

# City of Pasadena

## Environmental Policy Guidelines

Adopted by the City Council on October 21, 2002  
Resolution #8165

City of Pasadena  
Planning and Development Department  
175 North Garfield Avenue  
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## **SECTION 1.0 INTRODUCTION**

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### **1.1 PURPOSE**

The purpose of these environmental guidelines is to describe the City of Pasadena's (City) procedures for administering its responsibility under the California Environmental Quality Act (CEQA), consistent with Section 15022 of the State CEQA Guidelines. CEQA, enacted in 1972 by former Governor Ronald Reagan, is California's broadest environmental law, encompassing six major goals:

- To disclose to the decision maker and the public significant environmental effects of the proposed activities
- To identify ways to avoid or reduce environmental damage
- To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures
- To disclose to the public reasons for agency approvals of projects with significant environmental effects
- To foster interagency coordination on the review of projects
- To enhance public participation in the planning process.

The City of Pasadena is the Lead Agency under CEQA, and through the City Council is responsible for considering the environmental consequences of its discretionary decisions on projects. These guidelines are intended to facilitate the orderly evaluation of projects and the preparation of environmental documents. As lead agent, the City of Pasadena is responsible for the adequacy of its environmental documents.

These guidelines reflect changes to the State CEQA Guidelines made in 1997 and 1998. The State CEQA Guidelines are part of the California Code of Regulations, an official version of which is available on the Internet through the State Office of Administrative Law at <http://ccr.oal.ca.gov/ccrmain.htm>. The State CEQA Guidelines are further supported by discussions prepared by the Governor's Office of Planning and Research (OPR), which are available at <http://ceres.ca.gov/ceqa>.

### **1.2 RELATIONSHIP TO CEQA**

These City guidelines are consistent with and intended to supplement the State guidelines. In the event of a conflict between the State CEQA Guidelines and these guidelines, the State CEQA Guidelines will prevail.

### **1.3 AUTHORITY**

In accordance with Section 15022 (a) (12) of the State CEQA Guidelines, the City of Pasadena has assigned the responsibility for compliance with the State CEQA Guidelines to the Planning and Development Department. The Director of Planning and Development shall designate an employee in this department to perform the duties required of the Environmental Administrator. If no employee is specifically designated, then the Zoning Administrator shall perform these duties.

### **1.4 FEES**

The City may charge and collect a reasonable fee from an applicant to recover the costs incurred by the City in preparing any of the documents and studies required by these guidelines, consistent with Section 15045 of the State CEQA Guidelines. Litigation fees and costs are not recoverable for actions alleging noncompliance with CEQA pursuant to Section 15045 of the State CEQA Guidelines.

### **1.5 REVISIONS**

Section 15022(c) of the State CEQA Guidelines states that the City should revise these guidelines within 120 days after the effective dates of any amendments to the State CEQA Guidelines. However, the City is responsible for conforming to amendments to State CEQA regardless of whether the City has revised these guidelines to conform to those amendments.

### **1.6 ACRONYMS AND DEFINITIONS**

For identification of specific acronyms used throughout this document, please refer to Environmental Administrative Procedures City of Pasadena Section entitled *Glossary of Acronyms*. For definitions of terms used throughout this document, please refer to Section 21.0, *Definitions*.

## **SECTION 2.0**

### **PROJECT REVIEW PROCESS**

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#### **2.1 RELATIONSHIP TO ENVIRONMENTAL REVIEW**

The City has established a preliminary review process to determine whether projects are subject to the California Environmental Quality Act (CEQA) in accordance with Article 5 of the State CEQA Guidelines. Where the City determines that the project is subject to CEQA, the environmental review process (Flowchart 2.1-1, *The Environmental Review Process*) is completed as part of the overall project review process of the City. As part of the environmental review process the City may request more information. Under Section 15060 of the State CEQA Guidelines, requiring such information after the application is deemed complete does not change the status of the application

Once the City has determined that an activity qualifies as a “project” subject to CEQA, it must then determine whether an exemption applies. After determining that a project is exempt under Section 15061(b) of the State CEQA Guidelines, a Notice of Exemption is prepared by the Environmental Administrator (see Section 4.0). Other City departments and divisions may prepare the Notice of Exemption at the review and approval of the Environmental Administrator. The project may then proceed through discretionary reviews, plan checks, and obtaining building permits.

If a project is not exempt from CEQA, the City will ensure the completion of an initial study in order to determine whether the project may have a significant effect on the environment. Given the findings of the initial study, one of the following is prepared for the project:

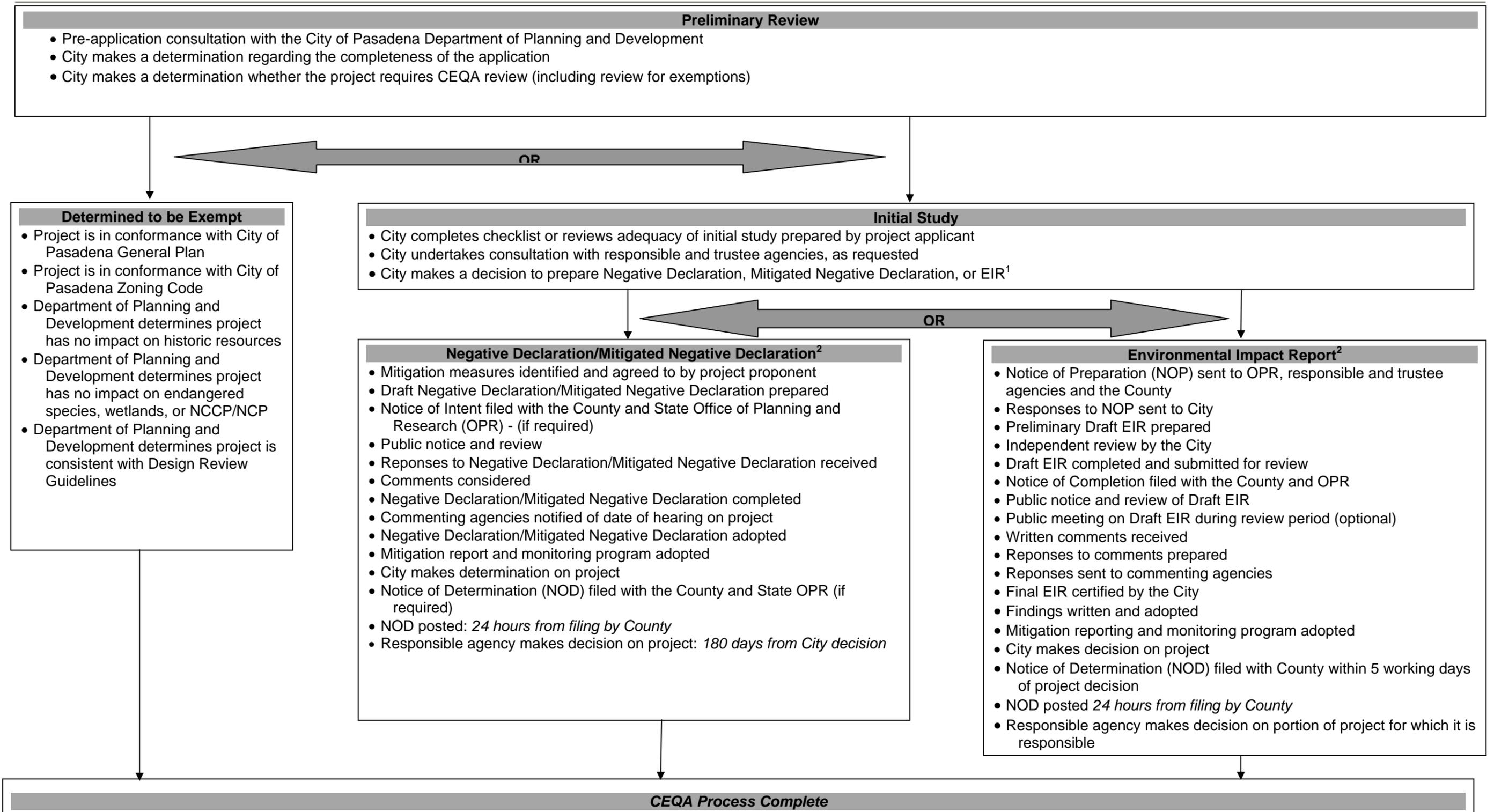
- A Negative Declaration (finding of no significant impacts),
- A Mitigated Negative Declaration (finding of potentially significant effects for which the project’s proponent has made or agrees to make project revisions that clearly mitigate the effects) or
- An Environmental Impact Report (EIR).

Where the City determines that the project is not likely to result in significant impacts that cannot be mitigated to below the level of significance, the City will complete the Negative Declaration [or Mitigated Negative Declaration] in accordance with Article 6 of the State CEQA Guidelines prior to rendering a decision on the project. Under Section 15075 of the CEQA Guidelines, after deciding to carry out or approve a project for which a Negative Declaration or Mitigated Negative Declaration has been approved, the City shall file a notice of determination with the County after deciding to carry out or approve each phase. If the project requires discretionary approval by any State agency, the [City] shall also file with the Governor’s Office of Planning and Research (OPR). The project may then proceed with plan checks and obtaining any building permits.

Where the City determines that a project has the potential to result in significant impacts that may not be able to be mitigated to below the level of significance, the City will complete the EIR process in accordance with Article 7 of the State CEQA Guidelines. The City must certify the technical and procedural adequacy of the EIR prior to rendering a decision on the project. The

EIR is certified by the Environmental Administrator, and may subsequently be recertified by various decision makers who act upon the discretionary entitlements for the project.

**FLOWCHART 2.1-1 - THE ENVIRONMENTAL REVIEW PROCESS<sup>1,2</sup>**



<sup>1</sup> Should the City's Environmental Administrator opt to use an environmental consultant to prepare the environmental document, the consultant's City contract must be executed within 45 days of the NOP being released (PRC 21151.5(b)).

<sup>2</sup> CEQA time limits are described in Section 3 of these guidelines.



**SECTION 3.0**

**SUMMARY OF TIME LIMITS FOR PERMIT REVIEW**

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Section 15022 (a) (13) of the State CEQA Guidelines requires the City to provide time limits for performing functions under CEQA. These time limits are established in Article 8 of the State CEQA Guidelines, and are summarized in Table 3.0-1, *Summary of Time Limits for Permit Review*.

**TABLE 3.0-1 - Summary of Time Limits for Permit Review**

TIME LIMIT	ACTION	TIME LIMIT EXPLANATION	TOTAL TIME
<b>Review of Application for Completeness (Section 15101 of CEQA Guidelines)</b>			
30 days	The City makes a determination regarding completeness of the application, permit, or other entitlement. The City then decides whether the proposed project is exempt or subject to CEQA.	30 days from receipt of application (except as provided in Section 15111 of the <i>CEQA Guidelines</i> )	30 days
<b>Initial Study (Section 15102 of CEQA Guidelines)</b>			
30 (45) <sup>3,4</sup> Days	The City completes the Initial Study and decision to prepare an EIR, Negative Declaration, or Mitigated Negative Declaration.	30 days from acceptance of a complete application. A 15-day extension will be allowed with the consent of the project applicant.	30 (45) days <sup>1</sup>
<b>Negative Declaration/Mitigated Negative Declaration (Sections 15094, 15105 and 15107 of State CEQA Guidelines)</b>			
20-30 <sup>2</sup> Days	Public review period for a proposed Negative Declaration or Mitigated Negative Declaration	Not less than 20 days, unless submitted to the State Clearinghouse, in which case the public review period will not be less than 30 days, unless a shorter period (not less than 20 days) is approved by the State Clearinghouse.	180 days
180 Days	The Negative Declaration or Mitigated Negative Declaration is completed and approved.	Must be completed and approved within 180 days of the date the City accepts the application as complete.	
5 working days	Notice of Determination filed	5 working days after project approval	5 working days
<b>Environmental Impact Report (Sections 15094, 15103, 15104, 15105 and 15108 of State CEQA Guidelines)</b>			
30 days	The City shall convene a meeting with agency representatives to discuss the scope and content of the environmental information a responsible agency will need in the EIR.	As soon as possible, but no later than 30 days after receiving a request for the meeting. The meeting may be requested by the City, a responsible agency, a trustee agency, or by the project applicant.	365 days
30 days	Notice of Preparation (NOP) is sent out and the EIR process begins. Responses to the NOP are sent to the Lead Agency.	Letters of comment on the NOP must be sent to the Lead Agency within 30 days of the date of the NOP.	
30-60 days <sup>4,5</sup>	Draft EIR out for public review	The public review period for a draft EIR shall not be less than 30 days, nor should it be longer than 60 days. When a draft EIR is submitted to the State Clearinghouse for review by State agencies, the public review period shall not be less than 45 days, unless the State Clearinghouse approves a shorter period (not less than 30 days).	
	Responses to public agency comments	10 days before certification of the EIR	
365 days	Final EIR certified by the Lead Agency	365 days from submission of a complete application. The City may have a 90-day extension with approval from the applicant.	
365 days	Final decision on project with EIR	365 days from submission of a complete application	
5 working days	Notice of Determination filed	5 working days after project approval	5 working days

<sup>3</sup> With consent of the project applicant, the City may extend the CEQA time limit to decide if a Negative Declaration or EIR is needed.

<sup>4</sup> With the consent of the project applicant, at their discretion, the Project Manager may extend the public review period for complex projects.

<sup>5</sup> At the discretion of the Environmental Administrator the public review period for the draft EIR may be extended under special circumstances.

## **SECTION 4.0**

### **REVIEW FOR EXEMPTION FROM CEQA**

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#### **4.1 PRELIMINARY REVIEW**

During the preliminary review phase of the environmental review process, the City will normally determine whether CEQA applies to the activity being evaluated based on the information provided in the Master Application Form by the project applicant. During the preliminary screening process, the City shall determine if the activity is a “project” or whether it is exempt.

##### **4.1.1 DETERMINING WHETHER THE ACTION IS A PROJECT UNDER CEQA**

Section 15378 of the State CEQA Guidelines states that a “project” means the whole of an action that has the potential to result in either a direct physical change or a reasonably foreseeable indirect physical change in the environment.

Within the City of Pasadena, an activity that involves any of the following issues will be treated as a “project” pursuant to CEQA:

- Properties listed or eligible for listing in the California Register of Historic Places, or properties designated or eligible for designation under the Pasadena Historic Preservation Ordinance
- Properties known to support or be capable of supporting Federally or State-designated species or State-designated sensitive habitat
- Blue line drainages as described on the relative U.S. Geological Survey (USGS) topographic quadrangle
- Wetlands noted on the National Wetlands Inventory
- Areas included in proposed or adopted Natural Community Conservation Plans or Habitat Conservation Plans
- Properties known or expected to contain hazardous materials, including but not limited to properties listed pursuant to section 65962.5 of the state government code.
- Activities which may not conform to design review guidelines.

Within the City of Pasadena, the following activities are likely to constitute a “project” pursuant to CEQA:

- Public works construction,
- Capital improvements,
- Activities involving clearing and grading of land,
- Improvements (other than minor) to existing public structures,

- Enactment and amendment of zoning ordinances,
- Adoption and amendment of general plans or general plan elements,
- Private activities that involve City of Pasadena contracts, grants, subsidies, loans, or other form of assistance
- Activities that involve City of Pasadena leases, permits, licenses, leases, certificates, or other entitlements of use to a private party.

#### **4.1.2 EXEMPTIONS FROM CEQA**

Having determined that an activity constitutes a project under CEQA, the Environmental Administrator must then determine whether there is an exemption that applies.

The State CEQA Guidelines Article 5 under review for exemption (Section 15061 (b)(3) describes what is known as the “general rule”. The general rule states that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

There are two categories of exemptions described in the Public Resources Code and the CEQA Guidelines:

##### ***Statutory Exemptions***

The State has determined that certain projects are exempt from CEQA if they have the potential to significantly affect the environment. Statutory exemptions are listed in Article 18 of the *State CEQA Guidelines* and summarized in Section 18.0, *Statutory Exemptions*, of this document.

Ministerial Actions are a type of Statutory Exemption. Ministerial Actions include activities or permits over which the City has no discretion to approve or disapprove (See Section 19.0, *Ministerial Actions* of this document).

##### ***Categorical Exemptions***

Article 19 of the State CEQA Guidelines lists categorical exemptions—those projects in which the Resources Agency has determined there will be no significant effects on the environment (see Section 20.0, *Categorical Exemptions*).

## **SECTION 5.0 NOTICE OF EXEMPTION**

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In accordance with Section 15062 of the State CEQA Guidelines, when the Environmental Administrator determines that a project is exempt from CEQA, the City may file a Notice of Exemption after approval of the project.

### **5.1 FILING**

The notice may be filled out and accompany the project application through the approval process. However, the notice shall not be filed with the Los Angeles County Clerk or the Governor's Office of Planning and Research (OPR) until the project has been approved.

The notice should include:

- A description of the project,
- A finding of why the project is exempt,
- Citations to the applicable exemptions in the law or CEQA Guidelines and
- Statements supporting the finding of exemption (State CEQA Guidelines Section 15062).

The County Clerk is required to post the notice within 24 hours of its receipt, and it must be posted for 30 days.

### **5.2 STATUTE OF LIMITATIONS**

The filing and posting of a Notice of Exemption initiate a 35-day statute of limitations period on legal challenges to the City's decision on the project's exemption from CEQA. If a Notice of Exemption is not filed and posted, a 180-day statute of limitations applies. The decision to prepare and approve an exemption may be appealed to the Board of Zoning Appeals. The decision of this Board is final unless called for review by the City Council.



## **SECTION 6.0 INITIAL STUDIES**

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### **6.1 GENERAL INFORMATION**

In accordance with Section 15063 of the State CEQA Guidelines, the Environmental Administrator shall have an initial study conducted after the preliminary review. However, an initial study need not be prepared when an environmental impact report (EIR) is clearly warranted.

The following issues should be taken into consideration in preparation of an initial study:

- All phases of project planning, implementation, and operation must be considered in the initial study.
- To meet the requirements of Section 15063, the lead agency may use an environmental assessment or similar analysis prepared pursuant to the National Environmental Policy Act (NEPA).
- An initial study may rely upon expert opinion supported by facts, technical studies, or other substantial evidence. However, an initial study is neither intended nor required to include the level of detail included in an EIR.

If there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment, the City shall prepare a Negative Declaration.

If the Environmental Administrator determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the City shall do one of the following:

- Prepare an EIR.
- Use a previously prepared EIR, which the City determines would adequately analyze the project at hand.
- Determine, pursuant to a program EIR, tiered EIR, or other appropriate process, which of the project's effects were adequately examined by an earlier EIR or Negative Declaration. Other appropriate processes may include, for example:
  - A master EIR,
  - A master environmental assessment,
  - Approval of housing and neighborhood commercial facilities in urban areas as described in Section 15181 of the State CEQA Guidelines,
  - Approval of residential projects pursuant to a specific plan described in Section 15182 of the State CEQA Guidelines,
  - Approval of residential projects consistent with a community plan, general plan, or zoning as described in Section 15183 of the State CEQA Guidelines or

- An environmental document prepared under a State certified regulatory program.

The City shall then ascertain which effects, if any, should be analyzed in a later EIR or Negative Declaration.

## 6.2 PURPOSE

In accordance with Section 15063 of the State CEQA Guidelines, the specific purposes of an initial study are to:

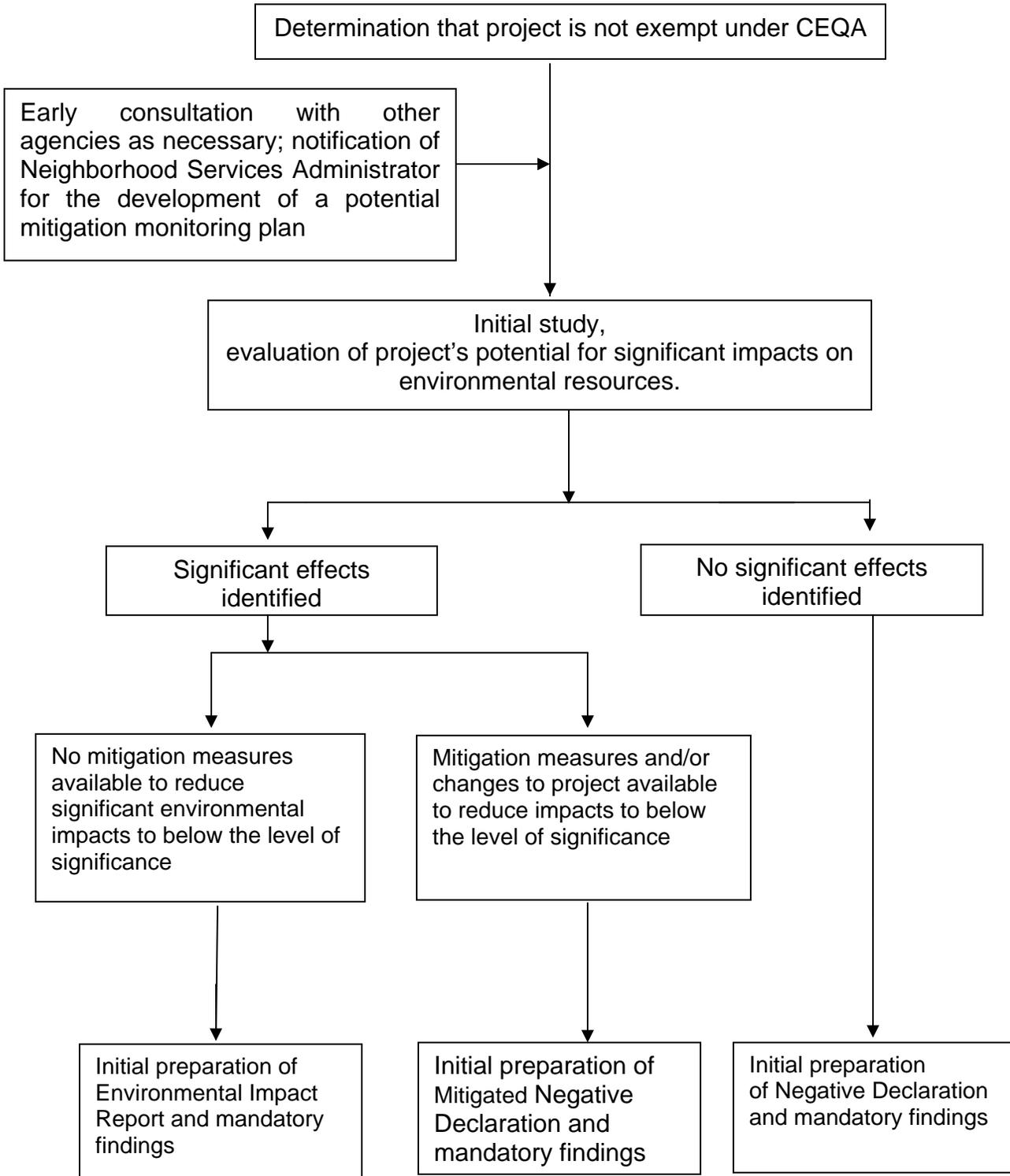
- Provide a basis for deciding whether to prepare a Negative Declaration or EIR;
- Enable an applicant or the City to modify a project in order to mitigate adverse impacts before an EIR is written. This would potentially facilitate preparation of a Negative Declaration or Mitigated Negative Declaration;
- Focus an EIR, if one is required, on the effects determined to be significant;
- Enter substantial evidence into the administrative record regarding those environmental resources where no significant impacts are anticipated.
- Facilitate environmental assessment early in the design of a project;
- Determine whether an earlier or previously prepared EIR could be used for the project, and if so, whether it needs to be amended by an addendum, supplemental or subsequent EIR and
- Determine—if an EIR is required—whether a program, tiered, or master EIR might be appropriate and streamline later reviews.
- Eliminate unnecessary EIR's

It is the responsibility of the Environmental Administrator to have the initial study conducted (and to notify the Neighborhood Services Administrator of the preparation of an initial study) for the development of a potential mitigation monitoring plan. This notification will be done prior to a determination of whether the proposed project will have environmental impacts. The Environmental Administrator may require the applicant to submit studies analyzing specified project impacts, including and without limitation, impacts on regional transportation systems and air quality (amended under Resolution #6884, March 16, 1993).

Before preparing the initial study, the Environmental Administrator shall consult informally with all responsible agencies, trustee agencies, and persons of special expertise, if applicable. A record shall be kept of each consultation. Such consultation may take the form of a Predevelopment Plan Review.

Flowchart 6.3-1, *Initial Study Process*, illustrates the processes associated with the initial study.

**FLOWCHART 6.3-1  
INITIAL STUDY**



## 6.4 DETERMINATION OF SIGNIFICANT EFFECT

"Significant Effect on the Environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. Such conditions include land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance (see Section 2.0 of the *Environmental Administrative Procedures City of Pasadena*, Thresholds of Study and Required Standards and Best Practices).

