

CEQA Working Group

May 3, 2018

We, the undersigned, are members and volunteers of a group of professionals with an aggregate of over 400 years of experience in working with CEQA in San Luis Obispo County. We have been meeting over a period of nearly 2 years to find ways to make CEQA and the County's administration of CEQA work better for applicants, the county, and the general public.

As a result of our efforts, we have prepared three (3) documents attached to this cover letter that we all support to help CEQA work better in our County. Those documents are respectfully being submitted to the County in the hopes that they will not only help guide the County's efforts to update its CEQA Guidelines, but also to be ratified by the County as its new CEQA policies and procedures. These three documents include:

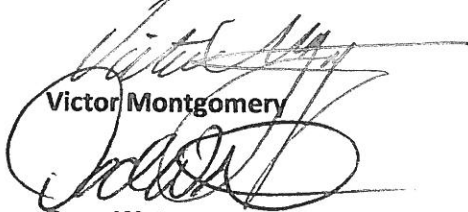
1. A narrative titled "Updating the County's CEQA Policies and Procedures" that cites the need for reforming how the County administers CEQA and that summarizes the changes our group is recommending.
2. A new set of policies entitled "Policies for the Implementation of the California Environmental Quality Act" designed to replace the County's older CEQA policies that it had adopted 23 years ago.
3. A new recommended revised draft of the County's "CEQA Guidelines" to replace the Guidelines adopted by the County in August, 1995.

On behalf of all the working professionals in our CEQA Working Group, we formally request that County staff and the San Luis Obispo Board of Supervisors consider and embrace our recommendations to make CEQA work better for all in this County.

Sincerely,



Carol Florence



Victor Montgomery

Dave Watson



Dan Lloyd



Brad Brechwald

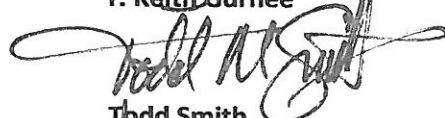
Sophie Treder



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Updating the County's CEQA Policies and Procedures

April 9, 2018

I. Introduction

San Luis Obispo County is on the threshold of updating and improving the policies and procedures it uses to administer the California Environmental Quality Act (CEQA). Back in 2017, the Board of Supervisors voted unanimously to make this effort one of its highest priorities. Now it's time to act on that priority.

Let's face it. CEQA is not on everybody's radar screen and the broader general public has at best a tangential knowledge of the law and its importance to local government. Unless you are a planner, an environmentalist, an attorney, or a state or local government decision-maker, CEQA (pronounced "SEE-kwa") is an unlikely part of your vocabulary.

Yet since its adoption by the California State Legislature in 1970, CEQA has had a profound effect on how California and its cities and counties plan for their futures and how they review and process private and public development projects within their jurisdictions. While CEQA does not directly regulate land uses, it does require state and local agencies to follow a protocol of analysis and public disclosure of environmental impacts of proposed projects and to enact feasible measures to avoid or mitigate those impacts.

As a result, CEQA has proven itself to have a penultimate influence on land-use and infrastructure decision-making throughout California. Over the years, CEQA has developed its admirers and its detractors. Its admirers staunchly defend and support its provisions and process. Its detractors decry its expense, its time delays, and its effects on California's acute housing crisis.

But one thing is certain: CEQA is not going away. CEQA is here to stay. We just need to make CEQA work better.

II. Making CEQA Work Better

The problems with CEQA is not the law itself. Rather it is in the way that local and state governments use and administer CEQA that has strayed away from the basic precepts, intent, and substance of the original law. That's what needs to change.

What San Luis Obispo County is proposing to do in updating its CEQA policies and procedures is not to change CEQA law in any way, shape, or form. That is the sole purview of the state of California. Rather the County is proposing changes to its CEQA policies and guidelines to embrace the original spirit and substance of the law while doing its best to improve the way CEQA works.

