.12 of the City Municipal Code.

(8) Materials Sample and Color Board. (Maximum size 8 1/2" x 14"): Sample of materials should be kept to a minimum size; include exterior finishes of residence including door and window trim colors, and garden walls, along with exterior colors. (Desert tone colors are preferred.)

(c) Fee. An application fee in an amount published by the Planning Department is required for review and processing of architectural design packages. (Ord. 727 § 2, 2020)

Section 21.90.030 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.90.030 Non-conforming uses and structures.

(a) General. Unless otherwise required by the municipal code, any legally established, lawful use of land, building, structure, or improvement may be continued except as provided herein, even if such use does not conform with the applicable provisions of the current municipal code.

(b) Abandonment. Any legally established non-conforming use of land, building, structure, or improvement that becomes vacant and remains unoccupied for a continuous period of one (1) year shall be termed abandoned, and all future uses shall comply with the regulations of the area in which it is located.

(c) Alterations or Additions. An existing building, structure, or improvement conforming as to use but that does not conform to the general development standards may be altered, added to or enlarged, provided that any alteration, addition, or enlargement complies with the current regulations of this division.

(d) Maintenance. A legal non-conforming building, structure, site, or improvement shall be maintained in sound and safe condition.

(e) Restoration of Damaged Structures. A legal non-conforming building, and/or structure which is damaged or partially destroyed by fire, explosion or man-induced or natural disaster to the extent of more than seventy-five (75) percent of the fair market value according to the assessment as listed by the Riverside County Assessor for the fiscal year during which the destruction occurs shall be subject to all the applicable regulations specified by this division. (Ord. 387 § 1, 1996)

City Council Supported Code Amendments in Track Changes

Added Text = Underlined Text

Deleted Text = ~~Strikeout Text~~

Section 21.60.085 is hereby added to Title 21 Zoning Code to read in its entirety as follows:

21.60.085 Landscape Application Requirements

A complete landscape application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section 21.60.020(b)(1)) may require additional information for a particular application. Design guidelines established by the City, ~~or if applicable, a Homeowners Association's Landscape Guidelines~~ should be consulted prior to submission of the application.

a) Purpose and Intent.

This Section provides general standards establishing landscaping requirements that are intended to:

- 1) Protect and elevate the city's unique desert setting, distinguishing itself as a prestigious resort community. The standards set forth aim to enhance the aesthetic appearance of all developments.
- 2) Ensure compatibility between adjoining land uses and public rights of way, ensuring a harmonious blend with the surrounding environment.
- 3) Conserve water through efficient irrigation and appropriate plant selection, and align the city's standards with state water conservations acts aiming to reduce water consumption.
- 4) Prioritize the health and safety of the public, ensuring that landscaping practices in the City enhance pedestrian and vehicular traffic safety and maintain the integrity of neighborhoods.
- 5) Establish a unified City landscape theme, promote water conservation and enhance the physical and natural beauty of the environment.

b) Application

The landscaping requirements in this chapter apply to the following within all areas of the City except Common Interest Development Areas except common interest development areas that are not visible from public right-of-way:

- 1) All new landscape or remodeled landscape projects on or after January 1, 2024 that affect more than 250 square feet;

2) All properties that, as of December 1, 2023, have within fewer than two plants per 100 square feet or that have less than 50 percent coverage with city-approved groundcover (organic or inorganic).

3) Fee. An application fee in an amount published by the Planning Department is required for review and processing of landscape design packages.

b)c) Definitions.

As used in this Section, terms are defined as follows:

- 1) "Artificial turf" means a surface made from synthetic fibers to look like natural grass.
- 2) "Berming" means the process of creating raised areas of soil, often for the purpose of enhancing landscape design or managing water flow.
- 3) "Box trees" means trees that are sold in large square containers. Size, such as 24-inch or 36-inch, refers to the diagonal measurement of the box.
- 4) "Compost" means decomposed organic matter used to enrich soil.
- 4)5) "Drought-tolerant plants" means plants that can survive with minimal water, often native to arid regions.
- 5)6) "Focal points" means elements in a landscape design that capture attention, such as a unique plant, water feature, statue, or other installations.
- 7) "Golden ratio" means a mathematical ratio found in nature and art, often used in design for its aesthetically pleasing properties. In landscaping, it refers to the proportional arrangement of plants and hardscape.
- 6)8) "Grandfathered landscapes" refers to properties that currently have legal nonconforming landscapes in place. These properties are classified as grandfathered and are therefore exempt from the regulations outlined in this section unless they are subject to paragraph (b)(1) of this section. Any modifications to these grandfathered landscapes will be regulated pursuant to section 21.90.030.
- 7)9) "Hardscape" means non-living elements of landscaping, such as concrete patios, walkways, and walls.
- 10) "Hydrozone" means a portion of the landscaped area having plants with similar water needs that are served by sprinkler heads, a valve or set of valves with the same schedule.
- 8)11) "Inorganic ground Cover" means inorganic materials used to cover the ground for decorative or functional purposes, such as decomposed granite, crushed rock, cobbles, and boulders.

~~9)~~12) "Irrigation system" means a system that delivers water to plants. Types include drip irrigation (where water drips slowly to the roots of plants) and sprinkler systems.

~~10)~~13) "Landscape area" means all non-turf areas such as parkways, planters, flower beds and undeveloped areas that require landscape, irrigation and weed control.

~~11)~~14) "Mulch" means an organic material spread around plants to retain moisture, suppress weeds, and improve soil health.

~~12)~~15) "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events.

~~13)~~ "~~Non-organic ground cover" means inorganic materials used to cover the ground for decorative or functional purposes, such as decomposed granite, crushed rock, cobbles, and boulders.~~"

~~14)~~16) "Non-potable water" means water not treated to drinking water standards and is not meant for human consumption. Includes raw (untreated) water from reservoirs, which is commonly used for irrigation and other purposes.

~~15)~~17) "Organic cover" means a natural material used to cover the soil and enhance its quality. Examples include mulch and compost.

~~16)~~18) "Plant density" means the number of plants within a defined landscape area calculated as an average of plants per 100 square-feet.

~~17)~~19) "Plant size" means the volume of the container in which a plant is sold, which gives an approximate idea of the size of the plant. Common sizes include one-gallon, five-gallon, and fifteen-gallon.

~~18)~~20) "Texture" means how fine or coarse the surface of a plant or ~~non-in~~organic material is. For ~~non-in~~organic ground cover, texture refers to the size of the crushed rock, pebbles, stone, etc.

~~19)~~21) "Tree root barrier" means a root deflector, which can be made from various materials that help block or redirect roots to prevent damage to adjacent hardscape features or structures.

~~20)~~22) "Turf" means the upper layer of ground that is made up of live grass and plant roots.

~~21)~~23) "Weed barrier" means a permeable cloth material laid over the ground to prevent the growth of weeds.

~~e)~~d) **Review and Permitting Authority.**

- 1) All landscape projects with a landscaped area greater than 250 square feet and less than 2,500 square feet shall be reviewed and permitted by the Planning Department in compliance with this Section.

- 2) Landscape plans exceeding 2,500 square feet and not within an active homeowner's association shall be reviewed by the City's Design Review Committee (DRC).
- 3) Landscape plans for areas greater than 2,500 square feet shall require plans drawn by a professional landscape architect licensed in the state of California.
- ~~4) The following projects shall be exempt from review and approval by the Planning Department or the DRC:
 - i. ~~Homeowner_ installed and individually _maintained landscaping within private enclosed courtyards, sideyards, and backyards, not visible from public areas; and~~
 - ii. ~~Minor landscape modifications or changeouts of less than 250 square feet.~~
 - iii. ~~Properties with existing legal nonconforming landscape projects as allowed under Section 21.90.030 of the Municipal Code, including those with a density of 2 plants per 100 square feet or at least 50% plat coverage as of December 1, 2023. Such properties are considered "grandfathered" and exempt from the regulations of this Section. Changes to existing legal nonconforming or "grandfathered" landscape projects are subject to regulations in Section 21.90.030 of the Municipal Code. By way of example only, if a homeowner legally established landscaping in their front yard prior to adoption of this Section, but the legally established landscaping does not comply with this Section, the landscaping is "grandfathered" and may remain in place. If at a later time the homeowner decides to alter or enlarge its landscaping, the homeowner would have to comply with this Section, as applicable. In certain situations, like where the landscape modifications are less than 250 square feet, the modifications would not require review and permitting by the Planning Department.~~~~
- ~~5) Active homeowner association shall abide by the City's landscape standards unless they have either received formal approval for alternative standards through a City approved entitlement process or have Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), allowing alternative landscape standards, filed with the City's Planning Department.~~
- 6)4) All properties that require the installation of landscaping in compliance with the development standards of this title shall provide and maintain landscaping in compliance with the provisions of this chapter.
- 7)5) The following landscape projects shall also comply with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
 - i. New construction and rehabilitated landscapes for public agency projects and private development projects requiring a building or landscape permit, plan check or design review;

- ii. New construction and rehabilitated landscapes which are developer-installed in single-family and multi-family projects requiring a building or landscape permit, plan check or design review; and
- iii. New construction and rehabilitated landscapes which are homeowner-provided and/or homeowner-hired in single-family and multi-family residential projects with a total project area equal to or greater than two thousand five hundred (2,500) square feet requiring a building or landscape permit, plan check or design review.

6) Administrative Landscape Exception. The provision of an administrative landscape exception facilitates regulatory flexibility when a standard is deemed inapplicable or unsuitable for a particular use or design.

- i. Application. Applicants shall submit a written request for an administrative landscape exception to the Planning Department, accompanied by a comprehensive description and relevant drawings of the proposed project as outlined in Section 21.60.085(d). The Community Development Director may request additional information as necessary.
- ii. Approval. The authority to grant or deny an administrative landscape exception resides with the Community Development Director. However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or the Planning Commission for decision-making. The following findings shall be made prior to approval of the administrative landscape exception:
 - a. The findings as set forth in Section 21.06.050(d);
 - b. That the proposed project is exempt from the California Environmental Quality Act ("CEQA");
 - c. Preservation of the intent of this Zoning Code and the specific regulation under consideration;
 - d. The circumstances make the strict application of the requirements of this division to the proposed project inappropriate;
- iii. Appeal. The applicant may appeal the decision in accordance with the appeal procedures set forth in section 21.06.110.

~~d)e)~~ **Submittal of Landscape Plan.**

A comprehensive and fully dimensioned landscape plan shall be submitted to the Planning Department, including the following details:

- 1) Site plan with north arrow identifying the planting areas drawn to scale, along with the location and spacing of proposed plants, trees and any other vegetation. Plants having similar water use shall be grouped together in distinct hydrozones.

- 2) Show the location and type of irrigation system to be utilized within the different hydrozones, as appropriate.
- 3) Show all existing or proposed features on the site plan, including pools, spas, fountains, decks (concrete or wooden), planters, walkways, gates, low walls, etc. Also indicate proposed finishes for all flat work.
- 4) Provide a complete plant palette legend identifying size and species, both common and Latin names, and water usage per the Water Use Classification of Landscape Species (WUCOLS). Drought tolerant species are encouraged.

e)f) _____ Landscape Design Standards.

Landscape designs for residential lots, common areas, and commercial developments shall be required to meet the minimum design criteria:

- 1) Residential lots.
 - i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
 - ii. Live or artificial turf areas are permitted and discounted from overall landscape area.
 - iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
 - iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
 - v. A minimum of two (2) 24-inch box trees required in each front yard. Two (2) palm trees at least 8-feet in height may substitute for one (1) 24-inch box tree. Corner lots shall meet this minimum tree requirement for each of their frontages. Tree root control barriers shall be used on trees installed within 5-feet of any hardscape element or structure.
- 2) Common areas.
 - i. Plant density shall be three (3) plants per 100 square-feet of landscape area minimum.
 - ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
 - iii. A variety of four (4) unique plant species shall be incorporated within the overall landscape area.

- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. One (1) 36-inch box tree or two (2) palm trees at least 8-feet in height required per 1,000 sqft of landscape area.

3) Commercial areas.

- i. Plant density shall be four (4) plants per 100 square-feet of landscape area minimum.
- ii. Artificial turf areas permitted. Non-functional turf permitted only if irrigated by non-potable water source. Non-functional turf and/or artificial turf shall be discounted from overall landscape area.
- iii. A variety of five (5) unique plant species shall be incorporated within the overall landscape area.
- iv. 70% of plants shall be five (5) gallon; 30% of plants shall be fifteen (15) gallon. Only seasonal plantings (flowers) may be less than five (5) gallon, but shall not be counted toward plant density.
- v. Trees shall be incorporated into the design of all off street parking areas in compliance with Section 21.100.030 of the City's Municipal Code.
- vi. Trees shall be planted along commercial street frontages at a rate of one (1) 36-inch box tree, or one (1) palm tree at least 10-feet in height, per 30-linear feet of street frontage or at the minimum distance between trees as recommended for the specific tree species.

4) ~~Non-In~~organic ground covers and materials.

Open or voided areas within a defined landscape area shall be covered with ~~non-in~~organic ground covers, including but not limited to decomposed granite, crushed rock, cobbles, boulders, ~~and mulch (is acceptable), and artificial turf~~. Bare earth shall not be permitted. A minimum of two (2) different textures of ~~non-in~~organic ground covers shall be required within defined landscape areas, including but not limited to:

- i. Crushed Rock: 0.5-inch to 1-inch in size, installed at 2-inch minimum depth.
- ii. Decomposed Granite: 2-inch minimum depth. Not permitted on slopes greater than 3:1
- iii. Cobble: 8" or less diameter set on grade with 1" partially buried so that cobble is not sitting on grade.
- iv. Pebbles: 1-inch to 2-inch in size, installed at 3-inch minimum depth.

- v. Mulch: 3-inch minimum depth.
- vi. Boulders: Maximum 3-feet in height and must be buried 1/3 of height of boulder
- vii. Artificial turf must be manufactured to meet the following quality standards:
 - 1. Must be permeable to allow water infiltration.
 - 2. Minimum face weight of 75oz per square yard.
 - 3. Minimum pile height of 1.75-inch.
 - 4. Blades shall be comprised of two (2) colors for a natural appearance.
 - 5. Made in the USA.
- viii. Mounding and the use of complementary colors are encouraged to enhance visual interest and topography within the landscape area. Mounding shall be maintained at a max slope ratio of 3:1 with a max height of three (3) feet.
- ix. Weed barriers are encouraged.

5) Aesthetic design.

The city's landscape aesthetic design guidelines and concepts are encouraged to improve the overall landscape design consistent with the city's quality of life standards. The Community Development Director may refer landscape designs, which do not meet the intent of the aesthetic design guidelines, to the city's Design Review Committee (DRC) for further review. The following landscape aesthetic design guidelines shall be considered during Planning Department review of required landscape plans:

- i. Use of Complimentary Colors: Colors that harmonize and enhance the overall landscape design and built environment are encouraged.
- ii. Berming: The aesthetic use of berms and undulating topography is strongly encouraged to add visual interest to the overall landscape design.
- iii. Proportion and Scale: The design should consider the size relationship between plants, hardscape, and architectural elements, including the application of principles such as the "golden ratio" for spatial arrangements.
- iv. Order and Balance: Symmetry is encouraged in formal or modern gardens, while asymmetrical planting designs are preferred for natural garden settings. The architecture and setting should inspire the landscape design. For natural settings, shrubs should be planted in non-uniform masses to present a natural landscape appearance.

- v. Repetition and Unity: Repetition fosters order, but variety is essential to prevent monotony. This can be achieved through the effective use of color, texture, and form.
- vi. Focal Points: The overall landscape design should incorporate focal points, such as unique plants or features (e.g., boulders, water features, planters, hardscape designs) that contrast with their surroundings in terms of color, size, or texture.
- vii. Interconnection: Dry river features and pathways are encouraged to connect different landscape areas, promoting unity and flow.
- viii. Simplicity: The design should prioritize simplicity, focusing on primary and accent installations.
- ix. Plant Placement: A hierarchy of plant placement is encouraged, with low plants in the foreground and taller plants against structures to create depth. Consideration should be given to the mature size of plants to prevent overcrowding.
- x. Seasonal Interest: A mix of perennial and seasonal plants is recommended to ensure year-round color and interest.
- xi. Texture and Form: A variety of textures and forms should be incorporated for added interest. The combination of fine and coarse-textured materials, such as boulders, crushed rocks, cobbles, and decomposed granite, in complementary colors is encouraged.
- xii. Landscape Lighting: Any outdoor lighting shall comply with Chapter 22.12 Lighting Standards of the City Municipal Code.
- xiii. Landscape Water Features: Any water features included within the landscape area should complement the overall design, be proportionate in size, incorporate recirculating water system, and shall not exceed a maximum of 18-inches in depth measured from the highest possible water level as required by California Building Code Chapter 31 (Special construction), Section 3119.
- xiv. Project applicants shall reference the Lush and Efficient Landscape Gardening Manual prepared by the Coachella Valley Water District prior to submittal of any landscaping plan for review and approval by the city: http://web.cvwd.org/conservation/lush_book/index.html. Applicants shall also consult the Invasive Plant Inventory prepared by the California Invasive Plant Council prior to selection of any plant species for landscaping: <https://www.cal-ipc.org/plants/>

f) _____ Irrigation and maintenance.

- 1) All landscaped areas within the City of Indian Wells shall be irrigated by an automatic irrigation system compliant with Chapter 21.70 Water Efficient Landscaping of the City Municipal Code.
- 2) All required landscaping and associated irrigation systems shall be appropriately installed and must receive approval from the Planning Department prior to the inauguration or occupancy of the property.
- 3) All installed landscaping and irrigation systems shall be consistently maintained in accordance with the following specifications or shall be subject to code enforcement penalties in accordance with Section 8.08.010 Maintenance of Property:
 - i. Landscape maintenance shall encompass regular watering, mowing, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of deceased plants, and the repair and replacement of irrigation systems.
 - ii. To the greatest extent feasible, landscape irrigation water shall not run off the property to create pooling of stagnant water in the street or gutter.
 - iii. Water features, ponds, or any stagnant water bodies within landscaped areas must be equipped with appropriate mosquito prevention measures, such as circulation systems, mosquito fish, or other approved methods, to prevent the breeding of mosquitos. Circulation systems should run at least 8 hours per day. If a feature has no pump or other approved mosquito control measure, water shall be drained and replaced every 96 hours. Regular inspections and maintenance of these measures are encouraged to ensure their effectiveness.
 - iv. Property owners, homeowner's associations, or other responsible entities shall ensure that no stagnant water accumulates in any landscaped areas, as such conditions can become breeding grounds for mosquitos. Neglected pools, fountains, or standing water shall be drained to prevent breeding of mosquitos. Property owners shall notify the Coachella Valley Mosquito and Vector Control District if their water feature is drained or neglected.
 - v. Prior to the approval of a final development plan permit or the recording of a subdivision map, a covenant ensuring the ongoing maintenance of all required landscaping and irrigation systems shall be established. This covenant, whether held by property owners, homeowners associations, or another responsible entity, must be approved by the Community Development Director, with the recommendation of the city attorney, and subsequently recorded in the county recorder's office.

g)h) Public safety and protection of intersection visibility.

- 1) Landscape design plans for corner parcel development projects must ensure traffic safety sight areas are designed to uphold public safety, consistent with Section 21.50.040 Protection of intersection visibility regulations of city's Municipal Code.

- 2) Trees and shrubs shall be planted so that at maturity they do not interfere with utility service lines, street lighting, street sweeping, traffic safety sight areas, on-site signs, and basic property rights of adjoining property owners.
- 3) Trees planted near public curbs, sidewalks, or utility vaults shall have a limited root structure and shall be installed to prevent physical damage to public improvements and shall comply with the following provisions:
 - i. Canopy trees shall be placed a minimum of ten feet from public street curb and a minimum of three feet from sidewalks.
 - ii. Palm trees with a trunk height of ten feet or more shall be placed a minimum of three feet from public street curb and sidewalks.
 - iii. A root barrier system shall be installed when trees are located near public curbs, sidewalks, or utility vaults.
 - iv. Landscape and irrigation plans shall be required for all public street parkways and median islands and shall conform to city standards and be submitted for review and approval to the city engineer and planning division.
 - v. Right-of-way lines shall be shown on the final landscape plan.

Section 21.60.020 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.020 Applicability and Review Authority.

- (a) This Chapter applies to the following activities:
 - (1) Obtaining a permit to construct a building or structure in any zone;
 - (2) Undertaking any external modification to a structure visible to any roadway or open space, public or private;
 - (3) Installation of new or remodeled landscape projects in excess of 250 square-feet within all areas of the City except common interest development areas that are not visible from public right-of-way, visible from the public right-of-way, adjacent to a roadway or open space, public or private;
 - ~~(4) Replacing or modifying existing hardscape or landscape in a yard which abuts a roadway or open space, public or private in excess of two thousand five hundred (2,500) square feet;~~

(54) Installing new or modifying an existing antenna, outdoor lighting, landscape lighting, private tennis court, emergency generators greater than fifteen thousand (15,000) kilowatts; and

(65) Minor exterior remodel of or addition to a single-family residence, such as:

- (i) A window or door change-out,
- (ii) A change of exterior house color (desert tones are preferred),
- (iii) A wall, fence, planter, fountain, or similar architectural amenity,
- (iv) Re-roofing,
- (v) A patio cover,
- (vi) Solar panels,
- (vii) An addition in the rear or side yard that is not visible to any roadway or open space area, public or private,
- (viii) Front and side-yard landscape projects visible from the public right-of-way street with a landscaped area greater than 250 square feet and less than 2,500 square feet. ~~improvements that affect less than two thousand five hundred (2,500) square feet unless exempt pursuant to Section 21.60.085(c)(4) below, and~~
- (ix) Accessory Dwelling Units in compliance with the requirements in Section 21.85.040

(b) Before commencing any of the activities listed in subsection (a) above, the owner of the property must submit a design review application to the Planning Department, to ensure compliance with the provisions of this Chapter, as well as with the basic zoning and other design parameters that are specified in the Zoning Code. Submissions may be done electronically via the City's website or in person with the Planning Department.

(1) For purposes of this Chapter, the Planning Department, DRC, or the Planning Commission is the "Review Authority" when making the initial decision about an application.

(2) If an application is consistent with all the requirements of the Zoning Code:

- (i) Planning Department Review.

(A) The Planning Department is generally the Review Authority for the following:

1. An application under subsection (a)(~~65~~) above; or
2. An application for a property located in an area with an active Homeowner's Association, and the complete design review application has been reviewed and approved by the Association.

(B) However, the Community Development Director may refer the application to the Design Review Committee ("DRC") or directly to the Planning Commission as the Review Authority.

(ii) DRC Review. The DRC is generally the Review Authority for an application under any of subsections (a)(1) through (a)(~~54~~) above, including landscape projects larger than 2,500 square feet, but any member of the DRC may refer the application to the Planning Commission as the Review Authority.

(3) If an application is inconsistent with any requirement of the Zoning Code, the Planning Commission is the Review Authority: unless an administrative landscape exception request is granted under section 21.60.085(d)(~~6~~) below. (Ord. 727 § 2, 2020)

Section 21.60.080 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.60.080 Architecture Application Requirements.

A complete design review application shall include the items listed below. Submissions that are incomplete will not be considered. The Planning Department or Review Authority (as defined by Section [21.60.020\(b\)\(1\)](#)) may require additional information for a particular application. Design guidelines established by the City, or if applicable, a Homeowners Association's Architectural Guidelines should be consulted prior to submission of the application. A complete application must include each of the following:

(a) Application to Construct Form. A completed "Application to Construct" form which can be obtained in electronic or hard-copy format from the City.

(b) Required Plans (electronic copies preferred). Two (2) sets of 24" x 36" or 30" x 42" bluelines or blacklines, along with one (1) rendered blackline each of the residence, elevations, landscape plans prepared in accordance with Section 21.60.085, and other data pertinent to the particular application. Rendered blacklines shall be rolled, not folded. Defaced, incomplete, indefinite or faded plans will not be accepted. All residential plans and elevations shall be drawn at a minimum scale of 1/8" = 1'0". For single family residential submittals, a set of plans shall consist of the items listed below. Requirements for multi-family residential and non-residential projects shall include information necessary to evaluate the proposed project as determined by the Director of Community Development.

(1) General Information Block.

- (i) Owner and designer's names;
- (ii) Address of owner;
- (iii) Telephone number of owner;
- (iv) Assessor parcel number and address of residence;
- (v) North point, date of drawing and scale; and
- (vi) Vicinity map showing location of project.

(2) Site Plan.

- (i) Legal description (lot and tract);
- (ii) Lot size (dimension along each property line);
- (iii) Zone classification and type of development of subject property and of all adjacent property, including across any street. Show distance of structure(s) on adjacent properties that are within ten (10) feet of project property line;
- (iv) Setback of existing and proposed buildings in relation to property lines per standards of the zone;
- (v) Locations of swimming pools, spas, air conditioner equipment, pool and spa equipment (i.e., heater, pump), storage areas, utility installations, antenna, tennis courts, refuse storage areas and other auxiliary household equipment shall be noted on site plans;

- (vi) Computed areas of building coverage, impervious surfaces, landscaping, and open space;
- (vii) Dimension of property lines or boundary lines of project;
- (viii) Location, names and widths of boundary streets; and recorded road, utility or drainage easements on property (where none exists, indicate by a note that no easement exists);
- (ix) Elevation of existing curb and gutter where available or edge of pavement where no curb exists;
- (x) Pad grade and finish-floor elevations; provide information on adjacent parcels if available;
- (xi) Heights of existing or proposed walls and fences, as measured from exterior side of wall (side facing street or adjacent property);
- (xii) A "line of sight" section for all in-fill construction;
- (xiii) Clear delineation of all proposed driveways subject to the criteria outlined under Section [21.20.080](#); and
- (xiv) For all large-scale development (ten (10) acres or larger), the inclusion of natural open space areas to provide habitat for native wildlife.

NOTE: All site plans must include sufficient information to demonstrate compliance with all applicable development standards in the Zoning Code.

(3) Floor Plan. Square footage of living space and location, size, and use of all rooms. Show all significant dimensions.

(4) Elevations.

- (i) Provide all elevations identified as front, rear, right and left side;
 - (ii) Show locations of doors, windows, chimneys, etc.;
 - (iii) Show exterior finishes and roof material;
 - (iv) Dimension elevation from pad grade, indicate all significant vertical dimensions;
- and

(v) Show all proposed plant material (trees and shrubs) against elevations. Provide as separate set of elevations.

(5) Roof Plan. Only thirty (30) percent of the total roof area may exceed fifteen (15) feet in height, up to a maximum eighteen (18) feet. Identify that portion of the total roof area that exceeds fifteen (15) feet in height. Show percent calculation on plan.

(6) Mailbox Design per United States Postal Service Requirements. Provide a minimum 1/2" = 1'0" scale mailbox design not to exceed four (4) feet in height and eighteen (18) inches in width or depth.

NOTE: Review of design packages containing landscape plans not prepared by a California licensed landscape architect will be subject to additional review fees incurred by the City for the review of such plans by professional design consultants.

(7) Conceptual Lighting Plan. Plan shall be submitted delineating size, location, light spread, illuminating capacity (candle power) and hours of operation of proposed exterior lighting. Plan shall be in conformance with lighting standards found in Chapter 22.12 of the City Municipal Code.

(8) Materials Sample and Color Board. (Maximum size 8 1/2" x 14"): Sample of materials should be kept to a minimum size; include exterior finishes of residence including door and window trim colors, and garden walls, along with exterior colors. (Desert tone colors are preferred.)

(c) Fee. An application fee in an amount published by the Planning Department is required for review and processing of architectural design packages. (Ord. 727 § 2, 2020)

Section 21.90.030 of Title 21 Zoning Code is hereby amended to read in its entirety as follows:

21.90.030 Non-conforming uses and structures.

(a) General. Unless otherwise required by the municipal code, any legally established, lawful use of land, building, structure, or improvement may be continued except as provided herein, even if such use does not conform with the applicable provisions of the current municipal code.

(b) Abandonment. Any legally established non-conforming use of land, building, structure, or improvement that becomes vacant and remains unoccupied for a continuous period of one (1) year shall be termed abandoned, and all future uses shall comply with the regulations of the area in which it is located.

(c) Alterations or Additions. An existing building, structure, or improvement conforming as to use but that does not conform to the general development standards may be altered, added to or enlarged, provided that any alteration, addition, or enlargement complies with the current regulations of this division.

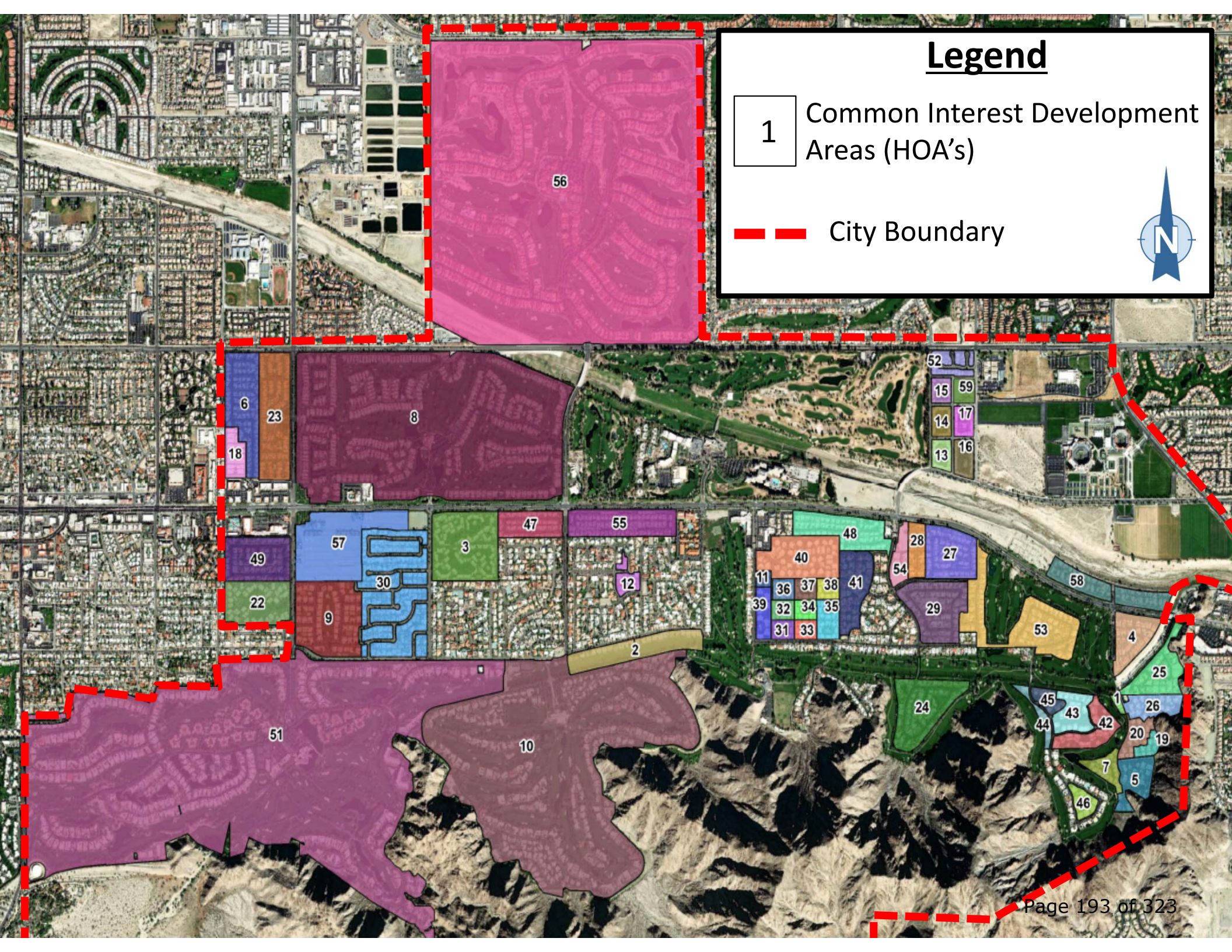
(d) Maintenance. A legal non-conforming building, structure, site, or improvement shall be maintained in sound and safe condition.

