TOWN OF YUCCA VALLEY
TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane Stueckle, Deputy Town Manager

Date: January 14, 2021
Meeting Date: January 19, 2021

Subject: State Fish and Game Commission 2084, Urgency Ordinance No.

Recommendation
That the Town Council adopts an urgency ordinance adopting an addendum to the Town of Yucca Valley General Plan Update Environmental Impact Report, enacting emergency regulations in new Chapter 9.56 for implementation of the special order relating to take of Western Joshua tree (*yucca brevifolia*) during candidacy period issued by the California Fish and Game Commission in accordance with Fish and Game Code Section 2084, and amending sections 9.07.130, 9.09.050, and 9.10.040 of the Town Municipal Code to remove Western Joshua tree (*yucca brevifolia*) from the list of regulated desert native plants.

Prior Review
There has been no prior review of this matter

Executive Summary
The State Fish and Game Commission adopted a regulation pursuant to Fish and Game Code Section 2084 ("Special Order") concerning the taking and trimming of Joshua trees on Thursday December 10, 2020, which was subsequently approved by the California Office of Administrative Law ("OAL"), and went into effect on January 7, 2021. The Special Order requires the Town of Yucca Valley to adopt an authorizing ordinance within sixty (60) days of the effective date of the Special Order. The attached Urgency Ordinance implements the Special Order as enacted by the State Fish and Game Commission and approved by the OAL.

Order of Procedure
Request Staff Report
Request Public Comment
Council Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question

Discussion

On September 22, 2020, the Joshua tree became a candidate species as defined by Section 2068 of the California Fish and Game Code. As a result, under the California Endangered Species Act, no person or public agency may take a Joshua tree, unless that person or public agency has received a permit from the Department of Fish and Wildlife. In general, the process

for obtaining a take permit under the Fish and Game Code is cumbersome and costly. Given the abundance of Joshua Trees within the Town, on all property types and within all zones, the Town and Department of Fish and Wildlife recognized that a streamlined process to allow for the incidental take of a limited number of Joshua Trees was necessary to avoid a halt in development within the Town, and ensure that individuals could remove dead trees or limbs that pose public health and safety hazards to property owners, residents, and visitors.

Fish and Game Code Section 2084 authorizes the California Fish and Game Commission to authorize, subject to terms and conditions it prescribes, the taking of any candidate species. Using this authority, on December 10, 2020, the Commission adopted a Special Order Relating to Take of Western Joshua Tree (Yucca brevifolia) During Candidacy Period ("Special Order"). (14 Code Cal. Reg. § 749.12.) The Special Order went into effect on January 7, 2021, after it was approved by the Office of Administrative Law. The Special Order requires that the Town adopt an authorizing ordinance within 60 days of the effective date.

In summary, the Special Order provides for the following.

- Allows the Town to issue "take" permits for a maximum of 450 Western Joshua trees;
- Take permits may only be issued for residential and public works project purposes, not commercial or industrial, or any other use type.

Establishes:

- A mitigation fee collected for and deposited to the Western Joshua Tree Mitigation Fund;
- Definitions for class of Western Joshua tree based upon height;
- No disturbance zone of 10' from any Western Joshua tree with standards;
- Reporting requirements;
- Annual survival reporting requirements;
- Requirement for Western Joshua tree census by qualified individual;

The Draft Urgency Ordinance presented to the Town Council includes the following provisions.

- Approval authority rests with the Planning Commission;
- Allows removal of dead trees or damaged limbs;
- Allows take authorization for accessory structures, subject to certain criteria;
- Allows take authorization for new single-family residential structures;
- Allows take authorization for public works projects;
- Establishes limits on the number of takes allowed, in total and per project during the candidacy period.
- Qualified Individual must prepare census (count and tag);
- Emphasizes avoidance, and as such grants the Planning Commission distraction to modify applications;

For single-family residence projects and sewer connection projects undertaken on undeveloped parcels and public works projects to erect or construct a new public structure, building, road, or improvement, the project proponent shall pay mitigation fees as follows:

1. $2425 for each western Joshua tree four meters or greater in height that is relocated.

2. $625 for each western Joshua tree under four meters in height that is relocated.

3. $4175 for each western Joshua tree four meters or greater in height that is removed and not relocated.

4. $1050 for each western Joshua tree under four meters in height that is removed and not relocated.

For accessory structure projects undertaken on developed parcels and for public works projects to alter, maintain, or repair an existing public structure, building, road, or improvement, the project proponent shall pay mitigation fees as follows:

1. $700 for each western Joshua tree four meters or greater in height that is relocated.

2. $175 for each western Joshua tree under four meters in height that is relocated.

3. $2100 for each western Joshua tree four meters or greater in height that is removed and not relocated.

4. $525 for each western Joshua tree under four meters in height that is removed and not relocated.

The Town Council has the power under Government Code sections 36934 and 36937 to adopt an ordinance that takes effect immediately if it is an ordinance for the immediate preservation of the public peace, health or safety, and is passed by a four-fifths vote of the Town Council. Given the requirement of the Special Order that an ordinance be adopted by the Town within 60 days of the effective date, there is no time for the Town to go through its standard process when adding provisions to its development code, which generally involves a hearing before the Planning Commission followed by a first and second reading of the proposed ordinance by the Town Council, and a waiting period of 30 days before it goes into effect. Further, unless the Town adopts this urgency ordinance, the Town will be unable to provide relief and issue permits to its residents for the removal of a dead Joshua Tree or the trimming of a dead limb of a Joshua Tree that may be creating an imminent threat of damage to persons or property, or threat to public health or safety. Therefore, adoption of the proposed urgency ordinance is necessary for the immediate preservation of the public peace, health or safety of the Town and its residents.

The Town's General Plan EIR can be found at: https://www.yucca-valley.org/our-town/departments/community-development/planning/general-plan-update

Alternatives
Staff recommends no alternative actions. The Town is required to adopt regulations within 60 days of the effective date of the Special Order in order to issue take permits.

Fiscal Impact
The Town is required to contribute $10,000 to the state for the Joshua Tree Mitigation Fund. Private property owners and/or contractors incur all other costs

Attachments
Exhibit B Special Order
Town Counci Resolution 14-01
Native Plant Ordinance Addendum_11.30

Ordinance No.