When first adopted by the state legislature, CEQA required all local governments to comply with its provisions. It empowered local governments and granted them significant leeway in developing their own CEQA policies and guidelines in administering the law within their own jurisdictions. To assist local governments in developing local CEQA policies and guidelines the State Office of Planning and Research (OPR) published a set of "CEQA Guidelines" that it has amended from time to time. The State's most recent update to its CEQA Guidelines was just completed in November 2017 after an 8-year process.

There are two (2) documents proposed to be updated that govern how San Luis Obispo County administers CEQA today: the County's CEQA Guidelines known as its **"Environmental Quality Act Guidelines"** and its CEQA policies known as **"Policies for the Implementation of the California Environmental Quality Act"**. Both documents were adopted by the San Luis Obispo County Board of Supervisors in August 1995.

So why update the County's CEQA Policies and Guidelines now?

For one, those policies and procedures are 23 years old. But the way this County has used and administered CEQA has often resulted in excessive costs and time delays for taxpayers and applicants alike. It can frustrate both good projects and bad while preventing our County from solving the challenges that it needs to address in a timely and cost-effective manner. Further, the County's present Guidelines have allowed its administration of CEQA to stray away from a number of the very provisions of the law. It's time that this County return to the original purpose, intent, and substance of CEQA.

III. The Proposed Updates to the County's CEQA Guidelines

It is recommended that San Luis Obispo County amend and reformat its **"Environmental Quality Act Guidelines"** to embrace the following proposed changes:

- Elimination of the County Environmental Coordinator's position as the gatekeeper of all things CEQA for the County of San Luis Obispo.
- Providing the County Director of Planning and Building with the responsibility to ensure the consistent and appropriate administration of CEQA for the County under these procedures and the policies to be used in implementing them.
- Requiring that Planning Department staff charged with the processing of both current long-range planning projects obtain and maintain up-to-date knowledge of CEQA sufficient to allow them to perform all of the duties described under these amended Procedures.
- Provide that Planning Department staff receive regular training and continuing education on CEQA and on how to make it work better.
- Allow the County Director of Planning and Building to obtain outside counsel with strong expertise in CEQA on special issues that might arise in the administration of CEQA and provide the department with a line item budget for that purpose.
- Enacting accountability requirements for "real-time billing agreements" associated with applications subject to CEQA.
- Streamlining the time frames for making an "Initial Determination" on applications submitted for County processing and streamlining the CEQA process as a whole.
- Maintaining lists of "Ministerial Projects" and "Exempt Projects" to be maintained and updated by the Planning Department and posted on its website.
- Providing for the development and maintenance of "Thresholds of Significance" to be used in preparing and processing environmental documents and use those thresholds as part of the "Resource Management System" (RMS) to solve problems rather than using the RMS to enact rolling moratoria without solving those problems.
- Allow for the full range of options as provided by CEQA in preparing and processing Environmental Impact Reports.

- consultants in the preparation of EIR's.
- Streamlining the timelines preparing and processing EIR's prepared by independent consultants as well as improving the cost-effectiveness and management accountability of independent consultant contracts.
- Allowing for the certification of all EIR's for all project applications that require EIRs.

III. The Proposed Updates to the County's CEQA Policies

San Luis Obispo County proposes to recast its *"Policies for the Implementation of the California Environmental Quality Act"* as a set of 21 specific policies as attached to this document that are to be used by the County in its administration of its CEQA Guidelines.

At one point, there has been discussion about allowing applicants as well as the public to be involved in the early review of Administrative Draft EIRs as part of the CEQA process. At one point, County Planning staff had recommended allowing this to occur in amending its CEQA Guidelines and Policies. After further review, it was determined that this would add more complexity, more time, and more expense to the CEQA process that it doesn't need. As such, applicant and public review of Administrative Drafts is "off the table" with these recommended CEQA Policies.

Instead, the proposed revised policies as attached to this document are intended to return to the original spirit and substance of CEQA. They involve shortening timelines associated with the CEQA process as provided by state law, clearly stating the responsibilities of both the County and applicants, providing more accountability in the County's administration of CEQA, and improving the consistency and objectivity of the CEQA process. Thus these policies are intended to honor the original body of law that is CEQA and to make it work better for all involved with the CEQA process.

