

**County of Santa Clara \* Department of Planning and Development  
Planning Office \***

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**Procedures for Consultants to Prepare  
Environmental Documents for Private Projects in Santa  
Clara County**

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## I. Introduction

This document has been prepared to provide consultants and project applicants with a guide to procedures used by the Department of Planning and Development in selecting consultants and preparing Environmental Impact Reports (EIR) and Initial Studies (IS). The goal of the procedures is to assure the quality and objectivity of the documents. The procedures will be subject to periodic update to reflect changes in State law and experience working with these procedures. Significant changes not required by State law will require approval of the County Board of Supervisors

## II. Consultant Selection

### A. *Consultant Selection for Environmental Impact reports [EIRs]*

#### 1. **Minor EIRs**

For minor EIRs, where cost to prepare a Draft EIR for public circulation is estimated by staff not to exceed \$50,000, the following procedure shall apply. (The staff estimate may be based on past experience or discussion with possible consultants. An ultimate cost greater than \$50,000, due to unexpected circumstances, will not affect the appropriateness of this procedure.)

A **master list of qualified environmental consultants** to prepare such documents will be maintained. From the list, the Planning Manager or designee shall select consultants for specific projects based on capability and qualifications. Evaluations of a contractor's performance in providing previous service to the County shall be among the criteria that are used to judge the qualifications of the contractor. Whenever feasible, the selection of a contractor will be made on a rotational basis so as many firms as feasible have an opportunity to prepare environmental documents.

Staff has the authority to add or delete firms from this list based on the submittal of new information or unsatisfactory performance of prior environmental services for the County.

Information required of all candidates for addition to the list shall include a list of environmental documents prepared within the last five (5) years by the candidate firm or its staff (in the case of a newly formed firm) and pertinent information related to those documents, including whether they were challenged in the court system and the results of that challenge. Also required will be information on staff expertise and background, including knowledge of legal requirements for CEQA documents and technical competency for evaluating environmental impacts. Copies of recently completed environmental documents will be required.

Staff may also choose to follow procedure 2, Option (a) for major EIRs as described below.

## **2. Major EIRs**

For EIRs where the cost to prepare a DEIR for public circulation is estimated to exceed \$50,000, either option (a) or (b) described below may be used. Both would utilize a **Review Board (see below)** to help select the consultant to prepare the EIR.

### **Option (a) - Preferred Consultants List**

Based on rankings established by the Review Board, the Planning Office would establish an eligible list of five (5) consultant firms with which professional service agreements would be awarded. When a firm from this list is selected to prepare an EIR, a project agreement would be signed based on an EIR Scope of Work prepared by Planning Office staff. The eligible list would be maintained for five (5) years. Whenever feasible, the selection of a contractor would be made on a rotational basis.

### **Option (b) - Special Cases**

In special cases, the Review Board may be asked to participate in a process which would result in the selection of a consultant who might not be on the “Preferred Consultants List.” These situations would involve unique or extremely controversial projects which may require evaluation by consultants with special expertise.

## **3. Review Board**

The Review Board for the selection process will consist of up to five (5) individuals. These may include: [1] Planning Commissioner selected by the Planning Commission, [2] Professional who is not an employee of the County or one of the firms being considered, [3] Manager of the County Planning Office, [4] Manager of the CEQA process in the County Planning Office, and [5] Planner in the Planning Office who will be assigned to manage one or more of the subject EIRs. The Review Board would always include a professional not employed by the County.

## **4. Ranking and Selection**

**Option (a) - Preferred Consultants List.** Consultants on County Planning’s Master List of qualified environmental consultants will submit a proposal to prepare environmental documents in accord with County procedures together with their current qualifications and experience. The Review Board will review the submittals, establish a list of finalists, and interview the finalist firms. Performance in providing previous services to the County shall be among the criteria that are used to judge qualifications. Each firm will be ranked based on its qualifications and understanding of County procedures. The top five (5) firms will be selected to sign a professional services agreement to prepare environmental documents for Santa Clara County.

**Option (b) - Special Cases.** Consultants (not limited to those on the County’s Master list) will be asked to submit qualifications and/or a proposal to prepare the specific environmental document. The Review Board will review the submittals, establish a list of finalists, and interview the finalist firms. Performance in providing previous services to the County shall be among the criteria that are used to judge qualifications. Each finalist firm will be evaluated on its ability to provide the subject environmental document and a ranking will be established. The top firm will be selected to sign a professional services agreement to prepare a specific environmental document for Santa Clara County.

***B. Consultant Selection for Initial Studies.***

The procedure for consultant selection described above (A.1.) for minor EIRs shall be followed.