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA ADOPTING AN ADDENDUM TO THE TOWN OF YUCCA VALLEY GENERAL PLAN UPDATE ENVIRONMENTAL IMPACT REPORT, ENACTING EMERGENCY REGULATIONS IN NEW CHAPTER 9.56 FOR IMPLEMENTATION OF THE SPECIAL ORDER RELATING TO TAKE OF WESTERN JOSHUA TREE (*YUCCA BREVIFOLIA*) DURING CANDIDACY PERIOD ISSUED BY THE CALIFORNIA FISH AND GAME COMMISSION IN ACCORDANCE WITH FISH AND GAME CODE SECTION 2084, AND AMENDING SECTIONS 9.07.130, 9.09.050, AND 9.10.040 OF THE TOWN MUNICIPAL CODE TO REMOVE WESTERN JOSHUA TREE (*YUCCA BREVIFOLIA*) FROM THE LIST OF REGULATED DESERT NATIVE PLANTS

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. Findings. The Town Council finds as follows:

A. On October 21, 2019, the California Fish and Game Commission ("FGC") received a petition from the Center for Biological Diversity to list the western Joshua tree ("Joshua Tree") as threatened under the California Endangered Species Act.

B. On September 22, 2020, after several public meetings, the FGC determined, pursuant to Fish and Game Code Section 2074.2, that listing of the Joshua Tree may be warranted and directed staff of the Department of Fish and Wildlife ("Department") to issue a notice reflecting that finding and indicating that Joshua Tree is a candidate for threatened or endangered species status.

C. On September 24, 2020, the California Fish and Game Commission issued a Notice of Findings ("Notice"). In the Notice, the Commission stated that the amount of information contained in the petition, when considered in light of the Department's written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing of the Joshua Tree as threatened or endangered could occur. The Commission also provided notice that the Joshua Tree is a candidate species as defined by Section 2068 of the Fish and Game Code.

D. In general, under the California Endangered Species Act, no person or public agency may import, export, take, possess, purchase, or sell within California, any species, or any part or product thereof, that has been designated by the Commission as a threatened, endangered, or candidate species, unless that person or public agency has received a permit from the Department.

E. The Joshua Tree is abundant within the Town of Yucca Valley ("Town") and is found throughout the Town on all property types (including developed and undeveloped property) and within all planning zones.

F. Many property owners within the Town have Joshua Trees on their property that periodically need to be pruned or removed in order to prevent potential property damage or injury to persons or animals that may result from a dead tree or falling limbs. Similarly, in the past many property owners within the Town have had Joshua Trees on their property that have fallen over or fallen onto an existing structure and must be removed.

G. The majority of the development that occurs within the Town involves the construction or renovation of in fill single-family residences. Because of the prevalence of the Joshua Tree within the Town, these projects often require the removal of Joshua Trees in order to be completed.

H. The permitting process provided for under the Fish and Game Code Sections 2080 *et seq*. to obtain Department authorization to remove a candidate species is cumbersome and costly. Recognizing that a streamlined process to allow for the incidental take of a limited number of Joshua Trees is necessary to avoid a halt in development within the Town, on December 10, 2020, the Commission, pursuant to Fish and Game Code Section 2084, adopted a Special Order Relating to Take of Western Joshua Tree (*Yucca brevifolia*) During Candidacy Period ("Special Order"). (14 Code Cal. Reg. § 749.12.) The Special Order was subsequently approved by the Office of Administrative Law, and went into effect on January 7, 2021. Attached hereto as Exhibit "B" is a copy of the Special Order, which is incorporated herein.

I. The Special Order authorizes the Town to issue permits for the take of Joshua Trees associated with the development of single-family residences, accessory structures, and certain public works projects, provided the Town follows certain conditions.

J. To be authorized to issues permits for the take of Joshua Trees, the Special Order mandates that the Town adopt an ordinance within 60 days that requires as a condition of any approval or permit for a single-family residence, accessory structure, or public works project that has one or more Joshua trees on the project site, satisfaction of each of the requirements set forth in subsections (d) of the Special Order.

K. The Special Order also mandates that the Town adopt an ordinance that provides for the issuance of permits authorizing either the removal of a dead Joshua Tree or the trimming of a dead limb of a Joshua Tree by a certified arborist, without payment of mitigation fees, provided that the dead Joshua Tree or dead limb to be removed (1) has fallen over; (2) is leaning against an existing structure; or (3) creates an imminent threat to public health or safety.

L. The Town Council has the power under Government Code sections 36934 and 36937 to adopt an ordinance that takes effect immediately if it is an ordinance for the immediate preservation of the public peace, health, or safety, and is passed by a four-fifths vote of the Town Council.

M. Given the requirement of the Special Order that an ordinance be adopted by the Town within 60 days, there is no time for the Town to go through its standard process when adding provisions to its development code, which generally involves a hearing before the Planning Commission followed by a first and second reading of the proposed ordinance by the Town Council.

N. Unless the Town adopts this urgency ordinance, the Town will be unable to provide relief and issue permits to its residents for the removal of a dead Joshua Tree or the trimming of a dead limb of a Joshua Tree that may be creating an imminent threat of damage to persons or property, or threat to public health or safety.

O. This ordinance is temporary and limited in scope and will only be valid during the candidacy period of the Joshua Tree, which is anticipated to be approximately one year.

P. The Town Council desires to adopt this ordinance, pursuant to Government Code sections 36934 and 36937, and in accordance with the Special Order to address the danger to public health, safety, and general welfare presented by the designation of the Joshua Tree as a candidate species under the California Endangered Species Act and the resulting limitations placed on the Town and Town residents to take a candidate species.

SECTION 2. Environmental Review. The Town Council finds as follows:

a. On January 7, 2014, The Town of Yucca Valley adopted Resolution No. 14-01 certifying the Final Environmental Impact Report prepared for the Yucca Valley General Plan Update ("GP Update EIR"), State Clearinghouse No. 2012111021, and Resolution No. 14-01 adopting CEQA Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program for the Yucca Valley General Plan Update Project and approving the Yucca Valley General Plan Update Project.

b. Because neither the Yucca Valley General Plan Update Project nor the GP Update EIR was challenged, pursuant to Public Resources Code section 21167.2, the GP Update EIR is conclusively presumed to be valid and to comply with CEQA.

c. Consideration and approval of the proposed urgency ordinance is a subsequent discretionary action in furtherance of the General Plan Update Project and pursuant to Public Resources Code section 21067 and CEQA Guidelines section 15367, the Town of Yucca Valley is the Lead Agency for the currently proposed urgency ordinance project. Pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified, the lead agency is required to review the proposed project to determine whether any of the circumstances under Public Resources Code section 21166 and CEQA Guidelines section 15162 require additional environmental review.