IV. In Conclusion

After 23 years of working under a set of procedures and policies that are out of date and out of touch with the actual law of CEQA, these updated Guidelines and Policies will dramatically improve the way CEQA has been administered by San Luis Obispo County for the public, for applicants, and for County decision-makers alike.

County of San Luis Obispo

Policies for the Implementation of the California Environmental Quality Act*

January 18, 2018

****Note: This document is intended to replace the County's "Policies for the Implementation of the California Environmental Quality Act" as adopted by the San Luis Obispo County Board of Supervisors on August 15, 1995.***

IT IS THE POLICY OF THE COUNTY OF SAN LUIS OBISPO TO ABIDE BY THE FOLLOWING POLICIES AS OUTLINED BELOW IN ITS ADMINISTRATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT:

- 1. Maintain a high quality and healthy environment for the people of San Luis Obispo County to enjoy now and well into the future.**
- 2. Administer the environmental review process in an efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources in recognition that these resources could be better applied toward the mitigation and avoidance of significant effects on the environment.**
- 3. Allow the full range of options set forth in CEQA for preparing Environmental Impact Reports.**
- 4. Ensure that environmental documents produced are based on demonstrable evidence, verifiable facts, and impartial analysis.**
- 5. Prepare environmental documents consistent with the time frames prescribed by the Permit Streamlining Act and Section 8 of the State CEQA guidelines.**
- 6. Prepare and update as necessary a complete "Application Checklist" to be used by the County in its "Completeness Review" of entitlement applications that are subject to CEQA.**
- 7. Provide that the County's "Completeness Review" during the initial intake of an application shall be limited to those items on the "Application Checklist" and shall be completed within 30 days of the date that an applications subject to CEQA are filed with the County.**
- 8. Require that the County prepare "Initial Studies" on submitted applications subject to CEQA within the 30-day "Completeness Review" period in order to expedite review of environmental issues pertinent to any project.**
- 9. Work with applicants on projects subject to CEQA from the submittal of their applications and throughout the CEQA process to improve their projects based on the findings and feedback received to Initial Studies, Notices of Preparation, and the drafting of EIR's.**
- 10. Treat public projects pursued by the County that are subject to CEQA with the same level of environmental review and consideration as private projects.**

- 11.** **Ensure** that the County's administration of CEQA exempts those projects that are deemed "Categorically Exempt" from environmental review as provided in state law.
- 12.** **Incorporate** information developed as part of individual Environmental Impact Reports into a database to be used in reducing delays or duplications of effort in subsequent Environmental Impact Reports.
- 13.** **Establish** measurable and consistent thresholds to be used in evaluating environmental impacts in the preparation of environmental documents.
- 14.** **Craft** mitigation measures and project alternatives that are practical, feasible, and achievable in their implementation.
- 15.** **Encourage** CEQA consultants proactively to bid on County-issued RFPs to maximize the number of competitive bids in preparing Environmental Impact Reports.
- 16.** **Allow** applicants to review CEQA consultant proposals and to participate in the CEQA consultant selection process.
- 17.** **Allow** applicants to amend their project applications in response to feedback received to an Initial Study, Notices of Preparation, public scoping meetings, and the findings of draft EIR's prior to the preparation of a Public Review Draft EIR.
- 18.** **Ensure** that CEQA consultants are managed and held accountable in performing their work on budget and on time and establish enforceable provisions with consequences if they do not perform accordingly.
- 19.** **Establish** real-time billing rates for all County personnel working and billing under County Real-Time Billing Agreements and CEQA Administrative Fees based on their existing pay rates and payroll burdens with reasonable billing multipliers, and provide applicants with monthly invoices showing the detailed tasks performed, the positions and billing rate of the persons performing them, and the percentage completion for the project.
- 20.** **Ensure** that applicants are not charged for staff time spent meeting with or responding to opponents of projects subject to CEQA review as part of County Real-Time Billing Agreements.
- 21.** **Provide** appropriate public notice and encourage public involvement and comment at each stage of the CEQA process, including:
 - a. Establishing and maintaining potential environmental impact "thresholds of significance" during the annual review and updates of the County-wide Resource Management System (RMS),
 - b. Periodic updates to the County's CEQA policies and Procedures,
 - c. Upon completion of any notice of preparation,
 - d. At public scoping sessions on environmental documents,
 - e. In response to Public Review Draft EIR's,
 - f. At public hearings held on Public Review Draft EIR's,
 - g. On the Final Draft EIR including Responses to Comments,
 - h. At hearings held on certifying the Final EIR, and
 - i. At hearings involving appeals by an applicant or the public of an environmental determination and/or and EIR.