***C. Consultant Selection for Other Environmental Documents***

These are normally documents produced in response to public comment, decision-maker directive, or court action. Examples of such documents might be a Subsequent EIR, a Supplement to an EIR or an addendum to an EIR. The consultant selected would usually be the same responsible for the prior documents. Where, with the approval of the Planning Manager, it is determined that this approach is not appropriate, another method may be used. This method may be one of those described above or, in the case of specialized knowledge, the consultant may be selected by staff from a list of known specialists based on a submission of qualifications.

***D. Application to Public Projects***

The County may select environmental consultants for public projects as determined through this process or otherwise according to the “Board Policies on Bidding or Contracting.” In either case, contract approval shall be as specified in the “Board Policies on Bidding or Contracting.”

**III. Financial Aspects of Environmental Process**

***A. Environmental Management fee***

Upon filing to prepare an environmental document, the applicant will be charged the appropriate minimum fee. **A detailed project description must be submitted with the application.**

Total maximum environmental management charges by the County will equal [a] the minimum EIR or Initial Study fee or [b] 15% of the consultant charges, whichever is larger.

***B. Project Environmental Fund [PEF]***

Upon selection to prepare an environmental document, the consultant will submit a written **work program (see below)**. Cost estimates will be required for different stages in the environmental evaluation process:

- Prior to commencing work on the Initial Study or Draft EIR, an estimate of the cost of preparation, printing, making copies, and attending meetings associated with the subject document will be provided to the County.
- Upon receipt of all comments on the DEIR or IS, the consultant will submit an estimate of the cost to complete, print and copy the final document and attend any associated meetings.

- The need for additional documents (such as a Supplement to an EIR) or significant unexpected research will require the submission of other estimates by the consultant.

Upon agreement to the consultant, the applicant will deposit into the Project Environmental Fund (PEF) when requested by the County an amount equal to these estimates plus 26.5% to cover County fees and unexpected contingencies (15% management fee, 10% contingency fee, and 1.5% management fee for the contingency fees portion). Expenditures from this fund will be made by County staff.

### ***C. Payment of Consultant***

The consultant will be paid 25% of the estimated amount upon deposit of the funds in the PEF. An additional 50% will be paid upon submission of the first adequate draft of the entire document. Payments based on partial submissions will only be allowed under special circumstances. (Such special circumstances might include delays introduced into the schedule by the County or the project proponent, and not the fault of the consultant, which would carry costs for subconsultants or in-house labor beyond 90 days.) Final 25% payment of the balance of the estimated cost will be made upon completion of the stipulated milestone (eg; Circulation of the DEIR, certification of the FEIR, approval of the Negative Declaration or action on the subject project).

Payments will be made on a “flat fee” basis, with progress payments made with the approval of the Planning Manager or designee as described above.

### ***D. Adherence to Scope of Work, and Budget***

Any proposed additional work beyond the approved scope of work must first be approved by the Planning Office. Additional work may be funded through contingency fees or may require additional funding from the applicant. Unauthorized work beyond the approved scope of work and budget is not warranted for compensation.

### ***E. Status Report***

When requested by staff, the consultant will periodically submit a brief, one-page status report listing the tasks accomplished and amount of resources expended. This is not a detailed audit report, it is a means of communication to keep all parties on the same track.

### ***F. Disposition of Remaining Funds upon Certification or Approval of Environmental Document***

Any remaining funds in the PEF will be returned to the applicant 30 days after a decision has been made on the project and both consultant costs to date and County fees have been paid. The PEF may be left open and funds retained if the project decision is appealed and challenges to the environmental document indicate that additional staff time may be required relative to the environmental aspects of the project.

## IV. Documents Provided to Consultant

Upon selection, the consultant shall be provided with copies of the following:

- Environmental Information form
- Project description
- Project Plans (site, landscape, elevations, drainage/grading)
- Any additional project information provided by applicant
- Initial Study checklist (paper or electronic)
- Standard Requirements list
- Current "*Procedures for Consultants to Prepare Environmental Documents for Private Projects in Santa Clara County*"
- "*Insurance Requirements for Environmental Services*"- Exhibit B 2(A,B,C,D) as appropriate. If consultant selected has a master contract, there is no need to send copy of insurance requirements. Select firms have insurance requirements contained within their master contracts.

## V. Work Program

The consultant's Work Program will be evaluated for: (1) evidence of the technical and creative competence of the consultant (with special emphasis on the proposed project manager), (2) the firm's willingness and ability to work closely with County staff, and (3) clarity of understanding of the environmental factors effecting the project.

