
COUNTY OF SAN DIEGO

CEQA GUIDELINES

Revised Version
Adopted by
Board of Supervisors
October 21, 2009

CERTIFICATE OF ADOPTION

I hereby certify that this is the text of the **County of San Diego CEQA Guidelines**, as amended by POD 09-011, and that this was considered and approved by the San Diego County Board of Supervisors on the 21st day of October 2009.

A handwritten signature in black ink, appearing to read 'Eric Gibson', written over a horizontal line.

Attest: ERIC GIBSON, Director
Department of Planning and Land Use

Text

Latest Amendment October 21, 2009

Amended October 17, 2007

Amended March 21, 2007

Amended May 21, 1997

Adopted April 6, 1983

COUNTY OF SAN DIEGO CEQA GUIDELINES

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1. Introduction

The following guidelines are adopted by the Board of Supervisors of the County of San Diego pursuant to Section 21082 of the California Public Resources Code (Environmental Quality Act of 1970, "CEQA"), and Section 15022 of Title 14 of the California Administrative Code, Guidelines for Implementation of the California Environmental Quality Act of 1970 (hereinafter referred to as the "State CEQA Guidelines" as amended).

2. Purpose

The purpose of these guidelines is to provide objectives, criteria, and procedures for the orderly evaluation of projects and the preparation of CEQA documents pursuant to CEQA and the State CEQA Guidelines. The County CEQA Guidelines are intended to supplement the State CEQA Guidelines for practical application to specific projects approved or undertaken by the County of San Diego. The following procedures,

therefore, do not replace or supplant the State CEQA Guidelines, but are to be used in conjunction with them. All definitions and requirements of the State CEQA Guidelines are included and made part of these procedures by this reference. If the application of any procedure contained in the County Guidelines conflicts with any provision of the State CEQA Guidelines, the provision of the State CEQA Guidelines shall control.

3. Severability of Provisions

If any section, subsection, sentence, clause, or phrase of these procedures is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of these procedures, it being hereby expressly declared that these procedures and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, adopted, approved, or ratified irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

4. Department Procedures

A County agency, department or other division responsible for processing a permit or similar entitlement, or for initiating a County project, are herein referred to as a "Processing Department." Processing Departments should prepare administrative procedures consistent with these Guidelines to facilitate the orderly processing of applications and projects within each such agency or department.

5. Pre-Application Consultation and Due Diligence Assistance

Article 5 of the State CEQA Guidelines states a lead agency shall provide pre-application consultation, upon the request of a potential applicant and prior to the filing of a formal application for a potential discretionary project. The pre-application consultation shall consider the range of actions, potential alternatives, mitigation measures, and any potential significant effect on the environment of the potential project.

Pre-application consultation shall be mandatory for all privately initiated projects under the jurisdiction of the Planning Commission or Board of Supervisors, unless waived by the Processing Department.

The requirement for mandatory pre-application consultation will not preclude applicants from requesting due diligence assistance from applicable Processing Departments.

6. Exempt Projects

Articles 18 and 19 of the State CEQA Guidelines identify projects that are statutorily and categorically exempt from the requirements of CEQA. Specifically, Section 15268 of the State CEQA Guidelines specifies that ministerial projects are exempt from the requirements of CEQA. Sections 15300 to 15332 describe classes of projects that have

been determined to not have a significant effect on the environment and therefore are exempt from CEQA (Categorical Exemptions). These exemptions shall not be applied to projects that are covered by a previous EIR or Negative Declaration, which generally are evaluated pursuant to Section 15162 of the State CEQA Guidelines.

The following table lists typical activities that the County has found to be within the exemptions identified in the State CEQA Guidelines. **NOTE: Section 15300.2 of the State CEQA Guidelines sets forth a number of exceptions to categorical exemptions. Prior to the use of any categorical exemption, a proposed activity is reviewed for these exceptions based on initial research, a site visit if determined necessary, and other available relevant documentation.**

Permit/Activity Type	Activity	Typical CEQA Exemption
Administrative Permit	Administrative Exception for Additional Fence or Wall Height (Z.O. §6108i)	Categorical (Classes 1, 2, or 5)
Administrative Permit	Exception for Fence Height, Tennis Court, Fencing and Gate Superstructure (Z.O. §6108h)	Categorical (Classes 1, 2, or 5)
Administrative Permit	Family Day Care Home for Children, Large (9 to 14 children). Z.O. §6156 y.	Statutory (Guidelines §15274)
Administrative Permit	Farm Employee Housing. Z.O. §6156 u.	Statutory (Guidelines §15276)
Administrative Permit	Clearing for Agricultural Purposes	Categorical (typically Class 4)
Administrative Permit	Host Home. Z.O. §6156 b.b.	Categorical (Classes 1 or 3)
Administrative Permit	Oversized Structures. Z.O. §6156 a, g and h.	Categorical (Classes 1, 2, or 5)
Administrative Permit	Second Dwelling Unit (Z.O. §6156x)	Categorical (Class 3)
Administrative Permit	Sign, Temporary Off-site. Z.O. §6207 b1 and b4.; Off-Premise Signs (Billboards). Z.O. §6205; Commercial or Industrial Center Identification Signs. Z.O. § 6207 b. 5; Roof Signs. Z.O. § 6265.	Categorical (Classes 3 or 11)
Agricultural Preserve	Standard Application to Establish a Preserve	Categorical (Class 17)
Agricultural Preserve	Amendment to the Preserve	Categorical (Class 17)
Agricultural Preserve	Contract Amendment	Categorical (Class 17)
Alcoholic Beverage License Finding B/S Policy I-121	N/A	Not a "Project" (Guidelines §15378)
Boundary Adjustment, Co. Code §81.90, Z.O. §6903	N/A	Categorical (Class 5)
Certificate of Compliance, Co. Code §81.1104	Standard Application; Designated Remainder Parcel	Ministerial or Categorical (Class 21) ¹
Department of Parks and Recreation Trail Maintenance	Existing trail, trail head, staging areas and other trail related facilities maintenance, repair, or minor alteration	Categorical (Class 1)
Department of Public Works Infrastructure Maintenance	Existing road paving and maintenance, sidewalk maintenance or minor alteration, maintenance of pedestrian trails or bicycle paths, culvert maintenance and sewer maintenance.	Categorical (Class 1 & 2)