San Luis Obispo County

Department of Planning and Building

CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCEDURES

Adopted _____

- ARTICLE 1 – Purpose and Authority
- ARTICLE 2 – Costs, Fees and Records
- ARTICLE 3 – Preliminary Review
- ARTICLE 4 – Thresholds of Significance
- ARTICLE 5 – Initial Studies & NDs
- ARTICLE 6 – Environmental Impact Reports
- ARTICLE 7 – Noticing
- ARTICLE 8 – Mitigation Monitoring
- ARTICLE 9 – Interagency Review

ARTICLE 1 **PURPOSE AND AUTHORITY**

100 – Purpose

These Procedures provide definitions, procedures, criteria and objectives for the implementation of the California Environmental Quality Act (Public Resources Code Section 21000 et. seq., CEQA). These Procedures are intended to facilitate County compliance with CEQA and standardize procedures for the evaluation of projects and the preparation of environmental documents when the County of San Luis Obispo is the Lead, Responsible, or Reviewing agency under CEQA.

102 – Authority

These Procedures are adopted by the Board of Supervisors of the County of San Luis Obispo pursuant to Section 21082 of the Public Resources Code. These Procedures supplement the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.) (“CEQA Guidelines”). The CEQA Guidelines, as they may be amended from time to time, including definitions and appendices, are incorporated by reference herein as though set forth in full. Where the CEQA Guidelines are more restrictive, they shall supersede any inconsistent provisions of these County Procedures.

103 – Availability

The County shall comply with all mandatory provisions of the CEQA Guidelines applicable to local government agencies. Copies of the CEQA Guidelines and these County Procedures, as well as the County CEQA Principles, shall be made available on the official County website, and also at the Department of Planning and Building.

104 – Staff Knowledge and Education

The Board of Supervisors finds that fair, correct, and efficient administration of CEQA is of the utmost importance. Planning Department Staff who handle the processing of both current and long-range projects are expected to have and maintain a knowledge of CEQA sufficient to allow them to perform all of the duties described under these Procedures. Accordingly, the Planning Director is encouraged to prioritize and/or require continuing education for Planning Staff on the topic of CEQA compliance, to regularly confer with other jurisdictions on ways to more fairly and efficiently administer CEQA, and to implement additional measures that further the goals of the County's CEQA Principles and are not otherwise in conflict with these Procedures.

105 – Outside CEQA Counsel

The Board of Supervisors finds that proper compliance with CEQA is of the utmost importance, and is a key factor in avoiding unnecessary litigation expenses. Advice on how to comply with CEQA sometimes requires specialized legal knowledge and familiarity with the most current case law on the subject. Therefore, the Planning Director may apply annually to the Board of Supervisors for a budgetary allocation, not to exceed \$25,000, for the purpose of acquiring independent legal advice from an outside CEQA-specialized lawyer or law firm concerning the Planning Department's compliance with CEQA on an as-needed basis.

ARTICLE 2
COSTS, FEES AND RECORDS

200 – Findings and Policy Statement

The Board of Supervisors finds that the costs associated with environmental review of a project can be a significant factor in deterring applications for needed projects, such as affordable housing or public amenities, and can also lead to the deferral of necessary planning efforts, such as updates to general or specific plans. Accordingly, it is the policy of the County to keep the costs associated with environmental review of a project, whether public or private, as low as possible. The County shall charge only those fees that are both reasonable and necessary for environmental review of a project and actual charges shall be passed on at cost, without markup.