The consultant must have (1) adequate resources or have the ability to obtain resources required for performance under the contract and (2) a satisfactory record of performance as a consultant on other EIRs.

The Work Program should include the following:

### A. *Cost Estimate and Schedule*

The document must include a **cost estimate** as described in III.B. above. A section should be included detailing the scheduling of the various work items described in the work program.

Indicate in weeks when work will begin on the document and when completed. Indicate the proposed time periods for County review of drafts. Include meeting with the Department for discussion of suggested changes to the drafts. Assume that at least two (2) iterations of the Administrative Draft will be required.

### B. *Staffing*

The lead personnel and any other personnel to be actually employed in the study are to be named. A project manager for the proposal must be designated. Describe the specific effort to be contributed by each of the key personnel, including an estimate of the percent of time, as well as the total number of hours.

An hourly pay rate schedule shall be attached. In most cases, work effort shall be provided by qualified persons in a class which has the lowest rate of payment among classes qualified to provide the service.

Identify the person(s) who will attend public hearings on the document. Include a brief resume of each person working on the project. A list of subcontractors who will be hired, their specific responsibilities, qualifications, tasks, schedule, hours, etc. must be included in the proposal. Potential subcontractors shall be compared to a list of firms under contract by the applicant to avoid any appearance of a conflict of interest.

### ***C. Specific Environmental Documents***

**1. Initial Study** - Initial Study Work Programs need only contain the completed initial study checklist provided by the County and indicate in less than one page the areas which will be analyzed in detail by the consultant. Potential responsible agencies to be consulted during the preparation of the environmental document shall be listed.

**2. Environmental Impact Report** - The Work Program should describe an overall approach to the document, specific techniques to be used, and specific expertise which would be employed. It should include a discussion of data needs and sources, analytical methodologies to be used in conducting the research and expected research products. The work program shall clearly indicate that the consultant will cover all matters required under CEQA and specified in the County's **Scope of Work**. The Scope of Work shall be incorporated by reference. The Consultant should indicate tentative conclusions in regard to priority of issues. Potential responsible agencies to be consulted during the preparation of the environmental document shall be listed.

**3. Other Environmental Document** - The Work Program should describe the purpose of the document and describe the approach which will enable the consultant to achieve that purpose.

### ***D. Other Documents***

All work programs shall (1) incorporate by reference the current "*Procedures for Consultants to Prepare Environmental Documents for Private Projects in Santa Clara County*" and (2) have attached a completed Insurance Certificate meeting the requirements of Exhibit B 2(A, B, C, D) as appropriate (see IV above).

### ***E. Submittal of Work Program***

Three copies of the completed work program must be received and approved by the County of Santa Clara Department of Planning and Development prior to signing any contract. Note requirements regarding "*Conflict of Interest*" described in VI.C.



## **VI. Contract Administration**

### ***A. Applicant / Proponent Agreement to Selected Consultant***

The County project planner will inform the applicant / project proponent of the consultant selection and will provide them with the proposed work program. If the applicant agrees to the selection, the required funds will be submitted to the County and a contract (may be a professional service agreement or project agreement) with the consultant will be prepared for approval by the County. If the applicant does not agree on the selected consultant, a second consultant may be considered based on either rotation or ranking. If Planning staff and the applicant do not agree on a consultant, the applicant may appeal the selection to the department director.

### ***B. Approval of Contract***

The Board of Supervisors may delegate to the Director of the Department of Planning and Development, or designee, the authority to execute the contract for the project.

### ***C. Conflict of Interest***

Prior to entering into a contract with the County to prepare a specific environmental document and during the life of that contract, the consultant must affirm that it is not in a contractual relationship with the project proponent (including a subsidiary, parent or related company, spouse or dependent children) nor does it have a financial interest (as defined in the Political Reform Act, Government Code §81000 et seq.) in the proposed project or any other property or development of interest to the proponent. The applicant shall provide to the County and consultant prior to the completion of the Work Program a list of any specialists or firms that are currently or prospectively under contract or that have received income of \$250 or more from the applicant in the past twelve months. Normally, firms or individuals on this list will not be selected as subconsultants.

### ***D. Consultant / Project Proponent Communication***

Communication between the proponent and the consultant are allowed under the following conditions:

- The communication involves (a) verification of material received by the consultant or (b) inquiry by the consultant concerning details of the project proposal or (c) subjects that are minor or incidental in nature.
- County staff (a) is present during or (b) provides prior approval for any discussions which go beyond the above.
- Consultant maintains a record of proponent contacts to inform County staff of the subject of any discussions. These should be included in the consultant's **status report**.

