

# ATTACHMENT #1

## RESOLUTION NO. 2023-\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, APPROVING MODIFICATION NO. 2 TO CONDITIONAL USE PERMIT NO. 97-3 TO CONSTRUCT A NEW 8,050 SQUARE CAFÉ WITH 2,310 SQUARE FOOT PATIO, A 710 SQUARE FOOT STORAGE BUILDING, AND A RECREATIONAL SPLASH PAD WITH RETRACTABLE ROOF STRUCTURE WITHIN THE LIVING DESERT ZOO AND GARDENS LOCATED AT 47900 PORTOLA AVENUE (APN:625-300-052)**

**WHEREAS**, The Living Desert Zoo and Gardens (the "Applicant"), has filed applications with the City of Indian Wells (the "City") for approval of a Modification No. 2 of Conditional Use Permit ("CUP") No. 97-3 to construct and operate a new Big Horn Café, storage building, and splash pad amenity with retractable roof structure (the "Project"); and

**WHEREAS**, notice of a public hearing of the Planning Commission of the City to consider the Applicant's request was given in accordance with applicable law; and

**WHEREAS**, on June 29, 2023, a duly noticed public hearing on the Project was held by the Planning Commission and recommended approval to City Council; and

**WHEREAS**, pursuant to the Indian Wells Municipal Code Section 21.06.040(d), findings shall be made for consideration by the City Council for any application for a conditional use permit, or for modification to an existing conditional use permit, to ensure conformance with the City's Zoning Code, the public health, safety, or welfare, and General Plan; and

**WHEREAS**, notice of a public hearing of the City Council of the City of Indian Wells to consider Modification No. 2 of CUP 97-3 was given in accordance with applicable law; and

**WHEREAS**, on July 06, 2023, a duly noticed public hearing on the Project was held by the City Council at which the Council considered the potential effects of the Project on public and private facilities, and accepted oral and written testimony from interested persons; and

**WHEREAS**, the City Council carefully considered all information pertaining to the Project, including the staff report, project plans and specifications, and all the information, evidence, and testimony presented at its public hearing; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**SECTION 1.** The City Council hereby makes the following findings:

### **Conditional Use Permit Findings:**

1. Finding: The proposed location of the modified conditional use is in accord with the objectives of the Zoning Code and the purpose of the General Plan and zoning land use category in which the site is located.

**Fact:** The proposed project is in accord with the existing General Plan and Zoning land use category as the site remains designated for education and conservation facilities, and open

space that has served the residents' need since the issuance of the original permit. The subject property is located within the Watercourse Zoning and Planning Area 11, subarea 11.2. The project remains in accord with the existing General Plan Open Space and Recreation Plan (Policy IIIA-1.1) by preserving the watercourse open space resources. The Project does not deviate from the original approval and is considered an expansion of the approved restaurant and entertainment uses at the Living Desert Zoo and Gardens.

2. Finding: The proposed conditional use will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.

**Fact:** The modification of CUP 97-3 will not result in any detrimental consequences to the public health, safety, or welfare nor be materially injurious to properties or improvements in the vicinity as the proposed Project will be strategically situated within the interior of the zoo which will remain screened from the public right-of-way. The proposed Project will only serve to enhance the visitor experience at the zoo, and parking demands will be met, and exceeded with existing and future on-site parking developments.

The Project shall be required to adhere to Conditions of Approval attached hereto as Exhibit "A" including all applicable sections of the California Building Code, California Fire Code and Municipal Code thus avoiding adverse impacts resulting from the development's use. In addition, enhancements to circulation provided by the Project includes a minimum 16-foot-wide fire access lane and additional hydrants for protection of structures, animal exhibits and public safety.

3. Finding: The proposed conditional use will comply with each of the applicable provisions of the Zoning Code except for approved Variances.

**Fact:** Development within the Watercourse zone is governed by Section 21.46.030 and may be authorized pursuant to a CUP, or modification of, if deemed that the use remains compatible with preserving the condition of the watercourse property. The proposed modification of the Conditional Use Permit has been conditioned to comply with each of the applicable provisions of the City's Municipal Zoning Code and to preserve the condition of the watercourse property. The proposed Project provides additional services to the existing zoo site while allowing the site to operate as originally approved and remain in conformance with the provisions of the Zoning Code.

