

**CITY OF LAGUNA WOODS**

**LOCAL CALIFORNIA ENVIRONMENTAL**

**QUALITY ACT PROCEDURES**

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## DEFINITIONS

- A. “Applicant” - The person, entity, City department, or agency which has submitted an application to the City for review or approval of any activity which is deemed a Project pursuant to the California Environmental Quality Act (“CEQA”) or these Local CEQA Guidelines.
- B. “CEQA” – Shall refer to the California Environmental Quality Act, commencing with § 21000 *et. seq.* of the California Public Resources Code, and as may be amended from time to time.
- C. “CEQA Guidelines” – Shall refer to the Guidelines for the California Environmental Quality Act, commencing with § 15000 *et seq.* of the California Code of Regulations, Title 14, Chapter 3, and as may be amended from time to time.
- D. “City” – The City of Laguna Woods, California.
- E. “City’s Local CEQA Guidelines” – Shall refer to the City’s Local CEQA Guidelines as adopted by resolution of the City Council of the City of Laguna Woods.
- F. “Decision-Making Body” - The person, commission or council which has authority by law or ordinance to make a final decision to approve or disapprove the Project at issue. See Lead Agency.
- G. “Discretion” or “Discretionary” - The Decision-Making Body’s exercise of judgment or deliberation regarding a decision to approve or disapprove an action or Project, as distinguished from situations in which the Decision-Making Body merely has to determine whether there has been conformance with applicable statutes, ordinances or regulations.
- H. “Global Climate Change” - A change in the average weather of the earth, which can be measured by wind patterns, storms, precipitation, and temperature.
- I. “Greenhouse Gases” - Gases that trap heat in the atmosphere. The accumulation of greenhouse gases in the atmosphere regulates the earth’s temperature. Reference gases include: Carbon dioxide (CO<sub>2</sub>); Methane; Nitrous oxide (N<sub>2</sub>O); Chlorofluorocarbons (CFCs); Hydrofluorocarbons (HFCs) Hydrofluorocarbons (HFCs); Perfluorocarbons (PFCs); Sulfur Hexafluoride (SF<sub>6</sub>)
- J. “Lead Agency” – The City Council will be the Lead Agency or Decision-Making Body, for those Projects for which they have principal responsibility for carrying out or approving.

- K. “Lead Department” - The City Community Development Department, which shall serve as clearinghouse for the purposes of processing and coordinating environmental review for the City.
- L. “Ministerial” - Minimal or no exercise of personal judgment by the Decision-Making Body or a public official as to the wisdom or manner of carrying out an action or Project. The agency or official merely applies the particular law or regulation to the facts.
- M. “Planning Director” - The City Manager or his/her designee (which may include a consultant hired by the City), who shall have overall responsibility for City CEQA functions. As used in these City’s Local CEQA Guidelines, CEQA functions include CEQA review of all City Projects and Projects submitted to the City for approval or review pursuant to State and Federal law.
- N. “Project” – Any activity undertaken or proposed by an Applicant, including any City department, which creates, or has the potential to cause either a direct physical change to the environment or a reasonably foreseeable indirect physical change in the environment, as guided by PRC §21065 and by §15378 of the CEQA Guidelines.
- O. “Project Manager” – The Planning Director’s designee who shall take direction from the Planning Director and be responsible for carrying out a City Project or reviewing a Project submitted to the City for processing.

## **I. INTRODUCTION**

The City's Local CEQA Procedures sets forth comprehensive procedures for complying with CEQA. Pursuant to CEQA, Public Agencies are to adopt guidelines (objectives, criteria and specific procedures) for administering its responsibilities under CEQA (§ 15022 of CEQA Guidelines and 21000, *et seq.* of the Public Resources Code (PRC)). (All citations are to the CEQA Guidelines, unless otherwise noted.) The purpose of the City's Local CEQA Procedures is to protect both local and regional environmental resources in a manner that reflects local values.

## **II. DELEGATION OF RESPONSIBILITY**

### **A. Responsibilities of the Planning Director**

Responsibilities of the Planning Director shall include, but not be limited to, the responsibilities listed throughout these City's Local CEQA Guidelines, as well as the following activities:

1. Ensuring that the City's Local CEQA Guidelines set forth in this document are strictly adhered to;
2. Conducting environmental review of all City Projects and Projects submitted to the City for review and approval;
3. Conducting preliminary review to determine if an application identifies a Project under CEQA;
4. Reviewing the application and Project for completeness;
5. Initial determination of the level of environmental review of the Project in accordance with CEQA, the CEQA Guidelines, City Council policy and direction, and as defined in these City's Local CEQA Guidelines;
6. Preparing, processing and filing all environmental documents and notices as required;
7. Adopting, preparing and updating City procedures, policies, thresholds, guidelines and criteria as needed to forward the intent of these City's Local CEQA Guidelines;
8. Adhering to CEQA processing time limits as qualified under Local CEQA Guidelines;

9. Determining the adequacy of an EIR or Negative Declaration; and
10. Reviewing CEQA documents prepared for other agencies, providing adequate comments and complying with the requirements for a Responsible Agency under § 15096 of the CEQA Guidelines.

**B. Responsibilities of the Project Managers**

The Project Manager shall assist the Planning Director in carrying out the activities required by these City's Local CEQA Guidelines, as well as to ensure timely submission of all Project information needed by the Planning Director.

**III. OVERVIEW AND SUMMARY OF PROCEDURES**

The following subsections provide the procedures for following CEQA requirements. In all cases, determination shall be by the Planning Director or the Project Manager.