Department of Public Works Right of Way Related Permits	Right of Way Construction Permit	Categorical (Class 3)
	Right of Way Encroachment Permit	Categorical (Class 1)
	Right of Way Excavation Permit	Categorical (Class 1)
Environmental Health Permits	Septic tank permits, trailer permits, well permits and percolation tests on existing lots where no potential exists for impact to the environment	Ministerial
Grading Permits Associated with Building Permit for One Single Family Residence	N/A	Categorical (Class 3)
Landscape Plan, Z.O. § 6713	Conceptual Landscape Plans	Ministerial or Categorical (Classes 3 or 4) ²
Leasing	New leases or renewals where there is only minor or no change to existing structures and where the new use will result in substantially the same environmental conditions	Categorical (Class 2)
Plan Amendment Authorization	N/A	Statutory (Guidelines §15262)
Remandment of Access Rights	Remandment of previously relinquished access	Categorical (Class 5)
Restoration Plan	Restoration plans resulting from enforcement action which requires an offender to restore habitats or natural conditions to the condition prior to the unauthorized action	Categorical (Class 21)
Road Vacation	Vacate Irrevocable Offer to Dedicate	Categorical (Class 5)
Site Plan Review	B and D design review including Modification	Categorical (Class 5) ³
Site Plan Review	J design review including Modification	Categorical (Class 3) ⁴
Tentative Map	Condominium Conversion	Statutory (Guidelines §15282(f)) for Mobile Home Parks or Categorical (Class 1)
Tentative Parcel Map	Condominium Conversion	Statutory (Guidelines §15282(f)) for Mobile Home Parks or Categorical (Class 1)
Variances Z.O. §7100	N/A	Categorical (Class 5)

¹ Exempt as ministerial when the certificate of compliance is issued as the final step of the tentative map or tentative parcel map process or on lots created legally before implementation of the tentative parcel map process (1972). Class 21 Categorical Exemption may apply in areas with an average slope of less than 20% which do not result in any changes in land use or density.

² Exempt as ministerial when review of only ministerial standards is required by a licensed landscape architect. When review of discretionary standards is required, Classes 3 or 4 Categorical Exemptions may apply.

³ Class 5 Categorical Exemption applies where review is required by the Community Design Review ("B") Designator strictly for the purpose of architectural and/or landscape controls. "D" Designator Site Plans associated with Residential development in the Steele Canyon Specific Plan Area are exempt pursuant to State CEQA Guidelines §15182.

⁴ Class 3 Categorical Exemption applies for new, single family residences and small accessory structures within the Julian Historical District normally ministerial and where the location is not recognized for historical significance.

7. Initial Studies

Upon determining that an application for discretionary approval is complete or initiation of a public project by a Processing Department, the County will determine whether or not a proposed action is exempt from the requirements of CEQA. If it is not exempt, an Initial Study may be prepared to determine if the project may have a significant effect on the environment. Processing Departments may prepare Initial Study templates based on Appendix G of the State CEQA Guidelines (with modifications where determined necessary) and may prepare administrative procedures to aid the preparation of the Initial Study. The preparation of the Initial Study should be based on a comprehensive project description, initial research, site visit, technical studies (if determined necessary), and other available and relevant documentation.

8. Guidance for Determining Significance

Processing Departments shall prepare and maintain administrative guidance for determining the significance of environmental effects. Such guidance, if available, should be utilized in the preparation of Initial Studies and EIRs and updated periodically. Processing Departments shall establish a technical advisory committee to provide peer review and technical input on the preparation of such guidance for each subject area. Before any administrative guidance or revisions are approved by the Processing Department, the proposal shall be circulated for public review and comments. Minor revisions to administrative guidance do not require circulation for public review.

9. Technical Studies

Technical studies may be necessary for the preparation of Initial Studies (the County refers to such technical studies as Extended Initial Studies) in support of Negative Declarations (see Section 11) and EIRs (see Section 12). These studies may be prepared by County staff or a consultant placed on the County CEQA Consultant List in accordance with Section 17 of these Guidelines and shall be reviewed and accepted by County staff.