(e) Restoration of Damaged Structures. A legal non-conforming building, and/or structure which is damaged or partially destroyed by fire, explosion or man-induced or natural disaster to the extent of more than seventy-five (75) percent of the fair market value according to the assessment as listed by the Riverside County Assessor for the fiscal year during which the destruction occurs shall be subject to all the applicable regulations specified by this division. (Ord. 387 § 1, 1996)

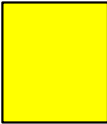
Legend

1 Common Interest Development Areas (HOA's)

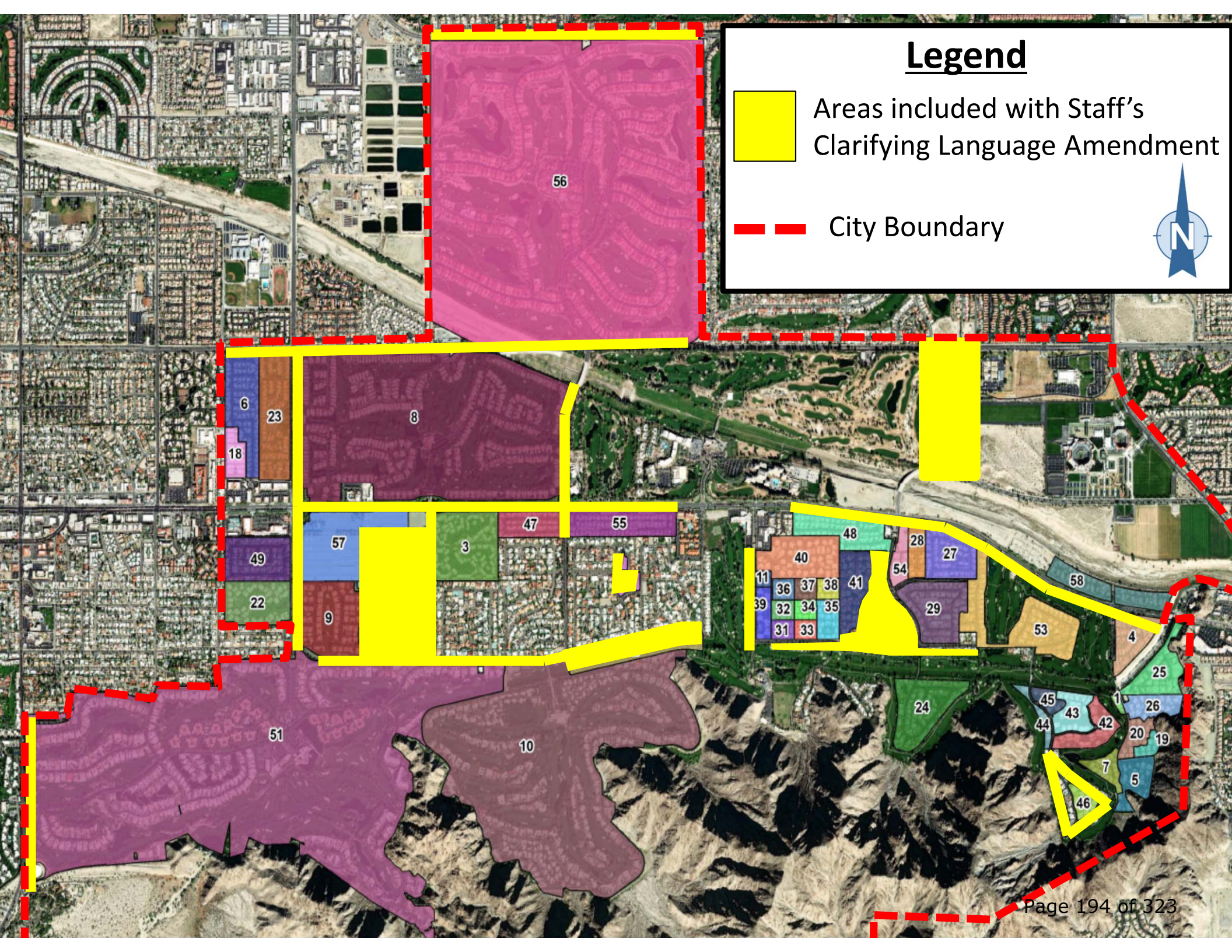
City Boundary



Legend

 Areas included with Staff's Clarifying Language Amendment

 City Boundary



INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Finance Department
Prepared by: Kevin McCarthy, Finance Director
Subject: **Living Desert Funding Opportunity**

RECOMMENDED ACTIONS:

Council **DISCUSSES** provides **DIRECTION**; and

APPROVES Funding Consideration for The Living Desert Zoo and Gardens; and

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

SUMMARY:

The Finance Committee recommends that the City Council deliberate on a funding contribution of \$2,000,000 to be disbursed in equal installments over a consecutive four-year period, commencing in the fiscal year 2023-24. It is advised that these payments be systematically incorporated into the City's annual budget appropriations until the total amount is fully disbursed.

This financial contribution represents a distinctive opportunity to enhance the prominence of Indian Wells through the strategic utilization of naming rights, thereby cultivating a robust and distinctive brand identity. The naming rights options under consideration include the following:

- The Marketplace Restaurant and the Marketplace Patio
- The Lion Ridge Habitat 2
- The Rhino Encounter Pavilion

All these options serve as pivotal avenues for reinforcing the brand image of Indian Wells. In this context, the Finance Committee strongly advocates for a meticulous examination of the naming rights possibilities associated with the Marketplace Restaurant and Marketplace Patio. Given their strategic presence within the confines of Indian Wells, the branding potential of these establishments is significant. Recognizing the pivotal role that

effective branding plays in community perception and engagement, the committee underscores the importance of aligning the City Council's considerations with the overarching goal of enhancing Indian Wells' unique and compelling identity through these branding opportunities.

As described below, the final step in the City's Extraordinary Funding Policy is to hold a public hearing to determine the award of any funding. Based on discussions with the Living Desert Executive Team, the Finance Committee recommends that the Public Hearing be held on March 7, 2024.

BACKGROUND:

In November 2023, the Living Desert submitted a funding request (see attached) seeking \$5,000,000 to bolster educational and programmatic initiatives. In exchange, the Living Desert offers naming opportunities for the new Marketplace Restaurant & Patio and Splash Pad, situated on Indian Wells land. This new amenity is anticipated to generate approximately \$39,000 in new sales tax revenue for the City of Indian Wells beginning in 2025.

During an open session on December 7, 2023, the Council deliberated the funding proposal, received a presentation from Living Desert Staff, and considered public comments. After a thorough public engagement and discussion, the Council expressed a positive inclination towards supporting the Living Desert.

Subsequently, the City Council directed the Finance Committee to convene and determine an optimal funding amount and a specific term that aligns with the City's best interests. The Finance Committee is tasked with presenting these recommendations for Council approval at the upcoming January meeting.

Funding approval triggers the City's Extraordinary Funding Policy, incorporating a robust community involvement component. The process encompasses public hearings, meetings, surveys, and a town hall meeting, ensuring comprehensive engagement with the community. The extraordinary funding steps are as follows:

Step (1): City Council Approval to Seek Community Input

The Finance Committee convened a public meeting on January 10, 2024, recommending a funding amount and term for City Council consideration. Subsequently, on January 18, 2024, the City Council will hold a public meeting to deliberate on the funding and gather community input.

Step (2): Community Engagement

The Living Desert will spearhead the Community Engagement component at its own expense, which includes:

- *Mailer to Residents:* A written communication will be sent to all Indian Wells residents, summarizing information on the funding request and providing details of the Public Hearing and Town Hall meeting.
- *Town Hall Meeting:* The Living Desert will host a Town Hall Meeting to engage residents and gather public input.
- *Online Civic Engagement Platform:* The Living Desert will conduct a Community-wide mail survey or utilize a cloud-based online civic engagement platform/poll to gather additional community feedback. A subsequent report on the poll results will be presented to the City Council.

Step (3): Council Approval of Funding

Upon completion of community input methods, the City Council will hold a Public Hearing during a regularly scheduled meeting to determine the award of any funding.

DISCUSSION:

Finance Committee Recommendations:

The Finance Committee convened on January 10, 2024, to deliberate upon diverse funding alternatives and propositions. Throughout the session, the Committee delved into various factors, including:

- The prospective future sales tax associated with the Living Desert Marketplace.
- Evaluation of existing General Fund funding sources.
- Assessment of the financial implications linked to a potential economic downturn.
- Anticipation of heightened Public Safety costs in FY 2024-2025 and FY 2025-2026, attributed to alterations in Fire Department staffing models and forthcoming negotiations of labor contracts for public safety.
- Examination of potential 2024 State Ballot Measures that could impact municipal tax measures.

The Finance Committee urges the City Council to engage in a thorough and thoughtful examination of the proposal for a \$2,000,000 funding allocation. Considering a comprehensive assessment of the facts and financial implications, the Finance Committee recommends a phased disbursement plan. The suggested approach involves distributing

the allocated funds in equal installments over the next four fiscal years, commencing in Fiscal Year 2023-2024 and continuing through Fiscal Year 2026-2027.

This deliberative structure aims to strike a balance between financial prudence and the imperative to meet identified needs within the community. By spreading the disbursements over an extended timeframe, the Finance Committee anticipates mitigating potential budgetary strain while ensuring a sustained and impactful financial contribution.

Furthermore, the Finance Committee proposes that these scheduled payments seamlessly integrate into the City's annual budget appropriations. This proactive step would foster fiscal transparency and allow for the systematic allocation of resources to accommodate the specified funding without jeopardizing the city's financial stability.

The considered approach reflects a commitment to responsible financial management, leveraging a nuanced understanding of the city's economic landscape. Through this carefully orchestrated disbursement strategy, the Finance Committee aims to optimize the impact of the funding contribution while safeguarding the city's fiscal resilience.

FISCAL IMPACT:

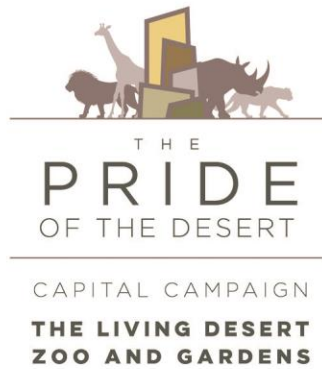
If the Council decides to fund the Living Desert, the funding will be sourced from the City's General Fund. This unbudgeted request necessitates a \$500,000 supplemental appropriation during the Fiscal Year 2023-24. Funding for the three remaining fiscal years will be incorporated into the City's annual budget appropriations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

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

ATTACHMENTS:

1. The Living Desert funding request letter (dated November 17, 2023)
2. The Living Desert economic report
3. The Living Desert Marketplace Sales Tax Cash Flow
4. Community Assistance Funding Policy



November 17, 2023

Donna Griffith, Mayor
 Indian Wells City Council Members
 Christopher Freeland, City Manager
 City of Indian Wells
 44-950 Eldorado Drive
 Indian Wells, CA 92210

Dear Indian Wells Mayor Griffith, City Council Members, City Manager Chris Freeland:

Enclosed please find a Living Desert proposal for funding for the 2023-2024 fiscal year and beyond. We are requesting \$5,000,000 for educational and programmatic support. In exchange, we are offering significant naming opportunities for the new Marketplace Restaurant & Patio and the Lion Ridge Habitat which will be located on Indian Wells land.

We recognize that this is a substantial request, but we see it as an investment for a cultural asset within Indian Wells as well as an often-visited recreational and educational institution used extensively by Indian Wells residents.

Our Board of Trustees – led by Indian Wells resident Chairman Bill Appel – is pleased to present the proposal and believes it to be an alignment with the city’s focus on increasing tourism as well as providing outstanding opportunities for your residents to have at their pleasure.

Thank you for the opportunity to consider the proposal.

Allen Monroe
 President / CEO, The Living Desert

Attachments:

- Pro Forma – Service Systems Associates
- Renderings of Marketplace and Lion Ridge
- Proposed Menu Options
- 2023 Economic Impact Report
- Board of Trustees, Affiliations and Indian Wells live/work highlighted



Proposal to the City of Indian Wells – November 17, 2023
The Pride of the Desert
Marketplace Restaurant & Patio and Lion Ridge Naming Opportunities

A. History of Indian Wells' Partnership with The Living Desert

The Living Desert is one of the great assets of Indian Wells. Indian Wells is one of The Living Desert's great assets, too. Some background:

- The City of Indian Wells has been an important partner with The Living Desert for more than 37 years when the city received a complimentary membership in 1985.
- Total funding received from the City over the 37 years is **\$1.6M** and comprises support for our annual gala, sponsoring/ticket purchases for the WildLights holiday event throughout December, occasional small event support.
- Total cumulative funding from ALL Indian Wells residents: **\$62,923,000**.
- The most recent and impactful financial support has been the **\$500,000** over the last five years as an investment in programming for schoolchildren and guests for the spectacular Rhino Savanna. The City support helped tell the story of why we brought in rhinos, a critically endangered species.
- For this support, the city received permanent recognition inside the entrance.

B. Recent Statistics with Indian Wells Resident Interaction

- **5378** = Number of constituents in our database with an Indian Wells address
- **2891** = Current Indian Wells households with TLD Memberships
- **9** of The Living Desert's 28 Trustees (and Legal Counsel Brian Harnik) live or work in Indian Wells:
 - i. *Chairman Bill Appel (Toscana)*
 - ii. *Candace Holzgrafe (Desert Horizons)*
 - iii. *Sam Spinello (Eldorado)*
 - iv. *Craig McCollam (Toscana)*
 - v. *Jim Gould (The Reserve)*
 - vi. *Michael Schreter (Toscana),*
 - vii. *Sally Simonds, Phillip Smith Jr. (Toscana)*
 - viii. *Former Mayor Larry Spicer*

Living Desert Members Within Indian Wells Annual Attendance	#	Comment	IW School Field Trip Participants (Ford Ele)
2018-2019	6209	Banner year for park-wide attendance	138
2019-2020	3410	(Covid)	43
2020-2021	4453		12
2021-2022	6705	(Rhino Savanna opened)	28
2022 through June 30, 2023	5941	On track to equal or surpass last year through 6/30/2023	218

- The year that the Rhino Savanna opened saw a **153,000** person increase in visitation.
- The expectation is that the lion habitat will open in November 2026, along with a new dining facility and event center for large events, which will dramatically increase tourism and guests.
- The annual park guest count in Fiscal Year 2022-2023 totaled more than **616,800** surpassing that of the BNP Paribas (442,000) or Coachella Fest/Stagecoach (250,000) – albeit different time frames.
- And, **77%** of those annual visitors are estimated to be from out-of-area which aligns with Indian Wells goals to promote tourism.

C. BENEFITS and IMPACT: As one can see from the numbers, the residents of Indian Wells have a long and robust relationship with The Living Desert. They not only visit regularly, bringing grandchildren and guests to delight in seeing rhinos, giraffes, cheetahs, etc., hike our trails – all located in Indian Wells, but also financially support this cultural gem.

Schoolchildren from Gerald R. Ford Elementary School as well as all three local school districts and throughout southern California – come to learn about the science of the natural world.

Twenty-seven volunteers reside in Indian Wells – greeting guests, directing, sharing information on our animals and plants – giving local citizens a productive and useful way to share their talents and make a difference to the community.

D. Proposal: Educational and Programming Support. In appreciation for this level of collaboration, the following naming opportunities would be offered over a multi-year payment schedule.

- **\$5,000,000 - Marketplace Restaurant and Patio Naming -or-**
- **\$3,000,000 - Marketplace Building**
- **\$1,000,000 - Marketplace Patio**
- **\$1,000,000 - Marketplace Restaurant**

- **\$3,000,000 - Lion Ridge Habitat 3**
- **\$2,000,000 - Lion Ridge Habitat 2**

Rationale:

Marketplace: Now that Phase 2 of the Pride of the Desert capital campaign has opened to great response, our sights continue to grow in order to attract more tourists, more guests, and widen our reach to educate about our mission to save endangered desert species. For the upcoming interim phase before bringing in lions and a special event center (Phase 3 – 2026), we are investing in offering top quality experiences for our guests. The immediate project is opening the Marketplace Restaurant and Patio. It is located 100% within the Indian Wells city boundary and overlooks the iconic Bighorn Mountain with its magnificent herd of ten bighorn sheep and lambs.

The restaurant will feature inside seating for 150 diners and will open up to an outdoor patio overlooking the Bighorn Mountain – an opportunity for our families and guests to enjoy a bite to eat or hold a private event unlike any other venue in Riverside County...a destination for weddings, corporate, family celebrations.

The Marketplace Restaurant and Patio is currently conservatively estimated to bring in \$57,284,000 over the next ten years from F&B revenue and evening rentals – based on 36 events per year. Of this net revenue, 1% local sales tax – because the facility is located within Indian Wells – would bring in close to \$600,000 in sales tax revenue to Indian Wells (currently not budgeted in the future Indian Wells budget). Again, this is a conservative ten-year estimate and anticipated to be a long game, and function as an ongoing, increasing sales tax generator for the City.

Lion Ridge: The Living Desert's deepening commitment to wildlife conservation will be fulfilled through the construction of the new Lion Ridge. Featuring African lions, this state-of-the-art habitat will further interpret the conservation stories of Africa's biggest cat. Just twenty years ago, it would have been unimaginable to think that the mighty lion would be facing the threat of extinction. However today, lions are facing increased pressures of human development and expansion.

Lion Ridge will feature three, one-acre lion habitats which will be the home of our new pride of lions. Each of the three habitats will be connected by a Lion Surround in the center and linked to each other by a series of catwalks above the surround. It will give visitors an immersive experience with the lions while they learn about these amazing animals. Lion Habitat #2 is partially located in Indian Wells city limits. Lion Ridge #3 is located in Palm Desert, but will be a breathtaking view through the windows of the new Lurie Events Center.

The Living Desert's new Lion Ridge habitat will share the depth of our conservation commitment and empower guests to make meaningful conservation actions to benefit all wildlife.

E. Final Thoughts: The Living Desert has included our 2023 Economic Impact Report prepared by Tourism Economics; the same company utilized by Visit Greater Palm Springs. In Fiscal Year 2022-2023, The Living Desert had an economic impact in the Coachella Valley of \$148M...from the increased jobs, building labor, tourism, local spending, etc. Specifically for the City of Indian Wells, The Living Desert had a \$7.9M economic impact.

With the advent of the new Marketplace (opening March 1, 2025) that will offer year-round innovative dining followed up by the new Lion Ridge habitat and the 500-seat Lurie Event Center in 2026, we expect The Living Desert to only grow as a cultural asset for our neighboring Indian Wells, increase tourist traffic, and add to the infrastructure of the city.

We invite the City of Indian Wells to be part of this continued growth by supporting programming and education over the next five years which will be recognized with a fabulous naming opportunity for the **Marketplace Restaurant & Patio or Lion Ridge!**

Indian Wells' enduring investment in The Living Desert and its future will have a lasting impact on the generations of residents and visitors to come. The Living Desert reminds people, in a unique and powerful way, that the world's deserts are special places and provide an experience of nature like nowhere else.



Economic Impact of the Living Desert Zoo and Gardens

Table of Contents

1. Research overview
2. Key findings
3. Direct impacts
4. Economic impacts summary
5. Economic impacts (FY 22/23)
6. Economic impacts (stabilized year)
7. Capital expenditure impacts
8. City key findings (FY 22/23)





Section 1

RESEARCH OVERVIEW

Introduction

The Living Desert Zoo and Gardens (“Zoo”) is a nonprofit, accredited member of the Association of Zoos and Aquariums. The Zoo has been a top attraction in the Palm Springs area for more than 50 years – welcoming 616,900 visitors in the most recent fiscal year (FY 22/23) – and serves as an important economic anchor in Greater Palm Springs.

The Zoo is currently in a three-phase capital improvement project that includes new animal habitat space, a state-of-the-art event center, and new ways for guests to observe, interact with and learn about desert species. In 2021, the Zoo opened a new four-acre Rhino Savanna and is currently developing a lion’s exhibit.

The Living Desert Zoo and Gardens’ annual operations, along with spending by Zoo patrons at local, off-site establishments and businesses, generates significant economic and fiscal (tax) impacts in Riverside County. This study analyzes the impacts attributable to the annual operations of the Living Desert Zoo and Gardens for FY 18/19 through FY 22/23 and for a stabilized year of operations post expansion, as well as the one-time impacts for capital expenditures.

Tourism Economics prepared a comprehensive model to quantify the impacts arising from annual operational spending and capital expenditures at the Living Desert Zoo and Gardens, as well as patron spending at off-site establishments throughout the local economy.

Impact modeling is based on an IMPLAN input-output (I-O) model for the Riverside County economy.

The results of this study show the scope of the Living Desert Zoo and Gardens’ impacts in terms of direct operational spending, capital expenditures, and off-site visitor spending, as well as total economic impacts, including total business sales, employment, labor income, and fiscal (tax) impacts.



Section 2

KEY FINDINGS

Summary Findings

The Living Desert Zoo and Gardens generated a total economic impact of \$148.1 million in FY 22/23, excluding capital expenditure impacts.

FY 22/23 Operations & Visitor Spending Impacts: In FY 22/23, the Living Desert Zoo and Gardens generated a total economic impact of \$148.1 million, which included \$54.9 million in total labor income, supported 1,484 part-time and full-time jobs, and generated \$17.9 million in state and local tax revenues.

Stabilized Year Operations & Visitor Spending Impacts: In a stabilized year of operations post expansion, the Living Desert Zoo and Gardens is expected to generate a total economic impact of \$215.1 million, which is expected to include \$83.0 million in total labor income, support 2,150 part-time and full-time jobs, and generate \$25.3 million in state and local tax revenues.

In addition to the annual impacts, the one-time capital expenditure impacts due to Zoo expansion is expected to generate a total economic impact of \$62.8 million.

Living Desert Zoo and Gardens Summary Economic Impacts (\$ millions and number of jobs)

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Stabilized Year
Business Sales	\$96.1	\$68.8	\$86.0	\$135.3	\$148.1	\$215.1
Personal Income	\$34.8	\$26.2	\$30.9	\$47.2	\$54.9	\$83.0
Employment	1,007	761	901	1,342	1,484	2,150
Taxes	\$18.1	\$12.3	\$16.2	\$26.6	\$28.8	\$41.3
State & local taxes	\$11.1	\$7.2	\$10.0	\$16.6	\$17.9	\$25.3
Federal taxes	\$7.0	\$5.1	\$6.2	\$9.9	\$10.9	\$15.9

Source: Living Desert Zoo and Gardens, Tourism Economics
Note: Totals may not sum due to rounding.

LIVING DESERT ZOO AND GARDENS IMPACTS

OPERATIONS & VISITOR SPENDING ECONOMIC IMPACTS (FY 22/23)

DIRECT SPENDING (FY 22/23)

The Living Desert Zoo and Gardens generated significant economic impacts as the Zoo spent money in the local economy in the form of annual operational expenditures.

In addition to spending money during their visit to the Zoo, patrons also spent money at businesses and establishments in the local economy during their stay in Greater Palm Springs, including local restaurants, retailers, and recreation/entertainment venues.

In FY 22/23, the Zoo generated \$98.2 million in direct spending in the local economy, as outlined below.



\$98.2 MILLION
Direct Spending Impact of the Zoo (FY 22/23)



\$20.2 MILLION
Zoo Operating Expenditures



\$77.9 MILLION
Off-Site Spending by Zoo Patrons

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' direct spending impact of \$98.2 million generated a total economic impact of \$148.1 million in the local economy, which supported 1,484 part-time and full-time jobs and generated \$17.9 million in state and local taxes in FY 22/23.



\$148.1 MILLION
Total Economic Impact of the Living Desert Zoo and Gardens
(FY 22/23)

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS (FY 22/23)



\$148.1M
Total
Economic
Impact



1,484
Total
Jobs
Generated



\$17.9M
Total
State & Local
Tax Revenues

LIVING DESERT ZOO AND GARDENS IMPACTS

OPERATIONS & VISITOR SPENDING ECONOMIC IMPACTS (STABILIZED YEAR)

DIRECT SPENDING (STABILIZED YEAR)

The Living Desert Zoo and Gardens is expected to generate significant economic impacts as the Zoo spends money in the local economy in the form of annual operational expenditures.

In addition to spending money during their visit to the Zoo, patrons also will spend money at businesses and establishments in the local economy during their stay in Greater Palm Springs, including local restaurants, retailers, and recreation/entertainment venues.

In a stabilized year of operations post expansion, the Zoo is expected to generate \$141.9 million in direct spending in the local economy, as outlined below.



\$141.9 MILLION

**Direct Spending Impact of the Zoo
(Stabilized Year)**



\$32.4 MILLION

Zoo Operating Expenditures



\$109.5 MILLION

Off-Site Spending by Zoo Patrons

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' expected direct spending impact of \$141.9 million is expected to generate a total economic impact of \$215.1 million in the local economy, which is expected to support 2,150 part-time and full-time jobs and generate \$25.3 million in state and local taxes in a stabilized year of operations post expansion.



\$215.1 MILLION

**Total Economic Impact of the Living Desert Zoo and Gardens
(Stabilized Year)**

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS (STABILIZED YEAR)



\$215.1M

**Total
Economic
Impact**



2,150

**Total
Jobs
Generated**



\$25.3M

**Total
State & Local
Tax Revenues**

LIVING DESERT ZOO AND GARDENS IMPACTS

ONE-TIME CAPITAL EXPENDITURE IMPACTS

DIRECT SPENDING ONE-TIME IMPACTS

The Living Desert Zoo and Gardens already invested and has plans to further invest in significant capital to expand the Zoo's footprint and operation.

The expansion is expected to cost \$40.9 million.



\$40.9 MILLION

Living Desert Zoo and Gardens Capital Expenditure Direct Spending Impact

ONE-TIME CAPITAL EXPENDITURE ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' capital expenditure direct spending impact of \$40.9 million is expected to generate a total economic impact of \$62.8 million, which is expected to support 509 part-time and full-time jobs and generate \$3.0 million in state and local taxes.



\$62.8 MILLION

Total Economic Impact of the Living Desert Zoo and Gardens Capital Expenditure

ONE-TIME IMPACTS OF THE LIVING DESERT ZOO AND GARDENS CAPITAL EXPENDITURES



\$62.8M

Total Economic Impact



509

Total Jobs Generated



\$3.0M

Total State & Local Tax Revenues



Section 3

DIRECT IMPACTS

Direct Impact Approach

The Living Desert Zoo and Gardens generated an estimated \$98.2 million in direct spending in FY 22/23.

The accompanying table outlines the direct spending impacts attributable to the Living Desert Zoo and Gardens. These direct impacts ultimately serve as the inputs for the economic impact model.

The Living Desert Zoo and Gardens' direct spending is comprised of the following categories:

1. Approximately \$20.2 million in **operating expenditures** in FY 22/23.
2. Approximately \$77.9 million in **off-site spending by non-local patrons** in FY 22/23, including spending at local restaurants, retailers, and recreation/entertainment venues.

Direct spending impacts attributable to the Zoo

(\$ millions)

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Stabilized Year
Total annual direct spending	\$63.6	\$45.1	\$57.0	\$89.7	\$98.2	\$141.9
Operating expenditures	\$13.2	\$12.8	\$10.1	\$17.1	\$20.2	\$32.4
Visitor off-site spending	\$50.3	\$32.3	\$46.8	\$72.7	\$77.9	\$109.5

Source: Living Desert Zoo and Gardens, Tourism Economics
Note: Totals may not sum due to rounding.

Zoo Operational Spending

The Living Desert Zoo and Gardens employed 252 part-time and full-time employees and incurred \$20.2 million in operating expenses in FY 22/23.

The Living Desert Zoo and Gardens spent \$20.2 million in operational expenditures in FY 22/23, which included spending on employee salaries and wages, professional fees and contracts, park supplies, repairs and maintenance, marketing, and utilities, among others.

The Living Desert Zoo and Gardens employed a total of 67 part-time and 185 full-time employees that earned a total of \$11.1 million in FY 22/23.

Living Desert Zoo and Gardens operational spending
(\$ millions and number of employees)

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Stabilized Year
Operating expenses	\$13.2	\$12.8	\$10.1	\$17.1	\$20.2	\$32.4
Salaries & wages	\$7.0	\$7.3	\$5.7	\$7.7	\$11.1	\$16.1
Employees	194	197	157	211	252	400
Full-time	134	139	127	162	185	307
Part-time	60	58	30	49	67	93

Source: Living Desert Zoo and Gardens

Zoo Visitor Count and Origin

The Living Desert Zoo and Gardens welcomed 616,900 total visitors in FY 22/23 and is expected to welcome 850,000 visitors in a stabilized year of operations post expansion.

In FY 22/23, the Living Desert Zoo and Gardens welcomed 616,900 visitors, which excludes school tours.

Approximately 77% or 473,800 of the 616,900 visitors originated from outside Greater Palm Springs – including 63% that stayed overnight and 14% that visited for the day. These visitors spent money while at the Zoo and at off-site establishments in the local economy, including local restaurants, hotels, retailers, and recreation / entertainment venues.

Living Desert Zoo and Gardens visitor count by origin (number of visitors)

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Stabilized Year
Total visitors	508,900	345,500	469,200	634,100	616,900	850,000
Locals	126,200	97,100	116,400	178,800	143,100	225,000
Day-trippers	81,900	49,900	75,900	87,900	84,800	128,700
Overnighters	300,800	198,500	277,000	367,400	389,000	496,300

Source: Living Desert Zoo and Gardens
Note: total patrons excludes school tours.

Zoo Visitor Spending by Industry

The 473,800 visitors that originated from outside Greater Palm Springs spent \$77.9 million at off-site establishments in the local economy in FY 22/23.

In FY 22/23, the 473,800 visitors to the Living Desert Zoo and Gardens spent \$77.9 million at off-site establishments in the local economy, including local restaurants, hotels, retailers, and recreation / entertainment venues.

The 850,000 visitors that are expected to go to the Zoo in a stabilized year of operations post expansion are expected to spend \$109.5 million at off-site establishments in the local economy.

Living Desert Zoo and Gardens visitor spending

(\$ millions)

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Stabilized Year
Total visitor spending	\$50.3	\$32.3	\$46.8	\$72.7	\$77.9	\$109.5
Lodging	\$17.9	\$10.8	\$15.2	\$30.1	\$32.2	\$45.2
Food & beverage	\$14.5	\$9.6	\$14.2	\$19.0	\$20.5	\$28.8
Entertainment	\$7.0	\$4.6	\$6.9	\$9.2	\$9.9	\$13.9
Retail	\$6.4	\$4.3	\$6.3	\$8.4	\$9.1	\$12.8
Local transportation	\$4.5	\$3.0	\$4.4	\$5.9	\$6.3	\$8.9

Source: Tourism Economics

Note: Totals may not sum due to rounding.

Direct Spending (FY 22/23)

The Living Desert Zoo and Gardens' direct spending impacts of \$98.2 million (including visitor spending and operational spending) was spread across a wide range of sectors within the local economy.

In addition to the \$77.9 million in visitor spending, the Living Desert Zoo and Gardens spent \$20.2 million in operating expenditures. In total, the Zoo generated \$98.2 million in direct spending impact.