**A. Applicability**

A proposed activity or application must first be evaluated to determine if it is a "Project" and is, therefore, subject to further CEQA review. A Project is defined as any discretionary action which may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. However, if the proposed activity is a Project under CEQA, it may still be exempt from environmental review if the Project falls under a statutory exemption as set forth under CEQA Guidelines, Articles 18, commencing at § 15260 or a categorical exemption as set forth under CEQA Guidelines, Article 19, commencing at § 15300.

**IV. AUTHORITY PROVIDED BY CEQA (PRC § 21004; Guidelines § 15040)**

CEQA gives the City, as Lead Agency, authority to require feasible changes in the activities involved in the Project in order to lessen or avoid effects on the environment, disapprove or approve Projects despite significant impacts, and to charge fees to recover costs incurred in the preparation of the environmental documentation.

**A. Mitigate (PRC § 21002 & 21004; Guidelines § 15041(a))**

The City, as Lead Agency, has authority to require changes in the Project to lessen or avoid significant effects on the environment. The



Lead Agency City shall prepare draft mitigation measures to achieve the objective of mitigating or avoiding significant effects on the environment identified in the Initial Study or EIR. These mitigation measures shall be implemented by the Project Applicant as part of the project approvals and may be incorporated in the Mitigation Monitoring and Response Plan, if so required by the Lead Agency.

The City, as Lead Agency, has the authority to require feasible changes in any or all activities involved in the Project in order to substantially lessen or avoid significant effects on the environment, consistent with the applicable constitutional requirements such as the "nexus" and "rough proportionality" standards required by case law.

**B. Approve Projects Despite Significant Effects (Guidelines § 15043)**

The City may approve a Project despite significant environmental effects identified in an EIR if the City makes a fully informed and publicly disclosed decision that: (1) there is no feasible way to lessen or avoid these effects; and (2) the City adopts, when certifying the EIR, a Statement of Overriding Considerations to address those significant environmental effects.

Findings shall be included in the adoption identifying the expected benefits from the Project that outweigh the policy of reducing or avoiding significant environmental impacts of the Project.

**C. Disapprove Projects (Guidelines § 15042)**

The City may disapprove a Project, if necessary, to avoid one or more significant effects on the environment that would occur if the Project were approved as proposed.

**D. Fees (PRC § 21089; Guidelines § 15045)**

The City, as a lead agency, may charge and collect reasonable fees in order to recover the estimated cost in preparing environmental documents and for procedures necessary to comply with CEQA on the Project. These fees are subject to periodic review and adjustment in order to assure that City costs are recovered. Litigation expenses, costs, fees and all fee awards incurred in actions alleging noncompliance with CEQA shall be borne by the Applicant.

Costs for the preparation of the CEQA document will be estimated on a case by case basis depending upon the scope of the CEQA review. If the Project necessitates staff or city consultant assistance prior to the submittal of the Project Application, the Applicant will be required to

deposit a fee in an amount to be determined by the Planning Director, to cover all of the City and its consultants pre-application costs, including but not limited to the hourly rate of employees and consultants and appropriate support and overhead expenses. The fee shall be based on the amount of time anticipated to respond to the Applicants questions, and any balance remaining at the completion of the work shall be refunded to the Applicant or applied against the Project processing deposit.

If no pre-application deposit is required, a deposit in an amount to be determined by the Planning Director will be required at the time the Community Development Department commences any work on the proposed Project. However, this fee must be deposited no later than the submission of the Project application with the City for processing. Upon determination by the Planning Director or his/her designee of the cost of the CEQA review, the Applicant is required to deposit the amount of the estimated reasonable costs with the City prior to the commencement of the preparation of the CEQA document. Adoption or Certification of the final Environmental Document will not be scheduled unless the account is in excess of the estimate/deposit in order to cover the costs of finalizing the environmental document. Any deposit remaining at the completion of the project, or upon the Applicants withdrawal of the Project, shall be refunded to the applicant.

## **V. EXEMPTIONS**

Generally a project may be exempt from CEQA review if it falls within any of the following categories:

- The project is not considered a “project” within the CEQA definition.
- The City does not have the discretion to disapprove or put conditions on the project.
- The action is required by a state regulatory program.
- The state has determined by statute that the type of project is exempt from CEQA review (statutory exemptions).
- The project is a type that the state has determined generally does not have a significant environmental impact (categorical exemptions).
- The project is required to make emergency repairs to public service facilities that are necessary to maintain services.

The Planning Director has 30 calendar days in which to determine whether a

Project is exempt or not. All proposed activities must be reviewed to determine if one of the following exemptions is appropriate:

- A. **Statutory Exemptions:** Certain activities have been exempted from CEQA by the Legislature. These exemptions include feasibility or planning studies, Ministerial Projects, and emergency actions. A complete list of Statutory Exemptions is included in the CEQA Guideline Article 18, commencing at § 15260.
- B. **Categorical Exemptions:** Certain classes or "categories" of Projects have been determined by the State's Secretary for Resources to have an insignificant effect on the environment, and are known as Categorical Exemptions. Currently, the State's CEQA Guidelines recognize 32 classes of categorically exempt Projects. A complete list of these exemptions is included in the CEQA Guidelines Article 19, commencing at § 15300.
- C. **General Rule:** Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to environmental review. In such cases, the activity is covered by the general rule that CEQA applies only to Projects which have the potential for causing a significant effect on the environment (Guidelines, § 15061(b)(3)).
- D. **Exemption Verification (Guidelines § 15300.2):** The City may exempt from CEQA review the Statutory Exemptions commencing with § 15260 of the CEQA Guidelines, the Categorical Exemptions with § 15300 of the CEQA Guidelines, the General Rule Exemptions pursuant to § 15061(b) of the CEQA Guidelines and the Ministerial Projects listed below in Subsection F. Any Project not specifically meeting one of these exemptions is subject to the provisions of CEQA.
- E. **Ministerial Projects:**