### **Environmental Findings:**

Modification No. 2 to Conditional Use Permit No. 97-3, 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 proposed modification is not expected to create new significant impacts or substantially increase the severity of previously assessed impacts. Furthermore, the expanded use to existing facilities qualifies as being Categorically Exempt from CEQA pursuant to Section 15332, In-Fill Development Projects, of the CEQA Guidelines.

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

**Section 2.** The City Council **ADOPTS** Resolution approving Modification No. 2 of Conditional Use Permit No. 97-3 to allow for the improvements to the Living Desert Zoo and Gardens (Cafe, Storage Building, Splash Pad), subject to the conditions listed on Exhibit "A" attached hereto and by this reference incorporated herein.

**Section 3.** This Resolution shall take effect upon adoption.

**Section 4.** The City Clerk shall certify to the adoption of this Resolution and shall mail by first class, prepaid, United States mail, a certified copy of this Resolution to Applicant class, prepaid, United States mail, a certified copy of this Resolution to the Applicant.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Indian Wells, California, at a regular meeting held on this 6<sup>th</sup> day of July 2023.

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**DONNA GRIFFITH  
MAYOR**

**CERTIFICATION FOR RESOLUTION NO. 2023-\_\_\_\_**

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 6<sup>th</sup> day of July 2023, by the following vote:

**AYES:**

**NOES:**

**EXCUSED:**

**ATTEST:**

**APPROVED AS TO FORM:**

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**ANGELICA AVILA  
CITY CLERK**

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**TODD LEISHMAN  
CITY ATTORNEY**

**EXHIBIT "A"**

**Conditions of Approval for  
Modification No. 2 of Conditional Use Permit (CUP) No. 97-3  
Resolution  
Living Desert Zoo and Gardens (Café, Storage, and Splash Pad)  
July 06, 2023**

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**GENERAL:**

1. The Applicant shall defend, indemnify, and hold harmless the City of Indian Wells and its officials, officers, employees, and agents from and against any claim, action, or proceeding against the City of Indian Wells, its officers, employees, or agents to attack (including any judicial proceedings or an referendum), set aside, void, or annul any approval or condition of approval of the City of Indian Wells concerning this project, including but not limited to, any alleged act or failure to act related to the California Environmental Quality Act ("CEQA"), any approval or condition of approval by the Planning Commission or City Council. The City shall promptly notify the Applicant of any such claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. Applicant shall defend, with counsel mutually chosen by City and Applicant Applicant's own cost, expense, and risk, all such aforesaid suits, actions or other proceedings of every kind that may be brought or instituted against City, its officials, officers, employees and agents. The applicant shall pay and satisfy any judgment, award or decree that may be rendered against City, its officials, officers, employees, or agents in any such suits, actions, or other proceedings. Applicant shall also reimburse City for the cost of any settlement paid by City arising out of any such claims, demands, causes of action, costs, expenses, liabilities, losses, damages, injuries, suits, actions, or other proceedings. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. The applicant shall reimburse City, its officials, officers, employees, and agents for all legal expenses and costs, including expert witness fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, officers, employees, or agents. In all cases, the City reserves the right, at its own option and cost, to choose its own attorney to represent the City, its officials, officers, employees, and agents in the defense of the matter.
2. In the event that any condition contained herein is determined to be invalid or legally unenforceable, then all remaining conditions shall remain in force.
3. This approval of modification No.2 to CUP No. 97-3 shall be used within one (1) year after final approval or it shall become null and void unless the time limit is extended by the City Council per Municipal Code Section 21.06.040(e). The phrase "be used" above shall mean the application and approval of required City approvals for the Living Desert Zoo and Gardens proposed project amenities.