Processing Departments shall prepare administrative requirements for the scope of technical analysis, technical study format, and technical study content. If such requirements are prepared, they shall be followed unless an exception is given by the Processing Department. Processing Departments shall establish a technical advisory committee to provide peer review and technical input on the initial preparation of such requirements for each subject area.

10. Determination to Prepare CEQA Documentation

The determination that a project is exempt from CEQA or to prepare an EIR or ND shall be at the Director of the Processing Department's or the appropriate approving authority's discretion pursuant to CEQA and the State CEQA Guidelines.

11. Negative Declarations

Negative Declarations and Mitigated Negative Declarations shall be prepared by County staff, pursuant to CEQA and State CEQA Guidelines.

12. Draft and Final EIRs

County staff or a consultant placed on the County CEQA Consultant List in accordance with Section 17 of these Guidelines may prepare EIR documents. Documents prepared by consultants shall be reviewed and accepted by County staff.

Processing Departments shall prepare and maintain administrative requirements for EIR format and general content. Before administrative requirements or revisions are approved by the Processing Department, the proposal shall be circulated for public review and comments.

13. Agency/Public Review

Processing Departments shall consult with and obtain comments from other public agencies and members of the public with regard to the environmental effects of projects in accordance with CEQA and the State CEQA Guidelines.

14. Interjurisdictional Document Reviews

Processing Departments may designate staff responsible for reviewing and commenting on CEQA documents prepared by other agencies that are received for review. The Processing Departments should prepare and maintain administrative procedures for conducting interjurisdictional, environmental document reviews. Reviews should be conducted pursuant to such procedures, if available and reviews shall be conducted pursuant to Article 13 of the State CEQA Guidelines.

15. Responsibilities

a) General

The County is responsible for the adequacy of CEQA documents supporting County discretionary approvals.

b) Approving Authority

The approving authority is the decision-making body with delegated authority to approve the discretionary action being considered. The approving authority shall perform such functions as may be required by CEQA or by the Board of Supervisors, including the following:

1. Review public comment(s) regarding the environmental impacts of proposed projects, and review and consider EIRs NDs prior to approving projects.
2. Determine when a fair argument has been made that a project may have a significant effect on the environment.
3. Adopt NDs and MNDs where proposed projects will not have a significant impact on the environment.
4. Certify that EIRs have been completed in compliance with CEQA and the State CEQA Guidelines.
5. Determine when environmental impacts may be significant and determine mitigating measures, or modifications of the project, that should be made conditions of approval.
6. As a Responsible Agency, (defined in Section 15381 of the State CEQA Guidelines), consider the EIR or ND prepared by the Lead Agency (defined in Section 15367 of the State CEQA Guidelines) and make a determination on whether and how to approve the project involved.
7. Request additional information in cases where it appears an EIR cannot be certified or an ND cannot be adopted without that information.
8. Adopt findings as required by Section 15091 of the State CEQA Guidelines.
9. Adopt Statements of Overriding Considerations when necessary as required by Section 15093 of the State CEQA Guidelines.
10. Adopt programs for the monitoring and reporting of mitigation when necessary as required by Section 15097 of the State CEQA Guidelines.

c) Processing Department

In addition to processing a permit or similar entitlement, or initiating a County project, Processing Departments shall be responsible for the following functions:

1. Assess the potential environmental significance of projects proposed to be undertaken or approved by the County that are subject to the requirements of CEQA, the State CEQA Guidelines and these Guidelines.
2. Determine when a fair argument has been made that a project may have a significant effect on the environment.
3. Prepare CEQA documents and recommendations to the approving authority for projects subject to CEQA, the State CEQA Guidelines and these Guidelines.
4. Review and accept CEQA documents prepared by consultants.
5. Notify the public of the availability for review of CEQA documents pursuant to the notification requirements of CEQA and the State CEQA Guidelines.

16. Time Periods

Time limits are specified in Resolution Establishing Time Limits for the Adoption of Negative Declarations and Certification of Environmental Impact Reports, Resolution No. 09-223, adopted by the San Diego County Board of Supervisors on October 21, 2009.

17. Listed Consultants

The Department of Planning of Land Use will maintain a list or lists of individual(s) (not firms) that are authorized to prepare CEQA documents for the County for privately initiated projects through an open enrollment application and selection process, described in Attachment A. Consultant lists shall be reestablished at a minimum of every 4 years.

Applicants will either select and contract with specific consultants from the County's list to prepare CEQA documents for private projects or may authorize the County to directly contract with listed consultants for the preparation of CEQA documents. Prior to the first submittal of a CEQA document prepared by a listed consultant for a private project, the applicant, consultant, consultant's firm (if applicable) and County shall execute a Memorandum of Understanding (MOU) or similar agreement that addresses payment, communications, confidentiality of information, report preparation and handling, and indemnification. A typical MOU format is included in Attachment B.

Consultants that prepare CEQA documents for County initiated projects will continue to be selected through the standard County procurement processes.

As an option, applicants of privately-initiated projects may request the County to enter into a contract for the preparation of technical documents with consultants that have been selected through the standard County procurement processes. The County has

the option to agree to or deny the request. The contract may cover all technical studies, including EIRs, required to process the project. Upon agreement of the request for the County to direct contract with an authorized consultant, the applicant will be required to deposit funds, as requested by the processing department to cover the initial costs of preparing the document(s).