Activities over which the City has Ministerial authority and that are exempt from environmental review under § 21080(b)(1) of the Public Resources Code include, but are not limited to, those Ministerial Projects as defined by § 15268 of the CEQA Guidelines. The following is a list of those actions typically considered ministerial in the City of Laguna Woods:

1. Issuance of a Certificate of Compliance, issued in accordance with allowed land-use regulations for the zone and conditions of the Project;
2. Issuance of a Certificate of Occupancy, issued in

accordance with allowed land-use regulations of the zone and conditions of the Project;

3. Issuance of business licenses and permits required by Title 6, Business Regulations of the Laguna Woods Municipal Code;
4. Approval of waiver of parcel maps and approval of final subdivision maps;
5. Approval of Construction Fencing;
6. Approval of a grading permits, in areas with average slope less than 20%.
7. Issuance of demolition permits, unless in connection with a property of historical or cultural significance to the community;
8. Approval of Curb, Gutter or Sidewalk Construction or Reconstruction within an existing right of way;
9. Approval of Driveway Construction or Reconstruction;
10. Issuance of an Encroachment Permit;
11. Approval of a Fire Extinguisher System and/or Alarm permits;
12. Approval of a Fire Hydrant Installation;
13. Approval of a Heating, Air Conditioning and/or Refrigeration Installation;
14. Approval of individual utility connections and disconnections;
15. Approval of an Internal Tenant Improvement which does not result in, or perpetuate, a change in land use or an unmet parking need;
16. Approval of a Soil Boring;
17. Approval of Street Lights;
18. Issuance of a Temporary Permit of less than thirty (30) days for the purpose of tree sales, pumpkin sales, garage

and yard sales, sidewalk sales and other outdoor activities and similar localized nature; and

19. Issuance of a Building Permit, including mechanical, electrical and plumbing permits, unless said Building Permit is for a Historical Structure in which further analysis by the Community Development Department may be required.

When a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the provisions of CEQA.

**F. Determination and Filing of Notice**

1. Determination. If the Planning Director determines a project falls into one of the exempt categories, no further CEQA review is required. The formal determination that the project is exempt is made by the decision making body at the time of project approval (or disapproval).
2. Decision to File Notice. Except as provided in § 21152.1(a) of the Public Resource Code, the preparation and filing of a Notice of Exemption is not mandatory under CEQA and the CEQA Guidelines. However, the City shall prepare and file a Notice of Exemption for all projects so designated in accordance with the form and manner identified by § 21152.1 (a) of the CEQA Guidelines.
3. Request for Notice. A copy of the Notice of Exemption shall be mailed to any person who has filed a written request for such notice with the Planning Director. Requests to receive Notices of Exemption shall be renewed annually by the requester.

**VI. CITY PROJECTS: ENVIRONMENTAL REVIEW PROCEDURES (PRC § 21065; Guidelines § 15378(a)(1))**

When the City, as the Lead Agency, contemplates any activity resulting in physical change in the environment, including but not limited to Public Works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances initiated by the City, and the amendment of the City of Laguna Woods General Plan or any of its elements, the City will not solicit bids for the Project or award the contract until the following procedures are followed.

The department which contemplates the activity shall request the Planning Director to determine whether the activity qualifies for a categorical exemption. If the activity has been verified as categorically exempt and a Notice of Exemption has been filed with the county clerk, no further CEQA review is required and regular processing of plans for the activity may continue without further environmental review.

If the activity is not categorically exempt, the department shall forward its plans and specifications to the Planning Director. Upon receipt of the plans and specifications for the Project, the Planning Director shall conduct an Initial Study to determine if the Project may have a significant effect on the environment. The environmental review process from that point on, including determinations and filing of notices, will be conducted in the manner as set forth in these guidelines for environmental review of private Projects, with the department proposing to carry out the Project being treated as the "Applicant."

## **VII. INITIAL STUDY (Guidelines § 15063)**

Once the City receives an application from the Project Applicant, the application will be deemed complete by the Planning Director when all prerequisite information required on the application is submitted which includes an adequate Project description which clearly sets forth the proposed land use activity contemplated by the Applicant, which shall include an environmental impact questionnaire. The type of information to be submitted is dependent on the type of project the applicant proposes.

If after the application is deemed complete, and a determination is made that the propose Project is not exempt from CEQA, an Initial Study will be prepared.

### **A. Initial Study Purpose**

Pursuant to § 15063 of the CEQA Guidelines, the Initial Study shall be used to provide a written determination of whether a Project may have a significant effect on the environment and whether a Negative Declaration or an Environmental Impact Report ("EIR") shall be prepared.

### **B. Preparation**

1. Following preliminary review, the City shall prepare an Initial Study for nonexempt Projects to determine if the Project may have a significant effect on the environment. An environmental assessment or a similar analysis prepared pursuant to the National Environmental Policy Act will meet the requirements of this section.

2. If the City determines that a Full EIR will be required for a Project, the City may skip further initial review of the Project and begin work directly on the Full EIR. However, an Initial Study can prove to be a useful tool in assisting the City in identifying the significant effects of the Project upon which the EIR shall focus and provide findings why other effects would not be significant or potentially significant.