An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

Tools for determining whether environmental effects are significant include:

- Model Initial Study Checklist (Appendix G of the *State CEQA Guidelines* or Section on, Environmental Forms, in the *Environmental Administrative Procedures City of Pasadena*,
- CEQA's mandatory findings of significance,
- Agency-adopted regulatory standards,
- Consultation with other agencies, and
- Thresholds for Study and Required Standards and Best Practices(see *Environmental Administrative Procedures City of Pasadena*).

## 6.5 MANDATORY FINDINGS OF SIGNIFICANCE

"Mandatory findings of significance" are discussed in Section 15065 of the State CEQA Guidelines. If any of the following conditions occur, the Environmental Administrator shall find that a project may have a significant effect on the environment, and thereby require an EIR to be prepared for the project.

- The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.
- The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- The project has possible environmental effects, which are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

- The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.
- The project has an effect that may cause a substantial adverse change in the significance of a historical resource.

## **6.6 MITIGATION MEASURES**

An EIR will not be required if:

- There are legally enforceable feasible mitigation measures available to reduce substantial adverse environmental impacts to insignificant levels,
- The project is redesigned to incorporate such mitigation measures, and
- There are no other significant impacts.

Instead, the incorporated mitigation measures will ensure that there are no significant environmental effects, and will become part of a Mitigated Negative Declaration. The Neighborhood Services Administrator will be notified of the preparation of an Initial Study for the development of a potential mitigation monitoring plan. This notification will be given prior to a determination on whether the proposed project will have significant environmental impacts.

The mitigation measures become part of the Initial Study, and shall be made available for public review as part of the proposed Mitigated Negative Declaration. They must be incorporated as conditions of the permit or project approval, or as implementation of plans (see Section 9.0 for further information on mitigation measures).

## **6.7 CONSIDERATION AND FINAL DETERMINATION**

If a preliminary determination is made that the proposed project may have a significant effect on the environment, the Environmental Administrator or a person designated by this Administrator shall meet with the applicant in an attempt to agree on acceptable mitigation measures, project alternatives, or changes to the project that would avoid the significant effects identified in the initial study. Where agreement is reached, the initial study shall be revised, reflecting any changes to the project and the agreed-upon mitigation measures to be taken.

The Environmental Administrator shall evaluate the initial study and determine one of the following:

- That the proposed project could not have a significant effect on the environment, and that a Negative Declaration shall be prepared;
- That although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures have been added to the project. A Mitigated Negative Declaration shall be prepared and
- That the proposed project may have a significant effect on the environment, and an EIR should be prepared.



## **SECTION 7.0**

### **NEGATIVE DECLARATIONS AND MITIGATED NEGATIVE DECLARATIONS**

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A proposed finding that the project will not have a significant impact on the environment, This section describes the negative declaration process consistent with Article 6 of the State *CEQA Guidelines*, including the decision to prepare a negative or mitigated negative declaration, contents, notices, public review, consideration and adoption, and notice of determination.

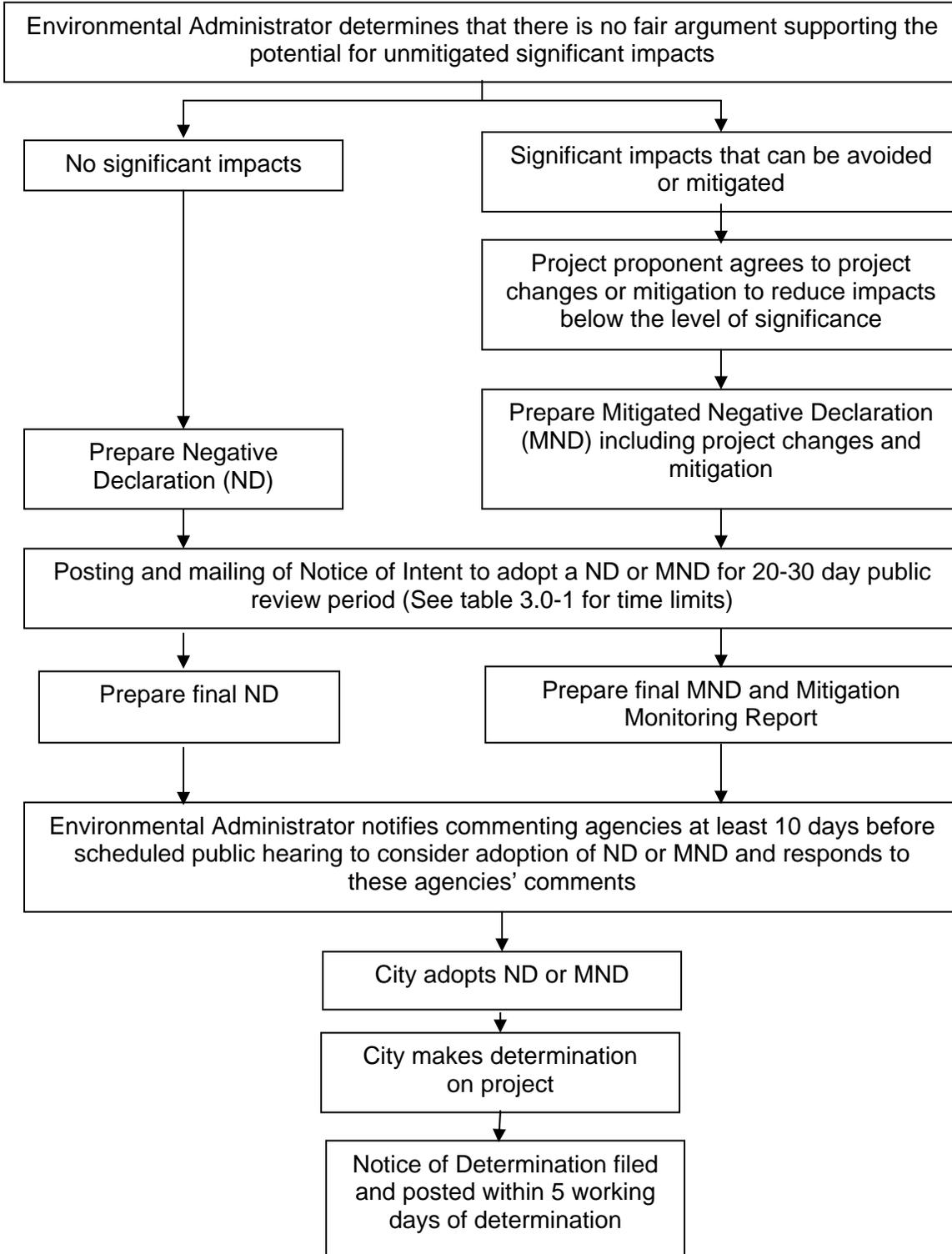
#### **7.1 DECISION TO PREPARE A NEGATIVE DECLARATION AND/OR MITIGATED NEGATIVE DECLARATION**

A negative declaration (ND) is prepared when the Environmental Administrator determines that the initial study shows that there is no substantial evidence in light of the whole record before the City to support a fair argument that the project will cause a significant impact on the environment.

A mitigated negative declaration (MND) may be prepared if the initial study identifies a potentially significant impact or impacts for which the project proponent has made or agrees to make project revisions that would avoid or clearly mitigate these effects to below the level of significance. The MND shall contain all such mitigation measures, required to alleviate or eliminate significant impacts to below the level of significance. An MND shall only be prepared when there is no substantial evidence in light of the whole record before the City to support a fair argument that the project could result in a significant impact on the environment. In approving a project for which an MND has been prepared, the City must make the project revisions and/or mitigation measures conditions of approval.

The process for determining whether to create an ND or MND is illustrated in Flowchart 7.1-1, *The Negative Declaration Process*.

**FLOWCHART 7.1-1  
THE NEGATIVE DECLARATION PROCESS**



## 7.2 CONTENTS

Before circulation for public review, the Environmental Administrator shall review the ND to ensure that the following mandatory elements required pursuant to Section 15071 of the State CEQA Guidelines are provided:

- A brief description of the project, including the commonly used name of the project,
- The location of the project, preferably shown on a map, and the name of the project proponent,
- An attached copy of the initial study documenting reasons to support the findings and
- Mitigation measures, if any included in the project, to avoid potentially significant effects

## 7.3 NOTICE OF INTENT TO ADOPT AN ND OR MND

Pursuant to Section 15072 of the State CEQA Guidelines, the Environmental Administrator shall provide a Notice of Intent to adopt an ND or MND. The Environmental Administrator shall be responsible for providing a Notice of Intent to adopt an ND or MND to the public, responsible agencies, trustee agencies, and the County Clerk of Los Angeles County before consideration of the ND or MND for adoption by the City. The Notice of Intent shall allow the public and agencies the review period provided under Section 15102 of the State CEQA Guidelines. See Table 3.0-1, *Time Limits*.

The Environmental Administrator shall mail a Notice of Intent to adopt an ND or MND to the last known name and address of all organizations and individuals who have previously requested such notices in writing.

The Environmental Administrator shall also give Notice of Intent to adopt an ND by at least one of the following procedures:

- Publication at least one time in a newspaper of general circulation in the area affected by the proposed project,
- Posting on- and off-site in the area in which the project is located or
- Direct mailing to the owners and occupants of the property contiguous to the project, which shall be identified as shown in the latest equalized assessment roll.

For situations which require filing the Notice of Intent with the State Clearinghouse see section 7.4 of these Guidelines.

In accordance with State *CEQA Guidelines* 15072(c), the above procedures shall not preclude the City from providing additional notice by other means, and/or providing the public notice at the same time and in the same manner as may be required by any other laws for the proposed project.

In addition to the requirements of Section 15072 of the State *CEQA Guidelines* the Notice of Intent shall be mailed to all property owners within a 300 foot radius of the project site or to the

mailing radius specified in the project application whichever is stricter. This additional environmental noticing requirement may be combined with direct mailing to the owners and occupants of property contiguous to the project and/or any public notice mailing required for the project application.

The City, as lead agency, is encouraged to make the Notice of Intent available in electronic form on the internet.

The notice shall specify the following:

- A brief description of the proposed project and its location,
- The starting and ending dates for the period during which the City will receive comments on the ND or MND,
- 
- The date, time, and place of any known public meetings or hearings on the proposed project,
- The address or addresses at which a copy of the ND or MND and documents referenced in the initial study and ND or MND are available for review,
- The presence of the site on any of the lists enumerated under Section 65962.5 of the Government Code, including but not limited to hazardous waste facilities, land designation as hazardous waste property, and hazardous waste disposal sites and
- Other information specifically required by statute or regulation for a particular project.

If a public hearing is being held on the proposed project, the Notice of Intent will be combined with the regular public notice on the hearing whenever possible.

#### **7.4 PUBLIC REVIEW OF THE PROPOSED ND OR MND**

The public review period for an ND or MND, initial study, and any mitigation measures shall be not less than 20 days. If a State agency is a responsible or trustee agency, the ND or MND shall be sent to the State Clearinghouse for a 30-day review period. The Environmental Administrator, at his or her discretion, may extend the public review periods for complex projects. A copy of the initial study, draft ND or MND, mitigation measures, mitigation monitoring plan, and any comments received shall be available to the public, and shall be kept at the office of the Environmental Administrator, as well as at the office of the planner or project manager responsible for the project. The Environmental Administrator may also place copies at any public library or City office to facilitate review.

A copy of the initial study, ND, or MND, and any mitigation measures shall be attached to the Notice of Intent sent to all responsible and trustee agencies concerned with the project and every other public agency with jurisdiction over resources affected by the project.

Where one or more State agencies will be responsible or trustee agencies, or will exercise jurisdiction over natural resources affected by the project, or where the project is of area wide, statewide, or regional environmental significance, the lead agency shall send copies of the

Notice of Intent and proposed ND or MND to the State Clearinghouse for distribution to the State agencies. Addresses for the State Clearinghouse are below:

U.S. Mail      State Clearinghouse  
Governor's Office of Planning and Research  
P.O. Box 3044  
Sacramento, CA 95814-3044

Delivery      State Clearinghouse  
Governor's Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

The Notice of Completion Form and Environmental Document Transmittal Form shall be used to transmit a Notice of Intent to the Clearinghouse. This notice can be found online at: [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/appendices.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/appendices.html) and in the *Environmental Administrative Procedures for the City of Pasadena*.

Section 15072 (a) of the *CEQA Guidelines* requires that the City post the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration with:

Los Angeles County Clerk  
12400 East Imperial Highway, Suite 1101  
City of Norwalk, CA 90650

The Notice of Intent shall be posted for a period of at least 20 days. The County Clerk is required to post such notices within 24 hours of receipt. It is recommended that the City require verification of the receipt of the Notice of Intent by the County Clerk.

The standards for recirculation of an ND before consideration for adoption are described in Section 15073.5 of the State *CEQA Guidelines* and are similar to those found in Section 8.10, Recirculation of an EIR Prior to Certification, found in this document.

## **7.5      CONSIDERATION AND ADOPTION OF AN ND OR MND**

In accordance with Section 15074 of the State *CEQA Guidelines*, the Environmental Administrator shall review the administrative record to ensure that there is no substantial evidence in the record to support a fair argument that the project may result in significant effects or impacts on the environment. The Environmental Administrator shall evaluate all comments received from the public and consulted agencies before making a recommendation to the decision making body as to the adequacy of the ND or MND. The Environmental Administrator must respond to any comments from responsible and trustee agencies concerned with the project and comments from every other public agency with jurisdiction over resources affected by the project. The decision making body may then adopt the proposed ND or MND.

The Environmental Administrator shall provide a recommendation regarding adoption of the ND or MND, including any comments and responses deemed necessary to the decision making body. Before rendering a decision on the project for which the ND or MND was prepared, the decision making body shall adopt the ND or MND as adequate.

When adopting an ND or MND, the City shall specify the location and custodian of the documents or other materials that constitute the record of proceeding upon which its decision is based.

At the time of adoption of an ND or MND, the decision making body shall also adopt mitigation measures as conditions of project approval and also adopt a plan for monitoring and reporting on compliance with mitigation measures (see Sections 9.0 and 10.0 of this document).

## **7.6 NOTICE OF DETERMINATION**

Before a final decision has been made to approve a project for which an ND or MND has been adopted, the Environmental Administrator shall prepare or have prepared for filing a Notice of Determination (NOD) to enable staff to meet the five working day filing requirement for NODs in *CEQA Guidelines* Section 15075 (d). In accordance with the specifications described in Section 15075 of the State *CEQA Guidelines*, the NOD must include the following:

- The identification of the project including its common name, where possible, and its location,
- A brief description of the project,
- The date on which the agency approved the project,
- The determination by the City that the project will not have a significant effect on the environment,
- A statement that the ND or MND has been prepared pursuant to the provisions of CEQA and
- The address at which a copy of the ND or MND may be examined.

The Environmental Administrator shall file the NOD with the County Clerk of Los Angeles County within five working days after approval of the project. For those projects requiring approval from any State agency, the NOD shall also be filed with the State Clearinghouse at the Governor's Office of Planning and Research.

## **7.7 TIME LIMITATIONS**

For time limitations on preparing NDs or MNDs, public review periods for NDs and MNDs, and time limitations for filing and posting Notices of Determination, see Table 3.0-1 and Figure 7.1-1.

## **7.8 SUBSEQUENT NDs**

In accordance with State *CEQA Guidelines* Section 15162, when an ND has been adopted for a project, no subsequent ND shall be prepared for that project unless one or more of the following occurs:

- Substantial changes have been proposed to the project that will involve new significant environmental effects or a substantial increase in the severity of previously identified effects.

- Substantial changes have occurred in the circumstances under which the project is to be undertaken. These changes involve new significant environmental effects or a substantial increase in the severity of previously identified effects.
- New information of substantial importance, which was not known and could not have been known at the time the ND was adopted, shows any of the following:
  - The project will have one or more significant effects not discussed in the previous ND.
  - Significant effects previously examined will be substantially more severe than shown in the previous ND.
  - Mitigation measures or alternatives previously found infeasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt them.
  - Mitigation measures or alternatives that are considerably different from those analyzed in the previous document would substantially reduce one or more significant effects, but the project proponents decline to adopt them.

If the project was approved before the occurrence of the conditions listed above, the subsequent ND shall be prepared before the next discretionary approval for the project, if any. In this situation, no other decision making body shall grant an approval for the project until the subsequent ND has been completed.

If the ND has been completed but the project has not yet been approved, the Environmental Administrator shall prepare or initiate preparation of the subsequent ND before the decision making body renders a decision on the project.

A subsequent ND shall receive the same circulation and review as the previous ND, and must state whether the previous document may be viewed.

## **7.9 ADDENDUM TO AN ND**

See Section 11 of this document.



## **SECTION 8.0**

### **ENVIRONMENTAL IMPACT REPORTS (EIRs)**

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Article 7 of the California Environmental Quality Act (CEQA) Guidelines directs that, to the extent possible, the environmental impact report (EIR) process should be combined with the existing planning, review, and project approval process. Flowchart 8.1-1, *Integration of Environmental and Planning Processes*, describes how the City or private developer identifies a need within the community and engages in the planning and environmental process. Article 9 of CEQA describes the information that should be contained in EIRs.

#### **8.1 DECISION TO PREPARE AN ENVIRONMENTAL IMPACT REPORT**

An EIR shall be prepared if the Environmental Administrator (EA) determines that a fair argument can be made that a proposed project may cause a significant effect on the environment as a result of an initial study or preliminary review completed under Section 15060 of the CEQA Guidelines.

The process for preparing an EIR is initiated with circulation of a Notice of Preparation (NOP). Following circulation of the NOP, a draft EIR, which consists of a detailed report describing and analyzing the significant environmental effects of the project and providing recommendations to mitigate the significant effects, is prepared and circulated for public review. A final EIR that is responsive to the comments received from the responsible agencies, trustee agencies, and the public is then prepared for consideration by the decision makers. Upon certification of the EIR and filing of the Notice of Determination, the EIR process is completed. *The EIR Process* (Flowchart 8.1-2) illustrates the key steps in the preparation of an EIR.

Pursuant to Section 15081.5, CEQA requires the City, as the lead agency, to prepare or have prepared an EIR for the following types of projects (an initial study may be prepared to help identify the significant effects of the project):

- The burning of municipal wastes, hazardous wastes, or refuse-derived fuel, including but not limited to tires, if the project is either:
  - The construction of a new facility, or
  - The expansion of an existing facility that burns hazardous waste that would increase its permitting capacity by more than 10%. Exceptions to this requirement are described in Sections 15081.5(a)(1)(B) and 15081.5(a)(1)(C) of the CEQA Guidelines.
- The initial issuance of a hazardous waste facilities permit to a land disposal facility, as defined in subdivision (d) of Section 25199.1 of the Health and Safety Code. Exceptions to this requirement are described in Section 15081.5(a)(2) of the CEQA Guidelines.
- The initial issuance of a hazardous waste facility permit, pursuant to Section 25200 of the Health and Safety Code, to an off-site large treatment facility, as defined pursuant to subdivision (d) of Section 25205.1 of that code. Exceptions to this requirement are described in Section 15081.5(a)(3) of the CEQA Guidelines.

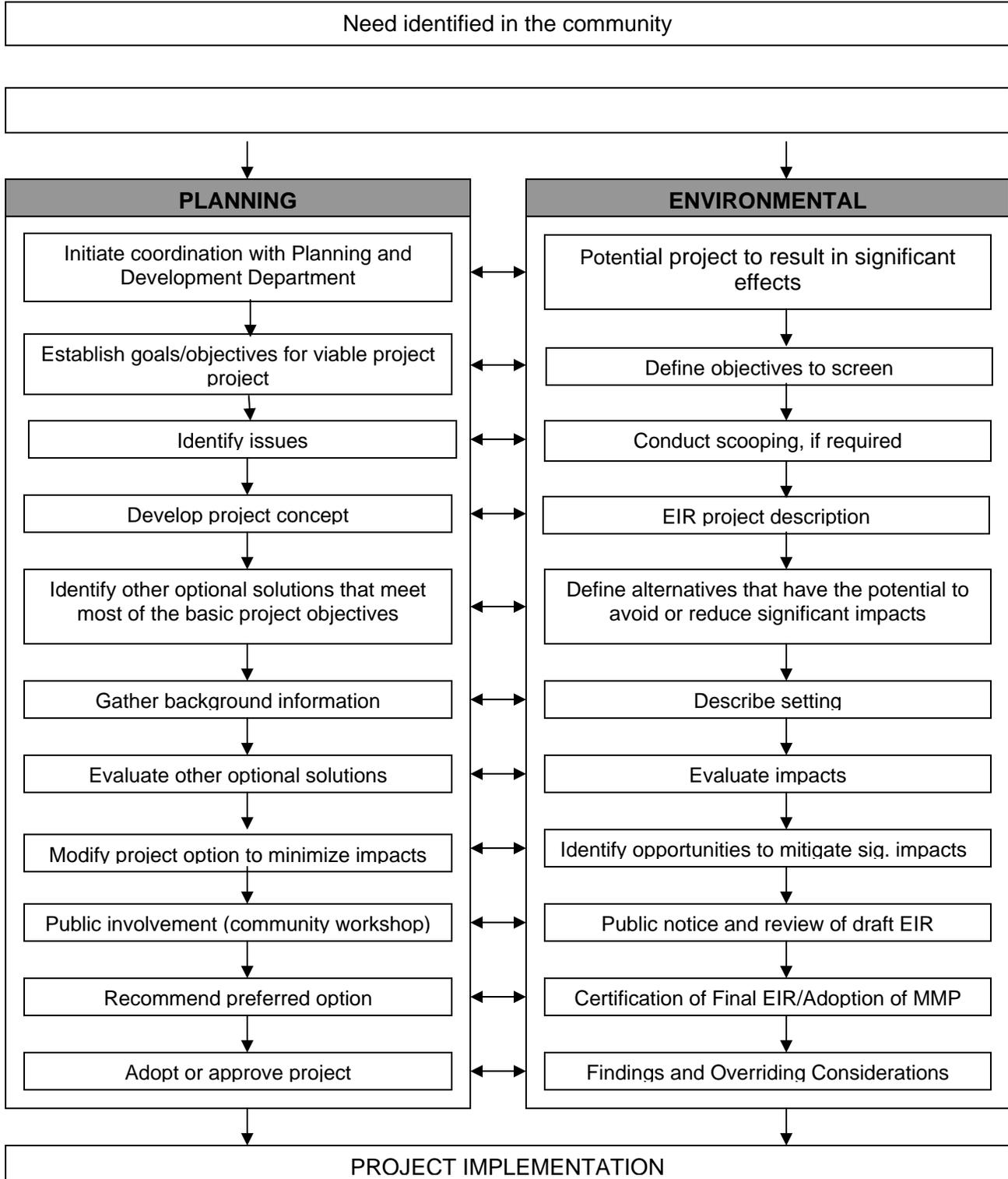
- Any open-pit mining operation that is subject to the permit requirements of the Surface Mining and Reclamation Act (beginning at Section 2710 of the Public Resources Code) and that utilizes a cyanide heap-leaching process for the purpose of extracting gold or other precious metals.
- An initial base reuse plan as defined in Section 15229 of the CEQA Guidelines.

The City, if it is the lead agency, shall prepare or have prepared an EIR for the selection of a California Community College, California State University, or University of California campus location and approval of a long-range development plan for that campus. Specific analysis requirements related to such projects are included in Sections 15081.5(b)(1) and 15081.5(b)(2) of the *State CEQA Guidelines*.