COUNTY OF SAN DIEGO CEQA GUIDELINES

ATTACHMENT A

GUIDELINES FOR COUNTY OF SAN DIEGO CEQA CONSULTANT LIST

FOR PRIVATELY INITIATED PROJECTS

All technical studies and environmental impact reports (EIRs) for privately initiated projects not prepared by staff shall be prepared by a consultant on the County of San Diego CEQA Consultant List for Privately Initiated Projects, to be further known as the "CEQA Consultant List." The CEQA Consultant List shall be published, maintained and administered by the Department of Planning and Land Use (DPLU), in coordination with the Department of Public Works (DPW). Publicly initiated CEQA projects will continue to use standard procurement processes for consultant selection. Once a list has been established for a specific CEQA subject area, project applicants must select and directly contract with a consultant from the "CEQA Consultant List," unless otherwise stated in these Guidelines (e.g. where the County contracts with a consultant for the preparation of technical documents under the option set forth in Section 17). When an applicant selects consultants from the CEQA Consultant List to prepare such documents, a Memorandum of Understanding (MOU) between the applicant, the consultant(s) and the County of San Diego must be executed. This MOU defines the roles, limitations and requirements of the parties involved.

I. CEQA SUBJECT AREAS FOR LISTED CONSULTANTS

The Director of DPLU, in coordination with the Director of the Department of Public Works (DPW) shall maintain and publish a list of authorized individuals (not firms), for the following subject areas:

- Agricultural Resources
- Air Quality
- Archaeological Resources
- Biological Resources
- Groundwater
- EIR Preparer
- Fire Protection Planning
- Historic Resources
- Mineral Resources
- Noise
- Revegetation Planning
- Transportation & Traffic
- Visual Analysis

Private project applicants must select consultants from the published CEQA Consultant List. Consultants selected shall only prepare County documents in subject areas for which they have been approved.

A. Subject Areas Not Listed

No list will be maintained for geologic hazards, hazardous materials & existing contamination, hydrology and stormwater management planning. Technical reports for these subject areas must be prepared by specified licensed individuals. With the exception of minor stormwater management plans, only registered engineers registered in the State of California shall be permitted to submit hydrology/drainage studies and only registered engineers or certified professionals in storm water quality certified by Certified Professional in Erosion and Sediment Control Inc. (CPESC), or an equivalent entity approved by the Director of Public Works, shall be permitted to submit stormwater management plans. Geologic hazards studies must be prepared by California Certified Engineering Geologists. Similarly, technical studies described in the hazardous materials & existing contamination guidelines for determining significance must be prepared by a registered engineer or professional geologists qualified to prepare Environmental Assessments.

Under certain circumstances, a need may arise for technical studies to be prepared in other subject areas such as photometric studies and vector management plans. In such scenarios, project applicants shall recommend a specialized consultant to prepare such studies subject to the discretion of the Director of DPLU or the Director of DPW. Any such selected consultant will have to execute an MOU.

B. Listed Consultant Unable To Complete Work

In the event that an individual listed consultant is unable to complete work, another consultant on the CEQA Consultant List for the specific subject area must be selected. As necessary, the Director of DPLU, in coordination with the Director of DPW, has the discretion to allow the firm listed as a party in the MOU (if applicable), to complete any unfinished EIRs or technical studies for projects associated with the listed consultant.

II. MEMORANDUM OF UNDERSTANDING

Individual consultants placed on the CEQA Consultant List, and the consultant's employer (if applicable), will be required to execute an MOU form approved by County Counsel, with the applicant and County for each project. The MOU shall address communications, confidentiality of information, report preparation and handling, contractual limitations and indemnification. The MOU shall also specify the obligations of the consultant with respect to performance standards and professional expectations. Attachment B of the County of San Diego CEQA Guidelines is a sample of a typical MOU, which covers the basic provisions that will be required.

III. CONSULTANT LIST APPLICABILITY

The requirements in this section are meant to serve as the applicability guidelines during the transition from the prior “Environmental Consultant List” (“Prior List”) to the current “CEQA Consultant List” (“Current List”) and for applicability of consultants when lists are updated for each subject areas on the CEQA Consultant List.

On February 28, 2006, the Prior List was closed and no new applications were accepted from consultants for placement on the Prior List. As of August 1, 2007, a CEQA Consultant List was established for each of the subject areas identified in Section I above. Table 1 below provides the establishment dates for the current “CEQA Consultants Lists.”

TABLE 1 Establishment Dates for County Listed CEQA Consultant Lists

September 8, 2006	March 9, 2007	August 1, 2007
Archaeology	Agriculture	Mineral Resources
Historic Resources	Air Quality	Revegetation Planning
Biology	Fire Protection Planning	Visual Resources
EIR Preparer	Groundwater	
Transportation & Traffic	Noise	

A. Transition From Prior “Environmental Consultant List” to Current “CEQA Consultant List”

This section applies to projects submitted to the County prior to the adoption of the County CEQA Guidelines on February 28, 2006.

1. Projects Submitted Prior to February 28, 2006

Applicants who have submitted privately initiated projects to the County and have contracted with consultants from the prior “Environmental Consultant List” (“Prior List”) to prepare CEQA documents before February 28, 2006, may continue to use the contracted consultants from the Prior List. Consultants listed on the Prior List working on unfinished EIRs or technical studies will be allowed to complete such reports.