**C. Content of Initial Study (PRC § 21080; Guidelines § 15063(d))**

The Initial Study shall be prepared by City staff or the Planning Director's Designee. An Initial Study may rely upon expert opinion supported by the facts, technical studies, or other substantial evidence to document its findings. However, an Initial Study is neither intended nor required to include the level of detail included in an EIR. An Initial Study shall include:

1. A description of the Project including the location of the Project;
2. An identification of the environmental setting;
3. An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or Negative Declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.
4. A discussion of ways to mitigate the significant effects identified, if any;
5. An examination of whether the Project would be consistent with existing zoning, plans, and other applicable land use controls;
6. The name of the person or persons who prepared or participate in the Initial Study.

All phases of Project planning, implementation, and operation shall be considered in the Initial Study. Staff shall consult with City

departments, public entities that may be a responsible or trustee agency for the Project and any individuals or organizations otherwise concerned.

**D. Determining Environmental Significance (PRC § 21068; Guidelines § 15382)**

“Significant Effect on the Environment,” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the Project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

1. The environmental evaluation must consider:

**Primary or Direct Impacts:** such as construction-related impacts of dust and noise (§ 15064(d)(1));

**Secondary or Indirect Impacts:** such as those associated with growth resulting from additional infrastructure capacity (§ 15064(d)(2)); and,

**Cumulative Impacts:** such as those resulting from the total effect of a group of proposed Projects or programs, over time (§ 15065(a)(3)).

2. Significance will be judged by the intensity and longevity of the change, the size of the area affected, and deviation from existing conditions. Establishing Thresholds of Significance is the best way to enable a determination of environmental impacts.

**E. Mandatory Findings of Significance (§ 15065)**

The Project may be found to have a Significant Effect on the Environment if any of the following findings are made by the City.

1. The Project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of endangered, rare



or threatened species, or eliminate important examples of the major periods of California history or prehistory.

2. The Project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
3. The Project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual Project are significant when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects.
4. The environmental effects of a Project will cause substantial adverse effects on human beings, either directly or indirectly.

The City **must** prepare an EIR if any of these Findings occur.

**F. Thresholds**

1. Thresholds of Significance

- a. Thresholds for determining the significance of the environment effect of Project shall be pursuant to §§ 15064, 15064.5 and 15065 of the CEQA Guidelines, the City's General Plan, applicable specific plans, the Municipal Code, and any additional information as deemed necessary by the Planning Director. In addition, pursuant to § 15064.7 of the CEQA Guidelines, specific thresholds include, but are not limited to, the following:
  - (i) Traffic increases at any location where level of service for road links and level of service for intersections is D (Level of Service D). Where existing levels of service exceed the above, the Project cannot cause any increase in level of service as determined by a comparison of baseline conditions with and without the Project. If there is an increase in level of service, defined as any percentage increase of 1% or more, then an EIR shall be

prepared.

- (ii) Disturbance of, or encroachment into, any river, river tributary, riparian habitat, stream or similar waterway identified on a United States Geologic Survey map as a “blue-line” watercourse, or any waterway otherwise identified as a significant resource by the City of Laguna Woods and for which no mitigation can be provided.
- (iii) Disturbance of any habitat known or suspected to contain a plant or animal species listed as endangered on such Federal and/or State lists.
- (iv) Disturbance to any Significant Habitat Area as identified by the City of Laguna Woods.
- (v) Changes to the topography of a Primary or Secondary Ridgeline unless Project is consistent with the General Plan pertaining to Hillside Development.
- (vi) The most recent air quality thresholds as determined by the South Coast Air Quality Management District, as published in its “Air Quality Analysis Guidance Handbook.”
- (vii) Any Project involving modification or demolition of a structure with a category 1, 2 or 3 on the State’s Historical List, the City’s Historical Survey List, or as determined by a Historical Resource Survey.

Any Project that cannot maintain a water system, on or offsite, which is capable of meeting the daily and peak demand of Laguna Woods residents and businesses including the provision of adequate fire flows.

- (viii) Any Project that cannot protect structures for human occupancy and major roadways from the 100-year flood.

- (ix) Any Project that in which a waste water collection, treatment and disposal system cannot be maintained which is capable of meeting the daily and peak demands of Laguna Woods residents and businesses.
- (x) Movement or grading of earth exceeding 100,000 cubic yards or greater.

### **VIII. CONSULTANTS AND SUB-CONSULTANT SELECTION PROCEDURE**

Once the City has determined that a Negative Declaration, Mitigated Negative Declaration, or EIR is required, the Project Applicant must deposit the appropriate amount for the required work. Upon receipt of the deposit, the City may choose to complete the work with in-house or consultant staff under contract with the City, or it may solicit consultant proposals specifically for the proposed project.

If the City elects to hire a consultant solely to assist in the preparation of the Environmental Document, the City may solicit consultants by posting a Request for Proposal, (RFP), which sets forth the scope of the proposed Project to be undertaken.

It is the desire of the City to utilize local consultants when possible and feasible.

The preparation of the consultant proposal shall conform to the format and content specified in the City's Request for Proposal. Though the City may consider the Applicant's recommendation as to their preference as to which consultant to hire, final selection of the consultant shall be made by the City. Prior to executing any contract, the consultant retained by the City shall file a Statement of Economic Interest with the City Clerk and, demonstrate possession of liability insurance and statutory workers compensation coverage acceptable to the City.

#### **A. Deposit**

To begin the EIR, Mitigated Negative Declaration or Negative Declaration preparation process, the Applicant shall submit to the Community Development Department a deposit as so set forth in Sections VI.-D. and VIII, and may be required to execute a document entitled the City's

CEQA Document Preparation and Deposit Contract (Tri-Party Agreement).

**B. Execution of Contract**

In certain projects, the Planning Director may deem it necessary that a Tri-Party Agreement be entered into by and between the Applicant, City and the Consultant retained for the Project. The Tri-Party Agreement shall reference the scope of work, include the preparation of the administrative draft, Draft EIR, and Final EIR, Negative Declaration or Mitigated Negative Declaration, attendance at public hearings, preparation of the response to comments, and reproduction costs.