### ***E. Admin. Draft Document's EIRs and Public Review***

All administrative draft documents submitted from the consultant to County staff shall be considered internal working documents and are not subject to public review. Any admin.

draft documents shown to the project proponent, however, shall be available for public review, if requested. It shall be the discretion of County staff to determine when to show sections (mitigation measures) or the entire text of admin. draft documents to the project proponent.

***F. Use of Prior/Ongoing Environmental studies***

The selected consultant may make use of prior studies of environmental factors prepared by consultants not on the staff of or under the direction of the County's consultant and contracted for before the approval of the County's consultant contract. The consultant may also utilize information obtained from ongoing studies regarding factual environmental information related to the subject property and its surroundings, even though the authors are not on the staff of or under the direction of the County's consultant. In either case, the County's consultant must independently (1) verify the professional competence and integrity of the study author(s), (2) agree with the study methodology, and (3) determine environmental conclusions drawn from these studies.

***G. Replacement of Selected Consultants***

All contracts shall include language that will allow the County to terminate the agreement for cause if the contractor fails to perform on the basis of the terms, conditions and performance standards that are incorporated in the agreement. The former consultant will be paid for work completed, but for no more than the prior cost estimates approved by the County. The firm removed would be replaced by the Planning Office with another firm on either a rotational basis or by the next highly ranked firm. The method selected will depend on the original selection procedure. If a contract agreement cannot be reached, the process will be repeated with another firm until an agreement is negotiated.

***H. Abandonment of Project***

The project may be considered abandoned if the applicant (a) refuses to cooperate in the completion of the necessary environmental documentation in a timely fashion, (b) refuses to deposit funds necessary to continue or complete the CEQA process, and/or (c) interferes with or attempts to unduly influence County or consultant staff. A decision by the Planning Manager that the project is abandoned may be appealed to the Board of Supervisors. When the project is abandoned, remaining funds in the PEF will be returned to the applicant after consultant costs to date and County fees have been paid.

***I. EIR File Maintenance Fee***

This fee may be charged to the applicant one year after filing for the preparation of the EIR and six (6) months after each subsequent EIR draft submittal or maintenance fee payment where a good faith submittal of a draft document has not occurred. Failure to pay the fee will result in abandonment of the project and the payment of all current fees charged should the applicant wish to reinitiate the project. Staff may waive this fee under unusual circumstances or where the delay is not the fault of the project applicant or the EIR consultant.

***J. Electronic Version***

An electronic version of all most recent drafts of key documents prepared under the contract must be submitted to the County in readable electronic format prior to final payment of the consultant at each stage of the environmental evaluation process (III. B).

***K. Limitations***

All reports and pertinent data or materials shall become the property of Santa Clara County. The consultant should expect to have access only to the public records and files of local government agencies in preparing the proposal or reports. No additional compilation or analysis should be expected unless volunteered by a responsible official of these agencies.

***L. Confidential Communications***

All communications between the County and the consultant regarding preparation of environmental documents, including applicable legal requirements, are confidential. The consultant shall not disclose these communications to any other person or entity, including the applicant. Communications may be disclosed to subconsultants only if necessary for the performance of their duties.

## **VII. Environmental Impact Report (EIR)**

### **A. *Project Description***

The consultant shall first prepare a project description based on the submittal by the applicant, and information provided by planning staff from the project's file prior to preparation of the Administrative Draft. This description shall be reviewed by County staff and the applicant (in conformance with section V.E) above to confirm its accuracy.

### **B. *Notice of Preparation (NOP) and Scoping Meeting***

Staff shall prepare and publish a Notice of Preparation (NOP) after receipt of the EIR funds from the applicant. County staff may or may not request assistance from the consultant in preparing the NOP per the scope of work. Normally a scoping meeting will be held by County staff following publication of the NOP. The consultant will normally be required to attend this meeting, which should be included within the scope of work. The notice includes information about a EIR scoping meeting, held within the NOP public review period.

### **C. *Administrative Draft***

#### **1. Project Description**

#### **2. Additional Studies**

During the course of preparing the EIR, additional studies may be required to determine the existence and extent of a particular environmental impact. The Administrative Draft EIR shall not be submitted to County Planning until the studies are complete and the conclusions and recommendations are integrated into the DEIR.

#### **3. Administrative Draft Review**

Staff shall review the Consultant's Administrative Draft (ADEIR) for adequacy and advise the consultant of needed changes. A minimum of seven copies + an electronic copy of the Administrative Draft will be required (certain projects may require more). The Draft EIR will not be published until an adequate ADEIR is obtained. It is the intent of the Department of Planning and Development to exercise its own judgment as to the adequacy of the Draft EIR. Once the county determines the DEIR is adequate, it is considered the County's document and reflective of the County's independent judgment.