201 – Real Time Billing

Private project applicants shall be billed for County Staff's time conducting environmental review of their projects on a "real-time" basis, and shall sign a real-time billing agreement with the County that will govern the presentation and payment of invoices. All invoices shall contain sufficient detail to enable the applicant, the public, and responsible County officials to understand the work that was performed. Applicants may not be charged for Staff time spent initiating or responding to phone calls or correspondence from the public inquiring about the status or impacts of particular projects, except where CEQA requires such a notice or response be given.

ARTICLE 3
PRELIMINARY REVIEW & REVIEW FOR EXEMPTION

300 –Preliminary Review Resulting In Initial Determination

Any discretionary action to be undertaken or approved by the County which may be subject to CEQA shall undergo a Preliminary Review by the Planning Department in accordance with Guidelines Section 15060 and 15061, in order to initially determine whether the action is a CEQA "project," as defined by Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and the results of this Initial Determination shall be provided to the applicant.

301 – Initial Determination

An Initial Determination under section 300 shall be completed no later than 10 days after the application is submitted, and shall be based on the application information received to date. However, an initial determination under CEQA does not mean that the application has been accepted as complete, and accepting an application as complete does not prohibit the County from requesting additional information from the applicant to supplement or amend its Initial Determination. Requiring such additional environmental information after the application is complete does not change the status of the application. (CEQA Guidelines Section 15060.)

302 – List of Ministerial Projects

The Planning Director shall, in accordance with CEQA Guidelines Section 15022(a)(1)(B), maintain a list of projects or permits over which the County has only ministerial authority. Such list shall be kept updated as necessary, and shall be published on the County's official website and made available in hard copy to persons inquiring at the Planning Department.

303 – List of Exempt Projects

The Planning Director shall, in accordance with CEQA Guidelines Section 15022(a)(1)(C), maintain a list of specific activities which the County has found to be within the categorical exemptions established by the CEQA Guidelines. Such list shall be kept updated as necessary, and shall be published on the County's official website and made available in hard copy to persons inquiring at the Planning Department.

ARTICLE 4 **THRESHOLDS OF SIGNIFICANCE** **& MITIGATION MEASURES**

400 – Thresholds of Significance

The County shall adopt thresholds of significance to be used in the determination of the significance of environmental effects. Per CEQA Guideline Section 15064.7, a threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect

will normally be determined to be significant by the County, and compliance with which means the effect normally will be determined to be less than significant.

401 – Potential Mitigation Measures

Once adopted, thresholds of significance should be clearly stated in the County's published planning standards. The County shall, through its Resource Management System, Capital Improvement Plan, and impact fee structure, identify possible mitigation measures that can be implemented by project applicants to mitigate certain types of impacts to less than significant levels and/or to comply with an adopted threshold of significance.

ARTICLE 5 **INITIAL STUDIES &** **NEGATIVE DECLARATIONS**

500 – Initial Study

Following submittal of an application, and during the 30 day review period for completeness, if the Initial Review clearly shows that an application is a project under CEQA and not subject to any exemption, the Planning Department shall publish an Initial Study in accordance with Section 15063 of the CEQA Guidelines. The results of the Initial Study shall be provided to the applicant, along with a written request for additional environmental baseline information, if needed under the conclusions of the Initial Study, as part of the completeness response. The objective of providing the Initial Study during completeness review will be to identify any additional information required for the application to be processed in a timely manner.

501 – Negative Declarations

If appropriate based upon the results of the Initial Study, the Planning Department shall prepare a Negative Declaration or Mitigated Negative Declaration for the project in accordance with Article 6 of the CEQA Guidelines.

ARTICLE 6
ENVIRONMENTAL IMPACT REPORTS

600 – Preparation of EIRs

Whenever the Initial Study indicates that preparation of an Environmental Impact Report (EIR) is appropriate for a project, the County shall adhere to the CEQA Statute and Guidelines for preparation and consideration of the EIR, except as otherwise herein provided or allowed by law. The County shall allow any of the following arrangements, or a combination of them, for preparation of a draft EIR:

- (1) Preparing the draft EIR “in house” using County Staff, if appropriate based on the scope and complexity of the project;
- (2) Contracting with another entity, public or private, to prepare the draft EIR;
- (3) Accepting a draft prepared by the applicant, a consultant retained by the applicant, or any other person;
- (4) Executing a third party contract or Memorandum of Understanding with the applicant to govern the preparation of the draft EIR by an independent contractor;
- (5) Using a previously prepared EIR.