d. Town staff and Placeworks (the Town's CEQA consultant) have evaluated the proposed urgency ordinance in light of the standards for subsequent environmental review outlined in Public Resources Code section 21166 and CEQA Guidelines section 15162 and concluded that the previously certified General Plan Update EIR fully identified, analyzed and

adequately addressed all potentially significant impacts, if any, that could result from the proposed urgency ordinance and that, therefore, no subsequent EIR or mitigated negative declaration is required. Town staff and Placeworks prepared an Addendum to the General Plan Update EIR pursuant to CEQA Guidelines section 15164 to memorialize their evaluation, analysis, and findings. The Addendum to the General Plan Update EIR is attached hereto as Exhibit "B" and incorporated herein.

e. The Town Council has been provided the Addendum and has reviewed and considered it together and in connection with the previously certified General Plan Update EIR and hereby finds that the Addendum reflects the Town's independent judgment, that the Addendum and the previously certified GP Update EIR, taken together, contain a complete and accurate reporting of all the potential environmental impacts associated with the proposed urgency ordinance and that the Addendum and administrative record have been completed in compliance with CEQA and the CEQA Guidelines.

f. Based on the substantial evidence set forth in the record, including but not limited to the Addendum, the previously certified GP Update EIR, all related and supporting technical reports, and the staff report, none of the conditions identified in CEQA Guidelines section 15162 requiring the need for further subsequent environmental review have occurred because:

(i) the proposed urgency ordinance does not constitute a substantial change that would require major revisions of the previously certified GP Update EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(ii) there have been no substantial changes with respect to the circumstances under which the proposed urgency ordinance or the Yucca Valley General Plan Update Project will be implemented that would require major revisions of the previously certified GP Update EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(iii) there has been no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the GP Update EIR was certified that has come to light showing: that there would be one or more significant effects not discussed in the previously certified GP Update EIR; that significant effects previously examined would be substantially more severe than shown in the previously certified GP Update EIR; that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects but the Town Council declined to adopt such measures; or that mitigation measures or alternatives considerably different from those analyzed previously would substantially reduce one or more significant effects on the environment but which the Town Council declined to adopt.

g. The Town Council hereby approves and adopts the Addendum and imposes all applicable mitigation measures from the GP Update EIR, as modified by the

Addendum, on the proposed urgency ordinance and any/all projects addressed and permits/authorizations issued pursuant to the urgency ordinance.

h. The Town Council hereby directs Town staff to prepare, execute and file a CEQA Notice of Determination with the San Bernardino County Clerk's Office within five (5) working days of the adoption of this urgency ordinance.

i. The documents and materials that constitute the record of proceedings upon which this Ordinance and its CEQA findings are based are located at the Town of Yucca Valley, Community Development Department, 58928 Business Center Drive, Yucca Valley, CA 92284. The custodian for these records is Shane Stueckle, Deputy Town Manager.

SECTION 3. Chapter 9.56 (Removal of Western Joshua Trees). Chapter 9.56, as set forth in Exhibit "A" attached hereto, is hereby added to the Town of Yucca Valley Municipal Code.

SECTION 4. Existing Native Landscape Regulations. During the effective period of this ordinance, Sections 9.07.130, 9.09.050, and 9.10.040, are amended to remove Western Joshua Tree (Yucca brevifolia) from the list of "Regulated Desert Native Plants" set forth in those sections.

SECTION 5. Effective Period. As an urgency ordinance, this ordinance takes effect immediately upon four-fifths vote of the Town Council, in accordance with Government Code sections 36934 and 36937. This ordinance shall remain in effect during the period in which the Western Joshua Tree remains a candidate species as defined by the by Section 2068 of the California Fish and Game Code. This ordinance shall automatically terminate when the Western Joshua Tree is no longer considered a candidate species under Section 2068 of the California Fish and Game Code.

SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. Publication. The Town Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 19th day of January 2021.

_____
MAYOR

ATTEST:

_____
TOWN CLERK

APPROVED AS TO FORM:

_____
TOWN ATTORNEY

EXHIBIT "A"

9.56.010	Purpose
9.56.020	Definitions
9.56.030	Permit Required
9.56.040	Bi-Monthly Western Joshua Tree Mitigation Fund Payments
9.56.050	Bi-Monthly Western Joshua Tree Permitting Report
9.56.060	Annual Report On Survival of Western Joshua Trees
9.56.070	Permit Required and Take Permit Authorizations
9.56.080	Avoidance
9.56.090	Minimization
9.56.100	Relocation
9.56.120	Mitigation Fees
9.56.130	Dead and Trimming Western Joshua Trees

9.56.010 PURPOSE

The purpose of this Chapter is to establish permitting standards and process for the issuance of take permits for the Western Joshua Tree as authorized pursuant to the Special Order approved by the California Fish and Game Commission pursuant to Fish and Game Code section 2084 on December 10, 2020 ("Special Order"). The Special Order was subsequently approved by the Office of Administrative Law, and went into effect on January 7, 2021. The requirements set forth in this Chapter are intended to protect the public's health, safety, and welfare by ensuring that take permits for the Western Joshua Tree are only issued consistent and compliant with the Special Order.

9.56.010 DEFINITIONS

The following definitions apply to this Chapter.

Accessory Structure: Accessory structure means a subordinate structure, the use of which is incidental to an existing or contemporaneously constructed single-family residence, and includes: an accessory dwelling unit, addition to an existing single-family residence, garage, carport, swimming pool, patio, greenhouse, storage shed, gazebo, septic tank, sewer connection, solar panels, or gravel or paved driveway.

Desert Native Plant Specialist: Desert native plant specialist means (A) An arborist certified by the International Society of Arborists; or (B) An individual with a four-year college degree in ecology or fish and wildlife related biological science from an accredited college and at least two years of professional experience with relocation or restoration of native California desert vegetation; or (C) An individual with at least five years of professional experience with relocation or restoration of native California desert vegetation.

Department: Department means the Town of Yucca Valley Community Development Department.

Developed Parcel: Developed Parcel means a parcel with an existing single-family residence.

Participating Agency: Participating agency means the Town of Yucca Valley.

Project Proponent: Project Proponent means the owner of a project site for a single-family residence or accessory structure or the owner's agent or the public agency undertaking a public works project.

Project Site: Project Site means the parcel or parcels on which a project proponent proposes to construct a single-family residence or accessory structure or on which a public agency proposes to undertake a public works project.

Public Works Project: Public Works Project means a project for the erection, construction, alteration, maintenance, or repair of any public structure, building, or road.