The direct spending impact of \$98.2 million in the local economy was spread across a number of industries, including \$32.2 million in lodging expenditures, \$20.5 million in food and beverage expenditures, \$20.2 million in operating expenditures, \$9.9 million in entertainment/recreation spending, \$9.1 million in retail purchases, and \$6.3 million in local transportation.





Section 4

ECONOMIC IMPACTS SUMMARY

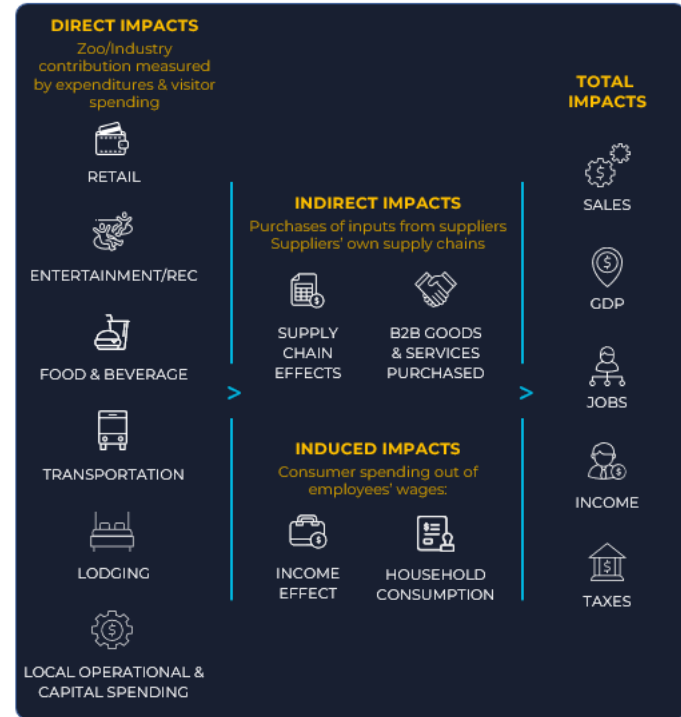
Economic Impact Approach

The economic impacts of the Living Desert Zoo and Gardens' direct spending were estimated using regional Input-Output (I-O) models based on customized IMPLAN (www.implan.com) models for the Riverside County economy. IMPLAN is recognized as an industry standard in local-level I-O models. An I-O model represents a profile of an economy by measuring the relationships among industries and consumers to track the flow of industry revenue to wages, profits, capital, taxes and suppliers. The supply chain is traced as dollars flow through the economy, representing indirect impacts. The model also calculates the induced impacts of spending. Induced impacts represent benefits to the economy as incomes earned as a result of direct spending are spent in the local economy, generating additional sales, jobs, taxes, and income.

The modeling process begins with aligning the direct expenditure measurements with the related sectors in the model (e.g. hotels, restaurants, retail, and recreation). The model is then run to trace the flow of these expenditures through the economy. In this process, the inter-relationships between consumers and industries generate each level of impact.

IMPLAN calculates three levels of impact – direct, indirect, and induced – for a broad set of indicators. These include the following:

- Business sales (also called gross output)
- Household income (including wages and benefits)
- Employment
- Federal taxes
- State and local taxes



Economic Impact Summary

The Zoo generated a total economic impact of \$148.1 million, which supported 1,484 part-time and full-time jobs and generated \$17.9 million in state and local taxes in FY 22/23.

The accompanying table outlines the economic impacts in Riverside County attributable to the Living Desert Zoo and Gardens in FY 18/19 through FY 22/23 and in a stabilized year of operations post expansion.

Details for FY 22/23, the stabilized year of operations post expansion, and the capital expenditures are provided in the following three sections.

Living Desert Zoo and Gardens economic impact summary (\$ millions and number of employees)

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Stabilized Year
Total business sales	\$96.1	\$68.8	\$86.0	\$135.3	\$148.1	\$215.1
Direct business sales	\$63.6	\$45.1	\$57.0	\$89.7	\$98.2	\$141.9
Total personal income	\$34.8	\$26.2	\$30.9	\$47.2	\$54.9	\$83.0
Direct personal income	\$24.4	\$18.4	\$21.7	\$33.2	\$38.5	\$58.4
Total employment	1,007	761	901	1,342	1,484	2,150
Direct employment	719	534	647	963	1,059	1,534
Total taxes	\$18.1	\$12.3	\$16.2	\$26.6	\$28.8	\$41.3
Total state & local taxes	\$11.1	\$7.2	\$10.0	\$16.6	\$17.9	\$25.3
Total federal taxes	\$7.0	\$5.1	\$6.2	\$9.9	\$10.9	\$15.9
Direct taxes	\$13.1	\$8.8	\$11.7	\$19.4	\$21.0	\$30.1
Direct state & local taxes	\$8.3	\$5.3	\$7.4	\$12.5	\$13.4	\$19.0
Direct federal taxes	\$4.9	\$3.5	\$4.3	\$6.9	\$7.6	\$11.1

Source: Tourism Economics
Note: Totals may not sum due to rounding.



Section 5

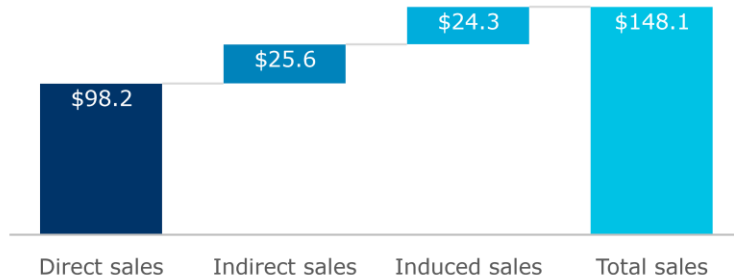
ECONOMIC IMPACTS (FY 22/23)

Business Sales by Industry

The Living Desert Zoo and Gardens' operations and visitor spending generated a total economic impact of **\$148.1 million in FY 22/22**.

The \$98.2 million in Zoo operational spending and off-site spending by visitors generated \$25.6 million in indirect expenditures and \$24.3 million in induced expenditures, resulting in a total economic impact of \$148.1 million in the local economy in FY 22/23.

Business sales impacts by industry, FY 22/23 (\$ millions)



Business sales impacts by industry, FY 22/23 (\$ millions)

	Direct Business Sales	Indirect Business Sales	Induced Business Sales	Total Business Sales
Total, all industries	\$98.2	\$25.6	\$24.3	\$148.1
By industry				
Lodging	\$32.3	\$0.0	\$0.0	\$32.3
Food & Beverage	\$20.6	\$1.5	\$2.4	\$24.5
Recreation and Entertainment	\$21.7	\$0.9	\$0.3	\$22.9
Finance, Insurance and Real Estate	\$0.4	\$7.7	\$7.9	\$16.0
Business Services	\$7.1	\$6.9	\$1.7	\$15.8
Retail Trade	\$9.1	\$0.5	\$2.3	\$11.8
Other Transport	\$3.5	\$1.6	\$0.6	\$5.6
Education and Health Care		\$0.1	\$3.8	\$3.9
Gasoline Stations	\$2.6	\$0.0	\$0.2	\$2.8
Wholesale Trade		\$1.3	\$1.2	\$2.5
Personal Services		\$0.8	\$1.6	\$2.4
Government		\$1.5	\$0.9	\$2.4
Construction and Utilities	\$0.8	\$1.0	\$0.5	\$2.3
Communications		\$1.4	\$0.7	\$2.1
Manufacturing		\$0.4	\$0.1	\$0.5
Air Transport		\$0.0	\$0.0	\$0.1
Agriculture, Fishing, Mining		\$0.0	\$0.0	\$0.0

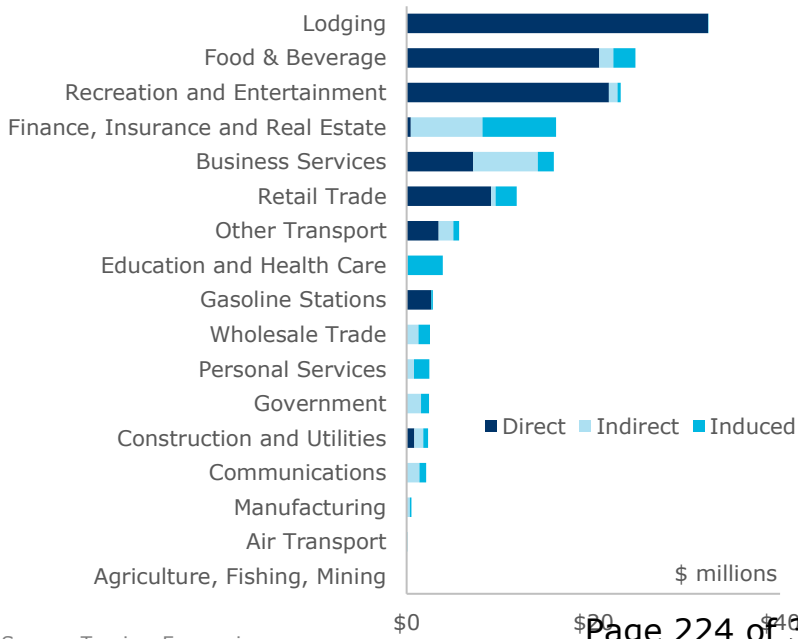
Source: Tourism Economics
Note: Totals many not sum due to rounding.

Business Sales by Industry

The Living Desert Zoo and Gardens' operations and visitor spending generated a total economic impact of \$148.1 million in FY 22/23.

The lodging industry was the most impacted industry with \$32.3 million in total output in FY 22/23. The food & beverage industry and recreation and entertainment industry followed with \$24.5 million and \$22.9 million in total business sales, respectively.

Business sales impacts by industry, FY 22/23
(\$ millions)



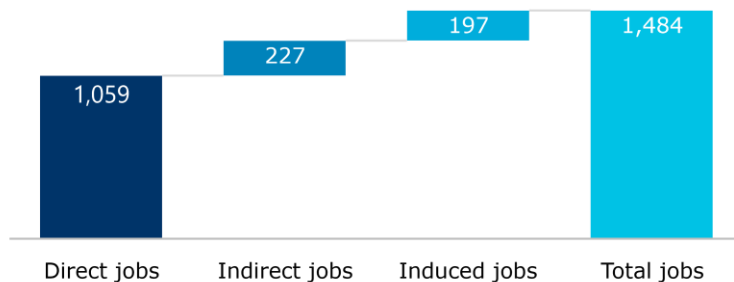
Source: Tourism Economics

Employment by Industry

The Living Desert Zoo and Gardens' operations and visitor spending generated a total employment impact of 1,484 part-time and full-time jobs in FY 22/23.

The Zoo operations and visitor spending directly supported 1,059 full-time and part-time jobs. Indirect and induced impacts generated 227 indirect jobs and 197 induced jobs.

Employment impacts by industry, FY 22/23
(part-time and full-time jobs)



Employment impacts by industry, FY 22/23
(part-time and full-time jobs)

	Direct Employment	Indirect Employment	Induced Employment	Total Employment
Total, all industries	1,059	227	197	1,484
By industry				
Recreation and Entertainment	322	15	6	343
Lodging	313	0	0	313
Food & Beverage	254	23	34	311
Business Services	61	82	19	162
Other Transport	61	20	9	90
Retail Trade	38	5	27	71
Finance, Insurance and Real Estate	2	49	18	69
Education and Health Care		2	44	45
Personal Services		10	25	36
Construction and Utilities	6	4	2	12
Government		8	4	12
Wholesale Trade		5	4	9
Communications		3	2	5
Gasoline Stations	2	0	1	3
Manufacturing		1	0	2
Agriculture, Fishing, Mining		0	0	0
Air Transport		0	0	0

Source: Tourism Economics
Note: Totals many not sum due to rounding.

Employment by Industry

The Living Desert Zoo and Gardens' operations and visitor spending generated a total employment impact of 1,484 part-time and full-time jobs in FY 22/23.

The recreation and entertainment ranked first with 343 total jobs in FY 22/23. The lodging industry sector followed with 313 total jobs.

Employment impacts by industry, FY 22/23
(part-time and full-time jobs)

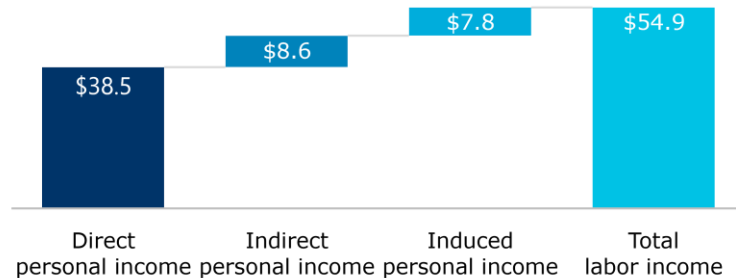


Labor Income by Industry

The Living Desert Zoo and Gardens' operations and visitor spending generated \$54.9 million in total labor income in FY 22/23.

The Zoo generated \$38.5 million in direct personal income, \$8.6 million in indirect labor income, and \$7.8 million in induced personal income, resulting in \$54.9 million in total labor income in FY 22/23.

Labor income impacts by industry, FY 22/23 (\$ millions)



Labor income impacts by industry, FY 22/23 (\$ millions)

	Direct Personal Income	Indirect Personal Income	Induced Personal Income	Total Personal Income
Total, all industries	\$38.5	\$8.6	\$7.8	\$54.9
By industry				
Lodging	\$13.4	\$0.0	\$0.0	\$13.4
Recreation and Entertainment	\$12.2	\$0.3	\$0.1	\$12.6
Food & Beverage	\$7.3	\$0.7	\$1.0	\$9.0
Business Services	\$2.4	\$3.2	\$0.8	\$6.4
Other Transport	\$1.6	\$0.8	\$0.3	\$2.7
Education and Health Care		\$0.0	\$2.2	\$2.2
Retail Trade	\$1.1	\$0.2	\$0.8	\$2.1
Finance, Insurance and Real Estate	\$0.1	\$1.1	\$0.5	\$1.7
Personal Services		\$0.6	\$1.1	\$1.6
Government		\$0.7	\$0.3	\$1.1
Construction and Utilities	\$0.3	\$0.2	\$0.1	\$0.7
Wholesale Trade		\$0.3	\$0.3	\$0.7
Communications		\$0.3	\$0.1	\$0.4
Gasoline Stations	\$0.1	\$0.0	\$0.1	\$0.2
Manufacturing		\$0.1	\$0.0	\$0.1
Agriculture, Fishing, Mining		\$0.0	\$0.0	\$0.0
Air Transport		\$0.0	\$0.0	\$0.0

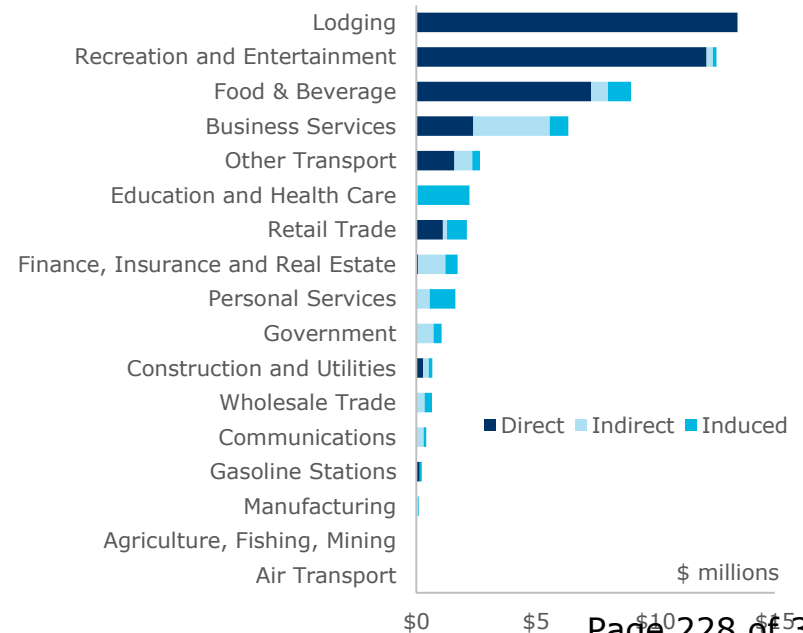
Source: Tourism Economics
Note: Totals may not sum due to rounding.

Labor Income by Industry

The Living Desert Zoo and Gardens' operations and visitor spending generated \$54.9 million in total labor income in FY 22/23.

In FY 22/23, the lodging industry was the most impacted industry with \$13.4 million in total labor income. The recreation and entertainment industry followed with \$12.6 million in total labor income, including \$12.2 million in direct labor income and \$0.4 million in indirect and induced labor income.

Labor income impacts by industry, FY 22/23
(\$ millions)



Source: Tourism Economics

Tax Generation

The Living Desert Zoo and Gardens' operations and visitor spending generated \$28.8 million in governmental revenue in FY 22/23.

The Zoo's operations and visitor spending generated a total fiscal (tax) impact of \$28.8 million in FY 22/23.

The State of California government collected \$9.6 million, and the local government collected \$8.3 million as a result of the Living Desert Zoo and Gardens.

State and local tax revenue, FY 22/23 (\$ millions)

	State	Local	Total
Total taxes	\$9.6	\$8.3	\$17.9
Sales	\$7.0	\$1.5	\$8.5
Bed Tax	\$0.1	\$4.2	\$4.3
Personal Income	\$1.6	\$0.0	\$1.6
Corporate	\$0.3	\$0.0	\$0.3
Social Insurance	\$0.2	\$0.0	\$0.2
Excise and Fees	\$0.3	\$0.4	\$0.7
Property	\$0.1	\$2.2	\$2.3

Total tax revenue, FY 22/23 (\$ millions)

	Direct	Indirect / Induced	Total
Total Tax Revenues	\$21.0	\$7.8	\$28.8
Federal	\$7.6	\$3.3	\$10.9
Personal Income	\$2.8	\$1.3	\$4.1
Corporate	\$0.4	\$0.3	\$0.6
Indirect Business	\$0.3	\$0.2	\$0.5
Social Insurance	\$4.1	\$1.6	\$5.7
State and Local	\$13.4	\$4.5	\$17.9
Sales	\$5.7	\$2.8	\$8.5
Bed Tax	\$4.3	\$0.0	\$4.3
Personal Income	\$1.1	\$0.5	\$1.6
Corporate	\$0.2	\$0.1	\$0.3
Social Insurance	\$0.2	\$0.1	\$0.2
Excise and Fees	\$0.5	\$0.3	\$0.7
Property	\$1.6	\$0.7	\$2.3

Source: Tourism Economics



Section 6

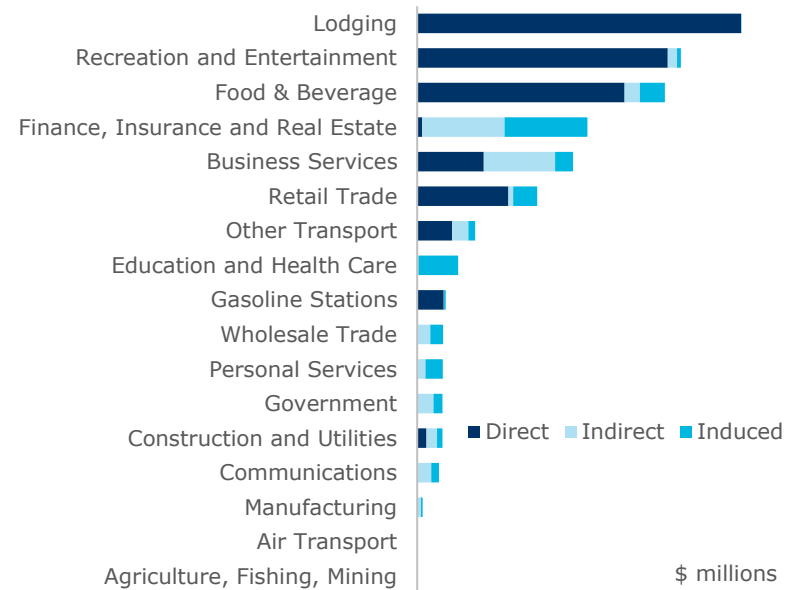
ECONOMIC IMPACTS (STABILIZED YEAR)

Business Sales by Industry

Business sales impacts by industry, stabilized year
(\$ millions)

	Direct Business Sales	Indirect Business Sales	Induced Business Sales	Total Business Sales
Total, all industries	\$141.9	\$37.4	\$35.8	\$215.1
By industry				
Lodging	\$45.3	\$0.0	\$0.0	\$45.3
Recreation and Entertainment	\$35.0	\$1.3	\$0.5	\$36.8
Food & Beverage	\$29.0	\$2.1	\$3.5	\$34.6
Finance, Insurance and Real Estate	\$0.7	\$11.5	\$11.6	\$23.8
Business Services	\$9.3	\$9.9	\$2.5	\$21.8
Retail Trade	\$12.8	\$0.7	\$3.3	\$16.8
Other Transport	\$4.9	\$2.3	\$0.9	\$8.1
Education and Health Care		\$0.2	\$5.6	\$5.7
Gasoline Stations	\$3.7	\$0.0	\$0.2	\$4.0
Wholesale Trade		\$1.9	\$1.8	\$3.6
Personal Services		\$1.2	\$2.4	\$3.6
Government		\$2.3	\$1.3	\$3.5
Construction and Utilities	\$1.3	\$1.4	\$0.8	\$3.5
Communications		\$2.0	\$1.1	\$3.0
Manufacturing		\$0.5	\$0.2	\$0.8
Air Transport		\$0.0	\$0.1	\$0.1
Agriculture, Fishing, Mining		\$0.0	\$0.0	\$0.1

Business sales impacts by industry, stabilized year
(\$ millions)



Source: Tourism Economics

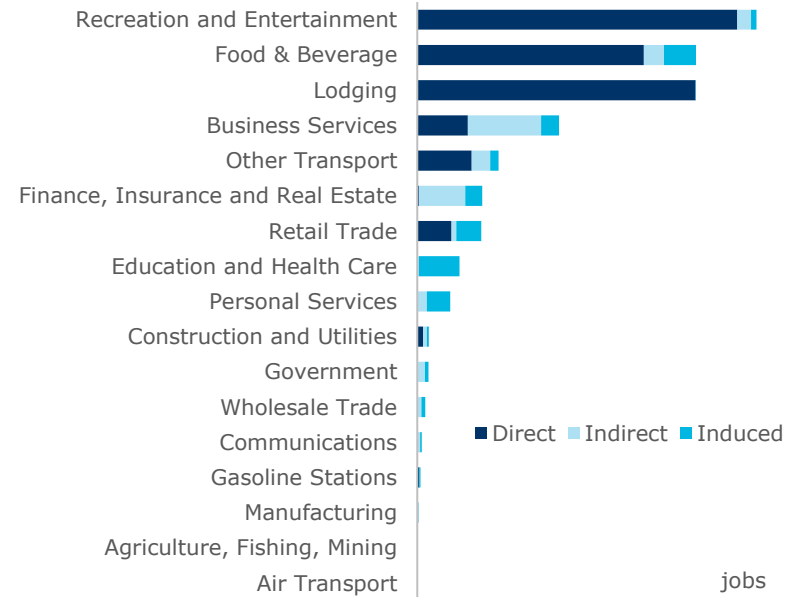
Source: Tourism Economics

Employment by Industry

Employment impacts by industry, stabilized year
(part-time and full-time jobs)

	Direct Employment	Indirect Employment	Induced Employment	Total Employment
Total, all industries	1,534	327	289	2,150
By industry				
Recreation and Entertainment	504	21	9	535
Food & Beverage	357	32	51	439
Lodging	439	0	0	439
Business Services	79	116	28	223
Other Transport	85	29	13	128
Finance, Insurance and Real Estate	3	73	26	102
Retail Trade	54	7	40	101
Education and Health Care		2	64	67
Personal Services		15	37	52
Construction and Utilities	9	6	3	18
Government		12	5	17
Wholesale Trade		7	6	13
Communications		4	3	7
Gasoline Stations	3	0	2	5
Manufacturing		2	1	3
Agriculture, Fishing, Mining		0	0	1
Air Transport		0	0	0

Employment impacts by industry, stabilized year
(part-time and full-time jobs)



Source: Tourism Economics

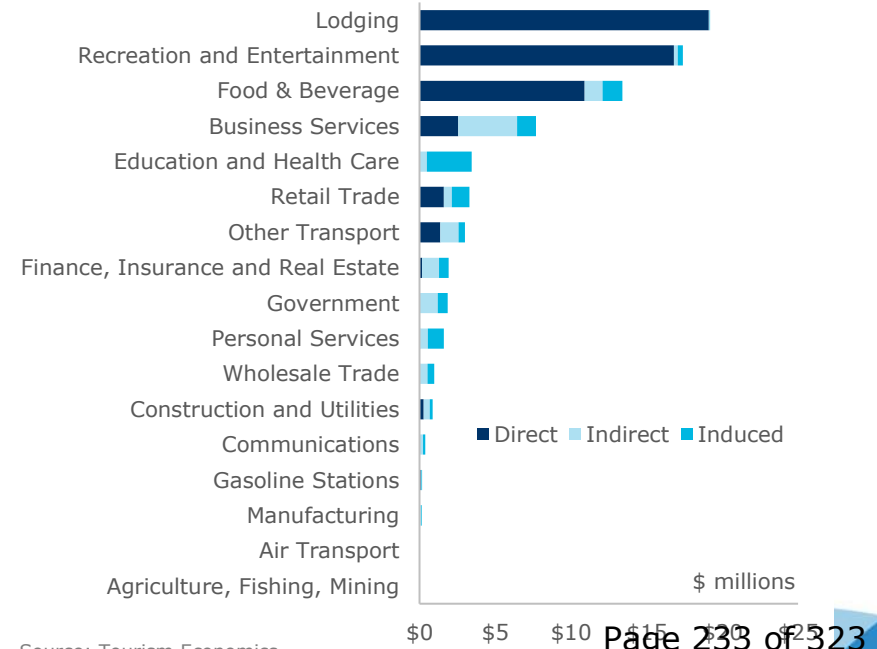
Source: Tourism Economics

Labor Income by Industry

Labor income impacts by industry, stabilized year
(\$ millions)

	Direct Personal Income	Indirect Personal Income	Induced Personal Income	Total Personal Income
Total, all industries	\$58.4	\$12.8	\$11.8	\$83.0
By industry				
Lodging	\$21.0	\$0.1	\$0.0	\$21.1
Recreation and Entertainment	\$18.6	\$0.3	\$0.4	\$19.2
Food & Beverage	\$12.0	\$1.3	\$1.5	\$14.7
Business Services	\$2.8	\$4.3	\$1.4	\$8.5
Education and Health Care	\$0.0	\$0.5	\$3.3	\$3.8
Retail Trade	\$1.8	\$0.6	\$1.3	\$3.6
Other Transport	\$1.5	\$1.3	\$0.5	\$3.3
Finance, Insurance and Real Estate	\$0.2	\$1.2	\$0.7	\$2.1
Government		\$1.3	\$0.7	\$2.0
Personal Services	\$0.1	\$0.5	\$1.2	\$1.8
Wholesale Trade	\$0.1	\$0.5	\$0.5	\$1.1
Construction and Utilities	\$0.3	\$0.4	\$0.2	\$0.9
Communications	\$0.0	\$0.3	\$0.2	\$0.4
Gasoline Stations	\$0.1	\$0.0	\$0.1	\$0.2
Manufacturing		\$0.1	\$0.0	\$0.1
Air Transport		\$0.0	\$0.0	\$0.0
Agriculture, Fishing, Mining		\$0.0	\$0.0	\$0.0

Labor income impacts by industry, stabilized year
(\$ millions)



Tax Generation

Total tax revenue, stabilized year

(\$ millions)

	Direct	Indirect / Induced	Total
Total Tax Revenues	\$30.1	\$11.1	\$41.3
Federal	\$11.1	\$4.8	\$15.9
Personal Income	\$4.2	\$1.8	\$6.0
Corporate	\$0.5	\$0.4	\$0.9
Indirect Business	\$0.4	\$0.2	\$0.6
Social Insurance	\$6.0	\$2.3	\$8.4
State and Local	\$19.0	\$6.3	\$25.3
Sales	\$8.0	\$4.0	\$12.0
Bed Tax	\$6.0	\$0.0	\$6.0
Personal Income	\$1.6	\$0.7	\$2.3
Corporate	\$0.2	\$0.2	\$0.4
Social Insurance	\$0.3	\$0.0	\$0.4
Excise and Fees	\$0.7	\$0.4	\$1.0
Property	\$2.3	\$1.0	\$3.2

State and local tax revenue, stabilized year

(\$ millions)

	State	Local	Total
Total taxes	\$13.7	\$11.6	\$25.3
Sales	\$9.9	\$2.1	\$12.0
Bed Tax	\$0.1	\$5.9	\$6.0
Personal Income	\$2.3	\$0.0	\$2.3
Corporate	\$0.4	\$0.0	\$0.4
Social Insurance	\$0.4	\$0.0	\$0.4
Excise and Fees	\$0.5	\$0.6	\$1.0
Property	\$0.2	\$3.1	\$3.2

Source: Tourism Economics



Section 7

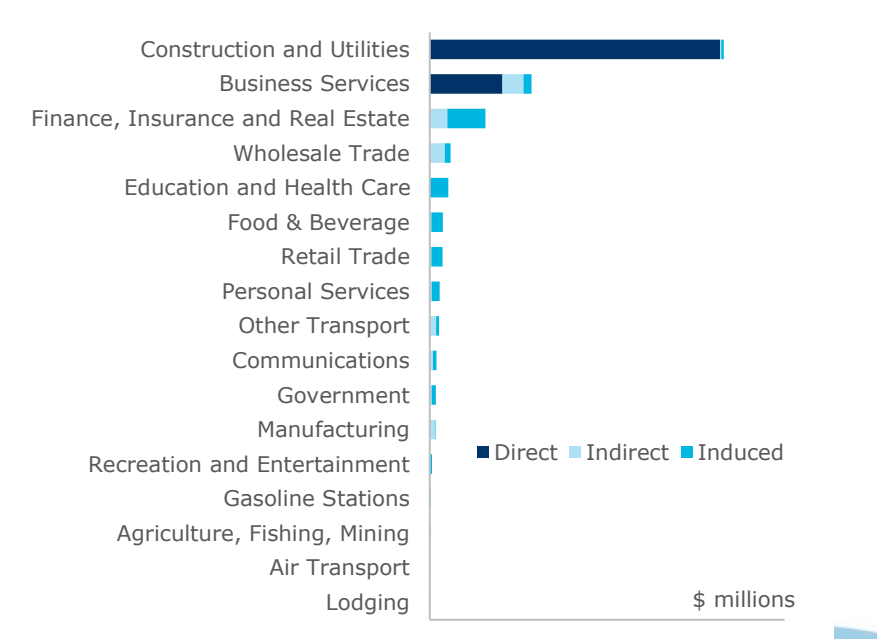
CAPITAL EXPENDITURE IMPACTS

Business Sales by Industry

Business sales impacts by industry, capital expenditures
(\$ millions)

	Direct Business Sales	Indirect Business Sales	Induced Business Sales	Total Business Sales
Total, all industries	\$40.9	\$8.6	\$13.3	\$62.8
By industry				
Construction and Utilities	\$32.7	\$0.1	\$0.3	\$33.1
Business Services	\$8.2	\$2.4	\$0.9	\$11.5
Finance, Insurance and Real Estate		\$2.0	\$4.3	\$6.3
Wholesale Trade		\$1.7	\$0.7	\$2.3
Education and Health Care		\$0.0	\$2.1	\$2.1
Food & Beverage		\$0.2	\$1.3	\$1.5
Retail Trade		\$0.2	\$1.2	\$1.4
Personal Services		\$0.2	\$0.9	\$1.1
Other Transport		\$0.7	\$0.3	\$1.0
Communications		\$0.3	\$0.4	\$0.7
Government		\$0.2	\$0.5	\$0.7
Manufacturing		\$0.6	\$0.1	\$0.6
Recreation and Entertainment		\$0.0	\$0.2	\$0.2
Gasoline Stations		\$0.0	\$0.1	\$0.1
Agriculture, Fishing, Mining		\$0.0	\$0.0	\$0.1
Air Transport		\$0.0	\$0.0	\$0.0
Lodging		\$0.0	\$0.0	\$0.0