**IX. NEGATIVE DECLARATIONS (PRC §§ 21064, 21064.5; Guidelines, § 15070)**

There are two types of Negative Declarations: a (standard) Negative Declaration, and a Negative Declaration with mitigation, or "Mitigated Negative Declaration." When the Initial Study shows that the Project may not have a significant effect on the environment, CEQA allows for a Negative Declaration to be adopted.

CEQA continues to give the City the option of allowing Applicants to modify their Project so that the City can make a finding that the Project would not have a significant effect on the environment as proposed. If the Applicant can mitigate its Project to avoid potential significant effects, it can qualify for a Mitigated Negative Declaration.

**A. Preparation of a Negative Declaration or Mitigated Negative Declaration (PRC §§ 21064, 21064.5; Guidelines § 15070)**

A Negative Declaration or Mitigated Negative Declaration shall be prepared for nonexempt Projects if:

1. The Initial Study shows that there is no substantial evidence of the Project having a significant effect on the environment; or
2. The Initial Study identified potentially significant effects that can be mitigated to a level of insignificance; or
3. Prior to completion of the Initial Study, the Project is revised to avoid or mitigate the effects to a point where no significant effects would occur; or
4. There is no substantial evidence that the Project, as revised, may have a significant effect on the environment.

**B. Contents of Negative Declarations or Mitigated Negative Declaration (§ 15071)**

A Negative Declaration or Mitigated Negative Declaration shall include:

1. A brief description of the Project, including a commonly used name for the Project, if any;
2. The location of the Project, preferably shown on a map, and the name of the Project Applicant;
3. A proposed finding that the Project will not have a significant effect on the environment;
4. An attached copy of the Initial Study documenting reasons to support the finding; and
5. Mitigation measures, if any, included in the Project to avoid potentially significant effects.

**C. Public Notice (PRC § 21092; Guidelines § 15072)**

The City shall notify the public of its intention to adopt a Negative Declaration or Mitigated Negative Declaration, and provide opportunities to review it and any related documents by direct mail to all landowners within a 1,000 foot radius of the exterior Project boundary, but not less than ten (10) properties in the surrounding area. The City has adopted a policy of providing notice to landowners within a 1,000 foot radius even though state law generally does not require that such extensive notice be provided. The notice shall include a reference as to where all documents are available for review. The notice shall also appear in a newspaper of general circulation, and be provided to all individuals who so requested, in writing, notice about the proposed Project.

Where one or more State agencies will be a Responsible Agency or a Trustee Agency or will exercise jurisdiction by law over natural resources affected by the Project, the City shall send copies of the Negative Declaration or Mitigated Negative Declaration to the State Clearinghouse for distribution to the State agencies (§ 15073). In addition, a certified copy of the Negative Declaration or Mitigated Negative Declaration shall be sent to all responsible and trustee agencies via certified mail.

Public review period for a Negative Declaration or Mitigated Negative

Declaration shall be at least 20 calendar days. The review period for a Negative Declaration or Mitigated Negative Declaration which has been submitted to the State Clearinghouse shall be at least 30 calendar days (Public Resources Code, Section 21091).

**D. Approval or Denial of Negative Declarations or Mitigated Negative Declaration**

With respect to Negative Declarations or Mitigated Negative Declaration, the City City Council is the Decision-Making Body and shall have the authority to approve, deny or take any other action pertaining to the Negative Declaration or Mitigated Negative Declaration.

**E. Notice of Determination (PRC § 21152; Guidelines § 15075)**

After deciding to carry out or approve a Project for which a Negative Declaration or Mitigated Negative Declaration has been approved, the City shall file a Notice of Determination, (NOD), with the County Clerk within five (5) working days. After the NOD has been posted for 30 calendar days by the County Clerk, the NOD will be returned to the City. The returned NOD must then be retained for not less than nine months (PRC § 21152). Filing and posting the Notice of Determination starts a 30-calendar day statute of limitations on court challenges to CEQA approvals. Failing to file the Notice of Determination within the required time period extends the statute of limitations to 180 calendar days. If the Project requires a discretionary approval from any State agency, the notice shall also be filed with the Governor's Office of Planning and Research.

**X. ENVIRONMENTAL IMPACT REPORTS ("EIRs")**

The EIR process starts with the Planning Director's initial decision to prepare an EIR. This decision will be made either during preliminary review (Guidelines, § 15060) or at the conclusion of an Initial Study (§ 15064).

**A. Decision to Prepare an EIR (PRC § 21080; Guidelines § 15063)**

If the Initial Study determines that a Project may have a significant effect on the environment, which cannot be eliminated by changing the Project or adding mitigation measures, the Planning Director shall initiate the preparation of either a "Full EIR" or a "Focused EIR". If the Planning Director can determine that a Full EIR will clearly be required for the Project, an Initial Study is not required but may still be desirable.

The Planning Director, or the Project Manager, will determine whether an EIR is required within 30 calendar days of determining the application complete. A 15-calendar day extension may be approved upon consent of the Applicant. (§ 15102).

**B. Letter to Applicant**

Prior to the preparation and distribution of the Notice of Preparation, the City shall send to the Applicant a letter giving notice of the need for an EIR. Within fifteen (15) business days the Applicant shall notify the City in writing of his/her agreement to proceed with an EIR, his/her agreement that an EIR is warranted and agreement to enter into the City's Tri-Party Agreement for preparation of the EIR. Failure of the Applicant to respond in writing within this time period shall result in the scheduling of the Project for hearing before the approving authority with a recommendation of Denial Without Prejudice.

