

**Environmental Findings of Fact and  
Statement of Overriding Considerations  
on the  
Supplemental Environmental Impact Report for the  
Garden of Champions  
(Indian Wells Town Center Project)**

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## SECTION 1: INTRODUCTION

This document contains the findings required under the California Environmental Quality Act ("CEQA") (Public Resources Code, § 21000, et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.), specifically CEQA Guidelines § 15091, supporting the certification of the Indian Wells Town Center Project Supplemental EIR, the Recirculated Supplemental EIR, and the City's approval of the project.

### 1.1 PROJECT DESCRIPTION

**1.1.1 LOCATION:** The total project area consists of approximately 179 acres of land located on the west side of Washington Street both north and south of Miles Avenue in the northeast portion of the City of Indian Wells. The site is located in Section 19, Range 7 East, Township 5 South, in Riverside County. It can be found on pages 819 and 849 of the Thomas Brothers Map for Riverside County.

**1.1.2 PROJECT SETTING:** The Indian Wells Tennis Garden was constructed in 2000 on approximately 54 acres of the overall 179-acre site. The remainder of the site has remained vacant. There is a small pump house at the southwest corner of Washington Street and Miles Avenue and an area on the south side of Miles Avenue being used as a sod farm. In addition, approximately 39 acres south of Miles Avenue is used for interim overflow parking for the Tennis Garden. Otherwise, there are no improved uses on the remainder of the project site. The acreage summary and proposed uses for the Indian Wells Town Center project and additional parking lot are described as follows:

<u>LAND USE</u>	<u>ACRES</u>
Indian Wells Tennis Garden (existing)	54
Proposed 1,632 space parking lot (City Owned)	13
Planning Area One (Retail/Entertainment/Commercial)	29
Planning Area Two (Resort or Condominium Hotel)	22
Planning Area Three (Resort Residential)	25
Planning Area Four (Retail/Restaurant)	3
Coachella Valley Storm Channel	33
<b>TOTAL</b>	<b>179</b>

**Note:** All acreage figures have been rounded.

The site is currently designated as "Resort Commercial" and "Sports Complex" by the Indian Wells Land Use/Zoning Map. Surrounding land uses are as follows:

**Site:** Existing Indian Wells Tennis Gardens and vacant land.  
**North:** Southwest Community Church.  
**West:** Vacant land.  
**East:** Single-family residences (City of La Quinta)  
**South:** Coachella Valley Storm Channel (aka Whitewater River Channel)

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## **1.2 RELATIONSHIP OF THE PROJECT TO THE 1998 PROGRAM EIR FOR THE GARDEN OF CHAMPIONS**

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In 1998, a Program Environmental Impact Report (hereinafter 1998 EIR) was prepared for the Garden of Champions (State Clearinghouse No.1998041039). At that time, the property was unincorporated in the County of Riverside. Subsequently, the property was annexed into the City of Indian Wells. When the property annexed, the City determined that the Findings of the 1998 EIR for the Garden of Champions Project were appropriate and adopted them into the City's planning approvals. The Supplemental EIR was designed to tier off the 1998 EIR and compare the impacts of the current proposed project to those identified in the 1998 EIR.

The previously approved Garden of Champions project (hereinafter referred to as the Tennis Garden) complex included a variety of commercial and residential uses organized around a national tennis tournament tennis complex with 3 stadiums. In 1988, there was detailed information about the tennis complex but less detailed information about future support commercial and residential uses. Therefore, the 1998 EIR examined project-level impacts of the Tennis Garden and program-level impacts of the support uses. It was intended that additional environmental analysis of the commercial and residential uses would be conducted when more detailed project information was available. Since 1998, the land owner for the remaining vacant acreage and the City have discussed the overall goals and character for development of the remaining vacant acreage. The Indian Wells Town Center Specific Plan (the "project") is being proposed based on current conditions, which have changed since the construction of Phase 1 of the project (Tennis Garden) in 2000.

After extensive consideration of the proposed project, the City has determined that a Supplemental EIR based on the previously approved 1998 EIR was the most appropriate CEQA document given the characteristics of the proposed project and its potential environmental impacts.

Section 15163 subd. (a) through (d) of the CEQA Guidelines states as follows:

- (a) The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- (1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and
- (2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.
- (b) The supplement to the EIR need only contain the information necessary to make the previous EIR adequate for the project as revised.
- (c) A supplement to an EIR shall be given the same kind of notice and public review as is given to a draft EIR under Section 15087.
- (d) A supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR.

A Supplemental EIR augments a previously certified EIR to the extent necessary to address conditions described in CEQA Guidelines Section 15162 and to examine mitigation and project alternatives accordingly. It is intended to revise the previous 1998 EIR through supplementation. CEQA Guidelines Section 15163 (e) requires the City consider the 1998 EIR as revised by the SEIR.

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### **1.3 INCORPORATION BY REFERENCE**

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These Findings incorporate by reference in their entirety the text of the Final 1998 Program Environmental Impact Report for the Garden of Champions (hereinafter "1998 EIR") and the Findings and Statement of Overriding Considerations adopted by the Riverside County Board of Supervisors in connection with its certification. Without limitation, this incorporation is intended to elaborate on the scope and nature of the proposed project and its environmental impacts, related mitigation measures, and the basis for determining the significance of such impacts. These Findings also incorporate the entire record of proceedings for the proposed project, including, without limitation, the Draft and Final SEIRs.

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### **1.4 SEIR REVIEW PROCESS**

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A Notice of Preparation (NOP) was issued by the State of California Governor's Office of Planning and Research State Clearinghouse (State Clearinghouse No. 2006111097), on November 8, 2006, according to the CEQA Guidelines, Sections 15082 (a), 15103, and 15375 indicating that an SEIR was being prepared. The City circulated the NOP to responsible and trustee state agencies, local organizations, and interested individuals to identify issues to be addressed in the SEIR. Comments that were received on the NOP have been addressed during the preparation of the SEIR, and copies of the comment letters are included in Attachment 1 of the SEIR.

In addition to letters received during the NOP period, the SEIR consultant met or contacted City staff to identify potential issues to be addressed in the SEIR. After circulating the NOP, the developer and the City discussed a number of project-related issues at length, including aesthetics, traffic impacts, biological resources, and cultural resources.

Pursuant to the CEQA Guidelines, the City prepared a Draft SEIR (State Clearinghouse No. 2006111097) to analyze the project's potential adverse environmental impacts. Upon completion of the Draft SEIR dated August 15, 2007, the City initiated a 30-day public comment period (approved by the State Clearinghouse) from August 24, 2007 to September 24, 2007, by filing a Notice of Completion with the State Clearinghouse for the Governor's Office of Planning and Research and publishing a Notice of Availability for the Draft EIR in a newspaper of general circulation within the City's jurisdiction (CEQA Guidelines § 15087). Copies of the Draft SEIR were distributed to state agencies through the State Clearinghouse. The Notice of Availability was sent to public agencies, organizations and individuals and indicated where copies of the Draft SEIR could be obtained, or where they were available for review. The City made copies of the Draft SEIR available for local review at the City of Indian Wells Community Development Department.

During the public review period for the Draft SEIR, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and other interested parties pursuant to CEQA Guidelines § 15086. During the public review period, the City received thirteen (13) written comments on the Draft SEIR. The City also received verbal comments from the City of Indian Wells Planning Commission.

Based on comments received during the review period from the City of La Quinta (Aesthetics and Traffic), the Aqua Caliente Band of Cahuilla Indians (Cultural Resources), and the South Coast Air Quality Management District (Air Quality), the City decided to revise and recirculate portions of the SEIR for another 30-day review period. In accordance with State CEQA Guidelines, the Recirculated Draft SEIR was available for public review from February 15, 2008 to March 17, 2008 (State Clearinghouse Number 2006111097).

The City provided written response to comments received from the commenting agencies/individuals pursuant to Public Resources Code § 21092.5. The Responses to Comments Document includes the verbatim comments received on the Draft SEIR, a list of those commenting, and the City's response to the significant environmental points raised in the review and consultation process. The Final SEIR for the project consists of the Draft SEIR (incorporated by reference and hereinafter referred to as the "SEIR" and the Recirculated Draft SEIR), the Responses to Comments Documents, and changes to the SEIR which clarify, supplement, or update the information provided in the SEIR. None of the changes or supplemental information in the Final SEIR constitute significant new information as defined by CEQA Guidelines §15508.5. Therefore, CEQA does not require recirculation of the Final SEIR.

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## **1.5 STATUTORY AND REGULATORY REQUIREMENTS**

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These Findings are based upon the information in the record of proceedings, including, but not limited to, the Final SEIR, staff reports, project applicant's materials, Mitigation Monitoring and Reporting Program, and the testimony presented at public hearings.

Section 15091 of the CEQA Guidelines precludes the City from approving or carrying out a project for which an EIR has been certified that identifies any significant environmental effects unless the City makes one or more of the following written finding(s) for each of those significant effects accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which will avoid or substantially lessen the significant environmental impact as identified in the final EIR; or
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Sections 15092 and 15093 of the CEQA Guidelines require that if the project will cause significant unavoidable adverse impacts, the City must adopt a Statement of Overriding Considerations prior to approving the project. A Statement of Overriding Considerations states that a project's significant adverse project effects are acceptable because they are outweighed by the expected benefits of the project.

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## **1.6 SUMMARY OF ENVIRONMENTAL FINDINGS**

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The City Council has endeavored in good faith to set forth the basis for its decision to approve the proposed project. All of the findings made by the City Council are based upon its consideration of the Final Program EIR for the Garden of Champions (1998 EIR) and the Final SEIR (hereinafter "SEIR") and the substantial evidence within the record as a whole.

The environmental impacts of the project, including those that are (1) less than significant impacts without mitigation; (2) potentially significant impacts that have been mitigated to below a level of significance with the adoption of mitigation measures; and (3) impacts that are significant and cannot be feasibly mitigated to below a level of significance are described in Sections 2, 3, and 4, respectively, of this document.

Environmental Impacts identified in the SEIR as growth-inducing, unavoidable adverse and irreversible are described in Section 5 of this document.

Alternatives to the proposed project that might eliminate or reduce significant environmental impacts are described in Section 6 of this document.

A discussion of project benefits identified by the City Council and a Statement of Overriding Considerations for the environmental impacts that cannot be fully mitigated to a less than significant level are set forth in Section 7 of this document.

Prior to taking action to approve the project, the City Council was presented with, heard, reviewed and considered all of the information and data in the administrative record including, but not limited to, the Final SEIR, and all oral and written testimony presented to it during meetings and hearings. The Final SEIR reflects the independent judgment of the City Council and is deemed adequate for purposes of making decisions on the merits of the project and its related actions. No comments made in the public hearings conducted by the City Council or any additional information submitted to the City have produced any substantial new information requiring recirculation or additional environmental review of the Final SEIR under CEQA because no new significant environmental impacts were identified, no substantial increase in the severity of any environmental impacts would occur and no feasible mitigation measures, as defined in CEQA Guidelines Section 15088.5, were rejected. In light of the above, the remainder of these Findings, and the contents of the record of proceedings, the City Council finds that the Final SEIR was completed in compliance with CEQA and hereby certifies the Final SEIR.

## **SECTION 2 FINDINGS REGARDING IMPACTS THAT ARE LESS THAN SIGNIFICANT AND, THEREFORE, DO NOT REQUIRE MITIGATION**

The City Council finds that the following environmental impacts identified in the 1998 EIR and the SEIR are less than significant, and as a result, mitigation is not required under CEQA.

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### **2.1 AESTHETICS**

**2.1.1 RESIDENTIAL AND RETAIL IMPACTS ON SCENIC VISTA:** The 1998 EIR found that the operation of the commercial and residential uses in addition to the Tennis Garden would alter views on-site and across the site, and the view shed from neighboring properties. The 1998 EIR determined that the Tennis Garden would not alter any significant views of or across the project site, as the site does not display any significant on-site views. The 1998 EIR did not specifically address views of the Santa Rosa Mountains, but proposed mitigation measures primarily aimed at on-site aesthetic impacts. (1998 EIR pp. 5.9-1 through -10; Recirculated SEIR p. 3.1-2). The following analysis and resultant conclusions are based on new information identified in the changes to the project.

Currently the site is vacant and surrounding properties to the east and north have a partially obstructed view of the Santa Rosa Mountains to the southwest (primarily the lower elevations of the mountain areas southwest of the Coachella Valley Storm Channel). (Recirculated SEIR p. 3.1-2).

#### **Single-Family Residential**

The area immediately west of the hotel is proposed for single-family detached residential development and will not have any significant impact on views. (Recirculated SEIR p. 3.1-3).

#### **Retail and Entertainment Center**

The area north of Miles Avenue is proposed for the retail/entertainment portion of the project and includes retail, office, restaurants and a theater. The retail buildings will be one (1) and two (2) story buildings arranged around "courts" and "plazas". Office buildings may be up to four stories in height. The building heights are consistent with the City of Indian Wells Municipal Code requirements (52 feet). In order to reduce impacts in regard to height along Washington Street, the Town Center Specific Plan is restricting the height of buildings located on Pad S and T along Washington Street, south of Via Sevilla to one (1) story with a maximum height of twenty-four (24) feet and Pad C along Miles Avenue, adjacent to the intersection of Planning Area 4 to one (1) story with a maximum height of twenty-four (24) feet. The retail/entertainment area will be comparable to other commercial developments in the area. (Recirculated SEIR pp. 3.1-3 through -4).

Development of the retail/entertainment area will also serve as a buffer between the Indian Wells Tennis Garden and the residential uses to the east. Although development of the mixed-use area north of Miles Avenue will have some impact to views of the mountains to the west, those views are already impacted by the existing tennis facility which reaches heights of approximately sixty-five (65) for the stadiums and 100 +/- feet for the light standards. The impact on views to existing homes in close proximity to vacant land is typical when the land is ultimately developed into its planned use (i.e. commercial). (Recirculated SEIR p. 3.1-4).

Based on the above, impacts of the project on scenic vistas for the Single-family and Retail/Entertainment components were found to be less than significant. (Recirculated SEIR pp. 3.1-7 through -8).

The conclusions in the 1998 did not specifically address scenic vistas in regard to the Santa Rosa Mountains. The SEIR determined that views of the Santa Rosa Mountains to the homes on Via Pavion in the City of La Quinta would be less than significant for the retail/entertainment and residential components of the project. Impacts from the hotel on scenic vistas are discussed in Section 4 of these Findings.

**2.1.2 SCENIC HIGHWAYS:** The 1998 EIR stated that "the Western Coachella Valley Plan designates Washington Street as a scenic highway between Interstate 10 and Indian Wells" (1998 EIR p. 5.9-7). However, according to the updated Western Coachella Valley Area Plan adopted October 7, 2003, Washington Street is not listed as a County Eligible, State Designated, nor State Eligible highway (see Riverside County Integrated Project (RCIP), Figure 9 of Western Coachella Valley Area Plan). (Recirculated SEIR, p. 3.1-4).

Highway 111 is considered to be "State Eligible" for a Scenic Highway. However, according to the RCIP, the "State Eligible" designation applies to Highway 111 basically between Interstate 10 and Highway 74. Thus, the closest point of Highway 111 to the project site is Highway 74 in the City of Palm Desert. Given the distance from the project site to this intersection, the project will not have an impact on Highway 111. Therefore, there will not be a significant impact to a scenic corridor or scenic highway by development of the project site. There are no significant trees or rock outcroppings on the site that will be impacted. Based on the above, impacts of the project on Scenic Highways were found to be less than significant. (*Ibid*).

The conclusions in the 1998 EIR are no longer applicable since Washington Street is no longer designated as a scenic highway. (Recirculated EIR p. 3.1-7).

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## 2.2 AGRICULTURAL RESOURCES

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The 1998 EIR found that the site was not used for agricultural resources and there were no impacts. (1998 EIR p. 8-5). According to the latest version of the California Department of

Conservation Important Farmlands in California Map (2004), the site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. (SEIR p. 3.2-1).

The site is designated as Resort Commercial and Sports Complex by the Indian Wells General Plan. The proposed General Plan Amendment would add a Low Density Residential designation to the site. There would be no conflict with the existing General Plan or zoning in regard to agricultural uses. The site is not under an existing Williamson Act contract. (*Ibid*).

The site consists of the existing Indian Wells Tennis Garden and vacant land. A portion of the site south of Miles Avenue is being used temporarily as a sod farm to provide sod for golf courses. The sod farm is not considered an important agricultural use. (*Ibid*).

Based on the above, impacts of the project on Agricultural Resources were found to be less than significant. (SEIR pp. 3.2-1 through -2). The conclusions in the 1998 EIR and SEIR are the same.

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## 2.3 AIR QUALITY

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### 2.3.1 EXPOSE SENSITIVE RECEPTORS TO SUBSTANTIAL POLLUTANTS:

#### Localized Significance Analysis

Those who are sensitive to air pollution include children, the elderly, and persons with preexisting respiratory or cardiovascular illness. For purposes of CEQA, the South Coast Air Quality Management District (SCAQMD) considers a sensitive receptor to be a location where a sensitive individual could remain for 24 hours, such as residences, hospitals, or convalescent facilities. Commercial and industrial facilities are not included in the definition because employees do not typically remain onsite for 24 hours. However, when assessing the impact of pollutants with 1-hour or 8-hour standards (such as nitrogen dioxide and carbon monoxide), commercial and/or industrial facilities would be considered sensitive receptors for those purposes. There are residences located approximately 500 feet (152 meters) south of the southern boundary of the project site and across from Washington Street approximately 180 feet (55 meters) from the project site. There is a small commercial development at the corner of Washington Street and Highway 111 that likely contains workers, which is approximately 500 feet (152 meters) south of the southern boundary of the project site. (Recirculated SEIR p. 3.3-10).

The SCAQMD Governing Board adopted a methodology for calculating localized air quality impacts through localized significance thresholds (LSTs), which is consistent with SCAQMD's Environmental Justice Enhancement Initiative I-4. LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable state or national ambient air quality standard. The LSTs are developed based on the ambient concentrations of that pollutant for each source receptor area and are applicable to NO<sub>x</sub>, CO, PM<sub>10</sub> and PM<sub>2.5</sub>. The LSTs are summarized in Table 5a of the Recirculated SEIR. (Recirculated SEIR pp. 3.3-10 through -11).

To evaluate localized impacts for construction, an air dispersion model (EPA model, ISCST3) was used to simulate the movement of project related pollutants through the air and compare the concentration of those pollutants to the localized significance thresholds. The estimated concentrations do not represent actual occurrences nor do they necessarily predict future levels. The modeling assumptions are from the SCAQMD LST guidance (SCAQMD 2003). To represent fugitive dust, an area source covering approximately 20 acres was placed on the project in the emissions model, which is the maximum amount of land that would be disturbed per day pursuant to mitigation measures AQ-1. To represent exhaust emission sources, 49 volume sources were placed onsite. A variable emission rate assumed the emissions would be generated during the hours of 8:00 a.m. to 4:00 p.m. The receptors included a fence line grid with 40 meter spacing with intervals of 20, 50, 100, 200, 500 and 1,000 meters from the project site boundary for carbon monoxide and NOx. For PM10 and PM2.5, the fence line concentrations were converted to concentrations at the sensitive receptors using a formula provided in the SCAQMD LST guidance (SCAQMD 2003). (*Ibid*).

Combustion produces NOx, which contains primarily nitric oxide immediately after emitted from the source. Nitrogen dioxide is formed in the atmosphere by atmospheric chemical reactions involving nitric oxide, ozone, and reactive hydrocarbons. Health effects are observed from nitrogen dioxide, not nitric oxide; therefore, ambient air quality standards are set for nitrogen dioxide. The concentration of nitrogen dioxide increases as the distance from the source increases. The concentrations of NOx as estimated by the dispersion model are converted to nitrogen dioxide based on the receptor's distance from the source. (Recirculated SEIR p. 3.3-11).

The onsite mitigated grading emissions estimated by URBEMIS are used in this analysis because onsite emissions of all pollutants are greatest during grading activities. The dispersion modeling results at the maximum and nearest sensitive receptor locations are presented in Table 5b of the Recirculated SEIR. (*Ibid*).

Based upon the analysis in the Recirculated SEIR, the proposed project will not exceed the SCAQMD localized thresholds for CO, Nitrogen Dioxide, PM10 or PM2.5. Therefore, the project will not exceed the applicable air quality standards for those pollutants and will not expose sensitive receptors to substantial quantities of those pollutants. Any impacts to sensitive receptors are anticipated to be less than significant. (SEIR pp. 3.3-13; 3.3-16).

## **CO Hotspots**

The 1998 EIR found that CO Hotspots would not be created by the project. (1998 EIR pp. 5.7-21 through -22). The SEIR, using the CALINE4 model, analyzed potential CO hotspots at the intersections listed in Table 8 (SEIR p. 3.3-11). These intersections were chosen because they operate at LOS D or worse. There were several inputs to the CALINE4 model. One input is the traffic volumes, which is from the project-specific Traffic Report (Willdan 2007). The traffic volumes with the project were used for the build out scenario as

well as emission factors generated using the EMFAC2007 model for the year 2009. (Recirculated SEIR p. 3.3-12).

Project emissions may also be considered significant if a CO hotspot intersection analysis determines that ppm, state CO 8-hour standard of 9 ppm, federal CO 1-hour standard of 35 ppm, or federal CO 8-hour standard of 9 ppm. (*ibid*).

The estimated 1-hour and 8-hour average CO concentrations at build-out in combination with background concentrations are below the state and national ambient air quality standards. No CO hotspots are anticipated as a result of traffic-generated emissions by the project in combination with other anticipated development in the area. Therefore, the mobile emissions of CO from the project are not anticipated to contribute substantially to an existing or projected air quality violation of CO. (Recirculated SEIR pp. 3.3-12 through -13).

Based on the above, impacts of the project on CO Hotspots were found to be less than significant. (Recirculated SEIR p. 3.3-13). The conclusions in the 1998 EIR and SEIR are the same.

**2.3.2 ODORS:** During construction, the proposed project will contain operations that will have odors associated with equipment and materials. None of these odors are permanent, nor are they normally considered so offensive as to cause sensitive receptors to complain. Diesel fuel odors from construction equipment and new asphalt paving fall into this category. Both based on the short-term of the emissions and that characteristics of these emissions, no significant odor impacts are forecast to result from implementing the proposed project. The project itself will not cause the emission of toxic pollutants. Mobile source emissions have been identified as containing some toxic components (volatile organic compounds and carbon monoxide), however, traffic congestion along Miles Avenue and Washington Street is not expected to reach levels that would cause harmful buildup of these pollutants. The proposed project consists of commercial and residential land uses which do not typically generate significant odors except for occasionally the exhaust from restaurants. The primary causes of objectionable odors in residential areas is from those activities typically associated within developments such as household and automobile cleaning and maintenance, lawn care, etc. Project uses are not expected to generate odors that will be objectionable at a significant level. Based on the above analysis, no mitigation is proposed. (Recirculated SEIR p. 3.3-14).

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## **2.4 BIOLOGICAL RESOURCES**

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The SEIR found that there were no potential impacts related to jurisdictional waters (wetlands or riparian habitat) on the project site. In addition, based on field studies, no raptor nesting habitat was found on the project site and the project is not anticipated to impact any migratory birds or significantly interfere with any wildlife corridors or nursery sites. Lastly, the SEIR found that the proposed project will not conflict with any local policies or ordinances that project biological resources and is located outside of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). (SEIR pp. 3.4-8 through -10).

**Endangered, Threatened, or Sensitive Species:** The 1998 EIR determined that impacts to vegetation and wildlife would be less than significant with mitigation. (1998 EIR pp. 5.8-9

through -13). As part of the SEIR, new biological studies were conducted by The Thomas Leslie Corporation because of changes in regulations pertaining to threatened, endangered, or sensitive species that occurred since the 1998 EIR was prepared. (SEIR p. 3.4-5).