If an applicant decides to change consultants after February 28, 2006, the applicant shall choose a consultant from the current County CEQA Consultant List (“Current List”) and execute a MOU.

2. Projects Submitted After February 28, 2006

If a privately initiated project was scoped and a study requested after February 28, 2006 and on or after the date listed in Table 1, an applicant must choose a consultant from the Consultant List currently in effect and execute an MOU.

B. Re-establishment of CEQA Consultant List

When the Current List is re-established ("Re-established List"), applicants whose privately initiated projects have been scoped by the County prior to the approval of a Re-established List and have contracted with consultant(s) from the Current List to prepare CEQA documents, may continue to use the contracted consultant(s) from the Current List. Consultants listed on the Current List working on unfinished EIRs or technical studies will be allowed to complete such reports.

If an applicant decides to change consultants after a subject area list has been re-established, the applicant shall be required to choose a consultant from the Re-established List and execute a MOU.

IV. QUALIFICATION BASED SELECTION PROCESS & GUIDELINES FOR THE CEQA CONSULTANT LIST

The following framework outlines the maintenance of and selection process for the County of San Diego CEQA Consultant List. The Director of DPLU, in coordination with the Director of DPW will maintain the required forms and procedures to implement this process.

A. Application Requirements

At a minimum of every 4 years, the Director of DPLU, in coordination with the Director of DPW, shall re-establish each subject area list indicated in Section I. The application process for the re-established consultant list will be streamlined for consultants with a documented history of performing to the standards identified in the MOU. For the ongoing open enrollment application process, the application materials will specify subject-specific qualifications, requirements and application questions which will be used in the evaluation of the consultant. Application materials are posted on the County of San Diego DPLU website (<http://www.sdcounty.ca.gov/dplu/>).

For consideration to be on the CEQA Consultant List, consultants must provide an application package containing the following basic elements as specified in the application materials:

- Statement of Qualifications form, which demonstrates satisfaction of specified education, training, any applicable professional registrations/licenses and

experience qualifications. Minimum qualifications to apply will be detailed in the application materials.

- Supplemental questionnaire responses (if applicable).
- References of public and private clients on past EIRs or technical studies.
- A copy of an EIR or technical study prepared by the consultant within the last 5 years in the subject field of consideration.
- Consultant List Application Fee

B. Qualification Evaluation Process and Qualifications Committee

The completed application, sample of work, responses to supplemental questionnaire and associated documents will be evaluated based on the criteria listed below:

- **Past performance** on projects of similar scope and nature in terms of cost control, quality of work and compliance with performance schedules and standards.
- **Sample of Work & Supplemental Questionnaire Responses**
- **Professional qualifications** necessary for satisfactory performance of the required service.
- **Specialized experience** and technical competence in the type of work required.
- **Availability of the Consultant** relative to how often and consistent the consultant will be available for both scheduled meetings and meetings requested at short notice.
- **Capacity** to accomplish the work in the required time.

For each subject area, the Director of DPLU, in coordination with the Director of DPW, shall designate a *Qualifications Committee*, which will include a minimum of two (2) County staff, including a staff subject area specialist (if applicable), to evaluate and rate application packages submitted. Application packages shall be scored based on the criteria listed above.

C. Final Selection Process and Selection Committee

Generally, the *Selection Committee*, should be different from the *Qualification Committee* for the purposes of objectivity; however, the *Selection Committee* may also perform the roles of the *Qualifications Committee* as needed. Interviews may be administered by the *Selection Committee*, composed of a minimum of three (3) County staff, as determined by the Director of DPLU, in coordination with the Director of DPW. The *Selection Committee* reserves the right to hold interviews if deemed necessary. Such interviews may include both oral and written responses to questions, which demonstrate competency in the respective subject area.

After interviews and in cases with no interviews, the *Selection Committee* will score and make recommendations on whether the applicant should be placed on the CEQA Consultants List for the applicable subject area. The Director of DPLU, in coordination with the Director of DPW, will make the decision regarding placement on the CEQA Consultant List, based on the *Selection Committee's* recommendation. The decision by the Director of DPLU, in coordination with the Director of DPW, regarding placement on the CEQA Consultant List can be appealed through a process involving a third party review panel established by the Deputy Chief Administrative Officer (DCAO) of the Land Use Environmental Group (LUEG).

D. Consultant List Appeal Process

The DCAO of LUEG is to create and maintain procedures for consultants who were not placed on the County CEQA Consultant List for Privately Initiated Projects. The procedures will outline the process to appeal their score to a third party review for reconsideration. Consultants processing an appeal of their scores are not considered to be on the CEQA Consultant List during the appeal process. The DCAO will make the final appeal decision based on the recommendation of the third party review appeal panel. An administrative fee must be paid when filing an appeal.

E. Continuing Education

Consultants selected for placement on the list may be required to attend and participate in County trainings for their applicable subject area. Also, consultants may be required to demonstrate completion of external continuing education in their selected field. The requirements for continuing education will be specified in the application materials.