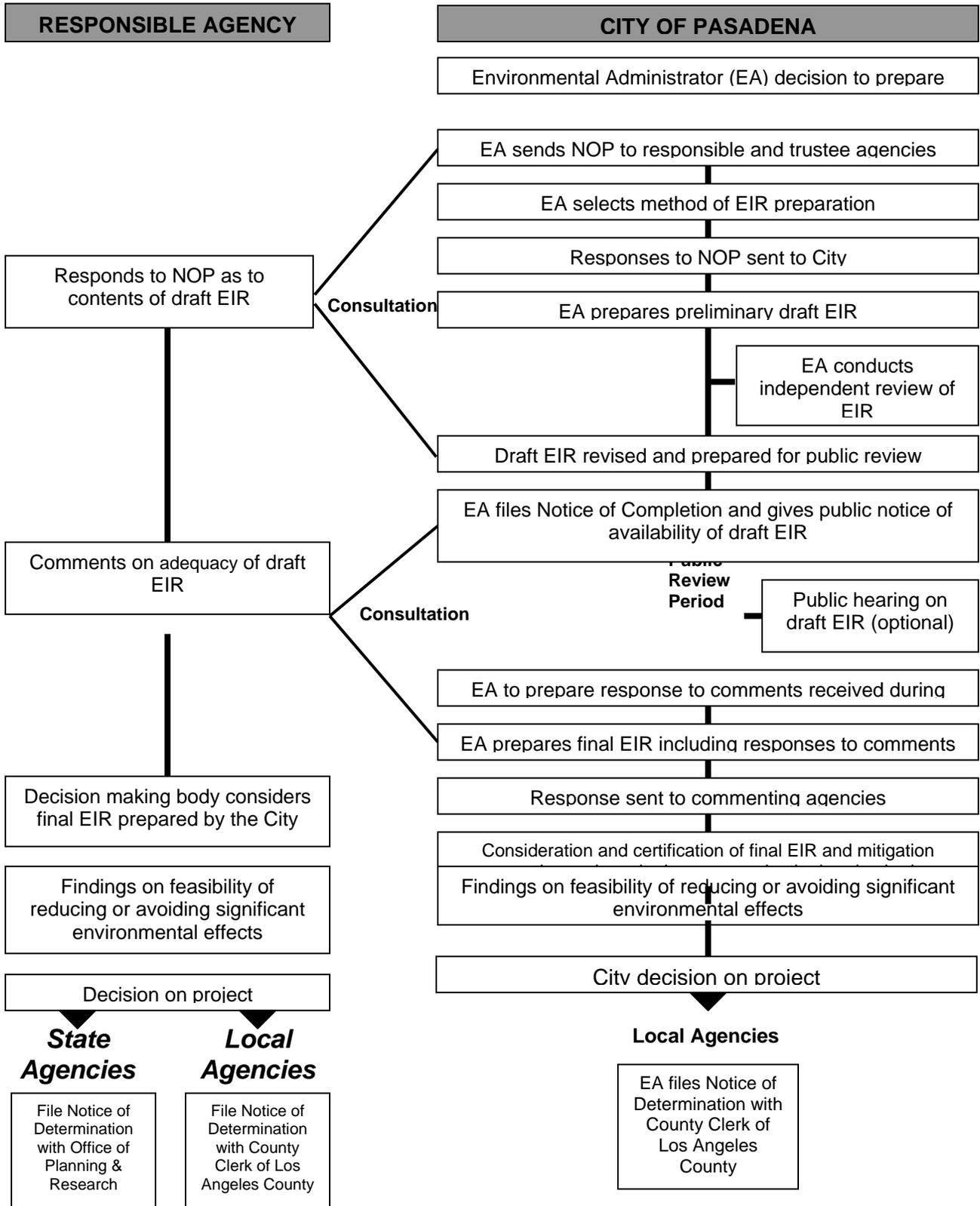
A project that is in substantial conformance to existing zoning and/or within an adopted community plan (see *Environmental Administrative Procedures City of Pasadena* Sections on Required Standards And Best Practices (*Federal, State And Local*) and Sources of Documentation) for which a previous EIR has already been adopted shall not require an EIR unless:

- The project has the potential for significant effects upon the environment that were not addressed in the previous EIR, or
- Substantial new information shows that the effects in the previous EIR will be more significant than analyzed in the previous EIR.

**FLOWCHART 8.1-1  
INTEGRATION OF ENVIRONMENTAL AND PLANNING PROCESSES**



**FLOWCHART 8.1-2  
THE EIR PROCESS**



## 8.2 DETERMINATION OF SCOPE OF EIR

Determining the scope, focus, and content is the first step in preparation of an EIR. This part of the process is facilitated through circulation of a Notice of Preparation (NOP), responses to the NOP, meetings, coordination with the State Clearinghouse, and the assignment of an identification number.

### 8.2.1 NOTICE OF PREPARATION (NOP)

Pursuant to CEQA Guidelines section 15082 immediately after deciding that an EIR is required for a project, the EA shall send to each responsible agency a Notice of Preparation stating that an EIR shall be prepared. "Responsible agency" means a public agency that proposes to carry out or approve a project for which the City is preparing an EIR, and includes all public agencies other than the lead agency that have discretionary approval power over the project or a part of the project.

#### ***Agencies***

The EA shall also send the NOP to every Federal agency involved in approving or funding a project, and to each trustee agency responsible for natural resources affected by the project. "Trustee agency" means a State agency having jurisdiction by law over natural resources affected by a project that are held in trust for the people of the State of California. Trustee agencies include but not limited to:

- The California Department of Fish and Game (CDFG) with regard to fish and wildlife of the State, designated rare or endangered native plants, game refuges, ecological reserves, and other areas administered by the CDFG.
- The California State Lands Commission with regard to State-owned "sovereign" lands such as the beds of navigable waters and State school lands.
- The California Department of Parks and Recreation with regard to units of the State park system.
- The University of California with regard to sites within the Natural Reserve System.

When one or more state agencies are involved the EA shall send 15 copies of the NOP to the State Clearinghouse in the Governor's Office of Planning and Research.

U.S. Mail      State Clearinghouse  
                  Governor's Office of Planning and Research  
                  P.O. Box 3044  
                  Sacramento, CA 95814-3044

Delivery      State Clearinghouse  
                  Governor's Office of Planning and Research  
                  1400 Tenth Street  
                  Sacramento, CA 95814

The EA shall also send a copy of the NOP to the involved state trustee and responsible agencies. The State Clearinghouse shall ensure that the state trustee and responsible agencies respond to the lead agency within the required time.

### ***Other Associations and Persons***

The EA shall also give notice to all affected neighborhood associations, persons who have expressed an interest in the project prior to commencing preparation, and to those persons who may be specially affected by the environmental impact of the project or have filed a written request pursuant to section 15086 of the *State CEQA Guidelines*, in particular, all owners of property adjoining the subject site. These associations and persons may be sent the Notice of Preparation form with out an accompanying initial study. This Notice of Preparation shall state where an initial study, if prepared, is available for review.

### ***Format***

A standardized format for preparation of the NOP is provided in the *Environmental Administrative Procedures City of Pasadena* section on *Environmental Forms* and at the website below. For transmitting the NOP to the State Clearinghouse the Notice of Completion and Environmental Document Transmittal Form shall be used.

The Notice of Completion Form and Environmental Document Transmittal Form can be found online at: [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/appendices.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/appendices.html). This is the preferred transmittal form to use since the information is put directly into the State Clearinghouse Database. This form is also provided in *Environmental Administrative Procedures City of Pasadena* section on *Environmental Forms*.

### ***Contents***

The EA shall provide the responsible agencies with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the NOP to the State Clearinghouse, trustee or responsible agency shall include:

- A description of the project,
- The location of the project indicated on an attached map (preferably a copy of the USGS 7.5 minute series topographical map identified by quadrangle name and USGS coordinates, or, in an urban area, by a street address and Thomas Guide map),
- Probable environmental effects of the project, and
- An Initial Study, if one has been prepared.

### ***Method of Transmittal***

The EA shall use certified mail (or any other method of transmittal that provides a record of receipt) to send copies of the NOP to responsible, Federal, and trustee agencies.

### ***Initiating Preparation of the Draft EIR***

The EA may begin work on the draft EIR immediately without awaiting responses to the NOP. The draft EIR may need to be revised or expanded to conform to responses to the NOP. The EA shall ensure that the draft EIR has considered all timely responses to the NOP prior to circulation for public review.

#### **8.2.2 RESPONSE TO NOP**

Section 15082(b) of the CEQA Guidelines describes the City's responsibilities to provide responses to the NOP issued by another lead agency.

#### **8.2.3 MEETINGS**

In order to expedite the consultation, the EA, a responsible agency, a trustee agency, or a project applicant may request one or more meetings between representatives of the agencies involved. Such meeting(s) would assist the City in determining the scope and content of the environmental information that the responsible agency may require.

If requested, the EA shall convene such a meeting as soon as possible, but no later than 30 days after the meeting was requested.

#### **8.2.4 IDENTIFICATION NUMBER**

The EA shall ensure that the State identification number issued by the Clearinghouse shall be the identification number for all subsequent environmental documents prepared for the project. The EA shall ensure that the identification number is referenced on all subsequent correspondence regarding the project—specifically, on the draft and final EIR and on the Notice of Determination.

#### **8.3 EARLY PUBLIC CONSULTATION (SCOPING)**

Early public consultation may assist the EA in soliciting information from diverse interests to support the technical and procedural adequacy of the environmental analysis. Prior to completing the draft EIR, the EA may consult directly with any person or organization believed to be concerned with the environmental effects of the project. The City maintains a list of homeowners' associations and other organizations that have expressed interest in various projects within the City. The EA shall review this list when considering early public consultation. This early public consultation may be called scoping, which is required when preparing a final EIR/EIS with a Federal agency. Further discussion of the use of scoping is provided in Section 15083 of the CEQA Guidelines.

For any project of statewide, regional or areawide significance the City, as lead agency, must hold at least one scoping meeting. The City must provide notification of the scoping meeting to any county or city bordering Pasadena and any responsible agency, public agency with jurisdiction by law over the project and any organization or individual who has filed a request for notification.

The EA may request the Governor's Office of Planning and Research (OPR) to assist in convening meetings that require State agencies.

### **8.3.1 CITY CONSULTATION WITH WATER AGENCIES**

Pursuant to Section 15083.5 of the CEQA Guidelines, the EA is directed to undertake consultation with affected water agencies at the NOP stage of environmental review when any of the following criteria are applicable:

- Residential developments of more than 500 dwelling units.
- A shopping center or business establishment that will employ more than 1,000 persons or comprise more than 500,000 square feet of floor space.
- A commercial office building that will employ more than 1,000 persons or comprise more than 250,000 square feet of floor space.
- A hotel, motel, or both with more than 500 rooms.
- An industrial, manufacturing, or processing plant or industrial park intended to house more than 1,000 persons, occupy more than 40 acres of land, or comprise more than 650,000 square feet of floor space.
- Any mixed-use project that demands an amount of water equal to or greater than the amount of water needed to serve a 500-dwelling-unit project.

The EA shall ensure that coordination is undertaken with the affected water agency when a project will require the following as part of approval:

- An amendment to or revision of the land use element of the City's General Plan, or of a specific plan, that would result in a net increase in the stated population density or building intensity to provide for additional development
- The adoption of a specific plan, unless the City has previously complied with this section for the project

The EA shall coordinate with the affected water agency when a determination has been made that an EIR is required.

Where the City is required to undertake early consultation with an affected water agency, the EA shall identify any water system that is or may become a public water system, as defined in Section 10912 of the Water Code, which may supply water for the project. The EA shall send a copy of the NOP to each public water system that serves or would serve the proposed project. The EA shall request that the system:

- Indicate whether the projected water demand associated with the proposed project was included in its last urban water management plan, and
- Assess whether its total projected water supplies available during normal, single-dry, and multiple-dry water years, as included in the 20-year projection contained in its urban water management plan, will meet the projected water demand associated with the proposed project, in addition to the system's existing and planned future uses.

The timeline for approval and submittal of a water supply assessment by a public water system to the City is governed by Section 15083.5(c) of the CEQA Guidelines.

The EA shall include within the EIR the public water system's assessment and any other information provided by the water agency, up to a maximum of 10 pages. The EA may independently evaluate the water system's information and shall determine, based on the entire record, whether projected water supplies are sufficient to satisfy the demands of the proposed project, in addition to existing and planned future uses. If the EA determines that water supplies will not be sufficient, the City must include that determination in its findings for the project pursuant to Sections 15091 and 15093.

Pursuant to Section 15083.5(d) (e) of the CEQA Guidelines, "public water system" means a system as defined in Section 10912 of the Water Code with 3,000 or more service connections.

#### **8.4 PREPARER OF THE DRAFT EIR**

When the City is the lead agency and the decision to prepare an EIR is made, the EA shall select any of the following methods for its' preparation:

- Preparing the draft EIR directly with its own staff
- Executing a third-party contract with the applicant to govern the preparation of a draft EIR by an independent contractor
- Using a previously prepared EIR.

These methods for preparation of an EIR are consistent with Section 15084 of the CEQA Guidelines. The selection of an independent contractor and the execution of a third party contract will be governed by the City of Pasadena purchasing and contracting procedures. Whether prepared directly or under contract by the City of Pasadena, the content of a draft EIR shall be as discussed in Article 9 beginning with CEQA Guidelines Section 15120 and discussed further in Section 8 of this document. It is within the discretion of the EA to require the project applicant (or City department) to supply data and information both to determine whether the project may have a significant effect on the environment and to assist the City in preparing the draft EIR. The requested information should include an identification of other public agencies that will have jurisdiction by law over the project. As stated in Section 15084 (c) of the CEQA Guidelines, any person, including the applicant, may submit information or comments to the City to assist in the preparation of the draft EIR. The submittal may be presented in any format, including the form of a draft EIR. The City must consider all information and comments received. The information or comments may be included in the draft EIR in whole or in part.

As required by Section 15084 (e) of the CEQA Guidelines, the City shall subject any draft prepared by another entity to its own independent review of analysis. When using a draft EIR prepared by another entity to support the decision-making process with respect to a project, the City is responsible for the adequacy and objectivity of the draft EIR. The draft EIR that is sent out for public review reflects the independent judgment of the City.

## **8.5 CONTENTS OF THE EIR**

The EIR shall contain the information outlined in Article 9 of the CEQA Guidelines, but the format of the document may vary. Each element must be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.

The EIR may be prepared as a separate document, as part of a general plan, or as part of a project report. If prepared as a part of the project report, it must still contain one separate and distinguishable section providing either analysis of all the subjects required in an EIR or, as a minimum, a table showing where each of the subjects is discussed.

Draft EIRs shall contain the information required by Sections 15122 through 15131 of the CEQA Guidelines, and described in detail in this Environmental Policy Guidelines City of Pasadena. Final EIRs shall contain the same information and the subjects described in Section 15132 of the CEQA Guidelines and described in detail in these Environmental Policy Guidelines.

No document prepared pursuant to this article that is available for public examination shall include a trade secret as defined in Section 6254.7 of the Government Code, information about the location of archeological sites and sacred lands, or any other information subject to the disclosure restrictions of Section 6254 of the Government Code.

### **8.5.1 INFORMATIONAL DOCUMENT**

As described in Section 15121 of the *CEQA Guidelines*, an EIR is an informational document that:

- Informs the City's decision makers and the general public of the significant environmental effect of a project,
- Identifies possible ways or mitigation measures to minimize the significant effects, and
- Describes reasonable alternatives to the project.

The City shall consider the information in the EIR along with other information that may be presented when rendering a decision on the project.

While the information in the EIR does not control the City's ultimate discretion on the project, the City must respond to each potentially significant effect identified in the EIR by making findings (as required by Section 15091 of the CEQA Guidelines) and, if necessary, by making a statement of overriding considerations if one or more of the significant effects cannot be mitigated to below the threshold for significance (consistent with Section 15093 of the CEQA Guidelines).

The information in an EIR may constitute substantial evidence in the record to support the City's action on the project if its decision is later challenged in court.

### **8.5.2 TABLE OF CONTENTS OR INDEX**

As described in Section 15122 of the *CEQA Guidelines*, an EIR shall contain at least a table of contents or an index to assist readers in finding the analyses of different subjects and issues.

### **8.5.3 SUMMARY**

As described in Section 15123 of the *CEQA Guidelines*, an EIR shall contain a brief summary of the proposed action and its consequences. The language of the summary should be as clear and simple as reasonably practical. The summary should normally not exceed 15 pages.

The summary shall identify:

- Each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect,
- Areas of controversy known to the City, including issues raised by agencies and the public, and
- Issues to be resolved, including the choice among alternatives and whether or how to mitigate the significant effects.

### **8.5.4 PROJECT DESCRIPTION**

As described in Section 15124 of the *CEQA Guidelines*, the description of the project shall contain the following information, but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact:

- The precise location and boundaries of the proposed project on a detailed map, preferably topographic, and on a regional map
- A clearly written statement of the objectives sought by the proposed project, which will help the City develop a reasonable range of alternatives to evaluate in the EIR, and will aid the decision makers in preparing findings
- A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals, if any, and supporting public service facilities
- A statement briefly describing the intended uses of the EIR. This statement shall include, to the extent that the information is known to the lead department:
  - A list of the agencies that are expected to use the EIR in decision making,
  - A list of permits and other approvals required to implement the project, and
  - A list of related environmental review and consultation requirements of Federal, State, or local laws, regulations, or policies.

To the fullest extent possible, the City should integrate CEQA review with these related environmental review and consultation requirements.

If the City must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they occur. On request, the OPR will provide assistance in identifying State permits for a project.

### **8.5.5 ENVIRONMENTAL SETTING**

As described in Section 15125 of the *CEQA Guidelines*, an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published, or if no NOP is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which the City determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to establish an understanding of the significant effects of the proposed project and its alternatives.

When preparing an EIR for a plan for reuse of a military base, the City should refer to the special application of the principle of baseline conditions for determining significant impacts contained in *CEQA Guidelines* Section 15229.

Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare, endangered, or unique to that region and that would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed, and it must permit the significant effects of the project to be considered in the full environmental context.

The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to:

- The applicable air quality attainment or maintenance plan (or State Implementation),
- Area-wide waste treatment and water quality control plans,
- Regional transportation plans
- Regional housing allocation plans
- Habitat conservation plans
- Natural community conservation plans.

In addition, the EIR should include an analysis of the project's impacts on the regional transportation system utilizing the transportation impact analysis (TIA) guidelines contained in the most recent Los Angeles County Congestion Management Program adopted by the Los Angeles County Metropolitan Transportation Authority (amended under Resolution #6884, March 16, 1993).

Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions, as well as the potential future conditions discussed in the plan at the time the NOP is published, or if no NOP is published, at the time environmental analysis is commenced, as well as the potential future conditions discussed in the plan.

## **8.5.6 CONSIDERATION AND DISCUSSION OF ENVIRONMENTAL IMPACTS**

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. The subjects listed below shall be discussed as directed in *CEQA Guidelines* Sections 15126.2, 15126.4, and 15126.6, preferably in separate sections or paragraphs of the EIR. If the subjects are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed.

### ***Significant Environmental Effects of the Proposed Project***

As described in Section 15126.2 (a) of the *CEQA Guidelines*, an EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area, as they exist at the time the NOP is published, or where no NOP is published, at the time the environmental analysis is commenced.

The significance of the effect must be based on substantial evidence, not public controversy or speculation. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include:

- Relevant specifics of the area,
- Resources involved,
- Physical changes,
- Alterations to ecological systems,
- Changes induced in population distribution and concentration,
- Human use of the land (including commercial and residential development),
- Health and safety problems caused by the physical changes, and
- Other aspects of the resource base such as water, scenic quality, historic resources, and public services.

The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there.

### ***Significant Environmental Effects That Cannot Be Avoided If the Proposed Project Is Implemented***

As described in Section 15126.2 (b) of the *CEQA Guidelines*, the EIR shall describe any significant impacts, including those that can be mitigated but not reduced to a level of

insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described.

***Significant Irreversible Environmental Changes That Would Be Involved in the Proposed Project Should It Be Implemented***

As described in Section 15126.2 (c) of the *CEQA Guidelines*, uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement that provides access to a previously inaccessible area) generally commit future generations to similar uses. Irreversible damage can also result from environmental accidents associated with the project. Irrecoverable commitments of resources should be evaluated to assure that such current consumption is justified. See Section 8.5.9 of these guidelines or section 15127 of the *State CEQA Guidelines* for limitations on the discussion of irreversible changes.

***Growth-Inducing Impacts of the Proposed Project***

As described in Section 15126.2 (d) of the *CEQA Guidelines*, the EIR shall discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects that would remove obstacles to population growth (a major expansion of a wastewater treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects.

The EIR shall also discuss the characteristics of some projects that may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

**8.5.7 MITIGATION MEASURES PROPOSED TO MINIMIZE SIGNIFICANT EFFECTS**

***Mitigation Measures in General***

As described in Section 15126.4 of the *CEQA Guidelines*, an EIR shall describe feasible measures that could minimize significant adverse impacts, including, where relevant, the inefficient and unnecessary consumption of energy.

The discussion of mitigation measures shall distinguish between:

- The measures that are proposed by project proponents to be included in the project, and
- Other measures proposed by the lead, responsible, or trustee agency or other persons that are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project.

This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

Where several measures are available to mitigate an impact, each should be discussed, and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards that would mitigate the significant effect of the project and that may be accomplished in more than one specified way.

Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F of the *State CEQA Guidelines*.

If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986).

Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

Mitigation measures are not required for effects that are not found to be significant.

Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

- There must be an essential nexus (i.e., connection) between the mitigation measure and a legitimate governmental interest (*Nollan v. California Coastal Commission*, 483 U.S. 825 [1987]).
- The mitigation measure must be roughly proportional to the impacts of the project (*Dolan v. City of Tigard*, 512 U.S. 374 [1994]). Where the mitigation measure is an *ad hoc* exaction, it must be roughly proportional to the impacts of the project (*Ehrlich v. City of Culver City* [1996] 12 Cal.4th 854).

If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

For more information on mitigation measures, see section 9 of these guidelines and section 15126.4 of the *State CEQA Guidelines*.

### ***Mitigation Measures Related to Impacts on Historical Resources***

As described in Section 15126.4 (b) of the *CEQA Guidelines*, where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of the historical resource will be conducted in a manner consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (Weeks and Grimmer 1995), the project's impact on the historical resource shall generally be considered mitigated to below a level of significance, and thus, insignificant.

In some circumstances, documentation of an historical resource by way of historic narrative, photographs, or architectural drawings as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site.

- Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
- Preservation in place may be accomplished by, but is not limited to, the following:
  - Planning construction to avoid archaeological sites
  - Incorporating sites within parks, green space, or other open space
  - Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
  - Deeding the site into a permanent conservation easement.
- When data recovery through excavation is the only feasible mitigation, a data recovery plan that makes provisions for adequately recovering the scientifically consequential information from and about the historical resource shall be prepared and adopted prior to any excavation. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 of the Health and Safety Code.
- Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource. The determination must, however, be documented in the EIR and the studies deposited with the California Historical Resources Regional Information Center.

#### **8.5.8 ALTERNATIVES TO THE PROPOSED PROJECT**

As described in Section 15126.6 (a) of the *CEQA Guidelines*, an EIR shall:

- Describe a range of reasonable alternatives to the project or to the location of the project that would feasibly attain most of the basic objectives but would avoid or substantially lessen any of the significant effects of the project, and
- Evaluate the comparative merits of the alternatives.

An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives that are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination, and

must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).

### **Purpose**

As described in Section 15126.6 (b) of the *CEQA Guidelines*, the purpose of an EIR's discussion of alternatives is to identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1). The EIR shall focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

### **Selection of a Range of Reasonable Alternatives**

As described in Section 15126.6 (c) of the *CEQA Guidelines*, the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. Additional information explaining the choice of alternatives may be included in the administrative record. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process, and briefly explain the reasons underlying the lead agency's determination. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are:

- Failure to meet most of the basic project objectives,
- Infeasibility and
- Inability to avoid significant environmental impacts.

### **Evaluation of Alternatives**

As described in Section 15126.6 (d) of the *CEQA Guidelines*, the EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

### **No-Project Alternative**

As described in Section 15126.6 (e) of the *CEQA Guidelines*, the specific alternative of no-project shall also be evaluated, along with its impact. The purpose of describing and analyzing a no-project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no-project alternative analysis is not the baseline for determining whether the proposed project's

environmental impacts may be significant, unless it is identical to the existing environmental setting analysis that does establish that baseline (see Section 15125).

The no-project analysis shall discuss both:

- The existing conditions at the time the NOP is published, or if no NOP is published, at the time environmental analysis is commenced and
- What would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

If the environmentally superior alternative is the no-project alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

A discussion of the no-project alternative usually proceeds along one of two lines:

- When the project is the revision of an existing land use or regulatory plan, policy, or ongoing operation, the no-project alternative will be the continuation of the existing plan, policy, or operation into the future. Typically, this is a situation wherein other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan or
- If the project is one other than a land use or regulatory plan—for example, a development project on identifiable property—the no-project alternative is the circumstance under which the project does not proceed. Here, the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects that would occur if the project were to be approved. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this no-project consequence should be discussed. In certain instances, the no-project alternative means "no build," wherein the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's nonapproval, and should not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.

After defining the no-project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no-project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

### ***Rule of Reason***

As described in Section 15126.6 (f) of the *CEQA Guidelines*, the range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines

could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

### ***Feasibility***

As described in Section 15126.6 (f) (1) of the *CEQA Guidelines*, among the factors that may be taken into account when addressing the feasibility of alternatives are:

- Site suitability,
- Economic viability,
- Availability of infrastructure,
- General plan consistency, other plans, or regulatory limitations,
- Jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and
- Whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site (or whether the site is already owned by the proponent).

No one of these factors establishes a fixed limit on the scope of reasonable alternatives (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553. See *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).

### ***Alternative Locations***

As described in Section 15126.6 (f) (2) of the *CEQA Guidelines*, the key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases, there may be no feasible alternative locations for a geothermal plant or mining project that must be in close proximity to natural resources at a given location.

Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573).

An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal. App.3d 274).