#### **4. Project Changes**

Staff and the consultant shall review the ADEIR to determine whether any changes in the proposed project could be made which would mitigate the significant impacts of the project. Such findings shall be discussed with the applicant.

The applicant may decline to make changes, and the DEIR will be written according to the original description of the project. However, those project changes may be incorporated into alternatives or mitigations "not proposed by the project proponent".

#### **D. EIR Format**

The overall organization of the document, in accordance with the CEQA guidelines, should be as follows:

##### **1. Title Page**

The title page *shall not include the name of the consultant*. It shall include the document type (e.g.; DEIR or FEIR or Addendum, etc.), project title, County File #, the SCH# if available, the date, and "Santa Clara County Planning Office".

##### **2. Summary**

The summary chapter should include the following: (1) Areas of controversy, if any, as raised by either agencies or the public. (2) Significant impacts which cannot be completely mitigated, if any. (3) Potentially significant impacts which can be reduced to a less than significant level. (4) Impacts found not to be significant. (5) Concise description of alternatives evaluated (including their potential environmental impact), with reasons for rejection indicated.

*Note: All impacts and mitigations discussed in the text must appear in the summary. They can be stated in a more concise manner. The impacts and mitigations must each be placed in one of three categories relating to the significance of the impact and the expected success of mitigation. These impact categories are:*

- *cannot be mitigated to a less than significant level;*
- *significant, but can be mitigated to a less than significant level;*
- *not considered significant*

The summary chapter should be formatted so that the potential impacts appear in a column on the left side of the page and their respective mitigation measures appear on the right side. Mitigations must be capable of monitoring through an approved monitoring program. The mitigations shall contain page numbers directing readers to that portion of the text containing a more in-depth discussion of the individual mitigation measures. Where the project proponent does not agree with a proposed mitigation measure, that shall be indicated at the end of that mitigation measure description by the statement: NOT PROPOSED BY PROJECT PROPONENT.

##### **3. Table Of Contents**

##### **4. Introduction**

Describe the nature, purpose and function of the project EIR. Describe the County's project review process. Identify intended uses of the EIR and agencies and approvals which will utilize the document (uses of the EIR).

## **5. Description Of Proposed Project**

This chapter should provide a general description of the proposed project characteristics, including maps of the site and preliminary development plans. The project description should also include a statement of the objectives sought by the project and the types of activities that will be undertaken, if appropriate.

## **6. Plan Consistency**

Discuss any inconsistencies between the proposed project and the County General Plan, Zoning Ordinance, and other relevant land use plans, including any applicable city plans, and regional plans. Significant inconsistencies with County standards and ordinances should also be discussed at this point.

## **7. Description Of Environmental Setting**

This chapter should focus on an overall description of the physical environment in the area where development is projected as the environment exists at the time the Notice of Preparation for the EIR is prepared.

## **8. Potentially Significant Environmental Impacts Of The Proposed Project And Mitigation Measures**

This chapter should contain a series of sub-chapters evaluating each of the main areas of potential impact (i.e. Transportation, Geology, Land Use, etc. ). Within each of these sub-chapters, (a) the current environment should be described, (b) potential thresholds of significance proposed, (c) the potential impacts should be identified along with an assessment of the significance of these impacts, and (d) mitigation measures which might reduce the identified adverse impacts should be discussed along with an assessment of how effective the measures would be in mitigating the impacts. Some of the impacts evaluated may still be considered significant after all possible mitigation measures have been discussed, and must be clearly described as such.

Try to avoid proposing mitigation measures which will have their own impacts. Where it is necessary to include mitigation measures with associated impacts, be sure to address those secondary impacts. Again, the discussion should distinguish between mitigation measures proposed by the proponent and other measures which could reasonably be expected to reduce adverse impacts

Make mitigation measures as specific and tangible as possible, spelling out the who, what, when, why, and how of mitigation. Mitigation measures will vary in specificity depending on the type of project (e.g., site-specific project vs. new general plan element). Nevertheless, attempt to orient mitigation measures toward specific "changes in the project" that can be effectively monitored during project implementation.

## **9. Impacts Found Not To Be Significant And Mitigation Measures**

This information can be combined with the previous chapter or can be put in a separate chapter. In either case, the chapter or sub-chapter should discuss potential impacts found not to be significant. In some cases, mitigation measures may be

suggested, and in others, mitigations may not be necessary. [For example, if it appears that there are no archaeological impacts, but artifacts have been found on adjacent properties, the EIR may suggest that either an archaeologist be present during excavations or that specific actions be followed in the event that artifacts are encountered.]