4. All applicable Conditions of Approval adopted by the City Council for Conditional Use Permit Nos. 2-90-06, 2-97-1, and 2-97-3 relating to The Living Desert Zoo and Gardens either through Resolution or Meeting Minutes shall remain in full force and effect, except as modified herein.
5. Unless modified by Variance, all Watercourse (WC) Zoning development standards shall be in effect.
6. All signage must be in compliance with Indian Wells Municipal Code Title 17 and all other applicable Code sections. Proposed deviations from the Title 17 of the Indian Wells Municipal Code shall be submitted for consideration as an application in compliance with Indian Wells Municipal Code Section 21.06.050.
7. Upon submittal of construction drawings to the Building Division for plan check review, all departmental conditions of approval for the project shall be included on the sheet following the title sheet, or the first sheet of the plans. A site plan shall also be attached to all sets of construction drawings. This condition shall be a minimum requirement for acceptance of construction drawings for the Building Division plan check review.
8. Within fifteen (15) days of final approval by the City Council, the Applicant shall submit in writing a statement indicating that the Applicant has read and agrees to the conditions imposed herein. Approvals of land use and related applications hereunder shall become void, and any privilege, permit, or other authorization granted shall be deemed to have terminated, if compliance with this condition has not been completed within the specified time limits.
9. The applicant must obtain written verification from the City Community Development Director, Building Official, City Engineer and Fire Marshal, or designees, of compliance with all Conditions of Approval and Code requirements, prior to commencement of operations of the Living Desert Zoo and Gardens Café and Splash Pad amenities as approved by this modification No. 2 to CUP No. 97-3.
10. The Project shall be developed in accordance with the approved plans, and failure to comply with any conditions of approval shall be deemed just cause for revocation of project approval by the City Council. However, the Community Development Director or designee shall have the authority to approve minor deviations in the conditions of approval, and all plans including the construction drawings, if deemed necessary by both the Applicant and the City to implement the Project as approved.
11. The Applicant shall pay all applicable development impact fees at the established rates. Such fees may include, but not be limited to, new construction fee, park or open space fees, school fees, drainage fees, sewer fees, TUMF fee, local CVMSHP development impact fee, building permit and plan check fees.
12. Approval of this request shall not waive compliance with all applicable sections of the Indian Wells Municipal Code, all other applicable City ordinances, and applicable specific plans.

13. Construction shall occur between the hours of 7:00 am and 5:00 pm, Monday through Friday, 8:00 am and 5:00 pm, Saturday and no construction on Sunday or national holidays per Municipal Code Section 9.06.047. The Community Development Director may grant a temporary waiver from these hours in limited circumstances where a special need is demonstrated.
14. Prior to issuance of a building permit for construction, the applicant shall provide a letter to the City from the Coachella Valley Water District (CVWD) granting their permission to construct the project as proposed.

**FINANCE:**

15. Retailers engaged in business in Indian Wells shall maintain a City of Indian Wells Business License.
16. The Sales Tax is an excise tax imposed on retailers for the privilege of selling tangible personal property. The Use Tax is an excise tax imposed on a person for the storage, use, or other consumption of tangible personal property purchased from any retailer. The proceeds of sales and use taxes imposed within the boundaries of Indian Wells are distributed by the State to various agencies, with the City of Indian Wells receiving one percent. Taxable sales generated within the City Boundaries shall be reported to the California Department of Tax and Fee Administration (CDTFA) as taxable sales occurring within the City of Indian Wells. Retailers shall take care to ensure that sales tax generated in the City of Indian Wells is reported to the CDTFA as such.
17. Sales and Use Tax Collections for Construction Projects. The City requires a Point of Destination (POD) sales tax collection in California for large construction projects greater than \$5,000,000. This specific rule determines the allocation of sales tax based on where the property is ultimately used or delivered. Under this rule, the sales tax is calculated based on where the property is ultimately used or delivered rather than where the sale occurs. The applicant shall obtain information from the City of Indian Wells' Finance Department to determine if the project is subject to this rule.

**CONDITIONALLY PERMITTED USES:**

18. The following uses shall be conditionally permitted uses as allowed by Modification No. 2 of CUP No. 97-3:
  - a. Education and Conservation Center

**PARKING:**

19. All 709 existing on-site parking spaces provided at the Living Desert Zoo and Garden facilities shall remain, with the addition of 228 spaces provided in the future as detailed in the accompanying project parking memorandum. On-site parking shall continue to meet parking demand generated by the additional amenities.

**SITE IMPROVEMENTS/ARCHITECTURE:**

20. The Development shall conform to all the applicable development standards identified in Section 21.46.030 of the Indian Wells Zoning Code as appropriate and shall otherwise conform to the standards of the underlying zoning district when not specifically addressed in this Section.
21. A precise wall plan indicating the design, location and construction details of all new walls and fences shall be submitted to the Community Development Director for review and approval by the Planning and Building Departments. All perimeter and street-facing walls, including retaining walls, shall be decorative in nature and in substantial conformance to the approved conceptual landscape plans attached to the Project Staff Report.
22. Any roof mounted equipment including but not limited to heating, venting, cooling and radio/antenna shall be fully concealed from grade elevation view by architecturally integrated means subject to review and approval by the Community Development Director, or designee.