In the letter to the Applicant, the City shall include information regarding appeal procedure, fees for EIR administration, the scope of the EIR coverage (with the Initial Study, if any, attached), and directions to the Applicant on how to proceed. These directions shall include: description of the City's consultant selection process, and directions regarding the City/Applicant/consultant three-party contract.

**C. Scope of an EIR (PRC § 21080.4; Guidelines § 15082)**

The breadth of analysis in the EIR shall be determined by one or more of the following: the Initial Study, comments of the City staff, and responses to the Notice of Preparation. The EIR should focus on potentially significant impacts. For Projects of unusual scope or complexity, City staff may hold a community scoping meeting. If a scoping meeting is held, it shall be held during the same time period as the Notice of Preparation.

**D. Global Climate Change**

Global Climate Change is a cumulative impact. A project participates in this potential impact through its incremental contribution combined with the cumulative increases of all other sources of Greenhouse Gases (GHG). In 2006, the California State Legislature adopted AB32, the California Global Warming Solution Act of 2006. AB32 requires California Air Resources Board ("CARB"), the state agency charged with regulating statewide air quality, to adopt rules and regulations that would achieve Greenhouse Gas Emission equivalent to statewide standard levels in 1990 by 2020.

California Law provides that climate change is an environmental effect subject to CEQA. Lead agencies are therefore obligated to make a good faith effort, based on available information, to calculate, model, or estimate the amount of CO<sub>2</sub> and other GHG emissions from a project, including emissions associated with vehicular traffic, energy consumption, water usage and construction activities.

1. Assessment of Significance. The City shall consider the following, where applicable, in assessing the significance of impacts from greenhouse gas emissions, if any, on the environment:

- (a) The extent to which the project could help or hinder attainment of the state's goals of reducing greenhouse gas emissions to 1990 levels by the year 2020 as stated in the Global Warming Solutions Act of 2006. A project may be considered to help attainment of the state's goals by being consistent with an adopted statewide 2020 greenhouse gas emissions limit or the plans, programs, and regulations adopted to implement the Global Warming Solutions Act of 2006;

- (b) The extent to which the project may increase the consumption of fuels or other energy resources, especially fossil fuels that contribute to greenhouse gas emissions when consumed;

- (c) The extent to which the project may result in increased energy efficiency of and a reduction in overall greenhouse gas emissions from an existing facility;

- (d) The extent to which the project impacts or emissions exceed any threshold of significance that applies to the project.

- (e) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;

- (f) Whether the project emissions exceed a threshold of significance that the City determines applies to the project.

- (g) The extent to which the project complies with regulations or requirements adopted to implement a



statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

2. Description and Quantification. The City shall make a good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions associated with a project, including emissions associated with energy consumption and vehicular traffic. Because the methodologies for performing this assessment are anticipated to evolve over time, a lead agency shall have discretion to determine, in the context of a particular project, whether to:

- (a) Use a model or methodology to quantify greenhouse gas emissions associated with a project and which of any available model or methodology to use. The City may include a qualitative discussion or analysis regarding the limitations of the particular model or methodology selected for use.

- (b) Rely on qualitative or other performance based standards for estimating the significance of greenhouse gas emissions.

3. Mitigation Measures Related to Greenhouse Gas Emissions.

Consistent with section 15126.4 (a), the City shall consider feasible means of mitigating greenhouse gas emissions that may include, but not be limited to:

- (a) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;

- (b) Reductions in emissions resulting from a project through implementation of project features, project

design, or other measures, such as those described in Appendix F of the CEQA Guidelines;

(c) Off-site measures, including offsets, to mitigate a project's emissions;

(d) Measures that sequester greenhouse gases; and

(e) In the case of the adoption of a plan, such as a general plan, long range development plan, or greenhouse gas reduction plan, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis.

Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

**E. Appeal**

If the Applicant wishes to appeal the City's finding that an EIR is required, the Applicant shall file an appeal within 10 business days of the date of mailing the letter. The Applicant shall submit, along with the appropriate filing fee, a letter specifying the reasons why an EIR should not be required. The appeal shall be filed with the Community Development Department. Action on these appeals shall be heard by the Decision-Making Body for the Project.

**F. Notice of Preparation (§ 15082)**

After determining that an EIR is required, and upon written confirmation of acceptance by the Applicant of the need to prepare an EIR, the City shall prepare and distribute a Notice of Preparation ("NOP") for an EIR. The NOP shall consist of the Notice of Preparation form and include a copy of the Initial Study, if any. To send copies of the Notice of Preparation, the City shall use either certified mail or any other method of transmittal which provides it with a record that notice was received.

If any State agency is affected, the Notice shall be sent to the State Clearinghouse in the Office of Planning and Research for distribution.

**G. Response to Notice of Preparation**

Each Responsible Agency shall provide a response within 30 calendar days after receiving the Notice of Preparation. If a Responsible

Agency fails to reply within 30 calendar days with, either a response or a request for additional time, the City may assume that the Responsible Agency has no response to make.

The response at a minimum shall identify:

1. The significant environmental issues and reasonable alternatives and mitigation measures which the Responsible Agency will need to have explored in the draft EIR; and
2. Whether the agency will be a Responsible Agency or a trustee for the Project.

A generalized list of concerns does not meet the requirements for response.

The Applicant may further refine its Project and Project description based upon comments on the NOP.”