Single Family Residence: Single-family residence means a single detached building that has been or will be constructed and used as living facilities, including provisions for sleeping, eating, cooking, and sanitation as required by the California Building Code for not more than one household. Nothing in this section shall be construed to authorize take of western Joshua tree for a subdivision or other development that includes more than one single-family residence.

Size Class: Size class means the classification of western Joshua trees by the following three sizes: (A) Less than one meter in height; (B) One meter or greater but less than four meters in height; and (C) Four meters or greater in height.

Undeveloped Parcel: Undeveloped parcel means a parcel without an existing single-family residence.

Western Joshua Tree: Western Joshua tree means an individual western Joshua tree (Yucca brevifolia) that has emerged from the ground, regardless of age or size, including all stems that have emerged from the ground within a one-meter radius measured from a single point at the base of the largest stem.

Western Joshua Tree Mitigation Fund: Western Joshua Tree Mitigation Fund means the State Western Joshua Tree Mitigation fund established pursuant to Section 14 Code Cal. Reg. § 749.10(a)(5).

9.56.040: BI MONTHLY DEPOSITS TO THE WESTERN JOSHUA TREE MITIGATION FUND

The Town shall make bi-monthly deposits to the Western Joshua Tree Mitigation Fund, by the fifteenth day of March, May, July, September, November, and January, of all mitigation fees collected during the preceding two calendar months.

9.56.50 BI-MONTHLY WESTERN JOSHUA TREE PERMITTING REPORT

A. The Town shall submit to the State Fish and Wildlife Department by the fifteenth day of March, May, July, September, November, and January a bi-monthly report that includes the following information for the preceding two calendar months:

1. The number of projects approved by the Town pursuant to Section 9.56.070 that resulted in the removal or relocation of western Joshua trees.

2. The number and size class of western Joshua trees that were relocated pursuant to Section 9.56.100.

3. The number and size class of western Joshua trees removed and not relocated pursuant to Section 9.56.100.

4. The total amount of mitigation fees collected for each of the mitigation categories set forth in Section 9.56.120.

5. Documentation that the total amount of mitigation fees listed pursuant to Section 9.56.120 was paid into the Western Joshua Tree Mitigation Fund.

6. The number of dead western Joshua trees removed and live trees trimmed pursuant to Section 9.56.130.

9.56.060 ANNUAL REPORT ON SURVIVAL OF WESTERN JOSHUA TREES

A. The Town shall submit an annual report on the survival rates of trees relocated by January 15 of each year beginning in 2022 and continuing for a total of three years. The annual report shall include, at a minimum, the following:

1. The total number of western Joshua trees relocated pursuant to Section 9.56.100.

2. For each western Joshua tree relocated:

a. The street address for the parcel on which the western Joshua tree was relocated. If no street address is available, the property owner may include the assessor's parcel number.

b. The date of the relocation.

c. Whether the western Joshua tree is alive or dead as of the date of the annual report.

d. A photograph of the relocated western Joshua tree in its current condition.

9.56.070 PERMIT REQUIRED, PLANNING COMMISSION APPROVAL, AND TAKE PERMIT AUTHORIZATIONS

A. The Planning Commission may authorize the take of western Joshua tree associated with developing single-family residences, accessory structures, and public works projects concurrent with its approval of the project and subject to the following conditions, applications, and processes:

1. No project shall be eligible to receive take authorization pursuant to this section if it will result in the take of more than ten western Joshua trees from the project site.

2. Census

a. The project proponent proposing to relocate or remove a western Joshua tree shall cause a census of western Joshua trees to be conducted on the project site by a desert native plant specialist. The census shall tag and count all western Joshua trees on the project site and classify them by size class.

b. All applicants shall submit an application to the Department, on forms prescribed by the Department which shall including the following information. Additional information may be required by the Director or by the Planning Commission:

i. The name of the desert native plant specialist who conducted the census and the employer of the desert native plant specialist.

ii. The name of the desert native plant specialist who will relocate western Joshua trees, if applicable, and the employer of the desert native plant specialist.

iii. The date of the census

iv. The date or dates of the proposed relocation of western Joshua trees, if applicable.

v. A map of the project site that depicts the location of the proposed single-family residence, accessory structure, or public works project; the number and location of all western Joshua trees on the project site; and if applicable, the proposed western Joshua trees for removal, or the proposed placement of each relocated western Joshua tree.

vi. Photographs of each western Joshua tree on the project site, including a visual representation of the scale of the height of each tree.

vii. Aerial imagery of the site in sufficient detail to identify the property and the western Joshua trees that are on the site and are a part of the application submitted.

viii. Narrative written descriptions of each western Joshua tree, its diameter, height, existing health condition and any other information deemed necessary.

3. Additional Submittals

a. New construction of single-family residential units as well as accessory structures shall require the submittal of all information on plans measuring approximately 24" x 36", shall be legibly drawn and shall accurately reflect aerial photography and satellite imagery generally available for the subject property.

b. All property lines, dimensions, and existing structures, if any, shall be depicted on plans submitted with the application materials.

c. Property owners name, mailing address, phone number, and email address.

d. Applicant's name, mailing address, phone number and email address.

e. Assessor parcel number(s), address, and general location of the property for which the application is submitted.

f. General Plan designation and zoning designation of the subject project site.

4. Approval Process

a. Authorizations for take may only be granted by the Planning Commission in conjunction with approved building permit plans and applications for public works projects, single family residence and accessory structures. Western Joshua tree take approvals and authorizations shall not be granted by the Planning Commission prior to the applicant receiving construction plan approvals. This does not apply to trimming or removal of dead western Joshua trees pursuant to this Ordinance.

9.56.80 AVOIDANCE

To the maximum extent practicable, the project proponent shall avoid take of western Joshua trees on the project site.

9.56.090 MINIMIZATION

The project proponent shall avoid all ground-disturbing activities within 10 feet of any western Joshua tree, unless those activities will be temporary, will not physically impact the western Joshua tree or its root system, and will not disturb the soil to a depth of greater than twelve inches.

9.56.100 RELOCATION

A. To the maximum extent feasible, the project proponent shall relocate all western Joshua trees that cannot be avoided to another location on the project site.

B. For purposes of this subsection, relocation of a western Joshua tree shall be determined to be infeasible if any of the following applies:

1. Relocation of the western Joshua tree on the project site would pose a threat to public health or safety.

2. Relocation of the western Joshua tree on the project site would interfere with existing roadways, sidewalks, curbs, gutters, utility lines, sewer lines, drainage improvements, foundations, structures, or setbacks to any of those structures or improvements.