### **8.5.9 LIMITATIONS ON DISCUSSION OF ENVIRONMENTAL IMPACT**

As described in Section 15127 of the *CEQA Guidelines*, the information required by Section 15126(e) of the *CEQA Guidelines* concerning irreversible changes need be included only in EIRs prepared in connection with any of the following activities:

- The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency,
- The adoption by a local agency, formation, or commission of a resolution making determinations and
- A project that will be subject to the requirement for preparing an Environmental Impact Statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347.

### **8.5.10 EFFECTS NOT FOUND TO BE SIGNIFICANT**

As described in Section 15128 of the *CEQA Guidelines*, an EIR shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were, therefore, not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an initial study.

### **8.5.11 ORGANIZATIONS AND PERSONS CONSULTED**

As described in Section 15129 of the *CEQA Guidelines*, the EIR shall identify all Federal, State, or local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the draft EIR, by contract or other authorization.

### **8.5.12 DISCUSSION OF CUMULATIVE IMPACTS**

#### ***Incremental Effect is Cumulatively Considerable***

As described in Section 15130 (a) of the *State CEQA Guidelines*, an EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Section 15065(c). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

As defined in Section 15355, a cumulative impact consists of an impact that is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts that do not result in part from the project evaluated in the EIR.

When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail. A lead agency shall identify facts and analysis supporting its conclusion that the cumulative impact is less than significant.

An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and, thus, insignificant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of mitigation measure(s) designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the other identified projects contribute rather than on the attributes of other projects that do not contribute to the cumulative impact.

### ***Elements of a Discussion of Cumulative Impacts***

As described in Section 15130 (b) of the *State CEQA Guidelines*, the following elements are necessary to an adequate discussion of significant cumulative impacts.

- **Future Projects/Plans.** The discussion shall include any of the following:
  - A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or
  - A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document that has been adopted or certified, that described or evaluated regional or area wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.
  
- **City Projects.** The City shall maintain a list from which projects will be chosen for cumulative impact analysis, if the list is the primary approach to this analysis. The list shall contain the following:
  - Projects under construction but not yet approved for occupancy;
  - Projects which have received discretionary approval within the past two years but have not yet acted on this approval;
  - Projects for which a discretionary application has been received; and
  - At the discretion of the Environmental Administrator, projects may be added that are preparing to submit a legislative or discretionary application, are of community wide significance and the project is sufficiently defined to analyze.

When utilizing a list, factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project, and its type. Location may be important, for example, when water quality impacts are at issue, since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

Issuance of the Notice of Preparation (NOP) shall serve as the point in time for which the projects and plan projections will be chosen for cumulative impact analysis.

- **A summary of the expected environmental effects** to be produced by those projects, with specific reference to additional information stating where that information is available.
- **A reasonable analysis** of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master, or comparable programmatic plan where the lead agency determines that the regional or area wide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

### **8.5.13 ECONOMIC AND SOCIAL EFFECTS**

As described in Section 15131 of the *CEQA Guidelines*, economic or social information may be included in an EIR, or may be presented in whatever form the City desires.

- **Economic or social effects of a project shall not be treated as significant effects on the environment.** An EIR may trace a chain of cause and effect from a proposed decision on a project, through anticipated economic or social changes resulting from the project, to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in greater detail than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.
- **Economic or social effects of a project may be used to determine the significance of physical changes caused by the project.** For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. As an additional effect of a physical change, if the construction of a road and the resulting increase in noise in an area disturbed existing religious practices in the area, the disturbance of the religious practices could be used to determine that the construction and use of the road and the resulting noise would be significant effects on the environment. The religious practices would need to be analyzed only to the extent to show that the increase in traffic and noise would conflict with the religious practices. Where an EIR uses economic or social effects to determine

that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant.

- **Economic, social, and, particularly, housing factors shall be considered together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR.** If information on these factors is not contained in the EIR, the information must be added to the record in some other manner to allow the City to consider the factors in reaching a decision on the project.

#### **8.5.14 CONTENTS OF FINAL EIR**

As described in Section 15132 of the *CEQA Guidelines*, the final EIR shall consist of:

- The draft EIR or a revision of the draft,
- Comments and recommendations received on the draft EIR, either verbatim or in summary,
- A list of persons, organizations, and public agencies commenting on the draft EIR,
- The responses of the City to written comments and to significant environmental points raised in the review and consultation process and
- Any other information added by the City.

#### **8.6 NOTICE OF COMPLETION**

As described in Section 15085 of the *CEQA Guidelines*, the EA shall file a Notice of Completion and Environmental Document Transmittal Form with the OPR in a printed hard copy or in electronic form on a diskette or by electronic mail transmission as soon as the draft EIR is completed, pursuant to Section 15085 of the State Administrative Code. When one or more state agencies are involved and the EA is sending a hardcopy to the State Clearinghouse in the Governor's Office of Planning and Research, 15 copies of the NOC shall be sent to the Clearinghouse. Addresses for the State Clearinghouse are below:

U.S. Mail      State Clearinghouse  
                  Governor's Office of Planning and Research  
                  P.O. Box 3044  
                  Sacramento, CA 95814-3044

Delivery        State Clearinghouse  
                  Governor's Office of Planning and Research  
                  1400 Tenth Street  
                  Sacramento, CA 95814

The EA shall also send a copy of the NOC to the involved state trustee and responsible agencies. The State Clearinghouse shall ensure that the state trustee and responsible agencies respond to the lead agency within the required time.

The EA shall have a standardized form available for the preparation of a Notice of Completion showing where the EIR will be reviewed through the State review process. The cover form required by the State Clearinghouse shall serve as the Notice of Completion and Environmental Document Transmittal Form. A standard form for preparation of the Notice of Completion and Environmental Document Transmittal Form is available in Appendix C of the *State CEQA Guidelines*. This form is also available in the *Environmental Administrative Procedures City of Pasadena*.

The Notice of Completion shall specify the following information:

- A brief description of the proposed project and its location,
- An address or addresses where copies of the draft EIR are available
- The starting and ending dates for the review period during which the lead agency will receive comments on the draft EIR (if the review period is shortened, the notice shall disclose that fact)
- The date, time, and place of any scheduled public meetings or hearings to be held by the City on the proposed project when known to the City at the time of notice,
- A list of the significant environmental effects anticipated as a result of the project, to the extent that such effects are known to the City at the time of the notice.

## 8.7 CONSULTATION CONCERNING DRAFT EIR

As described in Section 15086 of the *State CEQA Guidelines*, the City is required to consult with and request comments on the draft EIR:

- **Responsible Agencies**, meaning a public agency which proposes to carry out or approve a project, for which the City is preparing or has prepared an EIR. Responsible Agencies include all public agencies other than the City (in its role as the Lead Agency) which have discretionary approval power over the project.
- **Trustee Agencies**, with resources affected by the project.
- Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies which must be consulted as specified in Section 15083.5 of the CEQA Guidelines.
- Any City or County which borders Pasadena. The City of Pasadena is bordered by the City of Los Angeles, the City of Sierra Madre, the City of Arcadia, the City of San Marino, the City of South Pasadena, the communities of Eagle Rock and Highland Park in the City of Los Angeles, the City of Glendale, and the City of La Cañada-Flintridge.
- For a project of statewide, regional, or area wide significance, the transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project. Transportation facilities includes: major local arterials and public transit within five miles of the project site, and freeways,

highways, and rail transit services within 10 miles of the project site. For a subdivision project located within one mile of a facility at the State Water Resources Development System, the California Department of Water Resources.

The City may consult directly with:

- Any person who has special expertise with respect to any environmental impact involved,
- Any member of the public who has filed a written request for notice with the City and
- Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments are required to be supported by specific documentation.

Prior to the close of the public review period, a responsible agency or trustee agency which has identified what that agency considers to be significant environmental effects shall advise the City of these effects. As to those effects relevant to its decision, if any, on the project, the responsible or trustee agency, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the City to appropriate readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state.

## **8.8 PUBLIC REVIEW OF THE DRAFT EIR**

### **8.8.1 CITY PROVISION OF PUBLIC NOTICE OF AVAILABILITY**

As indicated in Section 15087 of the *State CEQA Guidelines*, the City shall provide public notice of the availability of a draft EIR at the same time it sends a Notice of Completion to the OPR. This notice shall be given consistent with the provisions of Section 15105 of the *State CEQA Guidelines*. The review period begins when the EA transmits a Notice of Completion and Environmental Document Transmittal Form along with copies of the draft to OPR. Notice shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing. Notice shall also be given by at least one of the following procedures:

- Publication at least one time by the City in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
- Posting of notice by the City on and off the site in the area where the project is to be located.

- Direct mailing to owners and occupants of property contiguous to the parcel or parcels on which the project is located as those owners are shown on the latest equalized assessment roll.

See also section 8.8.3 Additional Notice below of the *Environmental Policy Guidelines City of Pasadena*.

### **8.8.2 PUBLIC REVIEW PERIOD**

In accordance with section 15105 of the *State CEQA Guidelines* the public review period for a draft EIR is 30 days unless the document is submitted to the State Clearinghouse when the review period shall be no less than 45 days. The public review period shall not exceed 60 days. With the consent of the project applicant, the EA at his or her discretion may extend the period of public review for draft EIRs on complex projects. See also table 3.0-1, Time Limits of this document.

### **8.8.3 ADDITIONAL NOTICE**

In addition to the mandatory noticing requirements specified in Section 15087(a) of the *State CEQA Guidelines*, Section 15087(b) of the *State CEQA Guidelines* allows the City to provide any additional means of noticing it determines to be appropriate. If there is a public hearing or meeting to take comments on the Draft EIR, the Notice of Availability can be combined with the public notice for the hearing or meeting. Verbal comments on the environmental documentation can be taken until the decision is made on the project.

In addition to the requirements of Section 8.8.1 above the Notice of Availability shall be mailed to all property owners within a minimum 300 foot radius of the project site. If the public mailing radius for the project is greater than 300 feet the Notice of Availability shall be mailed to this greater radius. This additional noticing requirement may be combined with direct mailing to the owners and occupants of property contiguous to the project.

The City as lead agent is encouraged to make the Notice of Availability available in electronic form on the internet.

### **8.8.4 NOTICE OF AVAILABILITY REQUIRED INFORMATION**

Section 15087(c) of the *State CEQA Guidelines* describes the information the City must include in the Notice of Availability:

- A brief description of the proposed project and its location,
- The starting and ending dates for the review period during which the lead agency will receive comments. If the review period is shortened, the notice shall disclose that fact,
- The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project when known to the lead agency at the time of notice,
- A list of the significant environmental effects anticipated as a result of the project, to the extent that such effects are known to the lead agency at the time of notice,

- The address or addresses where copies of the EIR and all documents referenced in the EIR will be available for public review. These locations shall be readily accessible to the public during the lead agency's normal working hours,
- The presence of the site on any of the lists of sites enumerated under Section 65962.5 of the Government Code including, but not limited to, lists of hazardous waste facilities, land designated as hazardous waste property, hazardous waste disposal sites and others, and the information in the Hazardous Waste and Substances Statement required under subsection (f) of that Section and
- Other information if specifically required by statute or regulation for a particular project or type of project.

A copy of the draft EIR shall also be available to the public at the City department that is managing preparation of the EIR. Throughout the public review periods a copy of the EIR will be kept at the office of the EA, as well as at the office of the staff person responsible for the project.

### **8.8.5 POSTING WITH THE COUNTY CLERK**

Section 15087(d) of the CEQA Guidelines requires the City to post the Notice of Completion and Notice of Availability with:

Los Angeles County Clerk  
12400 East Imperial Highway Suite 1101  
City of Norwalk, CA 90650

The Notice of Availability shall be posted for a period of at least 30 days. The County Clerk is required to post such notices within 24 hours of receipt. It is recommended that the City require verification of the receipt of the Notice of Availability by the County Clerk.

### **8.8.6 COORDINATION OF PUBLIC REVIEW WITH THE STATE CLEARINGHOUSE REVIEW**

Section 15087(e) of the *CEQA Guidelines* specifies that, in order to provide sufficient time for public review, the review period for a draft EIR shall be as provided in Section 15105 of the *CEQA Guidelines*. The review period shall be combined with the consultation required under Section 15086 of the *CEQA Guidelines*. When a draft EIR has been submitted to the State Clearinghouse, the public review period shall be at least as long as the review period established by the Clearinghouse. A summary of time limits, including review periods, is found in Table 3.0-1 of the City's Environmental Guidelines.

### **8.8.7 STATE CLEARINGHOUSE DISTRIBUTION OF EIRS**

As specified in Section 15087(f) of the *CEQA Guidelines*, public agencies shall use the State Clearinghouse to distribute draft EIRs to state agencies for review and should use area wide clearinghouses to distribute the documents to regional and local agencies.

### **8.8.8 USE OF PUBLIC LIBRARIES FOR REVIEW OF DRAFT EIRS**

As specified in Section 15087(g) of the *CEQA Guidelines*, the City should furnish copies of draft EIRs to public library systems serving the area involved. Copies should also be available in offices of the City Department managing the environmental document.

### **8.8.9 AGENCIES HAVING JURISDICTION/SPECIAL EXPERTISE**

As specified in Section 15087(h) of the *CEQA Guidelines*, a list of public agencies, particularly local agencies, which have jurisdiction by law or special expertise with respect to various projects and project locations is contained in *Environmental Administrative Procedures City of Pasadena* Section on Sources of Information. The EA shall consult this list when determining which agencies to consult with regard to a specific project.

### **8.8.10 PUBLIC HEARINGS OR MEETINGS**

As specified in Section 15087(i) of the *CEQA Guidelines*, although not required, CEQA encourages the City to hold public hearings on environmental documents. For projects being considered by the Planning Commission, the Commission has established a policy whereby it will hold a public hearing or meeting on all EIRs for projects being reviewed by the commission during the comment period. Notice of any such hearing or meeting shall be given by publication at least once in a newspaper of general circulation in the City at least 10 days before the hearing, and by mail to owners of all properties within 300 feet of the site (see section 8.8.3 Additional Notice of these *Guidelines*). Other City of Pasadena commissions or committees shall follow this same procedure, if they desire to publicly take comments on an EIR before making a determination or recommendation on the EIR and then on the project covered in that EIR.

## **8.9 EVALUATION AND RESPONSE TO COMMENTS**

As specified in Section 15088 of the *CEQA Guidelines*, the City shall evaluate comments on environmental issues received from persons who received the draft EIR and shall prepare written responses. The City shall respond to comments received during the noticed comment period and any extensions, and may respond to late written comments. Comments received through the consultation and hearing process shall be included, either verbatim or in summary, in the final EIR together with the response to the significant environmental points raised by such comments. Oral comments received after the public review period but before the determination has been made on the project may be responded to verbally; if received at a public hearing held to make a recommendation or determination on the final EIR and the project it evaluates, provided significant and credible new information on the significance of the project's possible environmental impacts is not brought forth.

The response may take the form of a revision of the draft EIR, or may be a separate section in the final EIR. The response shall describe the disposition of significant environmental issues raised. If the EA's position is at variance with recommendations and objectives raised in the comments, the major issues raised must be addressed, giving reasons why specific comments and suggestions were not accepted.

Comments received shall be kept on file in the office of the EA for a reasonable period, and shall be available for public inspection. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the City should either revise the text in the body of the EIR or include marginal notes showing that the information is revised in the response to comments.

At least 10 days prior to certifying the EIR, the City shall provide a written proposed response to a public agency on that agency's comments.

## **8.10 RECIRCULATION OF AN EIR PRIOR TO CERTIFICATION**

### **8.10.1 DECISION TO RECIRCULATE**

As Specified in Section 15088.5 of the *CEQA Guidelines*, recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 of the *CEQA Guidelines*, but before certification. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. Significant new information could include:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented,
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance,
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it or
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comments were precluded.

Materials to be recirculated may be limited to the changes and/or additions to the EIR if these are limited to a few chapters. If substantial changes are made to the whole of the EIR, then the whole of the revised EIR should be recirculated.

Notice required shall be the same as specified in Section 15087 of the *CEQA Guidelines*, and consultation pursuant to section 15086 of the *CEQA Guidelines* and include any additional notice given by the City for the original public review period. A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

### **8.10.2 RESPONSE TO COMMENTS AFTER RECIRCULATION**

As specified in Section 15088.5 (f) of the *CEQA Guidelines*, the City shall evaluate and respond to comments as provided in Section 15088 of the *CEQA Guidelines*. Recirculating an EIR can result in the City receiving more than one set of comments from reviewers. Following are two ways in which the City may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the City must respond to duplicate comments or comments that are no longer pertinent due to revisions in the EIR. In no case shall the City fail to respond to pertinent comments on significant environmental effects.

When the EIR is substantially revised and the entire EIR is recirculated, the City may require that reviewers submit new comments, and need not respond to those comments received during the earlier circulation period. The City shall advise reviewers, either within the text of the

revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The City shall send directly to every agency, person, or organization that commented on the prior draft EIR a notice of the recirculation, specifying that new comments must be submitted.

When the EIR is revised only in part and the City is recirculating only the revised chapters or portions of the EIR, the City may request that reviewers limit their comments to the revised chapters or portions. The City needs only to respond to:

- Comments received during the initial circulation period that relate to chapters or portions of the earlier EIR that were not revised and recirculated, and
- Comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated.

The City's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

When recirculating a revised EIR, either in whole or in part, the City shall, in the revised EIR or by an attachment to the revised EIR, summarize the revision made to the previously circulated draft EIR.

#### **8.11 PREPARATION OF FINAL EIR**

As Specified in Section 15089 of the *CEQA Guidelines*, the City shall prepare a final EIR before rendering a decision on a project. When the final environmental documents have been completed in accordance with these guidelines and CEQA, the EA shall transmit the same to the decision making body.

The final EIR shall consist of the draft EIR, comments received on the draft EIR, either verbatim or in summary, a list of persons and public agencies commenting on the draft EIR, and the City's response to significant environmental points raised in the review and consultation process. Before approving a project, the City may provide an opportunity for review of the final EIR by commenting agencies and by the public. Notification of a public hearing on the project shall include information about where the final EIR is available for review. The review of a final EIR should focus on the responses to comments on the draft EIR.

#### **8.12 CERTIFICATION OF THE FINAL EIR**

As specified in Section 15090 of the *CEQA Guidelines*, prior to approving a project, the City shall certify that:

- The final EIR has been completed in compliance with CEQA;
- The final EIR was reviewed and considered by the City's decision-making body prior to approving the project, and
- The final EIR reflects the lead agency's independent judgment and analysis.

When an EIR is certified by a non-elected decision-making body within the City (including a Zoning Hearing Officer, the Planning Commission, or any other City Commission), that certification may be appealed to the City Council.

### **8.13 FINDINGS**

As specified in section 15091 of the *State CEQA Guidelines*, the decision-making body of the City shall not approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding, is made. The possible findings are:

- Changes or alterations have been required in, or incorporated into, the project that will avoid or substantially lessen the significant environmental effect(s) as identified in the final EIR. When making the findings required in Subsection (1), the agency shall also adopt a program for reporting on or monitoring the changes it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures,
- Such changes or alterations are within the responsibility and jurisdiction of another public agency, and not the City. Such changes have been adopted by such other agency, or can and should be adopted by such other agency. This finding shall not be made if the City has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives and
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The above required findings shall be supported by substantial evidence in the record. This finding shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

When making the required findings, the City shall also adopt a program for reporting or monitoring the changes which it has either required or made a condition of approval to avoid or substantially lessen significant environmental impacts. These measures shall be fully enforceable permit conditions, agreements or other measures.

The City shall specify the location and custodian of the documents or other materials that constitute the record of the proceedings upon which its decision is based.

In cases where the report identifies one or more significant effects that cannot be reduced to an acceptable level through the imposition of mitigation measures, and the decision making body approves the project, a Statement of Overriding Considerations must be adopted. A Statement of Overriding Considerations as described in Section 15093 of the *CEQA Guidelines* does not substitute for the findings described herein.

## 8.14 APPROVAL

As Specified in Section 15092 of the *CEQA Guidelines*, the City's decision-making body may decide whether or not to approve a project after considering the final EIR and in conjunction with the findings required pursuant to Section 15091 of the *CEQA Guidelines*.

The City's decision-making body shall not decide to approve or carry out a project for which an EIR was prepared unless either:

- The project as approved will not have a significant effect on the environment, or
- The City has:
  - Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091 of the *CEQA Guidelines*, and
  - Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 of the *CEQA Guidelines* are acceptable due to overriding concerns as described in Section 15093 of the *CEQA Guidelines*.

With respect to a project, which includes housing development, the public agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

## 8.15 STATEMENT OF OVERRIDING CONSIDERATIONS

As specified in Section 15093 of the *CEQA Guidelines*, the decision-making body is required to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." When the City approves a project that will result in the occurrence of significant effects that are identified in the final EIR but are not avoided or substantially lessened, the City's decision-making body shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This Statement of Overriding Considerations shall be supported by substantial evidence in the record.

If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval, and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to the Findings required pursuant to Section 15091 of the *CEQA Guidelines* and described in section 8.13 of these guidelines.

## 8.16 NOTICE OF DETERMINATION

As specified in *State CEQA Guidelines* section 15094, within five working days of approval of the project by the City's decision-making body, the EA shall file a Notice of Determination with the Los Angeles County Clerk. A copy of the Notice of Determination shall also be filed with the City Clerk's office and any trustee or responsible agency or public agency having jurisdiction by law over natural resources affected by the project. The filing and posting of the Notice of

Determination starts a 30-day statute of limitations on court challenges to the approval under CEQA.

If the project requires discretionary approval from a State agency, the Notice of Determination shall also be filed with the State Clearinghouse at OPR. See section 8.6 of these guidelines for details on transmitting a NOD to the State Clearinghouse for filing, using the Notice of Completion and Environmental Document Transmittal Form.

A Notice of Determination shall contain:

- An identification of the project, including its common name, where possible, and its location;
- .A brief description of the project;
- The date the City approved the project;
- The City's determination as to whether the project in its approved form will have a significant effect on the environment;
- A statement that an EIR was prepared and certified pursuant to the provisions of CEQA;
- Whether mitigation measures were made a condition of approval;
- Whether Findings were made pursuant to Section 15091 of the *CEQA Guidelines*;
- Whether a Statement of Overriding Consideration was adopted for the project and
- The address where a copy of the final EIR and the record of project approval can be examined.

#### **8.17 DISPOSITION OF A FINAL EIR**

As specified in Section 15095 of the *CEQA Guidelines*, the City shall undertake the following to ensure final disposition of a final EIR:

- File a copy of the final EIR with the appropriate planning agency of any city, county, or city and county where significant effects on the environment may occur;
- Include the final EIR as part of the regular project report which is used in the existing project review and budgetary process if such a report is used;
- Retain one or more copies of the final EIR as public records for a reasonable period of time and
- Require the applicant to provide a copy of the certified, final EIR to each Responsible Agency.

#### **8.18 PROCESS FOR A RESPONSIBLE AGENCY**

The process for the City to fulfill its responsibilities when identified by another public agency as a responsible agency are specified in Section 15096 of the *CEQA Guidelines*.

## **SECTION 9.0 MITIGATION MEASURES**

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### **9.1 CONSIDERATION AND DISCUSSION OF MITIGATION MEASURES PROPOSED TO MINIMIZE SIGNIFICANT EFFECTS**

#### **9.1.1 GENERAL CONSIDERATIONS**

In accordance with Section 15126.4 of the *State CEQA Guidelines*, a Mitigated Negative Declaration (MND) or an Environmental Impact Report (EIR) must describe feasible measures that would avoid or substantially reduce the project's significant adverse impacts, including where relevant the inefficient and unnecessary consumption of energy. The MND or EIR must consider all feasible mitigation measures proposed by the project proponent, and other measures proposed by lead, responsible, and trustee agencies.

Section 15370 of the *State CEQA Guidelines* defines mitigation as:

- Avoiding the impact altogether by not taking a certain action or parts of an action;
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
- Reducing or eliminating the impact over time by preserving and maintaining operations during the life of the action or
- Compensating for the impact by replacing or providing substitute resources or environments.

As specified in Section 15126.4(a) of the *State CEQA Guidelines*, in the discussion of mitigation measures, the MND or EIR shall distinguish between the measures that are proposed by project proponents to be included in the project and other measures proposed by the City, responsible or trustee agencies, or other persons that are not included but the Environmental Administrator (EA) determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project.

Where several measures are available to mitigate an impact, each shall be discussed and the basis for selecting a particular measure shall be identified. Mitigation measures may specify a performance standard that could be accomplished in more than one specified way.

The EA shall ensure that energy conservation measures, as well as other appropriate mitigation measures, are discussed when relevant. Appendix F of the *State CEQA Guidelines* provides examples of energy conservation measures.

The potential for mitigation measures to cause one or more significant effects shall be evaluated in the environmental document, but in less detail than the significant effects of the project as proposed.

The EA shall review the Mitigated Negative Declaration (MND) or EIR prior to circulation for public review to ensure that the mitigation measures are fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

During this review, the EA shall ensure that all mitigation measures are consistent with all applicable constitutional requirements, including the following:

- There must be an essential nexus (i.e. connection) between the mitigation measure and legitimate governmental interest and
- The identified mitigation measures must be roughly proportional to the impacts of the project.