**LANDSCAPING:**

23. The irrigation system shall include provisions for design features that conserve water, such as controlled irrigation systems, which employ drip irrigation, soil moisture sensors, and automatic systems that minimize runoff and evaporation, supplemental hand watering, and the use of mulch on top of soil to improve water-holding capacity as approved by the Community Development Director.
24. Detailed landscaping and irrigation plans shall be submitted for approval by the Community Development Director and the Coachella Valley Water District. The plans shall be certified by a landscape architect and shall provide permanent, automatic irrigation systems, which shall be installed on all landscaped areas requiring irrigation and be in full compliance with the adopted Landscape Guidelines and Design Specifications. Final landscape, hardscape and lighting plans shall be subject to approval by the Community Development Director and Public Works Director or designees prior to installation of those improvements.
25. Above ground-mounted utility locations shall require approval by the Community Development Director. All detector check and backflow assemblies shall be located in planting areas.
26. The detector check/backflow devices shall be painted a neutral/earth tone color and any pipes extending above ground shall be finished and painted to match the device.
27. All ground-mounted utility appurtenances shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming and/or landscaping to the satisfaction of the Community Development Director.
28. All plant materials within landscaped areas, including areas within the Public Right-of-Way shall be maintained in a viable growth condition throughout the life of this project.

29. All landscaping and irrigation shall be installed in accordance with plans on file with the Community Development Department, and irrigation systems fully operational. Furthermore, all landscaped areas shall be free of trash and debris.

**LIGHTING:**

30. Prior to the issuance of building permits, the Applicant shall submit to the Community Development Director for approval, a detailed on-site lighting plan indicating the style, illumination, height, and method of shielding for all permanent light fixtures proposed for the Project. The plan shall include a photometric diagram depicting illumination levels.
31. Project lighting shall, in general, be as subdued as possible, avoiding excessive light spillage outside the property boundary. Outdoor lighting shall be shielded sufficiently to not adversely impact surrounding uses but shall provide sufficient illumination for access and security purposes. Such lighting shall not blink, flash, or oscillate.
32. Landscape lighting shall be indirect; non-glare lights, positioned to light tree canopies, paths and walkways, or walls, as appropriate, and avoid light spillage outside of the Project area. Up-lights in turf areas shall be in light wells only. Up lights in planters must have j-boxes below grade (or screened as approved by the Community Development Department), light fixtures must be screened with landscaping, etc.
33. All exterior lighting fixtures shall be installed in accordance with plans on file with the Community Development Department and shall be fully operational prior to occupancy.
34. All building-mounted light fixtures within common areas shall be decorative in nature and architecturally compatible with the building. Building-mounted light fixtures shall be reviewed and approved by the Community Development Director, or designee prior to installation.

**PUBLIC WORKS/ENGINEERING:**

35. All private streets and driveways shall be constructed in accordance with City of Indian Wells Standard Plans unless otherwise approved by the Public Works Director. All proposed street and driveway improvements shall be shown on a Precise Grading Plan and shall be reviewed and approved by the Public Works Director prior to issuance of a Precise Grading Permit. A Precise Grading Permit shall be obtained prior to commencement of any improvement work. All work shall be inspected by the City. All appropriate fees for review of plans, issuance of a Precise Grading Permit, and inspection shall be submitted to the City. A Record (as-built) Precise Grading Plan shall be submitted to the City for review and approval prior to final acceptance of improvements.
36. Prior to issuance of a Precise Grading Permit, the Applicant shall submit and obtain approval of all of the following:
  - A. Precise Grading Plan that shall be prepared by a qualified Engineer and shall conform to the recommendations contained in a Preliminary Geotechnical Report(s).