3. There is no location on the project site that satisfies the requirements of this ordinance.

C. The project proponent shall ensure that relocation of western Joshua trees satisfies the following requirements:

1. All relocations of western Joshua trees relocations one meter or greater in height shall be completed by a desert native plant specialist.

2. All western Joshua trees to be relocated shall be placed at least twenty-five feet from any existing or proposed structure or improvement and at least ten feet from any other western Joshua tree.

3. Within thirty days of completing the relocation, the project proponent shall provide the participating agency with a map of the project site indicating where each western Joshua tree was relocated.

9.56.110 REMOVAL OF WESTERN JOSHUA TREES

Subject to the limitations of this ordinance, a project proponent may remove western Joshua trees that cannot feasibly be avoided or relocated pursuant to this ordinance.

9.56.120 MITIGATION FEES

A. Prior to applications being presented to the Planning Commission, the project proponent shall pay mitigation fees for deposit into the Western Joshua Tree Mitigation Fund as follows:

B. For single-family residence projects and sewer connection projects undertaken on undeveloped parcels and public works projects to erect or construct a new public structure, building, road, or improvement, the project proponent shall pay mitigation fees as follows:

1. $2425 for each western Joshua tree four meters or greater in height that is relocated.

2. $625 for each western Joshua tree under four meters in height that is relocated.

3. $4175 for each western Joshua tree four meters or greater in height that is removed and not relocated.

4. $1050 for each western Joshua tree under four meters in height that is removed and not relocated.

C. For accessory structure projects undertaken on developed parcels and for public works projects to alter, maintain, or repair an existing public structure, building, road, or improvement, the project proponent shall pay mitigation fees as follows:

1. $700 for each western Joshua tree four meters or greater in height that is relocated.

2. $175 for each western Joshua tree under four meters in height that is relocated.

3. $2100 for each western Joshua tree four meters or greater in height that is removed and not relocated.

4. $525 for each western Joshua tree under four meters in height that is removed and not relocated.

9.56.130 DEAD AND TRIMMING WESTERN JOSHUA TREES

A. The Planning Commission may issue a permit to authorize either the removal of a dead western Joshua tree or the trimming of a western Joshua tree. The project proponent or its agent may remove a detached dead western Joshua tree or detached limb of a western Joshua tree. All other removals and all trimming of western Joshua trees authorized by permits issued pursuant to this subsection shall be completed by a desert native plant specialist. Planning Commission may issue a permit in accordance with this section without payment of mitigation fees, provided that the dead western Joshua tree or the limb(s) to be removed:

(1) Has fallen over and is within 30 feet of a structure; or

(2) Is leaning against an existing structure; or

(3) Creates an imminent threat to public health or safety.

9.56.140 ENFORCEMENT

A. A violation of any provision of this Chapter shall constitute a misdemeanor and shall be subject to enforcement pursuant to Title 1 or Chapter 9.82 of the Town Code, or any other method permissible by law.

B. A violation of any provision of this Chapter may be punishable by an administrative citation under Chapter 1.04 of this Code in the amount of $1,000 per western Joshua tree taken or trimmed without a permit. In addition to the payment of an administrative citation, fine, or any other penalty imposed, any person or entity that

takes or trims a western Joshua tree without a permit and in violation of this Chapter shall subsequently obtain a permit in accordance with the provisions of this Chapter.

C. Any person or entity that takes or trims a western Joshua tree without a permit and in violation of this Chapter, shall submit an application for the requisite permit within 30 days of service of the notice of the violation pursuant to section 1.02.080 of the Town Code. Failure to submit an application for the requisite permit within 30 days of service of notice of the violation, shall constitute a separate violation of this Chapter for which a separate administrative citation, fine, or other penalty may be imposed. Each 30 day period thereafter in which a person or entity fails to submit an application for the requisite permit shall constitute a separate violation of this Chapter for which a separate administrative citation, fine, or other penalty may be imposed.

EXHIBIT "B"

Special Order Relating to Take of Western Joshua Tree (*Yucca brevifolia*) During Candidacy Period

Section 749.12 Title 14, CCR, is added to read:

749.12 Special Order Relating to Take of Western Joshua Tree (*Yucca brevifolia*) During Candidacy Period.

The commission authorizes the take and possession of western Joshua tree during the candidacy period for each of the activities described in this section, subject to the terms and conditions specified for each activity.

(a) The take authorization conferred by this section shall apply only to take authorized, pursuant to subsections (d) and (e), by the following counties, cities, and towns:

(1) City of Palmdale.

(2) County of San Bernardino.

(3) Town of Yucca Valley.

(b) Definitions.

(1) Accessory structure means a subordinate structure, the use of which is incidental to an existing or contemporaneously constructed single-family residence, and includes: an accessory dwelling unit, addition to an existing single-family residence, garage, carport, swimming pool, patio, greenhouse, storage shed, gazebo, septic tank, sewer connection, solar panels, or gravel or paved driveway.

(2) Desert native plant specialist means:

(A) An arborist certified by the International Society of Arborists; or

(B) An individual with a four-year college degree in ecology or fish and wildlife related biological science from an accredited college and at least two years of professional experience with relocation or restoration of native California desert vegetation; or

(C) An individual with at least five years of professional experience with relocation or restoration of native California desert vegetation.

(3) Developed parcel means a parcel with an existing single-family residence.

(4) Participating agency means each of the counties, cities, and towns listed in subsection (a).

(5) Project proponent means the owner of a project site for a single-family residence or accessory structure or the owner's agent or the public agency undertaking a public works project.

(6) Project site means the parcel or parcels on which a project proponent proposes to construct a single-family residence or accessory structure or on which a public agency proposes to undertake a public works project.

(7) Public works project means a project for the erection, construction, alteration, maintenance, or repair of any public structure, building, or road.

Attachment: Exhibit B Special Order (2751 : State Fish and Game Commission 2084, Urgency Ordinance No.)

(8) Single-family residence means a single detached building that has been or will be constructed and used as living facilities, including provisions for sleeping, eating, cooking, and sanitation as required by the California Building Code for not more than one household. Nothing in this section shall be construed to authorize take of western Joshua tree for a subdivision or other development that includes more than one single-family residence.

(9) Size class means the classification of western Joshua trees by the following three sizes:

(A) Less than one meter in height;

(B) One meter or greater but less than four meters in height; and

(C) Four meters or greater in height.