#### **H. Preparation of Administrative Draft EIR (§ 15084)**

The Administrative Draft of the EIR is considered a working document to be circulated among City staff and any responsible agency, if appropriate. The consultant shall submit a minimum of five (5) copies of the Administrative Draft EIR for staff and Applicant review. The purpose of staff review is to evaluate the EIR for adequacy and accuracy prior to public circulation. Generally, review of the Administrative Draft EIR is concluded within a few weeks, after which comments are provided to the consultant, who prepares the draft EIR for publication and distribution. The Applicant may further refine its Project and Project description based upon comments from the Planning Director or other City staff.”

#### **I. Notice of Completion of a Draft EIR (§ 15085)**

As soon as the draft EIR is completed and ready for public circulation, 20 copies shall be submitted to the City for review. A Notice of Completion shall be filed with the Governor's Office of Planning and Research (“OPR”), 1400 10th Street, Room 121, Sacramento, CA 95814. This Notice of Completion may be filed in a printed hard copy or in electronic form on a diskette or by electronic mail transmission. Additionally, public agencies are encouraged to make copies of Notices of Completion available in electronic format on the Internet. Receipt of this notice by OPR will initiate the mandatory 45 calendar day review period for draft EIRs. The State Clearinghouse may set shorter review

periods when requested by the City due to exceptional circumstances.

**J. Public Review of Draft EIRs (PRC § 21091; Guidelines § 15087)**

At the time the Notice of Completion is filed with OPR, the City shall provide notice of the availability of a draft EIR by means of a public notice in a newspaper of general circulation. Notice shall be provided by direct mailing to property owners within 1,000 feet of the site and to at least 10 property owners. The City has adopted a policy of providing notice to landowners within a 1,000 foot radius even though state law generally does not require that such extensive notice be provided. Notice shall also be provided to all individuals who so requested, in writing, notice on the proposed Project. The public notice shall include the name of the staff person to contact, length of the review period, and deadline for receipt of comments. The public notice shall inform the public of the presence of hazardous wastes, if any.

Copies of the draft EIR will be made available for viewing at the City branch of the Orange County Library, at the Laguna Woods Village Library and at the public counter of the Community Development Department. Copies of the draft EIR will be made available for purchase through the City Clerk's Office, for the cost of printing.

The public review period for a draft EIR shall not be less than 45 calendar days (30 calendar days when authorized by the State Clearinghouse (PRC § 21091)).

**K. Evaluation of Responses to Comments (PRC § 21092.5; Guidelines § 15088)**

After the review period for the draft EIR closes, staff and/or consultant will assemble all written comments and summary minutes of comments made at the public hearing(s) and transmit this package to the consultant for preparation of the "Response to the Comments." Staff and consultant will work closely to determine:

1. Which comments address environmental impacts and mitigation(s). These comments shall be responded to by the consultant/staff;
2. Which comments address the merits of the Project (as distinguished from environmental impacts of the Project) and do not require a response, but should be noted for the record;

3. Which comments are beyond the scope of environmental review (such as legal interpretations); and
4. Which comments on impacts are too speculative for evaluation.

Responses shall be provided for all comments. At least ten (10) calendar days before certifying the EIR, the response to comments document shall be provided to all responsible and or trustee agencies.

**L. Public Hearing on Draft EIR**

A public hearing held before the City Council shall be conducted to solicit additional comments on the draft EIR. It is the City's intent to hold the public hearing on the draft EIR concurrently with the development application(s) for the Project. Notice of the hearing shall be provided by means set forth in Subsection I., above, and/or by other additional means as determined by the Planning Director, or his designee. The public hearing shall be scheduled upon conclusion of the review period and once all responses to comment letters have been prepared. For clarity and accuracy of the record, written comments are encouraged in conjunction with, or in lieu of, oral testimony. The City Council may extend the comment period and continue the public hearing, if additional time is warranted.

**M. Preparation of the Final EIR (PRC § 21100; Guidelines § 15089)**

The final EIR will consist of the draft EIR unchanged, copies of comments received, the response to comments (which includes corrections and error of fact of the draft EIR) and a list of persons and organizations who made comments.

**N. Findings (PRC § 21081; Guidelines § 15091)**

The City Council shall not approve or carry out a Project for which a certified EIR identifies one or more significant environmental effects unless written findings for each of the significant effects, accompanied by a brief explanation of the rationale for each finding are made. Findings must be supported by substantial evidence in the record of Project review. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or Project alternatives identified in the final EIR.

A Statement of Overriding Considerations does not substitute for these required findings.

**O. Consideration of Drafting Findings for Project Approval**

After considering the Final EIR and in conjunction with making findings, the City Council may decide whether or how to carry out the Project. The Project for which the EIR was prepared shall not be approved unless either:

1. The Project, as approved, will not have a significant effect on the environment; or
2. The City has eliminated or substantially lessened all significant effects on the environment where feasible as shown in the findings and any remaining significant effects on the environment have been determined to be unavoidable under § 15091 of the CEQA Guidelines and acceptable due to overriding concerns as described in § 15093 of the CEQA Guidelines.

**P. Statement of Overriding Considerations (PRC § 21081; Guidelines § 15093)**

If the benefits of a proposed Project outweigh the unavoidable adverse effects, such effects may be considered "acceptable." The City Council shall take into consideration economic, legal, social and technological benefits for consideration when determining if the benefits outweigh the significant effects. If the City Council approves a Project that allows the occurrence of significant effects, it shall adopt a Statement of Overriding Considerations as part of the Project approval that states specific reasons to support its action based on the certified final EIR and/or other information in the record. This Statement of Overriding Considerations shall be in writing. This

Statement of Overriding Considerations shall be supported by substantial evidence in the record. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section P. The consultant who prepared the draft and final EIR shall be responsible for drafting the findings, subject to review and approval by the City Council.