VI. REMOVAL FROM THE LIST

Consultants may be removed from the CEQA Consultant List at any time for any of the following reasons:

- Failure to maintain general standards of professional ethics and performance as specified by the Directors of DPLU and DPW;
- Breach of the performance standards listed below or as specified by the project MOU:
 - Compliance with State and County CEQA Guidelines.
 - Compliance with direction regarding clarification and/or correction of documents.
 - Accuracy of technical data, i.e. biological resource mapping, archaeological site mapping, use of current available traffic count data, use of proper computer programs for data analysis.
 - Use of appropriate field techniques.
 - Readability, clarity, and format of documents.
 - Sufficient factual statements provided to support conclusions.
 - Analyses reflect all applicable local, State and Federal rules, regulations, ordinances, and laws.
 - Quality of judgment, i.e., objective and scientific, regarding determination of environmental significance of impacts.
 - Mitigation measures proposed which are appropriate to the project and County regulatory procedures.
 - Compliance with timelines.
 - Lack of responsiveness.
 - Consistently produce inadequate reports.
- Failure to attend mandatory training sessions as may be required with adequate notice by the Directors of DPLU or DPW;
- A written request to either the Director of DPLU or DPW from the consultant requesting removal from the list.

A. Removal from the Consultant List Appeals

Any decision by the Director of DPLU or DPW regarding removal of a consultant from the list may be appealed to the DCAO of the LUEG. An administrative fee must be paid when filing an appeal.

COUNTY OF SAN DIEGO CEQA GUIDELINES

ATTACHMENT B

THIS IS AN EXAMPLE OF A TYPICAL MEMORANDUM OF UNDERSTANDING. THE FORMAT AND CONTENT OF THIS DOCUMENT MAY BE MODIFIED FOR PRACTICAL AND LOGISITICAL REASONS AT THE DISCRETION OF COUNTY COUNSEL.

COUNTY OF SAN DIEGO

**MEMORANDUM OF UNDERSTANDING
ENVIRONMENTAL IMPACT REPORT / TECHNICAL STUDY PREPARATION
AND HANDLING OF _____ ;**

This AGREEMENT, hereinafter referred as the "MOU", is made and entered into by and between the **County of San Diego, ("COUNTY")**, **_____ ("APPLICANT")**, **_____ ("CONSULTANT")**, and **_____ ("FIRM" which employs the consultant, if applicable)** for the purpose of establishing rights and responsibilities of all undersigned parties hereto in relation to the preparation and handling of a TECHNICAL STUDY or ENVIRONMENTAL IMPACT REPORT ("EIR") for the above-referenced project ("PROJECT").

WHEREAS, the COUNTY is the Lead Agency with the land use and planning jurisdiction in the above-referenced PROJECT area of unincorporated San Diego County, as it pertains to the California Environmental Quality Act ("CEQA"); and

WHEREAS, the APPLICANT has submitted an application for development of the above-referenced PROJECT; and

WHEREAS, the COUNTY has determined that the PROJECT necessitates the preparation of a TECHNICAL STUDY / EIR; and

WHEREAS, the CONSULTANT is a professional environmental consultant included on the County official CEQA Consultant List for the applicable Subject Area (All CONSULTANT rights and responsibilities within this MOU extend to the FIRM, which employs the consultant (if applicable), and any consultant hired to assist with the preparation of the TECHNICAL STUDY / EIR); and

WHEREAS, the APPLICANT, CONSULTANT, and COUNTY understand and agree that CONSULTANT has the primary responsibility to ensure that the TECHNICAL STUDY / EIR is adequate and COUNTY review is for the benefit of the public generally and not for the benefit of the APPLICANT or CONSULTANT; and

WHEREAS, the APPLICANT, CONSULTANT, and COUNTY wish to define their relationships and areas of responsibility in the preparation and management of a TECHNICAL STUDY / EIR and the CEQA process.

NOW, THEREFORE, in view of the foregoing, and in consideration of the mutual covenants and agreements contained herein, the APPLICANT, CONSULTANT, and COUNTY do hereby agree as follows:

I. NECESSITY OF A TECHNICAL STUDY OR EIR

The COUNTY has determined that the PROJECT necessitates the preparation of a TECHNICAL STUDY / EIR.

II. SUBMISSION OF DOCUMENTS AND DISCLOSURE OF INFORMATION

The APPLICANT and CONSULTANT shall submit all environmental documents under this MOU pursuant to the terms and conditions set forth herein and in accordance with the "County of San Diego CEQA Guidelines."

This MOU requires the disclosure of certain information by the APPLICANT and CONSULTANT to the COUNTY. Disclosure may initially be through verbal communication with the COUNTY Project Manager. The COUNTY maintains the right, upon reasonable notice to the APPLICANT and CONSULTANT, to: 1) review draft documents and relevant correspondence; 2) require that it be copied on correspondence subject to the disclosure requirements; and/or 3) require a written or emailed (instead of verbal) report of disclosures.

III. CERTIFICATIONS

By executing this MOU:

- A. The APPLICANT certifies that it has an ongoing obligation and commitment to the COUNTY to disclose all information that is relevant to the environmental consequences of the PROJECT and the preparation of the TECHNICAL STUDY / EIR, and further certifies that no relevant information has been or will be omitted or withheld from the COUNTY, the CONSULTANT, or any sub-consultant(s).