(10) Undeveloped parcel means a parcel without an existing single-family residence.

(11) Western Joshua tree means an individual western Joshua tree (*Yucca brevifolia*) that has emerged from the ground, regardless of age or size, including all stems that have emerged from the ground within a one-meter radius measured from a single point at the base of the largest stem.

(12) Western Joshua Tree Mitigation Fund means the fund established pursuant to Section 749.10(a)(5).

(c) Each participating agency shall:

(1) Within sixty days of the effective date of this section, adopt an ordinance that:

(A) Requires as a condition of any approval or permit for a single-family residence, accessory structure, or public works project that has one or more western Joshua trees on the project site satisfaction of each of the requirements set forth in subsection (d).

(B) Provides for the permitting of take of dead trees and trimming of limbs pursuant to subsection (e).

(2) Within sixty days of the effective date of this section, deposit moneys in the Western Joshua Tree Mitigation Fund as follows:

(A) The City of Palmdale shall deposit the sum of $10,000.

(B) The County of San Bernardino shall deposit the sum of $10,000.

(C) The Town of Yucca Valley shall deposit the sum of $10,000.

(3) Make bi-monthly deposits to the Western Joshua Tree Mitigation Fund, by the fifteenth day of March, May, July, September, November, and January of all mitigation fees collected pursuant to subsection (d)(6) during the preceding two calendar months.

(4) Submit to the department at WJT@wildlife.ca.gov by the fifteenth day of March, May, July, September, November, and January a bi-monthly report that includes the following information for the preceding two calendar months:

(A) The number of projects approved pursuant to subsection (d) that resulted in the removal or relocation of western Joshua trees.

Attachment: Exhibit B Special Order (2751 : State Fish and Game Commission 2084, Urgency Ordinance No.)

(B) The number and size class of western Joshua trees that were relocated pursuant to subsection (d).

(C) The number and size class of western Joshua trees removed and not relocated pursuant to subsection (d).

(D) The number of dead western Joshua trees removed and live trees trimmed pursuant to subsection (e).

(E) The total amount of mitigation fees collected for each of the mitigation categories set forth in subsection (d)(6).

(F) Documentation that the total amount of mitigation fees listed pursuant to subsection (c)(4)(E) was paid into the Western Joshua Tree Mitigation Fund.

(5) Submit to the department at WJT@wildlife.ca.gov an annual report on the survival rates of trees relocated pursuant to subsection (d) by January 15 of each year beginning in 2022 and continuing for a total of three years. The annual report shall include, at a minimum, the following:

(A) The total number of western Joshua trees relocated pursuant to subsection (d).

(B) For each western Joshua tree relocated:

1. The street address for the parcel on which the western Joshua tree was relocated. If no street address is available, the property owner may include the assessor's parcel number.

2. The date of the relocation.

3. Whether the western Joshua tree is alive or dead as of the date of the annual report.

4. A photograph of the relocated western Joshua tree in its current condition.

(d) Upon compliance with subsections (c)(1) and (2), each participating agency may authorize take of western Joshua tree associated with developing single-family residences, accessory structures, and public works projects concurrent with its approval of the project and subject to the following conditions:

(1) No project shall be eligible to receive take authorization pursuant to this section if it will result in the take of more than ten western Joshua trees from the project site.

(2) Census.

(A) The project proponent proposing to relocate or remove a western Joshua tree shall cause a census of western Joshua trees to be conducted on the project site by a desert native plant specialist. The census shall tag and count all western Joshua trees on the project site and classify them by size class.

(B) Prior to receiving take authorization from the participating agency, the project proponent shall submit to the participating agency a census report that shall include the following:

1. The name of the desert native plant specialist who conducted the census and the employer of the desert native plant specialist.

Attachment: Exhibit B Special Order (2751 : State Fish and Game Commission 2084, Urgency Ordinance No.)

2. If applicable, the name of the desert native plant specialist who will relocate western Joshua trees pursuant to subsection (d)(4)(D) and the employer of the desert native plant specialist.

3. The date of the census.

4. The date or dates of the proposed relocation of western Joshua trees, if applicable.

5. A map of the project site that depicts: the location of the proposed single-family residence, accessory structure, or public works project; the number and location of all western Joshua trees on the project site; and, if applicable, the proposed western Joshua trees for removal, or the proposed placement of each relocated western Joshua tree.

6. Photographs of each western Joshua tree on the project site, including a visual representation of the scale of the height of each tree.

(3) Avoidance. To the maximum extent practicable, the project proponent shall avoid take of western Joshua trees on the project site.

(4) Minimization.

(A) Notwithstanding subsection (d)(3), the project proponent shall avoid all ground-disturbing activities within 10 feet of any western Joshua tree, unless those activities will be temporary, will not physically impact the western Joshua tree or its root system, and will not disturb the soil to a depth of greater than twelve inches.

(B) To the maximum extent feasible, the project proponent shall relocate all western Joshua trees that cannot be avoided to another location on the project site.

(C) For purposes of this subsection, relocation of a western Joshua tree shall be determined to be infeasible if any of the following applies:

1. Relocation of the western Joshua tree on the project site would pose a threat to public health or safety.

2. Relocation of the western Joshua tree on the project site would interfere with existing roadways, sidewalks, curbs, gutters, utility lines, sewer lines, drainage improvements, foundations, - structures, or setbacks to any of those structures or improvements.

3. There is no location on the project site that satisfies the requirements of subsection (d)(4)(D)2.

(D) The project proponent shall ensure that relocation of western Joshua trees pursuant to this section satisfies the following requirements:

1. All relocations of western Joshua trees one meter or greater in height shall be completed by a desert native plant specialist. All relocations of western Joshua trees less than one meter in height shall be relocated according to the terms of the applicable participating agency's ordinance adopted pursuant to subsection (c)(1).

2. All western Joshua trees to be relocated shall be placed at least twenty-five feet from any existing or proposed structure or improvement and at least ten feet from any other western Joshua tree.

Attachment: Exhibit B Special Order (2751 : State Fish and Game Commission 2084, Urgency Ordinance No.)

3. Within thirty days of completing the relocation, the project proponent shall provide the participating agency with a map of the project site indicating where each western Joshua tree was relocated.

(5) Removal. Subject to the limitations of subsection (d)(1), a project proponent may remove western Joshua trees that cannot feasibly be avoided pursuant to subsection (d)(3) or relocated pursuant to subsection (d)(5).