Mitigation measures are not required for effects that are not found to be significant.

## **9.2 MITIGATION MEASURES RELATED TO IMPACTS ON HISTORICAL RESOURCES**

The EA shall evaluate the consistency of proposed projects that include maintenance, repair, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, and Reconstructing Historic Buildings* (Weeks and Grimmer 1995).

In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

The City should, whenever feasible, seek to avoid damaging effects on any historical resources of an archeological nature. In preparing an EIR, the EA shall consider the following measures for projects involving archeological sites.

- In situ preservation is preferred manner of mitigating impacts to archeological sites.
- In situ preservation may be accomplished by, but is not limited to, the following:
  - Planning construction to avoid archeological sites.
  - Incorporation of sites within parks, green space, or other open spaces.
  - Covering the archeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
  - Deeding the site into a permanent conservation easement.
- When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Upon completion, the EA shall ensure that such studies are deposited with:

- Archeological sites known to contain human remains shall be treated in accordance with Section 7050.5 of the Health and Safety Code.
- Data recovery shall not be required for an historical resource if the City determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

The publications “CEQA and Historical Resources” and “CEQA and Archeological Resources” by the Governor’s Office of Planning and Research as part of the *CEQA Technical Advice Series* provides additional guidance related to historical resources.

See also section 8.5.7, Mitigation Measures Proposed to Minimize Significant Effects within this same document.

### **9.3 CONSIDERATIONS IN DESIGNING MITIGATION MEASURES**

In designing mitigation measures, the EA shall consider the following essential elements of effective mitigation measures:

- A clear statement indicating which significant impact will be mitigated by the measure being described and why it is expected to mitigate the impact;
- A clear description of the objective of the measure—specifically, what must be accomplished for the impact to be mitigated. Define a measurable performance by which the success of the mitigation measure can be measured. Provide for a contingent plan of action if the measure is not achieving the specified performance standard;
- The agency, organization, or individual responsible for implementing the measure;
- The specific location at which the mitigation measure is to be undertaken and
- A schedule of implementation of the measure and achievement of performance standards

The EA shall recommend that all feasible mitigation measures be incorporated as a condition of approval of the project.

The EA shall consider incorporation of the following procedures to ensure compliance with specified mitigation measures:

- “Stop Work” orders;
- Denial of building occupancy permits;

- Revocation of project approval;
- Misdemeanor criminal sanctions;
- Performance bonds and
- Recording with County Recorder

#### **9.4 CHALLENGE/APPEAL OF MITIGATION MEASURES**

A project applicant or any other person may challenge in an administrative or judicial proceeding the legality of a mitigation measure imposed as a condition of project approval prior to the expiration of the statute of limitations.

If the challenge succeeds and a mitigation measure is set aside as a condition of approval, and this measure was necessary to reduce or avoid the likelihood of a significant effect on the environment, the City's approval of the EIR or Negative Declaration and project shall be invalid. Invalidation of the approval can be avoided if the City substitutes a new measure that is:

- Equivalent to or as effective as the measure set aside in reducing or avoiding a significant effect on the environment and
- Does not cause any potentially significant effect on the environment.

If the project was approved with an EIR, a Statement of Overriding Considerations may be needed, or, if one has already been approved, it must be changed to reflect any new or increased effects on the environment that may result from the mitigation measure that was set aside.

Setting aside a mitigation measure may require a new environmental review process and a public hearing to consider the approval of any new environmental documentation, mitigation measures, and reapproval the project. This public review shall conform to the time period and notification requirements for either a Negative Declaration or an EIR, and to the notice requirements for the type of project approval needed. In addition public notices shall be sent to property owners within 300 feet of the project

#### **9.5 CHANGING MITIGATION MEASURES AFTER STATUTE OF LIMITATIONS HAS EXPIRED**

Pursuant to Section 15162 of the *State CEQA Guidelines*, a subsequent MND or EIR is required when:

- Mitigation measures previously found not to be feasible would in fact be feasible or
- Mitigation measures different from those analyzed in the EIR would substantially reduce one or more effects on the environment, but the project proponents decline to adopt the mitigation measure.

The subsequent MND or EIR shall be given the same notice and public review as required under Section 15087 or Section 15072 of the *State CEQA Guidelines* and Sections 7.3 Notice of Intent to Adopt An ND or MND and 8.8.3 Additional Notice of this document.

Pursuant to Section 15163 of the *State CEQA Guidelines*, a supplement to an EIR rather than a subsequent EIR can be prepared for a revised mitigation measure if only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Pursuant to Section 15164 of the *State CEQA Guidelines*, an addendum to the EIR may be prepared for a revised mitigation measure if none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or MND are met.



## **SECTION 10.0**

### **MITIGATION MONITORING AND REPORTING PROGRAM**

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#### **10.1 GENERAL CONSIDERATIONS**

Pursuant to Section 15097 of the *State CEQA Guidelines*, a mitigation monitoring or reporting program must be adopted and administered when the City has made the findings required under paragraph (1) of subdivision (a) of Section 15091 of the *State CEQA Guidelines*, relative to the certification of an Environmental Impact Report (EIR) or adoption of a Mitigated Negative Declaration (MND) in conjunction with the approval of a project. In order to ensure that the mitigation measures and project revisions identified in the EIR or MND are implemented, the City has adopted a Conditions and Mitigation Monitoring procedure for monitoring or reporting on the revisions it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. The City may delegate reporting or monitoring responsibilities to another public agency or to a private entity that accepts the delegation. However, until mitigation measures have been completed, the City remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The City may decide whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting, and the program best suited to ensuring compliance in any given instance will usually involve elements of both. The choice of program may be guided by the following:

- Reporting is suited to projects that have readily measurable or quantitative mitigation measures or that already involve regular review. For example, a report may be required upon issuance of final occupancy to a project whose mitigation measures were confirmed by building inspection.
- Monitoring is suited to projects with complex mitigation measures, such as wetlands restoration or archeological protection that may exceed the expertise of the local agency to oversee, are expected to be implemented over a period of time, or require careful implementation to assure compliance.
- Reporting and monitoring are suited to all but the simplest projects. Monitoring ensures that project compliance is checked on a regular basis during and, if necessary, after implementation. Reporting ensures that the approving agency is informed of compliance with mitigation requirements.

Additional information related to programs for monitoring or reporting of a project's compliance with mitigation measures adopted as conditions of approval for a project is provided in "Tracking CEQA Mitigation Measures under AB 3180," printed by the Governor's Office of Planning and Research as part of the *CEQA Technical Advice Series*.

## **10.2 PURPOSE**

The purpose of the adopted mitigation monitoring and reporting program legislation is to:

- Ensure that required mitigation measures are feasible, implemented, and completed.
- Generate information on the effectiveness of mitigation measures so that such measures can be modified if necessary to improve such effectiveness.
- Guide future decision-making.
- Allow agencies and concerned citizens to verify compliance before, during, and after project implementation.

## **10.3 MONITORING REQUIREMENTS**

### **10.3.1 RESPONSIBILITY**

The City's Neighborhood Services Administrator (Administrator) or designee shall have the responsibility of administering all monitoring programs. The Administrator shall ensure that all mitigation measures subject to the provisions of this program are included in a monitoring and reporting plan for all discretionary actions approved by the City. For this purpose, the Administrator may delegate duties and responsibilities to City staff, applicants, and consultants as necessary and consistent with the intent of State law and City procedures. The Administrator shall also have the responsibility of ensuring that monitoring reports are filed in a timely manner, and shall require any corrections for plan violations whenever appropriate. For this purpose, the Administrator shall have the duties of:

- Preparing monitoring and reporting requirements as part of a project's initial study or EIR or review and verifying monitoring and reporting requirements prepared by other City staff or a qualified consultant.
- Verifying compliance with monitoring requirements as appropriate for the mitigation involved.
- Administering contracts, if any, for environmental consultant services for mitigation monitoring programs.
- Coordinating with other trustee agencies, responsible agencies, and those public agencies having jurisdiction by law over natural resources affected by the project to ensure that they provide a monitoring and reporting plan to accompany their recommended conditions. A City is not obligated to design and administer any monitoring and reporting plan for those mitigation measures that are the responsibility of another agency or that are infeasible (Public Resources Code Sections 21081 (b), (c) and 21081.6). In the event that another public agency controls natural resources for which mitigation measures have been imposed, the Administrator shall request the trustee agency to provide the City with a monitoring and reporting plan to accompany the conditions imposed or to make arrangements to have the trustee agency be responsible for monitoring and reporting its own conditions.

The City is currently in the process of creating a master database that carries all of the mitigation measures used by the City. The purpose of this master database will be to distinguish the effective mitigation measures and to make all mitigation measures available for use in future projects.

### **10.3.2 CONTENT**

Mitigation measure monitoring and reporting plans for individual projects shall include, at a minimum, the following elements:

- A list of every mitigation measure identified during the environmental review process as a condition of project approval.
- A time frame in which implementation of each mitigation measure is expected to take place.
- An estimated time frame if the length of implementation of a mitigation measure is uncertain.
- The frequency and duration of monitoring, if a mitigation measure requires frequent or continuous monitoring.
- A list of all the consultants or organizations responsible for monitoring and/or reporting on identified mitigation measures.
- The preparation, where appropriate, of a detailed work program and task assignments for monitoring and reporting.
- Identification of respective responsibilities under the plan for the project proponent, City staff, and hired consultants.
- A description of all costs, funding, and budgeting for the plan.
- All relevant reporting procedures and forms.

### **10.3.3 APPLICABILITY**

This program shall apply to any discretionary action that has been approved by the City after adoption of an MND or certification of an EIR that includes mitigation measures necessary to reduce potentially significant environmental impacts to below a level of significance. Projects that have been determined to be exempt from environmental review under these guidelines or that have received an ND without mitigation measures are exempt from this program. This program is also not applicable to EIRs or MNDs for projects approved before January 1, 1989. However, projects that did not receive their final discretionary approval before that date are subject to this program. This would include phased projects, projects requiring multiple discretionary approvals, and projects that must be reconsidered. Reporting and monitoring plans must be developed to implement mitigation measures in subsequent NDs, addenda to subsequent NDs, or supplemental, subsequent, and addendum EIRs. Such plans must be adopted at the time of project approval. Where a previously approved project is to be amended

or the approval extended, and where new mitigation measures are required as a result of the amendment or extension, reporting and monitoring may be made a condition of such actions.

#### **10.3.4 MITIGATION MEASURES IDENTIFIED AND DEFINED FOR MONITORING PURPOSES**

Before the City adopts a reporting and monitoring plan, the Administrator shall ensure that all mitigation measures that have been imposed on a project as a condition of approval have been included in the proposed monitoring plan. Mitigation measures must be feasible, clear, verifiable, easily understood, and directly related to the project's potential impacts. Clarifications and corrections must be made whenever proposed measures are vaguely stated or unclear. Effective mitigation measures will specify what should be done, who should do it, when the mitigation should be done, and how it should be done.

Additional monitoring plans must be prepared if one or more of the measures mitigate impacts on natural resources that are found to be under the control of another State or local agency. Each agency identified to be responsible for the mitigation of such measures will be asked to provide the City with an adequate monitoring and reporting plan to ensure that mitigation will be properly implemented. Whenever possible, these State or local agencies should be responsible for monitoring their own mitigation measures and informing the Administrator in writing whenever each of their assigned measures has been met.

#### **10.4 ADMINISTRATIVE PROCEDURES**

##### **10.4.1 MONITORING**

It shall be the responsibility of all applicants of projects subject to the provisions of this program to submit to the EA a draft monitoring plan whenever mitigation measures are required as a condition of approval for either an MND or EIR. Before the submission of such draft, the applicant shall consult with all the various agencies, which that will be involved in monitoring the project, including the City. After evaluation and approval of the plan by the decision making body, monitoring shall be performed by City staff as part of the normal building plan check and inspection.

For projects in which compliance with a mitigation measure will require specialized expertise, the City may elect to hire an outside consultant to monitor such a measure. Because monitoring of mitigation measures remains the responsibility of the City, this consultant shall directly report the monitoring of such measures to the City's Neighborhood Services Administrator. In general, each mitigation measure that has been imposed as a condition for project approval and incorporated into a formal monitoring plan must be identified separately on a monitoring checklist signed by the Administrator. This checklist shall constitute the basis of the monitoring plan, and must be submitted by the applicant concurrently with any plan check application for projects that carry mitigation measures as conditions of project approval. Such plans shall be checked by the City for compliance with each mitigation measure identified on the monitoring checklist. The Administrator shall have the duties of supervising all monitoring operations, evaluating performance, and, when appropriate, making necessary adjustments to improve their effectiveness.

## 10.4.2 REPORTING

It shall be the responsibility of each applicant to ensure that the filing of mitigation compliance reports with the Administrator is done in a timely manner pursuant to the reporting and monitoring plan approved for the project. The applicant shall identify a qualified civil engineer, architect, landscape architect, city planner, or land surveyor to provide certification and/or compliance reports for each environmental mitigation measure. A covenant ensuring that such qualified professionals are available to provide certification and/or compliance reports shall run with the land. Should the applicant choose to change the previously designated professional, or should the land be sold/transferred, such covenant may be terminated by the City only after a new agreement is recorded guaranteeing that a qualified professional is available to certify the continuing implementation of such mitigation measures. The reporting of mitigation measure implementation shall be performed through the monitoring checklist, which shall provide spaces for various items used in reporting on the progress of each mitigation measure as it is implemented. Specifically, the monitoring checklist shall include:

- The description of the project as approved in the MND or EIR.
- A list of all the potential adverse environmental impacts of the proposed project.
- A list of all the adopted mitigation measures.
- A list of respective monitoring and reporting actions.
- The agencies responsible for the monitoring of each adopted mitigation measure.
- Relative timing of the implementation of each adopted mitigation measure.
- Evaluation of the effectiveness of adopted mitigation measures.

The checklist for monitoring and reporting on mitigation measures must be flexible enough to allow changes, additions, or alterations as the need arises. A sample checklist is included as Section 7.0, *Environmental Forms*, of the City of Pasadena Environmental Administrative Procedures.

## 10.4.3 TYPES OF MITIGATION REQUIRING MONITORING

Virtually all mitigation measures require some degree of monitoring. Monitoring varies with the type of mitigation and scope of the project. Mitigation measures generally fall under one of the following categories: project design or ongoing. Though the categories require slightly different monitoring techniques, they use the same environmental monitoring checklist.

### **Project Design Mitigation Measures**

These are one-time items that are usually accomplished during project design and construction. Measures of this type will range from the installation of double-pane windows to the construction of retention basins or limitations on a building's size and shape. They are normally incorporated into the building, landscaping, grading, and/or other relevant plans as elements intended to mitigate environmental impacts. Plans are reviewed for compliance with each mitigation measure identified during the environmental review process. If any one or more of the adopted

mitigation measures is not shown, the plans are sent back for corrections. Building, landscaping, grading, and/or other relevant plans will not be approved until each mitigation measure has been incorporated into the project design.

After building permits are issued, but before the final occupancy inspection and before any temporary occupancy permit, the applicant shall submit certified proof that each mitigation measure has been incorporated into the construction project. Certification must be issued by a licensed or certified professional who attests to the City under penalty of perjury that all required mitigation measures have been installed and/or are operating correctly.

### **Ongoing Mitigation Measures**

This type of mitigation measure is usually associated with a project over a period of time. Such measures might range from the installation and maintenance of a dewatering system to the implementation of a transportation demand management plan program. The monitoring of these measures is similar to that of a project-specific mitigation measure, except that the status and performance of each ongoing mitigation is noted at a previously set interval of time until no longer needed. Under these measures, and as a condition of project approval, the applicant shall have a designated qualified professional periodically (monthly, quarterly, or annually) recertify to the City under penalty of perjury that all required mitigation measures continue to be carried out and/or are operating properly.

Pursuant to section 15097 (b) of the *State CEQA Guidelines*, where the project is the adoption of a general plan, specific plan, community plan or other plan-level document (zoning, ordinance, regulation, policy), the monitoring plan shall apply to policies and any other portion of the plan that is a mitigation measure or adopted alternative. The monitoring plan may consist of policies included in the plan-level documents. The annual report on general plan status required pursuant to the Government Code is one example of a reporting program for adoption of the City of Pasadena General Plan and any of its individual elements.

#### **10.4.4 RESPONSIBILITY OF THE ADMINISTRATOR**

City staff is required to review all submitted certifications or recertifications for accuracy and completeness. The Administrator shall verify that all considered certifications or recertifications are filed in a timely manner, and should take appropriate actions whenever such certifications or recertifications are not filed or are erroneous. The progress, completion, or violations of the required mitigation monitoring plan shall be recorded at prescribed intervals by the Administrator. All reports shall be filed in a mitigation plan report file and a copy of every report shall be mailed to the project applicant or designated representative. Reports that identify successful completion of steps or the entire mitigation plan shall be retained in the mitigation monitoring plan report file, and shall be available for public inspection and review at all times. The Administrator shall notify the project applicant of such completion in writing within 10 working days of the receipt of the completion report.

#### **10.4.5 REPORTING AND MONITORING TECHNIQUES**

Depending on the type of mitigation and scale of the project, any or a combination of the following techniques may be used, without limitation, to monitor mitigation measures:

- Visual inspection
- Sampling and testing
- Ongoing or periodic studies
- Reporting
- Plan checking
- Computer simulation/modeling
- Surveys

For simple projects, most monitoring may be done by City staff using the building permit plan check technique to verify the proper implementation of adopted measures. For larger or more complex projects that require more extensive monitoring during and/or after construction, other techniques, such as reporting, visual inspection, or computer simulation, may be used to help in the proper implementation of ongoing mitigation measures.

### **10.5 ENFORCEMENT**

#### **10.5.1 PROCEDURES**

It is the responsibility of the Administrator to oversee and enforce these provisions. The Administrator shall ensure that all adopted mitigation measures have been properly implemented. Violations of any provision of this program shall be immediately corrected.

If, during monitoring, it is determined that the adopted condition(s) or change(s) in the proposed project are not being met so as to mitigate identified environmental impacts, the City may pursue correction of the violation through the following procedures:

- The Administrator shall report the facts surrounding the noncompliance to the Director of Planning and Development;
- Upon receipt of the monitoring report, the Director of Planning and Development may place the report on the next available Code Enforcement Appeals Commission (CEAC) agenda, or may refer the alleged violation to other City departments as appropriate. The Director of Planning and Development shall notify the cited party in writing of any such action, and shall also notify any persons that have requested notification;
- The Code Enforcement Appeals Commission (CEAC) shall consider both the report and any information presented by the applicant, and shall determine whether or not there is in fact violation of project approval;

- If no violation is found, the applicant shall be notified in writing;
- If in fact a violation is found, the applicant shall be notified in writing of the needed corrections, and will be given a reasonable period of time in which to correct the violation and
- If a violation cannot be corrected, or if the applicant fails to correct any violation to the City's satisfaction, the City may pursue legal remedies.

### **10.5.2 PENALTIES**

Mitigation measures may be enforced by any or all of the following techniques without limitations and at the City's discretion:

- A written notification and a demand for correction of the violation by the Administrator.
- The withholding of construction permits.
- Imposition of administrative fines.
- A stop-work order.
- Criminal prosecution and/or civil action.
- The forfeiture of security bonds or other guarantees.
- The review and revocation of use permits or other planning entitlements.

### **10.6 MONITORING PROGRAM REVIEW**

Adequate monitoring is usually set on a case-by-case basis. It is important for any adopted mitigation monitoring plan to be flexible enough to allow changes and/or additions whenever such alterations are required. For this purpose, the Administrator shall review the adequacy of the provisions of this plan for each proposed development, and ordain any necessary changes so that all the adopted mitigation measures are properly implemented. The Administrator shall also periodically review, with the assistance of City staff, the effectiveness of the provisions of this plan in implementing mitigation measures, and advise on any potential changes to the adopted plan to increase its efficiency.

**SECTION 11.0**

**ADDENDUM TO AN EIR OR NEGATIVE DECLARATION**

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Under Sections 15164(a) and 15164(b) of the *State CEQA Guidelines*, the City shall prepare an addendum to a previously certified Environmental Impact Report (EIR) or adopted Negative Declaration (ND) if the environmental document requires minor technical changes or additions that do not raise important new issues about the project's significant effects on the environment, and where no factors are present that would require the preparation of either a subsequent or supplemental document as defined in Section 15162 of the *State CEQA Guidelines*.

Under Section 15164(c) of the *State CEQA Guidelines*, an addendum does not have to be circulated for public review, but shall be included in or attached to the final EIR or adopted ND.

Under Section 15164(d) of the *State CEQA Guidelines*, the decision-making body of the City shall consider the addendum with the final EIR or adopted ND prior to making a decision on the project. The findings for the project should include a brief explanation of why an addendum was prepared instead of a subsequent environmental document. Under Section 15164(e) of the *State CEQA Guidelines*, the explanation must be supported by substantial evidence in the administrative record.



## **SECTION 12.0**

### **SUBSEQUENT EIRs AND NEGATIVE DECLARATIONS**

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#### **12.1 DETERMINATION TO PREPARE SUBSEQUENT ENVIRONMENTAL DOCUMENTS**

Under Section 15162(a) of the *State CEQA Guidelines*, when an EIR has been certified or a negative declaration (ND) adopted for a project, no subsequent EIR or ND shall be prepared for that project unless the City determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- Subsequent changes are proposed to the project which will require important revisions of the previous EIR or ND due to the involvement of new significant environmental impacts not considered in a previous EIR or ND on the project or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken, such as a substantial deterioration in air quality where the project is located, which will require important revisions in the previous EIR or ND due to the identification of new significant environmental impacts not covered in a previous EIR or ND or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance to the project which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or ND was adopted, shows any of the following:
  - The project will have one or more significant effects not discussed previously in the EIR or ND.
  - Significant effects previously examined will be substantially more severe than shown in the EIR or ND.
  - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternatives.
  - Mitigation measures or alternatives that were not previously considered in the EIR or ND would substantially lessen one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternatives.

## **12.2 CHANGE IN PROJECT OR CIRCUMSTANCES**

In accordance with Section 15162 (b) of the *State CEQA Guidelines*, if changes to a project or its circumstances occur or new information becomes available after adoption of an ND, the City shall consider the information and determine whether to prepare:

- A subsequent EIR;
- A subsequent ND;
- An addendum or
- No further documentation.

## **12.3 FINAL CITY APPROVALS**

Once a project has been approved, the City's role in project approval is complete, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. In this situation, no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent ND adopted.

## **12.4 PUBLIC NOTICE AND REVIEW**

Under Section 15162(d) of the CEQA Guidelines, a subsequent EIR or ND shall receive the same circulation and review as the previous EIR. The public notice shall state where the previous document(s) are available for review as well as the subsequent EIR or ND.

## **SECTION 13.0 SUPPLEMENT TO AN EIR**

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A supplement to an EIR provides a short-term method to document minor additions or changes that would be necessary to correct a previously circulated EIR. A supplement to an EIR is distinguished from a subsequent EIR as follows:

- A supplement augments a previously certified EIR to the extent necessary to address the conditions described in section 15162 of the *State CEQA Guidelines* and to examine mitigation and project alternatives accordingly.
- A subsequent EIR, in contrast, is a complete EIR that focuses on the conditions described in Section 15162 of the *State CEQA Guidelines*.

### **13.1 DECISION TO PREPARE A SUPPLEMENT TO AN EIR**

Pursuant to section 15163 (a) of the State CEQA Guidelines, the City may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and
- Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

### **13.2 SCOPE OF THE SUPPLEMENT TO AN EIR**

The supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

### **13.3 NOTICES**

A supplement to an EIR shall be given the same kind of notice and public review as is given a draft EIR under section 15087 of the *State CEQA Guidelines*.

### **13.4 CIRCULATION**

A supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR.

### **13.5 CONSIDERATION**

When the City decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under Section 15091 of the *State CEQA Guidelines* shall be made for each significant effect shown in the previous EIR as revised by the supplemental EIR.



### **14.1 GENERAL**

Under Section 15168(a) of the *State CEQA Guidelines*, the City is advised to prepare a program EIR on a series of actions that can be characterized as one large project and are related in one or more of the following ways:

- Geographically,
- As logical parts in a chain of contemplated actions,
- In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
- As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

### **14.2 ADVANTAGES**

As described in Section 15168(b) of the *State CEQA Guidelines*, use of a program EIR can provide the following advantages. The program EIR can:

- Provide a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,
- Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,
- Avoid duplicative reconsideration of basic policy considerations,
- Allow the City to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts and
- Allow reduction in paperwork.

### **14.3 USE WITH LATER ACTIVITIES**

Under Section 15168(c) of the *State CEQA Guidelines*, the City must examine subsequent activities in the program in light of the program EIR to determine whether an additional environmental document must be prepared.