- B. Fugitive Dust Control Application and Plan.
  - C. Refundable dust deposit in the amount of \$2,000 per acre.
37. Prior to construction on the site, a six foot (6') temporary chain-link fence shall be erected on any portion of the property that is exposed to public access and connected to any block walls surrounding the property. This will deter theft of and vandalism to construction materials and equipment on the property during construction. All construction fencing shall have a screen mesh so as to conceal construction activity from public view.
  38. Landscaping plans for trees, shrubs, walls, fences or other structures at or near intersections must conform to Indian Wells Municipal Code sight distance standards and Public Works public street standards for areas accessing public rights-of-way. Plans for improvements that may impact sight distance must be submitted to and approved by the City Engineer prior to the issuance of building permits or implementation of landscape improvements.
  39. In accordance with the requirements of the Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit (MS4 Permit) No. CAS617002 (Order No. R7-2008-0001) adopted on May 25, 2008 by the State Regional Water Quality Control Board, a final, project-specific Water Quality Management Plan (WQMP) shall be submitted by the Applicant to the City for review and approval prior to issuance of any building or grading permits. The WQMP shall substantially conform to the requirements of the latest edition of the "Whitewater River Region Water Quality Management Plan for Urban Runoff". The property owner shall record a "Water Quality Management Plan and Stormwater BMP Maintenance and Right of Entry Agreement" with the County-Clerk Recorder to enforce said WQMP and BMP's and to inform future property owners of the requirement to implement the approved project-specific WQMP.
  40. Prior to the issuance of a certificate of use and/or occupancy, the applicant shall demonstrate compliance with applicable NPDES permits for construction, industrial/commercial, MS4, etc. to include:
    - Demonstrate that all structural Best Management Practices (BMP's) described in the BMP Exhibit from the project's approved WQMP have been implemented, constructed, and installed in conformance with approved plans and specifications.
    - Demonstrate that the project has complied with all non-structural BMPs described in the project's WQMP.
    - Provide signed, notarized certification from the engineer of work that the structural BMP's identified in the project's WQMP are installed and operational.
    - Submit a copy of the fully executed, recorded Operations and Maintenance (O&M) Plan for all structural BMPs.
    - Demonstrate that copies of the project's approved WQMP (with recorded O&M Plan attached) are available for each of the initial occupants (commercial/industrial) or Owner's Association as appropriate.
  41. Prior to grading permit issuance, the Applicant shall file for a National Pollutant Discharge Elimination System (NPDES) permit with the California State Water Resources Control Board and abide by the conditions of the permit as issued. A copy of the NOI, Storm Water

Pollution Prevention Plan (SWPPP), and Monitoring Plan shall be submitted to the Public Works Department a minimum of thirty (30) days prior to commencing grading operations.

44. All existing public improvements intended to be protected in place, including but not limited to curb, sidewalk, and traffic signal appurtenances, shall be shown and labeled on the improvement plans as "protect in place". Any said existing improvements damaged or destroyed as a result of this Project shall be repaired or replaced as directed by the City's representative.
45. All existing regulatory, warning, and guide signs disturbed by this Project shall be replaced with new signs as directed by the City's representative.
46. The project shall comply with all of State of California's Recycling laws, including initiatives covered by Senate Bill 1383, incorporating Organic Waste Disposal and Food Recovery. The project will be inspected annually for compliance with Tier 2 objectives.

**FIRE DEPARTMENT:**

47. Fire Protection Water Supplies/Fire Flow: Prior to the issuance of the building permit, the applicant shall provide documentation to show there exists a water system capable of delivering 1,250 GPM at 20 psi for 2-hour duration. Specific design features may increase or decrease the required fire flow. Reference CFC 507.3
48. Fire Protection Water Supplies/Hydrants - The minimum number of fire hydrants required, as well as the location and spacing of fire hydrants, shall comply with CFC Appendix C. A fire hydrant shall be located within 20 to 100 feet of the fire department connection for buildings protected with a fire sprinkler system. The size and number of outlets required for the approved fire hydrants are 4" x 2 1/2" x 2 1/2" (super hydrant). Reference CFC 507.5, CFC Appendix C and NFPA 24 7.2.3
49. Fire Department Access Driveways: The construction of the fire apparatus access roads shall be all weather and capable of sustaining 75,000 lbs. The minimum required width of the fire lane shall be 16 feet and the minimum unobstructed vertical clearance shall be 13 feet, 6 inches. Dead-end fire apparatus access roads exceeding 150 feet in length shall be provided with an approved turn around.
50. Fire Department Access Walkway: Openings in the gate or passageway providing exterior access to the outdoor patio shall have a minimum width of 3 feet and a minimum vertical clearance of 80 inches.
51. Fire Department Building Construction Permit Review - Submittal of construction plans to the Fire Department will be required. Final fire and life safety conditions will be addressed when the Fire Department reviews these plans. These conditions will be based on California Fire Code, California Building Code (CBC), and related codes/standards adopted at the time of construction plan submittal.
52. Fire Sprinkler System - All new commercial buildings and structures 3,000 square feet

or larger are required to be protected with a fire sprinkler system. Reference CFC 903.2 as amended by the City of Indian Wells.