The Biological Studies prepared for the project determined the following:

- Cresote Bush/Desert Sand Verbena Series and Fourwing Saltbrush Series is present on site. While the Desert Sand Verbena Series is identified as a California Natural Diversity Data Base (CNDDDB) Community of Highest Inventory Priority (C.H.I.P.), the Fourwing Saltbrush Series is not. Both habitat types represent suitable habitat for the following listed, and unlisted special-status annual plant species, known to occur in the region surrounding the project site: Two federally listed endangered, February-May flowering species, the Coachella Valley Milkvetch and Triple-ribbed Milkvetch, and six unlisted, special-status plants: Flat-seeded Spurg, Glandular Ditaxis, California Ditaxis, Slender Woolly-heads, Desert Spike-Moss, and Purple Stemodia. The term "unlisted" means these plants are not listed by any state or federal agency as threatened or endangered. (SEIR pp. 3.4-2; 3.4-6).
- The following sensitive wildlife species are recorded on site by the California Natural Diversity Data Base: Coachella Valley Fringed-toes Lizard, a federally listed Threatened and State listed Endangered Species, and the Coachella Giant Sand-treader Cricket, an unlisted target species of the Santa Rosa and San Jacinto Mountains Conservation Area located off-site south of the project site. (SEIR p. 3.4-6).
- The following unlisted, special-status California species of concern (CSC) wildlife species have been identified on-site: A solitary Burrowing Owl individual; (2007), Coastal Western Whiptail; (2007), San Diego Black-tailed Jackrabbit individual; (2007) and an Osprey (1998). (*Ibid*).

Further research and surveys determined the following:

#### **Plant Species**

- No listed endangered or unlisted special-status annual plant species, having potential to occur within the naturally vegetated areas of the project site due to the presence of suitable habitat were observed on March 10 or April 16 or 22, 2007. (*Ibid*).
- A review of federal designated and proposed critical habitat maps showed that the project site is located outside any area identified as critical habitat for any plant or animal species listed as threatened or endangered, by the US Fish and Wildlife

Service (FWS). Therefore, development of the project site will not interfere with the recovery of any federally listed threatened or endangered species. (*Ibid*).

### **Wildlife Species**

- Coachella Valley Fringed-toe Lizard: Since the project site is located within the Coachella Valley Fringed-toed Lizard (CVFTL) habitat conservation fee area, all potential impacts to the Desert Sand Verbena Series plant community would be less than significant by the payment of the CVFTL fee. The City of Indian Wells has indicated that the project has paid the CVFTL fee. The fee, established in 1986 after negotiations between the development industry and environmental regulatory agencies, qualifies developers to "take" designated habitat of the lizard under a permit issued by the U.S. Fish & Wildlife Service. While California's Department of Fish & Game never signed the original Fringe-Toed Lizard Permit, all valley jurisdictions have been operating under a "consistency determination" by Fish & Game that the federal permit is consistent with California Endangered Species Act requirements. (*Ibid*).
- Coastal Western Whiptail, San Diego Black-tailed Jackrabbit, and the Coachella Giant Sand-treader Cricket. Development of the project site will result in the loss of habitat occupied by these species. These species are not proposed for listing as federal or state threatened or endangered. Based on the Biological Constraints Analysis prepared for the Project, the development of the property will not result in a significant loss or harm of a magnitude that, based on current scientific data and knowledge: (1) would cause a species or a native plant or animal community to drop below self-perpetuating levels on a Statewide or regional basis; or (2) would cause a species to become threatened or endangered. Therefore, impacts are not considered to be significant. (SEIR pp. 3.4-6 through -7).
- Desert Tortoise: Although, marginally suitable Category III Desert Tortoise habitat was present within the portions of the project site, no further Desert Tortoise surveys are recommended for the following reasons: the project site is not within the Desert Tortoise critical habitat; no Desert Tortoise occurrences are recorded by CNDDDB on the project site, in the vicinity or within entire La Quinta, Calif., USGS quadrangle; the project site is surrounded by residential and commercial development on the north, east and south and a golf course is present less than a mile to the west of the project site; no Desert Tortoise individuals or signs were observed onsite in 2007 or 1998; and no potential Desert Tortoise burrows were field observed onsite on February 6, 2007. Similarly, none were observed onsite in 1998. (SEIR p. 3.4-7).
- Osprey: No Ospreys were found on site during field surveys conducted for the biological reports prepared for the project.

- **Burrowing Owl:** Although no Burrowing Owls were found on-site during focused surveys, habitat remains to support the Burrowing Owl. In order to reduce impacts to the Burrowing owl to the maximum extent feasible, a mitigation measure is recommended in Section 3 of these Findings. (*Ibid*).

Based on the analysis, impacts of the project on Biological Resources in regard to Endangered, Threatened, or Sensitive plant or wildlife Species (except for the Burrowing Owl) were found to be less than significant. (SEIR pp. 3.4-7 through -8; 3.4-12 through -13) The conclusions in the 1998 EIR and SEIR are the same.

As discussed in Section 3 under Biological Resources of the Findings, it was determined that the proposed project would have a less than significant impact on any riparian habitat or other sensitive natural communities identified in local or regional plans, policies, and regulations, or by the California Department of Fish and Game or the US Fish and Wildlife Service. The project would not conflict with any local policies or ordinances protecting biological resources and since the proposed project was determined to fall outside of the proposed Coachella Valley MSHCP boundaries, the project will have a less than significant impact on any habitat conservation plans. (SEIR pp. 3.4-9 through -10).

The lack of impact to any wildlife corridors or movement is discussed in greater detail in conjunction with the Coachella Valley Storm Water Channel Area in Section 3 of the Findings. It was determined that the proposed project's impacts to such corridors would be less than significant. (SEIR p. 3.4-13).

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## **2.5 CULTURAL RESOURCES**

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**2.5.1 HISTORICAL RESOURCES:** The 1998 EIR determined that no historic resources were identified on the project site and no structures or structural remains were evident. (1998 EIR p. 5.11-8). The portion of the site for the project and additional City parking lot site is vacant with few improvements and does not contain any potential historic structures or resources. A Cultural Resources Record Search was conducted by Department of Anthropology, University of California Riverside Eastern Information Center on March 2, 2007. The report determined that there are no historical resources on the site. (Recirculated SEIR p. 3.5-2).

Based on the analysis, impacts of the project on Historical Resources in regard to Historical Resources were found to be less than significant. (*Ibid*). The conclusions in the 1998 EIR and SEIR are the same.

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## **2.6 GEOLOGY AND SOILS**

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The 1998 EIR determined that the region contains a number of major faults, but that no faults actually cross the project site and the site is not located in any Alquist-Priolo fault zones. The risk of ground rupture is considered low. Test boring samples were taken during

the geotechnical studies and it was determined that the depth to groundwater within the site's vicinity is greater than 100 feet. Therefore, the potential for liquefaction is less than significant. There are no significant impacts related to landslides or slope failure due to the project site's moderate-to-gently sloping surface and the site's construction is not anticipated to create any man-made slopes that would pose undue risks. The EIR also determined that there is no evidence of subsidence within the project site, nor is the site subject to any risks from a seiche, tsunami, or volcanic hazard. (1998 EIR pp. 5.5-3 through -6; 8-2 through -3).

The SEIR also determined that the site will not be significantly impacted by unstable geologic or soil conditions and is not located within a subsidence hazard zone. The proposed project will not contribute to any subsidence in the local area due to groundwater extraction and that the groundwater depth is greater than 100 feet and therefore has a low probability for liquefaction. The SEIR determined that the project site is located in an area with very low expansion category soils and will have no impacts related to septic tanks or alternative waste disposal systems. Lastly, the SEIR determined that the project will have a less than significant impact on soil erosion or the loss of topsoil due to the required implementation of Best Management Practices (BMPs) that are a part of the City's stormwater management permit as well as landscaping upon project completion. (SEIR pp. 3.6-3 through -6).

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## **2.7 HAZARDS AND HAZARDOUS MATERIALS**

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**2.7.1 AIRPORT SAFETY HAZARD:** The 1998 EIR determined that there were no impacts in regard to hazards from airport operations. (1998 EIR p. 8-2). The SEIR determined, according to the Riverside County Airport Land Use Commission, that the nearest airports are located in Bermuda Dunes and Palm Springs and are located in excess of two miles from the project site. Therefore, there would be no impacts in regard to hazards from airport operations. Based on the above, there are no impacts on the project in regard to airport hazards. (SEIR pp. 3.7-2 through -3; 3.7-4). The conclusions in the 1998 EIR and SEIR are the same.

**2.7.2 EMERGENCY ACCESS:** The SEIR determined that the project has frontage on Washington Street, however, development of the project only involves limited construction activities in Washington Street for driveway construction. This activity will not impact Washington Street's function as an emergency evacuation route. Based on the above, there are no impacts on the Project in regard to emergency evacuation plans. (SEIR p. 3.7-3).

**2.7.3 HAZARDOUS WASTE SITE:** The SEIR, based on the Phase 1 Hazardous Assessment prepared for the project which included site reconnaissance and an appropriate records search, determined the site is not listed as a hazardous materials site in accordance with Government Code Section 65962.5. Based on the above, there are no impacts on the project in regard to hazardous waste sites. (SEIR pp. 3.7-1; 3.7-3).

**2.7.4 SCHOOL SITE:** The SEIR found that Gerald Ford Elementary School is located in excess of 1/4<sup>th</sup> of a mile from the northernmost portion of the site which is the closest point to the vacant portions of the site slated for new development. Additionally, the proposed project does not involve the storage or use of significant amounts of hazardous materials

and will not emit hazardous emissions. Based on the above, there are no impacts from the project in regard to hazardous wastes impacting school sites. (SEIR p. 3.7-3).

**2.7.5 TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS:** The project is a mixed-use project containing retail, entertainment, office, hotel, and single-family residential uses. The SEIR determined that there is no significant risk due to the transportation or use of hazardous materials associated with the project. The primary use of hazardous materials that would be used on the site are associated with maintenance activities and fertilizers/pesticides used for landscaping maintenance. Hazardous materials would also be used on site that are typical of single-family residential uses (i.e. cleaning solvents, paints, motor oil, gasoline etc.). The amount of the above hazardous materials on-site would be in small quantities in relation to the proposed uses. Based on the above, there are no potentially significant impacts regarding the use, transport, or potential release of hazardous materials or wastes. (SEIR pp. 3.7-2 through -3).

**2.7.6 WILD LAND FIRES:** The 1998 EIR determined that the site was not located in a wildland fire hazard area. (1998 EIR p. 8-4). The SEIR found that according to City's General Plan, the project site is not located within a wildland fire hazard area. Additionally, the Phase 1 Hazardous Assessment prepared for the project indicates that no "Sanborn Maps" (fire insurance maps used to depict locations of properties that are in areas considered potentially high risk for fire insurance) were identified for the project site. Based on the above, there are no impacts on the project in regard to wild land fires. (SEIR p. 3.7-4). The conclusions in the 1998 EIR and SEIR are the same.

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## 2.8 HYDROLOGY AND WATER QUALITY

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**2.8.1 DEPLETION OF GROUNDWATER SUPPLIES:** The 1998 EIR determined that groundwater would not be depleted by the project. (1998 EIR p. 8-6). The SEIR found that the project will not interfere with groundwater recharge as the aquifer is 300 to 600 feet below the ground surface in the project area according the 2005 Urban Water Management Plan for the Coachella Valley Water District. Additionally, the project does not impact any of the groundwater recharge facilities in the Whitewater River Sub basin in which the project is located. Based on the above, there are no impacts on the project in regard to groundwater depletion. (SEIR p. 3.8-4). The conclusions in the 1998 EIR and SEIR are the same.

**2.8.2 FLOOD HAZARDS (DAM INUNDATION):** The 1998 EIR determined that the project was not located in an area that would be impacted by dam inundation. (1998 EIR p. 8-3). The SEIR determined, according to the City of Indian Wells General Plan, the site is not located within an area subject to dam inundation. In addition, the proposed project site is located approximately 30 feet higher than the south side of the existing Coachella Valley Storm Water Channel. Based on the above, there are no impacts on the project in regard to dam inundation or exposing people or structures to a significant risk of loss, injury, or death involving flooding. (SEIR p. 3.8-6). The conclusions in the 1998 EIR and SEIR are the same.

**2.8.3 INUNDATION BY SEICHE, TSUNAMI, OR MUD FLOW:** The 1998 EIR determined that the project was not located in an area that would be impacted by seiche, tsunami, or mud flow. (1998 EIR p. 8-3). The SEIR determined that the project site is not located in

close proximity to a water body that has the potential to cause mud flows, seiche, or tsunami. Based on the above, there are no impacts on the project in regard to seiche, tsunami, or mud flows. (SEIR p. 3.8-6). The conclusions in the 1998 EIR and SEIR are the same.

**2.8.4 PLACING HOUSING WITHIN A 100-YEAR FLOOD ZONE:** The 1998 EIR determined that the proposed project area is not subject to regional flood hazards from off-site sources, including the Whitewater River Channel (Coachella Valley Storm Water Channel). (1998 EIR p. 5.3-2). The SEIR determined, according to Federal Insurance Rate Map (FIRM) Community Panel No. 060245 2260 D effective April 15, 1980, that the project site is located within Flood Zone C (not within a 100 year flood hazard and has low to moderate risk for flooding). Housing will not be placed within a 100-year flood hazard zone. Based on the above, there are no impacts on the project in regard to placing housing within a 100-year flood zone. (SEIR p. 3.8-6). The conclusions in the 1998 EIR and SEIR are the same.

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## 2.9 LAND USE AND PLANNING

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**2.9.1 DIVIDE AN EXISTING COMMUNITY:** The 1998 EIR determined that the project would not divide an existing community given its location and characteristics. (1998 EIR p. 8-1). The SEIR found that the project boundaries have not changed significantly since the analysis in the 1998 EIR and residents can utilize sidewalks and roadways to access the residential neighborhoods to the north, east, and southeast of the site. The closest residential uses to the project site that are in the City of Indian Wells are further to the west along Miles Avenue, west of the Tennis Garden, and south across the Coachella Valley Storm Channel. For these reasons, existing and planned uses will not divide any established communities. Based on the above, there are no impacts on the project in regard to dividing an existing community. (SEIR p. 3.9-2). The conclusions in the 1998 EIR and SEIR are the same.

**2.9-2 CONSISTENCY WITH HABITAT CONSERVATION PLANS:** Consistency with applicable habitat conservation plans are discussed in the Biological Resources section of the SEIR, as well as in the Findings. It was determined that any impacts in this regard are less than significant. (SEIR p. 3.9-4).

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## 2.10 MINERAL RESOURCES

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**MINERAL RESOURCE EXTRACTION:** The 1998 EIR determined that the project site was not used for mineral resource extraction and is not located within or in close proximity to a State of California classified or designated Mineral Resource Zone 2 site. The EIR concluded that impacts would be less than significant. (1998 EIR p. 8-5).

Pursuant to the Surface Mining and Reclamation Act (SMARA), the project area classified as a Mineral Resource Zone 3a which means the area contains known mineral occurrences of undetermined mineral resource significance. The SEIR determined that the primary mineral resources of value to the region is aggregate used for construction purposes. Given

the location of the site in relation to nearby homes, a school, a church and retail uses, the site is not suitable for aggregate mining activities. There are six (6) nearby sites in the region that are currently providing aggregate according to CGS maps for the Palm Springs Region. These sites are located along Interstate 10 between Mecca and Palm Springs. Depending on the site, each one is currently producing from half a million to 10 million tons of aggregate per year. The site is not designated as a mineral resource recovery site by the California Geologic Survey, the City of Indian Wells General Plan, or any other land use plan. Based on the above, there are no impacts on the project in regard to mineral resources, the loss of availability of a known mineral resource that would be of value to the region, or the loss of availability of a locally-important mineral resource recovery site.. (SEIR pp. 3.10-1 through 3.10-2). The conclusions in the 1998 EIR and SEIR are the same.

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## 2.11 NOISE

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**AIRPORT NOISE:** The 1998 EIR determined that the project was not located within an airport compatibility zone and that due to the distance from the Bermuda Dunes Airport, the project would not be significantly impacted by airport noise. (1998 EIR p. 8-3). The SEIR determined that the project is not within the noise influence area of any airport land use plan as the nearest airport is Palm Springs International located approximately 6 miles northwest of the site and Bermuda Dunes Airport located approximately 3 miles northeast of the site. The project is not within the noise influence area of any private airstrip. Based on the above, there are no impacts on the project in regard to airport noise and the proposed project is not located within an airport land use plan nor is it located within 2 miles of an existing airport. (SEIR pp. 3.11-4 through -5). The conclusions in the 1998 EIR and SEIR are the same.

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## 2.12 POPULATION AND HOUSING

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**2.12.1 POPULATION GROWTH:** The 1998 EIR determined that the project would add additional population through the development of 144 "casitas" housing units, (1998 EIR p 1-3) but that population growth would not be significantly impacted. The SEIR determined that the proposed project is on a parcel of vacant desert land (except for the Indian Wells Tennis Garden Facility) and is adjacent to existing development on to the north and east and the Coachella Valley Storm Channel to the south. Vacant land abuts the western boundary of the existing Tennis Garden. The site is bounded by a major road (Washington Street) and Miles Avenue bisects the northern and southern portions of the site. The site is not isolated and does not require a substantial extension of new infrastructure. Roads, sewer, water, drainage, and utility services are all located adjacent to the site. New construction will be limited to mainly onsite improvements. For these reasons, the proposed project will continue the suburban development pattern in this portion of the City and the surrounding area. (SEIR p. 3.12-2).

The project will add approximately 400,000 square feet of non-residential development and a 300 room condominium or resort hotel to the area, which will add employees in excess of new residents. Since the City has a low ratio of jobs to housing, the proposed project will help improve the City's jobs/housing ratio. The project is considered to accommodate the job and housing needs of the existing population, and is thus not significantly indirectly

contributing to growth. Based on the above, there are no significant impacts from the Project in regard to population growth. (*Ibid*). The conclusions in the 1998 EIR and SEIR are the same.

**2.12.2 REPLACEMENT HOUSING:** The 1998 EIR determined that since the site did not contain any housing, thus replacement housing would not be required. (1998 EIR p. 8-2). The SEIR found the project site is still vacant except for the Tennis Garden and contains no residential structures. Thus, no persons or housing, including no affordable housing, will be displaced, added or impacted by implementing the project, including the additional parking lot. Based on the above, there are no impacts on the project in regard to replacement housing. (SEIR p. 3.12-2). The conclusions in the 1998 EIR and SEIR are the same.

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## **2.13 TRANSPORTATION/TRAFFIC**

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**2.13.1 AIR TRAFFIC PATTERNS:** The 1998 EIR determined that the project was not located within an airport hazard zone. (1998 EIR p. 8-2). The SEIR determined that the site is not within the two-mile Airport Influence Zone (AIZ) of any public airport, nor is it within two miles of a private airstrip, and therefore would not impact air traffic patterns. Based on the above, there are no impacts on the project in regard to air traffic patterns. (SEIR p. 3.15-7). The conclusions in the 1998 EIR and SEIR are the same.

**2.13.2 ALTERNATIVE TRANSPORTATION:** The 1998 EIR determined that alternative transportation would not be impacted and that bike lanes were required. (1998 EIR pp. 5.2-7; 5.4-14). The SEIR determined that all necessary alternative transportation systems, bus stops and areas for pedestrian and biking requirements can be incorporated into the project design, therefore, alternative transportation would not be impacted. Based on the above, there are no impacts on the project in regard to alternative transportation. (SEIR p. 3.15-8). The conclusions in the 1998 EIR and SEIR are the same.

**2.13.3 CONGESTION MANAGEMENT PROGRAM:** The 1998 EIR did not specifically address the Congestion Management Program (CMP) but addressed regional traffic impacts that were associated with the project (which included CMP roadways). (1998 EIR pp. 5.2-8 through -31). The Recirculated SEIR found that The Riverside County Transportation Commission (RCTC) was designated as the Congestion Management Agency (CMA) in 1990 and holds responsibility for the development and implementation of the Riverside County CMP. The current CMP was adopted by RCTC in November 2003 and updated in 2006. According to the 2006 update for the CMP, Highway 111 between Interstate 10 to the Imperial County line is a designated CMP roadway. The Level of Service standard established by the CMA for CMP roadways is Level of Service "E". According to the 2006 CMP Update, Highway 111 in the vicinity of the project site is operating at Level of Service "C". (Recirculated SEIR p. 3.15-8).

In addition, Table 4-1 and Exhibit 4-1 of the 2006 CMP Update identifies facilities (roadway segments or intersections) along the CMP System of Highways and Roadways that had a LOS of "F" in 1991. As a result, these facilities continue to be "exempt" from CMP requirements in accordance with CMP Statutes. Highway 111 between State Route 74 to the border of Caltrans District 11 (south to Imperial County) has been identified as an "exempt" roadway. This segment of Highway 111 passes near the project site. Therefore,

the impacts to Highway 111 are exempt even though it was determined that the roadway is operating at an acceptable Level of Significance. (*Ibid*).

Based on the above, there are no significant impacts by the project in regard to the Congestion Management Program (Recirculated SEIR p. 3.15-13).

**2.13.4 PARKING CAPACITY:** The Recirculated SEIR found that the existing tennis complex currently has the appropriate number of parking spaces as determined by the City for the use of the site. In addition, the City is in the process of proposing an additional permanent lot with 1,632 parking spaces adjacent to the Warner Trail in order to further accommodate parking during large events at the Tennis Garden. The Recirculated SEIR determined that the proposed project will generate a need for additional parking and will provide all required parking based upon the City's Municipal Code. In addition, temporary parking will be needed for construction workers. Adequate area for parking is available on-site and at several nearby locations for construction workers, so no adverse parking capacity impacts are forecast to occur. Based on the above, there are no significant impacts by the project in regard to parking capacity, (Recirculated SEIR p. 3.15-9).

**2.13.5 ROADWAY DESIGN HAZARDS:** The Recirculated SEIR found that access to the project site is from Washington Street and Miles Avenue and that both roadways are relatively straight and do not contain sharp curves or dangerous intersections. The project is designed with driveways that are spaced an appropriate distance apart (i.e. in excess of 480 feet in all cases) and are designed to align with existing streets across Washington Street (Via Sevilla) and the driveways will be aligned on both the north and south sides of Miles Avenue. In addition, through the City's Development Review process, adequate lines of sight will be maintained at all driveway intersections with Washington Street and Miles Avenue. There are no surrounding land uses (e.g. agriculture) that would present any hazards related to an incompatible use. Based on the above, there are no significant impacts by the project in regard to roadway design hazards (Recirculated SEIR p. 3.15-9).

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## 2.14 UTILITIES

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**2.14.1 NATURAL GAS:** The 1998 EIR determined that consumption of natural gas by the project would not be significant. (1998 EIR pp. 5.4-8 through -9). The SEIR included both Electricity and Natural Gas as "Added CEQA Criteria" under the proposed projects analysis. Based on more detailed information, the SEIR found that the project is estimated to generate the need for 394,000 cubic feet per day of natural gas. According to the 2006 California Gas Report (SoCal Gas web site), demand for natural gas is expected to grow at an annual rate of 0.5% from 2006 through 2025 (cumulative growth of 8.8% during the forecast period). Growth in the residential and commercial markets is expected to be somewhat slower. California's existing gas supply network is regionally diverse and includes supplies from California sources (onshore and off shore), Southwestern U.S., the Rocky Mountains, and Canada. (SEIR pp. 3.16-5 through -6).