Business sales impacts by industry, capital expenditures
(\$ millions)

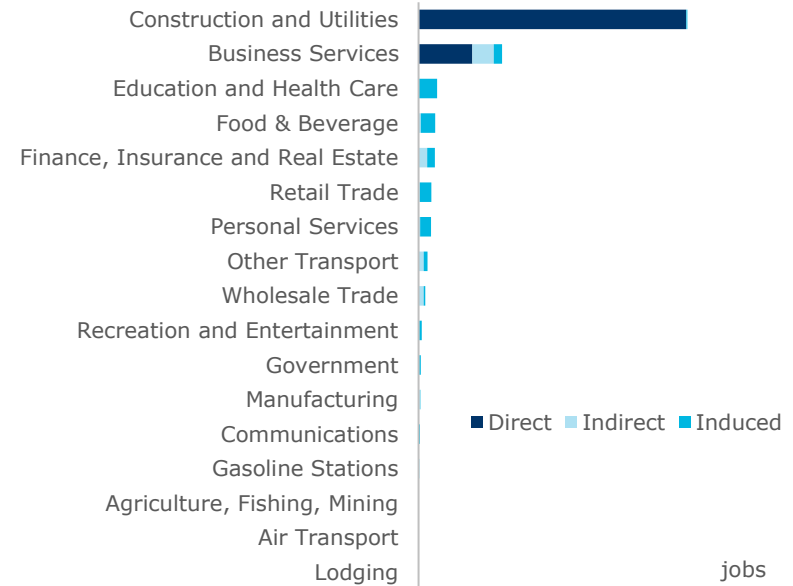


Employment by Industry

Employment impacts by industry, capital expenditures (part-time and full-time jobs)

	Direct Employment	Indirect Employment	Induced Employment	Total Employment
Total, all industries	359	56	94	509
By industry				
Construction and Utilities	299	0	1	300
Business Services	60	24	9	93
Education and Health Care		0	21	21
Food & Beverage		2	16	19
Finance, Insurance and Real Estate		10	9	18
Retail Trade		1	13	14
Personal Services		2	12	14
Other Transport		6	4	10
Wholesale Trade		6	2	8
Recreation and Entertainment		1	3	4
Government		1	2	3
Manufacturing		2	0	2
Communications		1	1	1
Gasoline Stations		0	1	1
Agriculture, Fishing, Mining		0	0	0
Air Transport		0	0	0
Lodging		0	0	0

Employment impacts by industry, capital expenditures (part-time and full-time jobs)



Source: Tourism Economics

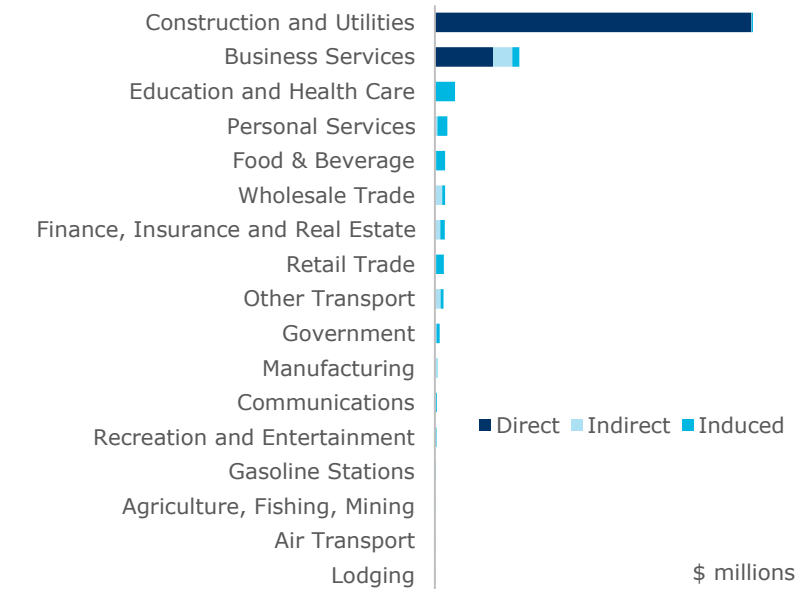
Source: Tourism Economics

Labor Income by Industry

Labor income impacts by industry, capital expenditures
(\$ millions)

	Direct Personal Income	Indirect Personal Income	Induced Personal Income	Total Personal Income
Total, all industries	\$21.0	\$2.7	\$4.0	\$27.7
By industry				
Construction and Utilities	\$17.8	\$0.0	\$0.1	\$17.9
Business Services	\$3.3	\$1.1	\$0.4	\$4.7
Education and Health Care		\$0.0	\$1.1	\$1.1
Personal Services		\$0.1	\$0.6	\$0.7
Food & Beverage		\$0.1	\$0.5	\$0.6
Wholesale Trade		\$0.4	\$0.2	\$0.6
Finance, Insurance and Real Estate		\$0.3	\$0.3	\$0.6
Retail Trade		\$0.1	\$0.4	\$0.5
Other Transport		\$0.3	\$0.2	\$0.5
Government		\$0.1	\$0.2	\$0.3
Manufacturing		\$0.1	\$0.0	\$0.1
Communications		\$0.1	\$0.1	\$0.1
Recreation and Entertainment		\$0.0	\$0.1	\$0.1
Gasoline Stations		\$0.0	\$0.0	\$0.0
Agriculture, Fishing, Mining		\$0.0	\$0.0	\$0.0
Air Transport		\$0.0	\$0.0	\$0.0
Lodging		\$0.0	\$0.0	\$0.0

Labor income impacts by industry, capital expenditures
(\$ millions)



Source: Tourism Economics

Source: Tourism Economics

Tax Generation

Total tax revenue, capital expenditures

(\$ millions)

	Direct	Indirect / Induced	Total
Total Tax Revenues	\$5.3	\$3.1	\$8.4
Federal	\$4.0	\$1.5	\$5.4
Personal Income	\$1.8	\$0.5	\$2.3
Corporate	\$0.0	\$0.1	\$0.2
Indirect Business	\$0.0	\$0.1	\$0.1
Social Insurance	\$2.1	\$0.7	\$2.8
State and Local	\$1.3	\$1.7	\$3.0
Sales	\$0.3	\$0.7	\$1.0
Personal Income	\$0.7	\$0.2	\$0.9
Corporate	\$0.0	\$0.1	\$0.1
Social Insurance	\$0.1	\$0.0	\$0.1
Excise and Fees	\$0.1	\$0.2	\$0.2
Property	\$0.2	\$0.5	\$0.7

State and local tax revenue, capital expenditures

(\$ millions)

	State	Local	Total
Total taxes	\$1.9	\$1.1	\$3.0
Sales	\$0.8	\$0.2	\$1.0
Personal Income	\$0.9	\$0.0	\$0.9
Corporate	\$0.1	\$0.0	\$0.1
Social Insurance	\$0.1	\$0.0	\$0.1
Excise and Fees	\$0.1	\$0.1	\$0.2
Property	\$0.0	\$0.7	\$0.7

Source: Tourism Economics

Source: Tourism Economics



Section 8

CITY KEY FINDINGS (FY 22/23)

City Summary Findings (FY 22/23)

The following section presents the economic impacts generated by Living Desert Zoo and Garden patrons off-site spending in five cities within Greater Palm Springs in FY 22/23.

These figures exclude the economic impact generated by the Living Desert Zoo and Garden's operational expenditures, which were included in the aggregated Zoo impacts for all Greater Palm Springs presented in the prior sections.

The accompanying table outlines the economic impacts generated by off-site visitor spending in each city: Palm Springs accounted for the largest portion (\$30.9 million), followed by Palm Desert (\$24.9 million), La Quinta (\$14.9 million), Rancho Mirage (\$14.0 million), and Indian Wells (\$7.9 million).

Living Desert Zoo and Gardens Summary Economic Impacts (\$ millions and number of jobs)

	Indian Wells	Palm Desert	Palm Springs	La Quinta	Rancho Mirage
Business Sales	\$7.9	\$24.9	\$30.9	\$14.9	\$14.0
Personal Income	\$2.7	\$8.5	\$10.5	\$5.1	\$4.7
Employment	74	235	292	140	132
Taxes	\$1.8	\$5.4	\$7.2	\$3.3	\$3.0
State & local taxes	\$1.2	\$3.6	\$5.0	\$2.2	\$2.0
Federal taxes	\$0.6	\$1.8	\$2.2	\$1.1	\$1.0

Source: Living Desert Zoo and Gardens, Tourism Economics
Note: Totals may not sum due to rounding.

LIVING DESERT ZOO AND GARDENS IMPACTS: INDIAN WELLS

VISITOR SPENDING ECONOMIC IMPACTS (FY 22/23)


DIRECT SPENDING (FY 22/23)

The Living Desert Zoo and Gardens generated significant economic impacts in Indian Wells as Zoo patrons spent money at businesses and establishments in Indian Wells during their trip to the Zoo, including local restaurants, retailers, and recreation/entertainment venues.

In FY 22/23, Zoo patrons spent \$5.5 million in Indian Wells, as outlined below.


 **\$5.5 MILLION**
Zoo Patron Spending In Indian Wells (FY 22/23)

 **\$2.7M** LODGING

 **\$1.8M** ENTERTAINMENT

 **\$0.7M** LOCAL TRANSPORTATION

 **\$0.2M** FOOD & BEVERAGE

 **\$0.1M** RETAIL

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' patron spending impact of \$5.5 million generated a total economic impact of \$7.9 million in the Indian Wells economy, which supported 74 part-time and full-time jobs and generated \$1.2 million in state and local taxes in FY 22/23.




\$7.9 MILLION

Total Economic Impact of the Living Desert Zoo and Gardens
(FY 22/23)

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS IN INDIAN WELLS (FY 22/23)


\$7.9M
Total
Economic
Impact


74
Total
Jobs
Generated


\$1.2M
Total
State & Local
Tax Revenues

LIVING DESERT ZOO AND GARDENS IMPACTS: PALM DESERT

VISITOR SPENDING ECONOMIC IMPACTS (FY 22/23)

DIRECT SPENDING (FY 22/23)

The Living Desert Zoo and Gardens generated significant economic impacts in Palm Desert as Zoo patrons spent money at businesses and establishments in Palm Desert during their trip to the Zoo, including local restaurants, retailers, and recreation/entertainment venues.

In FY 22/23, Zoo patrons spent \$17.2 million in Palm Desert, as outlined below.



\$17.2 MILLION

Zoo Patron Spending In Palm Desert (FY 22/23)



\$6.2M LODGING



\$4.7M FOOD & BEVERAGE



\$3.0M RETAIL



\$2.0M ENTERTAINMENT



\$1.4M LOCAL TRANSPORTATION

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' patron spending impact of \$17.2 million generated a total economic impact of \$24.9 million in the Palm Desert economy, which supported 235 part-time and full-time jobs and generated \$3.6 million in state and local taxes in FY 22/23.



\$24.9 MILLION

Total Economic Impact of the Living Desert Zoo and Gardens (FY 22/23)

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS IN PALM DESERT (FY 22/23)



\$24.9M

Total
Economic
Impact



235

Total
Jobs
Generated



\$3.6M

Total
State & Local
Tax Revenues

LIVING DESERT ZOO AND GARDENS IMPACTS: PALM SPRINGS


VISITOR SPENDING ECONOMIC IMPACTS (FY 22/23)

DIRECT SPENDING (FY 22/23)

The Living Desert Zoo and Gardens generated significant economic impacts in Palm Springs as Zoo patrons spent money at businesses and establishments in Palm Springs during their trip to the Zoo, including local restaurants, retailers, and recreation/entertainment venues.

In FY 22/23, Zoo patrons spent \$21.1 million in Palm Springs, as outlined below.

 **\$21.1 MILLION**
Zoo Patron Spending In Palm Springs (FY 22/23)

 **\$11.7M** LODGING

 **\$5.4M** FOOD & BEVERAGE

 **\$1.3M** RETAIL

 **\$1.7M** LOCAL TRANSPORTATION

 **\$1.1M** ENTERTAINMENT

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' patron spending impact of \$21.1 million generated a total economic impact of \$30.9 million in the Palm Springs economy, which supported 292 part-time and full-time jobs and generated \$5.0 million in state and local taxes in FY 22/23.



\$30.9 MILLION

Total Economic Impact of the Living Desert Zoo and Gardens
(FY 22/23)

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS IN PALM SPRINGS (FY 22/23)


\$30.9M
Total
Economic
Impact


292
Total
Jobs
Generated


\$5.0M
Total
State & Local
Tax Revenues

LIVING DESERT ZOO AND GARDENS IMPACTS: LA QUINTA

VISITOR SPENDING ECONOMIC IMPACTS (FY 22/23)

DIRECT SPENDING (FY 22/23)

The Living Desert Zoo and Gardens generated significant economic impacts in La Quinta as Zoo patrons spent money at businesses and establishments in La Quinta during their trip to the Zoo, including local restaurants, retailers, and recreation/entertainment venues.


In FY 22/23, Zoo patrons spent \$10.3 million in La Quinta, as outlined below.

 **\$10.3 MILLION**
Zoo Patron Spending In La Quinta (FY 22/23)

 **\$3.8M** FOOD & BEVERAGE

 **\$3.8M** LODGING

 **\$1.2M** RETAIL

 **\$0.9M** ENTERTAINMENT

 **\$0.5M** LOCAL TRANSPORTATION

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' patron spending impact of \$10.3 million generated a total economic impact of \$14.9 million in the La Quinta economy, which supported 140 part-time and full-time jobs and generated \$2.2 million in state and local taxes in FY 22/23.




\$14.9 MILLION

Total Economic Impact of the Living Desert Zoo and Gardens (FY 22/23)

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS IN LA QUINTA (FY 22/23)


\$14.9M
Total Economic Impact


140
Total Jobs Generated


\$2.2M
Total State & Local Tax Revenues

LIVING DESERT ZOO AND GARDENS IMPACTS: RANCHO MIRAGE

VISITOR SPENDING ECONOMIC IMPACTS (FY 22/23)

DIRECT SPENDING (FY 22/23)

The Living Desert Zoo and Gardens generated significant economic impacts in Rancho Mirage as Zoo patrons spent money at businesses and establishments in Rancho Mirage during their trip to the Zoo, including local restaurants, retailers, and recreation/entertainment venues.

In FY 22/23, Zoo patrons spent \$9.7 million in Rancho Mirage, as outlined below.



\$9.7 MILLION

Zoo Patron Spending In Rancho Mirage (FY 22/23)



\$3.5M LODGING



\$2.4M FOOD & BEVERAGE



\$2.4M ENTERTAINMENT



\$0.8M LOCAL TRANSPORTATION



\$0.5M RETAIL

ECONOMIC IMPACTS

The Living Desert Zoo and Gardens' patron spending impact of \$9.7 million generated a total economic impact of \$14.0 million in the Rancho Mirage economy, which supported 132 part-time and full-time jobs and generated \$2.0 million in state and local taxes in FY 22/23.



\$14.0 MILLION

Total Economic Impact of the Living Desert Zoo and Gardens (FY 22/23)

ECONOMIC IMPACTS OF THE LIVING DESERT ZOO AND GARDENS IN RANCHO MIRAGE (FY 22/23)



\$14.0M

**Total
Economic
Impact**



132

**Total
Jobs
Generated**



\$2.0M

**Total
State & Local
Tax Revenues**

About Tourism Economics



Tourism Economics is an Oxford Economics company with a singular objective: combine an understanding of the travel sector with proven economic tools to answer the most important questions facing our clients. More than 500 companies, associations, and destination work with Tourism Economics every year as a research partner. We bring decades of experience to every engagement to help our clients make better marketing, investment, and policy decisions. Our team of highly-specialized economists deliver:

- Global travel data-sets with the broadest set of country, city, and state coverage available
- Travel forecasts that are directly linked to the economic and demographic outlook for origins and destinations
- Economic impact analysis that highlights the value of visitors, events, developments, and industry segments
- Policy analysis that informs critical funding, taxation, and travel facilitation decisions
- Market assessments that define market allocation and investment decisions

Tourism Economics operates out of regional headquarters in Philadelphia and Oxford, with offices in Belfast, Buenos Aires, Dubai, Frankfurt, and Ontario.

Oxford Economics is one of the world's foremost independent global advisory firms, providing reports, forecasts and analytical tools on 200 countries, 100 industrial sectors and over 3,000 cities. Our best-of-class global economic and industry models and analytical tools give us an unparalleled ability to forecast external market trends and assess their economic, social and business impact. Headquartered in Oxford, England, with regional centers in London, New York, and Singapore, Oxford Economics has offices across the globe in Belfast, Chicago, Dubai, Miami, Milan, Paris, Philadelphia, San Francisco, and Washington DC, we employ over 250 full-time staff, including 150 professional economists, industry experts and business editors—one of the largest teams of macroeconomists and thought leadership specialists.

For more information:

info@tourismeconomics.com



Café/Marketplace Revenue Estimates

		FYE 23	FYE 24	FYE 25	FYE 26	FYE 27	FYE 28	FYE 29	FYE 30	FYE 31	FYE 32	FYE 33	FYE 34
Yearly Attendance 6% Growth Rate		600,000	636,000	674,160	714,610	757,486	802,935	851,111	902,178	956,309	1,013,687	1,074,509	1,138,979
Capture Rate				14.16%	14.16%	14.16%	14.16%	14.16%	14.16%	14.16%	14.16%	14.16%	14.16%
Average Transaction (Net After Taxes)		4%	Inflation	\$26.69	\$27.76	\$28.87	\$30.02	\$31.22	\$32.47	\$33.77	\$35.12	\$36.53	\$37.99
Potential F&B Revenue (Net After Taxes)				\$2,547,856	\$2,808,756	\$3,096,373	\$3,413,441	\$3,762,978	\$4,148,306	\$4,573,093	\$5,041,378	\$5,557,615	\$6,126,715
Evening Rental Events (Weddings, Corporate, Social, Gala)	Projections are VERY conservative.	150	Guests	\$1,350,000	\$1,404,000	\$1,460,160	\$1,518,566	\$1,579,309	\$1,642,481	\$1,708,181	\$1,776,508	\$1,847,568	\$1,921,471
Facility Rental		\$250	per Guests										
Catering		4%	Inflation										
Equipment & Décor Rental		36	Events /year										
Total Revenue Projection				\$3,897,856	\$4,212,756	\$4,556,533	\$4,932,008	\$5,342,287	\$5,790,788	\$6,281,274	\$6,817,886	\$7,405,183	\$8,048,186
Estimated Revenue over first 10 years	\$57,284,754												
			Ten Year Estimate	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Estimated Indian Wells Share of Sales Tax		\$ 572,847.54	\$ 38,978.56	\$ 42,127.56	\$ 45,565.33	\$ 49,320.08	\$ 53,422.87	\$ 57,907.88	\$ 62,812.74	\$ 68,178.86	\$ 74,051.83	\$ 80,481.86	

RESOLUTION NO. 2023-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADOPTING A COMMUNITY ASSISTANCE FUNDING POLICY AND RESCINDING PRIOR DISCRETIONARY FUNDING POLICIES

WHEREAS, the City Council of the City of Indian Wells recognizes the importance of a prudent long-term financial plan, as well as the value in providing financial assistance to organizations whose work benefits the City and the Coachella Valley; and

WHEREAS, the City desires and intends to adopt a funding plan for community assistance expenditures consistent with a prudent long-term financial plan; and

WHEREAS, the City desires and intends to amend the funding plan to make provisions for pledging monies.

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

SECTION 1. The City Council hereby **RESCINDS** prior resolutions amending or approving the Community Assistance Policy, including Resolution No. 2022-40.

SECTION 2. The City Council hereby **ADOPTS** that specific Community Assistance Funding Policy set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 3. This Resolution shall take effect upon adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this 2nd day of November 2023.

E-SIGNED by Donna J.H. Griffith
on 2023-11-03 14:24:49 PDT

DONNA J.H. GRIFFITH
MAYOR

CERTIFICATION FOR RESOLUTION NO. 2023-38

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on this 2nd day of November 2023, by the following vote:

AYES: Griffith, Peabody, Reed, Sanders, Whitman
NOES: None

ATTEST:

APPROVED AS TO FORM:

E-SIGNED by Angelica Avila
on 2023-11-03 14:48:32 PDT

ANGELICA AVILA
CITY CLERK

E-SIGNED by Todd Leishman
on 2023-11-03 14:47:35 PDT

TODD LEISHMAN
CITY ATTORNEY

EXHIBIT "A"

CITY OF INDIAN WELLS COMMUNITY ASSISTANCE FUNDING POLICY

1. PURPOSE OF THIS POLICY

The Policy's purpose is to establish annual procedures and approvals associated with funding community assistance expenditures during the development of the City budget. In addition, the Policy sets defined processes to ensure the City's financial goals are maintained and opportunities for public input are available.

The City Council defines community assistance funding as optional expenditures that the City Council can disburse annually to financial aid-worthy non-profit organizations within the Coachella Valley that provide services that the City may not otherwise offer.

Budgetary approval is required for all community assistance funding. The City Council will publicly discuss community assistance funding at budgetary study sessions and council meetings during the review and adoption of the City budget. Public input is essential during these meetings.

2. COMMUNITY ASSISTANCE FUNDING

Community Assistance Funding for each new budget year shall be established as follows:

- A. For each new budget year, the amount of the community assistance funding budget shall be established by calculating twenty-five percent (25%) of the prior year's General Fund's Net Change in Fund Balance (after all capital contributions) using year-end estimates established during the last quarter of each fiscal year.
- B. Maximum funding shall not exceed \$200,000 during each budget year.
- C. Annual funding shall be split into two separate pools. The Grants-in-Aid program shall receive 80% of the available funding. The second pool shall operate at the sole discretion of the City Council and will receive the remaining 20% of the available funding.
- D. The City has qualified its ability to meet its financial obligations under the current General Fund cash flow plan as approved and amended by the Finance Committee and consistent with the adoption of the City's Annual Budget.
- E. If funds are insufficient, the amount of community assistance funding shall be reduced or eliminated until all criteria have been met.
- F. Budget Roll Forwards: Prior to the close of each fiscal year, the Finance Director shall roll forward any unexpended community assistance funds from either pool. For the avoidance of doubt, any unexpended community assistance funds shall "roll forward" into the next year's budget, shall be available for spending, and shall be separate from the annual calculation establishing the annual Community Assistance Funding Program.

3. EXTRAORDINARY FUNDING REQUESTS IN EXCESS OF \$200,000

Extraordinary funding requests received by the City of more than \$200,000 shall be considered separately from the policy requirements set forth above and shall be subject to the following criteria prior to City Council approval:

- A. City staff shall request and require documentation in keeping with Community Assistance Grant Program Requirements. The Extraordinary Grants Committee will review the funding proposal as required for all Community Assistance Grants. The Committee shall make a written recommendation to the City Council of their findings.
- B. A staff report summarizing the Committee's recommendations shall be placed on the City Council agenda for consideration.
- C. The Applicant shall have the opportunity to present to the Council when the item is scheduled for Council consideration.
- D. If the City Council approves by a majority vote to move the item forward, a Community Involvement component will be required. The Applicant will oversee and direct the Community Involvement component at the Applicant's own expense. This component shall include a program to inform the public about the long-range financial impact, share the funding proposal, and obtain feedback from the community. This will be accomplished through press releases, distributing informational materials pertinent to the proposal, public hearings, meetings, and surveys. The following steps must be taken and reviewed before a final decision by the City Council regarding the potential funding of a proposal exceeding \$200,000:
 - i. The City will hold a minimum of one Public Hearing and Town Hall meeting to discuss the said proposal with the Applicant present.
 - ii. A minimum of one written communication shall be sent via U.S. Postal Service to all Indian Wells residents to include summary information on the funding request, the budgetary impact to the City is funded, and the date, time, and location of Public Hearing and Town Hall meeting to accept community input on proposed funding. Each mailing shall be at the expense of the Applicant.
 - iii. The Applicant shall cause to be submitted to the media no less than one press release announcing the date, time, and location of the public hearing or meeting held to discuss and take testimony regarding the funding proposal.
 - iv. A Community-wide mail survey or cloud-based online civic engagement platform/poll shall be used to provide an additional vehicle to inform and provide community feedback as it relates to the funding proposal. Each poll shall be at the expense of the Applicant. A subsequent report on the poll results shall be provided to the City Council.

- v. The City Council shall be responsible for ensuring that legal and financial advice has been obtained and must consider whether the scope of the proposed funding request warrants further legal or financial advice from an independent source.

At such a time that all of the above community input methods have been completed, and considering the information obtained, the City Council shall determine the award of any such funding during a regularly scheduled City Council meeting.

INDIAN WELLS CITY COUNCIL

January 18, 2024



To: City Council
From: Measure J Ad Hoc Committee
Subject: **Measure J Council Ad Hoc Committee Update**

RECOMMENDED ACTIONS:

Council **RECEIVES** and **FILES** the Measure J Council Ad Hoc Committee report.

BACKGROUND:

In March of 2020, the residents of Indian Wells placed Measure J on the ballot by a resident signature petition. The Indian Wells voters overwhelmingly supported the measure (61% yes and 39% no), changing City Council elections by expressly limiting Council service to two four-year terms over the course of a person's "lifetime." Under section 2.08.045, of the Municipal Code, the "City Clerk, or other election official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, including any paper seeking election as a write-in candidate, nor shall he or she certify or place on the list of certified candidates, nor print or cause to be printed on any ballot, voter information guide, sample ballot or ballot label, the name of any person whose candidacy, if successful, will result in a City Council term that exceeds the limits set forth herein."

In 2020, the City Clerk, who serves as the City's election official, complied with Measure J by determining that a former councilmember who had already served two four-year terms during that councilmembers' lifetime did not qualify for the 2020 November ballot.

A former councilmember, who previously served two four-year terms on the City Council, filed a complaint against the Indian Wells election official with the Riverside County Superior Court. His contention was that his previous service did not count toward his "lifetime" limit because Measure J was adopted after his service on the City Council.

The Riverside Superior Court held that "[t]he City's term limits measure, Measure J, violates Government Code section 36502." Section 36052 purports to limit all cities — including charter cities — to "apply[ing] [term limits] prospectively only." The Superior Court considered the application of Measure J's term limit to pre-2020 terms to be retroactive and therefore a violation of Section 36502.

The trial court ruling was not appealed by the Council, and the former councilmember who previously served two four-year terms was able to submit candidacy papers and be placed on the 2020 Election ballot.

Based on the Riverside County Superior Court writ from 2020, the election official applied the same rule in 2022 to allow former councilmembers that had served two four-year terms to pull candidacy papers. Three former councilmembers pulled candidacy papers and qualified for the November 2022 ballot.

DISCUSSION

At the City Council's 2023 Strategic Planning session held on February 1, 2023, the Council directed an examination of Measure J. The Council approved the formation of an Ad Hoc Council Committee ("Committee") comprised of then Mayor Pro Tem Greg Sanders and Councilmember Bruce Whitman to assist in the review of Measure J. The specific task was to determine whether a Council-initiated ballot measure might be needed to ensure the enforceability of the voters' intent that Council service be limited to two terms over the course of a councilmember's lifetime.

One of the first questions the Committee examined was the need for a new ballot measure to clarify Measure J. After careful review, the Committee determined that a ballot measure is not needed because there has been a change in the "circumstances" of election law regarding charter-city authority and term limits.

Changed Circumstances

The Committee is aware that after Measure J was approved by Indian Wells voters in March 2020, the Riverside Superior Court issued a writ compelling the City to allow a former Council Member who previously served two four-year terms to again run for a Council seat in November of 2020. The Committee is also aware that the writ was not appealed to by the City, and that the City complied with the writ in 2020 and November 2022 election, consistent with the Riverside Superior Court writ.

But then it came to the Committee's attention that a significant change in circumstances has occurred since 2022. Specifically, new appellate cases decided in 2023 (1) emphasize that charter cities are insulated from state regulation in municipal affairs like local term limits and (2) support the application of Measure J's two-term limit to ***all*** terms served during a person's lifetime, regardless of when.

The *Cultiva La Salud* Case

In the *Cultiva La Salud* case, decided in March 2023, the Third District Court of Appeal held that "[u]nder the home rule doctrine [in the California constitution], a charter city's law is not preempted simply because it conflicts with a state law.... Nor is it necessarily

preempted even when the Legislature explicitly intends preemption... It is instead preempted only when it conflicts with a state law, the state law covers a subject of statewide concern, and the state law is reasonably related to ... resolution of that concern and narrowly tailored to avoid unnecessary interference in local governance." (*Cultiva La Salud v. State of California* (2023) 89 Cal.App.5th 868, 875, internal citations and quotations omitted.)

This new case served to emphasize that even a statute that purports to regulate local term limits of charter cities, as Government Code section 36502, subdivision (b), purports to do, is not actually binding on a charter city if the subject is a local municipal affair, as opposed to a matter of statewide concern.

This called into question the validity of the Riverside County Superior Court's ruling about the application of Section 36502 to Indian Wells and Measure J.

The *Monell* Case

Even more significant was the Fourth District Court of Appeal's May 2023 decision in *San Bernardino County Board of Supervisors v. Monell*, in which the Court of Appeal held that a term limit similar to that imposed by Measure J is not retroactive at all if it is only applied to candidates who have not yet been elected, and is not used to try to unseat someone who is currently in office. "It is well settled that a statute does not operate retroactively merely because some of the facts or conditions upon which its application depends came into existence before the enactment." *San Bernardino County Board of Supervisors v. Monell* (2023) 91 Cal.App.5th 1248, 1288, as modified on denial of reh'g (June 16, 2023), review denied (Aug. 16, 2023); internal quotations omitted.) As with Measure J, the term limit in *Monell* was a "change in the law" that only "affects ... *eligibility* for *future* office"; it does not "give[] a different and potentially unfair legal effect to actions taken in reliance on the preenactment law" (*id.* at 1289), as would be the case if a new term limit were used to try to unseat a sitting council member. As the Court of Appeal put it with regard to the voter-approved term limits in *Monell*, [the Measure] cannot and does not kick out of office those [elected officials] who were already serving a ... third term. That would indeed be a prohibited retroactive application. However, it will bar them — just as it bars ... new [officials] — from serving another term later." (*Ibid.*)

This *Monell* opinion, from the very District of the Court of Appeal that has jurisdiction over Riverside County and Indian Wells, is directly on point and compelling shows that Measure J's application to *future* candidates (not to those holding office when it passed), is not retroactive at all, but is rather a permissible regulation of "*eligibility* for *future* office."

This is a significant, clarifying change affecting how Measure J should be interpreted and applied. Specifically, this new case law, from a higher court, holds that all four-year terms on the City Council count toward the two-term limit imposed by Measure J.

Evaluating the New Legal Authority

The Committee shared this new clarifying legal authority with the City Clerk. It was agreed to obtain an independent legal opinion. The election official contacted the Law Firm of Olson Remcho, who specializes in election law, to provide a third-party legal opinion on the application of the new case law to Measure J.

Based on current binding law, the election official has no choice but to accept the determination that *a//* terms of service on the Council during a person's lifetime whether served before or after the passage of Measure J may now count toward the two-term limit, regardless of when the terms were served, consistent with the voters' intent in imposing a lifetime limit through Measure J.