- B. The CONSULTANT certifies:

That it is included on the COUNTY official CEQA Consultant List for the applicable Subject Area (or the COUNTY official Environmental Consultants List if the list has not been reestablished pursuant to the February 28, 2006 COUNTY CEQA Guidelines) and it is prepared to undertake all necessary technical and analytical work required in conjunction with the TECHNICAL STUDY / EIR, either directly, under the CONSULTANT's direct supervision and management, and/or through the use of any sub-consultant(s); and

IV. APPLICANT'S RIGHTS AND RESPONSIBILITIES

- A. Subject to the terms and conditions of this MOU and County CEQA Guidelines, the COUNTY agrees to allow the APPLICANT to select and retain the undersigned CONSULTANT for preparation of the TECHNICAL STUDY / EIR. For this purpose, the APPLICANT shall enter into a direct agreement with the CONSULTANT, and such agreement shall govern the entire scope of their arrangement. Such agreement shall comply with all terms and conditions set forth in this MOU, and no term therein shall be inconsistent with any provision herein.
- B. The APPLICANT shall be responsible for one hundred-percent (100%) of all costs associated with the CONSULTANT's work, including but not limited to, any sub-consultant(s) costs, TECHNICAL STUDY / EIR preparation and document circulation costs incurred by the APPLICANT or CONSULTANT, and all costs associated with participation in scoping meetings or community outreach meetings, as necessary. The APPLICANT shall also be responsible for one hundred-percent (100%) of all costs incurred by the COUNTY related to its independent review of the TECHNICAL STUDY / EIR.
- C. The APPLICANT shall ensure that any consultant(s) hired in conjunction with the preparation of the TECHNICAL STUDY / EIR and related to the PROJECT shall comply with the COUNTY CEQA Guidelines and all relevant terms and conditions set forth in this MOU.
- D. The APPLICANT shall not enter into any form of confidentiality agreement with the CONSULTANT or any other consultant hired to assist with the preparation of the TECHNICAL STUDY / EIR, which prohibits disclosure of information related to substantive land use or environmental issues to the COUNTY. This provision may be waived or modified at the discretion of the COUNTY, if

such an agreement would reveal a trade secret as defined by Government Code Section 6254.7.

V. CONSULTANT'S RIGHTS AND RESPONSIBILITIES

- A. The CONSULTANT shall have an ongoing obligation and commitment to the COUNTY to disclose all information within its Subject Area that is relevant to the environmental consequences of the PROJECT and the preparation of the TECHNICAL STUDIES / EIR. The CONSULTANT shall not omit or withhold any relevant information from the COUNTY at the request of the APPLICANT or for any other reason. The CONSULTANT shall require any CONSULTANT-hired sub-consultant(s) to certify these same obligations and commitments to the COUNTY as a condition of their contract or by signing a copy of this MOU and shall provide a copy of such certification to the COUNTY within ten (10) days of retaining such sub-consultant(s).
- B. The CONSULTANT shall enter into a direct agreement with the APPLICANT for purposes of preparing the TECHNICAL STUDY / EIR, and such agreement shall govern the entire scope of their arrangement. Such agreement shall comply with all terms and conditions set forth in this MOU, and no term therein shall be inconsistent with any provision herein.
- C. The CONSULTANT's responsibility is to provide a complete and accurate TECHNICAL STUDY / EIR. The CONSULTANT's accountability under this MOU shall be solely to the COUNTY, and not to the APPLICANT or to any other person or entity.
- D. The CONSULTANT shall ensure that any sub-consultant(s) hired by the CONSULTANT in conjunction with the preparation of the TECHNICAL STUDY / EIR shall comply with the COUNTY CEQA Guidelines and all relevant terms and conditions set forth in this MOU.
- E. The CONSULTANT shall draft the TECHNICAL STUDY / EIR for the PROJECT in accordance with CEQA, State CEQA Guidelines, COUNTY CEQA Guidelines, relevant COUNTY technical study and EIR content and report formats, and with the directions and specifications set forth by the COUNTY.
- F. The CONSULTANT shall verify and ensure that all TECHNICAL STUDY / EIR documents prepared under its contract utilize accurate and verifiable field techniques and professional work

performance standards, and are in conformance with all applicable CEQA requirements, and all applicable County, State, and Federal rules, regulations and laws.

- G. The CONSULTANT shall verify and ensure that all TECHNICAL STUDY / EIR documents prepared under its contract, including the draft EIR, final EIR, TECHNICAL STUDIES, and response to comments (as applicable), represent its complete and independent professional judgment including all COUNTY direction and provide an analysis of the specific environmental issues, setting, potential impacts, and mitigation measures associated with the PROJECT. Notwithstanding the above responsibility, all CEQA documents shall reflect the independent judgment of the COUNTY. The TECHNICAL STUDY / EIR shall be signed as true and accurate by CONSULTANT.
- H. The CONSULTANT shall disclose any revisions made to the draft TECHNICAL STUDY / EIR and specifically identify any revisions made at the request of the applicant. Unless waived by the COUNTY, all revisions to CEQA documents prior to submittal for public review shall be shown in ~~strikeout~~/underline.
- I. The CONSULTANT shall maintain a record of communications with the APPLICANT related to substantive land use or environmental issues, and such record shall be submitted to the COUNTY for review upon request.
- J. The COUNTY shall retain the right to attend, or participate in, meetings (including conference calls) between the APPLICANT and the CONSULTANT when such meetings include discussion of substantive land use or environmental issues and has the right to request such meetings. The CONSULTANT shall provide the COUNTY with reasonable notice of all such meetings at the earliest time possible and no less than one business day. Upon the request of the COUNTY, the CONSULTANT shall disclose all substantive land use and environmental issues discussed at meetings the COUNTY does not attend. At the discretion of the COUNTY, notice of meetings may be waived in lieu of periodic summary reports disclosing issues discussed.
- K. The CONSULTANT may not be a subsidiary or division of the APPLICANT or have an ownership interest in the proposed PROJECT or any other property or development in which the APPLICANT has a financial interest. Additionally, the CONSULTANT shall not accept performance incentives