(6) Mitigation. Prior to receiving take authorization from the participating agency, the project proponent shall pay mitigation fees to the participating agency for deposit into the Western Joshua Tree Mitigation Fund as follows:

(A) For single-family residence projects and sewer connection projects undertaken on undeveloped parcels and public works projects to erect or construct a new public structure, building, road, or improvement, the project proponent shall pay mitigation fees as follows:

1. $2425 for each western Joshua tree four meters or greater in height that is relocated.

2. $625 for each western Joshua tree under four meters in height that is relocated.

3. $4175 for each western Joshua tree four meters or greater in height that is removed and not relocated.

4. $1050 for each western Joshua tree under four meters in height that is removed and not relocated.

(B) For accessory structure projects undertaken on developed parcels and for public works projects to alter, maintain, or repair an existing public structure, building, road, or improvement, the project proponent shall pay mitigation fees as follows:

1. $700 for each western Joshua tree four meters or greater in height that is relocated.

2. $175 for each western Joshua tree under four meters in height that is relocated.

3. $2100 for each western Joshua tree four meters or greater in height that is removed and not relocated.

4. $525 for each western Joshua tree under four meters in height that is removed and not relocated.

(e) Each participating agency may issue a permit to authorize either the removal of a dead western Joshua tree or the trimming of a western Joshua tree. The project proponent or its agent may remove a detached dead western Joshua tree or detached limb of a western Joshua tree. All other removals and all trimming of western Joshua trees authorized by permits issued pursuant to this subsection shall be completed by a desert native plant specialist. Each participating agency may issue permits pursuant to this subsection, without payment of mitigation fees, provided that the dead western Joshua tree or the limb(s) to be removed:

(1) Has fallen over and is within 30 feet of a structure; or

(2) Is leaning against an existing structure; or

(3) Creates an imminent threat to public health or safety.

Attachment: Exhibit B Special Order (2751 : State Fish and Game Commission 2084, Urgency Ordinance No.)

(f) During the candidacy period, no participating agency shall authorize take pursuant to subsection (d), collectively, in excess of the following limits:

(1) The City of Palmdale shall not authorize take, in the form of relocation or removal, of more than 190 western Joshua trees pursuant to subsection (d).

(2) The County of San Bernardino shall not authorize take, in the form of relocation or removal, of more than 450 western Joshua trees pursuant to subsection (d).

(3) The Town of Yucca Valley shall not authorize take, in the form of relocation or removal, of more than 450 western Joshua trees pursuant to subsection (d), of which no more than 100 western Joshua trees shall be relocated or removed in relation to sewer connection projects.

(g) Enforcement.

(1) The department shall suspend a participating agency's authority to issue take authorization pursuant to subsections (d) and (e) if the participating agency does any of the following:

(A) Fails to make bi-monthly deposits of mitigation fees into the Western Joshua Tree Mitigation Fund, as required by subsection (c)(3).

(B) Fails to provide bi-monthly reports to the department, as required by subsection (c)(4).

(C) Authorizes take for a project not eligible to receive take authorization under this section.

(D) Authorizes take in excess of the limits set forth in subsection (f).

(2) The department shall provide the participating agency with written notice of a suspension within ten days of the department's discovery of facts supporting the suspension. A notice of suspension shall provide the participating agency with thirty days to remedy the failure identified in the notice. If the participating agency provides the department with written documentation that it has remedied the failure within thirty days of receipt of the notice, the department shall lift the suspension.

(3) The department shall revoke a participating agency's authority to issue take authorization pursuant to subsections (d) and (e) if the participating agency fails to remedy a failure identified in a notice of suspension within thirty days of receipt of the notice. All revocations shall be permanent.

(h) Limitations.

(1) Nothing in this section is intended to be or shall be construed to be a general project approval. It shall be the responsibility of each project proponent receiving take authorization pursuant to this section to obtain all necessary permits and approvals and to comply with all applicable federal, state, and local laws.

(2) Nothing in this section is intended to or shall be construed to limit the terms and conditions, including those relating to compensatory mitigation, the department includes in incidental take permits for western Joshua tree issued pursuant to Fish and Game Code section 2081, subdivision (b).

Note: Authority cited: Sections 399 and 2084, Fish and Game Code. Reference: Sections 399 and 2084, Fish and Game Code.

Attachment: Exhibit B Special Order (2751 : State Fish and Game Commission 2084, Urgency Ordinance No.)

TOWN OF YUCCA VALLEY
TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Jordan Gumbish, Finance and Accounting Supervisor

Date: December 1, 2020
Meeting Date: January 19, 2021

Subject: Native Plant Permit Fees and the Western Joshua Tree Take Permit Fees Resolution

Recommendation
That the Town Council:

1. Adopts the Resolution establishing the native plant permit fees and Western Joshua Tree Take permit and permit fees.
2. Amend the FY20-21 General Fund budget to establish the Wildlife Mitigation Fee department and associated revenues and expenditures per Exhibit A.

Prior Review
There has been no prior review of this matter.

Executive Summary
The Town has implemented native plant permit regulations for many years. Prior policy direction established a no fee permit for native plants.

At their meeting of December 10, 2020, the California Fish and Game Commission (FGC, Commission)) authorized the Town, County of San Bernardino and the City of Palmdale to issue take permits for the Western Joshua Trees for specific activities that meet conditions required by the 2084, approved by the Commission on December 10, 2020, during the candidacy period in which the Western Joshua tree will be reviewed as a candidate species under the California Endangered Species Act.

The review of the eligible terms and conditions for the take and possession of western Joshua trees within the Town of Yucca Valley will require a WJT Take Permit application and related fee to ensure appropriate review, compliance, and support for the Town residents seeking the WJT Take permit.

In addition, to participate in this candidacy period activities, the Town of Yucca Valley will need to participate in the Western Joshua Tree Mitigation Fund. This activity will require additional deposits into the Fund by the Town of Yucca Valley and ongoing pass-thru of CDFW fees.

Order of Procedure
Request Staff Report
Request Public Comment
Council Discussion / Questions of Staff

Motion/Second
Discussion on Motion
Call the Question

Discussion
WJT Take permit application fees are based upon the estimated amount of staff time and resources necessary to render a formal decision. These decisions may be made at the staff level, Planning Commission or Town Council level, and the fees are structured accordingly.

Permit Application Time Allocation

The following information outlines the estimated time allocations to those tasks necessary to process the Native Plant permit applications (does not include Western Joshua Trees) and WJT Take Permit applications and corresponding reporting.