Therefore, based upon the determination of the Election Official as stated above, supportive by the recent appellate decisions and the opinion of the third-party legal counsel, the Council receives and files the Committee report.

ATTACHMENTS:

1. Text of Measure J
2. Hanson v. Grandys Superior Court Ruling
3. Monell Case
4. Cultiva Case

ORDINANCE NO. 728**AN ORDINANCE OF THE PEOPLE OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING SECTION 2.08.045 OF CHAPTER 2.08 (CITY COUNCIL) OF THE INDIAN WELLS MUNICIPAL CODE TO ESTABLISH A TWO-TERM LIFETIME LIMIT ON CITY COUNCIL SERVICE**

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

SECTION 1. Subject to the approval of a majority of the voters of the City of Indian Wells at the scheduled election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 2.08.045 of Chapter 2.08 of the Indian Wells Municipal Code is hereby amended to read in its entirety as follows:

2.08.045 Term limits

No person shall be eligible for nomination and/or election to the office of Member of the City Council for more than two (2) four (4) year terms during his or her lifetime, including, without limitation, terms to which the person was nominated and appointed to office by the City Council in lieu of a General Municipal Election pursuant to California Elections Code Section 10229. No person who has been elected to or held office as a City Council Member for two (2) four (4) year terms during his or her lifetime may seek nomination and election to that office, as a formally nominated or write-in candidate. Notwithstanding the foregoing, any person who is appointed by the City Council to fill a vacant office of a City Council Member and serves in that office for less than two (2) years, shall be eligible for nomination and election for two (2) full four (4) year terms thereafter. The City Clerk, or other election official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, including any paper seeking election as a write-in candidate, nor shall he or she certify or place on the list of certified candidates, nor print or cause to be printed on any ballot, voter information guide, sample ballot or ballot label, the name of any person whose candidacy, if successful, will result in a City Council term that exceeds the limits set forth herein.

SECTION 2. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 3. To the fullest extent allowed by law, the provisions of this Ordinance shall prevail over, and supersede, all other provisions of the Municipal Code and any ordinances, resolutions or administrative policies of the City of Indian Wells which are in conflict with any provision of this Ordinance.

SECTION 4. This Section shall not be repealed or amended except by a measure approved by a majority of the electors voting on the issue at a General Municipal Election, or at a special election called for that purpose.

SECTION 5. This Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Indian Wells voting at a Special Municipal election to be held on March 3, 2020, and shall take effect ten (10) days after the City Council has certified the results of the Special Municipal election by resolution.

SECTION 6. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on March 3, 2020, by signing where indicated below.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED AND ADOPTED** by the People of the City of Indian Wells on the 3rd day of March, 2020.

Dated: May 5, 2020



**TY PEABODY
MAYOR**

ATTEST:

APPROVED AS TO FORM:



**ANNA GRANDYS
CITY CLERK**



**JEFFREY S. BALLINGER
CITY ATTORNEY**

8/4/2020

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG 06 2020

E. Usher

1 LAW OFFICE OF CHAD D. MORGAN
2 **Chad D. Morgan, Esq. SBN 291282**
3 P.O. Box 1989 PMB 342
4 40729 Village Drive, Ste. 8
5 Big Bear Lake, CA 92315
6 Tel: (951) 667-1927
7 Fax: (866) 495-9985

8 Attorney for Petitioner Douglas Hanson

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF RIVERSIDE — HISTORIC COURTHOUSE
12

13 **Douglas Hanson,**

14 Petitioner,

15 vs.

16 **Anna Grandys, et al.,**

17 Respondents.
18

Case No.: RIC2002738

Assigned for all purposes to:
Hon. Daniel Ottolia, Dept. 4

[Proposed] Judgment

Action Filed: Jul. 21, 2020

OSC on Alt. Writ: Aug. 6, 2020

19
20
21 At 8:30 a.m. on Thursday, August 6, 2020, Petitioner Douglas Hanson’s Petition Writ of
22 Mandate came for hearing in Department 4 of the Riverside County Superior Court, Judge
23 Daniel Ottolia presiding. Chad D. Morgan appeared for Petitioner Douglas Hanson and
24 Christopher Skinnell appeared for Respondents Anna Grandys and City of Indian Wells (the
25 “City”).

26 After considering the Petition for Writ of Mandate and the argument and evidence in
27 support of and opposition to the Petition, for the reasons stated at the hearing, it is ordered,
28 adjudged, and decreed as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. The Petition for Writ of Mandate is GRANTED:

Respondent Anna Grandys is immediately ordered to accept Petitioner’s nomination paperwork for filing because:

___ The City’s term limits measure, Measure J, was not intended to apply retroactively.

The City’s term limits measure, Measure J, violates Government Code section 36502.

___ The City’s term limits measure, Measure J, violates the Constitution of the State of California.

___ The City’s term limits measure, Measure J, violates the Constitution of the State of the United States.

It is further ordered that:

- 2. This Judgment is intended to take the place of a formal and separate writ of mandate;
- 3. Petitioner Douglas Hanson is the prevailing party as to Respondents Anna Grandys and the City of Indian Wells; and
- 4. This is the final judgment of the Court.

IT IS ADJUDGED.

Date: 8-6-20

Hon. Daniel Ottolia
Judge of the Superior Court

91 Cal.App.5th 1248
Court of Appeal, Fourth District,
Division 2, California.

SAN BERNARDINO COUNTY
BOARD OF SUPERVISORS,
Plaintiff and Appellant;

v.

Lynna MONELL, as Clerk, etc.,
Defendant and Respondent;
Nadia Renner, Intervener and
Appellant.

E077772

Filed May 25, 2023

As Modified on Denial of
Rehearing June 16, 2023

Certified for Partial Publication.*

Synopsis

Background: County board of supervisors filed a combined complaint and writ petition in which board sought a declaration that voter-approved initiative that amended county charter to limit a supervisor to a single four-year term and to limit a supervisor's compensation to \$5,000 a month was invalid and an injunction and writ of mandate preventing initiative's enforcement. After a trial as a writ petition, the Superior Court, San Bernardino County, No. CIVSB2025319, Donald R. Alvarez, J., 2021 WL 5296486, entered a ruling that granted the mandate petition and struck down the initiative in its

entirety. Proponent of initiative appealed, and board cross-appealed.

Holdings: The Court of Appeal, Ramirez, P.J., held that:

[1] passage of a superseding measure did not render the appeal and cross-appeal moot;

[2] regulatory interests justified the term limit, which was not a severe restriction on rights under the First and Fourteenth Amendments;

[3] on its face, the compensation cap did not violate federal and state minimum-wage laws;

[4] any conflict between the compensation cap and county ordinance that required elected county officials to be provided with certain benefits was not a basis to find that the compensation cap was invalid;

[5] the terms of the newly elected supervisors began on the date provided by the county charter, i.e., the first Monday in December following the election;

[6] pursuant to state statute, initiative went into effect ten days after the vote was declared by the board;

[7] term limit did not kick out of office those supervisors who were already serving a term beyond their first time,

but it would bar them from serving another term later; and

[8] compensation cap could not apply to supervisors elected at the same election that approved the initiative.

Reversed and remanded with instructions.

Menetrez, J., dissented and filed opinion.

Procedural Posture(s): Petition for Rehearing; On Appeal; Motion for Costs; Petition for Writ of Mandate.

West Headnotes (36)

[1] **Mandamus**—Dismissal of appeal

Passage of a superseding measure did not render moot appeal and cross-appeal from trial court's ruling that granted petition by county board of supervisors for a writ of mandate striking down voter-approved initiative that amended county charter to limit a supervisor to a single four-year term and to limit a supervisor's compensation to \$5,000 a month; although a trial court had upheld the superseding measure, it would likely be a year or so before an

appellate court would issue a ruling, and even if the superseding measure were ultimately upheld, there would still be a live issue regarding supervisors' compensation for period in which the challenged initiative was in force.

[2] **Mandamus**—Supersedeas or stay of proceedings

Even though there was a pending appeal concerning a superseding measure, the Court of Appeal would not stay appeal and cross-appeal from trial court's ruling that granted petition by county board of supervisors for a writ of mandate striking down voter-approved initiative that amended county charter to limit a supervisor to a single four-year term and to limit a supervisor's compensation to \$5,000 a month; the parties had already fully briefed the appeal and cross-appeal, the Court of Appeal had already heard oral argument, and the appeal concerning the superseding measure was filed later.

- [3] **Action** → Moot, hypothetical or abstract questions

Courts have no jurisdiction to decide moot cases, but they are tasked with the duty to decide actual controversies by a judgment which can be carried into effect.

- [4] **Constitutional Law** → Elections in general

A court considering a challenge to a state election law must weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the precise interests put forward by the state as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights. U.S. Const. Amends. 1, 14.

- [5] **Constitutional Law** → Elections in general

Constitutional Law → Voting rights and suffrage in general

When rights under the First and Fourteenth Amendments are subjected to severe restrictions by a state election law, the law must be narrowly drawn to advance a state interest of compelling importance, but when the law imposes only reasonable, nondiscriminatory restrictions' upon the First and Fourteenth Amendment rights of voters, the state's important regulatory interests are generally sufficient to justify the restrictions; that latter, lesser scrutiny is not pure rational-basis review, but rather it is a deferential review in which the court must actually weigh the burdens imposed on the plaintiff against the precise interests put forward by the state, and the court must take into consideration the extent to which those interests make it necessary to burden the plaintiff's rights. U.S. Const. Amends. 1, 14.

- [6] **Constitutional Law** → Elections in general

In a challenge to a state election law under the First and Fourteenth Amendments, courts will uphold as “not severe” restrictions that are generally applicable, even-handed, politically neutral, and which protect reliability and integrity of election process. U.S. Const. Amends. 1, 14.

under the First and Fourteenth Amendments, and thus strict scrutiny did not apply and instead the court would weigh the burden imposed on the supervisors against regulatory interests; four years was ample time for a supervisor, as a member of a five-member board, to at least attempt to tick off all the boxes on his or her legislative to-do list. U.S. Const. Amends. 1, 14.

[7] Constitutional

Law↔Elections, voting, or ballot access in general

Courts will strike down state election laws as severe speech restrictions only when they significantly impair access to ballot, stifle core political speech, or dictate electoral outcomes. U.S. Const. Amend. 1.

[9] Constitutional Law↔Term limits

As a general rule, term limits are not so severe as to trigger strict scrutiny in a challenge to such limits under the First and Fourteenth Amendments. U.S. Const. Amends. 1, 14.

[8] Constitutional Law↔Term limits

Voter-approved initiative that amended county charter to limit a supervisor to a single four-year term was not a “severe restriction” on rights

[10] Constitutional Law↔Term limits
Counties↔Ordinances and by-laws

Under deferential review that was applicable to writ-of-mandate-based

challenge in which county board of supervisors asserted that voter-approved initiative that amended county charter to limit a supervisor to a single four-year term violated the First and Fourteenth Amendments, regulatory interests justified term limit; voters retained the basic fundamental right to cast their ballots for the qualified candidate of their choice, the term limit allowed an incumbent to serve a significant period in office, a term-limited incumbent was free to run for another office, and long-term entrenched incumbents could obtain excessive power, which, in turn, could discourage other qualified candidates from running for office or could provide the incumbent with an unfair advantage in winning reelection. U.S. Const. Amends. 1, 14.

- [11] **Mandamus**—Presentation and reservation in lower court of grounds of review
Mandamus—Record and assignments of error

On appeal following ruling that granted writ-of-mandate petition and struck down voter-approved initiative that

amended county charter to limit a supervisor to a single four-year term, proponent of initiative forfeited argument that candidates did not have a fundamental right to run for public office; proponent failed to raise the argument below, which was sufficient for forfeiture, and proponent also failed to raise the argument in her opening brief on appeal, which was also sufficient for forfeiture.

- [12] **Constitutional Law**—Elections in general

When deciding in a challenge under the First and Fourteenth Amendments whether the state's important regulatory interests are generally sufficient to justify election restrictions, elaborate, empirical verification of the weightiness of the state's asserted justifications is not required. U.S. Const. Amends. 1, 14.

- [13] **Counties**—Legislative control of acts, rights, and liabilities

California Constitution grants a charter county “home rule,” i.e., the authority of the people to create and operate their own local government and define the powers of that government, within the limits set out by the Constitution. Cal. Const. art. 11, § 3.

corresponding grant of authority and autonomy over county affairs of charter counties, case law dealing with charter cities also applies to charter counties. Cal. Const. art. 11, §§ 3, 5.

[14] Counties—Legislative control of acts, rights, and liabilities

While charter cities are granted by California Constitution broad authority over municipal affairs, there is no corresponding grant of authority and autonomy over county affairs of charter counties. Cal. Const. art. 11, §§ 3, 5.

[16] Counties—Legislative control of acts, rights, and liabilities

A county charter supersedes state law only when the county is legislating in its proper sphere; hence, charter provisions cannot control in matters of statewide concern where the state has occupied the field. Cal. Const. art. 11, § 3.

[15] Counties—Legislative control of acts, rights, and liabilities


Subject to the caveat that while charter cities are granted by California Constitution broad authority over municipal affairs, there is no

[17] Counties—Compensation

In a general law county, the governing body must set its members’ compensation; by contrast, in a charter county, the county charter may provide the method of setting the compensation of members of the governing body, i.e., the governing body has no power

to set the compensation of its members, unless the county charter so provides. Cal. Const. art. 11, §§ 1(b), 3, 4(b).

[18] Counties ← Compensation

Voters in a charter county may set supervisors' compensation by an initiative that amends the county charter. Cal. Const. art. 11, §§ 1(b), 3, 4(b);  Cal. Gov't Code § 25300.

[19] Municipal Corporations ← Initiative

The local electorate's right to initiative is generally co-extensive with the legislative power of the local governing body; however, the presumption in favor of the right of initiative is rebuttable upon a definite indication that the Legislature, as part of the exercise of its power to preempt all local legislation in matters of statewide concern, has intended to restrict that right.

[20] Statutes ← Construing together; harmony

It is a court's duty to read the elements of a statute together, harmonizing and giving effect to them all.

[21] Constitutional Law ← Avoidance of doubt

Courts should, if reasonably possible, construe a statute in a manner that avoids any doubt about its constitutional validity.

[22] Counties ← Compensation
Labor and Employment ← Municipal or county ordinances

On its face, voter-approved initiative that amended county charter to limit a supervisor's compensation to \$5,000 a month did not violate federal and state minimum-wage laws; despite contention that the

wage cap meant that supervisors might be paid less than minimum wage after deduction of all benefits, such contention was based on speculation.

compensation to \$5,000 a month was not a basis to find that the compensation limit was invalid; the compensation limit was part of the county charter, the ordinance was a mere ordinance, and the California Constitution gave the voters in a charter county the power to amend a charter by initiative. Cal. Const. art. 11, §§ 1(b), 3(b), 4(b).

[23] Constitutional Law → Facial invalidity

On a facial challenge, a court will not invalidate a statute unless it poses a present total and fatal conflict with applicable constitutional prohibitions, i.e., challengers cannot prevail by suggesting that in some future hypothetical situation constitutional problems may possibly arise as to the particular application of the statute.

[25] Appeal and Error → Verdict, Findings, Sufficiency of Evidence, and Judgment

Generally, on appeal, judgment or order will be affirmed if it is correct on any theory, regardless of trial court's reasons; thus, respondent may assert new theory to establish that order was correct on that theory unless doing so would unfairly prejudice appellant by depriving him or her of opportunity to litigate issue of fact.

[24] Counties → Compensation

Any conflict between a county ordinance that required elected county officials to be provided with certain benefits and a voter-approved initiative that amended the county charter to limit a supervisor's

[26] Counties → Term of office, vacancies, and holding over

As was relevant to determining how voter-approved initiative that amended county charter to limit a supervisor to a single four-year term and to limit a supervisor's compensation to \$5,000 a month applied to newly elected county supervisors, the terms of the newly elected supervisors began on the date provided by the county charter, i.e., the first Monday in December following the election, despite argument that the California Constitution provided the terms for non-legislative elective offices commenced on the Monday after January 1 following the election; that constitutional provision governed only state elective offices, not local ones. Cal. Const. art. 2, § 20; Cal. Const. art. 11, § 4.

[27] Counties → Ordinances and by-laws

As was relevant to determining how voter-approved initiative that amended county charter to limit a supervisor to a single four-year term and to limit a supervisor's compensation to \$5,000 a month applied to newly elected county

supervisors, the initiative went into effect ten days after the vote was declared by the board. Cal. Gov't Code §§ 23723, 23724; Cal. Elec. Code §§ 9102, 9122.

[28] Municipal Corporations → Initiative

California Constitution's provision on when an initiative statute takes effect applies only to statewide initiatives; local initiatives are governed by a parallel statutory scheme. Cal. Const. art. 2, § 10(a); Cal. Elec. Code § 9122.

[29] Courts → Previous Decisions as Controlling or as Precedents

Cases are not authority for propositions that are not considered.

[30] Statutes → General and specific statutes

Statutes ← Earlier and later statutes

If conflicting statutes cannot be reconciled, later enactments supersede earlier ones, and more specific provisions take precedence over more general ones; but when these two rules are in conflict, the rule that specific provisions take precedence over more general ones trumps the rule that later-enacted statutes have precedence.

[31] Counties ← Term of office, vacancies, and holding over

Voter-approved initiative that amended county charter to limit a supervisor to a single four-year term, which was initiative that went into effect 11 days after the terms of the newly elected supervisors began, did not kick out of office those supervisors who were already serving a term beyond their first time, but it would bar them from serving another term later.

[32] Statutes ← Language and Intent; Express Provisions

Statutes do not operate retrospectively unless the Legislature plainly indicates otherwise.

[33] Statutes ← Nature and definition of retroactive statute

In general, application of law is retroactive only if it attaches new legal consequences to, or increases party's liability for, event, transaction, or conduct that was completed before law's effective date; thus, critical question for determining retroactivity usually is whether last act or event necessary to trigger application of statute occurred before or after statute's effective date.

[34] Statutes ← Nature and definition of retroactive statute

A law is not retroactive merely because some of the facts or

conditions upon which its application depends came into existence prior to its enactment.

supervisors had filed their candidacy forms before the election. Cal. Gov't Code § 1235.

[35] Statutes — Purpose and intent; unambiguously expressed intent

Legislative intent should not be resorted to where a statute is clear on its face.

[36] Counties — Compensation

Voter-approved initiative that amended county charter to limit a supervisor's compensation to \$5,000 a month could not apply to supervisors elected at the same election that approved the initiative; initiative did not take effect until after the election, state statute provided that the salary of any elected public office could not be reduced during an election year after any candidate for that particular office had filed the requisite forms declaring his or her candidacy for that particular office, and it could be assumed that the newly elected

West Codenotes

Limited on Constitutional Grounds

Cal. Gov't Code § 25300

****168** APPEAL from the Superior Court of San Bernardino County. Donald R. Alvarez, Judge. Reversed and remanded with directions. (Super.Ct.No. CIVSB2025319)

Attorneys and Law Firms

The Red Brennan Group and Aaron D. Burden; Briggs Law Corporation and Cory J. Briggs, San Diego, for Intervener and Appellant.

The Sutton Law Firm, Bradley W. Hertz, and Nicholas L. Sanders for Plaintiff and Appellant.

Jolena E. Grider, Deputy County Counsel, for Defendant and Respondent.

Jonathan M. Coupal, Timothy A. Bittle, Sacramento, and Laura E. Dougherty for Amicus Curiae Howard Jarvis Taxpayers Foundation.

Jennifer B. Henning for Amicus Curiae

California State Association of Counties.

that:

- (1) The one-term limit is constitutional.
- (2) The compensation limit is severable.
- (3) Measure K applies to the new supervisors.
- (4) The trial court erred by enjoining the certification, authentication, recordation, and filing of Measure K.

OPINION

RAMIREZ P. J.

***1258** The facts are simple. The legal issues are not.

On November 3, 2020, the voters of San Bernardino County passed Measure K. It amended the county charter so as to (1) ****169** limit a supervisor to a single four-year term and (2) limit a supervisor's compensation to \$5,000 a month. At the same time, a new supervisor was elected, and two more new supervisors, elected in March 2020, were waiting to take office.

The trial court ruled that the one-term limit is unconstitutional. It also ruled that the compensation limit is constitutional, but, because Measure K is not ***1259** severable, it, too, must be struck down. Finally, it ruled that Measure K did not apply to the new supervisors (although it acknowledged that the issue was moot, in light of its other rulings).

Nadia Renner — the proponent of Measure K — appeals. She contends

The San Bernardino County Board of Supervisors (Board) cross-appeals. It contends that:

- (5) Supervisors' compensation cannot be set by initiative, because state law delegates supervisors' compensation exclusively to boards.
- (6) The compensation limit violates minimum wage laws; alternatively, if it effectively forces supervisors to work part-time, it impairs essential governmental functions.
- (7) The compensation limit improperly acts as a referendum on San Bernardino County Code section 13.0614 (section 13.0614), which provides for supervisors' compensation.

We perceive a preliminary issue of appealability. However, we will conclude that the trial court's ruling is appealable.

We will hold that the one-term limit is

constitutional. We will further hold that supervisors' compensation can be set by initiative. The Board has not shown that the compensation limit violates minimum wage laws. The Board also has not shown that the compensation limit conflicts with section 13.0614; even assuming it does, the voters can amend or abrogate an ordinance not only by referendum, but also by initiative. Because both the one-term limit and the compensation limit are valid, we need not decide whether Measure K is severable. As to whether Measure K applies to the new *1260 supervisors, we reach a split decision: The one-term limit applies, but the compensation limit does not.¹

Finally, assuming the trial court erred by enjoining the certification, authentication, recordation, and filing of Measure K, the error is forfeited, harmless, and/or moot.

I

FACTUAL AND PROCEDURAL BACKGROUND

A. *Statement of Facts.*

The following facts are taken from Renner's statement of facts and statement of the case, which the Board concedes are accurate; from the


declaration, and exhibits introduced below; and from matters of which the trial court took judicial notice.

Renner is the proponent of Measure K, a San Bernardino County initiative.

Measure K amends the county charter. It has four key provisions. First, it provides that a supervisor can serve only one ****170** four-year term. An unexpired term counts toward the four-year limit, but only if it has two or more years left to run when Measure K goes into effect. Previously, supervisors were limited to three consecutive four-year terms. Second, it limits the compensation of a supervisor, including all benefits, to \$5,000 a month. Previously, supervisors' compensation was set at the average of the compensation of supervisors in Riverside, Orange, and San Diego Counties. Third, it provides: "To the extent permitted by law, the provisions of this Charter Amendment shall be effective on voter approval of the initiative as provided by California law." Fourth, it includes a severability provision.

On November 3, 2020, Measure K passed, with 66.84 percent of the votes.

Another initiative on the ballot at the same time, Measure J, completely revised and restated the county charter. It, too, passed, but barely, with only 50.72 percent of the votes. Measure J would have limited supervisors to three terms (consecutive or not) and would have given them a salary set at 80

percent of a superior court judge's salary and the same benefits as department heads. However, because Measure K got more votes, it supersedes Measure J to the extent that they conflict. (Elec. Code, §§ 9102, 9123; see  *1261 *Taxpayers to Limit Campaign Spending v. Fair Pol. Practices Com.* (1990) 51 Cal.3d 744, 765-768, 274 Cal.Rptr. 787, 799 P.2d 1220.)

At the same time, new supervisor Joe Baca, Jr. was elected to the Board; two more new supervisors, Col. Paul Cook, and Dawn Rowe, had been elected in March 2020 and were waiting to take office. On December 7, 2020, they were sworn in. On December 8, 2020, the Board (including the newly elected supervisors) certified the results of the election.

B. *Statement of the Case.*

Meanwhile, on December 2, 2020, the Board filed a combined complaint and writ petition, seeking a declaration that Measure K was invalid plus an injunction and a writ of mandate preventing its enforcement. The only named defendant was Lynna Monell, in her official capacity as the Clerk of the Board. However, the trial court gave Renner leave to intervene.

On January 8, 2021, the trial court granted the Board's application for a temporary restraining order (TRO).²

The case was tried to the court as a writ petition, based on trial briefs and oral argument, with no live testimony.

The trial court granted the petition. It ruled that the one-term term limit was unconstitutional. It further ruled that the compensation limit was constitutional; however, it was not severable, and therefore Measure K as a whole was invalid. Finally, it ruled that Measure K was prospective only, and therefore it did not apply to the new supervisors. However, it acknowledged that this issue was moot in light of its other rulings.


C. *Subsequent Statutory Changes.*

On October 4, 2021 — after the trial court ruled — Assembly Bill No. 428 (2021-2022 Reg. Sess.) (AB 428) was enacted (Stats. 2021, ch. 462, p. 6507), and on January 1, 2022, it went into effect. AB 428 was enacted specifically in response to Measure K. (Assem. Com. on Elections, Analysis of Assem. Bill No. 428 (2021-2022 Reg. Sess.) as amended Mar. 18, 2021, p. 3.) It amended **171 Government Code section 25000, subdivision (b) so that it now provides, as relevant here (additions italicized):

“(1) Notwithstanding any other provision of law, the board of supervisors of any general law or charter county may adopt or the

residents of the county *1262 may propose, by initiative, a proposal to limit *to no fewer than two terms* or repeal a limit on the number of terms a member of the board of supervisors may serve on the board of supervisors. Any proposal to limit the number of terms a member of the board of supervisors may serve on the board of supervisors shall apply prospectively only

“(2) *The changes made to this subdivision by the act that added this paragraph shall not affect any term limits that were legally in effect prior to January 1, 2022*”

It also amended  Government Code section 25300, subdivision (b) so that it now provides (additions italicized):

“The board of supervisors shall prescribe the compensation of all county officers, *including the board of supervisors*, and shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees. Except as otherwise required by Section 1 or 4 of Article XI of the California Constitution, such action may be taken by resolution of the board of supervisors as well as by ordinance.”


II**

Unpublished Text Follows

APPEALABILITY


The trial court issued a “ruling” granting the mandate petition. It did not enter a formal judgment. It also did not expressly rule on the Board’s second (injunction) and third (declaratory relief) causes of action. Moreover, as far as the record shows, it did not actually issue either a writ or a permanent injunction.

There is a preliminary question of whether the ruling is appealable. We conclude, however, that it was.

“[A]n order granting or denying a petition for an extraordinary writ [can] constitute[] a final judgment for purposes of an appeal, even if the order is not accompanied by a separate formal judgment. [Citations.]” ( *Public Defenders’ Organization v. County of Riverside* (2003) 106 Cal.App.4th 1403, 1409; cf. *Natomas Unified School Dist. v. Sacramento County Bd. of Education* (2022) 86 Cal.App.5th 1013, 1027.)

“[A] ruling on a petition for writ of mandate is not appealable if other causes of action remain pending between the parties. [Citation.]” (*Canandaigua Wine Co., Inc. v. County of Madera* (2009) 177 Cal.App.4th 298, 302.) But “an order constitutes a final judgment despite other causes of action remaining if the order

effectively disposes of the entire case. For example, an order is appealable if it resolves an allegation that is essential to all of the causes of action. [Citation.]” (*Id.* at p. 303.)

Here, the trial court’s ruling effectively resolved the cause of action for an injunction, by declaring that Measure K is unconstitutional and “cannot be implemented” It also effectively resolved the cause of action for declaratory relief, again by declaring Measure K unconstitutional. The ruling “contemplated no further action, such as the preparation of another order or judgment [citation], and disposed of all issues between all parties.” ( *Laraway v. Pasadena Unified School Dist.* (2002) 98 Cal.App.4th 579, 583.) Moreover, it is clear from the record that the parties themselves did not contemplate any further judicial action.

It follows that the ruling is appealable.


End of Unpublished Text

III


THE EFFECT OF MEASURE D

Nothing much had happened in that case until after the oral argument in this case, when the Board requested, and we granted, calendar preference. Even with calendar preference, however, in the ordinary course of business, it is

likely to be six months or more before we decide it—to say nothing of how much time any subsequent Supreme Court review will consume.

[1] The fact that Measure D has not yet been struck down, and thus is presumptively valid, does not make this case moot. “A case becomes moot when events ‘ “render[] it *impossible* for [a] court, if it should decide the case in favor of plaintiff, to grant him any effect[ive] relief.” ’ [Citation.]” ( *In re D.P.* (2023) 14 Cal.5th 266, 276, 303 Cal.Rptr.3d 388, 522 P.3d 645, *1263 italics added.) If we dismiss this case as moot, and if Measure D is then struck down, any relief we grant as to Measure K would still be effective; however, we would have no way of bringing this case back to life again. And even if Measure D is eventually upheld, this case *still* will not be moot; there would still be a live issue regarding the supervisors’ compensation from 2020 through 2022.

[2] [3] The only even arguable question is whether we should stay this appeal pending the outcome of the Measure D litigation. There is not even any pending motion for a stay. The Board did ask us to take the oral argument off calendar, pending the resolution of the Measure D litigation, but we have already denied that request. We see no reason why the appeal filed later should have precedence over the one filed earlier. Renner has paid her filing fee; the parties have fully briefed the appeal; prior to oral argument, we drafted and issued a tentative opinion;



and we heard oral argument. Courts have no jurisdiction to decide moot cases, On the flip side, however, “[a] court is tasked with the *duty* ‘to decide actual controversies by a ****172** judgment which can be carried into effect’” [Citation.]” ( *In re D.P.*, *supra*, 14 Cal.5th at p. 276, 303 Cal.Rptr.3d 388, 522 P.3d 645, italics added.) It is time to decide this case.

IV


THE ONE-TERM LIMIT

The trial court ruled that the one-term limit violates “voters’ and incumbents’ 1st and 14th amendment rights.” Renner contends that it erred.

A. *The Anderson-Burdick Framework.*


“It is beyond cavil that ‘voting is of the most fundamental significance under our constitutional structure.’ [Citation.] It does not follow, however, that the right to vote in any manner and the right to associate for political purposes through the ballot are absolute. [Citation.]” ( *Burdick v. Takushi* (1992) 504 U.S. 428, 433, 112 S.Ct. 2059, 119 L.Ed.2d 245 ( *Burdick*)).

“Election laws will invariably impose


some burden upon individual voters. Each provision of a code, ‘whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects — at least to some degree — the individual’s right to vote and his right to associate with others for political ends.’ [Citation.]” ( *Burdick, supra*, 504 U.S. at p. 433, 112 S.Ct. 2059.)

[4]“A court considering a challenge to a state election law must weigh ‘the character and magnitude of the asserted injury to the rights protected by ***1264** the First and Fourteenth Amendments that the plaintiff seeks to vindicate’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’ [Citations.]

[5]“Under this standard, the rigorousness of our inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens First and Fourteenth Amendment rights. Thus, ... when those rights are subjected to ‘severe’ restrictions, the regulation must be ‘narrowly drawn to advance a state interest of compelling importance.’ [Citation.] But when a state election law provision imposes only ‘reasonable, nondiscriminatory restrictions’ upon the First and Fourteenth Amendment rights of voters, ‘the State’s important

regulatory interests are generally sufficient to justify’ the restrictions. [Citations.]” ( *Burdick, supra*, 504 U.S. at p. 434, 112 S.Ct. 2059.)³

“This latter, lesser scrutiny is not ‘pure rational basis review.’ [Citation.] Rather, ‘the court must actually “weigh” the burdens imposed on the plaintiff against “the precise interests put forward by the State,” and the court must take “into consideration the extent to which those interests make it necessary to burden the plaintiff’s ****173** rights.’ ’ [Citation.] Review under this balancing test is ‘quite deferential’ [Citation.]” (*SAM Party of New York v. Kosinski* (2d Cir. 2021) 987 F.3d 267, 274.)