Additional pipeline capacity and open access have contributed to a forecast of adequate supply to meet demand for the foreseeable future (2025). The project will increase the

demand for natural gas, but its incremental increase given the overall supply of natural gas is insignificant. Based on the above, there are no significant impacts by the project in regard to natural gas consumption and no mitigation is required. (*Ibid*). The conclusions in the 1998 EIR and SEIR are the same.

**2.14.2 WASTEWATER TREATMENT:** The Coachella Valley Water District Water Reclamation Plant (WRP) 10 serves the City of Indian Wells and the project site. WRP-10 is required to submit annual monitoring reports to the Regional Board by January 15 of each year to demonstrate compliance with discharge requirements. According to the State Water Quality Control Board, there are no enforcement actions involving WRP-10 in regard to wastewater treatment requirements at this time. The project does not involve activities (i.e. manufacturing, industrial etc.) that may discharge wastes into the sewer system that may impact wastewater treatment requirements. Therefore, the SEIR determined that the proposed project will not likely impact or exceed wastewater treatment requirements. (SEIR pp. 3.16-2 through -3).

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## 2.15 CUMULATIVE IMPACTS

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**2.15.1 AGRICULTURAL RESOURCES:** The 1998 EIR addressed agricultural resources in terms of consistency with the Riverside County General Plan and Western Coachella Valley Plan (1998 EIR Section 5.1). The 1998 EIR also evaluated the project as it relates to the City of Indian Wells, City of La Quinta, and the City of Palm Desert's General Plans. It concluded that the site was not used for agricultural purposes and was consistent with the above referenced plans because they allowed the site to be developed into urban uses. (1998 EIR pp. 5.1-5 through -8; 5.1-14 through -26).

The SEIR evaluated each potential impact in light of the proposed project coupled with other projects in the area that may cause related impacts. By first evaluating the overall cumulative impact for each environmental topic and then analyzing whether or not the proposed project's contribution is cumulatively considerable or not, the SEIR can make a determination as to the significance level of the potential impact. (SEIR p. 5-3).

The SEIR determined that the geographic area for this issue includes the project site and the Western Coachella Valley. According to the latest version of the California Department of Conservation Important Farmlands in California Map (2004), the site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance nor is it being used for agricultural purposes. Therefore, the project would not result in or contribute to any cumulative significant impacts to Agricultural Resources. The SEIR did state that the 1998 EIR concluded that by treating Agricultural Resources in terms of conservation resources under the Land Use and Planning section, then as farmland was converted to urban uses, impacts would be significant. However, the SEIR concluded that since the proposed project will not interfere with any important farmland or farming operations, then any impact to Agricultural Resources was negligible. Based on the above, there are no significant impacts by the project in regard to cumulative impacts for Agricultural Resources (*Ibid*). The conclusions in the 1998 EIR and SEIR are the same.

**2.15.2 HAZARDS AND HAZARDOUS MATERIALS:** As discussed in above in the Findings, there are no potentially significant impacts due to airports; the project is not on a listed hazardous waste site; and the project will not interfere with any emergency evacuation plans or routes. In addition, the proposed project is not anticipated to have a significant impact on the environment due to any use, transport, or risks associated with hazardous materials. Regardless, the 1998 EIR and SEIR found that the potential exists for accidental spills of hazardous wastes in small quantities during construction (see appropriate discussion and mitigation for accidental spills in Section 3). (1998 EIR pp. 5.1-8; SEIR pp. 3.7-3 through -4).

The SEIR determined that the geographic area for this issue is the project site but in the context of the Western Coachella Valley. The project is a mixed-use project containing retail, entertainment, office, hotel and single-family residential uses. There is no significant transport of hazardous materials associated with the project. The primary use of hazardous materials that would be used on the site are associated with maintenance activities and fertilizers/pesticides used for landscaping maintenance. Hazardous materials would also be used on site typical of single-family residential uses (i.e. cleaning solvents, paints, motor oil, gasoline etc.). The amount of the above hazardous materials on-site would be in small quantities in relation to the proposed uses. Discharge of hazardous materials from site activities would be regulated by the City's NPDES requirements. (SEIR p. 5-6).

The most probable potential for new contamination would be if an accidental release of vehicle fluids or related materials occurred during construction within the project area. If a spill were to occur during construction, workers would follow existing cleanup procedures established by the state. With implementation of standard operating and safety procedures, the potential for impacts from hazardous materials is considered less than significant. The site is also not listed as a hazardous materials site. (*Ibid*).

According to the Riverside County Airport Land Use Commission web site (2007) the nearest airports are located in Bermuda Dunes and Palm Springs and are located in excess of two miles from the project site. (*Ibid*).

According to Figure IVA-4 of the City of Indian Wells General Plan identifies the evacuation routes as follows:

- Highway 111
- Washington Street
- Fred Waring Drive
- Cook Street

The project has frontage on Washington Street, however, development of the project only involves limited construction activities in Washington Street for driveway construction. This activity will not impact Washington Street's function as an emergency evacuation route. (*Ibid*).

According to City's General Plan, the project site is not located within a wild land fire hazard area. Additionally, the Phase I Hazards Assessment prepared for the project indicates that no "Sanborn Maps" (fire insurance maps used to depict locations of properties that are in areas considered potentially high risk for fire insurance) were identified for the project site. (SEIR p. 5-7).

Based on the above analysis, the project's contribution to cumulative hazards and hazardous materials impacts would not be considerable. (*ibid*). The conclusions in the 1998 EIR and SEIR are the same.

**2.15.3 MINERAL RESOURCES:** The 1998 EIR determined that the project site was not used for mineral resource extraction and is not located within or in close proximity to a State of California classified or designated Mineral Resource Zone 2 site. The EIR concluded that impacts would be less than significant. (1998 EIR p. 8-5).

The SEIR determined the geographic area for this issue is the project site, but any potential impacts must be viewed in the context of available mineral resources within the western Coachella Valley. The primary mineral resources of value to the region are aggregate used for construction purposes. Given the location of the site in relation to nearby homes, a school, a church and retail uses, the site is not suitable for aggregate mining activities. There are six (6) nearby sites in the region that are currently providing aggregate according to California Geological Survey maps for the Palm Springs Region. These sites are located along Interstate 10 between Mecca and Palm Springs. Depending on the site, each one is currently producing from half a million to 10 million tons of aggregate per year. The project will not result in the loss of a known mineral resource for aggregate. The projects cumulative contribution to mineral resources would not be considerable. Based on the above, there are no significant impacts by the project in regard to cumulative impacts for mineral resources (SEIR p. 5-8). The conclusions in the 1998 EIR and SEIR are the same.

**2.15.4 POPULATION AND HOUSING:** The 1998 EIR addressed population and housing impacts in its discussion of *Land Use and Planning*. The 1998 EIR concluded that as the surrounding area continued to approach build out, significant land use changes would result, along with associated vegetation loss, necessary drainage improvements, traffic and noise increases, increased air emissions, aesthetic impacts and greater demand on utilities and services due to the increase of population and resultant housing. It concluded that mitigation for cumulative population and housing impacts was best achieved through compliance regional plans and the General Plans for Indian Wells; La Quinta, and Palm Desert. (1998 EIR p. 6-7).

The SEIR determined that the geographic area for this issue includes both the Coachella Valley and Riverside County. From 2000 to 2030, the population of the County is expected to grow by almost 1.6 million residents, while the City of Indian Wells is expected to grow by only 1,658 residents based on Riverside County Population projections dated November 22, 2006. The proposed project is expected to generate 123 new residents or 7.4 percent of the projected population growth in the City, but 60 percent of the anticipated non-residential growth as this is the last large undeveloped parcel in the City. By comparison, this represents less than a tenth of one percent of the growth anticipated in Riverside County as

a whole over the same period as analyzed in Section 3.13, *Population and Housing*, of the SEIR. (SEIR p. 5-9).

The project will likely induce additional growth, but will not make a substantial contribution to cumulatively considerable population and housing impacts in the region. It is also expected to provide substantial new employment but this is viewed as a positive aspect of the project and not an adverse impact. Based on the above analysis, the projects cumulative contribution to Population and Housing would not be considerable. (SEIR p. 5-10). The conclusions in the 1998 EIR and SEIR are the same.

#### **2.15.5 UTILITIES:**

##### **NATURAL GAS**

While the 1998 EIR concluded there were potentially significant impacts that warrant appropriate mitigation, the SEIR concluded that the proposed project's impact on natural gas will be less than significant. The project is estimated to generate the need for 394,000 cubic feet per day of natural gas. According to the 2006 California Gas Report (SoCal Gas website), demand for natural gas is expected to grow at an annual rate of 0.5% from 2006 through 2025 (cumulative growth of 8.8% during the forecast period). Additional pipeline capacity and open access have contributed to a forecast of adequate supply to meet demand for the foreseeable future (2025). The project will increase the demand for natural gas, but its incremental increase given the overall supply of natural gas is insignificant. (SEIR p. 5-12 to -13). Based on the above, there are no significant impacts by the project in regard to cumulative impacts for Natural Gas.

## SECTION 3 FINDINGS REGARDING POTENTIALLY SIGNIFICANT EFFECTS THAT HAVE BEEN MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE WITH THE ADOPTION OF MITIGATION MEASURES

The City Council finds that the following environmental impacts identified in the Final SEIR are potentially significant but can be mitigated to a less than significant level through the imposition of mitigation measures and/or conditions identified in the SEIR and summarized below. Section 8.0 Summary of Mitigation Measures in the SEIR lists the mitigation measures that were originally proposed in the 1998 Program EIR that have now been modified to reflect changes in circumstances since the finalization of the original 1998 EIR. In some cases, where applicable, additional mitigation measures have been included in the SEIR. Section 3 of the Findings below list all appropriate mitigation from the 1998 EIR that have been changed or updated, as well as any new mitigation measures that have been added to the SEIR.

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### 3.1 AESTHETICS

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**3.1.1 DEGRADE EXISTING VISUAL CHARACTER:** The 1998 EIR found that project construction would create temporary aesthetic nuisances associated with site grading and construction activities but would be less than significant with mitigation. (1998 EIR p. 5.9-4). The SEIR found that the site is currently vacant except for the Indian Wells Tennis Garden to the west. The hotel, retail/entertainment center, and the single family-residences are proposed on a site that is relatively flat and has no unique features. In regard to the proposed structures, Architectural Guidelines are contained in the Town Center Specific Plan document to ensure that the aesthetic character of the hotel, retail/entertainment center, and residential uses embodies the "*Desert Lifestyle Architecture*" theme. Because of this, the site is proposed to be developed comprehensively under one set of guidelines into a high quality center with landscaping, building design elements, and signage that are compatible with the surrounding area. The 1998 EIR contained several mitigation measures to address light and glare and these have been incorporated into the project, but modified to reflect the City of Indian Wells standards. In all cases, any changes to the mitigation measures are not considerably different and are equivalent to or more effective than the Final 1998 EIR Mitigation Measures. Any potential impacts in regard to Aesthetics-Visual Character, aside from impacts caused by the hotel to the Santa Rosa Mountains as discussed in Section 4, are found to less than significant. (Recirculated SEIR pp. 3.1-1 through -8).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (Recirculated SEIR pp. 3.1-7 through -8).

**Facts in Support of Finding:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures:

**AES-2** Equipment storage and soil stockpiling shall be at least 100 feet from adjacent property lines. (Ref. 1998 EIR mitigation measure 5.9-1a).

**AES-3** Construction related rubbish and debris shall be removed as required by the City of Indian Wells Building and Safety Department Inspectors. (Ref. 1998 EIR mitigation measure 5.9-1b).

(SEIR p. 8-17).

With consideration of the above information and the implementation of mitigation measures AES-2 and AES-3, the project's impacts in regard to Visual Character are found to be less than significant after mitigation. (Recirculated SEIR pp. 3.1-7 through -8).

**3.1.2. LIGHT AND GLARE:** The proposed Project is similar or equivalent to the Project analyzed in the 1998 EIR in that it contains various uses that will create additional sources of light and some glare, but to a lesser extent than the Tennis Garden. The 1998 EIR contained several mitigation measures to address light and glare and these have been incorporated into the project, but modified to reflect the City of Indian Wells standards. (1998 EIR pp. 5.10-3 through -8; SEIR pp. 8-18 through -19).

Project construction will create temporary light and glare impacts associated with security lighting and construction glare. Additionally, the retail, residential, and hotel operations will all contribute new sources of lighting and glare to the area. The 1998 EIR determined that with appropriate mitigation, despite the potential for light and glare to spillover to existing areas, all impacts related to light and glare would be less than significant (1998 EIR pp. 5.10-3; 5.10-6 through -7).

Any changes to the mitigation measures from the 1998 EIR are not considerably different and are equivalent to or more effective than the Final 1998 EIR Mitigation Measures. Any potential impacts in regard to Light and Glare continue to be less than significant. The conclusions in the 1998 EIR and the SEIR are the same.

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (Recirculated SEIR pp. 3.1-6 through -8).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures:

**AES-4** Construction and security lighting shall adhere to the City of Indian Wells Lighting Standards, which specifies the usage of low pressure sodium lighting for security purposes. (Ref. 1998 5.10-1).

**AES-5** Prior to the issuance of building permits an outdoor lighting plan shall be approved by the City Community Development Department which contains the following provisions:

- Use of low pressure sodium lights;
- Exterior lighting shall be fully shielded and directed away from adjoining properties;
- Architectural and accent lighting shall be turned off by 11:00 PM and sunrise;
- Glare free type opaque fixtures shall be provided for general lighting;
- Path lighting shall have concealed source post top fixtures, bollard fixtures, and surface mounted building fixtures; and
- Parking lot lighting shall not exceed 25 feet in height.

(SEIR pp. 8-18 through -19; Recirculated SEIR p. 3.1-7 (AES-5 above is identified as AES-3 in the Recirculated SEIR)).

With consideration of the above information and the implementation of mitigation measure AES-4 and AES-5, the project's impacts in regard to Light and Glare are found to be less than significant after mitigation.

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## **3.2 AIR QUALITY**

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**GLOBAL CLIMATE CHANGE:** Global Climate Change refers to alterations in weather features which occur across the Earth as a whole, such as temperature, wind patterns, precipitation, and storms. Global temperatures are modulated by naturally occurring atmospheric gases, such as water vapor, carbon dioxide, methane, and nitrous oxide. These gases allow sunlight into the Earth's atmosphere, but prevent radiative heat from escaping into outer space, thus altering the Earth's energy balance in a phenomenon called the greenhouse effect. (Recirculated SEIR p. 3.3-14).

The global climate is continuously changing, as evidenced by repeated episodes of warming and cooling documented in the geologic record. The rate of change has typically been incremental, with warming or cooling trends occurring over the course of thousands of years. The past 10,000 years have been marked by a period of incremental warming, as glaciers

have steadily retreated across the globe. Scientists have observed, however, an unprecedented increase in the rate of warming in the past 150 years. (*Ibid*).

### **Regulatory Context for Global Climate Change**

Global climate change resulting from greenhouse gas emissions is an emerging environmental concern being raised and discussed at the international, national, and statewide level. At each level, agencies are considering strategies to control emissions of gases that contribute to global warming. However, no agency has yet assumed jurisdiction to regulate greenhouse gases and there are no established standards for gauging the significance of greenhouse gas emissions. Neither CEQA nor the CEQA Guidelines provide any methodology for analysis of greenhouse gases. (*Ibid*).

In the fall of 2006, Governor Schwarzenegger signed AB 32, the global warming bill, into law. The Bill requires the state Air Resources Board (ARB) to adopt regulations by January 1, 2008 to require reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with that program. The bill requires achievement by 2020 of a statewide greenhouse gas emissions limit equivalent to 1990 emissions, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emission regulations. (Recirculated SEIR pp. 3.3-14 through -15).

### **Project Impacts**

To provide a context for greenhouse gas emissions, it is useful to consider the state of California as a whole. California is a substantial producer of greenhouse gas emissions. Carbon dioxide accounts for approximately 85% of total emissions, and methane and nitrous oxide account for almost an additional 14%. Each gas contributes to global warming at a different relative rate. Methane has a global warming potential 21 times that of carbon dioxide, while nitrous oxide is 310 times that of the same amount of carbon dioxide. (Recirculated SEIR p. 3.3-15).

According to the California climate Action Team, in 2002, total carbon dioxide emissions in California from fossil fuel combustion were 360 million tons, accounting for approximately seven percent of U.S. emissions from this source. According to the California Energy Commission, California is the second largest emitter of greenhouse gases in the U.S. (trailing only Texas). In 2004, California produced 492 million metric tons of total carbon dioxide-equivalent emissions. California has relatively low carbon emissions intensity, however, ranking fourth lowest of the 50 states in carbon dioxide emissions per capita from fossil fuel combustion in 2001. California was also the fifth lowest of the 50 states in carbon dioxide emission from fossil fuel combustion per unit of gross state product in 2001, largely as a result of the state's energy efficiency and renewable energy programs. (*Ibid*).

The primary sources of greenhouse gas emissions from the project are anticipated to be combustion of fossil fuels from grid-delivered electricity use and from vehicles. Individual project emissions can be measured, for example, by using the California Climate Action Registry website, however, the significance of the project's impacts on global climate change cannot be determined because no specific thresholds exist at the present time to quantify impacts. For this reason, calculating emissions without an identified threshold is

speculative. Notwithstanding this fact, actions can be taken to reduce impacts on global climate change in the absence of specific criteria. (*Ibid*).

### **Strategies to Reduce Greenhouse Gas Emissions**

Given the global nature of climate change, the ultimate solution is a national policy addressing greenhouse gas emissions, rather than piecemeal state-by-state or city-by-city approaches. Given the predominant contribution of emissions from vehicles and electricity generation, efforts to reduce the project's greenhouse gas emissions should focus on reducing vehicle trips and on reducing electricity demand through energy efficient building design and operations. (*Ibid*).

The City has recently amended its General Plan to include the following policies pertaining to global climate change:

Policy IIA1.18 (1) The City will encourage green building design which could include conserving non-renewable energy and materials, promoting water efficient landscaping and other methods to support environmental conservation and to assist in the concerns of global warming. (2) The City will provide public information on Sustainable Development Practices which will assist in acceptable levels of global resource depletion and environmental pollution.

The proposed project will comply with this policy. (Recirculated SEIR pp. 3.3-15 through -16).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. (Recirculated SEIR pp. 3.3-16 through -17).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

\*See Air Quality Mitigation Measures as discussed under Air Quality in Section 4. See also Utility mitigation measures UTL-2 and UTL-3. (Recirculated SEIR p. 3.3-16).

With implementation of the above referenced policies and mitigation measures, an impacts related to global climate change will be less than significant. (*Ibid*.)

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## **3.3 BIOLOGICAL RESOURCES**

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**3.3.1 ENDANGERED, THREATENED, OR SENSITIVE SPECIES:** As stated in Section 2.4 of these Findings, there were no impacts to any endangered, threatened, or sensitive species, including the Burrowing Owl. . However, a solitary unpaired Burrowing Owl was observed onsite during performance of the Biological Constraints Analysis performed on February 6, 2007. Therefore, focused Burrowing Owl surveys were conducted onsite in accordance with applicable survey guidelines. The surveys found no further individuals

within the project site. The surveys did find the presence of three burrows with signs of past occupancy. However, the burrows were not currently occupied. Regardless, in accordance with the California Department of Fish and Game recommendations, appropriate mitigation was incorporated. (SEIR p. 3.4-7).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR pp. 3.4-12 through -13).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**BIO-1** Prior to issuance of a grading permit, the developer shall pay the CVM SHCP mitigation fee to the Coachella Valley Association of Governments (CVAG).

**BIO-2** A pre-grading survey shall be conducted on the project site and the area for the concrete lining and access road within the CVSC right-of-way within 30 days prior to any ground disturbance to avoid a direct take of Burrowing Owls (BUOW). The biologist conducting the 30-day pre grading BUOW survey must submit a letter report to the City of Indian Wells documenting the results of the survey.

**BIO-4** If tree or shrub removal will occur during the bird nesting season (March 1 to September 15) a nesting bird survey shall be conducted by a qualified biologist prior to cutting trees or shrubs down.

(SEIR p. 3.4-12).

With consideration of the above information and the implementation of mitigation measures BIO-1, BIO-2, and BIO-4, the project's impacts to Burrowing Owl and other potential wildlife including nesting birds, are found to be less than significant after mitigation. (SEIR pp. 3.4-12 through -13).

**3.3.2 COACHELLA VALLEY STORM CHANNEL:** The 1998 EIR did not address impacts to wetlands in regard to the Whitewater River Channel (aka Coachella Valley Storm Channel) other than to mention that any grading would have to comply with regulatory requirements. The EIR did identify the channel as a possible migratory wildlife corridor. However, it also determined that the channel as a wildlife corridor was already significantly degraded by existing development in the area. Regardless, the project proponent agreed to initially grass-line the nearest one-half of the channel and maintain the other half in its natural state. The EIR determined that while the project may impact the channel as a wildlife corridor, the impact was not considered significant. (1998 EIR pp. 5.8-2; 5.8-11). The Biological Constraints Analysis performed by The Thomas Leslie Corporation did not identify any other wildlife corridors onsite beyond the channel. (SEIR p. 3.4-4).

At the time the 1998 EIR was crafted, precise development plans for the area south of Miles Avenue were not known at the time. Based on more detailed information, the SEIR determined that constructing concrete lining and an access road along the northern bank of

the Coachella Valley Storm Channel may impact wetlands. Additionally, the project is proposing to construct a stormdrain outlet at the channel. Such activities will require the approval of the Army Corps of Engineers (Section 404 Permit) and the California Department of Fish and Game (Streambed Alteration Agreement). The SEIR did determine that the channel does not support any riparian habitat or other sensitive natural community as identified in any applicable plans, policies, or regulations or by the CDFG. (SEIR p. 3.4-9).

The SEIR determined that with appropriate mitigation, any impacts related to the Coachella Valley Storm Channel regarding wetlands can be mitigated to a less than significant level and the proposed project will have a less than significant impact on wildlife movement corridors or riparian habitat. (SEIR p. 3.4-13).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (*Ibid*).

**FACTS IN SUPPORT OF FINDING:** The following are regulatory actions that will be required prior to Project implementation:

California Department of Fish and Game Streamed Alteration Agreement;

US Army Corps of Engineers 404 permit; and

Regional Water Quality control Board 401 Water Quality Certification.

The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the SEIR:

**BIO-3** Prior to the disturbance of any land within the Coachella Valley Storm Drain Channel the project shall secure any necessary permits from the Army Corps of Engineers and the California Department of Fish and Game. The project will be required to mitigate any impacts to jurisdictional waters at a ratio of 1:1. This can be accomplished by purchasing local mitigation credits or funding creation of a comparable amount of habitat. This amount of mitigation is the City's baseline requirement, but the City will accept a greater mitigation ratio if required by the responsible regulatory agency.

**BIO-4** If tree or shrub removal will occur during the bird nesting season (March 1 to September 15) a nesting bird survey shall be conducted by a qualified biologist prior to cutting trees or shrubs down.

(SEIR 3.4-12).

With consideration of the above information and the implementation of mitigation measures BIO-1 through BIO-4, the project's impacts to Biological Resources are found to be less than significant after mitigation.

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## 3.4 CULTURAL RESOURCES

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**3.4.1 ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES:** The 1998 EIR found that the site was a highly sensitive area for archaeological resources but had a less than significant impact with mitigation and that there was a low to moderate potential for the discovery of paleontological resources on the project site but had a less than significant impact with mitigation. (1998 EIR pp. 5.11-6 through -10).