#### **10. Alternatives To Proposed Project**

Discussion should include at least three (3) alternatives, examples of which are given below:

- No project (required by CEQA).
- Reduced project scale.
- Alternative locations for the project
- Environmental superior project design(s) required by CEQA.

The potential environmental impacts of each alternative proposed must be discussed, although the discussion need not be as detailed as the discussion of the proposed project's impacts. The basis for rejection of the alternatives must be clearly stated in each case. Any environmentally superior project designs or approaches proposed by either the County or the consultant that the project proponent has refused to incorporate into his or her project must be discussed as alternatives. If the public has proposed any alternatives, the consultant should discuss with the County whether to include these in the EIR analysis.

As stated in CEQA, "Describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." CEQA Guidelines §15126.6 (a).

#### **11. Any Significant Irreversible Environmental Changes Which Would Be Involved In The Proposed Action Should It Be Implemented**

Be sure to include in the discussion any remaining adverse significant impacts (after mitigation) as disclosed in #7 above.

#### **12. Growth Inducing Impacts Of The Proposed Project**

Discuss how the project might foster economic or population growth in the surrounding area. Discuss any project characteristics which may encourage or facilitate other activities that could significantly effect the environment.

#### **13. Cumulative Impacts**

*Significant cumulative* impacts associated with all approved and reasonably anticipated future projects in the general project area should be included in this section. If appropriate, projects in adjacent jurisdictions which would contribute to the cumulative impact should be included as well.

#### **14. Documentation**

*All organizations and persons consulted in preparation of the EIR should be identified. All technical, statistical and factual information taken from outside references will be noted, and the reference cited in the EIR. Each EIR will contain a statement as to who prepared the various parts of the EIR. The County Department of Planning and Development will be listed as author and the project coordinator shall be named.*

#### **15. Appendices**

Include detailed technical reports whose conclusions have been summarized in the EIR. Also include a copy of the Notice of Preparation and any comments received on that document. If the EIR contains numerous technical terms or acronyms, it may be appropriate to include an appendix defining such terms.

If requested by Planning staff, the Draft EIR may contain a draft of the proposed monitoring program to [a] make certain mitigation measures can be monitored and [b] facilitate later preparation of the required Monitoring Program for approval of the decision-maker.

### ***E. Following County Approval of DEIR for Public Circulation***

#### **1. Printing**

It is **mandatory that all Draft EIRs be printed on both sides of the page**. Bulky, cumbersome reports are to be avoided. Normally a minimum of 75 copies shall be submitted unless otherwise requested by County staff. Some projects may require more or less copies because of special circumstances and based on judgement of staff.

#### **2. Draft Circulation**

Upon completion of the Draft EIR, it shall be circulated with a request for comments. During the comment period, the County may hold a public hearing on the Draft EIR by the Planning Commission to accept oral comments on the DEIR.

#### **3. Public Hearing**

A public hearing by the Planning Commission shall usually be held (optional, as decided by County) within in the DEIR review period. If requested by County staff, the consultant should [a] attend the meeting, and take notes on the public comments.

### ***F. Final EIR Preparation***

Upon completion of the comment period, the consultant shall prepare an estimate of the cost to prepare the Final EIR. The applicant shall then deposit the required additional funds in the Project Environmental Fund. The consultant may then prepare the Final EIR. Final EIRs shall be done in the form of an amendment to the Draft EIR containing:



**1. Introduction and DEIR Summary**

Describe the purpose of the FEIR and included the DEIR summary as modified based on the comments, with deletions struck through and additions underlined.

**2. Commentors**

Provide a list of all commentors who submitted written comments or made oral comments at any public hearing(s) [if any].

**3. Comments and Responses**

State the written and any oral comments regarding the environmental impacts of the project. Comments unrelated to the environmental impacts or EIR analysis need not be stated. Comments may be summarized. Follow the comments with complete responses to the environmental points raised.

The Consultant shall prepare draft responses to significant environmental points raised in the comments received. In particular, when recommendations and objections raised in comments are at variance with conclusions of the Draft EIR, the consultant shall address in detail those comments and shall [a] indicate where the EIR has been changed to reflect these comments or [b] give reasons why specific comments and suggestions were not accepted.

[Comments will be treated with respect and politeness. “Comment noted” should be used with rarity, if at all, as a response. Because a comment is outside the purview of CEQA does not mean it should be dismissed out of hand. Comments that are conscientiously written, even if they do not require a response under CEQA, should be acknowledged in a respectful manner.]

In the case of EIRs with a significant number of comments, the consultant may summarize certain common issues in the form of generic comments and responses. Responses to specific comments could then reference the generic response.