associated with a certain density, intensity, or configuration of development. This prohibition does not preclude performance incentives related to project schedules.

- L. The CONSULTANT shall not enter into any form of confidentiality agreement with the APPLICANT or any sub-consultant(s), which prohibits disclosure of information related to substantive land use or environmental issues to the COUNTY. This provision may be waived or modified at the discretion of the COUNTY, if such an agreement would reveal a trade secret as defined by Government Code Section 6254.7.
- M. The CONSULTANT shall always disclose to the COUNTY Project Manager all project related emails and written correspondence between the APPLICANT and CONSULTANT regarding substantive land use or environmental issues, unless waived by the COUNTY.
- N. Upon request from the COUNTY, the CONSULTANT shall submit all field notes, resource documents and supplemental technical studies used in the preparation of the TECHNICAL STUDY / EIR to the COUNTY.
- O. Upon request from the COUNTY, the CONSULTANT shall allow the COUNTY to view its contract with the APPLICANT. The COUNTY maintains the right to require submittal of the contract to the COUNTY. Any cost estimates or hourly rates may be blacked out or omitted.

VI. COUNTY'S RIGHTS AND RESPONSIBILITIES

- A. In accordance with the Public Resources Code Section 21082.1, it is the responsibility of the COUNTY to provide its independent review and analysis of all documentation for the PROJECT prepared and submitted by the CONSULTANT, and sub-consultant(s), and the APPLICANT. This independent review is undertaken for the benefit of the general public and is not intended to relieve the consultant of any of its responsibilities.
- B. The COUNTY shall be responsible for evaluating the extent and detail of topic area discussions in the TECHNICAL STUDY / EIR. The COUNTY shall also be responsible for scheduling and providing the public notice for the public meetings and hearings related to the PROJECT, and for distributing the draft and final EIR or other applicable CEQA document.

- C. The COUNTY shall have the right to reasonable notice and to attend, or participate in, any and all meetings or conference calls as described in paragraph V.J of this MOU, and has the right to request such meetings and be informed of the subject matter.
- D. The COUNTY shall have the right to request copies of any and all correspondence, meeting schedules, minutes, and draft documents generated by the CONSULTANT, any sub-consultant(s) and the APPLICANT, in connection with the preparation of the TECHNICAL STUDY / EIR. Upon request by the COUNTY, the CONSULTANT shall make available to the COUNTY any and all field notes, resource documents, and supplemental technical studies used in the preparation of the TECHNICAL STUDY / EIR.
- E. The COUNTY shall be responsible for reviewing the content of the draft TECHNICAL STUDY / EIR and providing clear and consistent comments on the scope and adequacy of the document in a timely manner. The COUNTY shall strive to provide thorough reviews and comments on initial reviews to avoid raising new issues that should have been known as the project progresses. The COUNTY shall always inform the APPLICANT of comments requiring additional information or substantive changes to the TECHNICAL STUDY / EIR.
- F. At the request of the APPLICANT or CONSULTANT and after completion of the PROJECT, the COUNTY shall provide an evaluation of the CONSULTANT's performance on the project.

VII. EXPIRATION

This MOU shall expire upon any of the following:

- A. The PROJECT and the TECHNICAL STUDY / EIR becomes final by decision of the authorized County decision-maker, all appeal timelines have expired, and all legal challenges associated with the PROJECT and the TECHNICAL STUDY / EIR have been finally adjudicated; or
- B. The PROJECT is withdrawn or denied and all appeal timelines have expired; or
- C. Written notice from the COUNTY, APPLICANT, or CONSULTANT to the other parties to this agreement terminating the MOU.

Notwithstanding expiration of the MOU, all information obtained prior to said expiration shall be disclosed to the COUNTY pursuant to the MOU disclosure requirements. Expiration of the MOU does not relieve the parties of their responsibilities under the MOU for activities that took place prior to the expiration date.

IN WITNESS WHEREOF, the COUNTY, the APPLICANT and the CONSULTANT/FIRM have caused this agreement to be executed. Further, the APPLICANT and CONSULTANT, under penalty of perjury, agree that all documents submitted to the COUNTY are in conformance with all requirements set forth in this MOU.

ATTESTED:

COUNTY OF SAN DIEGO

APPLICANT

Director of Planning

Principal

Dated: _____

Company Name

Dated: _____

CONSULTANT

FIRM

Consultant

Firm Name

Dated: _____

Principal of Firm

Dated: _____

SUB-CONSULTANT

Sub-Consultant Firm Name

Principal of Firm

Dated: _____