A Cultural Resources Record Search was conducted by Department of Anthropology, University of California Riverside Eastern Information Center on March 27, 2007 for the SEIR. The report determined the following:

- Four cultural resources studies have been conducted within the boundaries of the project area (EIC Report Numbers RI-1930, RI-1933, RI-1934, and RI-6722). The report found that two of the cultural resources studies conducted within the project area involved field and laboratory investigations to investigate three sites (CA-RIV-3005, CA-RIV-3008, and CA-RIV-5876).
- Three cultural resources properties are recorded within the boundaries of the project area. (CA-RIV-3005, CA-RIV-3008, and CA-RIV-5876).

(Recirculated SEIR p. 3.5-2).

It was determined that the three sites identified within the project boundaries did contain and yield important archeological and cultural heritage information, but that further study was not necessary. However, it was recommended in one report (RI-6722) that construction activities in the portion of the project area north of Miles Avenue, including the area around CA-RIV-3008, be monitored to ensure protection of any subsurface resources. (*Ibid*).

Pursuant to Senate Bill 18, the Native American Heritage Commission provided appropriate Native American Tribes to contact for their input on the proposed project. The Aqua Caliente Band of Cahuilla Indians did express their concern regarding the potential for additional cultural resources to be discovered during grading and thus requested additional information. The City provided additional reports and met with representatives of the Aqua Caliente Tribe, where it was agreed that all areas of the site have been adequately surveyed. However, it was also determined that given the amount of time that has passed prior to the last survey and changing landscapes, a final survey for archaeological surface collection will be collected. See Mitigation Measure CUL-6. (Recirculated SEIR p. 3.5-3).

**3.4.2 HUMAN REMAINS:** The site is partially developed with the Indian Wells Tennis Garden. The remaining vacant land has no known cemeteries nor have burial locations been identified by the cultural heritage reports reviewed for the proposed project. In the event that suspected human remains are uncovered, California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98 will apply. These code

sections require that if any such remains are located, all earthwork in the general area of the remains will be stopped and the County Coroner and applicable Native American Heritage Commission will be notified for their review and the appropriate disposition of such remains. (Recirculated SEIR p. 3.5-4).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate the potential environmental effects for Archaeological and Paleontological Resources and Human Remains to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (Recirculated SEIR p. 3.5-6).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR.

**CUL-1:** Prior to issuance of grading permits, a qualified paleontologist shall be retained by the developer to monitor onsite grading, especially in the vicinity of CA-RIV-5876. Any fossiliferous materials found during excavation shall be retained and curated in an appropriate manner at an appropriate facility. The recovery of any fossils shall be coordinated with the County Archaeological Information Center. This measure shall be implemented to the satisfaction of the Community Development Director.

**CUL-2:** Prior to the issuance of grading permits, a qualified archaeologist shall be retained by the developer to monitor earth grading or any ground disturbance activities to ensure protection of significant cultural resources. The report shall be submitted to the Eastern Information Center, University of California Riverside and the Aqua Caliente Band of Cahuilla Indians or any other Native American Tribe identified during the SB 18 consultation if requested by said tribe(s).

**CUL-3:** During grading, a qualified archaeologist shall be retained by the developer to monitor onsite grading. The monitor(s) shall have the authority to temporarily halt work until the artifacts can be surveyed, recovered, and/or handled in an appropriate manner. If archaeological resources are discovered, all work in that area shall be halted and qualified personnel shall be retained to examine, evaluate, and determine the most appropriate disposition of the resource(s). This measure shall be implemented to the satisfaction of the City's Community Development Director in consultation with the Archaeological Information Center (AIC) at UCR. If artifacts of Native American (NA) origin are discovered, official representatives of the NA group shall be consulted to determine the most appropriate disposition of the artifacts, to the satisfaction of the AIC and the NA group. If fossils are found onsite, the AIC shall be contacted to determine disposition, to be funded by the developer.

**CUL-4:** The project developer shall enter into a Pre-Excavation Agreement with the most appropriate local Native American (NA) group to fund up to 2 NA representatives to have access to the site during grading activities. The designation of monitors shall be coordinated with the following Tribes:

Augustine Band of Cahuilla Mission Indians, Aqua Caliente Band of Cahuilla Indians, Morongo Band of Mission Indians, Soboba Band of Luiseno. It is the intent of this Mitigation Measure to avoid duplication of monitoring efforts and to designate the most appropriate Tribe to conduct the monitoring.

**CUL-5:** If human remains are found during excavation, work shall be halted and the appropriate local Native American (NA) group shall be contacted. If the County Coroner's office determines the remains to be Native American, and it is determined by the Native American Heritage Commission that member(s) of the local NA group is (are) the most likely descendants, the developer shall allow reburial of the remains and associated goods at an appropriate offsite location which shall be "capped" to prevent further disturbances in the future. The site of such burial shall not be disclosed to the public, pursuant to Government Code §6254. Details of the reburial shall be negotiated between the developer and the appropriate representatives of the local NA group. If human remains are found, and not determined by the County Coroner's office to be Native American, but believed by the local NA group to be so, the developer shall be required to pay reasonable costs to determine whether the remains are Native American. All NA cultural items and associated grave goods found on site, other than human remains, are to be avoided, relocated, salvaged, returned to the NA group, or any other option decided by the NA group to be appropriate, before development of the area in which the item was found is resumed. The developer shall provide for NA tribal archaeological monitors to be present during any Phase II and potential Phase III surveys of all sites within the project.

**CUL-6** Prior to any earth disturbing activities, a final surface collection shall be completed to mitigate additional impacts to surface artifacts that may have been exposed as a result of sand migration within the project boundaries (undeveloped portion). The surface collection shall be conducted using the transit-controlled method. All finds recovered shall be catalogued and analyzed. An illustrated, narrative report describing the field investigation and laboratory work shall be prepared and submitted to the City and Eastern Information Center at UCR.

(Recirculated SEIR pp. 3.5-5 through -6).

With consideration of the above information and the implementation of mitigation measures CUL-1 through CUL-6, the project's impacts to Archaeological and Paleontological Resources and Human Remains are found to be less than significant after mitigation. (SEIR p. 3.5-6).

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### **3.5 GEOLOGY AND SOILS**

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**3.5.1. SEISMIC:** The 1998 EIR found that no faults have been mapped through or adjacent to the proposed project site. Also, liquefaction potential on-site is minimal due to the relatively deep water table. However, the San Andreas fault has the potential to generate significant ground shaking at the site. The 1998 EIR found that with appropriate measures as required by the Uniform Building Code, significant impacts would be reduced to the greatest extent feasible. (1998 EIR pp. 5.5-7 to -8).

The 1998 EIR and the SEIR found that the project would result in modifications to the existing topography which would occur during grading activities but impacts would be less than significant with mitigation and due to the proximity of the San Andrea fault zone (6 miles north), strong to very strong ground motion on site during moderate to strong earthquakes is expected but impacts would be less than significant with mitigation. (SEIR pp. 3.6-2 through -4).

Because the project is located in a seismically active region, the impacts in regard to geology and soil are considered potentially significant. California has stringent permitting and building design standards designed to minimize the adverse impacts in the event of an earthquake. The potential impacts in regard to geology and soil are found to be less than significant with mitigation. (SEIR pp. 3.6-2; 3.6-6).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same.

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**GEO-1** Geotechnical/soils reports shall be submitted to the City of Indian Wells Engineering Department for approval prior to issuance of a grading permit. All grading shall be in conformance with the recommendations of the geotechnical/soils reports as approved by the City of Indian Wells Engineering Department. Recommendations to be addressed within the geotechnical/soils report shall address, at minimum the following issue areas. The geotechnical study shall be approved by the Engineering Department, and applicable recommendations shall be incorporated into the final grading plan, including:

- Site Clearing and Preparation;
- Seismic Design Criteria;
- Over-excavation, Recomposition and Fill Placement;
- Foundation Design; and
- Retaining Walls, Utility Trench Backfill and Drainage (Ref. 1998 5.5-2a).

**GEO-2** An Erosion Control Plan shall be submitted for approval to the Community Development Department, prior to issuance of a grading permit. The Erosion Control Plan shall outline methods that shall be implemented to control erosion from graded or cleared portions of the site. The erosion control measures may include one or more of the following:

- Placing sandbags along the perimeter of the project site prior to initial grading if grading is to be undertaken during the rainy season (October to March).

- Minimizing the length of time that soils lie exposed after grading

- Landscaping, hydro seeding or any other method of providing soil stabilization to graded areas, in a manner approved by the City of Indian Wells if determined to be required for erosion control in areas not planned for development until subsequent phases. Landscaping and hydro seeding should be under the direction of a licensed landscape architect and approved by the City Community Development Department. (Ref. 1998-5.5-2b).

**GEO-3** Prior to issuance of a grading permit, the project applicant shall comply with the City of Indian Wells Municipal Code. (Ref. 1998 5.5-2c).

**GEO-4** Due to the potential for ground shaking in a seismic event, the applicant shall comply with the standards set forth in the Uniform Building Code to assure seismic safety to the satisfaction of the Community Development Department. (Ref. 1998 5.5-3a).

**GEO-5** A structural engineer, civil engineer or architect experienced with earthquake-resistant design shall approve all building plans to determine the adequacy of seismic criteria for project structures, and to recommend appropriate design changes, if needed prior to issuance of building permits. The building plans shall incorporate design measures outlined within the Geotechnical/Soils Report prepared for the project site. (Ref. 1998 5.5-3b).

(SEIR pp. 8-11 through -12).

With consideration of the above information and the implementation of mitigation measures GEO-1 through GEO-5, the project's impacts to seismic hazards are found to be less than significant after mitigation. (SEIR p. 3.6-6).

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### 3.6 HAZARDS AND HAZARDOUS MATERIALS

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**ACCIDENTAL SPILLS:** As discussed in Section 2 of the Findings, the proposed project is not anticipated to have a significant impact on the environment due to any use, transport, or risks associated with hazardous materials. Regardless, the 1998 EIR and SEIR found that the potential exists for accidental spills of hazardous wastes in small quantities during construction. The most probable potential for new contamination would be if an accidental release of vehicle fluids or related materials occurred during construction within the project area. If a spill were to occur during construction, workers would follow existing cleanup procedures established by the state. With implementation of standard operating and safety procedures, the potential for impacts from hazardous materials is considered less than significant. (1998 EIR pp. 5.1-8; SEIR pp. 3.7-3 through -4).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR p. 3.7-4).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**HAZ-1** If waste materials are spilled during construction by the contractor and are believed to involve hazardous waste materials, the contractor shall:

- Immediately stop work in the vicinity of the suspected contaminant, remove workers and the public from the area;
- Notify the City of Indian Wells Building and Safety Official;
- Secure the area as directed by the City of Indian Wells Building and Safety Official; and
- Notify the Director, Riverside County Environmental Health Division (or designee) or appropriate approval authority. The Director shall follow procedures for site assessment, initiate coordination with local, State and regulatory agencies as required, and take remedial action as appropriate. (Ref. 1998 5.1-11)

(SEIR p. 8-2).

With consideration of the above information and the implementation of mitigation measure HAZ-1, the project's impacts to hazardous materials are found to be less than significant after mitigation. (SEIR p. 3.7-4).

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### 3.7 HYDROLOGY AND WATER QUALITY

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**DRAINAGE AND EROSION:** The 1998 EIR found that during construction activities, some soil loss would occur due to sheet erosion of exposed soils but impacts would be less than significant with mitigation. The project would result in the permanent conversion of vacant land to developed land, thereby resulting in higher peak flows due to the creation of impervious surfaces but impacts would be less than significant with mitigation, and urban water pollution would increase due to development surfaces but impacts would be less than significant with mitigation. (1998 EIR pp. 5.3-2 through -6). The SEIR found that drainage and surface water discharge from the project would be typical of commercial and residential uses. There is the potential for the discharge of urban pollutants, such as automotive residues like motor oils and antifreeze from the projects parking areas, streets, residential driveways etc. Landscaping irrigation runoff could contain fertilizers and pesticides as well. Additionally, site preparation could temporarily increase the amount of soil erosion and siltation entering the Coachella Valley Storm Channel. (SEIR p. 3.8-3).

The project will be required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. The general permit requires that the site develop and implement an appropriate Storm Water Pollution Prevention Plan that will also

contain appropriate Best Management Practices. The plan will include a visual monitoring program and a chemical monitoring program for any "non-visible" pollutants to be implemented if there is a failure of any of the applicable BMPs. The plan will also include a sediment monitoring plan for discharges directly into the channel. Such measures will ensure that any impacts to water quality will be less than significant. (SEIR pp. 3.8-2 through -3; 3.8-4).

Development of the site will also increase impermeable surfaces and increase the amount of runoff. Thus, the project is designed to collect runoff in catch basins and convey the runoff through a network of on-site storm drains that ultimately conveys the runoff to the channel. To prevent erosion of the channel, concrete lining along the bank adjacent to the channel will be constructed. Such lining already exists along the northern bank both above and below the project site. It is not anticipated that the course of the channel will be changed due to the project, the amount of runoff will not exceed the existing capacity of the stormwater drainage facilities, and the project will not create any significant erosion impacts. (SEIR pp. 3.8-4 through -5).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR p. 3.8-7).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**HWQ-1** Refer to mitigation measures GEO-2 and GEO-3 identified in Section 3.6 Geology and Soils of the SEIR. (Ref.1998 5.3-1a)

**HWQ-2** Prior to grading within the Coachella Valley Storm Channel (Whitewater River) easement area, the applicant shall obtain an encroachment permit from CVWD. (Ref. 5.3-1b).

**HWQ-3** Drainage improvements shall be required pursuant to Coachella Valley Water District's requirements. All required drainage improvements shall be designed by a California Registered Engineer and shall be submitted for approval to Coachella Valley Water District prior to issuance of grading permits. (Ref. 1998 5.3-2a).

**HWQ-4** Prior to grading permit issuance, drainage hydrology and hydraulic calculations shall be prepared in accordance with City of Indian Wells conditions, in order to ensure that post-project runoff does not exceed existing site runoff velocities. (Ref. 1998 5.3-2b).

**HWQ-5** In order to prevent exposed soil from erosion during periods of heavy rainfall, the project applicant shall be required to meet all erosion control measures to the satisfaction of the City of Indian Wells Building and Safety Department. (Ref. 1998 5.3-2c).

**HWQ-6** The project is required to meet Storm Water Management regulations. In accordance with City of Indian Wells conditions, prior to grading permit issuance, the project applicant/owner 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, and Monitoring Plan shall be submitted to the Engineering Department a minimum of thirty (30) days prior to commencing grading operations. (Ref. 1998 5.3-3a).

**HWQ-7** The project applicant shall be required to comply with the City of Indian Wells Engineering Department requirements contained in the conditions of approval on file in the Community Development Department, with respect to urban and general construction stormwater management. (Ref. 1998 5.3-3b).

(SEIR pp. 8-6 through -7).

With consideration of the above information and the implementation of mitigation measures HWQ-1 through HWQ-7, the project's impacts in regard to drainage and erosion are found to be less than significant after mitigation. (SEIR p. 3.8-7).

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### **3.8 LAND USE AND PLANNING**

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**3.8.1 SHORT-TERM CONSTRUCTION:** The 1998 EIR found that construction-related activities would affect adjacent and surrounding land uses, including residential uses located east and west of the project site. However, it was determined that these impacts would only be short-term in nature and would not continue after project build-out. (1998 EIR p. 5.1-9). The SEIR also found that short-term construction impacts would affect surrounding land uses but impacts would be less than significant with mitigation. (SEIR p. 3.9-1).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR p. 3.9-5).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the SEIR:

**LUP-1** Refer to mitigation measures TT-1 through TT-3 identified in Section 3.15 Transportation and Traffic of the SEIR; mitigation measure HWQ-5 identified in Section 3.8 Hydrology and Water Quality; mitigation measures GEO-2 identified in Section 3.6 Geology and Soils; mitigation measures NOI-1 through NOI-4 identified in Section 3.11 Noise;

mitigation measures AQ-1 and AQ-2 identified in Section 3.3 Air Quality; mitigation measures AES-1, AES-2 and AES-4 identified in Section 3.1 Aesthetics of the SEIR, for additional mitigation related to the land use impacts. (Ref. 1998 5.1.-1) (SEIR p. 8-1).

With consideration of the above information and the implementation of mitigation measure LUP-1, the project's impacts to short-term construction impacts on surrounding land uses are found to be less than significant after mitigation. (SEIR p. 3.9-5).

**3.8.2 ON-SITE LAND USE:** The 1998 EIR found that development of the site would permanently commit the land to commercial and residential uses and would eliminate existing open space. This may have long-term land use impacts. However, the 1998 EIR concluded that the site was presently zoned for such development and is not considered locally or regionally important open space. (1998 EIR p. 5.1-10). The SEIR found that implementation of the proposed project would result in development of existing open space (i.e. vacant land) with commercial and residential uses, thereby altering the site to a permanent developed condition. However, such development is consistent with the current Resort Commercial designation of the General Plan. The actual General Plan and Zoning Amendment are required for the residential component of the project. The residential component was still considered to be consistent with the City's applicable policies since the project will comply with all Indian Wells General Plan Policies as discussed in the SEIR. (SEIR pp. 3.9-2 through -3).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR p. 3.9-5).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the SEIR:

**LUP-2** Refer to mitigation measures TT-4 through TT-14 identified in Sections 3.15 Transportation and Traffic; mitigation measure NOI-5 identified in section 3.11 Noise; mitigation measure AQ-8 in section 3.3 Air Quality, and AES-3 and AES-5 in 3.1, Aesthetics of the SEIR. (Ref. 1998 5.1-2). (SEIR p. 8-1).

With consideration of the above information and the implementation of mitigation measure, LUP-2 the project's impacts from on-site land use are found to be less than significant after mitigation. (SEIR p. 3.9-5).

**3.8.3 LAND USE COMPATIBILITY:** The 1998 EIR found the proposed project may result in potential land use compatibility impacts on the Gerald R. Ford Elementary School, as well as potential impacts on residential uses in the project area. (1998 EIR p. 5.1-14). The SEIR found that development of the Project could result in potential land use compatibility impacts to surrounding uses (Southwest Community Church, Gerald R. Ford Elementary School, residential uses to the east) but impacts would be less than significant with mitigation. (SEIR pp. 3.9-1 through -3).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR p. 3.9-5).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**LUP-3** The residential area and the hotel/commercial site shall incorporate all feasible design measures to minimize the potential land use compatibility impacts to the satisfaction of the Director of Community Development. The following components and design considerations shall be implemented.

- Orient truck delivery/loading areas away from existing residential areas and the Southwest Community Church (church).
- Require equipment storage areas and waste receptacles to be screened and/or designed away from existing residential uses.
- Limit hours of operation on deliveries of goods, where applicable.
- Precise Plans for the proposed project shall demonstrate that the site plan has incorporated appropriate design standards such as architectural treatments, buffers (i.e., landscaping and walkways), setbacks between proposed commercial hotel uses an orientation/design of condominiums and commercial hotel facilities. (Ref. 1998 5.1-4).

(SEIR p. 8-1).

With consideration of the above information and the implementation of mitigation measure LUP-3, the project's impacts in regard to land use compatibility are found to be less than significant after mitigation. (SEIR p. 3.9-5).

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### 3.9 NOISE

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**EXCEED NOISE STANDARDS:** The 1998 EIR found that construction related activities associated with the transport of workers and equipment, as well as site preparation and construction would result in short-term impacts, but impacts would be less than significant with mitigation, the Tennis Garden would increase stationary noise sources (mechanical equipment, loudspeakers, parking areas, stadia, and amphitheater uses), but impacts would be a less than significant impact with mitigation, and increased traffic generated by the project would increase noise levels along adjacent roadways, but impacts would be less than significant with mitigation. (1998 EIR pp. 5.6-15 through -25). The SEIR also included appropriate mitigation to ensure that the existing noise generated from the Tennis Garden does not violate or exceed existing City of Indian Wells noise standards. (SEIR p. 8-13).

The SEIR found that based on the updated noise analysis prepared for the project, the noise increases predicted for the future-with-project scenario would not result in significant impacts

based on noise increases of 1.1 dB or less. This was based on a determination that an increase of 3 decibels or higher where the existing noise level is already 60 to 65 dB or an increase in 1.5 dB where the existing noise level is greater than 65 dB would be a potentially significant impact. Table 15 of the SEIR illustrates both the No Project and the With Project dB levels, as well as the expected change in dB caused by the project. As shown, based on the predicted noise levels and changes in noise levels, the impacts are anticipated to be less than significant. (SEIR pp. 3.11-2 through -3).

The SEIR also determined that there would not be significant impacts from the operation of the project at the nearby sensitive receptors, including Southwest Community Church and residences along Via Pavion in the City of La Quinta, as illustrated in Table 16 of the SEIR. With appropriate mitigation incorporated, Table 16 illustrates that the maximum noise levels from the proposed project will not be significant. (SEIR pp. 3.11-4 through -5).

The project may result in temporary exposure of persons to, or generation of, noise levels in excess of standards established in the General Plan Noise Element during construction. However, the SEIR determined that with the implementation of the mitigation measures incorporated from the 1998 EIR, any impacts related to vibration or a temporary increase in ambient noise levels will be less than significant. (SEIR pp. 3.11-3 through -4).

**FINDING:** Changes or alterations have been required in, or incorporated into the Project, which avoid or mitigate noise impacts to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR p. 3.11-6).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**NOI-1** Construction activities shall comply with City of Indian Wells Noise Chapter 9.06 relating to construction noise. If problems arise from construction noise, enforcement of the City's Municipal Code relating to construction-related noise, discernable at residential boundaries will help minimize any potential noise impacts. Such noise is prohibited between the hours of Monday through Friday 7:00 am to 5:00 pm Saturday 8:00 am to 5:00 pm. No Sundays or national holidays. (Ref. 1998 5.6-1a).

**NOI-2** All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers, to the satisfaction of the Community Development Department. (Ref. 1998 5.6-1b).

**NOI-3** 5.6-1b Stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers, to the satisfaction of the Community Development Department. (Ref. 1998 5.6-1b).

**NOI-4** Stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors during construction activities, to the satisfaction of the Community Development Department. (Ref. 1998 5.6-1d).

**NOI-5** Noise related to the Tennis Garden shall be regulated by Indian Wells City Council Resolution No. 2001-38 which provides for noise monitoring through the temporary use permit process to ensure that noise from events does not exceed City Noise Standards.

(SEIR pp. 8-12 through -13).

With consideration of the above information and the implementation of mitigation measures NOI-1 through NOI-5, the project's impacts to noise are found to be less than significant after mitigation. (SEIR p. 3.11-6).

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### **3.10 PUBLIC SERVICES**

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**INCREASED DEMAND FOR PUBLIC SERVICES:** The 1998 EIR and SEIR found that development of the Project would impact police, fire, and schools, but impacts would be less than significant impact with mitigation.

#### **Fire**

The 1998 EIR indicated that the project would result in increased demand for fire protection services as vacant land is converted to urban uses. (1998 EIR p. 5.4-6 to -7). The SEIR found that the project will generate general government revenues services from property tax, sales tax, and local Development Impact Fees in excess of anticipated service costs for fire protection services. (SEIR p. 3.13-2).

#### **Police**

The City of Indian Wells Police Department indicated that the project would increase demands for police services and that an additional police officer, added overtime during the seasonal period and Christmas holiday season, and a store-front sub-station within the project needed to be provided in order to meet this increased demand on police services. The SEIR found that the project will generate general government revenues services from property tax, sales tax, and local Development Impact Fees in excess of anticipated service costs for these police protection services. (*Ibid*).

#### **Schools**

The SEIR found that the 65 single-family unites proposed could generate up to 16 elementary, 9 middle school, and 12 high school students that would attend the local schools, based on current student generation figures from the Desert Sands Unified School District. Although the project would not cause the capacity of any one school to be overcrowded, the project would add 37 additional students to a school system where some schools are anticipated to be overcrowded. Pursuant to State law, the proposed project will be required to pay impact fees in effect at the time of issuance of building permits to offset any potential impacts to the existing school system. (SEIR p. 3.13-3).