[6] [7]“ ‘Courts will uphold as “not severe” restrictions that are generally applicable, even-handed, politically neutral, and which protect the reliability and integrity of the election process. [Citation.] ...’ [Citation.] ‘Courts will strike down state election laws as severe speech restrictions only when they significantly impair access to the ballot, stifle core political speech, or dictate electoral outcomes.’ [Citation.]” ( *Rawls v. Zamora* (2003) 107 Cal.App.4th 1110, 1116, 132 Cal.Rptr.2d 675.)


B. Whether the One-Term Limit Is “Severe.”

[8]The trial court ruled that the one-term

limit was “severe” because it “is not merely about limiting the term but limiting the term to one time”

*1265 1. *Relevant case law.*

In  *Legislature v. Eu* (1991) 54 Cal.3d 492, 286 Cal.Rptr. 283, 816 P.2d 1309 ( *Eu*), our Supreme Court upheld Proposition 140, which imposed lifetime term limits of two four-year terms per state senator and three two-year terms per state assemblymember. (See  *Eu* at pp. 502-506, 518, 286 Cal.Rptr. 283, 816 P.2d 1309.)

The court began by saying: “[T]he initiative power must be *liberally construed* to promote the democratic process. [Citation.] Indeed, it is our solemn duty to jealously guard the precious initiative power, and to resolve any reasonable doubts in favor of its exercise. [Citation.] As with statutes adopted by the Legislature, all presumptions favor the validity of initiative measures and mere doubts as to validity are insufficient; such measures must be upheld unless their unconstitutionality clearly, positively, and unmistakably appears. [Citation.]” ( *Eu, supra*, 54 Cal.3d at p. 501, 286 Cal.Rptr. 283, 816 P.2d 1309.)

It then held that strict scrutiny was not required because the term limits did not have a “serious impact on First Amendment freedoms of speech and

association,” as they “d[id] not affect speech interests and ... impact[ed] all political parties on an equal basis. [Citation.]” (¶ *Eu, supra*, 54 Cal.3d at p. 515, 286 Cal.Rptr. 283, 816 P.2d 1309.) Rather, the term limits were entitled to “wide latitude,” because they “[we]re applied in an even-handed manner without discriminating against particular citizens or classes of citizens.” (¶ *Id.* at p. 516, 286 Cal.Rptr. 283, 816 P.2d 1309.)

In ¶ *Bates v. Jones* (9th Cir. 1997) 131 F.3d 843 (en banc) (¶ *Bates*), cert. den. (1998) 523 U.S. 1021, 118 S.Ct. 1302, 140 L.Ed.2d 468, the Ninth Circuit Court of Appeals similarly upheld Proposition 140. It held that its impact on the plaintiffs’ claimed “right to vote for the candidate of one’s choice and ... right of an incumbent to again run for his or her office” was “not severe.” (¶ *Id.* at p. 847.) It explained that “term limits on state officeholders is [*sic*] a neutral candidacy qualification, such as age or residence, which the State certainly has the right to impose. [Citation.] With regard to incumbents, they may enjoy the incumbency of a single office for a number of years, and ... they are not precluded from running for some other state office. [¶] Most important, the lifetime term limits do not constitute a discriminatory restriction. [They] make[] no distinction on the basis of the content of protected expression, party affiliation, or inherently arbitrary factors such as race, religion, or gender. Nor do[] [they] ‘limit [] political participation by an identifiable

political group whose members share a particular viewpoint, associational preference, or economic status.’ [Citation.]” (¶ *Ibid.*)

****174** Significantly, the Board has not cited *any case striking down any term limits on First and Fourteenth Amendment grounds.*

***1266** 2. *Application here.*

[9] Under ¶ *Eu* and *Bates*, at least as a general rule, term limits are not so “severe” as to trigger strict scrutiny. The trial court distinguished those cases, however, on the ground that a one-term lifetime limit is “severe.” In light of the way “severe” has been interpreted and applied, this was error.

In ¶ *Eu*, the court concluded that the term limits there were not severe because they were nondiscriminatory — they “[we]re applied in an even-handed manner without discriminating against particular citizens or classes of citizens.” (¶ *Eu, supra*, 54 Cal.3d at p. 516, 286 Cal.Rptr. 283, 816 P.2d 1309.) They were not based on the content of protected speech. (¶ *Id.* at p. 515, 286 Cal.Rptr. 283, 816 P.2d 1309.) “They impact[ed] all political parties on an equal basis. [Citation.]” (¶ *Ibid.*) A one-term limit is no different in these respects.

In *Bates*, the court concluded that the

same term limits were not severe because (1) they were “neutral,” (2) they allowed incumbency “for a number of years” and did not preclude an incumbent from running for a different state office, and (3) they did not distinguish “on the basis of the content of protected expression, party affiliation, or inherently arbitrary factors such as race, religion, or gender.” (¶ *Bates, supra*, 131 F.3d at p. 847.) Again, a one-term limit is no different.

In general, however, a restriction is not “severe” within the meaning of the *Anderson-¶ Burdick* test if it is “‘generally applicable, even-handed, politically neutral, and ... protect[s] the reliability and integrity of the election process. [Citation.] ... ’ [Citation.]” (¶ *Rawls v. Zamora, supra*, 107 Cal.App.4th at p. 1116, 132 Cal.Rptr.2d 675.) The one-term limit here passes these criteria with flying colors. While ¶ *Bates* also threw into the mix the stringency of the effect of the restriction, we believe that is more appropriately considered when weighing the benefits of the restriction against the burden on voters’ and candidates’ rights, as we do in part IV.C.2, post. (See ¶ *Eu, supra*, 54 Cal.3d at p. 518, 286 Cal.Rptr. 283, 816 P.2d 1309.)

***1267 C. Whether the Regulatory Interests Are Sufficient to Justify the**

One-Term Limit.

[¹⁰]The trial court also ruled that, even assuming Measure K’s one-term limit was not “severe,” “the stated reason [for it] is not sufficient to justify imposing the burden [of] precluding an incumbent from seeking re-election.” It explained, “A one-term limit is not providing a supervisor sufficient time in the governing body position.” “Additionally, ... the desire to ensure a candidate seeks to serve the public interest cannot justify then precluding a candidate or electing an incumbent he believes is serving the interest of the voters at least for one or two additional terms of office. And a reasonable remedy exists if the incumbent seeking re-election is not performing competently: the electorate vote for the other candidate.”

1. *Relevant case law.*

In ¶ *Eu*, the Supreme Court balanced the claimed injury to First and Fourteenth Amendment rights against the State’s claimed interests, as follows.

First, it considered “the nature of the injury to the rights affected” (¶ *Eu, supra*, 54 Cal.3d at p. 517, 286 Cal.Rptr. 283, 816 P.2d 1309; see ¶ *id.* at pp. 517-519, 286 Cal.Rptr. 283, 816 P.2d 1309.) It concluded that the term limits “do[] affect the ****175** rights of voters and candidates to a degree” (¶ *Id.* at p. 519, 286

Cal.Rptr. 283, 816 P.2d 1309.) With respect to candidates, however, the impact was “mitigate[d]” by three factors: “First, the affected incumbent is not barred from seeking any other public office Second, the term limitations arise only after the incumbent already has had the opportunity to serve a significant period in office” (¶ *Id.* at p. 518, 286 Cal.Rptr. 283, 816 P.2d 1309.) Third, the term limits in most instances did not count terms served before they went into effect. (¶ *Ibid.*)

Similarly, with respect to voters, it was unclear whether a right to vote for a particular candidate even existed. (¶ *Eu, supra*, 54 Cal.3d at p. 519, 286 Cal.Rptr. 283, 816 P.2d 1309; see also ¶ *id.* at pp. 516, 518, 286 Cal.Rptr. 283, 816 P.2d 1309.) In any event, the court accepted the argument that the term limits there “d[id] not truly impair the franchise, for the voters retain the basic fundamental right to cast their ballots for the *qualified* candidate of their choice.” (¶ *Id.* at p. 519, 286 Cal.Rptr. 283, 816 P.2d 1309; see also ¶ *ibid.* [“mitigating aspects[] include[e] the voters’ continued right to vote for any qualified candidates”].)

Second, it considered “the interests asserted by the state as justifications for that injury” (¶ *Eu, supra*, 54 Cal.3d at p. 517, 286 Cal.Rptr. 283, 816 P.2d 1309; see ¶ *id.* at pp. 520-522, 286 Cal.Rptr. 283, 816 P.2d 1309.) It observed that “‘[c]onstitutional restrictions

circumscribing the ability of incumbents to succeed themselves appear in over twenty state constitutions, and exist in the Twenty-second Amendment to the *Constitution of the United States* with regard to the Presidency. The universal authority is that restriction upon the succession of incumbents serves a rational public *1268 policy and that, while restrictions may deny qualified men an opportunity to serve, as a general rule the over-all health of the body politic is enhanced by limitations on continuous tenure. [Citations and fn. omitted].’ [Citations.]” (¶ *Id.* at p. 520, 286 Cal.Rptr. 283, 816 P.2d 1309.)

“[T]he substantial reasons for limiting the right of incumbents to succeed themselves ... include ‘[t]he power of incumbent officeholders to develop networks of patronage and attendant capacities to deliver favorably disposed voters to the polls,’ ‘fears of an entrenched political machine which could effectively foreclose access to the political process,’ and the belief that regularly disrupting those ‘machines’ ‘would stimulate criticism within political parties’ and ‘insure a meaningful, adversary, and competitive election.’ [Citation.]

“In addition, ... ‘... a limitation upon succession of incumbents removes the temptation to prostitute the government to the perpetuation of a particular administration. [Citation.] ... Meretricious policies which sacrifice the well-being of economic, social, racial, or geographic minorities are

most likely where a political figure, political party, or political interest group can rely upon electorate inertia fostered by the hopelessness of encountering a seemingly invincible political machine.’ [Citation.]” (¶ *Eu, supra*, 54 Cal.3d at p. 521, 286 Cal.Rptr. 283, 816 P.2d 1309.)

Third, it considered “the necessity for imposing the particular burden affecting the plaintiff’s rights, rather than some less drastic alternatives.” (¶ *Eu, supra*, 54 Cal.3d at p. 517, 286 Cal.Rptr. 283, 816 P.2d 1309; see ¶ *id.* at pp. 522-524, 286 Cal.Rptr. 283, 816 P.2d 1309.) It noted that “incumbents do indeed appear to enjoy considerable advantages over other candidates. [Citations.]” (¶ *Id.* at p. 523, 286 Cal.Rptr. 283, 816 P.2d 1309.) “It is true ... that [the proponents] have not offered evidence to ****176** support all of the various premises on which [the term limits are] based. But ... a state need not demonstrate empirically all of the various evils that its regulations seek to combat’ [Citation.]” (¶ *Id.* at p. 524, 286 Cal.Rptr. 283, 816 P.2d 1309.)

The opponents argued that alternative measures, such as “a limitation on consecutive terms, together with additional restrictions on campaign contributions to legislators, decreased fringe and pension benefits, and additional incentives for early retirement, would have been sufficient to promote and accomplish the state interests previously discussed.” (¶ *Eu,*

supra, 54 Cal.3d at pp. 522-523, 286 Cal.Rptr. 283, 816 P.2d 1309.) The court responded that “[r]ealistically, only a lifetime ban could protect against various kinds of continued exploitation of the ‘advantages of incumbency’ captured through past terms in office. The remainder of [the opponents’] suggested ‘alternatives’ essentially involve narrow changes in the system of providing contributions or compensation for legislators, changes that would afford ‘career politicians’ with independent resources little incentive to voluntarily terminate public service.” (¶ *Id.* at p. 524, 286 Cal.Rptr. 283, 816 P.2d 1309.)

***1269** “[W]e conclude,” the court said, “the interests of the state in incumbency reform outweigh any injury to incumbent office holders and those who would vote for them.” (¶ *Eu, supra*, 54 Cal.3d at p. 524, 286 Cal.Rptr. 283, 816 P.2d 1309.) Indeed, the court observed, “it is unlikely we would reach a different result applying strict scrutiny” (¶ *Id.* at p. 515, 286 Cal.Rptr. 283, 816 P.2d 1309.)

By contrast, ¶ *Bates* upheld the state’s justification for the term limits with little discussion. It said, “[A] lack of term limits may create ‘unfair incumbent advantages.’ Long-term entrenched legislators may obtain excessive power which, in turn, may discourage other qualified candidates from running for office or may provide the incumbent with an unfair advantage in winning reelection.” (¶ *Bates, supra*, 131 F.3d at p. 847.) “California

voters apparently perceived lifetime term limits for elected state officials as a means to promote democracy by opening up the political process and restoring competitive elections. This was their choice to make. [Citation.]” (Ibid.)

2. Application here.

We apply the three-part Anderson-Burdick framework as our Supreme Court did in *Eu*. It must be remembered that review under this framework is deferential — all the more so when the electoral restriction being analyzed was enacted by initiative. Moreover, when the restriction is “ ‘reasonable [and] nondiscriminatory,’ ... ‘the State’s important regulatory interests are generally sufficient to justify’ the restrictions. [Citations.]” (*Burdick, supra*, 504 U.S. at p. 434, 112 S.Ct. 2059.)

a. The nature of the injury to the rights affected.

i. The voters’ rights.

(a) The nature of the right.

Federal courts have held that voters have no right to vote for a particular candidate. (Citizens for Legislative Choice v. Miller (6th Cir. 1998) 144 F.3d 916, 921; Stiles v. Blunt (8th Cir. 1990) 912 F.2d 260, 266 [voters do not have “an absolute right to support a specific candidate regardless of whether he or she has satisfied reasonable eligibility requirements”], cert. den. (1991) 499 U.S. 919, 111 S.Ct. 1307, 113 L.Ed.2d 241.)

Eu acknowledged this. (*Eu, supra*, 54 Cal.3d at pp. 516, 518, 286 Cal.Rptr. 283, 816 P.2d 1309.) However, it noted that, at least at the time, ****177** *Canaan v. Abdelnour* (1985) 40 Cal.3d 703, 714-716, 221 Cal.Rptr. 468, 710 P.2d 268 (*Canaan*) was to the contrary. (*Eu, supra*, 54 Cal.3d at p. 516, 286 Cal.Rptr. 283, 816 P.2d 1309.) *Canaan* had held that “[a] ban on write-in voting affects ... the right of ... voters to cast ballots for the candidates of their ***1270** choice.” (*Canaan, supra*, at p. 715, 221 Cal.Rptr. 468, 710 P.2d 268.) *Eu* concluded that, while term limits “affected ... the voters’ right to reelect the incumbent” (*Eu, supra*, at p. 517, 286 Cal.Rptr. 283, 816 P.2d 1309; see also *id.* at p. 519, 286 Cal.Rptr. 283, 816 P.2d 1309), the existence and scope of this right were “unclear”; hence, “the legal impact of [term limits] on the voters remain[ed] uncertain.” (*Id.* at p. 519, 286 Cal.Rptr. 283, 816 P.2d 1309.) It treated this uncertainty as a “mitigating aspect.” (Ibid.)

After *Eu* was decided, the Supreme Court overruled *Canaan*. (*Edelstein, supra*, 29 Cal.4th at p. 183, 126 Cal.Rptr.2d 727, 56 P.3d 1029.) While the extent to which *Edelstein* overruled particular portions of *Canaan* is open to debate (see *ibid.*), *Edelstein* did disavow a specific right to vote for a particular candidate in favor of a more general right “to make free choices and to associate politically through the vote ...” (*Id.* at pp. 175, 177-178, 182-183, 126 Cal.Rptr.2d 727, 56 P.3d 1029.)

(b) *The impact on the right.*

Term limits do not affect these general rights. Voters still have the right to make free choices and to associate politically through the vote. As in *Eu*, the term limits here “do not truly impair the franchise, for the voters retain the basic fundamental right to cast their ballots for the *qualified* candidate of their choice.” (*Eu, supra*, 54 Cal.3d at p. 519, 286 Cal.Rptr. 283, 816 P.2d 1309.)

ii. *The candidates’ rights.*

(a) *The nature of the right.*

^[11]In her reply brief, Renner argues that candidates do not have a fundamental right to run for public office. She forfeited this contention by failing to raise it below. (*Delta Stewardship Council Cases* (2020) 48 Cal.App.5th 1014, 1074, 262 Cal.Rptr.3d 445.) She further forfeited it by failing to raise it in her opening brief. (*Raceway Ford Cases* (2016) 2 Cal.5th 161, 178, 211 Cal.Rptr.3d 244, 385 P.3d 397.)

In any event, we reject this contention on the merits.

The California Supreme Court has held that “[t]he right to seek public office ... [is] fundamental.” (*Canaan, supra*, 40 Cal.3d at p. 727, 221 Cal.Rptr. 468, 710 P.2d 268.) “There has been some suggestion in the case law that the right to be a candidate for public office may not be fundamental in and of itself. [Citations.] However, this court has described the right to hold public office as ‘valuable, fundamental and one that is subject to First Amendment protection ...’ [Citations.]” (*Id.* at p. 714, 221 Cal.Rptr. 468, 710 P.2d 268.) Admittedly, as mentioned, *Canaan* was overruled in *Edelstein*, but not on this particular ground. (*Edelstein, supra*, 29 Cal.4th at p. 183, 126 Cal.Rptr.2d 727, 56 P.3d 1029.) Moreover, the earlier cases on which *Canaan* itself relied have never been overruled. (**1271 Johnson v. Hamilton* (1975) 15 Cal.3d 461, 468, 125 Cal.Rptr. 129, 541 P.2d 881 [“the right to hold public office [is] valuable, fundamental and ... subject to First Amendment protection ...”];

📌 *Zeilenga v. Nelson* (1971) 4 Cal.3d 716, 723, 94 Cal.Rptr. 602, 484 P.2d 578 [“the right to run for public office is as fundamental a right as is the right to vote”].)

More recently, in 📌 *Eu*, the Supreme Court said, “Two important rights are affected **178 by [term limits], namely, *the incumbent’s right to run for public office*, and the voters’ right to reelect the incumbent to that office.” (📌 *Eu*, *supra*, 54 Cal.3d at p. 517, 286 Cal.Rptr. 283, 816 P.2d 1309, italics added.) Thus, it analyzed the impact on candidates (📌 *id.* at pp. 517-518, 286 Cal.Rptr. 283, 816 P.2d 1309), and it weighed that impact, along with the impact on voters, against the state’s interest in the term limits at issue. (📌 *Id.* at pp. 519-520, 522-524, 286 Cal.Rptr. 283, 816 P.2d 1309.)

Federal cases are not to the contrary. According to the United States Supreme Court, “The right of ... an individual to a place on a ballot is entitled to protection” (📌 *Lubin v. Panish* (1974) 415 U.S. 709, 716, 94 S.Ct. 1315, 39 L.Ed.2d 702; see also *Moore v. Martin* (8th Cir. 2017) 854 F.3d 1021, 1025 [“Ballot access restrictions implicate ... the rights of potential candidates for public office”], cert. den. — U.S. — [138 S.Ct. 321, 199 L.Ed.2d 210]; 📌 *Phillips v. City of Dallas* (5th Cir. 2015) 781 F.3d 772, 778-779 [“This court has been unequivocal in its recognition of a First Amendment interest in candidacy.”]; 📌 *Davies v.*

Grossmont Union High School Dist. (9th Cir. 1991) 930 F.2d 1390, 1397 [“the individual’s right to seek public office is inextricably intertwined with the public’s fundamental right to vote”]; 📌 *Branch v. FCC* (D.C. Cir. 1987) 824 F.2d 37, 47 [the existence of a “right to seek political office ... is undeniable”], cert. den. (1988) 485 U.S. 959, 108 S.Ct. 1220, 99 L.Ed.2d 421.)

Admittedly, the United States Supreme Court “has not ... attached such fundamental status to candidacy as to invoke a rigorous standard of review.” (📌 *Bullock v. Carter* (1972) 405 U.S. 134, 142-143, 92 S.Ct. 849, 31 L.Ed.2d 92; see also 📌 *Clements v. Fashing* (1982) 457 U.S. 957, 963, 102 S.Ct. 2836, 73 L.Ed.2d 508 [“Far from recognizing candidacy as a ‘fundamental right,’ we have held that the existence of barriers to a candidate’s access to the ballot ‘does not of itself compel close scrutiny.’ ”] [plur. opn. of Rehnquist, J.] (📌 *Clements*).)

However, this simply means that strict scrutiny is not required. If it were, few provisions for “the selection and eligibility of candidates” (📌 *Burdick, supra*, 504 U.S. at p. 433, 112 S.Ct. 2059) would escape challenge. “[T]o say that the right to candidacy is not fundamental is not to say that a rational basis analysis applies.” (📌 *Brazil-Breashears v. Bilandic* (7th Cir. 1995) 53 F.3d 789, 792, cert. den. 516 U.S. 869, 116 S.Ct. 188, 133 L.Ed.2d 125.) Rather — just like *1272

the voter’s right to vote — the candidate’s right to run for office is subject to the *Anderson-Burdick* test. (See, e.g., *Libertarian Party of Arkansas v. Thurston* (8th Cir. 2020) 962 F.3d 390, 398.)⁴

Eu concluded that the term limits “do[] affect the rights of ... candidates to a degree ...” (*Eu, supra*, 54 Cal.3d at p. 519, 286 Cal.Rptr. 283, 816 P.2d 1309.) ****179** With respect to candidates, however, the impact was “mitigate[d]” by three factors: “First, the affected incumbent is not barred from seeking any other public office Second, the term limitations arise only after the incumbent already has had the opportunity to serve a significant period in office” (*Eu, supra*, 54 Cal.3d at p. 518, 286 Cal.Rptr. 283, 816 P.2d 1309.) Third, the term limits in most (though not all) instances did not count terms served before they went into effect. (*Ibid.*)

(b) *The impact on the right.*

With respect to candidates, a one-term limit is ipso facto more burdensome than the two- and three-term limits in *Eu*. Nevertheless, the reasons stated in *Eu* for concluding that the impact was “mitigate[d]” largely also apply here.

First, a termed-out incumbent is free to run for any other county (or state or federal) office.

Second, the term limits do allow an incumbent to serve “a significant period in office.” (*Eu, supra*, 54 Cal.3d at p. 518, 286 Cal.Rptr. 283, 816 P.2d 1309.) The term limits in *Eu*, while they were not one-term limits, allowed a state senator to serve for no more than eight years and a state assembly member to serve for no more than six years. The difference between the six or eight years there and the four years here is not sufficient to be constitutionally significant.

The Board argues that in *Eu*, a termed-out assemblymember could still run for and serve in the Senate (or vice versa), and thus could serve a total of fourteen years in the Legislature. Nevertheless, these are separate constitutional offices. *Eu* specifically determined that the six-year and eight-year terms — considered separately, and not as a total fourteen-year span — each constituted “a significant period in office.” (*Eu, supra*, 54 Cal.3d at p. 518, 286 Cal.Rptr. 283, 816 P.2d 1309.)

The Board also cites testimony that it takes a supervisor “several years” to learn the job, and that a one-term limit “will impact County operations in an extremely negative and harmful way.” Government Code section 25000, subdivision (a) sets a supervisor’s term at four years. Every newly elected supervisor faces the possibility of not being reelected. Thus, the Legislature has determined that four years is a reasonable time in which to expect a

supervisor to be effective — i.e., that it is a “significant period in office.” If it is not enough time in San Bernardino County — if a San Bernardino County Supervisor does not take off the training wheels until his or her second term in office — that is, at best, a local inefficiency. (In fact, arguably it shows a need for term limits, to spur efficiency.) When balanced against the voters’ right to the initiative as well as the state’s legitimate interests in term limits (see part IV.C.2.b), it is entitled to little weight.

Third, Measure K does not count unexpired terms, if they have less than two years still to run. That is not so very different from the term limits in *Eu*, which did not count unexpired terms at all (except that it did count them *1273 against “some incumbent Senators”). (*Eu*, *supra*, 54 Cal.3d at p. 518, 286 Cal.Rptr. 283, 816 P.2d 1309.) The fact that in *Eu*, terms begun by some incumbent Senators *did* count demonstrates that *Eu* did not view this factor as dispositive.

b. *The interests asserted by the state as justifications for the injury.*

Eu acknowledged that the state has a legitimate interest in term limits: “The universal authority is that restriction upon the succession of incumbents serves a rational public policy and that, while restrictions **180 may deny qualified men an

opportunity to serve, as a general rule the over-all health of the body politic is enhanced by limitations on continuous tenure. [Citations and fn. omitted].” (*Eu*, *supra*, 54 Cal.3d at p. 520, 286 Cal.Rptr. 283, 816 P.2d 1309.) It indicated that this interest was sufficiently compelling for the term limits there to survive even strict scrutiny. (*Id.* at p. 524, 286 Cal.Rptr. 283, 816 P.2d 1309.)

Bates agreed that the state has an interest in term limits: “Long-term entrenched legislators may obtain excessive power which, in turn, may discourage other qualified candidates from running for office or may provide the incumbent with an unfair advantage in winning reelection.” (*Bates*, *supra*, 131 F.3d at p. 847.)

The trial court reasoned that “the desire to ensure a candidate seeks to serve the public interest cannot justify then precluding a candidate or electing an incumbent he believes is serving the interest of the voters at least for one or two additional terms of office. And a reasonable remedy exists if the incumbent seeking re-election is not performing competently: the electorate vote for the other candidate.” These arguments, however, apply to a two-or three-term limit just as much as to a one-term limit; essentially, they are arguments against having any term limits at all. As we know from *Eu*, however, term limits imposed by initiative are presumptively valid. The trial court was not entitled to second-guess the voters’ position on

these policy issues.

[12]The Board argues that “Renner raises a purported government interest by merely citing the language of *Eu* and provides no evidence that this interest is relevant to San Bernardino County.” *Eu* held, however, that such evidence is not required. (*Eu*, *supra*, 54 Cal.3d at p. 523, 286 Cal.Rptr. 283, 816 P.2d 1309.) “[W]e [do not] require elaborate, empirical verification of the weightiness of the State’s asserted justifications. [Citation.]” (*Timmons v. Twin Cities Area New Party* (1997) 520 U.S. 351, 364, 117 S.Ct. 1364, 137 L.Ed.2d 589.)

c. The necessity for imposing the burden.

When the problem is personal empire-building by entrenched incumbents, the only solution is term limits. As *Eu* said, “Realistically, only a ***1274** lifetime ban could protect against various kinds of continued exploitation of the ‘advantages of incumbency’ captured through past terms in office.” (*Eu*, *supra*, 54 Cal.3d at p. 524, 286 Cal.Rptr. 283, 816 P.2d 1309.)

The Board argues that the preexisting three-term limit was adequate and “a far less drastic alternative” to a one-term limit. The voters, however, were presented with the choice between Measure J, which would have

kept the three-term limit, and Measure K’s one-term limit; they overwhelmingly preferred Measure K.

The ballot arguments in favor of Measure K said, among other things: “Voting YES for term limits and reduced salaries will finally attract representatives interested in public service and committed to following the will of the people.” “Obligated to financial backers for reelection, the Board of Supervisors has chosen to ignore voters and their rights.” “A single four-year term will help shut out ... outside interests and focus our leaders on doing what’s best for us all.” “Measure K will ensure our elected officials are inspired by service to San Bernardino County residents, not an oversized paycheck or raising money to win their next election.”⁵

****181** It was important to the electorate, then, to ensure that supervisors could not be either distracted or compromised by the prospect of a future term. A three-term limit could never accomplish this goal. A one-term limit was the only alternative.

D. Conclusion.

In sum, in the words of *Burdick*, the one-term limit here is a “ ‘reasonable, nondiscriminatory restriction[],’ and therefore “ ‘the State’s important regulatory interests are ... sufficient to

justify’ ” it. ( *Burdick*, *supra*, 504 U.S. at p. 434, 112 S.Ct. 2059.)

V

THE COMPENSATION LIMIT


The trial court also ruled that the compensation limit was valid and constitutional. In its cross-appeal, the Board contends that this was error, for three reasons.


***1275** A. *Exclusive Delegation.*



First, the Board contends that supervisors’ compensation cannot be set by initiative, because state law delegates the power to set supervisors’ compensation exclusively to a county’s governing body.

The trial court rejected this contention; it found “no clear indication that the Legislature intended the governing body to exclusively hold the right to set their salary within the charter and exclude the use of the initiative power to amend the charter associated with the governing body’s compensation.” We agree.

1. *Analysis under the California Constitution.*

California has two kinds of counties: charter counties and general law counties. (Cal. Const., art. XI, § 3, subd. (a);  *Roe v. County of Lake* (N.D. Cal. 2000) 107 F.Supp.2d 1146, 1148.) San Bernardino is a charter county. (S.B. County Charter; Stats. 1913, ch. 33.)

[13] [14] [15] Article XI, section 3, subdivision (a) (section 3(a)) of the Constitution states, “County charters ... shall supersede ... all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.” (Cal. Const., art. XI, § 3, subd. (a).) Thus, section 3(a) grants a charter county “ ‘home rule,’ i.e., the authority of the people to create and operate their own local government and define the powers of that government, within the limits set out by the Constitution. [Citation.]” ( *Dibb v. County of San Diego* (1994) 8 Cal.4th 1200, 1206, 36 Cal.Rptr.2d 55, 884 P.2d 1003.)⁶

****182** [16] Despite the seeming breadth of section 3(a), a county charter supersedes state law only when the county is legislating in its proper sphere. Hence, “charter provisions cannot control in matters of statewide concern where the state has occupied the field.” ( ***1276** *Wilson v. Beville* (1957) 47 Cal.2d 852, 859, 306 P.2d 789; accord,  *American Financial Services Assn. v. City of Oakland*

(2005) 34 Cal.4th 1239, 1251, 23 Cal.Rptr.3d 453, 104 P.3d 813.)

Article XI, section 1, subdivision (b) of the California Constitution (section 1(b)) provides, “[E]ach governing body [of a county] shall prescribe by ordinance the compensation of its members” However, section 1(b) expressly applies only “[e]xcept as provided in subdivision (b) of Section 4 of this article” (*Ibid.*) And Article XI, section 4, subdivision (b) says that a county charter must provide for “[t]he compensation ... of members of the governing body.” (Cal. Const., art. XI, § 4, subd. (b) (section 4(b)).)





[17] [18] In other words, in a general law county, the “governing body” must set its members’ compensation. By contrast, in a charter county, the county charter may provide the method of setting the compensation of members of the governing body; the governing body has no power to set the compensation of its members, unless the county charter so provides. (See *Brown v. Francisco* (1954) 123 Cal.App.2d 413, 417, 266 P.2d 951 [county charter may fix supervisors’ compensation or may allow supervisors to do so].) Last but not least, the voters have the right to amend a county charter by initiative. (Cal. Const., art. XI, § 3, subds. (a), (b).) It follows that the voters in a charter county may set supervisors’ compensation by an initiative that amends the county charter.

The Board asserts: “[T]he California



Constitution is silent regarding whether citizen initiatives may initially set supervisor compensation in charter counties.” “Where the Constitution is silent as to a charter county’s authority to engage in a legislative act, courts defer to the legislature” As just discussed, however, the state Constitution is far from silent on this point. Indeed, it could hardly be clearer.



✎ *Jahr v. Casebeer* (1999) 70 Cal.App.4th 1250, 83 Cal.Rptr.2d 172 (✎ *Jahr*) held that, under section 1(b), supervisors’ compensation cannot be set by initiative. (✎ *Id.* at pp. 1254-1260, 83 Cal.Rptr.2d 172.)