53. Fire Sprinkler System Design Criteria – As an alternative to the substandard fire apparatus access road width, the Café building's fire sprinkler system shall be enhanced by a minimum of one level with respect to the occupancy classifications referenced in NFPA 13.
54. A fire alarm system may be required and will be determined at the time of building construction plan review. Reference CFC 907.2
55. Knox Box and Gate Access: Buildings shall be provided with a Knox Box installed in an accessible location approved by the Office of the Fire Marshal. Manual gates shall be equipped with approved Knox equipment. Electric gates shall be provided with Knox key switches. Electric gate operators shall also be connected to a remote signal receiver compatible for use with the preemption devices on the Riverside County fire apparatus. The gate shall automatically open upon receiving a remote signal from the fire apparatus.
56. Premises Identification: Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign and means shall be used to identify the structure.

#### **RECYCLING:**

42. The Applicant shall comply with the provisions of the City of Indian Wells' Construction & Demolition Debris Management Plan and the Indian Wells Municipal Code Chapter 16.75.
43. Approval of the Construction & Demolition Debris Management Plan by the City is required before issuing a demolition and building permit and beginning of demolition and on-site mobilization work.
44. Any recyclable materials shall be removed from the premises by a licensed contractor as an incidental part of a total construction, remodeling or demolition services offered by that contractor who will certify in writing that accepted construction and demolition debris will be diverted from that accepted construction and demolition debris will be diverted from landfill, not dumped illegally, or dumped at sea.
45. Any reusable materials removed from site by a not-for-profit organization shall certify in writing that the accepted construction and demolition debris will be diverted from landfill, not dumped illegally, or dumped at sea.
46. The Applicant shall develop a plan for diverting a minimum of fifty percent (50%) of construction and demolition debris from landfill and how it will be diverted from landfills.
47. The Applicant or contractor shall furnish copies of the Construction & Demolition Debris Management Plan to all on-site supervisors, each subcontractor, the Owner, and the Architect.

48. The Applicant shall minimize the creation of construction and demolition waste on the job site.
49. The Applicant shall reuse, salvage, or recycle as much of the inevitable waste that is generated from the construction or demolition as is feasible.
50. The contractor shall conduct Construction Waste Management meetings. Meetings shall include subcontractors affected by the Waste Reduction and Recycling Plan. At a minimum, waste management goals and issues shall be discussed at the following meetings:
  - Pre-bid meetings.
  - Pre-construction meeting.
  - Regularly scheduled job-site meetings.

**CONSERVATION:**

51. The Applicant shall use, to the extent practicable, native and water efficient landscaping. The installation of water conservation devices in development and irrigation systems shall be explored and used to the extent appropriate and reasonably feasible.
52. If rooftop telecommunication arrays are proposed, they shall be screened from view or incorporated into building facade.
53. The Applicant shall consider sustainable site and building design techniques, which may include, but are not limited to, the following:
  - On-site generation of renewable energy through the use of solar power.
  - On-site generation of renewable energy through photovoltaic techniques and usage of photovoltaic cells.
  - Use of natural, plentiful, or renewable materials in building construction.
  - Low or non-toxic materials shall be utilized with minimal VOC-producing compounds.
  - Use of materials, components and systems that help reduce energy consumption to buildings and facilities.
  - Where possible, design buildings that exceed California's Title 24 energy efficiency standards by at least fifteen percent (15%).
  - A weather-based satellite irrigation system.
  - Strategic orientation and configuration of buildings and shading elements to passively heat and cool spaces.
  - Designated carpool parking areas.
  - Use of energy-efficient and automated controls for air-conditioning units and lighting to reduce electricity consumption and associated emissions.