- If a later activity would have effects that were not examined in the program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration.

- If the City finds no new effects could occur or no new mitigation measures would be required, the City can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. The criteria for making these findings is found in Sections 15162 and 15163 of the *State CEQA Guidelines*.
- The City shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.
- Where subsequent activities involve site-specific operations, the City should use a written checklist or similar device to document the evaluation of the site and activity to determine whether the environmental effects of the operation were covered in the program EIR.
- A program EIR is most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, requiring no further environmental documents.

#### **14.4 USE WITH SUBSEQUENT EIRs AND NEGATIVE DECLARATIONS**

Pursuant to Section 15168(d) of the *State CEQA Guidelines*, the City may use a program EIR to simplify the task of preparing environmental documents on later parts of the program. The program EIR can:

- Provide the basis in an initial study for determining whether the later activity may have any significant effects.
- Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.
- Focus an EIR on a subsequent project to permit discussion solely of new effects which were not considered before.

#### **14.5 NOTICE WITH LATER ACTIVITIES**

The City may later propose to carry out or approve an activity within the program, relying on the program EIR for CEQA compliance. As described in Section 15168(e) of the *State CEQA Guidelines*, when a law other than CEQA requires public notice of this later activity, the notice shall include a statement that:

- The activity is within the scope of the program approved earlier, and
- The program EIR adequately describes the activity for the purposes of CEQA.

## **SECTION 15.0**

### **TIERING**

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Section 15006 of the *State CEQA Guidelines* encourages the City to reduce paperwork and delay by eliminating repetitive discussions of the same issues by using environmental impact reports (EIRs) or programs, policies or plans and tiering from reports of broad scope to those of narrower scope. Tiering can be accomplished through the use of an EIR prepared from an earlier project. Similarly, the *State CEQA Guidelines* allow the City to prepare a master environmental assessment to provide baseline information that may be used or referenced in EIRs and negative declarations (NDs) prepared for individual projects. The City may opt to prepare a master EIR for a plan, such as a general plan or master plan.

#### **15.1 TIERED EIR**

##### **15.1.1 GENERAL CONSIDERATIONS**

In accordance with section 15152 of the *State CEQA Guidelines*, “tiering” refers to:

- Using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan policy statement) with later EIRs and NDs on narrower projects,
- Incorporating by reference the general discussions from the broader EIR, and
- Concentrating the later EIR or ND solely on the issues specific to the later project.

In accordance with section 15152 (b) of the *State CEQA Guidelines*, the City is encouraged to tier the environmental analysis prepared for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or ND on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a general plan, policy, or program of lesser scope or to a site-specific EIR or ND. Tiering does not excuse the City from adequately analyzing reasonably foreseeable significant environmental effects of the project, and does not justify deferring such analysis to a later tier EIR or ND. However, the level of detail contained in a first tier EIR need not be greater than that of the program, policy, or ordinance being analyzed.

According to section 15152 (c) of the *State CEQA Guidelines*, when the City is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g. a specific element, an area plan or community plan), the development of detailed, site-specific information may not be feasible. It can be deferred, in some instances, until the City prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.

Section 15152 (d) of the *State CEQA Guidelines* states that an EIR prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of this section may be used for a later project pursuant to or consistent with the program, plan, policy, or ordinance. In such case the City should limit the EIR or ND on the later project to affects which:

- Were not examined as significant effects on the environment in the prior EIR, or
- Are susceptible to substantial reductions or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or by other means.

In accordance with section 15152 (e) of the *State CEQA Guidelines*, tiering under this section shall be limited to situations where the project is consistent with the general plan and zoning of the City or county in which the project is located, except that a project requiring a rezone to achieve or maintain conformity with a general plan may be subject to tiering.

In accordance with section 15152 (f) of the *State CEQA Guidelines*, a later EIR shall be required when the initial study or other analysis finds that the later project may cause significant effects on the environment that were not adequately addressed in the prior EIR. A ND shall be required when the provisions of Section 15070 of the *State CEQA Guidelines* are met.

- Where a lead agency determines that a cumulative effect has been adequately addressed in the prior EIR, that effect is not treated as significant for purposes of the later EIR or ND, and need not be discussed.
- When assessing where there is a new significant cumulative effect, the lead agency shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present and probable future projects. At this point, the question is not whether there is a significant cumulative impact but whether the effects of the project are cumulatively considerable. For a discussion on how to assess whether project impacts are cumulatively considerable, see Section 15064(i)(1), (2), and (5) of the *State CEQA Guidelines*.

Section 15152 (f) of the *State CEQA Guidelines* states that significant environmental effects have been “adequately addressed” if the City determines any of the following:

- The effects have been mitigated or avoided as a result of the prior EIR and findings adopted in connection with that prior EIR.
- The effects have been examined at a sufficient level of detail in the prior EIR to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

In accordance with section 15152 (g) of the *State CEQA Guidelines*, when tiering is used, the later EIRs or NDs shall refer to the prior EIR and state where a copy of the prior EIR may be examined. The later EIR or ND should state that the City is using the tiering concept and that it is being tiered with the earlier EIR.

### **15.1.2 TYPES OF EIRS SUITABLE FOR TIERING**

In accordance with section 15152 (h) of the *State CEQA Guidelines*, there are various types of EIRs that may be used in a tiering situation. These include, but are not limited to, the following:

- General Plan EIR (*CEQA Guidelines Section 15166*),
- Staged EIR (*CEQA Guidelines Section 15167*),
- Program EIR (*CEQA Guidelines Section 15168*),
- Master EIR (*CEQA Guidelines Section 15175*),
- EIRs for;
  - Multiple-family residential development / residential and commercial or retail mixed-use development (*CEQA Guidelines Section 15179.5*),
  - Redevelopment project (*CEQA Guidelines Section 15180*),
  - Housing / neighborhood commercial facilities in an urbanized area (*CEQA Guidelines Section 15181*) and
  - Projects consistent with community plan, general plan, or zoning (*CEQA Guidelines Section 15183*).

## **15.2 USE OF AN EIR FROM AN EARLIER PROJECT**

In accordance with section 15153 of the *State CEQA Guidelines*, the City may use a single EIR to describe more than one project, if such projects are essentially the same in terms of environmental impact. Further, the City may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the projects are essentially the same.

When the City proposes to use an EIR from an earlier project as the EIR for a separate, later project, the City shall use the following procedures:

- The Environmental Administrator (EA) shall review the proposed project with an initial study, using incorporation by reference if necessary, to determine whether the EIR would adequately describe:
  - The general environmental setting of the project,
  - The significant environmental impacts of the project, and
  - Alternatives and mitigation measures related to each significant effect.
- If the EA believes that the EIR would meet the above requirements, the EA shall provide public review as provided in Section 15087 of the *State CEQA Guidelines* stating that it plans to use the previously prepared EIR as the draft EIR for this project. In addition to the standard notification requirements, the notice shall include at a minimum:
  - Identification of the project with a brief description,
  - A statement that the City plans to use a specific EIR prepared for a previous project as the EIR for this project,
  - A listing of places where copies of the EIR may be examined, and
  - A statement that the key issue is whether the existing EIR should be used for this project and whether there are any additional, reasonable project alternatives or mitigation measures that should be considered as ways of avoiding or reducing the significant effects of the project.

- The EA shall prepare responses to comments received during the review period.
- Before approving the project, the decision-making body in the City shall:
  - Consider the information in the EIR including comments received during the review period and responses to those comments,
  - Decide either on its own or on a staff recommendation whether the EIR is adequate for the project at hand,
  - Make, or require certification to be made, as described in Section 15090 of the *State CEQA Guidelines* and
  - Make EIR findings as provided in Sections 15091 and 15093 of the *State CEQA Guidelines* as necessary.
- After a decision is made on a project, the EA shall file a Notice of Determination.

An EIR prepared for an earlier project may also be used as part of an initial study to document a finding that a later project will not have a significant effect. In this situation a ND will be prepared.

An EIR prepared for an earlier project shall not be used, as the EIR for a later project if any of the conditions described in Sections 15162 and 15163 of the *State CEQA Guidelines* would require preparation of a subsequent or supplemental EIR.

This section is different from tiering in that this process does not involve a series of approvals moving from general to the specific, with EIRs omitting issues fully addressed at the earlier stage. The use of a previously prepared EIR is most appropriate where an EIR prepared earlier for a project is closely similar to the one currently being examined by the lead agency.

### **15.3 MASTER ENVIRONMENTAL ASSESSMENT**

In accordance with section 15169 of *State CEQA Guidelines*, the City may prepare a master environmental assessment, inventory, or database for all, or a portion of, the territory in its control for use in providing information for EIRs and NDs. Neither the content, format, nor procedures to be used to develop a master assessment are prescribed by these guidelines. The descriptions contained in this section are advisory. As described by the *State CEQA Guidelines*, the City would prepare a master environmental assessment to identify and organize environmental information for a region or the City.

A master environmental assessment may contain an inventory of the physical and biological characteristics of the area for which it is prepared and may contain such additional data and information as the City determines is useful or necessary to describe environmental characteristics of an area. It may include identification of existing levels of quality and supply of air and water, capacities and levels of use of existing services and facilities, and generalized incremental effects of different categories of development by type, scale, and location.

#### **15.3.1 PREPARATION**

A master environmental assessment may be prepared in many ways. For example, a master environmental assessment may be prepared as a special comprehensive study of the area

involved, as part of an EIR on a general plan, or as database accumulated by indexing EIRs prepared for individual projects or programs in an area.

The information contained in a master environmental assessment should be reviewed periodically and revised as needed so that it is accurate and current.

When advantageous to do so, master environmental assessments may be prepared through a joint exercise-of-powers agreement with neighboring local agencies or with the assistance of the Southern California Association of Governments.

### **15.3.2 USES**

A master environmental assessment may be used for any of the following:

- To identify the environmental characteristics and constraints of an area. This information can be used to influence the design and location of individual projects.
- To provide information the City can use in initial studies to decide whether certain environmental effects are likely to occur and whether certain effects will be significant.
- To provide a central source of current information for use in preparing individual EIRs and NDs.
- To be referenced and summarized, where portions are relevant, in EIRs and NDs.
- To assist in identifying long range, area wide and cumulative impacts of individual projects proposed in the area covered by the assessment.
- To assist the City in formulating a general plan or any element of such a plan by identifying environmental characteristics and constraints that need to be addressed in the general plan.
- For use as a reference document to assist public agencies in the review of other environmental documents dealing with activities in the area covered by the assessment. The City should forward a completed copy of the assessment to each agency, which reviews projects in the area.

## **15.4 MASTER EIR**

Article 11.5 of the *State CEQA Guidelines* describes the master EIRs, their contents, and the evaluation of subsequent projects within the scope of the master EIR or identified in the master EIR.

### **15.4.1 PURPOSE**

In accordance with section 15175 of the *State CEQA Guidelines*, the master EIR is an alternative to preparing a project EIR, tiered EIR or program EIR for certain projects that will form the basis for later decision making. It is intended to streamline later environmental review of projects, which have been adequately analyzed in the master EIR. It may be prepared for approval of a project included within the project, plan, or program analyzed in the master EIR.

Accordingly, a master EIR shall, to the greatest extent feasible, evaluate the cumulative impacts, growth-inducing impacts, and irreversible significant effects on the environment of subsequent projects.

According to Section 15175 (b) of the *State CEQA Guidelines*, the City may prepare a master EIR for any of the following classes of projects:

- A general plan, general plan update, general plan element, general plan amendment, or specific plan.
- Public or private projects that will be carried out or approved pursuant to, or in furtherance of, a redevelopment plan.
- A project that consists of smaller individual projects, which will be carried out in phases.
- A rule or regulation, which will be implemented by later projects.
- Projects that will be carried out or approved pursuant to a development agreement.
- A state highway project or mass transit project which will be subject to multiple stages of review or approval.
- A plan proposed by the City, including a joint powers authority, for the reuse of a federal military base or reservation that has been closed or is proposed for closure by the Federal government.
- A regional transportation plan or congestion management plan

According to section 15175 (c) of the *State CEQA Guidelines*, the City may develop and implement a fee program in accordance with applicable provisions of law to generate the revenue necessary to prepare a master EIR.

#### **15.4.2 CONTENTS**

In preparation of a master EIR, the EA shall ensure that inclusion of the following mandatory elements:

- As indicated in Section 15126 of the *State CEQA Guidelines*, the master EIR, like other EIRs, must consider all phases of the project, when evaluating the potential for impacts on the environment: planning, acquisition, development, and operation.
- According to section 15176 (b) of the *State CEQA Guidelines*, a description of anticipated subsequent projects that are within the scope of the master EIR, including information with regard to the kind, size, intensity, and location of the subsequent projects, including but not limited to all of the following:
  - The specific type of project anticipated to be undertaken, such as single-family development, office-commercial development, sewer line installation or other activities.

- The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and, with regard to a public works facility, its anticipated capacity and service area.
  - The anticipated location for any subsequent development projects, and, consistent with the rule of reason set forth in Section 15126 and 15126 (d)(5) of the *State CEQA Guidelines*, alternative locations for any such projects.
  - A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects, or an explanation as to why practical planning considerations render it impractical to identify any such program or scheduling or other device at the time of preparing the master EIR.
- As described in section 15176 (c) of the *State CEQA Guidelines*, a description of potential impacts of anticipated projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master EIR. This description shall not be construed as a limitation on the impacts which may be considered in a focused EIR.
  - As stated in section 15176 (d) of the *State CEQA Guidelines*, where a master EIR is prepared in connection with a project identified in section 15175 (b)(1) of the *State CEQA Guidelines*, the anticipated subsequent projects included within a master EIR may consist of later planning approvals, including parcel-specific approvals, consistent with the overall planning decision (e.g., general plan, or specific plan, or redevelopment plan) for which the master EIR has been prepared. Such subsequent projects shall be adequately described for purposes of subdivision (b) or of section 15176 of the *State CEQA Guidelines* if the master EIR and any other documents embodying or relating to the overall planning decision identify the land use designations and the permissible densities and intensities of use for the affected parcel(s). The proponents of such subsequent projects shall not be precluded from relying on the master EIR solely because that document did not specifically identify or list, by name, the subsequent project as ultimately proposed for approval.

#### **15.4.3 SUBSEQUENT PROJECTS WITHIN THE SCOPE OF THE MASTER EIR**

In accordance with Section 15177 of the *State CEQA Guidelines*, this section describes the circumstances under which the master EIR can be applied to the subsequent projects which are within its scope, avoiding the need to prepare a subsequent EIR or ND.

In accordance with Section 15177 (a) of the *State CEQA Guidelines*, after a master EIR has been prepared and certified, subsequent projects which the City determines as being within the scope of the master EIR will be subject to only limited environmental review.

- Neither a new environmental document nor the preparation of findings pursuant to Section 15091 of *State CEQA Guidelines* shall be required of a subsequent project when the following requirements are met (*CEQA Guidelines* section 15177 (b)):
  - The lead agency for the subsequent project is the City or any responsible agency identified in the master EIR;
  - The City is the lead agency for the subsequent project and prepares an initial study on the proposal. The initial study shall analyze whether the subsequent project was described in the master EIR and whether the subsequent project may cause any

additional significant effect on the environment which was not previously examined in the master EIR (Section 15177 (b) (2) of the *State CEQA Guidelines*).

- The City considers the subsequent project and determines, on the basis of written findings, that no additional significant environmental effect will result from the proposal, no new additional mitigation measures or alternatives may be required, and that the project is within the scope of the master EIR. "Additional significant environmental effect" means any project-specific effect which was not addressed as a significant effect in the master EIR (Section 15177 (b) (3) of the *State CEQA Guidelines*).
- Whether a subsequent project is within the scope of the master EIR is a question of fact to be determined by the EA based upon a review of the initial study to determine whether there are additional significant effects or new additional mitigation measures or alternatives required for the subsequent project that are not already discussed in the master EIR (Section 15177 (c) of the *State CEQA Guidelines*).
- Prior to approval of the proposed subsequent project, the EA shall incorporate all feasible mitigation measures or feasible alternatives appropriate to the project as set forth in the master EIR and provide notice in the manner required by Section 15087 of the *State CEQA Guidelines* (Section 15177 (d) of the *State CEQA Guidelines*).
- When the City approves a project pursuant to this section, the City shall file a notice in the manner required by Section 15075 of *State CEQA Guidelines* (Section 15177 (e) of the *State CEQA Guidelines*).

#### **15.4.4 SUBSEQUENT PROJECTS IDENTIFIED IN THE MASTER EIR/USE OF FOCUSED EIR**

In accordance with section 15178 of the *State CEQA Guidelines*, this section discusses the circumstances under which the master EIR must be supplemented with either a focused EIR or a Mitigated Negative Declaration (MND) before it can be applied to subsequent projects. This section only applies to subsequent projects that are within the scope of the master EIR and whose cumulative impacts, growth-inducing impacts and irreversible significant effects have been sufficiently analyzed in the master EIR

- When a proposed subsequent project is identified in the master EIR, but the City cannot make a determination pursuant to Section 15177 of the *State CEQA Guidelines* that the subsequent project is within the scope of the master EIR, and the City determines that the cumulative impacts, growth-inducing impacts and irreversible significant effects analysis in the master EIR is adequate for the subsequent project, the lead agency shall prepare a MND or a focused EIR if, after preparing an initial study, the lead agency determines that the project may result in new or additional significant effects. Whether the cumulative impacts, growth-inducing impacts and irreversible significant effects analyses are adequate is a question of fact to be determined by the lead agency based upon a review of the proposed subsequent project in light of the master EIR (Section 15178 (a) of the *State CEQA Guidelines*).
- The City shall prepare a MND for any proposed subsequent project if both of the following occur (Section 15178 (b) of the *State CEQA Guidelines*):

- The initial study prepared pursuant to Section 15177 of the *State CEQA Guidelines* has identified potentially new or additional significant environmental effects that were not analyzed in the master EIR (Section 15178 (b) (1) of the *State CEQA Guidelines*).
- Feasible mitigation measures or alternatives will be incorporated to revise the subsequent project before the ND is released for public review pursuant to Section 15073 of the *State CEQA Guidelines* in order to avoid or mitigate the identified effects to a level of insignificance (Section 15178 (b) (2) of the *State CEQA Guidelines*).
- The City shall prepare a focused EIR if the initial study reveals that the subsequent project may have a significant effect on the environment that may not be able to be mitigated to below the level of significance (Section 15178 (c) of the *State CEQA Guidelines*):
  - The focused EIR shall incorporate by reference the master EIR and analyze only the subsequent project's additional significant environmental effects and any new or additional mitigation measures or alternatives that were not identified and analyzed by the master EIR. "Additional significant environmental effects" are those project-specific effects on the environment which were not addressed as significant in the master EIR (Section 15178 (c) (1) of the *State CEQA Guidelines*).
  - A focused EIR need not examine those effects which the City, prior to public release of the focused EIR, finds, on the basis of the initial study, related documents, and commitments from the proponent of a subsequent project, have been mitigated in one of the following manners (Section 15178 (c) (2) of the *State CEQA Guidelines*):
    - ❖ Mitigated or avoided as a result of mitigation measures identified in the master EIR which the City will require as part of the approval of the subsequent project (Section 15178 (b) (2) (A) of the *State CEQA Guidelines*);
    - ❖ Examined at a sufficient level of detail in the master EIR to enable those significant effects to be mitigated or avoided by specific revisions to the project, the imposition of conditions of approval, or by other means in connection with approval of the subsequent project (Section 15178 (c) (2) (B) of the *State CEQA Guidelines*);
    - ❖ The mitigation or avoidance is the responsibility of and within the jurisdiction of another public agency and is, or can and should be, undertaken by that agency (Section 15178 (c) (2) (C) of the *State CEQA Guidelines*).
  - The City's findings shall include a statement regarding those effects found not to be significant on the basis of the initial study, related documents, and commitments from the project proponent that have been incorporated into the project to avoid or lessen impacts to below the level of significance (Sections 15087, 15178 (b) (2) and 15178 (c) (2) of the *State CEQA Guidelines*).
  - In preparing a focused EIR, the EA shall analyze any significant environmental effects when substantial new or additional information shows that (Section 15178 (c) (4) (A) of the *State CEQA Guidelines*):
    - ❖ The adverse environmental effect may be more significant than was described in the master EIR, or
    - ❖ Mitigation measures or alternatives which were previously determined to be infeasible are feasible and will avoid or reduce the significant effects of the

subsequent project to a level of insignificance (Section 15178 (c) (4) (B) of the *State CEQA Guidelines*).

- The City shall file a notice of determination, pursuant to Section 15075 of the *State CEQA Guidelines*, if a project has been approved for which a MND has been prepared pursuant to this section and a notice of determination shall be filed pursuant to Section 15094 of the *State CEQA Guidelines* if a project has been approved for which a focused EIR has been prepared pursuant to this section (Section 15178 (d) of the *State CEQA Guidelines*).
- When the City determines that the cumulative impacts, growth-inducing impacts and irreversible significant effects analysis in the master EIR is inadequate for the subsequent project, the subsequent project is no longer eligible for the limited environmental review available under the master EIR process and shall be reviewed according to Article 7 (commencing with Section 15080) of the *State CEQA Guidelines*. The City shall tier the project-specific EIR upon the master EIR to the extent feasible under Section 15152 of the *State CEQA Guidelines* (Section 15178 (e) of the *State CEQA Guidelines*).

#### **15.4.5 LIMITATIONS ON THE USE OF THE MASTER EIR**

The certified master EIR shall not be used in accordance with article 11.5 of the *State CEQA Guidelines* if either it was certified more than five years prior to the filing of an application for a later project, or a project not identified in the certified master EIR as an anticipated subsequent project is approved and the approved project may affect the adequacy of the master EIR, unless the City does one of the following (Section 15179 of the *State CEQA Guidelines*):

- Reviews the master EIR and finds that no substantial changes have occurred with respect to the circumstances under which the master EIR was certified, or that there is no new available information which was not known and could not have been known at the time the master EIR was certified (Section 15179 (a) of the *State CEQA Guidelines*).
- Prepares a subsequent or supplemental EIR that updates or revises the master EIR and which either is incorporated into the previously certified master EIR, or references any deletions, additions or other modifications to the previously certified master EIR (Section 15179 (b) of the *State CEQA Guidelines*).

A master EIR must be periodically reviewed, in light of changing circumstances, to determine that it is still an adequate analysis of the significant environmental effects of the project for which it was prepared. Updating the master EIR, including preparing subsequent or supplemental EIRs, maintains its effectiveness as the basis for streamlined review of projects that are within its scope.

#### **15.4.6 FOCUSED EIRS AND SMALL PROJECTS**

In accordance with Section 15179.5 of the *State CEQA Guidelines*, the City may use a focused EIR for certain urban infill projects which are otherwise outside the scope of the master EIR:

- When a project is a multiple family residential development of 100 units or less or is a residential and commercial or retail mixed-use commercial development of not more

then 100,000 square feet, whether or not the project is identified in the master EIR, a focused EIR shall be prepared pursuant to this Section 15179.5 of *State CEQA Guidelines* when the following conditions are met (Section 15179.5 (a) of the *State CEQA Guidelines*):

- The project is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an EIR was prepared within five years of certification of the focused EIR (Section 15179.5 (a) (1) of the *State CEQA Guidelines*) and
- The parcel on which the project is to be developed is either (Section 15179.5 (a) (2) of the *State CEQA Guidelines*):
  - ❖ Surrounded by immediately contiguous urban development,
  - ❖ Previously developed with urban uses, or
  - ❖ Within one-half mile of an existing rail transit station.
- A focused EIR prepared pursuant to this section shall be limited to a discussion of potentially significant effects on the environment specific to the project, or which substantial new information shows will be more significant than described in the prior environmental impact report. No discussion shall be required of alternatives to the project, cumulative impacts of the project, or the growth-inducing impacts of the project (Section 15179.5 (b) of the *State CEQA Guidelines*).
- This section does not apply where the City (Section 15179.5 (c) of the *State CEQA Guidelines*):
  - Can make a finding pursuant to Section 15177 of the *State CEQA Guidelines* that the subsequent project is within the scope of the master EIR;
  - Can prepare a MND or focused EIR pursuant to Section 15178 of the *State CEQA Guidelines* or
  - Must update the EIR through the preparation of a subsequent or supplemental EIR, pursuant to Section 15162 or Section 15163 of the *State CEQA Guidelines*.



## **SECTION 16.0**

### **PROJECTS SUBJECT TO THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

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#### **16.1 GENERAL INFORMATION**

Article 14 of the California Environmental Quality Act (CEQA) *Guidelines* describes the process for addressing projects or implementation activities that are subject to both CEQA and the National Environmental Policy Act (NEPA). Projects or implementation activities that are carried out, financed, or approved in whole or in part by Federal agencies are subject to NEPA. Accordingly, this section applies to projects or implementation activities which involve the City and one or more Federal agencies.