✎ *Meldrim v. Board of Supervisors* (1976) 57 Cal.App.3d 341, 127 Cal.Rptr. 52 (✎ *Meldrim*) is in accord. (✎ *Id.* at pp. 343-344, 127 Cal.Rptr. 52.) ✎ *Jahr*, however, involved Shasta County (✎ *Jahr, supra*, at pp. 1252-1253, 83 Cal.Rptr.2d 172), a general law county. (California State Association of Counties, County Structure & Powers, available at <<https://www.counties.org/general-information/county-structure-0>> [as of May 3, 2023].) And ✎ *Meldrim* involved Contra Costa County, which, as the court there observed, is also a general law county. (✎ *Meldrim, supra*, 57 Cal.App.3d at p. 343, 127 Cal.Rptr. 52.) ✎ *Meldrim* even acknowledged that “the State Constitution ... gives charter counties the right to set the salaries of their supervisors. [Citation.]” (✎ *Id.* at pp. 343-344, 127 Cal.Rptr. 52.)


Admittedly,  *Jahr* stated flatly that “the process through which supervisor salaries are established is a matter of statewide concern.” ( *1277 *Jahr*, *supra*, 70 Cal.App.4th at p. 1259, 83 Cal.Rptr.2d 172.) Because  *Jahr* involved a general law county, however, the court was not called upon to decide any issue regarding a charter county. If this statement in  *Jahr* applied to a charter county, it would conflict with section 4(b), which leaves it up to a charter county to decide how to set supervisors’ compensation, as well as with the broad home rule that section 3(a) confers on charter counties. **183 It is perfectly consistent to say that supervisor compensation may be a statewide concern in general law counties, but it is a local concern in charter counties exercising their constitutional right to home rule.



2. Analysis under Government Code section 25300.


The Board relies on  Government Code section 25300 ( section 25300) — particularly as it was amended, while this appeal was pending, by AB 428.


When the trial court ruled,  section 25300 provided, “The board of supervisors shall prescribe the compensation of all county officers” (Former  § 25300, Stats. 1974, ch.

661, § 2, p. 1523.) As the trial court recognized, however, “officers of a county” is defined as including the members of a board of supervisors. (Gov. Code, § 24000, subd. (o).)

 Section 25300 now specifically provides: “The board of supervisors shall prescribe the compensation of all county officers, *including the board of supervisors*” (Italics added.)

[¹⁹]The Board argues that this constitutes an “exclusive delegation” of the power to set supervisors’ compensation. “[T]he local electorate’s right to initiative ... is generally co-extensive with the legislative power of the local governing body. [Citation.]” ( *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 775, 38 Cal.Rptr.2d 699, 889 P.2d 1019.) However, “[t]he presumption in favor of the right of initiative is rebuttable upon a definite indication that the Legislature, as part of the exercise of its power to preempt all local legislation in matters of statewide concern, has intended to restrict that right. [Citations.]” ( *Id.* at p. 776, 38 Cal.Rptr.2d 699, 889 P.2d 1019.)

The Board’s argument assumes, however, that  section 25300 applies to charter counties. It does not, for three reasons.

First, section 4(b) says that a county charter must provide for “[t]he compensation ... of members of the governing body.” Thus, if  section 25300 purported to apply to a charter

county, it would be unconstitutional. This is true *even if* setting supervisors' salaries is a statewide matter, and hence *even* *1278 if the county charter does not supersede section 25300. The Constitution itself supersedes section 25300 directly.

Second, section 25300 does not actually purport to apply to a charter county (except when the charter allows the board of supervisors to set the compensation of its own members). The second sentence of section 25300 adds, "Except as otherwise required by Section ... 4 of Article XI of the California Constitution, such action may be taken by resolution of the board of supervisors as well as by ordinance." And section 4 of article XI does require otherwise; in a charter county, it requires that the county charter provide for supervisors' compensation.


[20] [21] Admittedly, the first sentence of section 25300 — "The board of supervisors shall prescribe the compensation of ... the board of supervisors" — does not have any similar exclusion. Nevertheless, it is "our duty to read the elements of the statute together, harmonizing and giving effect to them all. [Citations.]" (*Hampton v. County of San Diego* (2015) 62 Cal.4th 340, 351, 195 Cal.Rptr.3d 773, 362 P.3d 417.) Both the first and second sentences must be read as qualified by the second. Even assuming the first sentence gives a charter county board of supervisors the power to set their own compensation,

the second takes it away by forbidding them to do it either by ordinance or by resolution. The principle "that courts should, if reasonably *184 possible, construe a statute 'in a manner that avoids any doubt about its [constitutional] validity [citations]' [citations]" supports this interpretation. (*Kleffman v. Vonage Holdings Corp.* (2010) 49 Cal.4th 334, 346, 110 Cal.Rptr.3d 628, 232 P.3d 625, brackets in original)

Third, the legislative history of AB 428 demonstrates that the Legislature did not intend section 25300 to apply to a charter county. Admittedly, the author of the bill stated: " "[I]t is the Legislature's duty to ensure that our local governments, *whether established through general law or charter*, are equipped with the tools needed to properly administer the heavy burdens we place upon them.... We must clarify existing law to allow for County Supervisors to obtain reasonable compensation" (Assem. Com. on Elections, Analysis of Assem. Bill No. 428, *supra*, at p. 2, italics added.)

Other voices, however, soon chimed in. A Senate committee bill analysis stated: "Consistent with existing law, AB 428 reiterates that members of the board of supervisors are county officers for which the board must set compensation. However, because the California Constitution says that charters must provide for the compensation of the board, *charters that set compensation trump state law*. Accordingly, while AB 428 may

clarify matters for general law counties, *it is unclear that it materially *1279 changes how compensation is set in charter counties* that have charter provisions setting a specific compensation level for members of the board.” (Sen. Com. on Gov. & Fin., Analysis of Assem. Bill No. 428 (2021-2022 Reg. Sess.), as amended Mar. 18, 2021, p. 4, italics added.)

A bill analysis by another committee concurred: “Supervisor Compensation in Charter Counties. AB 428 would clarify, in  Government Code Section 25300, that the ‘county officers’ for which the board of supervisors sets compensation includes the board itself. This amendment is consistent, as to general law counties, with provisions of the California Constitution requiring each county governing body to set the compensation of its members. *However, this clarification may not apply to all charter counties*, because the California Constitution specifies, as an exception to the general rule of county governing bodies setting their own compensation, that a county charter must provide for the compensation of the board, and some county charters do not give the board discretion to set its own compensation. Accordingly, while AB 428 may clarify matters for general law counties, *it is unclear that it materially changes how compensation is set in charter counties* that have charter provisions setting a specific compensation level for members of the board.” (Sen. Com. on Elections and Const. Amends., Analysis of Assem.

Bill No. 428 (2021-2022 Reg. Sess.), as amended Mar. 18, 2021, p. 6, italics added.)

The Board notes that the Howard Jarvis Taxpayers Association (Jarvis Association) opposed AB 428. The Jarvis Association argued: “ ‘AB 428 seeks to undo the overwhelming approval of Measure K in San Bernardino County that amended the County Charter to impose a term limit of one term and reduced the total compensation for each member of the Board of Supervisors to \$5,000 per month.’ ” (Assem. Com. on Elections, Analysis of Assem. Bill No. 428, *supra*, at p. 4.) The Board concludes that “the Legislature contemplated that the passage of AB 428 would ‘undo’ Measure K.”

Actually, in the face of the Jarvis Association’s comment (Assem. Com. on Elections, Analysis of Assem. Bill No. 428, *supra*, at p. 1), the author of AB 428 “indicated that the intent of this bill is *not* ****185** to overturn Measure K.” (*Id.* at p. 3, italics added.)

The Senate Committee on Governance and Finance observed that the effect of AB 428 on Measure K was not clear; it expressed concern about “thwarting the will of the voters.” (Sen. Com. on Gov. & Fin., Analysis of Assem. Bill No. 428, *supra*, at p. 4.) In response to this “potential legal ambiguity,” AB 428 was amended so as to provide expressly that it “shall not affect any term limits that were legally in effect prior to January 1, ***1280** 2022”

(Sen. Com. on Elections and Const. Amendments., Analysis of Assem. Bill No. 428, *supra*, at pp. 5-6.) There was no need to amend its compensation limit, because, as already discussed, the Legislature knew it most likely did not apply to a charter county.

Plainly, then, the Legislature did *not* contemplate that AB 428 would undo Measure K. To the contrary, it agreed with the Jarvis Association that the unamended version threatened Measure K, and thus it amended AB 428 so as to let Measure K stand.


In sum, then, the author of AB 428 may have intended it to apply to charter counties. The Legislature as a whole, however, was made aware that section 25300 — both before and after AB 428 — most likely did not and could not apply to charter counties.

B. *Minimum Wage Laws.*

^[22]Second, the Board contends that the compensation limit violates federal and state minimum wage laws.

The trial court rejected this contention based on lack of evidence. It ruled: “Even though it is implied the Board may be paid less than minimum wage after deduction of all benefits, such contention is not demonstrated. It is based on speculation.” Again, we agree.

Measure K’s compensation limit is \$5,000 a month. The Board points out that the minimum wage of \$15 an hour for 40 hours a week works out to \$2,600 a month. It adds, “[F]ederal law requires that the County match a Medicare tax at 1.45 percent of the supervisor’s salary, and state and local pension laws require that the County match each supervisor’s pension contribution at 17.54 percent of the supervisor’s salary. These benefits alone require a minimum of \$493.74. When adding in other legally mandated benefits such as worker’s compensation premiums, travel reimbursement⁷ and disability insurance, among others, ... Measure K’s terms immediately risk requiring that the County violate California’s minimum wage law.”

^[23]It must be remembered that this action is a challenge to Measure K on its face. “On a facial challenge, we will not invalidate a statute unless it ‘pose[s] a present total and fatal conflict with applicable constitutional *1281 prohibitions.’ [Citations.] ... ‘[P]etitioners cannot prevail by suggesting that in some future hypothetical situation constitutional problems may possibly arise as to the particular *application* of the statute.’ [Citation.]” ( *California School Boards Assn. v. State of California* (2019) 8 Cal.5th 713, 723-724, 256 Cal.Rptr.3d 590, 454 P.3d 962.)

The Board’s evidence fails to establish that Measure K will *necessarily* violate superseding federal and state law.

Indeed, as the Board itself says, “it is presently ****186** impossible to determine whether the County will be in violation of the law” It hypothesizes a future increase of the minimum wage to \$20 an hour, and even then it says only that “a supervisor’s compensation would be a minimum of \$4,125 — a number which does not include the numerous other required benefit payments under state and federal law.” We cannot invalidate Measure K on such hypothetical grounds.

In a subsidiary contention, the Board argues that, if the county could comply with minimum wage laws by having supervisors work part-time, that would impair essential government functions. Again, however, this is a purely hypothetical argument that we cannot reach in this appeal.

C. San Bernardino County Code section 13.0614.


^[24]Third, the Board contends that the compensation limit improperly overturns San Bernardino County Code section 13.0614 (section 13.0614) without a referendum.

^[25]The Board did not raise this argument below. Nevertheless, “[g]enerally, on appeal, a judgment or order will be affirmed if it is correct on any theory, regardless of the trial court’s reasons; thus, a respondent may

assert a new theory to establish that an order was correct on that theory ‘*unless* doing so would unfairly prejudice appellant by depriving him or her of the opportunity to litigate an *issue of fact.*’ [Citation.]” (*Bailon v. Superior Court* (2002) 98 Cal.App.4th 1331, 1339, 99 Cal.App.4th 815I, 120 Cal.Rptr.2d 360.) The Board’s argument is purely legal.

Section 13.0614 is a lengthy ordinance governing the compensation of elected county officials. It requires that supervisors be provided with certain benefits, including retirement benefits, medical, dental, and vision insurance, life insurance, long-term disability insurance, a cell phone allowance, health club membership, an annual physical examination, tuition reimbursement, and membership dues.⁸ (§ 13.0614, subd. (c).)

***1282** The Board asserts that “Measure K renders it impossible for supervisors to be paid the amounts [section 13.0614] requires.” Once again, however (see part IV.B, *ante*), this is speculation; there is no *evidence* of this.

Separately and alternatively, even assuming the Board’s assertion is true, Measure K is part of the county charter; section 13.0614 is a mere county ordinance. Accordingly, to the extent that they conflict, section 13.0614 is invalid. (See  *City and County of San Francisco v. Cooper* (1975) 13 Cal.3d 898, 923-924, 120 Cal.Rptr. 707, 534 P.2d 403.)

The Board implicitly recognizes this principle. It therefore argues that the voters cannot invalidate an ordinance by initiative rather than by referendum. It cites article XI, section 1, subdivision (b) of the California Constitution, which, as relevant here, provides: “Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance ****187** the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum.” Again, however (see part III, *ante*), section 3(b) and section 4(b), taken together, give the voters in a charter county the power to amend a charter by initiative, so no referendum is needed.

VI***

Unpublished Text Follows

THE SINGLE-SUBJECT RULE

The Board contends that Measure K, by combining the one-term limit and the compensation limit, violates the single-subject rule.

The trial court rejected this contention. It ruled that both provisions were “reasonably germane to ensuring the

member of the Board is about public service versus being paid a high salary or becoming a career politician.”

Under the California Constitution, “[a]n initiative measure embracing more than one subject may not be submitted to the electors or have any effect.” (Cal. Const., art. II, § 8, subd. (d).) “This rule applies to local as well as statewide initiatives. [Citation.]” (🚩🚧 *Shea Homes Limited Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246, 1255.)

“ [The California Supreme Court has] upheld a variety of initiative measures in the face of a single-subject challenge, emphasizing that the initiative process occupies an important and favored status in the California constitutional scheme and that the single-subject requirement should not be interpreted in an unduly narrow or restrictive fashion that would preclude the use of the initiative process to accomplish comprehensive, broad-based reform in a particular area of public concern. [Citations.]’ [Citation.]

“ [T]he single-subject provision does not require that each of the provisions of a measure effectively interlock in a functional relationship. [Citation.] It is enough that the various provisions are reasonably related to a common theme or purpose.’ [Citation.] Accordingly, [the Supreme Court has] upheld initiative measures ‘ “which fairly disclose a reasonable and common sense relationship among their various

components in furtherance of a common purpose.” [Citation.]’ [Citations.] The governing principle is that ‘ “ ‘[a]n initiative measure does not violate the single-subject requirement if, despite its varied collateral effects, *all of its parts are “reasonably germane”* to each other,’ and to the general purpose or object of the initiative. [Citations.]” ’ [Citation.] The ‘reasonably germane’ standard is applied ‘in an accommodating and lenient manner so as not to unduly restrict ... the people’s right to package provisions in a single bill or initiative.’ [Citations.]” (*Briggs v. Brown* (2017) 3 Cal.5th 808, 828-829.)

The Board does not attack the trial court’s ruling that both provisions of Measure K are reasonably germane to ensuring that Board members are devoted to public service. Instead, it argues only that, *if* Measure K is severable, then it necessarily concerns more than one subject. It provides no authority for this argument. The test under the single-subject rule (all provisions must be “reasonably germane” to each other) is very different from the test for severability (“ ‘[t]he invalid provision must be grammatically, functionally, and volitionally separable”). (🚩 *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 271.)

We need not decide this issue. The trial court ruled that Measure K is not severable. The Board agrees. Because we are upholding both the one-term term limit and the compensation limit,

there is no need for us to decide whether Measure K is severable. And because the Board is *not* contending that Measure K is severable, we need not decide whether, if it *were* severable, it would violate the single-subject rule.

End of Unpublished Text

VII

APPLICATION OF MEASURE K TO THE NEW SUPERVISORS

Renner contends that the trial court erred by ruling that Measure K did not apply to the newly elected supervisors. This depends, in part, on when the new supervisors took office and on when Measure K went into effect. Renner and the Board disagree on both points.

*1283 A. *When Did the New Supervisors Take Office?*

^[26]Under both the old county charter and Measure J, the new supervisors’ terms were to begin on the first Monday in December, which in 2020 was December 7.⁹ Accordingly, on December 7, 2020, the new supervisors were sworn in. The trial court ruled that, pursuant to the county charter, the new supervisors’ terms did, in fact, begin on December 7, 2020.

Renner relies on article II, section 20 of the California Constitution, which provides: “Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election.” Our Supreme Court, however, has held that this governs only state elective offices, not local elective offices. (*In re Stuart* (1879) 53 Cal. 745, 748 (*Stuart*); accord, *Barton v. Kalloch* (1880) 56 Cal. 95, 104-105.)

Stuart noted that “State officers, such as the Governor and the other officers who constitute the Executive Department of the State Government ... are officers whose election is absolutely provided for by the Constitution itself.” (*Stuart, supra*, 53 Cal. at p. 748.) It then relied on former article XI, section 5, of the California Constitution, which allowed the Legislature to “fix the[] terms of office” of “county ... and municipal officers” (*Stuart, supra*, at p. 748.)

Renner argues, however, that *Stuart* is no longer good law. She claims that, when *Stuart* was decided, the only officers whose election was “provided for by th[e] Constitution” were state officers; since then, however, the Constitution has been amended to provide for county supervisors. Not so.

In the original 1879 Constitution, article V, section 2 provided: “The Governor *shall be elected* by the qualified electors at the time and places

of voting for members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election” (Italics added.)

By contrast, article XI, section 5 of the Constitution, on which *Stuart* relied, said: “*The Legislature ... shall provide for the election or appointment, in the several counties, of Boards of Supervisors ... and shall ... fix their terms of office.*” (Italics added.) Thus, *Stuart* drew a distinction between state officers like the governor, “whose election is absolutely provided for by the Constitution itself,” and county supervisors, whose election and terms were ****188** to be provided for by the Legislature. (*Stuart, supra*, 53 Cal. at p. 748.)

***1284** Similarly, the Constitution now states: “The Governor *shall be elected* every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1” (Cal. Const., art. V, § 2, italics added.) It also states: “*The Legislature shall provide for ... an elected governing body in each county.*” (Cal. Const., art XI, § 1, subd. (b), italics added.) Moreover, it provides that, in a charter county, the charter is to provide for “[t]he ... terms ... of members of the governing body.” (Cal. Const., art XI, § 4, subd. (b).) Thus, *Stuart*’s reasoning is still sound — at least as to a charter county, the Legislature is to provide for the election of supervisors, and the county

charter is to provide for their terms. Article II, section 20 still does not apply.

We also note that, in several charter counties, supervisors do not take office on the Monday after January 1. Los Angeles County provides by charter for supervisors' terms to begin on the first Monday in December. (L.A. County Charter, art. II, § 6.) Sacramento and Santa Clara Counties provide for them to begin on the first Monday in January. (Sac. County Charter, art. IV, § 9; Santa Clara County Charter, art. II, § 202.) Likewise, San Francisco provides for them to begin on January 8. (S.F. Charter, § 2.101.) This reflects a general understanding that a charter county can choose its own date.


Thus, we agree with the trial court that the new supervisors took office on December 7, 2020.



B. When Did Measure K Go into Effect?

^[27]Measure K itself provided: “To the extent permitted by law, the provisions of this Charter Amendment shall be effective on voter approval of the initiative as provided by California law.” The introductory clause — “[t]o the extent provided by law” — seems to indicate that it was not intended to override any statutory and constitutional provisions that may apply. We need not decide this,

however, because Renner does not argue that Measure K became effective immediately. We deem that argument forfeited.

The parties have cited multiple statutes that they claim govern when a charter amendment goes into effect.

First, Renner cites  Article II, section 10, subdivision (a) of the California Constitution, which provides: “An initiative statute ... approved by a majority of votes cast thereon takes effect on the fifth day after the Secretary of State files the statement of the vote for the election at which the measure is voted on”

^[28]Case law establishes that  Article II, section 10, subdivision (a) of the Constitution applies only to statewide initiatives; local initiatives are governed by a parallel statutory scheme, which includes ***1285** Elections Code section 9122. (*Howard Jarvis Taxpayers Association v. City and County of San Francisco* (2021) 60 Cal.App.5th 227, 239, 274 Cal.Rptr.3d 432;  *City and County of San Francisco v. All Persons Interested in Matter of Proposition C* (2020) 51 Cal.App.5th 703, 709-710 & 710, fn. 2, 265 Cal.Rptr.3d 437.)

Government Code section 23723 provides: “[A] proposed [charter¹⁰] amendment ... shall not take effect until accepted and filed by the Secretary of State” (Gov. Code, § 23723; see also *id.*, ****189** § 23724.) The trial court ruled that this was the controlling

provision.¹¹

However, Elections Code section 9102 provides: “Any proposal to ... amend ... a county charter by initiative petition ... shall be subject to this article.” Elections Code section 9122 — part of the same article — then provides: “If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the county. The ordinance shall be considered as adopted upon the date the vote is declared by the board of supervisors, and shall go into effect 10 days after that date.”

There is an inescapable conflict between Elections Code sections 9102 and 9122, on one hand, and Government Code section 23723, on the other. They are “ ‘irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation.’ [Citation.]” (See *Lopez v. Sony Electronics, Inc.* (2018) 5 Cal.5th 627, 637, 234 Cal.Rptr.3d 856, 420 P.3d 767, internal quotation marks omitted.)

^[29]The Board plumps for Government Code section 23723. It cites *Board of Supervisors v. McMahon* (1990) 219 Cal.App.3d 286, 268 Cal.Rptr. 219 (*McMahon*), which remarked that the county charter amendment in that case “became effective ... when the Secretary of State accepted and filed it. (See Gov. Code § 23723.)” (*Id.* at p. 292, 268 Cal.Rptr. 219.) *McMahon*, however, was decided in March 1990;

as we will discuss in (perhaps excruciating) detail momentarily, the statutory predecessors of Elections Code sections 9102 and 9122 did not become effective until September 1990. In any event, there was no issue in *McMahon* as to the precise date on which the charter amendment there became effective. “It is axiomatic that cases are not authority for propositions that are not considered. [Citation.]” (***1286** *California Building Industry Assn. v. State Water Resources Control Bd.* (2018) 4 Cal.5th 1032, 1043, 232 Cal.Rptr.3d 64, 416 P.3d 53.)

^[30]“ ‘If conflicting statutes cannot be reconciled, later enactments supersede earlier ones [citation], and more specific provisions take precedence over more general ones [citation].’ [Citation.] But when these two rules are in conflict, the rule that specific provisions take precedence over more general ones trumps the rule that later-enacted statutes have precedence. [Citations.]” (*State Dept. of Public Health v. Superior Court* (2015) 60 Cal.4th 940, 960-961, 184 Cal.Rptr.3d 60, 342 P.3d 1217.)

We cannot say that either set of statutes is more specific than the other. Arguably, Elections Code section 9122, standing alone, is more general than Government Code section 23723, because it applies to initiative county ordinances as well as initiative county charter amendments. However, Elections Code section 9102 very specifically makes Elections Code section 9122 applicable to initiative

county charter amendments.

We turn, then, to which set of statutes was enacted latest.

Government Code section 23723 was enacted in 1969 (Stats. 1969, ch. 1264, § 1, p. 2470) and most recently amended in 1975. (Stats. 1975, ch. 238, § 10, p. 627.)

****190** Elections Code sections 9102 and 9122 were both enacted in 1994. (Stats. 1994, ch. 920, § 2, pp. 4690-5208.)

Elections Code section 9122 replaced Elections Code former section 3716 (Stats. 1994, ch. 920, § 2, p. 5168), enacted in 1976. (Stats. 1976, ch. 248, § 3, p. 503.) That, in turn, replaced Elections Code former section 3717, enacted in 1961. (Stats. 1961, ch. 23, § 3717, p. 632.) That replaced Elections Code former section 1617, enacted in 1939. (Stats. 1939, ch. 26, p. 632.) And that replaced former Political Code section 4058, enacted in 1911. (Stats. 1911, ch. 342, § 1, pp. 577-580.)

The most recent three of these were all identically worded; the 1911 original had more verbiage, but it was identical in all relevant respects. Thus, like current Elections Code section 9122, all of its statutory predecessors were worded in terms of an initiative county “ordinance.” Standing alone, they did not purport to apply to an initiative amendment to a county charter.

Meanwhile, Elections Code section

9102 replaced Elections Code former section 3701.5, enacted in 1990 (Stats. 1990, ch. 1161, § 12, p. 4864) and effective on September 21, 1990. (Stats. 1990, ch. 1161, § 32, pp. 4857, 4870.) ***1287** Again, the wording of Elections Code former section 3701.5 was identical to current Elections Code section 9102.

Crucially, before 1990, there was no statute (like Elections Code section 9102) making an initiative county charter amendment subject to Elections Code section 9122 or any of its statutory predecessors.

It follows that Elections Code sections 9102 and 9122, taken together, must be regarded as enacted in 1990. (Gov. Code, § 9605, subd. (a).) Thus, they superseded Government Code section 23723. And thus, under Elections Code sections 9102 and 9122, Measure K went into effect 10 days after the vote was declared by the Board — namely, on December 18, 2020.

C. Is Measure K Impermissibly Retroactive If It Applies to the New Supervisors?

^[31]As we have just held, the new supervisors took office on December 7, 2020 (see part VI.A, *ante*), and Measure K went into effect on December 18, 2020 (see part VI.B, *ante*). The Board contends that, if Measure K applies to the new

supervisors, it is retroactive in violation of Government Code section 25000, subdivision (b).

Government Code section 25000, subdivision (b), provides: “Any proposal to limit the number of terms a member of the board of supervisors may serve on the board of supervisors shall apply prospectively only.” This language was not added by AB 428; it was enacted in 1995. (Stats. 1995, ch. 432, § 4, pp. 3407-3408.)

[32] Even aside from Government Code section 25000, “statutes do not operate retrospectively unless the Legislature plainly indicates otherwise. [Citation.]” (In re S.B. (2004) 32 Cal.4th 1287, 1296, 13 Cal.Rptr.3d 786, 90 P.3d 746.) Nothing in Measure K indicates that it intended to operate retroactively.¹² The question, then, is whether Measure K is impermissibly retroactive if it applies to the new supervisors.

“ ‘[D]eciding when a statute operates “retroactively” is not always a simple or mechanical task’ [citation] and ‘comes at the end of a process of judgment concerning the nature and extent of the change in the law and the degree of connection between ****191** the operation of the new rule and a relevant past event’ [citation]. In exercising this judgment, ‘familiar considerations of fair notice, reasonable reliance, and settled expectations offer sound guidance.’ [Citation.]

***1288** [33] [34] “In general, application of a law is retroactive only if it attaches new legal consequences to, or increases a party’s liability for, an event, transaction, or conduct that was *completed* before the law’s effective date. [Citations.] Thus, the critical question for determining retroactivity usually is whether the last act or event necessary to trigger application of the statute occurred before or after the statute’s effective date. [Citations.] A law is not retroactive ‘merely because some of the facts or conditions upon which its application depends came into existence prior to its enactment.’ [Citation.]” (People v. Grant (1999) 20 Cal.4th 150, 157, 83 Cal.Rptr.2d 295, 973 P.2d 72.)

Armstrong v. County of San Mateo (1983) 146 Cal.App.3d 597, 194 Cal.Rptr. 294 (*Armstrong*) dealt with article XIII A, section 2, subdivision (b) of the California Constitution, which went into effect on July 1, 1978. (*Id.* at p. 604, 194 Cal.Rptr. 294.) It allowed tax authorities to assess real property for the 1978-79 tax year at its assessed value in the 1975-76 tax year, plus an “inflation factor” of two percent per year. (*Id.* at pp. 604-605, 194 Cal.Rptr. 294.)

The appellate court held that this was not retroactive. (*Armstrong, supra*, 146 Cal.App.3d at pp. 613-614, 194 Cal.Rptr. 294.) “It is well settled that ‘[a] statute does not operate retroactively merely because some of the facts or conditions upon which its application depends came into

existence before the enactment.’ [Citation.] Application of the inflation factor prior to the effective date of article XIII A does not give the 1975-76 full cash value assessment or the pre-1978 adjustments thereof ‘an effect different from that which they had under previously existing law,’ such as, for example, by retroactively increasing taxes due in 1975-76 or any other tax year prior to the effective date of the article. Rather it merely utilizes facts existing prior to enactment of the article to determine tax rates to be applied *prospectively* from the effective date.” (*Ibid.*, fn. omitted.)

In *Sheyko v. Saenz* (2003) 112 Cal.App.4th 675, 5 Cal.Rptr.3d 350 (*Sheyko*), the Legislature passed a statute requiring aid applicants and recipients to be fingerprinted in accordance with the Statewide Fingerprint Imaging System (SFIS) as a condition of eligibility for benefits. (*Id.* at pp. 684-686, 5 Cal.Rptr.3d 350.) The trial court ruled that, as applied to persons who were applicants but not recipients when the statute went into effect, the statute was impermissibly retroactive. (*Id.* at p. 702, 5 Cal.Rptr.3d 350.)

The appellate court held that the statute was not retroactive at all. (*Sheyko, supra*, 112 Cal.App.4th at pp. 702-703, 5 Cal.Rptr.3d 350.) It explained: “*Application ... is retroactive only when it gives a different and potentially unfair legal effect to actions taken in reliance on the preenactment law.*” [Citation.]” (*Id.* at p. 702, 5 Cal.Rptr.3d

350.) “SFIS compliance is an *eligibility* requirement [citation] and ***1289** recipients lose their entitlement as soon as they lose their eligibility. [Citation.] It would be no different than the Legislature changing some other eligibility condition, such as maximum income: That new cutoff would apply to all recipients, regardless of when they became recipients. No recipient has a reasonable expectation that eligibility conditions will not change. Nobody loses past benefits for present noncompliance with SFIS.” (*Id.* at pp. 702-703, 5 Cal.Rptr.3d 350.) “[E]ligibility is continually reevaluated to see if the present conditions of eligibility ****192** are met. This means the SFIS regulations do not ‘materially alter the legal significance’ of applying for benefits, nor give ‘a different and potentially unfair legal effect to actions taken in reliance on the preenactment law.’ [Citation.]” (*Id.* at p. 703, 5 Cal.Rptr.3d 350.)

Here, once the new supervisors were elected, they did have a vested right to remain in office for one term. However, they had no vested right to run for a second term. As in *Sheyko*, they could not reasonably expect that eligibility conditions would not change. In any event, the Board does not point to any way in which they relied on any such expectation.

Much as in *Sheyko*, the change in the law here affects the new supervisors’ *eligibility* for *future* office. Thus, they could always lose their eligibility due to a statutory change. That is true even

if, as here, “ ‘some of the facts or conditions upon which its application depends came into existence prior to its enactment.’ [Citation.]” (People v. Grant, supra, 20 Cal.4th at p. 157, 83 Cal.Rptr.2d 295, 973 P.2d 72.) As in Armstrong, the one-term limit merely looks at facts existing prior to its enactment to determine eligibility, to be applied prospectively from the provision’s effective date. The one-term limit is analogous to a minimum age requirement, which looks at an event in the past — the person’s birth — to determine his or her present eligibility to drink, smoke, run for office, etc.

Measure K cannot and does not kick out of office those supervisors who were already serving a second or third term. That would indeed be a prohibited retroactive application. However, it will bar them — just as it bars the new supervisors — from serving another term later.¹³

D. Does Measure K Violate AB 428

If It Applies to the New Supervisors?

The Board contends that applying Measure K to the new supervisors would violate AB 428.

***1290** Government Code section 25000, subdivision (b), as amended by AB 428, provides:

“(1) ... [T]he residents of [a] county

may propose, by initiative, a proposal to limit to no fewer than two terms ... a member of the board of supervisors may serve on the board of supervisors....

“(2) The changes made to this subdivision by [AB 428] shall not affect any term limits that were legally in effect prior to January 1, 2022, in any county.”

As we held in part VI.B, ante, Measure K went into effect on December 18, 2020. Accordingly, the one-term limit does not violate AB 428.