**Q. Certification of the Final EIR and Time Limits**

The City Council shall certify the final EIR for private Projects within one year of accepting the application for the Project as complete. Upon consent of the Applicant and the City, the one-year limit may be extended a maximum of an additional 90 calendar days. Changes to the Project and or delays by the Applicant in providing necessary information to complete the final EIR shall suspend these time periods. In certifying the final EIR the City Council shall find that the final EIR was prepared in compliance with CEQA, was reviewed and considered prior to Project approval, and reflects the independent judgment of the City Council.

**R. Notice of Determination**

A Notice of Determination (“NOD”) shall be filed with the County Clerk within five (5) working days of Project approval when an EIR has been prepared and certified for a Project. After the posting of the NOD for at least 30 calendar days the County Clerk shall send the NOD back to the City. The City shall retain the notice for not less than nine months. If the Project requires discretionary approval from a state agency, the Notice of Determination shall also be filed with the Office of Planning and Research.

**XI. MITIGATION MONITORING AND/OR REPORTING PROGRAM (PRC § 21081.6; Guidelines § 15097)**

Mitigation measures are specific requirements which will minimize, avoid, rectify, reduce, eliminate, or compensate for significant environmental effects. A monitoring and reporting program's effectiveness depends in large part upon the quality of the mitigation measures themselves. Poorly drafted measures are not only difficult to implement, they are difficult to report on and monitor.

**A. Processing of Mitigation Monitoring And/Or Reporting Program: Roles and Responsibilities**

1. Administrative Responsibilities. It shall be the overall responsibility of the Planning Director, or the Director’s designee, to perform the duties of Mitigation Coordinator.

2. Selection of Monitor. The Planning Director or the Director's designee may hire the person(s) or firm(s), in consultation with the Project developer, to monitor the Mitigation and Reporting Program for each Project. In all cases, the person(s) or firm(s) responsible for monitoring shall have sufficient expertise to determine whether or not the mitigation measure has been accomplished. The Applicant shall be responsible for payment of all fees and costs associated with Project monitoring.
3. Monitoring and Reporting Program (MMRP). The MMRP shall be made a part of the certified final EIR, Negative Declaration or Mitigated Negative Declaration prior to Project approval or shall otherwise be implemented to the satisfaction of the Planning Director.

If the required MMRP has not been prepared as part of the preparation of the Negative Declaration or EIR, the Planning Director shall cause the MMRP to be prepared at the expense of the Applicant, prior to Project approval.

4. Monitoring Responsibility. The Mitigation Coordinator (MC) shall be responsible for:
  - (a) Coordinating the monitoring tasks and verification program;
  - (b) Ensuring that the Project Applicant prepares a compliance schedule;
  - (c) Coordinating monitoring by various City departments and other agencies;
  - (d) Processing and filing compliance reports and verification reports;
  - (e) Ensuring that the Project Applicant provides a deposit to fund the mitigation monitoring program.
  - (f) Preparing an annual environmental monitoring report.

The Mitigation Coordinator shall submit regular progress and verification reports to the Planning Director.



**B. Enforcement Responsibility**

The Mitigation Coordinator is authorized to enforce compliance with the Monitoring Program. When compliance is lacking or incomplete, the Mitigation Coordinator is empowered to either stop work, temporarily stop work, or allow work to continue while compliance is being achieved.

**C. Preparation of a Mitigation Monitoring And/Or Reporting Program**

A Mitigation Monitoring and/or Reporting Program shall be prepared by the EIR consultant for every Project for which an EIR was prepared where mitigation measures were adopted by the approving body. A Mitigation Monitoring Report shall be prepared for every Project for which a mitigated negative declaration was prepared when mitigation measures were adopted by the governing body. The Mitigation Monitoring and/or Reporting Program shall be reviewed and accepted by the Community Development Department prior to its implementation and use. The Program shall contain the following:

1. A statement that the requirements of the adopted Program run with the real property on which the Project is located. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted Program.
2. A statement which specifies the responsibilities of the Applicant and the Mitigation Coordinator, or his or her designee, as well as any professional expertise on completion or evaluation of any part of the Program.
3. The time requirements, schedule, phases or tasks for each mitigation measure that will, upon completion, result in issuance of a Program Completion letter from the Mitigation Coordinator.

The Mitigation Monitoring and Reporting Program shall be written to maintain consistency with the Project as approved. It shall be the responsibility of the Mitigation Coordinator to determine that the proposed Mitigation Monitoring Program complies with City requirements.

**D. Revisions to the Mitigation Monitoring And/Or Reporting Program**

Any decision to amended, deleted or deviate from the adopted mitigation measures can be made by the Planning Director. The Project Applicant may appeal this decision to the City Council, as Lead Agency of the Project, within 10 days of written notice to the Project Applicant of the amendment to, deletion of, or deviation from the mitigation measure. All mitigation measures shall be met unless the circumstances or conditions that required the mitigation no longer exist.

**E. Program Completion Letter**

It shall be the responsibility of the Mitigation Coordinator (MC) to determine compliance with each of the required mitigation measures. Once all of the mitigation measures have been met, the MC will prepare and mail a letter to the Applicant indicating full compliance with the Mitigation Monitoring and Reporting Program for the Project or phase. Should there be an ongoing mitigation measure imposed, the MC shall prepare and mail a letter to the Applicant upon completion of all mitigation measures and indicate the ongoing need of the mitigation measure and the necessary time frame for follow-up.

**F. Compliance With CEQA Guidelines § 15097**

At all times, the City's Mitigation Monitoring and/or Reporting Program will be consistent with CEQA Guideline § 15097.

California Environmental Quality Act Implementation Procedures adopted by City Council Resolution No. R-08-10 on June 18, 2008; modified by Council Resolution No. R-09-18 on August 19, 2009.