#### **Parks**

The 1998 EIR examined potential impacts on parks and recreation due to the proposed project and found any potential impacts to be less than significant upon compliance with any applicable payment of park fees and associated mitigation. (1998 EIR p. 5.4-14). The proposed project would have 65 single-family units with a full-time population of 123 residents. These additional residents would generate a need for 0.39 acres of parkland and recreational facilities according to the City's municipal code. With payment of appropriate park fees and other mitigation, any impacts to parks are considered to be less than significant (see appropriate mitigation measures under Recreation in Section 3 of the Findings). (SEIR pp. 3.13-3 to -4).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same. (SEIR pp. 3.13-4 through -5).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**PS-1** Prior to issuance of building permits, the developer, and City of Indian Wells Police Department shall agree upon the procedures required to provide adequate police service to the project. (Ref. 1998 5.4-1).

**PS-2** The applicant shall comply with the existing City of Indian Wells Development Impact Fees for fire protection prior to the issuance of building permits for each development phase. These funds are to be used for the purchase of land and to build, equip, or remodel fire stations when necessary as development occurs. (Ref. 1998 5.4-3a).

**PS-3** The project applicant shall comply with all applicable sections of the City of Indian Wells Municipal Code for construction, access, water mains, fire flows, and fire hydrants, as required, subject to approval by the Fire Department. (Ref. 1998 5.4-3b).

**PS-4** Prior to the recordation of a final tract/parcel map (except for a conveyance map), water improvement plans shall be submitted to and approved by the Fire Department for adequate fire protection and financial security posted for the installation. The adequacy and reliability of water system design, location of valves, and the distribution of fire hydrants is to be evaluated and approved by the Fire Department. (Ref. 1998 5.4-3c).

**PS-5** Prior to the issuance of building permits, a construction phasing plan shall be submitted to and approved by the Fire Department. The purpose of this review is to evaluate the adequacy of emergency vehicle access for the type of land use served. (Ref. 1998 5.4-3d).

**PS-6** Prior to the issuance of any certificates of use and occupancy, all fire hydrants shall have a "Blue Reflective Pavement Marker" indicating its location on the street or drive per Fire Department Standards. (Ref. 1998 5.4-3e).

**PS-7** Prior to final building inspection, the applicant shall satisfy all Fire Department requirements regarding sprinkler systems, fire lanes and extinguishers. (Ref.-5.4-3f).

**PS-8** The proposed project shall be in compliance with the City's requirements and Fire Department's requirements regarding hazardous materials. as contained in the conditions of approval on file in the Community Development Department. (Ref. 5.4-3g).

**PS-9** The applicant shall pay the prevailing school assessment mitigation fees pursuant to California State law, prior to issuance of building permits. (Ref. 1998 5.4-21).

(SEIR pp. 8-7 through -8; 8-11).

With consideration of the above information and the implementation of mitigation measures PS-1 through PS-9, the project's impacts to public services are found to be less than significant after mitigation. (SEIR pp. 3.13-4 through -5).

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### **3.11 RECREATION**

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**INCREASED DEMAND FOR RECREATIONAL FACILITIES:** The 1998 EIR found that development of the project would increase the demand for parks and recreation services but impacts would be less than significant with mitigation. (1998 EIR p. 5.4-14). The SEIR found that with the relatively small amount of population increase (approximately 123 persons), it is not anticipated that the residents of the project would create a significant impact on regional parks or other recreational facilities resulting in their physical deterioration. The project is a mixed-use project intended to primarily serve tourists and the local population with shopping, dining, and entertainment. Therefore, no recreational facilities are proposed on-site (beyond the existing Tennis Garden). (SEIR pp. 3.14-1 to -2).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same (SEIR p. 3.14-2).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**REC-1** The project shall pay in-lieu fees for park services as required by the Coachella Valley Parks and Recreation District or dedicate a portion of the site to the District for public uses. (Ref. 1998 5.4-18a).

**REC-2** Prior to issuance of occupancy permits, the project applicant shall construct a Class I bike trail on the south side of Miles Avenue along the project frontage (Parcels 1 and 2). (Ref. 1998 5.4-18b).

**REC-3** Prior to issuance of occupancy permits, the project applicant shall construct a Class I bike trail along the Washington Street project frontage (Parcels 3 and 4). (Ref. 1998 5.4-19).

(SEIR p. 8-10).

With consideration of the above information and the implementation of mitigation measures REC-1 through REC-3, the project's impacts to Parks and Recreation are found to be less than significant after mitigation. (SEIR p. 3.14-2).

### **3.12 TRANSPORTATION/traffic**

**EMERGENCY ACCESS:** The project will improve the long-term emergency vehicle access to the project site and surrounding area. During construction, access may be impaired temporarily, but will cease at the end of construction. During construction, there may be temporary delays especially during construction at the intersection of Washington Street and Miles Avenue. Congestion management would be required by the City to keep construction-related impacts from becoming significant. Appropriate mitigation as discussed in Section 4 of the Findings regarding traffic will ensure that any long-term impacts to emergency access in or around the proposed project site will be less than significant. (Recirculated SEIR p. 3.15-9).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. (Recirculated SEIR p. 3.15-13).

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the Final Recirculated SEIR:

Mitigation Measures **TT-1** through **TT-15** (See Section 4 of the Findings).

With consideration of the above information and the implementation of mitigation measures TT-1 through TT-15, the project's impacts to emergency access are found to be less than significant after mitigation. (Recirculated SEIR p. 3.15-13).

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### **3.13 UTILITIES**

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**INCREASED DEMAND FOR UTILITY SERVICES:** The 1998 EIR and SEIR found that development of the project would increase the demand for water, electricity, natural gas, wastewater service, and solid waste disposal but impacts would be less than significant with

mitigation. (1998 EIR pp. 5.4-7 through -22). The SEIR again evaluated the associated utilities pursuant to CEQA thresholds.

### **Wastewater Treatment Facilities**

Presently, there are six water reclamation plants (WRP) providing wastewater treatment as well as recycled water supply in the CVWD service area. WRP-10 serves the City of Indian Wells. WRP-10 has the capacity to treat more than 31 million gallons of sewage a day, and currently handles on average slightly more than 18 million gallons daily. The project will generate an additional 44,100 gallons of sewage per day. WRP-10 has adequate capacity to provide wastewater service for the project. The project is not forecast to create additional wastewater that would require the expansion of WRP-10. In order to mitigate impacts to wastewater services to the maximum extent feasible, the 1998 EIR mitigation measures will be implemented. (SEIR p. 3.16-3).

### **Stormwater Facilities**

According to the "*Preliminary Hydrology Study, Indian Wells Town Center, Indian Wells, California, July 2007*" prepared by RBF Consulting, runoff from the existing Tennis Garden facility is conveyed via storm drains to the CVSC south of Miles Avenue. Runoff from undeveloped portions of the site north of Miles Avenue flow into storm drains in Washington Street and Miles Avenue. Runoff from the undeveloped portion of the site south of Miles Avenue flows in a southeasterly direction towards the bridge over the CVSC at Washington Street and ultimately into the CVSC. The stormdrain system will not impact any environmental resources on the site except for the CVSC. Impacts to the CVSC are addressed under Biological Resources in Section 3 of the Findings. (SEIR p. 3.16-3).

### **Water Supplies**

The "*Urban Water Management Plan (UWMP), December 2005*" for the Coachella Valley Water District (CVWD), projected water usage for the CVWD service area for the period 2005 to 2030. The total water demand for domestic water is expected to increase from 123,500 acre-ft/year in 2004 to 213,400 acre-ft/year in 2030 (UWMP Section 2.5.2). The water demand estimates were based on a planning model using land use plans, local demographic changes, parcel data, and 2004 CVWD billing rates. Local demographic changes were analyzed using land use data and Southern California Association of Governments (SCAG) projections of population, households, and employment for each city and census tract combination. (SEIR p. 3.16-3).

The planning model included the City of Indian Wells General Plan Land Use plan which has shown the project site to be developed as a combination of commercial, entertainment, sports, and retail uses as allowed by the Resort Commercial and Sports Complex land use designations. The residential component of the project is a less intensive use in terms of

water consumption and is therefore within the projections of the UWMP planning model. (*Ibid*).

The UWMP concluded that the CVWD will be able to meet 100 percent of the projected water demand for the period 2005 to 2030 (UWMP Section 3.3.7). The 1998 EIR recommended a number of mitigation measures to ensure that adequate water was available and that water conservation techniques were utilized (1998 EIR Mitigation Measures 5.4-12a through 5.4-12e). Based on the above analysis, no additional mitigation measures are required. (SEIR p. 3.16-4).

Since the certification of the 1998 EIR, Senate Bill 610 was adopted in regard to water supply planning. One of the provisions of SB 610 requires that an EIR analysis address whether the public water system (i.e. Coachella Water District) will meet the water demand associated with the proposed project if certain development intensity thresholds are exceeded. (*Ibid*)

The project does not meet the criteria for requiring a formal water demand analysis from the CVWD because the project falls below the thresholds identified in SB 610. Specifically:

- a) Less than 500 residential dwelling units;
- b) Less than 500,000 square feet of commercial;
- c) Less than 250,000 square feet of office;
- d) Less than 500 hotel rooms;
- e) No industrial square footage;
- f) Mixed-use components of project do not exceed thresholds above;
- g) Project water demand is not the equal to a 500 dwelling unit project. Project water usage is estimated at 88,200 gallons per day and a 500 dwelling unit residential project would generate the need for 138,600 gallons per day (500 dus x 1.98 persons per household x 140 gallons per person = 138,600 gallons per day). See Table 23 above.

In addition, the project has been issued a "will serve" letter from the CVWD indicating that domestic water will be supplied to the site (See Appendix I). (*Ibid*). Based upon the analysis, with appropriate mitigation as discussed below, any impacts will be less than significant.

### **Wastewater Treatment Capacity**

Water Reclamation Plant No. 10 located in Palm Desert is operated by the Coachella Valley Water District and serves the project site. Wastewater from the project will be conveyed by new onsite sewer lines and connect to the existing 18-inch sewer trunk line in the Coachella Valley Storm Channel right-of-way south of the site and ultimately conveyed to WRP-10. WRP-10 has the capacity to treat more than 31 million gallons of sewage a day, and currently handle on average slightly more than 18 million gallons daily. The project will generate an additional 44,100 gallons of sewage per day. WRP-10 has adequate capacity to provide wastewater service for the project. In addition, as indicated above, the project has been issued a "will serve" letter from the CVWD indication that sewer service will be furnished to the project. (SEIR p. 3.16-4).

## **Solid Waste Disposal**

According to the City of Indian Wells General Plan, wastes from the City are taken to the Edom Hill Transfer Station located 10 miles northeast of the project site on Dillon Road and then either deposited in the El Sobrante or Badlands Landfills. (SEIR pp. 3.16-4 through -5).

According to the California Integrated Waster Management Board (CIWMB) website, the El Sobrante Landfill has an estimated closure date of 2030 and has a daily capacity of ten (10) tons with a remaining capacity of 184,930,000 tons. The Badlands sanitary Landfill has an estimated closing date of 2016 and has a daily capacity of 4,000 tons with a remaining capacity of 30,386,332 cubic yards. (SEIR p. 3.16-5).

The latest waste disposal rates from the CIWMB indicate that the City of Indian Wells business sector currently generates 12,766 tons of waste per year. The project will incrementally add to this disposal rate by adding 7,750 pounds of solid waste per day or 1,404 tons per year. Based on the capacity rates identified above, there is adequate capacity to provide for the added waste generated by the project with appropriate mitigation included from the 1998 EIR for solid waste impacts. (*Ibid*).

Solid waste trash and recycling services will be provided to the project by Burrtec Waste and Recycling Services. Current programs implemented by the City include the following according to the California Integrated Waste Management Board (CIWMB):

- Source Reduction (waste reduction programs)
- Recycling (residential and business pick-up, special collection events)
- Composting (greenwaste pick-up)
- Public Education (website information, public outreach)

(SEIR p. 3.16-5).

In addition to the CIWMB mandated requirements, the City has ordinances regulating solid waste disposal. Based on the above analysis, the project will be required to be in compliance with mandatory regulations for solid waste. (*Ibid*).

## **Added CEQA Criteria: Electricity**

The project is estimated to generate the need for 7,193 kilowatt hours per day (See Table 23 of the SEIR). SCE will provide electrical service to the project through its network of power plants and transmission lines which have historically served the Coachella Valley. According to the California Energy Commission and SCE websites, electricity supplies will meet demands in the foreseeable future. This will be accomplished through SCE system wide infrastructure improvements (i.e. new generation and transmission facilities) as well as demand reduction and energy efficiency and conservation measures by individual users/projects. (SEIR p. 3.16-5).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate environmental effects to a less than significant level after mitigation. The conclusions in the 1998 EIR and the SEIR are the same.

**FACTS IN SUPPORT OF FINDING:** The project-specific environmental effects will be eliminated or substantially lessened to a less than significant level by implementation of the following mitigation measures, as identified in the SEIR:

### **Electricity**

**UTL-1** All final development plans shall be conditioned to require that all services and facilities shall be built in accordance with Imperial Irrigation District (IID) and Southern California Edison (SCE) policies and extension rules on file with the California Public Utilities Commission. (Ref. 1998 5.4-6a).

**UTL-2** All building plans shall comply with the Energy Conservation Standards set forth in Title 24 of the California Administrative Code and local building and safety codes. (Ref. 1998 5.4-6b).

**UTL-3** The developer shall consult with IID and SCE regarding participation in programs designed to increase the efficiency of operation and decrease energy costs. These programs may include new construction programs and off-peak cooling/thermal storage. Design criteria shall include the utilization of energy-efficient architectural and landscaping design concepts that would contribute to a reduction in the demand for energy. These concepts may include natural heating and/or cooling through sun and wind exposure and solar energy collection systems. (Ref. 1998 5.4-6c).

(SEIR p. 8-8).

### **Water Service**

**UTL-4** Water system design and all public water mains, meters, and appurtenances shall be installed and constructed in compliance with the applicable standards, specifications, policies, and regulations of the CVWD and a construction phasing plan shall be approved, prior to project final or occupancy permits. (Ref. 1998 5.4-12a).

**UTL-5** All water mains shall be sized to convey peak hour demands or maximum day demands with fire flows, prior to occupancy permits. All public streets and easements must be capable of containing and conveying the design fire flow capacity, as determined by the Fire Department. (Ref. 1998 5.4-12b).

**UTL-6** Prior to building permit issuance a clearance letter from the Coachella Valley Water District shall be provided to the Community Development Department verifying compliance with the conditions as follows: Stormwater and drainage, protection and control, water and

sewer utility clearance and low water efficient landscaping and irrigation. (Ref. 1998 5.4-12c).

**UTL-7** Prior to the issuance of building permits, the developer shall demonstrate use of low water use fixtures, plumbing fixtures and appliances, to the satisfaction of the Community Development Department and CVWD, which may include the following:

**Interior:**

- Supply line pressure: Reduce water pressure greater than 60 psi to 60 psi or less by means of a pressure-reducing valve.
- Drinking fountains: Equip drinking fountains with self-closing valves.
- Ultra-low flush toilets: Install 1.6 gallon per flush toilets in all new construction.

**Exterior:**

- Landscape with low water-consuming plants wherever feasible.
- Minimize use of lawn by limiting it to lawn-dependant uses.
- Group plants of similar water use to reduce over irrigation of low-water-using plants
- Use mulch extensively in all landscaped areas. Mulch applied on top of soil would improve the water-holding capacity of the soil by reducing evaporation and soil compaction.
- Install efficient irrigation systems which minimize runoff and evaporation and maximize the water which would reach the plant roots. Drip irrigation, soil moisture sensors, and automatic irrigation systems are a few methods to consider in increasing irrigation efficiency and may be feasible for the project.
- Use pervious paving material whenever feasible to reduce surface water runoff.
- Investigate the feasibility of utilizing reclaimed wastewater, stored rain water, or gray water for irrigation. (Ref. 1998 5.4-12d).

**UTL-8** The project, applicant shall comply with the CVWD requirements for water service. (Ref. 1998 5.4-12e).

(SEIR pp. 8-8 through -9).

### **Sewer Service**

**UTL-9** The applicant shall submit a construction phasing plan for review and approval by the Community Development Department prior to final design plan approval. (Ref. 1998 5.4-14a).

**UTL-10** Prior to map recordation the applicant shall comply with City of Indian Wells Municipal Code Chapter 14.04 (Sewage System) and CVWD requirements as contained within the conditions of approval on file in the Community Development Department for sewer service. (Ref. 1998 5.4-14b).

(SEIR p. 8-9)

### **Solid Waste**

**UTL-11** Prior to issuance of occupancy permits, the project applicant shall provide the Community Development Department with evidence of compliance with guidelines set forth by the State of California accordance with the California Integrated Waste Management Act of 1989 (AB 939), which requires jurisdictions to divert solid waste from landfills. This shall include consideration for offering marketable materials, such as concrete, asphalt and steel, to recyclables. (Ref. 1998 5.4-16a).

**UTL-12** Prior to issuance of building permits, the applicant shall submit 3 copies of a site plan, which includes the final design for the recyclable collection and storage area to the Community Development Department for review and approval. The storage area for recyclable materials shall comply with the following standards:

- The design, construction and location of recycling areas shall not conflict with any applicable federal, state or local laws relating to fire, building access, transportation, circulation or safety and shall be designed to be architecturally compatible with affected structures and existing topography;
- The recycling storage areas shall be conveniently located at or near solid waste collection areas, where feasible, but maintain adequate separation, fencing and landscaping to ensure that adjacent areas are not impacted by any associated noise, odor, vectors or glare for the storage areas;
- The recycling storage areas, bins and containers shall be adequate in capacity number and distribution to achieve fifty-percent recycling of the total waste generated by the project;

- The recycling storage areas shall be sufficiently protected from rain which might render the collected materials unmarketable and shall be secure from theft;
- Collection vehicles and personnel shall have unobstructed access to the storage area; and
- All recycling bins shall be labeled with the universal recycling symbol and with signage indicating to the users the type of material to be deposited in each bin. (Ref. 1998 5.4-16b).

**UTL-13** Items to be collected for recycling from a residential or commercial establishment depend on the types of materials available for recycling and the hauler's collection system. The project proponent should work with his permitted refuse hauler to identify which materials may be collected for recycling and on what schedule. (Ref. 1998 5.4-16c).

(SEIR p. 8-10).

With consideration of the above information and the implementation of mitigation measures UTL-1 through UTL-13, the project's impacts to utilities are found to be less than significant after mitigation.

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### **3.14 CUMULATIVE IMPACTS**

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**3.14.1 AESTHETICS:** The 1998 EIR concluded that construction of the project and other developments would have a significant cumulative effect on aesthetics and light and glare. With implementation of site specific mitigation measures on a project-by-project basis, these impacts would be less than significant. (1998 EIR p. 6-9).

The SEIR determined that the geographic area for this issue includes the project area and the Western Coachella Valley. Much of the desert land within the surrounding established communities (Indian Wells, Palm Desert, La Quinta) is planned to eventually be converted to some type of suburban development. While this represents a fundamental change from native desert land, much of the area has already been converted, and the cumulative development anticipated in the project area will only incrementally contribute to this change. As long as the proposed project meets local planning and design guidelines, impacts will be mitigated to less than significant levels and will not contribute to cumulatively considerable aesthetic impacts. The conclusions in the 1998 EIR and SEIR are the same. (SEIR p. 5-3). The analysis from the Recirculated SEIR did not change the cumulative impact analysis from the original SEIR in regards to Aesthetics.

**3.14.2 BIOLOGICAL RESOURCES:** The 1998 EIR concluded that build-out of the area will cumulatively impact sensitive plant and wildlife habitat, but would be mitigated on a project-by-project basis. (1998 EIR p. 6-9).

The SEIR determined that the geographic area for this issue is the project site Western Coachella Valley, but in a larger sense it is the area covered by the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). Biological reports prepared for the project and information obtained from the environmental documents for the Coachella Valley Storm Channel (CVSC) Mid-Valley Pipeline Project identified suitable habitat on the project site for the following species:

- Two federally listed endangered, February-May flowering species: the Coachella Valley Milkvetch and Triple-ribbed Milkvetch, and;
- Six unlisted, special-status plants: Flat-seeded Spurg, Glandular Ditaxis, California Ditaxis, Slender Woolly-heads, Desert Spike-Moss, and Purple Stemodia.
- Coachella Valley Fringed-toes Lizard, a Federally listed Threatened and State listed Endangered Species;
- Coachella Giant Sand-treader Cricket, an unlisted target species of the Santa Rosa and San Jacinto Mountains Conservation Area located off-site south of the project site.
- A solitary Burrowing Owl individual; (2007)
- A Coastal Western Whiptail; (2007)
- A San Diego Black-tailed Jackrabbit individual; (2007)
- An Osprey (1998)
- Palm Springs (Coachella Valley) round tailed ground squirrel;
- Palm Springs pocket mouse.

(SEIR p. 5-4).

Surveys for these sensitive species were conducted for both the project site and the CVSC. No sensitive plant or wildlife species were identified as being impacted by the project or construction of the Mid-Valley Pipeline Project which will impact the same area as the concrete lining and access road that the project is required to construct along the northern

bank of the CVSC per the requirements of the Coachella Valley Water District. However, mitigation measures were identified to ensure adequate mitigation for the loss of wetlands and for Burrowing Owls that may occupy the area in the future (see Biological Resources under Section 3 of the Findings). Based on the above analysis, the project's contribution to cumulative biological resources would not be considerable. The conclusions in the 1998 EIR and SEIR are the same. (*Ibid*).

**3.14.3 Cultural Resources:** The 1998 EIR concluded that the conversion of undeveloped areas to urban uses could result in the potential loss of paleontological or archaeological resources. The impacts were not considered to be cumulatively significant as each project would be required to mitigate impacts on a case-by-case basis. (1998 EIR p. 6-9).

The SEIR determined that the geographic area for this issue is the project site and the Western Coachella Valley. A Cultural Resources Record Search was conducted by Department of Anthropology, University of California Riverside Eastern Information Center on March 27, 2007. The report determined the following:

- Four cultural resources studies have been conducted within the boundaries of the project area (EIC Report Numbers RI-1930, RI-1933, RI-1934, and RI-6722).
- Three cultural resources properties are recorded within the boundaries of the project area (CA-RIV-3005, CA-RIV-3008, and CA-RIV-5876).

(SEIR p. 5-5).

The report noted that two of the cultural resources studies conducted within the project area (RI-1934 and RI-6722) involved field and laboratory investigations to evaluate the significance of archaeological resources sites CA-RIV 3005, CA-RIV 3008 and CA-RIV 5876. These efforts resulted in the recommendation that although the three sites referenced above did contain and yield important archaeological and cultural heritage information further study was not necessary. It was however, recommended in report RI-6722 that construction activities in the portion of the project area north of Miles Avenue, including the area around site CA-RIV-3008 be monitored to ensure protection of any significant subsurface cultural resources. (*Ibid*).

In addition, the above referenced reports recommended monitoring during grading for potential paleontological resources. No evidence of historic structures were found on the site. Mitigation measures are recommended that reduce impacts to cultural resources to less than significant impacts. Based on the above analysis, the projects contribution to cumulative cultural resource impacts would not be considerable. The conclusions in the 1998 EIR and SEIR are the same. (*Ibid*).

While the Cultural Resources section was recirculated with additional information, the information will not change the finding of a less than significant cumulative impact with appropriate mitigation incorporated. As previously discussed in the Findings, the Aqua Caliente Band of Cahuilla Indians did express concern regarding the potential for additional cultural resources to be discovered during grading and therefore requested additional information. The City provided additional reports and met with representatives of the Aqua Caliente Tribe, where it was agreed that all areas of the site have been adequately surveyed. However, it was also determined that, given the amount of time that has passed prior to the last survey and changing landscapes, a final survey for archaeological surface collection will be collected. See Mitigation Measure CUL-6. (Recirculated SEIR p. 3.5-3).