Before circulating a draft prepared by another person or entity, the County shall subject the draft to its own review and analysis, such that the draft EIR which is sent out for public review reflects the County’s independent judgment. Ultimately, the County is responsible for the adequacy and objectivity of the draft EIR. (CEQA Guidelines § 15084(d).)

601 – Focus of EIRs

To provide meaningful public disclosure while reducing the time and cost required to prepare an EIR, in accordance with Public Resources Code Sections 21002.1(e) and 21100, the discussion in the EIR shall focus solely on those potential effects on the environment that the Initial Study has determined are or may be significant. The EIR may limit discussion on other effects to a brief explanation as to why those effects are not potentially significant, unless substantial evidence is submitted that supports a fair argument contradicting the results of the Initial Study regarding a possible effect. (Pub. Res. Code §§ 21002.1(e), 21100.)

602 – Plain Language of EIRs

The County shall adhere to the guidance in Article 10 of the CEQA Guidelines for Considerations in Preparing EIRs and Negative Declarations unless otherwise provided for in these Procedures. This means that, unless exceptional circumstances apply:

- a) EIRs shall be written in plain language and may use appropriate graphics so that decision makers and the public can rapidly understand the documents; (CEQA Guidelines § 15140);
- b) The text of Draft EIRs shall normally be less than 150 pages, or, for proposals of unusual scope or complexity, less than 300 pages; (CEQA Guidelines § 15141);
- c) EIRs shall focus on the potentially significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR, unless the County subsequently receives information inconsistent with the finding in the Initial Study. (CEQA Guidelines § 15143);
- d) A copy of the Initial Study and these Policies shall be attached to any request for proposals (RFP) to provide the basis for limiting the impacts to be discussed in the EIR.

603 – Tiering

Where possible, in order to reduce the costs and time associated with environmental review of projects, the County shall rely on “tiering” of EIRs, as defined in CEQA Guideline Section 15152. Previous Final EIRs, whether or not they have been certified by the County, may be relied upon by a project to satisfy CEQA. If a previous, uncertified Final EIR is to be relied upon, the County shall follow the procedures in CEQA Guidelines Section 15153, and shall certify the EIR prior to or in conjunction with approval of the project.

604 – Selection of an Independent Consultant

When the applicant has elected to have all or a portion of the EIR prepared by an independent consultant pursuant to Section 600(2) or (4), and the amount is expected to exceed \$25,000.00, the Planning Department shall put out a request for proposals (RFP). All proposals received by the County shall be shared with the applicant, and the Planning Department shall select at least three proposals that, in the Planning Department's sole discretion, meet the requirements of the RFP. The applicant may then decide which consultant will receive the contract, from among those satisfactory proposals selected by the Planning Department. If fewer than three proposals are received in response to an RFP and the applicant and the Planning Department cannot agree on which proposal should receive the contract, the applicant may either reconsider its options under Section 600, or choose to recirculate the RFP. Once a consultant is selected, the Planning Department, with input from the applicant, shall negotiate any contracts or purchase requisitions for the preparation of an EIR.

605 – Approval by Board of Supervisors

Unless otherwise authorized by purchase requisition, any contracts for outside CEQA services or review pursuant to Section 604 shall be approved by the Board of Supervisors. The contract between the County and the consultant shall specify the timing and criteria for release of the funds to the consultant in installments that correlate with work-product milestones. Unless otherwise consented to by the applicant, all such contracts shall require that any invoices and work-product milestone statements will show the real time hours billed and costs expended by the consultant to date, or other such sufficient detail to enable Staff and the applicant to ascertain the actual work that has been completed during the time period covered by the statement or invoice. The applicant shall not be required to deposit any work-product milestone payments with the County more than 30 days in advance of each anticipated milestone. In the event that an applicant fails to provide any required deposit at least 15 days in advance of a milestone after sufficient invoices have been provided, the County may decline to process the application further, and will not be responsible for any delay damages.