**4. Text Changes**

List EIR text changes with deletions struck through and additions underlined.

**5. Copies of comments**

Include a copy of each written letter and notes or a transcript of public hearing comments on the DEIR. Sufficient copies of the FEIR shall be printed for all commentors, responsible agencies, decisionmakers, involved staff and County files.

<p><b>Acceptance of EIR</b> - The County retains the right to reject any EIR prepared by a consultant which fails to meet the requirements as set forth in these Procedures or the State of California Environmental Quality Act Guidelines.</p>
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## VIII. Initial Study Procedures

### A. *Initial Review*

#### 1. **Understand the Project**

Concentrate on the project description and potential impacts. Review the information discussed in the Environmental Information Form. Look for possible red flags regarding environmental impact. Ask questions of the proponent if there are aspects of the project you do not understand. It is crucial to the evaluation of the project's environmental impacts that the intensity and land changes associated with the project be understood. Check comments from other agencies which might alert you to potential impacts, and comments from affected cities. The master file will include preliminary project conditions from the various County agencies, which may alert you to potential environmental problems. The master file will also include any comments received regarding the project.

*[For private projects, the Initial Study normally begins with the determination that the application is complete. Where the initial study is being prepared by a private consultant and the file has not yet been declared complete, some information may need to be obtained directly by the consultant from the applicant or the appropriate County departments / agencies.]*

#### 2. **Visit the Project Site**

This should occur after a review of the [a] file and [b] Initial Study form [the environmental checklist and the listed sources - especially the environmental resource maps] to see if there are any potential problems to look for during the site visit. Take photos of the site. Check the visibility of proposed development from the Santa Clara valley floor, surrounding properties, urban areas and public roads. Look for environmental factors that might indicate potential for impact, such as signs of erosion or riparian areas. Note neighboring land uses and check for any aspects of the project or of the surrounding land uses that might cause or be subject to an adverse environmental impact. If the project is an on-going operation that is relocating, visit their present site as well.

### B. *Complete the Initial Study Environmental Checklist*

Use the Initial Study checklist form or an electronic version provided by Santa Clara County.

#### 1. **Review Checklist**

Go through the checklist once, making notes or checking "no impact" as you can based on the knowledge you have of the project and the location. Go through the checklist again, referring to the more general sources listed at the end of the form, to eliminate those environmental factors which are clearly not affected by the subject project and checking "no impact". If the general sources indicate there might be potential environmental impacts, refer to the more specific sources listed on the form as well as experts within County staff, other government agencies or elsewhere. Below are listed some of the more important sources and ways to use them.

## 2. Primary Sources

Most of these sources should be found on GIS and the environmental resource cabinet located opposite side of hallway from Conference Room B in the Planning Office. The numbers listed under "sources" indicate the key to the particular source on the Initial Study Environmental Checklist. Other sources may provide comparable information. **A private consultant may have access to such sources by checking with Planning staff.** In cases where such alternative sources are used to determine the environmental impact of the project, they must be cited at the appropriate place in individual Initial Study resource discussions. "Persons consulted" should be listed at the end of the discussion under that title.

- Check the *Standard Requirements List* [this needs to be updated to reflect the new IS format] for ordinances, regulations, General Plan policies and "guidelines" which are required as part of projects developed in this County. These need to be recognized as part of project design and incorporated into project conditions. They should not be seen as optional environmental mitigations, which *may be* imposed as project conditions. In other words, except for the "guidelines" and special circumstances, their incorporation into project design and permit conditions is mandatory.
- The **GIS** can be used as a general overview of the environmental constraints present in the area. *It should not be used exclusively.* Other sources such as Google Earth and Maps Live are available on the internet for aerial photos. Consult with other staff for help in interpreting the mapped data.
- The **Soils overlay air photos** (in the map drawer in the GIS area) are extremely helpful in conjunction with the **soils books for Santa Clara County and Eastern Santa Clara County** [20 & 21] in clarifying the possibility of geologic or septic problems associated with the particular soils found on the subject property. These are 1000 scale overlays with property lines and identified streets. The GIS presently contains soil data for all areas except for a portion of the western County area. Consulting with paper soil maps are necessary if data is not available in GIS.
- Check the **Trails map** (GIS layer) to see if a proposed or existing park or trail is shown near or on the subject property. Where a trail or park corridor is shown in the project vicinity, Parks Department staff, who receive all referrals, should be specifically asked if they will require a trail easement as a project condition/mitigation.
- Maps showing the **ALUC safety and noise zones** surrounding Santa Clara County airports (GIS layer, and paper map) are found in the *ALUC Land Use Plan* and should be referred to for potential environmental impacts in these areas. Consult with the ALUC staff person if there appears to be an impact.
- Check the Fish and Game **Natural Diversity Database Map, and Habitat Conservation Plan Modeling Data** in the GIS for possible endangered or threatened species on the site.