**3.13.4 GEOLOGY AND SOILS:** The 1998 EIR concluded that project may result in short-term increase in erosion due to grading activities. In addition, increased development intensity on-site and in the surrounding areas could expose persons and property to potential impacts due to seismic activity. With compliance to Uniform Building Codes, these impacts could be reduced to the maximum extent feasible. (1998 EIR p. 6-8).

The SEIR determined that the geographic area for this issue is the project site and the Western Coachella Valley region. The proposed project is equivalent to the approved project in terms of seismic and geotechnical constraints. The proposed Project will implement the mitigation measures of the 1998 EIR, and more detailed geotechnical work will be done to determine the most appropriate foundation designs, as required by the City development review process. With implementation of these measures, potential impacts of the proposed project relative to geotechnical constraints, is less than significant. Based on the above analysis, the project's contribution to cumulative impacts to Geology and Soils would not be considerable. (SEIR p. 5-6). The conclusions in the 1998 EIR and SEIR are the same.

### **3.13.5 HAZARDS AND HAZARDOUS MATERIALS:**

#### **ACCIDENTAL SPILLS**

As discussed in Section 2 of the Findings, there are no potentially significant impacts due to airports; the project is not on a listed hazardous waste site; and the project will not interfere with any emergency evacuation plans or routes. In addition, the proposed project is not anticipated to have a significant impact on the environment due to any use, transport, or risks associated with hazardous materials. Regardless, the 1998 EIR and SEIR found that the potential exists for accidental spills of hazardous wastes in small quantities during construction. The most probable potential for new contamination would be if an accidental release of vehicle fluids or related materials occurred during construction within the project area. If a spill were to occur during construction, workers would follow existing cleanup procedures established by the state. With implementation of standard operating and safety procedures and mitigation measure **HAZ-1**, the potential for cumulative impacts from hazardous materials and accidental spills during construction is considered less than significant. (1998 EIR pp. 5.1-8; SEIR pp. 3.7-3 through -4).

Based on the above analysis, the project's contribution to cumulative hazards and hazardous materials impacts would not be considerable. (*Ibid*). The conclusions in the 1998 EIR and SEIR are the same.

**3.13.6 HYDROLOGY AND WATER QUALITY:** The 1998 EIR concluded that development of the project would increase impervious surfaces, thereby reducing groundwater recharge and increasing the potential for flooding in the area. Cumulative development in the project area will result in alterations to the drainage patterns and flow rates in the project vicinity. With implementation of regional drainage plans and site specific drainage improvements, cumulative impacts were not considered to be significant. Cumulative development in the project area and areas surrounding the project site will also increase the quantities of urban pollutants that enter local drainage systems. These impacts can be reduced to a less than significant level through proper landscaping design and maintenance methods; adherence to waste disposal requirements, and implementation of National Pollutant Discharge Elimination System Best Management Practices. (1998 EIR p. 6-7).

The SEIR determined that the geographic area for hydrology and water quality impacts is the project site and the Whitewater River sub basin and the area under jurisdiction of the Colorado River Regional Water Control Board. Drainage and surface water discharge from the project as well as other projects in the area will discharge into the Coachella Valley Storm Channel which has adequate capacity to accommodate project runoff. The Project will be required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP must list Best Management Practices (BMPs) the discharger will use to minimize the amount of pollutants that are contained in storm water. (SEIR p. 5-7).

Mitigation measures are required of the project to address hydrology and water quality (see appropriate discussion under Section 3 regarding applicable mitigation measures). Based on the above analysis, the projects cumulative contribution to hydrology and water quality impacts would not be considerable. (*Ibid*). The conclusions in the 1998 EIR and SEIR are the same.

**3.13.7 LAND USE AND PLANNING:** The 1998 EIR concluded that the proposed project combined with other future developments will increase the intensity of land use in the area. Additionally, as the surrounding area continued to approach build out, significant cumulative land use changes would result, along with associated vegetation loss, reduced open space, necessary drainage improvements, traffic and noise increases, increased air emissions, aesthetic impacts, and greater demand on utilities and services. The 1998 EIR concluded that mitigation for cumulative land use impacts was best achieved through compliance with

regional plans and the General Plans for Indian Wells, La Quinta, and Palm Desert. (1998 EIR p. 6-7).

The SEIR determined that the geographic area for this issue ranges from the project site to the entire western portion of the Coachella Valley in Riverside County. Circumstances have not changed significantly since the 1998 EIR analysis as shown in Table 3 from the *Land Use and Planning* Section of the SEIR: A General Plan Amendment (GPA) and Zone Change (ZC) is required to implement the residential component of the project. The GPA and ZC will replace the "Sports Complex" designation south of Miles Avenue with a designation of "Low Density Residential" (3.1 to 4.5 dus/ac). The GPA from "Sports Complex" to "Low Density Residential" south of Miles Avenue is a more environmentally compatible use adjacent to the Coachella Valley Storm Channel than the more intense uses that would be allowed under the "Sports Complex" designation. (SEIR pp. 5-7 through -8).

The project is not located in a Conservation Area according to the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) which is applicable to the project site. Based on the above analysis, the projects cumulative contribution to land use and planning impacts would not be considerable. (SEIR p, 5-8). The conclusions in the 1998 EIR and SEIR are the same.

**3.13.8 NOISE:** The 1998 EIR concluded that the project and build out of the surrounding area would contribute to increased traffic volumes and cumulatively significant increases in noise levels along Washington Street and Miles Avenue. In addition to traffic noise, cumulative development projects would increase the ambient noise levels as a result of short-term construction noise and long term operation of the various land uses. The cumulative noise impacts would be mitigated by on-site noise attenuation measures and by implementing land use and circulation systems in accordance with adopted planning programs (i.e. General Plans, regional plans). (1998 EIR p. 6-8).

The SEIR determined that the geographic area for this issue is the project site and the surrounding areas in Indian Wells and La Quinta. Long-term impacts to noise from the operation of the project are associated with increased traffic and stationary sources such as heating, ventilating, air conditioning systems and truck deliveries. An increase of 3 dB or more would be considered significant. (SEIR p. 5-9).

The SEIR found that there would not be significant cumulative impacts from the operation of the Project on nearby sensitive receptors. The project is not within the noise influence area of any airport land use plan as the nearest airport is Palm Springs International located approximately 6 miles northwest of the site and Bermuda Dunes Airport located approximately 3 miles northeast of the site. The project is not within the noise influence area of any private airstrip. (*ibid*). In addition, the proposed project did include appropriate mitigation for short-term noise impacts and therefore determined that any impacts related to vibration or a temporary increase in ambient noise levels will be less than significant (see appropriate mitigation measures for Noise under Section 3). (SEIR pp. 3.11-3 through -4).

Based on the above analysis, the projects cumulative contribution to noise impacts would not be considerable. (SEIR p. 5-9). The conclusions in the 1998 EIR and SEIR are the same.

**3.13.9 PUBLIC SERVICES:** The 1998 EIR concluded that there would be significant cumulative impacts in regard to providing public services. The impacts to public services would be mitigated to below a level of significance by the payment of development impact fees, complying with applicable design requirements, and through energy conservation measures. (1998 EIR pp. 6-7 through -8).

The SEIR determined that the geographic area for this issue is the project site and the City of Indian Wells. The 1998 EIR required the project to comply with mitigation measures to offset the increased public service demands to the project. In addition, increased sales tax revenue generated by the project will provide long term funding for operations of public service agencies. Based on the above analysis, the projects cumulative contribution to Public Services would not be considerable. (SEIR p. 5-10). The conclusions in the 1998 EIR and SEIR are the same.

**3.13.10 RECREATION:** The 1998 EIR concluded that there would be significant cumulative impacts in regard to providing public services, which included recreation facilities. The 1998 EIR found that development of the project would increase the demand for parks and recreation services but impacts would be less than significant with mitigation. The impacts to recreation facilities would be mitigated to below a level of significance by the payment of development impact fees. (1998 EIR pp. 6-7 through -8).

The SEIR determined that the geographic area for this issue is the project site and Western Coachella Valley region. The nearest regional park to the site is Lake Cahuilla located 4 miles southeast of the City of La Quinta. The project consists of up to 400,000 square feet of mixed use retail/office uses and a 300 room condominium/resort hotel. These uses are not anticipated to impact regional parks or other recreational facilities. The residential component consists of 65 single family units which would have a full-time population of 123 residents (65 units times 1.9 persons per household based on the most current California Department of Finance estimates for Indian Wells). Given the relatively small amount of additional population (123 persons) it is not anticipated that the residents of the project would create a significant impact on regional parks or other recreational facilities resulting in their physical deterioration or the need for new recreational facilities in the area. Based on the above analysis the project's cumulative contribution impacts on recreational facilities would not be considerable. (SEIR p. 5-10). The conclusions in the 1998 EIR and SEIR are the same.

**3.13.11 TRANSPORTATION/TRAFFIC :** The 1998 EIR concluded that the project traffic combined with other project traffic would result in an incremental increase in local and

regional traffic levels. Level of Service (LOS) would be impacted in the project vicinity, but the long-term, cumulative traffic impacts would be mitigated on a project by project basis through implementation of the Riverside County General Plan and project specific mitigation measures. (1998 EIR p. 6-7).

While the SEIR also determined that cumulative impacts will be less than significant (SEIR pp. 5-10 through -11), the Recirculated SEIR determined that until actual roadway improvements are constructed, the proposed project's addition of traffic to the existing and future roadway conditions will be a significant impact. Therefore, the project's potential cumulative impacts would be significant until such roadway improvements are constructed (see discussion under Transportation/Traffic in Section 4 of the Findings). No cumulative impacts regarding emergency access, parking, air traffic, design hazards, or alternative transportation policies are anticipated. (SEIR pp. 5-10 through -11; Recirculated SEIR pp. 3.15-8 through -10).

**3.13.12 UTILITIES:** The 1998 EIR concluded that there would be significant cumulative impacts in regard to Utilities. The impacts to Utilities would be mitigated to below a level of significance by the payment of development impact fees; complying with applicable design requirements, and through energy conservation measures. (1998 EIR pp. 6-7 to -8).

The SEIR determined that the geographic area for this issue is the City of Indian Wells and the Western Coachella Valley.

### **Wastewater**

Coachella Valley Water District Water Reclamation Plant (WRP) 10 serves the City of Indian Wells and the project site. WRP-10 is required to submit annual monitoring reports to the Regional Board by January 15 of each year to demonstrate compliance with discharge requirements. According to the State Water Quality Control Board, there are no enforcement actions involving WRP-10 in regard to wastewater treatment requirements for existing projects which discharge into WRP-10. The project does not involve activities (i.e. manufacturing, industrial etc.) that may discharge wastes into the sewer system that may impact wastewater treatment requirements. (SEIR p. 5-11).

Presently, there are six water reclamation plants (WRP) providing wastewater treatment as well as recycled water supply in the CVWD service area. WRP-10 serves the City of Indian Wells. WRP-10 has the capacity to treat more than 31 million gallons of sewage a day, and currently handle on average slightly more than 18 million gallons daily. The project will generate an additional 44,100 gallons of sewage per day. WRP-10 has adequate capacity to provide wastewater service for the project. (SEIR p. 5-12).

### **Storm Drain Facilities**

According to the *"Preliminary Hydrology Study, Indian Wells Town Center, Indian Wells, California, July 2007"* prepared by RBF Consulting, runoff from the existing Tennis Garden

facility is conveyed via storm drains to the CVSC south of Miles Avenue. The CVSC has adequate capacity to accommodate additional storm water drainage from the project as well as other development in the area. (*Ibid*).

### **Water Supply**

The "Urban Water Management Plan (UWMP), December 2005" for the Coachella Valley Water District (CVWD), projected water usage for the CVWD service area for the period 2005 to 2030. The total water demand for domestic water is expected to increase from 123,500 acre-ft/year in 2004 to 213,400 acre-ft/year in 2030 (UWMP Section 2.5.2). The water demand estimates were based on a planning model using land use plans, local demographic changes, parcel data, and 2004 CVWD billing rates. Local demographic changes were analyzed using land use data and Southern California Association of Governments (SCAG) projections of population, households, and employment for each city and census tract combination. The UWMP concluded that the CVWD will be able to meet 100 percent of the projected water demand for the period 2005 to 2030 (UWMP Section 3.3.7). (*Ibid*).

### **Solid Waste**

The latest waste disposal rates from the California Integrated Waster Management Board indicate that the City of Indian Wells business sector currently generates 12,766 tons of waste per year. The project will incrementally add to this disposal rate by adding 7,750 pounds of solid waste per day or 1,404 tons per year. Based on the capacity rates identified above, there is adequate capacity to provide for the added waste generated by the Project and other projects in the area. (*Ibid*).

### **Electricity**

The project is estimated to generate the need for 7,193 kilowatt hours per day. SCE will provide electrical service to the project through its network of power plants and transmission lines which have historically served the Coachella Valley. According to the California Energy Commission and SCE web sites, electricity supplies will meet demands in the foreseeable future. This will be accomplished through SCE system wide infrastructure improvements (i.e. new generation and transmission facilities) as well as demand reduction and energy efficiency and conservation measures by individual users/projects. (*Ibid*).

The SEIR determined that based on the above analysis, with implementation of appropriate mitigation measures (see Utilities under Section 3) and mandatory requirements for waste treatment, wastewater treatment capacity, water supply, solid waste reduction, and electricity use, cumulative impacts to utility systems will be less than significant. (SEIR p. 5-13).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate cumulative environmental effects to a less than significant level after mitigation. Based on the above analysis, implementation of mitigation measures in combination with mandatory requirements, for each applicable cumulative impacts to the environmental topics discussed above would not be cumulatively considerable. The conclusions in the 1998 EIR and the SEIR are the same.

**FACTS IN SUPPORT OF FINDING:** As explained above, the project's cumulative environmental effects will be eliminated or substantially lessened to a less than significant level by implementation mitigation measures related to aesthetics, biological resources, cultural resources, geological resources, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, , and utilities, specifically identified herein in the project level discussion regarding each of these issues. These project level measures effectively reduce the project's contribution to cumulative impacts to less than significant levels.

## SECTION 4 FINDING REGARDING IMPACTS NOT MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE

The City Council finds that the following environmental impacts identified in the Final SEIR remain significant even after application of all feasible mitigation measures:

- Aesthetic impacts to views of the Santa Rosa Mountains for some residences on Via Pavion in the City of La Quinta.
- Project specific short-term, long-term, and cumulative air quality impacts.
- Project specific short-term, and long-term traffic impacts in regard to Level of Service.

In accordance with CEQA Guidelines section 15092(b)(2), the City of Indian Wells cannot approve the project unless it first finds:1) under CEQA section 21081(a)(3) and CEQA Guidelines section 15091(a)(3) that specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or project alternatives identified in the Final EIR; and 2) under CEQA Guidelines Section 15092(b)(2)(B), the remaining significant effects are acceptable due to overriding considerations described in CEQA Guidelines section 15093.

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### 4.1 AESTHETICS

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**HOTEL IMPACTS ON SCENIC VISTA:** The 1998 EIR found that operation of the commercial and residential uses in addition to the Tennis Garden would alter views on-site and across, and the viewshed from neighboring properties but would be less than significant with mitigation. (1998 EIR pp. 5.9-7 through -11). The 1998 EIR mitigation measures dealt with the Tennis Garden facility because details were not known at the time in regard to the future commercial and hotel uses. The following analysis considers details that are now known about the proposed project in regard to the hotel.

The proposed hotel on the south side of Miles Avenue is proposed to be a 300-unit condominium or resort hotel in a multi-level "terrace" design. The overall building from the street grade in the Washington Miles intersection is lower than 7 stories in vertical, measured height. Only a small portion of the hotel has a seventh floor, sixth floor, and fifth floor. Building heights range from forty-six (46) feet to ninety (90) feet including some of the accent elements. The City of Indian Wells allows structures to exceed the height limit of fifty-two (52) feet for the Resort Commercial zone in which the hotel is located with the approval of a Conditional Use Permit or Specific Plan. (Recirculated SEIR p. 3.1-2).

Indian Wells General Plan Policy IIIA1.6 states: "*Locate and site development to preserve public and private views of hillside areas, the Santa Rosa Mountains, and other scenic vistas*". The 1998 EIR analyzed the impact of two (2) multi-story hotels, one on the north side of Miles Avenue and one on the south side of Miles Avenue. Both hotels were to be

located adjacent to the westside of Washington Avenue. The proposed project has eliminated the hotel on the north side of Miles Avenue and is proposing a retail and entertainment center instead.

The Recirculated SEIR included exhibits with photographs illustrating "before project" views and "after project" views in order to evaluate the visual impacts of the hotel on views of the Santa Rosa Mountains (see Exhibit 8s, 8b, 8c, 8d, and 9 of the Recirculated SEIR). Based upon this analysis, some views of the mountains from the homes within the Palm Royale Country Club will be partially blocked by the taller portions of the hotel building (particularly those immediately adjacent to Washington Street on Via Pavion). This is an expected occurrence when vacant land in close proximity to existing homes is developed. The impacts to views can be partially lessened by the following design features that are included in the project:

- The architectural design of the hotel (building is terraced) to reduce mass and bulk;
- Building setbacks range from 400 to 600 feet plus from the homes on Via Pavion;
- A 300- foot wide "view corridor" is provided between Building A5 and Building C. An additional view corridor is provided in the vicinity north of the hotel across from the area where the single-family homes are proposed.

(Recirculated SEIR p. 3.1-3).

Indian Wells General Plan Policy IIIA1.6 has been complied with to the maximum extent feasible, absent leaving the site vacant or constructing single-story buildings, by incorporating the design features as described above. However, while views of the Santa Rosa Mountains are not totally blocked, impacts in regard to scenic vistas will be significant for those homes in the immediate foreground of the project site on Via Pavion in the City of La Quinta. (*Ibid*).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which will lessen the significant effects on the environment; however, specific economic, social, legal or other considerations make unfeasible mitigation sufficient to reduce the project impact to a less than significant level. The conclusions in the 1998 EIR and the SEIR are the same except for the hotel's impacts on views of the Santa Rosa Mountains for homes located on Via Pavion in the City of La Quinta. (Recirculated SEIR pp. 3.1-3; 3.1-8).

**FACTS IN SUPPORT OF FINDING:** The project will cause a fundamental change to views of the area, and will create significant impacts related to views of the Santa Rosa Mountain foothills for the homes located in Via Pavion, in the City of La Quinta. The City's architectural design and landscaping guidelines addressing building heights, setbacks, lighting standards, signage, and other design and aesthetic elements, will help to reduce the

visual impacts of the proposed project. The following mitigation measure is required to reduce the impact of the hotel to the maximum extent feasible.

**AES-1** Prior to the issuance of building permits, the project shall demonstrate that the hotel has been designed to incorporate a “terraced” design to minimize building bulk and massing, and that building placement provides a “view corridor” through the site. (SEIR p. 8-18; Recirculated SEIR page 3.1-7 (identified as AES-5 in the Recirculated SEIR)).

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## 4.2 AIR QUALITY

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**4.2.1 VIOLATE AIR QUALITY STANDARDS:** The 1998 EIR and the SEIR determined that both long-term and short-term impacts to air quality were significant and unavoidable.

### Short-Term

It was determined that short-term impacts will include fugitive dust and other particulate matter, as well as exhaust emissions generated by earth moving activities and operation of grading equipment during site preparation. The project’s construction will include mass and fine grading; trenching and excavation; utility and building construction; asphalt paving and application of architectural coatings. Regardless of construction phasing and mitigation, it was determined through the use of URBEMIS2007 version 9.2.2 that the proposed project will exceed the regional South Coast Air Quality Management District (SCAQMD) thresholds during construction for VOC, and NOx. This is a significant and unavoidable impact. . In addition, the South Coast Air Basin is in non-attainment for both ozone and PM10. The proposed project during construction will emit significant emissions of VOC, an ozone precursor. Therefore, the proposed project will have both an individual and cumulative significant impact during construction. (Recirculated SEIR pp. 3.3-7 through -8; 3.3-17 through -18).

### Long-Term

Operational, or long-term emissions, include both mobile and area source emissions. Area source emissions are emissions from sources such as consumer products, heaters, gasoline-powered landscape equipment, and painting (architectural coatings). Mobile emissions are typically from motor vehicles and are the largest single long-term source of air pollutants caused by the proposed project. The air quality section of the Recirculated SEIR again utilized URBEMIS2007 version 9.2.2 and evaluated the potential for the proposed project to create significant regional long-term emissions. (Recirculated SEIR p. 3.3-9).

The Recirculated SEIR determined that, despite the implementation of all feasible mitigation measures, the proposed project will exceed regional thresholds and create long-term impacts during project occupancy from VOC, NOx, CO and PM10.. Thus, the long-term impacts of the project will have a significant and unavoidable impact due to high levels of these criteria pollutants. The project will also emit significant emissions of VOC and NOx, which are ozone precursors, and will therefore also have a cumulative impact on ozone levels. The proposed project will have a significant and unavoidable impact despite the implementation of mitigation. Since the Basin, including the project area, is currently out of

the attainment for both ozone and PM10 particulate matter, the SCAQMD has determined that operation of cumulative projects will further degrade the local air quality, as well as the air quality of the Basin. (Recirculated SEIR pp. 3.3-19 through -20).

### **Cumulative**

The greatest cumulative impact on regional air quality will be the addition of incremental pollutants from increased vehicular emissions from truck and automobile trips in the area and increased energy consumption from the planned projects. Ultimate residential, commercial, and industrial development of the area will generate thousands of additional trips per day, and area development will produce air pollutants that exceed SCAQMD thresholds. This will be a significant air quality impact both on a project level and on a regional basis.

The project makes a significant contribution to cumulatively considerable impacts on air quality, both over the short-term from construction and over the long-term during project occupancy for the emissions as described in the findings above. Proposed mitigation will help reduce the project's contribution to these impacts to the greatest extent feasible, but still not to less than significant levels on a cumulative basis. (Recirculated SEIR, p. 3.3-20).

### **COMPLIANCE WITH AQMP**

According to the SCAQMD, a project is consistent with the Air Quality Management Plan (AQMP) if the project will not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards. The project may cumulatively contribute to a violation of the air quality standards for ozone since it exceeds the VOC and NOX thresholds during construction and operations. Moreover, the project during operations exceeds CO and PM10 regional thresholds. Therefore, the Recirculated SEIR determined that the project as proposed is not in compliance with the AQMP for emissions during both construction and operations and therefore the impact is significant and unavoidable. (Recirculated SEIR pp. 3.3-6 through -7).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which will lessen the significant effects on the environment; however, specific economic, social, legal or other considerations make unfeasible mitigation sufficient to reduce the project impact to a less than significant level. (Recirculated SEIR p. 3.3-20).

**FACTS IN SUPPORT OF FINDING:** The project air quality analysis determined that the project would have significant short-term and long-term regional air quality impacts. The following measures are proposed to help reduce project impacts to the greatest extent feasible:

**AQ-1** The proposed project shall comply with City of Indian Wells conditions to prevent dust and blowsand as follows:

- Graded but undeveloped land shall be maintained in a condition so as to prevent a dust and/or blowsand nuisance and shall be planted either with interim landscaping or provided

with other wind and water erosion control measures as approved by the Director of Building and Safety and the state air quality management standards.

•Notwithstanding any section of the ordinance to the contrary, the permit holder(s) shall comply with the requirements of City of Indian Wells Municipal Code Section 8.20 (Fugitive Dust). (Ref. 1998 5.7-1a).