605 – Applicant-Consultant Communication

When the County has contracted with an independent consultant to prepare all or part of an EIR, the consultant shall be authorized to contact the applicant directly to make inquiries about any project materials that have been submitted by the applicant, to obtain additional factual information about the project, or to discuss the feasibility of potential mitigation measures or alternatives to the project. County staff need not be present during such discussions, though the consultant shall be required to inform the Planning Department of any such communications as part of the consultant's regular status reports. County staff must be present for any discussions that go beyond the foregoing topics, especially regarding what information shall or shall not be included in the EIR.

606 – Preview of DEIR Conclusions and Mitigations

At least 30 days prior to the release of the Draft EIR (DEIR), County Staff shall meet with the applicant and its representatives to discuss the likely conclusions of the DEIR and any recommended mitigation measures. The purpose of this meeting shall be to determine whether the applicant is aware of any potentially feasible mitigation measures or alternatives that could reduce the likely environmental impacts of the project; and also to determine whether the mitigation measures and/or alternatives that are being recommended in the DEIR are feasible to the applicant. County Staff and any involved consultants shall provide the applicant with a reasonable opportunity to provide additional information on these subjects prior to circulating the DEIR for public comment.

607 – Preview of FEIR Conclusions and Staff Recommendations

Prior to noticing the project for public hearings, Staff shall also discuss the conclusions of the final EIR with the applicant, and the extent to which they impact Staff's decision to recommend approval or denial of the project. If Staff intends to recommend denial of the project based in whole or in part upon any significant and unavoidable environmental impacts, Staff shall disclose that to the applicant and give the applicant the following options:

- (a) Proceeding with public hearings on the project;

(b) Delaying consideration of the project while the applicant researches whether there any additional mitigation measures or changes to the project that were not previously considered that, if implemented, would lessen or avoid those impacts;

(c) Withdrawing the project from consideration but requesting certification of the final EIR so that it might be utilized as part of a subsequent application; or

(d) Withdrawing the project without certification of the EIR.

In the event that the applicant elects option (d), any unused monies that have been deposited with the County for purposes of covering the costs of public hearings, preparing findings, or implementing mitigation monitoring shall be returned to the applicant.

608 – Scheduling of Public Hearings

Following the applicant's decision to proceed with public hearings pursuant to Section 607, Staff shall make every reasonable effort to accommodate the applicant's schedule when setting the hearing calendar, in order to ensure that the applicant and any other consultants involved in the preparation of the EIR or underlying technical studies can be present, if necessary.

609 – Certification of the EIR

Unless the applicant has requested that the project be withdrawn without certification under section 607(d), the final EIR shall be presented to the decision-makers at a public hearing. Unless there is substantial evidence to the contrary, the decision-makers shall certify that the final EIR has been completed in compliance with CEQA and that the decision-makers have reviewed and considered the information contained in the final EIR when making a decision on the project. A final EIR that has been prepared in conformance with CEQA shall not be denied certification simply because the County denies the project itself.

ARTICLE 8
MITIGATION MONITORING

800 – Oversight of Mitigation Monitoring

The Planning Department shall oversee and ensure mitigation monitoring and reporting by applicants pursuant to CEQA and the State CEQA Guidelines.

801 – Costs of Mitigation Monitoring

Costs incurred by Planning Department for ensuring mitigation implantation, monitoring, or enforcement shall be reimbursed by applicant or then-project owner at cost and without markup.

ARTICLE 9
INTERAGENCY REVIEW

900 – Review of Other Agency's Documents

From time to time, other agencies may send copies of proposed Negative Declarations or draft EIR's to the County for review and comment. Any agency or County Department subject to these Guidelines shall forward copies of such documents to the Planning Department immediately upon receipt. The Planning Department shall determine whether the County is a Responsible or Reviewing agency for the project in question, and shall coordinate the appropriate County response to the proposed Negative Declaration or draft EIR.