^[35]The Board argues that the Legislature intended AB 428 to overturn Measure K. “It is well established, however, that legislative intent should not be resorted to where a statute is clear on its face.” (Greb v. Diamond Internat. Corp. (2013) 56 Cal.4th 243, 256, 153 Cal.Rptr.3d 198, 295 P.3d 353.) In any event, as we discussed in part IV.A.2, ante, the Legislature did not intend AB 428 to abrogate Measure K; indeed, it amended AB 428 and added the January 1, 2022 start date to make sure it would not.

E. Does Measure K Violate Provisions Protecting Supervisors’ Compensation?


1. *Statutory protection against reduction of compensation.*

[36]The Board relies on ****193** Government Code section 1235,¹⁴ which provides: “The salary of any elected public office shall not be reduced during an election year after any candidate for that particular office has filed the requisite forms declaring his or her candidacy for that particular office.” Renner does not contend that, under the home rule doctrine (see part IV.A.1, *ante*), Measure K trumps Government Code section 1235. We deem her to have forfeited any such contention.

Again, Measure K went into effect on December 18, 2020. (See part VI.B, *ante*.) That was “during an election year.” While the record does not show exactly when the new supervisors filed their candidacy forms, it had to be sometime before they were elected, on November 3, 2020. It follows that the compensation limit cannot apply to the new supervisors.

***1291** 2. *Constitutional protection against reduction of compensation.*

The Board also asserts that its members have constitutional protection against the reduction of their compensation during their terms. Somewhat unhelpfully, Renner does not respond to this contention.

Because we have just held that, under Government Code section 1235, the compensation provision of Measure K cannot apply to the new supervisors (see part VI.E.1, *ante*), we do not decide this question. (See  *Thompson v. Department of Corrections* (2001) 25 Cal.4th 117, 129, 105 Cal.Rptr.2d 46, 18 P.3d 1198 [“we do not address constitutional questions unless necessary.”].)

VIII†

Unpublished Text Follows

THE TEMPORARY RESTRAINING ORDER

Renner contends that, whether Measure K was valid or not, the trial court erred by enjoining City Clerk Monell from certifying, authenticating, and recording it.

A county charter amendment must be “certified and authenticated by the chairperson and clerk of the governing body[,] ... attested by the county elections official, ... recorded in the office of the recorder of the county[,] ... filed in the office of the county elections official,” and “file[d] ... with the Secretary of State” (Gov. Code, § 23713, incorporated by Gov. Code, § 23724.)

Renner does not cite any portion of the record showing that the trial court ever actually issued an injunction against this. She has not included the TRO itself in the record, and, as noted in part III, *ante*, the trial court never issued a permanent injunction. Thus, Renner has forfeited this contention. (See Cal. Rules of Court, rule 8.204(a)(1)(C); *Brown v. El Dorado Union High School Dist.* (2022) 76 Cal.App.5th 1003, 1021.)

Separately and alternatively, any such error is harmless and/or moot. Measure K went into effect on December 18, 2020, regardless of when or even whether it was certified, authenticated, recorded, or filed. (See part VI.B, *ante*.) Renner has not pointed out any other way in which Monell’s failure to perform her statutory duties was prejudicial.

In any event, when we reverse a judgment, we have the power to “direct that the parties be returned so far as possible to the positions they occupied before the enforcement of ... the judgment or order. In doing so, the reviewing court may order restitution on reasonable terms and conditions of all property and rights lost by the erroneous judgment or order, so far as such restitution is consistent with rights of third parties” (Code Civ. Proc., § 908.) Hence, we will direct the trial court to allow county officials to perform their duties, and also to order that their performance be deemed to relate back, *nunc pro tunc*, to the dates

when they should have performed them.

At first glance, these dates might appear speculative. Significantly, however, Measure J and Measure K were passed at the same time. It stands to reason that Measure K would have been certified, authenticated, recorded, and filed at the same time as Measure J (unless the Board deliberately slow-walked Measure K). Therefore, we will direct the trial court, on remand, to ascertain when Measure J was certified, authenticated, recorded, and filed and to set forth these dates in its *nunc pro tunc* order.

End of Unpublished Text

IX

DISPOSITION

The trial court’s order granting the petition is reversed. On remand, the trial court must ascertain the dates on which Measure J was certified, authenticated, recorded, and filed. It must then enter a new order, granting a writ and/or an injunction prohibiting the application of the compensation limit to the new supervisors, but otherwise denying the petition and entering judgment against the Board on the complaint. The order must provide that Monell and all other county officials may carry out their duties to certify, authenticate, record, and file

Measure K. It must also provide that Measure K is deemed to have been certified, authenticated, recorded, and filed on the same dates as Measure J, and it must specify those dates.

Renner is awarded costs on appeal against the Board.

I concur:

MILLER, J.

MENETREZ, J., Dissenting.

Nearly every issue in this appeal is moot, so nearly everything in the majority opinion is advisory. Because I would not issue an advisory opinion on moot issues, I respectfully dissent.

1292** Measure K, approved by the voters of San Bernardino County (the County) in 2020, imposed certain term limits and compensation limits for members of the board of supervisors. After passage, Measure K was challenged in the superior court, *194** which invalidated it as unconstitutional. This appeal was taken from that ruling.

Measure D, approved by the County's voters in 2022, imposed new term limits and compensation limits for members of the board of supervisors. Measure D supersedes Measure K in its

entirety. Measure D has been challenged in court, but to date no part of it has been invalidated.

After Measure D passed, the County requested that we stay this appeal pending resolution of the Measure D litigation. We invited and received supplemental briefs from the parties on the stay request and whether the appeal is moot. The County's request for a stay was denied (over my objection). But the County renewed the request at oral argument, and we can also stay an appeal on our own motion.

Because Measure D is currently in effect, no provision of Measure K is currently in effect. Consequently, it is presently impossible for us to grant effective relief on this appeal. The appeal is from an order invalidating Measure K. But no matter what we do, Measure K cannot go back into effect unless and until Measure D is invalidated. The appeal is therefore moot. (📄 *Lockaway Storage v. County of Alameda* (2013) 216 Cal.App.4th 161, 174–175, 156 Cal.Rptr.3d 607.)

The only issue that presently is not moot is whether Measure K's compensation limits apply from 2020 to 2022, between the passage of Measure K and the passage of Measure D. But in the future, additional issues might cease to be moot if Measure D is invalidated in whole or in part. We should accordingly stay this appeal until there is a final judgment in the Measure D litigation. Only then will we have a final determination of which

issues concerning Measure K are not moot. At present, only one of them is.

I would vacate submission and stay the appeal pending final resolution of the Measure D litigation. I therefore respectfully dissent.

All Citations

91 Cal.App.5th 1248, 309 Cal.Rptr.3d 163, 2023 Daily Journal D.A.R. 4954











Footnotes




* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exceptions of part II, VI, and VIII.

¹ In an unpublished portion of this opinion, we will reject the Board’s additional contention that Measure K violates the single-subject rule.

² A hearing on a preliminary injunction was set, continued, and then vacated. Thus, while the record is not entirely clear on this point, it appears that the TRO remained in effect until the trial court ruled on the petition.

** See footnote *, *ante*.

³  *Burdick* drew on the Supreme Court’s earlier decision in  *Anderson v. Celebrezze* (1983) 460 U.S. 780, 103 S.Ct. 1564, 75 L.Ed.2d 547. Accordingly, the approach it outlined is sometimes called the  *Anderson*- *Burdick* test or the  *Anderson*- *Burdick* framework. (See, e.g.,  *Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 168, 126 Cal.Rptr.2d 727, 56 P.3d 1029 ( *Edelstein*)).) Renner and the Board both agree that the  *Anderson*- *Burdick* test is controlling here.

Recently, one federal appellate court held that the  *Anderson*- *Burdick* test is “inapposite” to the analysis of term limits. ( *Kowall v. Benson* (6th Cir. 2021) 18 F.4th 542, 547, cert. den. (2022) — U.S. —, 143 S. Ct. 88, 214 L.Ed.2d 15.) As we will discuss, however, controlling California Supreme Court authority

requires us to apply the *Anderson-Burdick* test.

⁴ We respectfully disagree with *Kern County Employees' Retirement Assn. v. Bellino* (2005) 126 Cal.App.4th 781, 24 Cal.Rptr.3d 384 (*Kern County*), which held that an asserted infringement of the right to run for office is subject to rational-basis review. (*Id.* at p. 794, 24 Cal.Rptr.3d 384.) In our view, *Kern County* misread Justice Rehnquist's plurality opinion in *Clements, supra*, 457 U.S. 957, 102 S.Ct. 2836. It said that strict scrutiny is not required (*id.* at p. 963, 102 S.Ct. 2836), but it did not say that rational basis review applies. To the contrary, it said, "Decision in this area of constitutional adjudication is a matter of degree, and involves a consideration of the facts and circumstances behind the law, the interests the State seeks to protect by placing restrictions on candidacy, and the nature of the interests of those who may be burdened by the restrictions." (*Ibid.*) Thus, *Clements* foreshadowed the intermediate scrutiny subsequently announced by *Anderson* and refined by *Burdick* (neither of which *Kern County* cited).

⁵ As evidence of the purposes of Measure K, Renner cites the statement of reasons that appeared on petitions to qualify the initiative. (See Elec. Code, § 9202.) Such a statement, which was not made available to all voters, does not constitute legislative history. (Cf. *Carter v. Commission on Qualifications of Judicial Appointments* (1939) 14 Cal.2d 179, 185, 93 P.2d 140 [ballot pamphlet, "sent to the electors of the state," is an indicator of intent].)

⁶ Charter cities also have home rule. (Cal. Const., art. XI, § 5, subd. (a).) "But the 'version of "home rule" afforded to a *charter city* is substantially more expansive' than that granted to charter counties. [Citation.] While charter cities are granted broad authority over 'municipal affairs,' '[t]here is no corresponding grant of authority and autonomy over the "county affairs" of charter counties. [Citations.]' [Citation.]" (*People v. Minor* (2002) 96 Cal.App.4th 29, 40, 116 Cal.Rptr.2d 591.)

Subject to that caveat, case law dealing with charter cities also applies to charter counties. (See, e.g., *Marquez v. City of Long Beach* (2019) 32 Cal.App.5th 552, 562, fn. 5, 244 Cal.Rptr.3d 57 ["The cases addressing the home rule doctrine have applied the same analysis to the authority of charter

counties ... and charter cities ... to set the compensation for their employees.”].)

⁷ Measure K defines “compensation” as “the actual cost to the County of all benefits of whatever kind or nature including but not limited to salary, allowances, credit cards, health insurance, life insurance, leave, retirement, memberships, portable communications devices, and vehicle allowances.” Thus, the compensation limit does not apply to the reimbursement of outlays benefiting the county, including travel reimbursement.

⁸ It also requires that supervisors be reimbursed for certain expenses, such as travel and transportation. (§ 13.0614, subds. (c)(5), (c)(6).) Once again, however, reimbursement is not “compensation” for purposes of Measure K’s \$5,000 compensation limit. (See fn. 9, *ante*.)

Supervisors are also entitled to make voluntary contributions that can be used for certain purposes (medical, 401(k) plans, 457 plans, dependent care) without being subject to income tax. (§ 13.0614, subds. (c)(7), (c)(8), (c)(12).) As these come out of supervisors’ salaries, they, too, are not compensation within the meaning of Measure K.

*** See footnote *, *ante*.

⁹ Measure J also provided that, after 2020, supervisors’ terms would begin on the first Monday after the first day of January following their election.

¹⁰ While Government Code section 23723 does not use the word “charter,” it is part of a statutory scheme dealing exclusively with the proposal, revision, amendment, and repeal of county charters. (Gov. Code, §§ 23700-23732.)

¹¹ The trial court mistakenly cited Government Code sections 23712 and 23713. Those sections apply to a charter proposal or revision. However, Government

Code sections 23723 and 23724, which apply to a charter amendment (as here) or repeal, are otherwise essentially identical to Government Code sections 23712 and 23713. Thus, the error was plainly harmless.

¹² For this reason, we need not decide whether, under the home rule doctrine (see part IV.A.1, *ante*), Measure K overrides Government Code section 25000.

¹³ We therefore do not discuss Renner’s contention that the charter provision that supervisors’ terms begin on the first Monday of December is unconstitutional.

¹⁴ There are two section 1235s in the Government Code. We refer to the one enacted in 1980 (Stats. 1980, ch. 737, § 1), not the one enacted in 1994 (Stats. 1994, ch. 991, § 2).

[†] See footnote *, *ante*.

Filed 3/27/23

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

CULTIVA LA SALUD et al.,

Plaintiffs and Respondents,

v.

STATE OF CALIFORNIA et al.,

Defendants and Appellants.

C095486

(Super. Ct. No. 34-2020-
80003458-CU-WM-GDS)

APPEAL from a judgment of the Superior Court of Sacramento County,
Shelleyanne W.L. Chang, Judge. Affirmed.

Rob Bonta, Attorney General, Tamar Pachter, Senior Assistant Attorney General,
Molly K. Mosley, Craig D. Rust, Robert E. Asperger and Lauren E. Freeman, Deputy
Attorneys General, for Defendants and Appellants.

Nielsen Merksamer Parrinello Gross & Leoni and Christopher E. Skinnell for
California Chamber of Commerce, California Grocers Association, California Retailers
Association, Consumer Brands Association and American Beverage Association as
Amici Curiae on behalf of Defendants and Appellants.

Jarvis Fay, Benjamin P. Fay, Edward K. Low, and Carolyn Liu for Plaintiffs and
Respondents.

assessments on certain grocery items, including, most relevant here, on sodas and other sugar-sweetened drinks. The act also imposes a penalty—the loss of all revenue from sales and use taxes—for violations of its terms. But it imposes its penalty only on charter cities and only if the city’s “tax, fee, or other assessment is a valid exercise of [the] city’s authority under Section 5 of Article XI of the California Constitution with respect to the municipal affairs of that city.” (§ 7284.12, subd. (f).)

Following the Groceries Act’s passage, a nonprofit health advocacy organization and a city council member appearing in her individual capacity filed suit to challenge the act’s penalty provision. They argued the provision wrongly serves to penalize charter cities that lawfully exercise their constitutional rights under the home rule doctrine. In their view, the Legislature probably understood that the home rule doctrine prevented the state from banning charter cities from taxing sugar-sweetened drinks; and so, as a workaround, the Legislature created the act’s penalty provision to discourage charter cities from validly exercising their right to tax these drinks under the home rule doctrine. The trial court, interpreting the law similarly, ultimately agreed the Groceries Act’s penalty provision is unlawful and deemed it unenforceable.

On appeal, the State of California, the California Department of Tax and Fee Administration, and the department’s director (collectively, the Department) challenge the trial court’s decision for two reasons. First, the Department contends the Groceries Act’s penalty provision does not, as it states, penalize a charter city only when its tax on groceries “is a valid exercise” of the city’s constitutional powers. (§ 7284.12, subd. (f).) It instead, the Department argues, penalizes a charter city only when its tax on groceries “would *otherwise* be a valid exercise of [the] city’s constitutional authority, if not for the Groceries Act.” Second, even if the trial court properly construed the act’s penalty provision, the Department contends the trial court should have severed certain words from the penalty provision rather than deem the provision unenforceable in its entirety. We affirm.

But the initiative’s sponsors ultimately agreed to withdraw the proposed initiative after the Legislature and the Governor agreed to enact the Groceries Act—an act that would prohibit new taxes on nonalcoholic sugar-sweetened beverages and certain other groceries. In a letter to the California State Assembly, the Governor wrote: Four “cities are considering passing a soda tax to combat the dangerous and ill effects of too much sugar in the diets of children. In response, the beverage industry has circulated a far reaching initiative that would, if passed, raise the approval threshold from 50% to two-thirds on all measures, on all topics in all 482 cities. Mayors from countless cities have called to voice their alarm and to strongly support the compromise which this bill represents.” After calling the proposed initiative “an abomination,” the Governor stated that the new law “must be signed.” And so it was.³

The Groceries Act, with certain exceptions, provides that “a local agency shall not impose, increase, levy and collect, or enforce any tax, fee, or other assessment on groceries.” (§ 7284.12, subd. (a).) The act defines “local agency” to include, among other entities, charter cities, general law cities, and counties (§ 7284.10, subd. (g); Gov. Code, § 7920.510) and defines “groceries” to include “any raw or processed food or beverage” but not “alcoholic beverages, cannabis, cannabis products, cigarettes, tobacco products, and electronic cigarettes” (§ 7284.10, subd. (f)). In prohibiting taxes on “groceries,” the Groceries Act largely echoes existing law generally prohibiting taxes on “the sale of, and the storage, use, or other consumption in this state of, food products for human consumption.” (§ 6359, subd. (a); see also Cal. Const., art. XIII, § 34.) But the

³ The state’s effort to prevent the proposed initiative from making the ballot may prove short-lived. After the beverage industry agreed to withdraw the proposed initiative, others moved to place a largely identical initiative on the ballot. (See Legis. Analyst, analysis of proposed Taxpayer Protection and Government Accountability Act (Jan. 19, 2022) <<https://lao.ca.gov/BallotAnalysis/Initiative/2021-042>> [as of March 27, 2023], archived at: <<https://perma.cc/PTE5-NZR6>>.)

respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.” (Cal. Const., art. XI, § 5, subd. (a).)

California voters initially approved the home rule doctrine over 100 years ago “ ‘upon the principle that the municipality itself knew better what it wanted and needed than the state at large, and to give that municipality the exclusive privilege and right to enact direct legislation which would carry out and satisfy its wants and needs.’ ” (*Vista, supra*, 54 Cal.4th at pp. 555-556.) Discussing the doctrine shortly after its adoption, our Supreme Court explained that it “was intended to give municipalities the sole right to regulate, control, and govern their internal conduct independent of general laws; and this internal regulation and control by municipalities comprise those ‘municipal affairs’ spoken of in the constitution.” (*Fragley v. Phelan* (1899) 126 Cal. 383, 387.) Our Supreme Court has since explained that among the powers granted charter cities under this doctrine is “the power to tax for local purposes.” (*City and County of San Francisco v. Regents of University of California* (2019) 7 Cal.5th 536, 545.)

Under the home rule doctrine, as currently written in article XI, section 5, a charter city’s law is not preempted simply because it conflicts with a state law. (*Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 316-318.) Nor is it necessarily preempted even when the Legislature explicitly intends preemption. (*Ibid.*) It is instead preempted only when it conflicts with a state law, the state law covers a subject of statewide concern, and the state law is “ ‘reasonably related to . . . resolution’ of that concern” and “ ‘narrowly tailored’ to avoid unnecessary interference in local governance.” (*Vista, supra*, 54 Cal.4th at p. 556.) Charter cities are, in this respect, distinct from counties and general law cities, for unlike charter cities, their laws are preempted when they are “in conflict with” state law. (Cal. Const., art. XI, § 7; see *American Financial Services Assn. v. City of Oakland* (2005) 34 Cal.4th 1239, 1251.)

soda or other sugary beverages to its voters to test the constitutionality of the penalty because the potential financial risk is too great for the City.” It reasoned that “sales and use taxes generate 20% of the annual revenue for the [City’s] general fund and the loss of this revenue would be financially devastating to the City.”

IV

Plaintiffs’ Suit

Cultiva La Salud—a nonprofit that, among other things, promotes healthy diets—and Martine Watkins—a Santa Cruz City Council member appearing in her individual capacity—sued the Department over the Groceries Act’s penalty provision. Cultiva La Salud and Watkins (collectively, plaintiffs) asserted the penalty provision “is unconstitutional because it seeks to override Article XI, Section 5 of the California Constitution by severely penalizing charter cities if they properly exercise their constitutional home rule authority.” Plaintiffs added that the drafters of the provision “[p]robably” understood that the Groceries Act’s general ban on grocery taxes “would not apply to charter cities” and so included “a carefully drafted penalty provision targeted directly at charter cities to discourage them from exercising their constitutional home rule authority to impose taxes on sugary beverages.” Plaintiffs sought a declaration that the Groceries Act’s penalty provision is unlawful, an injunction barring enforcement of the provision, and a writ of mandate directing the Department not to implement the provision.

The Department, in opposition, contended the issue was not ripe for review. It reasoned that the constitutionality of the penalty should not be decided in a facial challenge; it instead should be decided only after a charter city had enacted a tax triggering the Groceries Act’s penalty. The Department also rejected plaintiffs’ reading of the act’s penalty provision. In its view, the act does not penalize a charter city when its grocery tax “is a valid exercise” of its constitutional powers under the home rule doctrine; it instead penalizes a charter city only when its grocery tax “would *otherwise* be

an independent duty to consider, even when the parties decline to raise it, we will briefly address the issue here.

“ ‘The ripeness requirement, a branch of the doctrine of justiciability, prevents courts from issuing purely advisory opinions.’ ” (*Vandermost v. Bowen* (2012) 53 Cal.4th 421, 452.) It is “ ‘primarily bottomed on the recognition that judicial decisionmaking is best conducted in the context of an actual set of facts so that the issues will be framed with sufficient definiteness to enable the court to make a decree finally disposing of the controversy.’ ” (*Ibid.*) The doctrine ensures “ ‘that the facts have sufficiently congealed to permit an intelligent and useful decision to be made,’ ” but it “ ‘should not prevent courts from resolving concrete disputes if the consequence of a deferred decision will be lingering uncertainty in the law, especially when there is widespread public interest in the answer to a particular legal question.’ ” (*Ibid.*, italics omitted.)

The American Beverage amici argue, as the Department did at the trial level, that a challenge to the Groceries Act’s penalty provision will not be ripe for review until there is a “local tax against which to measure [the] state law.” According to these amici curiae, then, a challenge to the act’s penalty provision will be ripe for review only after a charter city elects to subject itself to the act’s severe penalties. Only at that time, they claim, can a court resolve whether the Groceries Act’s terms and the local tax actually conflict.

We find differently. The American Beverage amici’s logic, if accepted, would provide a framework for insulating laws from judicial review: The state could enact laws—even constitutionally suspect ones—that threaten exorbitant penalties against those who violate their terms; and because no one would likely violate these laws for fear of the penalties, no claim would ever be ripe for review. We reject this approach. Similar to the trial court, we find the facts here “ ‘have sufficiently congealed’ ” to allow resolution of plaintiffs’ facial challenge to the Groceries Act’s penalty provision. (*Vandermost v. Bowen*, *supra*, 53 Cal.4th at p. 452.) We also find the American Beverage amici’s

the Groceries Act, the Department contends the court should have severed the “valid exercise” language and certain other words from the penalty provision and then retained the rest of the provision. We reject both arguments.

A. *Bradley-Burns*

To understand the Groceries Act and its penalty provision, it is helpful to start with the Bradley-Burns Uniform Local Sales and Use Tax Law (Bradley-Burns) (§ 7200 et seq.)—a law that, as the Department contends, inspired parts of the Groceries Act.

The Legislature enacted Bradley-Burns in 1955. (*Rivera v. City of Fresno* (1971) 6 Cal.3d 132, 136, disapproved of on other grounds in *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 15.) Before the law’s enactment, different cities imposed different sales and use taxes that had different collection schemes. (See *Century Plaza Hotel Co. v. City of Los Angeles* (1970) 7 Cal.App.3d 616, 624, fn. 6.) In Bradley-Burns, “the Legislature enacted a uniform local sales and use tax law” to replace this scheme. (*Rivera v. City of Fresno*, at p. 136.) It also created incentives to convince counties and cities to participate in the new taxation law. Counties, which previously lacked the ability to impose sales and use taxes, would benefit through new “ ‘authority to impose sales and use taxes as a means of raising additional revenue.’ ” (*Ibid.*) Cities, in turn, would benefit through “ ‘a plan of state administration which w[ould] relieve them from operating collection systems of their own.’ ” (*Ibid.*) Should a county or city choose to participate in Bradley-Burns, it would among other things, need to contract with the Board of Equalization, the agency formally charged with implementing Bradley-Burns, “ ‘to perform all functions incident to the administration or operation of the [local] sales and use tax ordinance.’ ” (*Ibid.*)

Over time, the Legislature expanded the scope of Bradley-Burns and made city participation in the law—once voluntary—mandatory for those seeking to impose sales and use taxes. In 1968, the Legislature amended the law to “declare[] that the state, by enactment of the Sales and Use Tax Law and the Bradley-Burns Uniform Local Sales and

But after a senate committee analysis opined that the Legislature might be able to preempt charter cities from imposing these taxes (see Sen. Rev. & Tax. Com., analysis of Assem. Bill No. 3407, *supra*, as amended June 26, 1996, p. 3), the Legislature changed its approach. It added a statute—section 7282.3—prohibiting local governments, including charter cities, from levying the objected-to taxes. (Stats. 1996, ch. 940, § 2, p. 5317.) But as a backstop, it also enacted an amendment to section 7203.5 that would “become operative only if the provisions of Section 7282.3 . . . are held to be inapplicable to charter cities.” (Stats. 1996, ch. 940, §§ 1, 4, pp. 5315-5317.) As conditionally amended, section 7203.5 imposes the penalty that the Legislature initially proposed: The Board of Equalization “shall not” administer any sales or use tax ordinance of a local government if the local government imposes the prohibited transient occupancy tax. (Stats. 1996, ch. 940, § 1, pp. 5315-5317.)

B. *The Groceries Act*

Over 20 years later, the Legislature enacted the Groceries Act—taking inspiration from Bradley-Burns and particularly its 1996 amendment. Section 7284.12 of the Groceries Act, as covered, generally prohibits local agencies from “impos[ing], increas[ing], levy[ing] and collect[ing], or enforc[ing] any tax, fee, or other assessment on groceries.” (§ 7284.12, subd. (a).) It also penalizes certain local agencies that violate this prohibition, stating: “The California Department of Tax and Fee Administration shall not administer and shall terminate its contract to administer any sales or use tax ordinance of a local agency under [Bradley-Burns] if that local agency imposes, increases, levies and collects, or enforces any tax, fee, or other assessment on groceries . . . for which a court of competent jurisdiction has determined both of the following”: (1) the tax, fee, or assessment “is in conflict with” the Groceries Act’s general prohibition on any tax, fee, or other assessment on groceries, and (2) “[t]he tax, fee, or other assessment is a valid exercise of a city’s authority under Section 5 of Article XI of the California Constitution with respect to the municipal affairs of that city.” (§ 7284.12, subd. (f).)

city.” (§ 7284.12, subd. (f).) That intentional penalty on a charter city’s lawful exercise of its constitutional powers cannot stand.

Neither the Department’s nor the American Beverage amici’s arguments persuade us to find differently. We consider first the Department’s argument. It asserts that section 7284.12 is not, as it states, intended to penalize a charter city only when its tax, fee, or other assessment on groceries “is a valid exercise of [the] city’s authority under Section 5 of Article XI of the California Constitution.” (§ 7284.12, subd. (f).) It is instead, the Department argues, intended to penalize a charter city only when its tax, fee, or other assessment on groceries “would *otherwise* be a valid exercise of [the] city’s constitutional authority, if not for the Groceries Act.” Put another way, according to the Department, when the Legislature referenced a city’s tax, fee, or assessment that “is a valid exercise” of the city’s constitutional authority, it really meant a city’s tax, fee, or assessment that, because of the Groceries Act, “is *not* a valid exercise” of the city’s constitutional authority. The Department adds that this construction avoids a reading that would render section 7284.12, subdivision (f) unlawful and is “consistent with the Legislature’s stated intent for the provisions of the Groceries Act ‘to be construed liberally to effectuate their intent, policy, and purposes.’ ”

But although the Legislature intended a liberal construction of the Groceries Act (§ 7284.13), and although courts can construe ambiguous statutes to avoid constitutional doubts (*Steen v. Appellate Division of Superior Court* (2014) 59 Cal.4th 1045, 1054), neither of those considerations advance the Department’s position here. The fundamental problem with its position is that it departs from the statute’s plain text. Section 7284.12 does not refer to a tax, fee, or other assessment that would have been a valid exercise of a city’s constitutional authority if not for the Groceries Act; it refers instead to a tax, fee, or other assessment that “*is* a valid exercise” of a city’s constitutional authority. (§ 7284.12, subd. (f)(2).) And again, that language is problematic. For as even the Department concedes, if a tax imposed by a charter city truly is a valid exercise of the city’s authority

successfully argues to a court that the tax is permissible under its constitutional home rule authority.” Despite acknowledging this intent to penalize lawful conduct, the American Beverage amici argue the penalty provision is valid nonetheless for two reasons.

First, they assert section 7284.12’s penalty is lawful because the Legislature intended to preempt—and in fact did preempt—local grocery taxes. We agree the Legislature intended to preempt most local taxes in this area. Section 7284.9 explains, for instance, that “[i]t is the intent of the Legislature to regulate the imposition and collection of taxes and other charges on groceries comprehensively and to occupy the field to the exclusion of local action except as specifically provided in this chapter.” (§ 7284.9, subd. (a).) It adds “[t]hat the promotion of uniformity in the taxation of groceries is a matter of statewide concern and, therefore, is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.” (*Id.*, subd. (b).) But as covered, section 7284.12’s penalty is not intended to cover conduct that is preempted; it is instead intended to cover conduct that is *not* preempted in an effort to “ ‘ “chill the assertion of constitutional rights.” ’ ” (*King, supra*, 3 Cal.3d at p. 235.) That is improper.

Second, the American Beverage amici fault the trial court for failing to consider whether section 7284.12’s penalty was reasonably calculated to advance the legitimate regulatory objectives of uniformity of taxation—which, according to these amici curiae, is the appropriate test to apply in this instance. But again, the Legislature’s sole purpose in imposing the penalty was “ ‘ “to chill the assertion of constitutional rights.” ’ ” (*King, supra*, 3 Cal.3d at p. 235.) That is not, as the American Beverage amici claim, a legitimate regulatory objective. It is instead a “ ‘ “patently unconstitutional” ’ ” objective. (*Ibid.*; see *California Teachers Assn. v. State of California* (1999) 20 Cal.4th 327, 338 [if a certain statute had “no purpose other than to chill the exercise of the right of teachers to demand a hearing before they are dismissed or suspended, we must hold the statute unconstitutional on its face”]; *Sonoma County Organization of Public Employees v. County of Sonoma, supra*, 23 Cal.3d at p. 319 [“while the state may impose

[Bradley-Burns] if that local agency imposes, increases, levies and collects, or enforces any tax, fee, or other assessment on groceries . . . for which a court of competent jurisdiction has determined both of the following: [¶] (1) The tax, fee, or other assessment is in conflict with the prohibition set forth in subdivision (a), and is not a tax, fee, or other assessment described in subdivision (b) or (d). [¶] (2) The tax, fee, or other assessment is a valid exercise of a city’s authority under Section 5 of Article XI of the California Constitution with respect to the municipal affairs of that city.”

But as the Department acknowledges, this change would significantly alter the scope of section 7284.12. As currently drafted, the statute threatens to penalize only charter cities as only charter cities can “valid[ly] exercise . . . authority under Section 5 of Article XI of the California Constitution.” (§ 7284.12, subd. (f)(2).) But under the Department’s edits, the statute would instead threaten to penalize all “local agenc[ies]”—a term defined to include, among other entities, charter cities, general law cities, and counties. (§ 7284.10, subd. (g); Gov. Code, § 7920.510.) The Department concedes this change but claims it is insignificant because counties and general law cities “are less likely to impose a prohibited tax.” We find differently. Severance is a tool for removing offensive language when the language is grammatically, functionally, and volitionally separable—not a tool for creating new penalties (in this case, penalties against counties and general law cities) that the Legislature never even considered. Because we cannot say that the Legislature would have adopted the scheme that the Department envisions, we reject its proposed edits. (See *California Redevelopment Assn. v. Matosantos*, *supra*, 53 Cal.4th at p. 271 [severance is inappropriate when the resulting scheme is not one the Legislature necessarily would have adopted].)