**AQ-2** In accordance with City of Indian Wells conditions, all necessary measures to control dust shall be implemented during grading. Such measures shall include the following:

•The project shall comply with State, County and UBC dust control regulations, so as to prevent the soil from being eroded by wind, creating dust, or blowing onto a public road or roads or other public or private property.

•SCAQMD Rule 403.1 as amended shall be adhered to, ensuring the clean up on the construction-related dirt on approach routes to the site, and the application of water and/or chemical dust retardants that solidify loose soils shall be implemented for construction vehicle access, as directed by the Community Development Department. This shall include covering, watering or otherwise stabilizing all inactive soil piles (left more than 10 days) and inactive graded areas (left more than 10 days).

•Any vegetative ground cover to be utilized onsite will be planted as soon as possible to reduce the amount of open space subject to wind erosion. Irrigation will be installed as soon as possible to maintain the ground cover and minimize blowsand.

•Grading activity will be suspended when local winds exceed 30 miles per hour and during first and second state smog alerts.

•All trucks hauling dirt, soil or other loose dirt material will be covered.

•Pursuant to City of Indian Wells Municipal Code Section 8.24 (Blowing Sand and Dirt) blowsand shall be controlled by the measures contained in Section 8.24. Furthermore, pursuant to the Coachella Valley Fugitive Dust Control Handbook, measures to control PM10 shall be approved by the Community Development Department. (Ref. 1998 5.7-1b).

**AQ-3** To limit emissions from project-related vehicle trips, the project shall, at a minimum, incorporate the following:

•Provide marked pedestrian lanes and driver warning signs.

•Provide bicycle racks for employees and customers of commercial areas.

•Site access shall be prepared so as to avoid queuing in driveways.

•Prepare mulch, ground cover and native vegetation to reduce energy for pumping water.

•Provide preferential parking for High Occupancy Vehicles and shuttle services. (Ref. 1998 5.7-2a).

**AQ-4** In order to reduce emissions from the power plant providing electricity to the site and from natural gas consumed by the project's users, on-site buildings shall, at a minimum, be constructed to comply with State Energy Efficiency Standards (Title 24). (Ref. 1998 5.7-2b).

**AQ-5** Reduce the maximum acreage graded on any one day to 20 acres. (Identified as AQ-1 in the Recirculated SEIR).

**AQ-6** During project construction, onsite electrical hook ups shall be provided for electric construction tools including saws, drills and compressors, to eliminate the need for diesel powered electric generators. (Identified as AQ-2 in the Recirculated SEIR).

**AQ-7** During project construction, the developer shall require all contractors not to idle construction equipment onsite for more than 5 minutes. (Identified as AQ-3 in the Recirculated SEIR).

**AQ-8** A minimum of three Transportation Demand Management (TDM) measures shall be implemented. TDMs may include having showers and locker facilities for employees, providing at least one secure bike parking spot for every 20 vehicle parking spaces, providing preferential parking for carpool/vanpool vehicles, and installing kiosks with alternative transit information.

(SEIR pp. 8-14 through -16; Recirculated SEIR p. 3.3-17).

#### **ADDITIONAL MITIGATION ADDED TO RECIRCULATED SEIR:**

**Recirculated SEIR AQ-4** During construction, require to the maximum extent feasible, that trucks and other vehicles that would be transporting materials and other supplies to the project site, to use alternative fuels such as compressed natural gas.

**Recirculated SEIR AQ-5** During construction, for construction equipment require the use of oxidation catalysts and alternative clean fuel such as natural gas instead of gasoline or diesel powered engines. However, where diesel equipment has to be used because there are no practical alternatives, the construction contractor should use particulate filters as well as oxidation catalysts.

**Recirculated SEIR AQ-6** During construction, to reduce volatile organic compounds (VOC) emissions, restrict the number of gallons of architectural coatings used per day. Where feasible, paint contractors should use hand applications instead of spray guns; encourage the use of water-based coatings or coatings with a lower VOC content than 100 grams per liter; and consider using materials that do not need to be painted or are painted prior to transport to the site.

(Recirculated SEIR pp. 3.3-17).

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## 4.3 TRANSPORTATION/TRAFFIC

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**4.3.1 SHORT-TERM IMPACTS:** The 1998 EIR found that implementation of the Tennis Garden would result in an increase in a.m. and p.m. peak hour trips during the annual tennis event and buildout of the proposed Project (without annual tennis event), would result in an increase Average Daily Trips (ADT) on adjacent roadways and decrease in Levels of Service (LOS) at intersections in the immediate area, but impacts would be less than significant with mitigation. (1998 EIR pp. 5.2-8 through -31).

The SEIR determined that the total number of trips has increased by 4,647 trips, which represents a 32.2% increase over the overall average daily trips generated by the original Phase 2 of the project. The total a.m and p.m peak hour trips have been reduced (except for the PM Peak Out Trips). (Recirculated SEIR p. 3.15-4).

Since the 1998 EIR analysis, traffic conditions and patterns have changed in the immediate area. Therefore, the Traffic Impact Analysis in the SEIR and the Recirculated SEIR analyzed traffic impacts based on current traffic conditions and patterns. Under Baseline Conditions (Existing + Cumulative), the following intersections are already operating at unacceptable LOS without the project: (Note: LOS D or better is considered the acceptable standard).

- Washington St. at Fred Waring (LOS E)
- \*Washington St. at Miles Avenue (LOS E at PM only)
- Washington St. at Hwy. 111 (LOS F)
- Washington St. at Avenue 48 (LOS F)
- Adams St. at Hwy. 111 (LOS E at PM only)

\*Washington St. at Miles Ave. were illustrated as operating at an unacceptable LOS under Table 21 of the Recirculated SEIR for Baseline Conditions (Existing + Cumulative).

(Recirculated SEIR pp. 3.15-5).

Table 21a of the Recirculated SEIR illustrates that the proposed project will result in delays (in seconds) from the existing conditions at the identified intersections due to the additional traffic anticipated to be generated by the project. The range is anywhere from a low of 0.1

seconds to up 7.3 seconds, depending on the intersection. The delay is actually anticipated to decrease at Washington Street and Highway 111 by 3.8 seconds during the AM Peak Hour. (Recirculated SEIR p. 3.15-6).

It was determined that the proposed project will incrementally contribute additional traffic to these intersections under the Baseline Conditions and will result in a lower LOS standard during the PM Peak Hour from LOS D to LOS E at Washington St. and Miles Ave. and from LOS D to LOS E in the AM Peak Hour at Adams St. and Highway 111. (*Ibid*).

The City of Indian Wells collects funds under the CVAG's Transportation Uniform Mitigation Fee (TUMF). The purpose of the TUMF is to provide a funding mechanism to address the existing lack of capacity and unacceptable Levels of Service on the CVAG Regional Arterial System in order to accommodate anticipated future growth and relieve congestion consistent with the Riverside County Congestion Management Program. The TUMF program will provide significant additional funds from new development to make improvements to the CVAG Regional Arterial System, complementing funds generated by Measure A and other potential funding sources. (Recirculated SEIR p. 3.15-7).

In addition, a traffic signal analysis was conducted for the proposed project which indicated that a traffic signal was warranted at the intersection of Washington St. and Via Sevilla at the project entrance. Therefore, mitigation requiring appropriate signalization was included in Recirculated SEIR. (Recirculated SEIR p. 3.15-8).

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which will lessen the significant effects on the environment; however, specific economic, social, legal or other considerations make unfeasible mitigation sufficient to reduce the project impacts to a less than significant level. (Recirculated SEIR p. 3.15-13).

**FACTS IN SUPPORT OF FINDING:** Reduction of the traffic congestion will require regional improvements to be constructed per the CVAG Regional Arterial System. Payment of TUMF is considered to be the projects fair share mitigation to help alleviate the existing traffic conditions. Even with Mitigation Measures TT-1 through TT-15 (discussed in detail below), the Project will contribute on a short-term basis to the existing deficient Level of Service in the area, therefore, short-term traffic impacts are significant and unavoidable.

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#### 4.3.2 LONG-TERM IMPACTS:

See discussion under Short-Term Impacts above for a reference to anticipated traffic loads and acceptable Level of Service (LOS) standards.

The Transportation Prioritization Study (TPPS) is used by CVAG to prioritize the use of funds for construction of the arterial road projects that are most in need. The TPPS identifies factors that may alter recommended priorities and develops a continuing monitoring program, which will allow CVAG to address changing conditions over time. The system is set up so that participating jurisdictions provide CVAG with traffic information based on bona fide traffic studies so that roadway improvements can be considered for inclusion in the TPPS or reprioritized. The TPPS is updated on a regular basis (2005 was the last update) based on input from jurisdictions. Table 22a of the Recirculated SEIR shows the status of the improvements required per Mitigation Measure TT-1. (Recirculated SEIR p. 3.15-7).

**Table 22a.**

**TRANSPORTATION PROJECT PRIORITIZATION STUDY (TPPS) ANALYSIS**

<i>Intersection</i>	<i>Intersection Has One or More Approaches on a TPPS Segment</i>	<i>TPPS Segment Includes Proposed Mitigation per Mitigation Measure TT-1</i>	<i>Mitigation That Needs to be Added to TPPS</i>	<i>Location</i>
<i>Washington St. at Fred Waring Dr</i>	<i>YES</i>	<i>NO</i>	<i>Add Right Turn Lane on Westbound Fred Waring</i>  <i>Through Lane to Southbound Washington</i>	<i>La Quinta</i>  <i>La Quinta</i>
<i>Washington St. at Via Sevilla</i>	<i>NO</i>	<i>N/A</i>		<i>N/A</i>
<i>Washington St. at Miles Ave.</i>	<i>YES</i>	<i>NO</i>	<i>Add Left Turn Lane on Southbound Washington</i>  <i>Add Westbound Right Turn Lane to Miles</i>	<i>Indian Wells</i>  <i>La Quinta</i>
<i>Washington St. at Hwy. 111.</i>	<i>YES</i>	<i>NO</i>	<i>Add Right Turn Lane on Southbound Washington</i>	<i>La Quinta</i>
<i>Washington St. at Avenue 48</i>	<i>YES</i>	<i>NO</i>	<i>Add Right Turn Lane on Northbound Washington</i>	<i>La Quinta</i>
<i>Adams St. at Hwy. 111</i>	<i>NO</i>	<i>NO</i>	<i>Add Left Turn Lane to Both Approaches on Highway 111</i>	<i>La Quinta</i>

Long term impacts are considered significant until such time that the improvements identified in Mitigation Measure TT-1 are prioritized in the TPPS as requested by the City of Indian Wells. Please note that according to Table 22a the City of Indian Wells only has the ability to implement mitigation measures within their jurisdiction, and that the majority of improvements required to mitigate areawide traffic are for improvements in the City of La Quinta and the most viable method for the project to contribute to these measures is through the payment of TUMF and coordination with CVAG. (Recirculated SEIR p. 3.15-8).

### **Cumulative Impacts**

The original 1998 EIR and SEIR found that the proposed project's impacts will be mitigated to a level of less than significant. Given this lack of impacts caused by the project coupled with the determination that any future cumulative impacts will also have to be mitigated on a project-by-project basis, it was determined that any cumulative traffic impacts would also be less than significant. (1998 EIR p. 6-7; SEIR pp. 5-10 through -11).

As discussed above, the Recirculated SEIR found that the proposed project will contribute traffic to an already impaired roadway. It also determined that the proposed project will provide sufficient mitigation to mitigate its long-term impact by payment of appropriate TUMF fees and will reduce delays at the impacted intersections once all identified mitigation measures are in place. However, until appropriate improvements are actually constructed, the Recirculated SEIR determined that both short and long-term impacts will remain significant due to the existing traffic in the area. (Recirculated SEIR, p. 6-2). Therefore, cumulative impacts will be potentially significant and unavoidable until said improvements are complete.

**FINDING:** Changes or alterations have been required in, or incorporated into, the project, which mitigate to the maximum extent feasible long-term traffic impacts, however impacts are still significant and unavoidable after mitigation. (**Recirculated SEIR p. 3.15-13**).

**FACTS IN SUPPORT OF FINDING:** The project-specific long-term traffic impacts will be lessened but not to a less than significant level by implementation of the following mitigation measures, as identified in the Final SEIR:

**TT-1** Prior to the issuance of building permits, the developer shall pay the Transportation Uniform Mitigation Fee (TUMF) to fund its fair share contributions for the following improvements.

- Washington St. at Fred Waring: Add a westbound right turn lane on Fred Waring Dr., an additional southbound through lane on Washington Street, and an additional eastbound through lane of Fred Waring Dr. (With regard to the eastbound through lane, the City of Indian Wells is currently completing a street improvement project for Fred Waring Dr. that will be adding an eastbound through lane).

- Washington St. at Miles Avenue: Add an additional southbound left turn lane on Washington Street and a westbound right turn lane on Miles Avenue.

- Washington St. at Hwy. 111: Add a southbound right turn lane on Washington.

- Washington St. at Avenue 48: Add a northbound right turn lane on Washington Street.
- Adams St. at Hwy. 111: Add an additional westbound left turn lane and an additional eastbound left turn lane on Highway 111.

The City shall submit the "Supplemental Traffic Impact Analysis for Draft Supplemental EIR for Indian Wells Town Center" prepared by Willdan dated June 18, 2007 to the Coachella Valley Association of Governments for consideration of inclusion of specific improvements contained in Mitigation Measure TT-1 into the ongoing Transportation Project Prioritization Study.

(Recirculated SEIR p. 3.15-12).

**TT-2** A Traffic Management Plan (TMP) shall be prepared and implemented to the satisfaction of the City of Indian Wells. The TMP shall include, but not be limited to, the following measures:

- Provision of continued access to residential properties adjacent to the construction site.
- Provide alternate bicycle routes where existing bicycle routes are disrupted by construction activities.
- Submit a truck routing plan, for approval, by the City of Indian Wells and other responsible public agencies in order to minimize impacts from truck traffic during material delivery and disposal.
- The TMP will demonstrate that all inbound vehicle stacking is accommodated on-site with no spill-over onto miles Avenue, and that outbound traffic peaks can be moderated to such an extent that the Level of Service (LOS) does not deteriorate below LOS "E" for more than 30 consecutive minutes per day. (Ref. 1998 5.2-1a).

**TT-3** Construction related activities will be subject to, and comply with, standard street use requirements imposed by the City of Indian Wells and other public agencies, including the use of flagmen to assist with haul truck ingress and egress of construction areas and limiting of large size vehicles to off-peak commute traffic periods. (Ref. 1998 5.2-1b).

**TT-4** During periods of heavy equipment access or truck hauling, the project contractor will provide construction traffic signage and a construction traffic flagman to control construction and general project traffic at points of ingress and egress. (Ref. 1998 5.2-1c).

**TT-5** Existing Plus Phase 1 Project Conditions assume improvement of the currently deficient Fred Waring Drive/Washington Street intersection to LOS D operation through the addition of two southbound through lanes on Washington Street and one northbound through lane on Washington Street. As such, the project applicant shall pay a fair share of the costs of the Fred Waring Drive/Washington Street intersection improvement through payment of TUMF traffic impact mitigation fees for Existing Plus Phase 1 Project Conditions:

- Fred Waring Drive/Washington Street - fair share payment of TUMF traffic mitigation fees for the addition of two southbound through lanes on Washington Street and one northbound through lane on Washington Street due to existing deficient condition. (Ref. 1998 5.2-2a).

**TT-6** Existing Plus Phase 1 Project Plus Cumulative Conditions assume improvement of the currently deficient Fred Waring Drive/Washington Street intersection to LOS D operation. Despite the implementation of the improvements required for the existing deficiency at the Fred Waring Drive/Washington Street intersection, additional mitigation is required for Existing Plus Phase 1 Project Plus Cumulative Conditions. As such, the project applicant shall pay a fair share of the costs of the following improvements at the Fred Waring Drive/Washington Street intersection through payment of TUMF traffic impact mitigation fees for Existing Plus Project Plus Phase 1 Project Plus Cumulative Conditions:

- Fred Waring Drive/Washington Street – fair share payment of TUMF traffic mitigation fees for an addition northbound left turn lane on Washington Street, an addition southbound left turn lane on Washington Street, and an additional northbound through lane on Washington Street for Existing Plus Phase 1 Project Plus Cumulative Conditions. (Ref. 1998 5.2-2b).

**TT-7** The Highway 111/Cook Street intersection is forecast to operate deficiently with the addition of project and cumulative traffic growth for Existing Plus Phase 1 Project Plus Cumulative Conditions. As such, the project applicant shall pay a fair share of the costs of the Highway 111/Cook Street intersection improvement through payment of TUMF traffic impact mitigation fees for Existing Plus Phase 1 Project Plus Cumulative Conditions.

- Highway 111/Cook Street- fair share payment of TUMF traffic mitigation fees for the addition of an eastbound right turn lane on Highway 111 at Cook Street due Existing Plus Phase 1 Project Plus Cumulative Conditions. (Ref. 1998 5-2.2c).

**TT-8** Existing Plus Phase 1 Project Annual Tennis Event Conditions; "Special Event" coordination between the project applicant and the affected agencies is recommended, including the use of temporary signage, flagmen and shuttle systems. (Ref. 1998 5.2-2d).

**TT-9** Existing Plus Project Buildout Conditions assume improvement of the Fred Waring Drive/Washington Street intersection and Highway 111/Cooke Street intersection for Existing Conditions and Existing Plus Phase 1 Plus Cumulative Conditions as discussed above. The Miles Avenue/Highway 111 intersection is forecast to operate deficiently for Existing Plus Project Buildout Conditions. As such, the project applicant shall pay a fair share of the costs of the Miles Avenue/Washington Street intersection improvement through payment of TUMF traffic impact mitigation fees for Existing Plus Project Buildout Conditions:

- Miles Avenue/Washington Street - fair share payment of TUMF traffic mitigation fees for the addition of an southbound through lane and southbound right turn lane on Washington Street at Miles Avenue, and an eastbound right turn lane on Miles Avenue at Washington Street, for existing plus project buildout conditions. (Ref. 1998 5.2-3a).

**TT-10** Existing Plus Project Buildout Plus Cumulative Conditions assume improvement of the Fred Waring Drive/Washington Street intersection recommended for Existing Conditions and for Existing Plus Phase 1 Plus Cumulative Conditions as discussed in TT-9 above.

Existing Plus Project Buildout Plus Cumulative Conditions result in a forecast deficiency at the Highway 111/Cook Street intersection. As such, the project applicant shall pay a fair share of the costs of the Highway 111/Cook Street intersection improvement through payment of -TUMF traffic impact mitigation fees for Existing Plus Project Plus Buildout Plus Cumulative Conditions:

- Highway 111/CookStreet- fair share payment of TUMF traffic mitigation fees for conversion of the eastbound right turn lane added on Highway 111 at Cook Street for existing plus phase 1 project plus cumulative conditions to an eastbound through lane. Additionally, fair share payment of TUMF traffic mitigation fees for an additional northbound left turn lane on Cook Street, an additional southbound left turn lane on Cook Street, an additional eastbound left turn lane on Highway 111, an additional westbound left turn lane on Highway 111, an additional eastbound through lane on Highway 111, and an additional westbound through lane on Highway 111. (Ref. 1998 5.2-3b).

**TT-11** The 42nd Avenue/Highway 111 intersection is forecast to operate deficiently for Existing Plus Project Buildout Plus Cumulative Conditions. The project applicant shall pay a fair share of the costs of an additional southbound left run lane on Washington Street at 42nd Avenue, and restriping of northbound Washington Street at 42nd Avenue to one northbound left turn lane and two northbound through lanes, through payment of TUMF traffic impact mitigation fees for Existing Plus Project Buildout Plus Cumulative Conditions:

- 42nd Avenue/Washington Street - fair share payment of TUMF traffic mitigation fees for the additional southbound left turn lane on Washington Street at 42nd Avenue, and restriping of northbound Washington Street at 42nd Avenue, and restriping of northbound Washington Street at 42nd Avenue to one left turn lane and two through lanes, for existing plus project buildout plus cumulative conditions. (Ref. 1998 5.2-3c).

**TT-12** The Miles Avenue/Jefferson Street intersection is forecast to operate deficiently for Existing Plus Project Buildout Plus Cumulative Conditions. The project applicant shall pay a fair share of the costs of an additional northbound left turn lane on Jefferson Street at Miles Avenue, and restriping of southbound Jefferson Street at Miles Avenue to one southbound left run lane and one southbound through/right turn lane, through payment of TUMF traffic impact mitigation fees for Existing Plus Project Buildout Plus Cumulative Conditions:

- Miles Avenue/Jefferson Street - fair share payment of TUMF traffic mitigation fees for the additional northbound left turn lane on Jefferson Street at Miles Avenue, and restriping of southbound Jefferson Street at Miles Avenue to one left turn lane and one through/right turn lane, for existing plus project buildout plus cumulative conditions. (Ref. 1998 5.2-3d).

**TT-13** Existing Plus Project Buildout Annual Tennis Event Conditions: Refer to Mitigation Measure No. TT-8. (Ref. 1998 5.2-4a).

**TT-14** Existing Plus Project Buildout Annual Tennis Event Plus Cumulative Conditions:

- Refer to Mitigation Measure No. TT-8 (Ref. 1998 5.2-4a).

(SEIR pp. 8-2 through -5; Recirculated SEIR p. 3.15-12).

**TT-15** Prior to the issuance of the first occupancy permit for the area north of Miles Avenue, a traffic signal shall be installed at the intersection of Washington Street and Via Sevilla/Project Entrance. (Recirculated SEIR p. 3.15-12).

Even with consideration of the above information and the implementation of mitigation measures **TT-1** through **TT-15**, the project's impacts from construction traffic and long-term operational traffic are found to be significant after mitigation. (Recirculated SEIR p. 3.15-13).

**SECTION 5 FINDING REGARDING GROWTH INDUCING, UNAVOIDABLE  
ADVERSE, AND IRREVERSIBLE IMPACTS**

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**5.1 GROWTH INDUCING IMPACTS**

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**DESCRIPTION:** CEQA requires that an EIR evaluate the growth-inducing impacts of a proposed project (CEQA Guidelines §§ 15126(d), 15126.2(d)). This discussion must address: 1) Ways the project could encourage economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment; and 2) Project characteristics that may encourage or facilitate other activities that could individually or cumulatively significantly affect the environment. Projects that remove obstacles to population growth or tax existing community service facilities, requiring the construction of new facilities that could cause significant environmental effects, are also considered to have growth-inducing impacts.

**FINDING:** There are no project-specific significant growth inducing effects requiring the implementation of mitigation measures. The conclusions in the 1998 EIR and the SEIR are the same.

**FACTS IN SUPPORT OF FINDING:**

**Direct Growth Inducing Impacts**

The 1998 EIR determined that growth inducing impacts would be substantially offset by the required discretionary review process and County General Plan consistency analysis that would be required for any parcel to develop. (1998 EIR pp. 6-1 through 6-4).

The SEIR determined that the proposed project is on a parcel of vacant desert land (except for the Indian Wells Tennis Garden Facility) and is adjacent to existing development on to the north and east and the Coachella Valley Storm Channel to the south. Vacant land abuts the western boundary of the existing Tennis Garden. The site is bounded by a major road (Washington Street) and Miles Avenue bisects the northern and southern portions of the site. The site is not isolated and does not require a substantial extension of new infrastructure. Roads, sewer, water, drainage, and utility services are all located adjacent to the site. New construction will be limited to mainly onsite improvements. For these reasons, the proposed project will continue the suburban development pattern in this portion of the City and the surrounding area. The project will not have significant direct growth inducing impacts. (SEIR p. 4-1).