#### **16.2 NEPA DOCUMENT READY BEFORE CEQA DOCUMENT**

As indicated in Section 15221 of the *State CEQA Guidelines*, when a project or activity will require compliance with both CEQA and NEPA, the City should use the environmental impact statement (EIS) or finding of no significant impact (FONSI) rather than preparing an environmental impact report (EIR), Negative Declaration (ND) or other environmental document if the following two conditions occur:

- An EIS or FONSI will be prepared before an EIR or ND would otherwise be completed for the project or implementation activity.
- The EIS or FONSI complies with the provisions of *State CEQA Guidelines*.

Although normally considered in an EIR, NEPA does not require separate discussion of mitigation measures or growth-inducing impacts. These points of analysis need to be added, supplemented, or identified before the EIS can be used as an EIR.

#### **16.3 PREPARATION OF JOINT DOCUMENTS**

As indicated in Section 15222 of the *State CEQA Guidelines* the City finds that an EIS or FONSI for a project would not be prepared by the Federal agency by the time the City needs to consider an EIR or Negative Declaration, the Environmental Administrator (EA) should try to prepare a combined EIR-EIS or ND-FONSI. To avoid the need for the Federal agency to prepare a separate document for the same project or activity, the EA must involve the Federal agency in the preparation of the joint document. This involvement is necessary because Federal law generally prohibits a Federal agency from using an EIR prepared by a state agency unless the Federal agency was involved in the preparation of the document.

#### **16.4 CONSULTATION WITH FEDERAL AGENCIES**

As indicated in Section 15223 of the *State CEQA Guidelines*, when the EA plans to use an EIS or FONSI or to prepare such a document jointly with a Federal agency, the EA shall consult as soon as possible with the Federal agency.

## **16.5 TIME LIMITS**

As indicated in Section 15224 of the *State CEQA Guidelines*, where a project is subject to both CEQA and NEPA, the one-year time limit and 105-day time limit may be waived pursuant to Section 15110 of the *State CEQA Guidelines*.

## **16.6 CIRCULATION OF DOCUMENTS**

As described in Section 15225 of the *State CEQA Guidelines*, where the Federal agency circulated the EIS or FONSI for public review as broadly as state or local law may require, and gave notice meeting CEQA standards, the City under CEQA may use the Federal document in the place of an EIR or Negative Declaration without recirculating the Federal document for public review. One review and comment period is enough. Prior to using the Federal document in this situation, the City shall give notice that it will use the Federal document in place of an EIR or Negative Declaration and that it believes that the Federal document meets the requirements of CEQA. As described in Section 15087 of the *State CEQA Guidelines*, the notice shall be given in the same manner as a notice of the public availability of a draft EIR in section 15087 of the *CEQA Guidelines* and section 8.8 of this document.

## **16.7 JOINT ACTIVITIES**

As described in Section 15226 of the *State CEQA Guidelines*, the City should cooperate with Federal agencies to the fullest extent possible to reduce duplication between CEQA and NEPA. Such cooperation should, to the fullest extent possible, include:

- Joint planning processes,
- Joint environmental research and studies,
- Joint public hearings, and
- Joint environmental documents.

## **16.8 STATE COMMENTS ON A FEDERAL PROJECT**

As described in Section 15227 of the *State CEQA Guidelines*, when a state agency officially comments on a proposed federal project which may have a significant effect on the environment, the comments shall include or reference a discussion of the material specified in Section 15126 of the *State CEQA Guidelines*. An EIS on the Federal project may be referenced to meet the requirements of this section.

## **16.9 WHERE FEDERAL AGENCY WILL NOT COOPERATE**

As indicated in Section 15228 of the *State CEQA Guidelines*, where a federal agency will not cooperate in the preparation of joint document and will require separate NEPA compliance for the project at a later time, the City should persist in efforts to cooperate with the Federal agency. Because NEPA expressly allows Federal agencies to use environmental documents prepared by an agency of statewide jurisdiction, the City should try to involve a State agency in helping prepare an EIR or ND for the project. In this way there is a greater chance that the Federal agency may later use the CEQA document and not require the applicant to pay for preparation of a second document to meet NEPA requirements at a later time.

## **SECTION 17.0**

### **REDEVELOPMENT PROJECTS**

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Section 15180 of the *CEQA Guidelines* identifies the special requirements that apply to redevelopment projects. All public and private activities or undertakings pursuant to or in furtherance of a redevelopment plan constitute a single project, which shall be deemed approved at the time of adoption of the redevelopment plan by the Pasadena Community Development Commission. The EIR in connection with the redevelopment plan shall be submitted in accordance with section 33352 of the Health and Safety Code.

An approved program EIR (Section 14.0 of this document) may be used by the Pasadena Community Development Committee for redevelopment projects, unless a subsequent EIR or a supplemental EIR would be required by Section 15162 or 15163 of the *CEQA Guidelines* and sections 12 and 13 of this document.



## **SECTION 18.0**

### **STATUTORY EXEMPTIONS**

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#### **18.1 GENERAL**

[As described in Section 15260 of the State CEQA Guidelines]

This article describes the exemptions from CEQA granted by statute. The exemptions take several forms. Some exemptions are complete exemptions from CEQA. Other exemptions apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance.

##### **18.1.1 ONGOING PROJECT**

[As described in Section 15261 of the State CEQA Guidelines]

- (a) If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exist:
  - 1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project, if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.
  - 2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.
- (b) A private project will be exempt from CEQA if the project received approval of a lease, license, certificate, permit, or other entitlement for use from a public agency prior to April 5, 1973 subject to the provisions described in Section 15261 (b) of the State CEQA Guidelines.

##### **18.1.2 FEASIBILITY AND PLANNING STUDIES**

[As described in Section 15262 of the State CEQA Guidelines]

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

##### **18.1.3 DISCHARGE REQUIREMENTS**

[As described in Section 15263 of the State CEQA Guidelines]

The State Water Resources Control Board and the regional boards are exempt from the requirement to prepare an EIR or a negative declaration prior to the adoption of waste discharge requirements, except requirements for new sources as defined in the Federal Water Pollution Control Act or in other acts which amend or supplement the Federal Water Pollution Control Act. The term "waste discharge requirements" as used in this section is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act.

#### **18.1.4 GENERAL PLAN TIME EXTENSION**

[As described in Section 15266 of the State CEQA Guidelines]

CEQA shall not apply to the granting of an extension of time by the Office of Planning and Research to a city or county for the preparation and adoption of one or more elements of a city or county general plan.

#### **18.1.5 FINANCIAL ASSISTANCE TO LOW OR MODERATE INCOME HOUSING**

[As described in Section 15267 of the State CEQA Guidelines]

CEQA does not apply to actions taken by the Department of Housing and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. The residential project which is the subject of the application for financial assistance will be subject to CEQA when approvals are granted by another agency.

#### **18.1.6 MINISTERIAL PROJECTS**

**(See Section 19 for a specific list of the City's Ministerial Actions)**

[As described in Section 15268 of the State CEQA Guidelines]

- (a) Ministerial projects are exempt from the requirements of CEQA. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis.
- (b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:
  - 1) Issuance of building permits.
  - 2) Issuance of business licenses.
  - 3) Approval of final subdivision maps.
  - 4) Approval on individual utility service connections and disconnections.
- (c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions, which are deemed ministerial under the applicable laws and ordinances.

- (d) Where a project involved an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

#### **18.1.7 Emergency Projects**

[As described in Section 15269 of the State CEQA Guidelines]

The following emergency projects are exempt from the requirements of CEQA.

- (a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter historical resources when that represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028 (b) of public Resources Code.
- (b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- (c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short term.
- (d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to the highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand, or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.
- (e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

#### **18.1.8 Projects Which Are Disapproved**

[As described in Section 15270 of the State CEQA Guidelines]

- (a) CEQA does not apply to projects which the City rejects or disapproves.
- (b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the City can determine that the project cannot be approved.
- (c) This section shall not relieve an applicant from paying the costs for an EIR or negative declaration prepared for his project prior to the lead agency's disapproval of the project after normal evaluation and processing.

### **18.1.9 Early Activities Related To Thermal Power Plants**

- (a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam. Or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:
- 1) The State Energy Resources Conservation and Development Commission,
  - 2) The public Utilities Commission, or
  - 3) The city or county in which the power plant and related facility would be located.
- (b) The EIR, Negative Declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.
- (c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is request to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

### **18.1.10 Olympic Games**

[As described in Section 15272 of the State CEQA Guidelines]

CEQA does not apply to activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games. If the facilities are required by the International Olympic Committee as a condition of being awarded the Olympic Games, the lead agency need not discuss the "no project" alternative in an EIR with respect to those facilities.

### **18.1.11 Rates, Tolls, Fares, And Charges**

[As described in Section 15273 of the State CEQA Guidelines]

- (a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of:
- 1) Meeting operating expenses, including employee wage rates and fringe benefits,
  - 2) Purchasing or leasing supplies, equipment, or materials,
  - 3) Meeting financial reserve needs and requirements,
  - 4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or

- 5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.
- b) Rate increases to fund capital projects for the expansion of a system remain subject to CEQA. The agency granting the rate increase shall act either as the lead agency if no other agency has prepared environmental documents for the capital project or as a responsible agency if another agency has already complied with CEQA as the lead agency.
- c) The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.

#### **18.1.12 Family Day Care Homes**

[As described in Section 15274 of the State CEQA Guidelines]

- (a) CEQA does not apply to establishment or operation of a large family day care home, which provides in-home care for up to twelve children, as defined in Section 1596.78 of the Health and Safety Code.
- (b) Under the Health and Safety Code, local agencies cannot require use permits for the establishment or operation of a small family day care home, which provides in-home care for up to six children, and the establishment or operation of a small family day care home is a ministerial action which is not subject to CEQA

#### **18.1.13 Specified Mass Transit Projects**

[As described in Section 15275 of the State CEQA Guidelines]

CEQA does not apply to the following mass transit projects:

- (a) The institution or increase of passenger or commuter service on rail lined or high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities;
- (b) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guide way or bus way public transit services.

#### **18.1.14 Transportation Improvement And Congestion Management Programs**

[As described in Section 15276 of the State CEQA Guidelines]

- (a) CEQA does not apply to the development or adoption of a regional transportation improvement program or the state transportation improvement program. Individual projects developed pursuant to these programs shall remain subject to CEQA
- (b) CEQA does not apply to preparation and adoption of a congestion management program by a county congestion management agency pursuant to Government Code Section 65089, et seq.

### **18.1.15 Lower Income Housing Projects**

[As described in Section 15280 of the State CEQA Guidelines]

- (a) CEQA does not apply to any development project which consists of the construction, conversion, or use of residential housing consisting of not more than 45 units in an urbanized area, provided that it is either:
  - 1) Affordable to lower-income households as defined in Section 50079.5 of the Health and Safety Code, and the developer provides sufficient legal commitments to the appropriate local agency to ensure that the housing units will continue to be available to lower income households for a period of at least 15 years; or
  - 2) Affordable to low and moderate income households, as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code, at monthly housing costs determined pursuant to paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code.
  
- (b) The development must also meet all the following criteria:
  - 1) It is consistent with the local jurisdiction's general plan as its existed on the date the project application was deemed complete.
  - 2) It is consistent with the local zoning as it existed on the date the project application was deemed complete, unless the zoning is inconsistent with the general plan because the city, county, or city and county has not rezoned the property to bring it into consistency with the general plan.
  - 3) Its site has been previously developed or is currently developed with urban uses, or the immediately contiguous properties surrounding the site are or have been previously developed with urban uses.
  - 4) Its site is not more than two acres in area.
  - 5) Its site is, or can be adequately served by utilities.
  - 6) Its site has no value as wildlife habitat.
  - 7) It will not involve the demolition of or any substantial adverse change in any district, landmark, object, building, structure, site, area, or place that is listed, or determined to be eligible for listing in the California Register of Historical Resources or listed or determined to be eligible for listing as a local landmark pursuant to Chapter 2.75 of the Pasadena Municipal Code.
  - 8) Its site is not included on any list of hazardous waste or other facilities and sites compiled pursuant to Section 65962.5 of Government Code, and the site has been subject to an assessment by a California registered environmental assessor to determine both the presence of hazardous contaminants, if any, and the potential exposure of site occupants to significant health hazards from nearby properties and activities.

- (c) For purposes of this section “urbanized area” means an area that has a population density of at least 1000 persons per square mile.
- (d) If hazardous contaminants are found on the site, they must be removed or any significant effects mitigated to a level of insignificance in order to apply this exemption. If a potential for exposure to significant health hazards from nearby properties and activities is found to exist, the effects of the potential exposure must be mitigated to a level of insignificance in order to apply this exemption. Any removal or mitigation to insignificance must be completed prior to any residential occupancy of the project.
- (e) This section does not apply if there is a reasonable possibility that the project would have a significant effect on the environment due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable other project in the vicinity.

### **18.1.1 Air Quality Permits**

[As described in Section 15281 of the State CEQA Guidelines]

CEQA does not apply to the issuance, modification, amendment, or renewal of any permit by an air pollution control district or air quality management district pursuant to Title V, as defined in Section 39053.3 of the Health and Safety Code, or pursuant to an air district Title V program established under Sections 42301.10, 42301.11, and 42301.12 of the Health and Safety Code, unless the issuance, modification, amendment, or renewal authorizes a physical or operational change to a source or facility.

### **18.1.17 Other Statutory Exemptions**

[As described in Section 15282 of the State CEQA Guidelines]

The following is a list of existing statutory exemptions. Each subsection summarizes statutory exemptions found in the California Code. Lead agencies are not to rely on the language contained in the summaries below but must rely on the actual statutory language that creates the exemption. This list is intended to assist lead agencies in finding them, but not as a substitute for them. This section is merely a reference tool.

- (a) The notification of discovery of Native American burial sites as set forth in Section 5097.98(c) of the Public Resources Code.
- (b) Specified prison facilities as set forth in Sections 21080.01, 21080.02, 21080.03 and 21080.07 of the Public Resources Code.
- (c) The lease or purchase of the rail right-of-way used for the San Francisco Peninsula commute service between San Francisco and San Jose as set forth in Section 21080.05 of the Public Resources Code.
- (d) Any activity or approval necessary for or incidental to project funding or authorization for the expenditure of funds for the project, by the Rural Economic Development Infrastructure Panel as set forth in Section 21080.08 of the Public Resources Code.
- (e) The construction of housing or neighborhood commercial facilities in an urbanized area pursuant to the provisions of Section 21080.7 of the Public Resources Code.

- (f) The conversion of an existing rental mobile home park to a resident initiated subdivision, cooperative, or condominium for mobile homes as set forth in Section 21080.8 of the Public Resource Code.
- (g) Settlements of title and boundary problems by the State Lands Commission and to exchanges or leases in connection with those settlements as set forth in Section 21080.11 of the Public Resource Code.
- (h) Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code.
- (i) The adoption of an ordinance regarding second units in a single –family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.
- (j) The closing of any public school or the transfer of students from that public school to another school in which kindergarten or any grades 1 through 12 is maintained as set forth in Section 21080.18 of the Public Resources Code.
- (k) A project for re-stripping streets or highways to relieve traffic congestion as set forth in Section 21080.19 of the Public Resources code.
- (l) The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.
- (m) The activities and approvals by local government necessary for the preparation of general plan amendments pursuant to Public Resources Code Section 29763 as set forth in Section 21080.22 of the Public Resources Code. Section 29763 of the Public Resources Code refers to local government amendments made for consistency with the Delta Protection Commission’s regional plan.
- (n) Minor alteration to utilities made for the purposes of complying with Sections 4026.7 and 4026.8 of the Health and Safety Code as set for in Section 21080.26 of the Public Resources Code.
- (o) The adoption of an ordinance exempting a city or county from the provisions of the Solar Shade Control Act as set forth in Section 25985 of the Public Resources Code.
- (p) The acquisition of land by the Department of Transportation if received or acquired within a statewide or regional priority corridor designated pursuant to Section 65081.3 of the Government Code as set forth in Section 33911 of the Public Resources Code.
- (q) The adoption or amendment of a non-disposal facility element as set forth in Section 41735 of the Public Resources Code.
- (r) Cooperative agreements for the development of Solid Waste Management Facilities on Indian country as set forth in Section 44203(g) of the Public Resources Code.

- (s) Determinations made regarding a city or county's regional housing needs as set forth in Section 65584 of the Government Code.
- (t) Any action necessary to bring a general plan or relevant mandatory element of the general plan into compliance pursuant to a court order set forth in Section 65759 of the Government Code.
- (u) Industrial Development Authority activities as set forth in Section 91543 of the Government Code.
- (v) Temporary changes in the point of diversion, place of use, of purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code.
- (w) The preparation and adoption of Urban Water Management Plans pursuant to the provisions of Section 10652 of the Water Code.

#### **18.1.18 Pipelines**

[As described in Section 15284 of the State CEQA Guidelines]

- (a) CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline.
- (b) To qualify for this exemption, the diameter of the affected pipeline must not be increased and the project must be located outside the boundaries of an oil refinery. The project must also meet all of the following criteria:
  - 1) The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.
  - 2) The affected section of pipeline is not less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.
  - 3) The project is not solely for purpose of excavating soil that is contaminated by hazardous materials.
  - 4) To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.

- 5) Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.
  - 6) The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.) the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.
- (c) When the lead agency determines that a project meets all of the criteria of subdivisions (a) and (b), the party undertaking the project shall do all of the following:
- 1) Notify in writing all responsible and trustee agencies, as well as any public agency with environmental, public health protection, or emergency response authority, of the lead agency's invocation of this exemption.
  - 2) Mail notice of the project to the last known name and address of all organizations and individuals who have previously requested such notice and notify the public in the affected area by at least one of the following procedures:
    - i. Publication at least one time in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
    - ii. Posting of notice on and off site in the area where the project is to be located.
    - iii. Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

The notice shall include a brief description of the proposed project and its location, and the date, time, and place of any public meetings or hearings on the proposed project. This notice may be combined with the public notice required under other law, as applicable, but shall meet the preceding minimum requirements.
  - 3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.
  - 4) Immediately inform the lead agency if any soil contamination with hazardous materials is discovered.
  - 5) Comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), The California Endangered Species Act (Fish and game Code Section 2050, et seq.), other applicable state laws and all applicable federal laws.
- (d) For purposes of this section, "pipeline" is used as defined in subdivision (a) of Government Code Section 51010.5. This definition includes every intrastate pipeline used for the

transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in California.

#### **18.1.19 Transit Agency Responses To Revenue Shortfalls**

[As described in Section 15285 of the State CEQA Guidelines]

- (a) CEQA does not apply to actions taken on or after July 1, 1995 to implement budget reductions made by a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities. Actions shall be limited to those directly undertaken by or financially supported in whole or in part by the transit agency pursuant to Section 15378(a)(1) or (2), including actions which reduce or eliminate the availability of an existing publicly owned transit service, facility, program or activity.
- (b) When invoking this exemption, the transit agency shall make a specific finding that there is a fiscal emergency. Before taking its proposed budgetary actions and making the finding of fiscal emergency, the transit agency shall hold a public hearing. After this public hearing, the transit agency shall respond within 30 days at a regular public meeting to suggestions made by the public at that initial hearing. The transit agency may make the finding of fiscal emergency only after it has responded to public suggestions.
- (c) For purposes of this subdivision, "fiscal emergency" means that the transit agency is projected to have negative working capital within one year from the date that the agency finds that fiscal emergency exists. "Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable. Employee retirements funds, including deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, and insurance reserves shall not be included as working capital.
- (d) This exemption does not apply to the action of any publicly owned transit agency to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document certified or adopted by any public agency under either CEQA or NEPA. Further, it does not apply to actions of the Los Angeles County Metropolitan Transportation Authority.



## **SECTION 19.0**

### **MINISTERIAL ACTIONS**

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Pursuant to Section 21080 of the Public Resources Code, and CEQA Guideline Section 15268, the following actions or approvals have been determined to be ministerial, and do not require environmental clearance.

1. The sale and disposal of unclaimed personal property pursuant to Pasadena Municipal Code Chapter 2.28.
2. Issuance of permits for grandstands, radio, and television stands pursuant to Pasadena Municipal Code Chapter 3.12.
3. Issuance of program sale permits pursuant to Pasadena Municipal Code Chapter 3.16.
4. Issuance of business licenses.
5. Issuance of dog and cat licenses, and vaccination certificates.
6. Permits for moving buildings on public streets as required by Pasadena Municipal Code 12.16.020, but not including relocation permits required by Pasadena Municipal Code 12.16.120.
7. Excavation permits required by Pasadena Municipal Code Chapter 12.24.
8. Issuance of permits in accordance with the City's Building, plumbing, Electrical, Mechanical, Health, and Fire codes.
9. Issuance of grading permits, other than those for grading in hillside areas required by Pasadena Municipal Code Chapter 14.05.
10. Approval or waiver of parcel maps and the approval of final subdivision maps.
11. Approval of individual utility service connections and disconnections.
12. Home occupation permits.
13. Tree removal permits as required by City Trees and Tree Protection Ordinance in Chapter 8.52 of the Pasadena Municipal Code, when no discretionary action is required.



## **SECTION 20.0**

### **CATEGORICAL EXEMPTIONS**

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#### **20.1 EXCEPTIONS**

[As described in Section 15300.2 of the CEQA Guidelines]

- (a) Location. Classes 3, 4, 5, 6 and 11 are qualified by consideration of where the project is to be located. A project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. These exceptions due to location are noted under each class as applicable.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant,
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

#### **20.1.1 Class 1: Existing Facilities**

[As described in Section 15301 of the CEQA Guidelines]

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the [City's] determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;

- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
  - i. Fifty percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
  - ii. 10,000 square feet if:
    - a. The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan, and
    - b. The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of economic poisons, as defined in Division 7. Chapter 2, California Agricultural Code);
- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, stream flows, springs and water holes, and stream channels (clearing of debris) to protect fish and wildlife resources;
- (j) Fishing stocking by the California Department of Fish and Game;
- (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
- (l) Demolition and removal of individual small structures listed in this subsection:
  - i. One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.
  - ii. A duplex or similar multifamily residential structures. In urbanized areas, this exemption applies to, duplexes, and similar structures where not more than six dwelling units will be demolished.

- iii. A store, motel, office, restaurant, and similar small commercial structures if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.
- iv. Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.
- (n) Conversion of a single-family residence to office use.
- (o) Installation, in an existing facility occupied by a medical waste generator, or a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600 et seq., of the Health and Safety Code) and accepts no offsite waste.
- (p) Use of a single-family residence as a small family day care home, as defined in Section 1598.78 of the Health and Safety Code.

### **20.1.2 Class 2: Replacement or Reconstruction**

[As described in Section 15302 of the CEQA Guidelines]

Class 2 includes but is not limited to, replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- (a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.
- (b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.
- (c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.
- (d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the under grounding.

### **20.1.3 Class 3: New Construction or Conversion of Small Structures**

[As described in Section 15303 of the CEQA Guidelines]

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are

the maximum allowable on any legal parcel. This exemption applies only in areas with an average slope of less than 20%. Examples of this exemption include but are not limited to:

- (a) One single-family residence or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant, or similar small commercial structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
- (e) Accessory (appurtenant) structures as defined in the zoning ordinances.
- (f) An accessory stream sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Public Health and Safety Code) and accepts no off-site waste.

#### **20.1.4 Class 4: Minor Alterations to Land**

[As described in Section 15304 of the CEQA Guidelines]

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Examples include but are not limited to:

- (a) Grading on land with a slope of less than ten percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone, or within an official Seismic Hazard Zone, as delineated by the State Geologist.
- (b) New garden or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.
- (c) Filling of earth into previously excavated land with material compatible with the natural features of the site.

- (d) Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production.
- (e) Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc.
- (f) Minor trenching and backfilling where the surface is restored.
- (g) Maintenance dredging where the soil is deposited in a spoil area authorized by the applicable state and federal regulatory agencies.
- (h) The creation of bicycle lanes on existing rights-of-way.
- (i) Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

**20.1.5 Class 5: Minor Alterations in Land Use Limitations**

[As described in Section 15305 of the CEQA Guidelines]

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits;
- (c) Reversion to acreage in accordance with the Subdivision Map Act.

**20.1.6 Class 6: Information Collection**

[As described in Section 15306 of the CEQA Guidelines]

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

**20.1.7 Class 7: Actions by Regulatory Agencies For Protection of Natural Resources**

[As described in Section 15307 of the CEQA Guidelines]

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where

the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

#### **20.1.8 Class 8: Actions by Regulatory Agencies for Protection of the Environment**

[As described in Section 15308 of the CEQA Guidelines]

Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

#### **20.1.9 Class 9: Inspections**

[As described in Section 15309 of the CEQA Guidelines]

Class 9 consists of activities limited entirely to inspections, to check for performance of an operation, or quality, health, or safety of a project, including related activities such as inspection for possible mislabeling, misrepresentation, or adulteration of products.