Town of Yucca Valley Native Plant Permit Applications	
Administrative Assistant II	
Project file creation	0.25
30-day project review letter	0.25
Application review	0.25
Field Inspection/Aerial Image review:	0.5
Draft Planning Commission staff report/permit:	1.5
Draft Applicant communication letter:	0.25
Associate Planner:	
Review complete application package and PC Staff report:	1
Deputy Town Manager - PC packet review:	0.5
Planning Commission meeting:	
PC Secretary:	0.5
Assistant Planner	0.5
Deputy Town Manager:	0.5
Post Planning Commission Action:	
Administrative Assistant II:	
PC Action Letter to Applicant;	0.25
Project File/Records:	0.25

Based upon fully burdened hourly rates, the above time allocation results in a fee of $227.77. The recommended action rounds the application fee to $200.

WJT Take Permit Fee	
Administrative Assistant II	
Project file creation	0.25
30-day project review letter	0.25
Application review	0.25
WJT Census Review	0.25
Field Inspection/Aerial Image review:	0.5
Draft Planning Commission staff report/permit:	1.5
Draft Applicant communication letter:	0.25
Associate Planner:	
Review complete application package and PC Staff report:	1
Deputy Town Manager - PC packet review:	0.5
Planning Commission meeting:	
PC Secretary:	0.5
Assistant Planner	0.5
Deputy Town Manager:	0.5
Post Planning Commission Action:	
Administrative Assistant II:	
PC Action Letter to Applicant:	0.25
Project File/Records:	0.25
Quarterly reporting allocation:	0.5
Annual reporting allocation:	0.5
Associate Planner:	
Review Arborist Post Construction Census Report/field data:	1
State Reporting files:	0.5
Quarterly Reporting Allocation:	0.5
Annual Reporting Allocation:	0.5
Deputy Town Manager:	
Review Final Project Report:	1
Quarterly Reporting Allocation:	0.5
Annual Reporting Allocation:	0.5
Bi-Monthly Deposit Reporting/Annual Deposit Reporting	
Staff Accountant - Report Prep	1
Fin. And Acctg Supervisor - Report Review/Submission	0.5
Town Manager - Final Review	0.5

Based upon fully burdened hourly rates, the above time allocation results in a fee of $518.32. The recommended action rounds the application fee to $500. Town staff does not recommend the application of the permit fee for Western Joshua Tree Take permits issued solely for the trimming and/or the removal of a dead tree.

Ground Disturbance Findings of Exemption			
Administrative Assistant II	$ 20.83	0.5	$ 10.42
Associate Planner	$ 39.58	0.25	$ 9.90
			$ 20.31

To recover staff time for all of the required Native Plant Permit applications, it is recommended that a $20.00 Ground Disturbance Findings of Exemption fee be applied if a Finding of Exemption is determined when a native plant application does not require the above described permits.

Western Joshua Tree Mitigation Fund

To participate in the California Department of Fish and Wildlife's authorized activities during the western Joshua tree's candidacy period the Town of Yucca Valley will be required to submit a deposit sum of $10,000 to the Western Joshua Tree Mitigation Fund. In addition, the mitigation fees imposed by the CDFW will be collected and passed through to the Mitigation Fund bi-monthly. Reporting of the activities will also be submitted on a bi-monthly and annual basis.

Alternatives

An alternative to the recommended Western Joshua Take Permit Fee is to subsidize the cost of the staff time allocations through the Town's General Fund, thereby reducing the fee passed on to Town residents and businesses. A reduction of the fee to $250 would be reasonably accommodated by the Town's General Fund.

Fiscal Impact

The recommended fee level is projected to cover all staff time for processing of the Native Plant permit and WJT Take permit; along with the related Western Joshua Tree Mitigation Fund reporting incurred by the take and possession of the western Joshua tree. The Resolution establishes the Native Plant permit fee at $200 and the WJT Take Permit fee at $500.

Participation in the Western Joshua Tree Mitigation Fund will require a $10,000 deposit from the Town of Yucca Valley and bi-monthly pass-thru of collected California Department of Fish and Wildlife Mitigation Fees. The deposit, WJT Take Permit fees, and pass-thru fees will be reported in the Town's General Fund Wildlife Mitigation department.

Attachments

Exhibit A - General Fund Budget Amendment 12.15.20

RESOLUTION NO 20-

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING THE NATIVE PLANT PERMIT FEE AND WESTERN JOSHUA TREE TAKE PERMIT FEE FOR THE NATIVE PLANT PERMIT APPLICATIONS AND WESTERN JOSHUA TREE TAKE AND POSSESSION PERMIT APPLICATIONS.

WHEREAS, the Town has implemented native plant permit regulations for many years and prior policy direction established a no fee permit for native plants; and

WHEREAS, the California Department of Fish and Wildlife has established the candidacy period authorizing the Town of Yucca Valley to permit the take and possession of eligible western Joshua Trees; and

WHEREAS, the adopted regulations require a Western Joshua Tree Take permit to be submitted and processed to ensure the conditions set forth by the California Department of Fish and Game are met before the take and possession of the western Joshua tree; and

WHEREAS, the necessary staff time for reviewing, evaluating and processing Native Plants Permit and Western Joshua Tree Take Permit applications has been evaluated and projected; and

WHEREAS, the Town has established fully burdened hourly rates for all positions; and

WHEREAS, the fully burdened hourly rates have been appropriately applied to the tasks and time estimates necessary to process the Native Plant Permit and Wester Joshua Tree Take permit application.

WHEREAS, the adopted regulations require operational requirements and standard conditions that must be monitored by the Town for compliance; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA RESOLVES AS FOLLOWS.

SECTION 1. The Town establishes the application fee for Native Plant Permits at $200.

SECTION 2. The Town establishes the application fee for Western Joshua Tree Take Permits at $500.

SECTION 3. The Town establishes the Ground Disturbance Findings of Exemption Fee for the Native Plant permit applications that are found to be exempt from requiring a

native plant permit at $20. The Finding of Exemption fees become effective on February 1, 2020

SECTION 4. The Town Council directs that all future development fee update studies include those fees necessary for Native Plant Permit and Western Joshua Tree Take Permit applications.

SECTION 5. These fees may be adjusted annually by action of the Town Council, with any or all other Community Development/Public Works Department Fees, or independently of other fees, based upon the applicable Consumer Price Index (CPI) for that year.

APPROVED AND ADOPTED THIS 19th day of January, 2021.

_____
MAYOR

ATTEST:

_____
TOWN CLERK

APPROVED AS TO FORM:

_____
TOWN ATTORNEY