## **Indirect Growth Inducing Impacts**

The 1998 EIR determined that growth inducing impacts would be substantially offset by the required discretionary review process and County General Plan consistency analysis that would be required for any parcel to develop. (1998 EIR pp. 6-1 through 6-4).

The SEIR determined that the Southern California Association of Governments (SCAG) regularly publishes growth predictions for use in traffic growth management and planning purposes. SCAG has predicted the population growth forecast for the City of Indian Wells for the upcoming decades. According to data in Section 3.13 of the SEIR *Population and Housing*, the proposed project is consistent with SCAG growth projections for this area. The project will not substantially increase population in the area because only 65 residential units are proposed which is expected to increase population by 123 persons. However, the project will add a considerable amount of new non-residential development to the area, which will add employees in excess of new residents. Since the City has a low ratio of jobs to housing, the proposed project will help improve the City's jobs/housing ratio and most new jobs can be filled by the existing local population. Based on the above analysis, the project is considered to accommodate the job and housing needs of the existing population, and is thus not significantly indirectly contributing to growth. (SEIR p. 4-1).

The proposed project will not directly or indirectly have significant growth-inducing impacts and will not remove obstacles to population growth or tax existing community service facilities, requiring the construction of new facilities that could cause significant environmental effects.

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## **5.2 UNAVOIDABLE ADVERSE IMPACTS**

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**DESCRIPTION:** CEQA requires a description of any significant environmental effects remaining after implementation of feasible mitigation measures (CEQA Guidelines §§ 15126.2(b)).

**FINDING:** The 1998 EIR determined that both short and long-term impacts would be unavoidable. Based on changes in circumstances and changes in the project as approved in 1998, the SEIR determined that in addition unavoidable air quality impacts, impacts on views of the Santa Rosa Mountains to some homes on Via Pavion in the City of La Quinta and short- and long-term traffic impacts on level of service would be unavoidable.

Changes or alterations have been required in or incorporated into the project, which will lessen the significant effects on the environment; however, specific economic, legal or other considerations make unfeasible mitigation sufficient to reduce the project impacts to a less than significant level.

**FACTS IN SUPPORT OF FINDING:** The proposed project will create the following significant impacts that cannot be mitigated to less than significant levels, even with implementation of all feasible mitigation measures:

**AIR QUALITY:** The project will exceed SCAQMD significance thresholds for VOC and PM10 during construction after implementation of all feasible mitigation measures. The project will exceed SCAQMD significance thresholds for VOC, NOx PM10, and CO during operation after implementation of all feasible mitigation measures. Exceeding these thresholds would not comply with the SCAQMD Air Quality Plan and will represent a cumulative impact. Although Mitigation Measures AQ-1 through AQ-8 have been identified in the SEIR, as well as the addition of Recirculated SEIR Mitigation Measures AQ-4 through AQ-6, impacts to air quality remains significant and unavoidable. (Recirculated SEIR pp. 3.3-6 through -20; 6-2).

**TRANSPORTATION / TRAFFIC:** Even without the project, the LOS at some of the study intersections are operating at unacceptable levels (greater than LOS D). The project will incrementally add to traffic, but will mitigate its long-term impacts by payment of the Transportation Uniform Mitigation Fee (TUMF) so that LOS will be improved for Washington Street and Fred Waring Drive for both the AM and PM peak hour and Adams Street and Highway 111 in the PM peak hour (AM peak hour delay for Adams and Highway 111 will be essentially the same). Delays will be reduced for all other intersections for both the AM and PM peak hours. However, until improvements are constructed to the Coachella Valley Regional Arterial System with TUMF and Measure A funds, short-term and long-term impacts to level of service remains significant due to existing traffic congestion in the area. (Recirculated SEIR pp. 3.15-4 through -13; 6-2).

**AESTHETICS (SCENIC VISTA):** Although the hotel has been designed to reduce the impact of the hotel height to those residences most impacted (located immediately east of the site in the Palm Royale Country Club on Via Pavion in La Quinta), through the building design (terraced and stepped to reduce building mass), increasing the building setbacks, and providing a view corridor, some views of the mountains to southwest would still be wholly or partially blocked. This impact would remain significant and unavoidable. (Recirculated SEIR pp. 3.1-1 through -8; 6-2).

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### **5.3 IRREVERSIBLE IMPACTS**

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**DESCRIPTION:** Section 15126.2(c) of the CEQA Guidelines require a discussion of the extent to which a proposed project will commit nonrenewable resources to uses that future generations will probably be unable to reverse so that such current consumption may be justified.

**FINDING:** The 1998 EIR and SEIR evaluated the project's commitment of irretrievable resources in the implementation of the project and found that the use of such resources is justified by the long-term benefits of the project.

**FACTS IN SUPPORT OF FINDING:** The CEQA Guidelines describe three distinct categories of significant irreversible changes described as follows: Irreversible Changes from Environmental

**Actions; Consumption of Non-Renewable Resources; and Changes in Land Use That Would Commit Future Generations.**

**Irreversible Changes from Environmental Actions:**

Irreversible changes to the environment could occur if hazardous substances are released associated with development of the Project. Compliance with the requirements and mitigation measures contained in Section 3.7 of the SEIR would reduce the potential impact to less than significant. No other sources of irreversible changes from environmental actions are forecast to occur. (Recirculated SEIR p. 6-2).

### **Consumption of Non-Renewable Resources**

Consumption of non-renewable resources would be the conversion of agricultural land to urban uses, consumption of energy resources such as electricity and natural gas, and the loss of potential mining resources. (Ibid).

The site is not designated as Prime, Unique, or Farmland of Statewide Importance by the California Conservation Department and is not being used for agricultural purposes. (Ibid).

The site is not identified as a mineral resource site and as described in Section 3.9 of the SEIR, more suitable locations currently are being used as mineral resource sites. Given the sites proximity to a church, school, and residential uses, it would not be a logical site for mining of mineral resources in the future. (Ibid).

The project will consume non-renewable energy resources during construction and operation such as petroleum products, construction materials, electricity and natural gas. Construction impacts to non-renewable would be short-term. Operation of the project is required to comply with mandatory requirements of Title 24 in regard to energy efficient building design and is required to utilize energy conservation measures during operations of the facilities within the project. (Ibid).

### **Changes in Land Use That Would Commit Future Generations**

The project proposes to construct a hotel, shops, theater, offices, single-family homes, and an additional permanent parking lot adjacent to the Indian Wells Tennis Garden. The City of Indian Wells General Plan designates the site as Resort Commercial and Sports Complex. The project proposes to change the Sports Complex land use designation to Low Density Residential to accommodate 65 single-family homes as opposed to constructing an additional sports complex. This change in land use is more compatible with the surrounding area and is more environmentally compatible with the biological resources that may occur in the Coachella Valley Storm Channel and the Santa Rosa Mountains Conservation Area located approximately 1,400 feet south of the site. Therefore, the change in land use would not commit future generations to a significant change in land use. (Ibid).

## SECTION 6 FINDING REGARDING ALTERNATIVES TO THE PROPOSED PROJECT

CEQA requires that an EIR evaluate a reasonable range of alternatives to a project, or to the location of the project, which: 1) are capable of avoiding or substantially lessening any significant adverse environmental impact associated with the project; and 2) may be feasibly accomplished in a successful manner within a reasonable period of time considering the economic, environmental, social and technological factors involved (CEQA Guidelines § 15126.6). The significant adverse impacts associated with the proposed project that remain significant after mitigation include project-specific and cumulative air quality impacts, impacts on scenic vistas, and short and long-term traffic impacts on levels of service.

The SEIR must only evaluate reasonable alternatives to a project which could feasibly attain most of the project objectives and evaluate the comparative merits of the alternatives (CEQA Guidelines § 15126.6; *Sierra Club v. County of Napa*, 121 Cal. App. 4th 1490 (2004)). In all cases, the consideration of alternatives is to be judged against a rule of reason (CEQA Guidelines § 15126.6.).

The discussion of alternatives is required to include the "No Project" alternative. CEQA further requires that the City identify an environmentally superior alternative. If the "No Project" alternative is the environmentally superior alternative, an environmentally superior alternative must be identified from among the other alternatives. (CEQA Guidelines, § 15126.6.)

The following objectives have been identified for the Project:

- Provide a blend of resort, retail, and residential uses that will provide a single destination for tourist and resident enjoyment developed in a premier setting emphasizing quality architectural design, extensive landscaping, and pedestrian access within the project site.
- Provide a luxurious condominium or resort hotel that emphasizes the "resort experience" through the use numerous plazas and courtyards that provide both large and small gathering spaces that are pedestrian oriented. The gathering spaces feature water amenities such as two large pool areas, courtyards for outdoor dining, passive open space areas, and chipping and putting greens.
- Provide complimentary retail and entertainment uses for the hotel.
- Provide Class "A" office space in the retail and entertainment portion of the project to reduce the use of vehicles trips and to create additional jobs to offset the City's jobs-housing imbalance.
- Provide additional single-family housing in close proximity to the site so that residents can easily access these facilities.

- Provide additional permanent on-site parking for the Indian Wells Tennis Garden.

(SEIR pp. 7-4 through -5).

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## 6.1 ALTERNATIVE 1: NO PROJECT – NO DEVELOPMENT ALTERNATIVE

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**DESCRIPTION:** CEQA requires the evaluation of the impacts of a specific No Project-No Development alternative compared to the proposed project. The No Project-No Development analysis essentially evaluates existing conditions on the site (i.e., no development). Under this alternative, the property would remain vacant except for the Tennis Garden and would not be developed into a mixed-use project consisting of retail, office, hotel, and residential or other land uses. (SEIR p. 7-1).

**FINDING:** The City Council finds that although the No Project-No Development alternative is environmentally superior to the proposed project; it is unfeasible because it fails to meet all of the project objectives and does not provide the benefits derived from the project. (SEIR p. 7-14). On this basis, the City Council rejects the No project-No Development alternative.

**FACTS IN SUPPORT OF FINDING:** Not developing the site would avoid environmental impacts from developing the project. The Significant and Unavoidable impacts associated with Aesthetics (scenic vistas to some homes on Via Pavion in the City of La Quinta), Air Quality, and Transportation/ Traffic (short-term and long-term), would be avoided. Socioeconomic impacts would be greater under this alternative because the no jobs would be created and the City's jobs-to-housing imbalance would not be improved, thus contributing to other environmental impacts (e.g. air quality, longer vehicle trips causing traffic congestion on the highway system). In addition, the No Project-No Development Alternative would not implement the City's General Plan Land Use Policies for the site which is to: "Encourage new commercial development that relates to the City's resort industry" (Policy IIA1.6) and "Maintain significant revenue generating land uses in the City, particularly Resort Commercial uses, to assure a balance of costs and revenues over time" (Policy IIA4.1). (SEIR pp. 7-2 through -4).

In addition, the No-Project-No Development Alternative would not meet the project's objectives identified above. (SEIR p. 7-4 to 7-5).

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## 6.2 ALTERNATIVE 2: NO PROJECT- EXISTING GENERAL PLAN

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**DESCRIPTION:** Under the Existing General Plan Alternative the Tennis Garden would continue to operate consistent with the "Sports Complex" Land Use Designation. The remainder of the site could be developed as follows:

- 13 acres north of Miles Avenue and 25 acres south of Miles Avenue as "Sports Complex" (publicly and privately owned land and improvements to accommodate professional or amateur sporting events).

- 54 acres both north and south of Miles Avenue as "Resort Commercial" (attractively designed hotel and resort complexes with ancillary uses such as retail, restaurants, convention facilities, and personal service uses).
- 33 acres along the southern boundary of the site is located within the Coachella Valley Storm Channel (CVSC) and is designated as "Watercourse". Only flood related improvements and golf courses may encroach into the CVS.

(SEIR p. 7-5)

**FINDING:** The City Council finds that the Development of the site under the Existing General Plan would meet most of the project's objectives. However, the alternative would not provide additional single-family housing in close proximity to the site so those residents can easily access these facilities without the need for vehicle travel. Furthermore, the alternative would interfere with one of the more significant project objectives, which is to create a luxury condominium or resort hotel with extensive outdoor amenities. Additionally, the City Council finds that the No Project-Existing General Plan Alternative is not environmentally superior to the proposed project and could have more significant environmental impacts than the project because of more intense land uses (sports complex) in close proximity to the Coachella Valley Storm Channel. On this basis, the City Council rejects the No Project-Existing General Plan Alternative. (SEIR pp. 7-8 through -9).

**FACTS IN SUPPORT OF FINDING:** The City Council finds that the Development of the site under the Existing General Plan would still implement the City's General Plan Land Use Policies for the site but would not necessarily reduce overall environmental impacts as the site could still be built with similar land use intensities as the proposed project. Impacts to aesthetics (scenic vistas) could still be impacted, traffic impacts on area intersections would increase, and air quality impacts would be similar. In addition, Alternative 2 could have the potential to place a high intensity use (sports complex) next to the Coachella Valley Storm Channel which has sensitive wetland resources. The projects proposed Low Density Residential development would be more compatible in this regard as it would generate less noise and light and glare to any sensitive species in the wetland area. Finally, one of the more significant project objectives is to create a luxury condominium or resort hotel with extensive outdoor amenities, such as courtyards, water features, open spaces etc. Placing a sports complex immediately adjacent to the hotel would detract from the project's ability to meet this objective. (SEIR pp. 7-5 through -9).

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### 6.3 ALTERNATIVE 3: REDUCED SCALE

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**DESCRIPTION:** This alternative is aimed at reducing the impacts related to aesthetics (scenic vistas), air quality, and traffic level of service deficiencies at area intersections. Under the reduced scale alternative, the project would eliminate the office component north of Miles Avenue thereby reducing the total amount of square footage by 85,700 square feet which is a 21.4 % reduction in overall square feet. (400,000 square feet – 85,700 square feet = 314,300 square feet). The remaining square footage of 314,300 would consist of retail, entertainment

and restaurant uses. Eliminating the office component could allow the commercial development on the site to be spread out over the site resulting in a lower scale development in terms of building heights. Impacts to air quality, aesthetics (views), and traffic would be reduced under this alternative. (SEIR p. 7-9).

**FINDING:** The City Council finds that the Reduced Scale Development Alternative is environmentally superior to the proposed project and is the environmentally superior alternative after the No Project alternative. However, this alternative is unfeasible because it fails to meet the significant project objective of providing Class "A" office space in the retail and entertainment portion of the project. (SEIR pp. 7-12 to -13). On this basis, the City Council rejects the Reduced Scale Alternative.

**FACTS IN SUPPORT OF FINDINGS:** The visual and aesthetic character of the site would change similarly to the Project as new structures are constructed on the site. Views onto and beyond the site would be impacted by structures. In addition, new sources of light and glare would be caused by lighting fixtures, reflective surfaces on buildings (e.g. windows) and signage. With the elimination of the office component, the commercial development could be spread out over the site resulting in development being lower in scale. Impacts to views beyond the site would be less obstructed, although the obstruction of the views of the Santa Rosa Mountains by the hotel will remain. Impacts to aesthetics would still be less than the project in this regard. (SEIR p. 7-9).

Because of the reduced amount of building square footage, impacts to air quality would be lessened, as vehicle trips associated with the office uses would be reduced. However, elimination of the office component would not result in a substantial overall reduction in air quality emissions and will remain significant. (SEIR p. 7-10).

Traffic would still be generated by the existing Tennis Garden. Existing traffic in the area has resulted in levels of service being unacceptable for Washington St. at Fred Waring (LOS E); Washington St. at Hwy. 111 (LOS F); Washington St. at Avenue 48 (LOS F); and Adams St. at Hwy. 111 (LOS E at PM only). Developing the site under this alternative would reduce vehicle trips by 944 daily trips. There would be less traffic to the roadway network and less of a demand for alternative transportation due to the reduction in the number of jobs. Impacts to transportation and traffic would be less than developing the project. However, this Alternative would not alleviate the existing deficient level of service condition at area intersections because this deficiency exists even without the project. (SEIR p. 7-12).

Development of the site under the Reduced Scale Alternative would still implement the City's General Plan Land Use Policies for the site. This Alternative would meet most of the projects objectives except for providing Class "A" office space in the retail and entertainment portion of the project to reduce the use of vehicles trips and to create additional jobs to offset the City's jobs-housing imbalance. (SEIR pp. 7-12 through -13).

## SECTION 7 ALTERNATIVE PROJECT SITE

**DESCRIPTION:** State CEQA Guidelines Section 15126.6 requires an SEIR to evaluate the potential impacts of moving the proposed project to an alternative site. However, the state CEQA Guidelines only allows consideration of locations that would avoid or substantially lessen any significant effects.

**FINDING:** The City Council finds that there is no alternative site that reduces one or more of the significant impacts of the project to less than significant levels. Therefore, it is not considered a "viable" or feasible alternative site under the CEQA Guidelines. (SEIR p. 7-14). The City Council also finds that an Alternative Site alternative would fail to reasonably achieve most of the project objectives. On this basis, the City Council finds that analysis of an Alternative Site alternative is not required.

**FACTS IN SUPPORT OF FINDINGS:** The impacts to air quality would occur regardless of location. The impacts to traffic level of service would occur as many of the major arterial roadways in this portion of the Coachella Valley are experiencing traffic congestion because of area growth that has occurred in recent years. Impacts to aesthetic (scenic vistas) could be reduced, but not eliminated, if the site was not within close proximity to the foothills of the Santa Rosa Mountains. However, the Santa Rosa Mountains and its foothills is a predominant feature in the area and it is likely that any site would potentially impact views on the Santa Rosa Mountains and its foothills. There are no other vacant sites of this size in Indian Wells or nearby vicinity adjacent to a major sports facility (i.e. Tennis Garden) that would support a resort or condominium hotel and retail/entertainment complex that would complement the activities at the Tennis Garden. Additionally, no sites at the intersection of two major roads were observed during a visual survey using recent aerial photographs of the area. Lastly, if this project were relocated to another site, the current project site would still be vacant and would support development of commercial and resort-related uses. (SEIR p. 7-14).

## 8 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA Guidelines Section 15093 (a) and (b) state that:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final SEIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

As identified above, the City Council finds that the project has significant and unavoidable project-specific impacts that cannot be mitigated to a less than significant level in the areas of aesthetics (scenic vistas in regard to the view obstruction of the Santa Rosa Mountains for homes located on Via Pavion in the City of La Quinta), short and long-term and cumulative air quality impacts, and short and long-term traffic impacts at area intersections. The City Council has weighed the benefits of the proposed project against the identified unavoidable environmental risks and impacts in determining whether to approve the project. The City Council finds that the project will provide specific economic, social, and other benefits that outweigh the unavoidable adverse environmental impacts of the project, such that those impacts are considered acceptable. These benefits are as follows:

- The project will provide retail/entertainment uses and Class "A" office space to create additional jobs to offset the City's jobs-housing imbalance as well as a reduction in the amount of vehicle trips. (SEIR p. 2-14).
- The project will provide additional permanent on-site parking for the Indian Wells Tennis Garden. (*ibid*).
- The project will provide a blend of resort, retail, and residential uses that will provide a single destination for tourist and resident enjoyment developed in a premier setting adjacent to the City's major tourist attraction (Indian Wells Tennis Garden). (SEIR p. 2-13).

The project will implement the following City General Plan goals and policies:

### **IIA1.6 Encourage new commercial development that relates to the City's resort industry.**

**Facts:** The resort or condominium hotel will provide additional hotel rooms for the Indian Wells Tennis Garden and other tourist attractions in the area. The commercial area, being developed into an entertainment/retail complex with restaurants and shopping will further the support the resort industry. (SEIR p. 3.9-3).

**IIA2.6 All development in the City will comply with approved design standards, including but not limited to, architecture, landscaping, site design, and other development related regulations intended to enhance and promote the image of Indian Wells.**

**Facts:** The project is required to comply with all applicable sections of the City of Indian Wells Municipal Code in regard to architecture, landscaping, and site design. In addition, the Town Center Specific Plan is proposed to establish unique design standards and guidelines for the project to promote high quality development. (Ibid).

**IIA3.2 Locate new development where infrastructure and community services are available or can be expanded without adverse effects on existing uses.**

**Facts:** The site is located adjacent to the existing Indian Wells Tennis Garden facility and is at the intersection of two major roadways. All infrastructure facilities are adjacent to the site and do not need to be extended to serve the site. (Ibid).

**IIA4.1 Maintain significant revenue-generating land uses in the City, particularly Resort Commercial uses, to assure a balance of costs and revenues over time.**

**Facts:** Development of the site will provide sales tax revenue to the City. Sales tax revenue will assist in offsetting the costs to provide services citywide. (Ibid).

The City Council hereby declares that the Final SEIR has identified and discussed significant impacts that may occur as a result of the project. With the implementation of the mitigation measures discussed in the SEIR and Recirculated SEIR, these impacts can be mitigated to a level of less than significant except for unavoidable significant impacts as discussed in Section 4 of these Findings. The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the proposed project.

For the foregoing reasons, the City Council hereby declares that the benefits provided to the public through approval of the project outweigh any significant adverse environmental impacts of the project. The City Council finds that each of the project benefits outweighs the adverse environmental effects identified in the Final SEIR, and therefore finds those impacts to be acceptable. The substantial evidence demonstrating the benefits of the project are found in these Findings, and in the documents found in the record of proceedings. Therefore, the City has adopted this Statement of Overriding Considerations.

## **SECTION 9 RESOLUTION ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A. In the event of any inconsistencies between the mitigation measures as set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

## **SECTION 10 RESOLUTION APPROVING THE PROJECT**

Based on the entire record before the City Council, including the above Findings and Statement of Overriding Considerations and all written and oral evidence presented to the City Council, the City Council hereby approves the project with all the mitigation measures and the Mitigation Monitoring and Reporting Program, as set forth in this Resolution.

## **SECTION 11 RESOLUTION REGARDING CONTENTS AND CUSTODIAN OF RECORD**

The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Indian Wells, Community Development Department, 44-950 El Dorado Drive, Indian Wells, California, 92210. The custodian for these records is the Planning Director. This information is provided in compliance with Public Resources Code section 21081.6.

The record of proceedings for the City Council's decision on the Project consists of the following documents, at a minimum:

- The 1998 Garden of Champions Program Environmental Impact Report;
- The Draft Supplemental Environmental Impact Report for the Indian Wells Town Center Project;
- The Recirculated Draft Supplemental Environmental Impact Report for the Indian Wells Town Center Project;
- Any Notice of Preparation, Notice of Completion, Notice of Availability, or any other public notices issued by the City in conjunction with the project;
- All comments submitted by agencies or members of the public during the appropriate comment period on the Supplemental and Recirculated Supplemental Environmental Impact Report for the Indian Wells Town Center Project and all technical appendices;
- All comments and correspondence submitted to the City with respect to the Project, in addition to timely comments on the Draft SEIR;
- The Final Supplemental Environmental Impact Report for the Indian Wells Town Center Project, including comments received on the Draft SEIR and responses to those comments;
- The Mitigation Monitoring and Reporting Program for the project;
- All Findings and Resolutions adopted by the City Council in connection with the project, and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by the City, consultants to the City, or responsible or trustee agencies with

respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the project;

- All documents submitted to the City by other public agencies or members of the public in connection with the project, up through the close of the public hearing period;
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the project;
- Any documentary or other evidence submitted to the City at such information sessions, public meetings and public hearings;
- The City of Indian Wells General Plan and all environmental documents prepared in connection with the adoption of the General Plan;
- Matters of common knowledge to the City, including, but not limited to Federal, State, and local laws and regulations;
- Any documents expressly cited or referenced in these findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

**SECTION 12 RESOLUTION REGARDING STAFF DIRECTION**

A Notice of Determination shall be filed with the County of Riverside within five (5) working days of final project approval.

I certify that this Resolution was duly passed and adopted by the City Council of the City of Indian Wells on the     th day of      2008.

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(City Clerk of the City of Indian Wells)