#### **20.1.10 Class 10: Loans Made By the Department Of Veteran Affairs**

[As described in Section 15310 of the CEQA Guidelines]

Class 10 consists of loans made by the Department of Veteran Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. Class 10 includes but is not limited to the following examples:

- (a) Loans made by the Department of Veteran Affairs under the Veterans Farm and Home Purchase Act of 1943.
- (b) Purchases of mortgages from banks and mortgage companies by Public Employees Retirement System and by the State Teachers Retirement System.

#### **20.1.11 Class 11: Accessory Structures**

[As described in Section 15311 of the CEQA Guidelines]

Class 11 consists of construction, or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

- (a) On-premise signs;
- (b) Small parking lots;
- (c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

### **20.1.12 Class 12: Surplus Government Property Sales**

[As described in Section 15312 of the CEQA Guidelines]

Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide, regional, or area wide concern identified in Section 15206(b) (4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

- (a) The property does not have significant values for wildlife habitat or other environmental purposes, and
- (b) Any of the following conditions exist:
  - i. The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or
  - ii. The property to be sold would qualify for an exemption under any other class of categorical exemption in these guidelines;
  - iii. The use of the property and adjacent property has not changed since the time of purchase by the public agency; or
  - iv. The sale of the property is consistent with the City's Surplus Property Ordinance (2.28).

### **20.1.13 Class 13: Acquisition of Lands for Wildlife Conservation Purposes**

[As described in Section 15313 of the CEQA Guidelines]

Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes including preservation of fish and wildlife habitat, establishing ecological reserves under Fish and Game Code Section 1580, and preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

### **20.1.14 Class 14: Minor Additions to Schools**

[As described in Section 15314 of the CEQA Guidelines]

Class 14 consists of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

### **20.1.15 Class 15: Minor Land Divisions**

[As described in Section 15315 of the CEQA Guidelines]

Class 15 consists of the division of property in areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all service and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

### **20.1.16 Class 16: Transfer of Ownership of Land In Order To Create Parks**

[As described in Section 15316 of the CEQA Guidelines]

Class 16 consists of the acquisition, sale or other transfer of land in order to establish a park where the land is in a natural condition or contains historical or archaeological resources and either:

- (a) The management plan for the park has not been prepared, or
- (b) The management plan proposes to keep the area in a natural condition or preserve the historical or archaeological resources. CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource.-

#### **20.1.17 Class 17: Open Space Contracts or Easements**

[As described in Section 15317 of the CEQA Guidelines]

Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area. The cancellation of such preserves, contracts, interests, or easements is not included and will normally be an action subject to the CEQA process

#### **20.1.18 Class 18: Designation of Wilderness Areas**

[As described in Section 15318 of the CEQA Guidelines]

Class 18 consists of the designation of wilderness areas under California Wilderness System.

#### **20.1.19 Class 19: Annexations of Existing Facilities and Lots For Exempt Facilities**

[As described in Section 15319 of the CEQA Guidelines]

Class 19 consists of only the following annexations:

- (a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.
- (b) Annexations of individual small parcels of the minimum size for facilities exempted by Class 3, New Construction or Conversion of Small Structures.

#### **20.1.20 Class 20: Changes in Organization Of Local Agencies**

[As described in Section 15320 of the CEQA Guidelines]

Class 20 consists of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. Examples include but are not limited to:

- (a) Establishment of a subsidiary district.

- (b) Consolidation of two or more districts having identical powers.
- (c) Merger with a city of a district lying entirely within the boundaries of the city.

**20.1.21 Class 21: Enforcement Actions by Regulatory Agencies**

[As described in Section 15321 of the CEQA Guidelines]

Class 21 consists of:

- (a) Actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:
  - i. The direct referral of a violation of lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement.
  - ii. The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard or objective.
- (b) Law enforcement activities by peace officers acting under any law that provides a criminal sanction.
- (c) Construction activities undertaken by the public agency taking the enforcement or revocation action are not included in this exemption.

**20.1.22 Class 22: Education or Training Programs Involving No Physical Changes**

[As described in Section 15322 of the CEQA Guidelines]

Class 22 consists of the adoption, alteration, or termination of educational or training programs which involve no physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. Examples include but are not limited to:

- (a) Development of or changes in curriculum or training methods.
- (b) Changes in the grade structure in a school which do not result in changes in student transportation.

**20.1.23 Class 23: Normal Operations of Facilities For Public Gatherings**

[As described in Section 15323 of the CEQA Guidelines]

Class 23 consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities include within this exemption include, but are not limited

to, racetracks, stadiums, convention centers, auditoriums, amphitheatres, planetariums, swimming pools, and amusement parks.

#### **20.1.24 Class 24: Regulations of Working Conditions**

[As described in Section 15324 of the CEQA Guidelines]

Class 24 consists of actions taken by regulatory agencies, including the Industrial Welfare Commission as authorized by statute, to regulate any of the following:

- (a) Employee wages,
- (b) Hours of work, or
- (c) Working conditions where there will be no demonstrable physical changes outside the place of work.

#### **20.1.25 Class 25: Transfers of Ownership of Interest In Land To Preserve Existing Natural Conditions And Historical Resources**

[As described in Section 15325 of the CEQA Guidelines]

Class 25 consists of the transfers of ownership of interests in land in order to preserve open space, habitat, or historical resources. Examples include but are not limited to:

- (a) Acquisition, sale or transfer of areas to preserve the existing natural conditions.
- (b) Acquisition, sale or transfer of areas to allow continued agricultural use of the areas.
- (c) Acquisition, sale or transfer to allow restoration of natural conditions, including plant or animal habitats.
- (d) Acquisition, sale or transfer to prevent encroachment of development into flood plains.
- (e) Acquisition, sale or transfer to preserve historical resources.

#### **20.1.26 Class 26: Acquisition of Housing For Housing Assistance Programs**

[As described in Section 15326 of the CEQA Guidelines]

Class 26 consists of actions by a redevelopment agency, housing authority, or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.

#### **20.1.27 Class 27: Leasing New Facilities**

[As described in Section 15327 of the CEQA Guidelines]

- (a) Class 27 consists of the leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the local governing authority determined that the building was exempt from CEQA. To be exempt under this section, the proposed use of the facility:

- i. Shall be in conformance with existing state plans and policies and with general, community, and specific plans for which an EIR or negative declaration has been prepared,
  - ii. Shall be substantially the same as that originally proposed at the time the building permit was issued,
  - iii. Shall not result in a traffic increase of greater than 10% of front access road capacity, and
  - iv. Shall include the provision of adequate employee and visitor parking facilities.
- (b) Examples of Class 27 include, but are not limited to:
- i. Leasing of administrative offices in newly constructed office space.
  - ii. Leasing of client service offices in newly constructed retail space.
  - iii. Leasing of administrative and/or client service offices in newly constructed industrial parks.

**20.1.28 Class 28: Small Hydroelectric Projects at Existing Facilities**

[As described in Section 15328 of the CEQA Guidelines]

Class 28 consists of the installation of hydroelectric generating facilities in connection with existing dams, canals, and pipelines where:

- (a) The capacity of the generating facilities is 5 megawatts or less,
- (b) Operation of the generating facilities will not change the flow regime in the affected stream, canal, or pipeline including but not limited to:
  - i. Rate and volume of flow,
  - ii. Temperature,
  - iii. Amounts of dissolved oxygen to a degree that could adversely affect aquatic life, and
  - iv. Timing of release.
- (c) New power lines to connect the generating facilities to existing power lines will not exceed one mile in length if located on a new right-of-way and will not be located adjacent to a wild or scenic river.
- (d) Repair or reconstruction of the diversion structure will not raise the normal maximum surface elevation of the impoundment.
- (e) There will be no significant upstream or downstream passage of fish affected by the project.

- (f) The discharge from the power house will not be located more than 300 feet from the toe of the diversion structure.
- (g) The project will not cause violations of applicable state or federal water quality standards.
- (h) The project will not entail any construction on or alteration of a site included in or eligible for inclusion in the National Register of Historic Places, and
- (i) Construction will not occur in the vicinity of any endangered, rare or threatened species.

**20.1.29 Class 29: Cogeneration Projects at Existing Facilities**

[As described in Section 15329 of the CEQA Guidelines]

Class 29 consists of the installation of cogeneration equipment with a capacity of 50 megawatts or less at existing facilities meeting the conditions described in this section.

- (a) At existing industrial facilities, the installation of cogeneration facilities will be exempt where it will:
  - i. Result in no net increases in air emissions from the industrial facility, or will produce emissions lower than the amount that would require review under the new source review rules applicable in the county, and
  - ii. Comply with all applicable state, federal, and local air quality laws.
- (b) At commercial and industrial facilities, the installation of cogeneration facilities will be exempt if the installation will:
  - i. Meet all the criteria described in Subsection (a),
  - ii. Result in no noticeable increase in noise to nearby residential structures,
  - iii. Be contiguous to other commercial or institutional structures.

**20.1.30 Class 30: Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances**

[As described in Section 15330 of the CEQA Guidelines]

Class 30 consists of any minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing \$1 million or less. No cleanup action shall be subject to this Class 31 exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit, with the exception of low temperature thermal desorption, or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code section 25123.6, except for small scale in situ soil vapor extraction and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site. Examples of such minor cleanup actions include but are not limited to:

- (a) Removal of sealed, non-leaking drums or barrels of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;
- (b) Maintenance or stabilization of berms, dikes, or surface impoundments;
- (c) Construction or maintenance of interim or temporary surface caps;
- (d) Onsite treatment of contaminates soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;
- (e) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;
- (f) Application of dust suppressants or dust binders to surface soils;
- (g) Controls for surface water run-on and run-off that meets seismic safety standards;
- (h) Pumping of leaking ponds into an enclosed container;
- (i) Construction of interim or emergency ground water treatment systems
- (j) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

**20.1.31 Class 31: Historical Resource Restoration/Rehabilitation**

[As described in Section 15331 of the CEQA Guidelines]

Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

**20.1.32 Class 32: In-Fill Development Projects**

[As described in Section 15332 of the CEQA Guidelines]

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section:

- (a) The project is consistent with the applicable general plan designated and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.
- (d) Approval of the project would result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

## **SECTION 21.0 DEFINITIONS**

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**ADDENDUM TO EIR** - The preparation and adoption of minor technical changes or additions to an EIR, where such changes or additions do not raise important new issues regarding the significant effects on the environment.

**ADVISORY BODY** - The group or person designated by the City to review projects and advise the Decision Making Body.

**APPEAL BODY** - The group or person designated to review and rule on decisions of the Decision Making Bodies, when such decisions are appealed.

**APPLICANT** - Person, corporation or governmental agency that propose to carry out a project which needs a lease, permit, license, certificate or other entitlement for use or financial assistance from one or more public agencies when that person, corporation or governmental agency applies for the governmental approval or assistance.

**APPROVAL** – Approval is the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person.

(a) The exact date of approval of any project is a matter determined by each public agency according to its' rules and regulations, and ordinances. Legislative action in regard to a project often constitutes approval.

(b) With private projects, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan or other form of financial assistance, lease, permit, license, certificate or other entitlement for use of the project.

Under CEQA, the environmental documentation for the applicant's project must be approved by the public agency prior to that agency approving the applicant's project.

**CATEGORICAL EXEMPTION** - An exemption from the requirements of CEQA based on a finding by the Secretary for Resources and the Pasadena City Council that certain types of projects do not have a significant effect on the environment.

**CEQA** - The California Environmental Quality Act (CEQA) is the State law implemented by these Guidelines and contained in the California Public Resources Code, Section 2100 et seq.

**CITY** - The City of Pasadena, California

**CITY COUNCIL** - The group of elected officials with ultimate decision making authority in the City.

**CUMULATIVE IMPACTS** - Two or more individual affects that, when considered together, are considerable or that compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the project when added to other closely related past, present, and

reasonable foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

**DECISION MAKING BODY** - The group or person designated by law to be responsible for final approval or disapproval of a project or implementation activity of issue, including design review.

**DISCRETIONARY ACTION** - An action that requires the exercise of judgment or deliberation when an agency and/or city council decides to approve or disapprove a particular activity, as distinguished from situations in which an agency and/or city council merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

**EFFECTS** - "Effects" and "impacts" as used in CEQA are synonymous. Effects include:

Direct or primary effects, which are caused by the project and occur at the same time and place.

Indirect or secondary effects, which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural system, including ecosystems.

Effects analyzed under CEQA must be related to a physical change.

**EIR** –"EIR" or "Environmental Impact Report" means a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects. The contents of an EIR are discussed in *CEQA Guidelines* Article 9, commencing with Section 15120 of these Guidelines. Contents of an EIR are also discussed in Section 8.5 of this document. The term "EIR" may mean either a draft or a final EIR depending on the context.

(a) Draft EIR means an EIR containing the information specified in Sections 15122 through 15131 of the *CEQA Guidelines*.

(b) Final EIR means an EIR containing the information contained in the draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the Lead Agency to the comments received. The final EIR is discussed in detail in Section 15132 of the *CEQA Guidelines*.

**EIS** - An environmental impact statement prepared pursuant to the National Environmental Policy Act (NEPA). In the NEPA review and analysis the EIS is equivalent to an EIR under CEQA.

**EMERGENCY** - A sudden, unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

**ENDANGERED, RARE OR THREATENED SPECIES** - As used in CEQA, "threatened or endangered species" means a species or subspecies of animal or plant or a variety of plant that is listed as threatened or endangered in: 1) Sections 670.2 or 670.5, Title 14 California Code of Regulations; or 2) Title 50, Code of Federal Regulations Sections 17.11 or 17.12 pursuant to the

Federal Endangered Species Act. This definition does not include any species of Class Insecta, which is a pest whose protection under the provisions of CEQA would present an overwhelming and overriding risk to man as determined by: 1) the Director of Food and Agriculture with regard to economic pests; or 2) the Director of Health Services with regard to health risks.

**ENVIRONMENT** - The physical conditions that exist within the area that will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The environment includes both natural and man-made conditions.

**ENVIRONMENTAL ADMINISTRATOR** - The City employee designated to coordinate and carry out the environmental review process pursuant to CEQA.

**ENVIRONMENTAL DOCUMENTS** - "Environmental documents" includes Initial Studies, Negative Declarations, Mitigated Negative Declarations, Draft and Final EIRs, Program EIRs, Tiered EIRs, Master EIRs, Focused EIRs, Addenda to EIRs, Supplements to EIRs, Subsequent EIRs, Mitigation Monitoring Plans, Master Environmental Assessments, and documents prepared under NEPA and used by the City in the place of an Initial Study, Negative Declaration, or EIR.

**FEASIBLE** - Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

**FOCUSED EIR** - Is used when the City finds that a subsequent project has been adequately analyzed as far as cumulative impacts, growth-inducing impacts, and irreversible significant effects on the environment in a Master EIR. The focused EIR need only analyze effects on the environment specific to the subsequent project. A focused EIR may also be used when a multiple-family residential development of 100 units or less or a retail mixed-use commercial development of not more than 100,000 sq. ft. is consistent with the General, Specific, or Community Plan for which an EIR was prepared and certified.

**HABITAT CONSERVATION PLAN** - Under Section 10(a)(2)(A) of the Federal Endangered Species Act, a planning document that is a mandatory component of an incidental take permit application.

**INITIAL STUDY** - A preliminary analysis of the environmental effects of a proposed action used to determine whether an EIR, Subsequent EIR, Supplemental EIR, Addendum to an EIR, or a Negative Declaration must be prepared and used to identify the significant environmental effects to be analyzed. The Initial Study may also be used to streamline environmental review by determining that a previous EIR adequately analyzes the current proposed project or whether the project is part of a larger project, whether a master, tiered, program, or focused EIR would be appropriate.

**JURISDICTION BY LAW** - The authority of any public agency to 1) grant a permit or other entitlement for use, 2) provide funding for the project in question, or 3) to exercise authority over resources that may be affected by the project. A city or county will have jurisdiction by law with respect to a project when the city or county having primary jurisdiction over the area involved is the site of the project, or an area in which reside those citizens most directly concerned by any such environmental effects. Where an agency having jurisdiction by law must exercise

discretionary authority over a project in order for the project to proceed, it is also a responsible agency.

**LEAD AGENCY** - The public agency that has the principal responsibility for carrying out or approving a project that may have a significant effect upon the environment. The lead agency is responsible for determining whether an environmental impact report, a negative declaration, or a mitigated negative declaration shall be required for any project that is subject to CEQA.

**LEAD DEPARTMENT** - For projects where the City is the Lead Agency, the Lead Department is the City department responsible for carrying out environmental review.

**LOCAL AGENCY** - Any public agency other than a State agency, board, or commission. For the purposes of these guidelines, a redevelopment agency and a local agency formation commission are local agencies, and neither is a State agency, board, or commission.

**MASTER EIR** - May be used as an alternative to preparing a project, staged, or program EIR on a general plan element, general plan amendment, specific plan, or a large complex project being implemented in phases as a series of smaller projects. A Master EIR will streamline the environmental review of later projects that were previously analyzed in this EIR.

**MASTER ENVIRONMENTAL ASSESSMENT** - Is a method of organizing environmental information, and includes an inventory of the physical and biological characteristics of an area, which may be used to provide information for EIRs and Negative Declarations. It may include identification of existing levels of quality and supply of air and water, capacities and levels of use of existing services and facilities, and generalized incremental effects of different categories of development by type, scale, and location. A Master Environmental Assessment may be used as the base of a Master EIR.

**MINISTERIAL ACTION** - Those activities or permits over which the City has no discretion to condition, approve, or disapprove. (See Section 19.0, *Ministerial Actions*, for a list of ministerial actions).

**MITIGATION** – “Mitigation“includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action. and
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

**MITIGATION MEASURE** - Changes or actions in projects or plans that would avoid, minimize, or rehabilitate environmental damage or impact. Mitigation can occur as a single action or as ongoing operations.

**MITIGATED NEGATIVE DECLARATION** - A negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects to a point where clearly no significant effect on the environment would occur; and (2) there is no

substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

**NATIONAL ENVIRONMENTAL POLICY ACTS (NEPA)** - NEPA is the Federal law requiring an environmental assessment for Federal actions that involve impacts on the environment. The National Environmental Policy Act is set forth in 42 USCA 4321 et seq.

**NATURAL COMMUNITY CONSERVATION PLAN (NCCP)** – Natural Community Conservation Planning program of the Department of Fish and Game is an unprecedented effort by the State of California, and numerous private and public partners, that takes a broad-based ecosystem approach to planning for the protection and perpetuation of biological diversity. An NCCP identifies and provides for the regional or areawide protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activity.

**NEGATIVE DECLARATION** - A written statement briefly describing the reasons why a proposed project will not have a significant effect on the environment and why it does not require the preparation of an EIR. The accompanying Initial Study must support the reasons.

**NEIGHBORHOOD COMMERCIAL FACILITIES** - Those commercial facilities that are an integral part of a project involving the construction of housing and that will serve the residents of the housing.

**NEIGHBORHOOD SERVICES ADMINISTRATOR** - shall have the responsibility of administering all monitoring programs. The Administrator shall ensure that all mitigation measures subject to the provisions of this program are included in a monitoring and reporting plan for all discretionary actions approved by the City.

**NOTICE OF AVAILABILITY** – A Notice of Availability of a Draft EIR is mailed as a public notice to all concerned organizations and persons who have requested such notification in writing. It is sent at the same time the Notice of Completion is sent to the State Office of Planning and Research. The Notice of Availability is provided to the general public by one of three ways (1) publication in a newspaper of general circulation. (2) Posting of the notice on and off the site in the area where the project is to be located and/or (3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. The Notice of Availability states: the beginning and closing dates for the public review period, where a copy of the EIR is available and the date, time and location of any public hearings on the EIR. The Notice of Availability includes a brief project description and the unavoidable impacts which could occur if the project is realized.

**NOTICE OF COMPLETION** - A notice filed with the Office of Planning and Research by the Lead Agency as soon as it has completed a draft EIR and is prepared to send out copies for public review.

**NOTICE OF DETERMINATION** - A notice filed by the Lead Agency with the County Clerk after a project subject to CEQA and involving a Negative Declaration or an EIR has been approved.

**NOTICE OF EXEMPTION** - A notice that may be filed by a Lead City Agency after the Decision Making Body has approved a project and has determined that it is a ministerial, categorically exempt, or emergency project, or is otherwise exempted pursuant to the provisions of Section 21080 (b) of the California Public Resources Code.

**NOTICE OF INTENT** – A Notice of Intent to Adopt a Negative or Mitigated Negative Declaration is sent to all responsible agencies, trustee agencies the county clerk, the public and persons who have requested such notice before the adoption of the Negative or Mitigated Negative Declaration. The NOI should go out at the beginning of the public review period to give all concerned agencies and persons adequate time to review and comment upon the Negative Declaration and Initial Study. The NOI states where a copy of the CEQA documents is available for review and the date, time and location of any public hearings on the adequacy of these documents.

**NOTICE OF PREPARATION** - A brief notice sent by certified mail to notify responsible agencies, trustee agencies, involved Federal agencies, and other persons, organizations, and entities, that an EIR will be prepared. The purpose of the Notice is to solicit guidance as to the scope and content of the environmental information to be included in the EIR.

**PERSON** - Any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the State, and any of the agencies and political subdivisions of such entities.

**PLANNING COMMISSION** - A panel of citizens appointed by the City Council that prepares and adopts a comprehensive long-term plan for the physical development of the City of Pasadena and of any land outside its boundaries which, in the commission's judgement, relate to physical development of the City. The Commission acts as an Advisory Body on numerous types of discretionary actions and advises the City Council on other types of discretionary actions and adoption and modification of the General Plan and zoning.

**PRIVATE PROJECT** - A project that will be carried out by a person other than a governmental agency but that will need a discretionary approval from one or more governmental agencies for a contract or financial assistance or a lease, permit, license, certificate, or other entitlement for use. See also "Project."

**PROGRAM EIR** - An EIR that may be prepared on a series of actions that can be characterized as one large project and are related either: (1) geographically, (2) as logical parts in a chain of contemplated actions, (3) in connection with issuances of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated in similar ways.

**PROJECT** - "Project" means an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and that is any of the following: 1) an activity directly undertaken by any public agency, 2) an activity undertaken by a person that is supported in whole or part through contracts, grants, subsidies, loans, or other forms of assistance, certificate, or other entitlement for use by one or more public agencies, or (3) an activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

**PUBLIC AGENCY** - Any State agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivisions. It does not include the courts of the State, nor does it include agencies of the Federal government.

**RESPONSIBLE AGENCY** - A public agency, other than the lead agency, that has responsibility for carrying out or approving a project or a portion of a project.

**SIGNIFICANT EFFECT** - A substantial, or potentially substantial, adverse change in the environment.

**STATE AGENCY** – “State Agency” means a governmental agency in the executive branch of the State Government or an entity which operates under the direction and control of an agency in the executive branch of State Government and is funded primarily by the State Treasury.

**STATE CLEARINGHOUSE** – is within OPR as the single point of contact in state government to receive and distribute environment documents prepared pursuant to NEPA and to coordinate the environmental review process under CEQA when state agencies are involved. The SCH does not actually review CEQA documents. The SCH maintains a computerized database of all environmental documents it receives for state review.

**SUBSEQUENT EIR** - The preparation and adoption of an additional EIR because of substantial changes proposed to be made in a plan implementation of a plan, substantial changes in circumstances, or availability of new information of substantial importance that involves environmental impacts not considered in the original EIR that was prepared and adopted for a Project.

**SUBSTANTIAL EVIDENCE** – “Substantial evidence as use in *CEQA Guidelines* means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Arguments, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts, which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

**SUPPLEMENT TO EIR** - The preparation and adoption of additional parts to an EIR where, in implementing a plan, additional information or data not considered in the original EIR regarding impacts, mitigation measures, or reasonable alternatives become available that require supplementation to the EIR.

**TIERING OR TIER** - The coverage of general matters and environmental effects in an EIR prepared for a policy, plan, program, or ordinance followed by narrower or site-specific EIRs that incorporate by reference the discussion in any prior EIR and that concentrate on the environmental effects that 1) are capable of being mitigated, or 2) were not analyzed as significant effects on the environment in the prior EIR.

**TRANSPORTATION FACILITIES** - Include major arterials and public transit within five miles of the project site and freeways, highways and rail transit service within 10 miles of the project site.

**TRUSTEE AGENCY** - A State agency having jurisdiction by law over natural resources affected by a project that are held in trust for the people of the State of California. Trustee Agencies include: 1) the California Department of Fish and Game with regard to the fish and wildlife of the State, to designated rare or endangered native plants, and to game refuges, ecological

reserves, and other areas administered by the department; 2) the State Lands Commission with regard to State-owned "sovereign" land, such as the beds of navigable waters and State school lands; 3) the State Department of Parks and Recreation with regard to units of the State Park System; and 4) the University of California with regard to sites within the Natural Land and Water Reserves System.

**URBANIZED AREA** - is a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the *Federal Register*, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202 and 15203 and as periodically updated.