- Other useful GIS layers include, but are not limited to: Visibility layer, average slope, flood zone, farmland, serpentine soils. geologic hazards. Check with staff for access.
- If it appears that the project will have a significant impact on a natural resource for which a state or federal agency is the **trustee or permit authority**, it may be appropriate to contact the appropriate **agency**. For example, if a creek with a viable riparian habitat or fishery resource may be impacted by the project, it may be helpful to contact the local Fish and Game office. If it appears to be a significant impact on a wetland, the Army Corps of Engineers can be contacted as a resource.
- If you have any questions about a specific topic, call any of the public agency **experts**. Check with other staff for suggested contacts in various areas. Keep a memo to yourself for the file noting the name of each contact, date contacted, and pertinent comments. The person should be cited at the end of the Initial Study under 'Persons contacted'.

### C. *Write the Initial Study*

#### 1. **Title Page**

The title page *shall not include the name of the consultant*. It shall include the document type, project title, County File #, the SCH# if available, the date, and “Santa Clara County Planning Office”.

#### 2. **Format and Analysis**

The following contents are required for the format and analysis:

1. Environmental Setting.
2. Project Characteristics and Impacts
3. Determinations
4. Mitigations
5. Findings

#### 3. **Discussion of answers**

The "Discussion of Environmental Evaluation" must incorporate discussion of all yes answers and any no answers that are potentially controversial or require clarification. Describe any potential impacts and discuss possible mitigations. Consult the County’s Standard Mitigation List for mitigations that by policy, resolution, ordinance or law must be carried out in Santa Clara County when certain impacts occur. The discussion should be divided by headings coinciding with those found on the IS form [eg., Land use/General Plan, Geologic, Resources/Parks, etc.].

#### 4. **Make Conclusion**

Make sure that a conclusion is drawn regarding the environmental impact and mitigation of adverse impacts relating to each environmental factor discussed. That conclusion should be supported by substantial evidence cited in the discussion.

(e.g., Will there be a significant impact on traffic, water quality, etc. and can it be mitigated to a less than significant level?) Conclusions must be made in light of the whole record and be based on facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Do not forget to consider impacts which may be individually less than significant, but which cumulatively may have a significant effect. Sources used during the initial study that are not listed on the last page of the Initial Study form must be cited in the "Discussion of Environmental Evaluation".

## **5. EIR Requirement**

If it becomes apparent that the project will require an EIR, pertinent language should be included at the end of each section of the "Discussion of Environmental Evaluation" where there is a potential significant adverse impact. This language should identify the specific impact that must be evaluated in the recommended EIR. This discussion will later serve as the basis for developing a Scope of Work for the EIR.

### ***D. Review of Administrative Draft***

Staff shall review the Consultant's Administrative Draft Initial Study for adequacy and advise the consultant of needed changes. Five copies of the Administrative Draft + electronic copy may be required (certain projects may require more). The Initial Study will not be accepted until an adequate draft is obtained. Once the County determines the Initial Study is adequate, it is considered the County's document and reflective of the County's independent judgement.

Staff and the consultant shall review the Draft Initial Study to determine whether any changes in the proposed project could be made which would mitigate the significant impacts of the project. Such findings shall be discussed with the applicant.

If staff determines that an EIR would be the more appropriate document for the project as proposed, the applicant would be so informed at as early a stage as feasible. Staff work on the environmental evaluation would then await submission of the appropriate EIR fees. Depending on the circumstances and the requirements of the County's Environmental Procedures, the same or another consultant would be contracted by the County to complete the EIR. To the extent feasible, work already completed on the Initial Study would be incorporated into the EIR.

### ***E. Following County Approval and Public Circulation of Mitigated Negative Declaration (MND) or Negative Declaration (ND)***

#### **1. Printing**

It is **mandatory that all CEQA Documents be printed on both sides of the page.** Bulky, cumbersome reports are to be avoided. A minimum of 50 copies shall be submitted. Some projects may require additional copies because of special circumstances. Sufficient copies of the IS, and MND or ND shall be printed for all reviewing agencies, interested parties, decisionmakers, involved staff and County files.

## **2. Draft Circulation**

Upon completion of the IS, the Mitigated Negative Declaration or Negative Declaration shall be circulated with a request for comments. The comment period should be for the number of days provided by state law, with if possible at least 5 working days remaining before scheduled public hearings to prepare comment responses and to allow for late comments from responsible agencies.