54. The Project shall include provisions for design features that conserve water including low-flush toilets, low-flow faucets, and inclusion of water conserving irrigation practices.
55. The Applicant shall incorporate energy conservation measures into building design in accordance with energy conservation requirements imposed by the California Energy Commission and Title 24 of the California Administrative Code. Architectural and landscape design plans shall promote, to the maximum extent feasible, design strategies to maximize shading and natural cooling.

**UTILITIES:**

56. The conduit system for any electrical service, with associated concrete manholes and vaults, shall be installed underground in accordance with utility company requirements and those that may be imposed by the City.
57. Utility transformers and other appurtenances shall be placed according to the requirements of the applicable utility purveyor.

**COACHELLA VALLEY WATER DISTRICT (CVWD):**

58. As required by CVWD, prior to the issuance of building permit approval, the Applicant shall prepare detailed water system improvement plans for the project that shall be submitted and approved by CVWD. Improvements identified in the plans shall be implemented by the Applicant and be in place prior to occupancy and permit issuance.
59. The Applicant shall pay all fees required by CVWD.
60. Prior to the issuance of building permits, the Applicant shall obtain approval from the Coachella Valley Water District indicating that adequate sewer capacity exists to service site development. The Coachella Valley Water District's approval of signed sewer plans for the Project shall suffice as such approval.
61. All water system improvements shall be closely coordinated with and shall be subject to review and final approval by the Coachella Valley Water District.

**SOUTHERN CALIFORNIA EDISON (SCE):**

62. The Applicant shall contact SCE to discuss energy conserving measures including day lighting, thermal storage, and passive solar applications. The Applicant shall provide the Community Development Director with a letter from SCE confirming that this discussion has occurred and listing any recommended measures. The Community Development Director shall evaluate the letter and determine the appropriate level of implementation prior to issuance of building occupancy permits.
63. Unless otherwise approved by the City and/or specified by the Southern California Edison Company, the Applicant shall be financially responsible for the design and construction of all on-site infrastructure improvements for power transmission lines necessary to serve the project. The Applicant shall dedicate and record any right-of-way and maintenance

easements, as may be required by the Southern California Edison Company, for the purpose of constructing and maintaining electrical system improvements.

64. The developer shall apply for, obtain, and submit a letter from Southern California Edison (SCE) indicating that the construction activity will not interfere with existing SCE facilities (SCE NIL).

**SOUTHERN CALIFORNIA GAS COMPANY:**

65. The Applicant shall contact the Southern California Gas Company to discuss the most effective applications of energy conservation techniques for this Project. The Applicant shall provide the Community Development Director with a letter from SCG confirming that this discussion has occurred and listing any recommended techniques. The Community Development Director shall evaluate the letter and determine the appropriate level of implementation prior to issuance of building occupancy permits.
66. Relocation of facilities on the project site (if any), which facilities exist by right of easement or otherwise, the Owner/Applicant will provide Southern California Gas or other agency with suitable replacement rights. Any costs and replacement rights are required prior to the performance of the relocation.

**BUILDING AND SAFETY:**

67. A pre-construction meeting, scheduled with the Building Division, shall be held with all applicable City staff members, Applicant, contractor, superintendent, and all subcontractors prior to start of construction.
68. Prior to the issuance of a building permit for construction, the Applicant shall first obtain and present to the Building Department permits and/or clearances from the following agencies/individuals:
  - City Fire Marshal
  - City Public Works Director
  - Community Development Director
  - CVWD
69. Seismic design consideration shall be in accordance with the provisions of the current California Building Code and the seismic design parameters of the Structural Engineers Association of California.
70. Building construction will be designed in accordance with the energy conservation requirements imposed by the California Energy Commission and Title 24 of the California Administrative Code.
71. The Project shall comply with all applicable provisions of the Americans with Disabilities Act (ADA).

72. The Project is to be built according to Building and Safety Standards and comply with any applicable City of Indian Wells Municipal Code Regulation.
73. The Project site shall be clean and free of trash and construction debris, and all construction equipment shall be removed from the site prior to issuance of a certificate of occupancy.

**ENVIRONMENTAL:**

74. Pursuant to Public Resources Code Section 21089 and Fish and Game Code Section 711.4, payment of the fees marked [X] below shall be made to the *City of Indian Wells* within 5 days of City Council approval.

[X] \$ 50 - "Administrative Fee" to file the Notice of Determination

**END OF CONDITIONS**